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*Number 1 of 1999*

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**BRITISH-IRISH AGREEMENT ACT, 1999**

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*Number 1 of 1999*  
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**BRITISH-IRISH AGREEMENT ACT, 1999**  
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AN ACT TO MAKE PROVISION IN RELATION TO THE NORTH/SOUTH MINISTERIAL COUNCIL, THE IMPLEMENTATION BODIES AND THE BRITISH-IRISH COUNCIL, ESTABLISHED UNDER AND IN FURTHERANCE OF THE AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND DONE AT BELFAST ON THE 10TH DAY OF APRIL, 1998, TO MAKE PROVISION FOR THE PURPOSES OF THE INTERNATIONAL AGREEMENT ESTABLISHING THE IMPLEMENTATION BODIES AND TO PROVIDE FOR RELATED MATTERS.

[22nd March, 1999]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary and General

**1.—(1)** This Act may be cited as the British-Irish Agreement Act, 1999. Short title and commencement.

(2) This Act shall come into operation on such day or days as, by order or orders made by the Taoiseach under this section, may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions and for the repeal of different enactments effected by *section 38(1)*.

**2.—(1)** In this Act, unless the context otherwise requires— Interpretation.

“the Agreement” means the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing Implementation Bodies done at Dublin on the 8th day of March, 1999, the text of which is set out in the Schedule to this Act;

“a Body” means an implementation body and “the Bodies” shall be construed accordingly;

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

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“the British-Irish Agreement” means the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland done at Belfast on the 10th day of April, 1998;

“function” includes a power and a duty and a reference to the performance of a function includes, in respect of a power, a reference to the exercise of the power and, in respect of a duty, a reference to the carrying out of the duty;

“implementation body” means an implementation body established by the Agreement;

“the Multi-Party Agreement” means the Agreement reached in the Multi-Party Negotiations at Belfast on the 10th day of April, 1998, and set out in Annex 1 to the British-Irish Agreement;

“the Northern Ireland Minister” means any Minister in Northern Ireland or a department in Northern Ireland of which such a Minister is head;

“the North/South Ministerial Council” means the body established by the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing a North/South Ministerial Council done at Dublin on the 8th day of March, 1999.

(2) This Act shall be construed with due regard to the Multi-Party Agreement, the British-Irish Agreement and the Agreement (in so far as this Act makes provision in pursuance of, or supplementary or incidental to, the Agreement).

(3) In this Act—

- (a) a reference to a Part or section is a reference to a Part or section of this Act unless it is indicated that reference to some other provision is intended,
- (b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and
- (c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended, whether before or after the passing of this Act, by or under any subsequent enactment.

Participation of members of Government and Ministers of State in North/South Ministerial Council.

**3.**—At meetings of the North/South Ministerial Council the Government may be represented by one or more of the following, that is to say, the Taoiseach, other Ministers of the Government and Ministers of State.

Participation of members of Government and Ministers of State in British-Irish Council.

**4.**—At meetings of the British-Irish Council established by the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing a British-Irish Council done at Dublin on the 8th day of March, 1999, the Government may be represented by one or more of the following, that is to say, the Taoiseach, other Ministers of the Government and Ministers of State.

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

5.—If, in any respect, any difficulty arises in bringing any provision of this Act or the Agreement into operation or in relation to the operation of any such provision, the Taoiseach may by regulations do anything which appears to him or her to be necessary or expedient for removing that difficulty, for bringing that provision into operation or for securing or facilitating its operation, and any such regulations may modify any provision of this Act so far as may be necessary or expedient for carrying such provision into effect for the purposes aforesaid, but no regulations shall be made under this section in relation to any provision of this Act after the expiration of 3 years commencing on the day on which the provision came into operation.

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Regulations to  
remove difficulties.

6.—Whenever an order (other than an order under *section 1(2)*) or regulation is proposed to be made under this Act a draft of the order or regulation shall be laid before each House of the Oireachtas and the order or regulation, as the case may be, shall not be made until a resolution approving of the draft has been passed by each such House.

Laying of orders  
and regulations  
before Houses of  
Oireachtas.

7.—The expenses incurred by the Minister for Finance in the administration of this Act shall be paid out of moneys provided by the Oireachtas and the expenses incurred by any other Minister of the Government in such administration shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Expenses of  
Ministers of  
Government.

## PART II

### Waterways Ireland

8.—In this Part, unless the context otherwise requires—

Definitions (*Part II*).

“the Act of 1990” means the Shannon Navigation Act, 1990;

“the Body” shall be construed in accordance with *section 9*;

“the Council” means the North/South Ministerial Council when performing functions in relation to the Body, functions of the Body or the waterways;

“the Minister” means the Minister for Arts, Heritage, Gaeltacht and the Islands;

“the waterways” means the inland waterways in relation to which, pursuant to the Agreement, the Body for the time being performs functions and “waterway” shall be construed accordingly.

9.—(1) The implementation body for inland waterways established by the Agreement and known as Waterways Ireland is referred to in this Part as “the Body”.

Status of Body.

(2) The Body shall be recognised as, and as having all the attributes of, a body corporate, including perpetual succession, the power to acquire, hold and dispose of land or other property and the power to sue.

Pt.II S.9

(3) The Body may be sued in its corporate name.

Functions of Body.

**10.—**(1) The functions of the Body shall, in accordance with paragraph 1 of Article 2 of the Agreement, be those specified in Part 1 of Annex 1 to the Agreement and *sections 11* and *41* have effect for the purpose of the said paragraph 1.

(2) The arrangements specified in Parts 1 and 7 of Annex 2 to the Agreement shall, in accordance with paragraph 2 of Article 2 of the Agreement, apply to the Body.

(3) Paragraph 1 of Article 3 of the Agreement shall apply to the Body.

(4) The Body shall not permanently close a waterway, or part of a waterway, without the approval of the Council.

(5) (a) The Minister may by order provide for the performance, in relation to any inland waterway specified in the order, of the functions of the Body, or such of its functions as may be so specified, from such date as may be so specified.

(b) The Minister may by order amend or revoke an order under this subsection.

Transfer of functions etc., to Body.

**11.—**(1) Subject to *subsections (4)* and *(5)*, the functions of the Minister in relation to the waterways are hereby transferred to the Body.

(2) References to, or which are to be construed as references to, the Minister or the Department of Arts, Heritage, Gaeltacht and the Islands in any statute or instrument made under any statute and relating to any functions transferred by this section shall, in so far as they relate to those functions, be construed as references to the Body.

(3) The functions, assets, rights and liabilities of Bord Fáilte Éireann as a member of Shannon-Erne Waterway Promotions Limited are hereby transferred to the Body and references in the Memorandum or Articles of Association of that Company to Bord Fáilte Éireann shall be construed as references to the Body.

(4) *Subsection (1)* does not apply to the functions of the Minister under section 2 of the Minister for Arts, Heritage, Gaeltacht and the Islands (Powers and Functions) Act, 1998, in so far as it relates to the waterways.

(5) The powers of the Body under—

(a) sections 6(*f*) and 7(1) of the Canals Act, 1986, and

(b) section 2(*h*) and subsections (1) and (3) of section 3 of the Act of 1990,

shall not be exercised by the Body without the consent of the Minister.

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

**12.—**(1) The Body may, with the consent of the Council, acquire compulsorily any land (including an inland waterway or part of an inland waterway) or any right, easement, title or interest in, over or in respect of any land (including an inland waterway or part of an inland waterway).

Pt.II  
Compulsory  
acquisition of land  
and disposal of land  
by Body.

(2) The Body shall not acquire or dispose of an inland waterway or part of an inland waterway without the consent of the Council.

(3) The Schedule to the Act of 1990 shall apply for the purposes of the compulsory acquisition of land (including an inland waterway or part of an inland waterway) by the Body as if—

(a) for the references to the Minister there were substituted references to Waterways Ireland,

(b) for paragraph 2 there were substituted the following paragraph:

“2. (1) The occupier or any owner of land in respect of which a notice under paragraph 1(1)(b) has been published may, within two months after the date of such publication, submit to Waterways Ireland an objection in writing to the proposed compulsory acquisition referred to in the notice.

(2) An objection under subparagraph (1) may be withdrawn by the person who submitted it by notice in writing sent to Waterways Ireland or to the Minister.

(3) (a) Where, in relation to the proposed compulsory acquisition of land under the *British-Irish Agreement Act, 1999*, an objection is submitted to Waterways Ireland in accordance with subparagraph (1) and is not withdrawn, the objection shall be considered by the Minister and the land shall not be acquired compulsorily without the consent of the Minister.

(b) Where a public right of way exists over land proposed to be compulsorily acquired under this Act, the land shall not be acquired compulsorily without the consent of the Minister.

(4) An application by Waterways Ireland for the consent of the Minister to the compulsory acquisition of land under the *British-Irish Agreement Act, 1999*, shall be accompanied by—

(a) a copy of any objection concerned under subparagraph (1),

(b) a copy of the newspaper containing the notice specified in paragraph 1(1)(b),

(c) a copy of the notice specified in paragraph 1(1)(c), and

(d) a copy of the map or plan of the land deposited in pursuance of paragraph 1(1)(a),

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

Pt.II S.12

and Waterways Ireland shall furnish to the Minister such other information in relation to the acquisition as the Minister may require.

(5) On an application under subparagraph (4) in relation to land—

(a) in case the Minister is of opinion that the provisions of paragraph 1 have not been complied with in relation to the land or part of the land, he or she shall refuse to grant his or her consent to the compulsory acquisition of the land or, as the case may be, refuse to grant his or her consent to the compulsory acquisition of the part and grant his or her consent to the compulsory acquisition of the remainder of the land,

(b) in any other case, the Minister shall grant his or her consent to the compulsory acquisition of the land.”,

and

(c) for clause (c) of paragraph 3(1) there were substituted the following clause:

“(c) the Minister gives his or her consent to the compulsory acquisition thereof by Waterways Ireland.”,

and with any other necessary adaptations.

Repeals.

**13.**—The following are hereby repealed:

(a) section 6(*d*) (in so far as it relates to the compulsory acquisition of land or a right over land) of, and the Second Schedule to, the Canals Act, 1986,

(b) section 2(*f*) of the Act of 1990 (in so far as it relates to the compulsory acquisition of land or any right, easement, title or interest of any kind, in, over or in respect of land), and

(c) paragraph (*a*) (in so far as it relates to the waterways) and paragraph (*d*) (in so far as it relates to the functions of the Minister in relation to waterways) of section 5(1) of the Minister for Arts, Heritage, Gaeltacht and the Islands (Powers and Functions) Act, 1998.

### PART III

#### The Food Safety Promotion Board

“the Body”.

**14.**—In this Part “the Body” shall be construed in accordance with *section 15*.

Status of Body.

**15.**—(1) The implementation body for food safety established by the Agreement and known as The Food Safety Promotion Board is referred to in this Part as “the Body”.

(2) The Body shall be recognised as, and as having all the attributes of, a body corporate, including perpetual succession, the power to acquire, hold and dispose of land or other property and the power to sue.

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

(3) The Body may be sued in its corporate name. Pt.III S.15

**16.**—(1) The functions of the Body shall, in accordance with paragraph 1 of Article 2 of the Agreement, be those specified in Part 2 of Annex 1 to the Agreement. Functions of Body.

(2) The arrangements specified in Parts 2 and 7 of Annex 2 to the Agreement shall, in accordance with paragraph 2 of Article 2 of the Agreement, apply to the Body.

(3) Paragraph 1 of Article 3 of the Agreement shall apply to the Body.

**17.**—The Food Safety Authority of Ireland Act, 1998, is hereby amended as specified in the Table to this Part. Amendment of  
Food Safety  
Authority of  
Ireland Act, 1998.

TABLE

Amendments of the Food Safety Authority of Ireland Act, 1998

The amendments to the Food Safety Authority of Ireland Act, 1998, are as follows:

1. For sections 11 and 12 there shall be substituted the following sections:

“11. (1) The principal function of the Authority shall be to take all reasonable steps to ensure that—

- (a) food produced in the State (whether or not distributed or marketed in the State), and
- (b) food distributed or marketed in the State,

meets the highest standards of food safety and hygiene reasonably attainable.

(2) It shall, in particular, take all reasonable steps to ensure that such food complies—

- (a) with any relevant food legislation in respect of food safety and hygiene standards, or
- (b) in the absence of any such legislation, with the provisions of generally recognised standards or codes of good practice aimed at ensuring the achievement of high standards of food hygiene and food safety.

(3) At the request of the Food Safety Promotion Board, the Authority shall co-operate with it in the performance of its functions.

12. (1) In order to achieve the highest level of protection reasonably attainable in the interests of public health and consumer protection and, for the purposes of section 11(2), the Authority shall foster at all stages of food production, from primary production through to final use by the consumer, the establishment and maintenance of high standards of food hygiene and safety.

(2) The Authority shall, for the purposes of subsection (1), undertake or arrange to have undertaken such activities as it deems appropriate to foster such standards and shall carry out or

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

Pt.III S.17

arrange to have carried out such food inspections as are required to determine compliance with food legislation.

(3) Without prejudice to the provisions of food legislation, the activities and food inspections to be undertaken by or on behalf of the Authority and referred to in subsection (2) shall be directed towards bringing about a general acceptance amongst producers, manufacturers, distributors, retailers and caterers of the principle that, in respect of any food placed on the market, the primary responsibility for the safety and suitability of the food for human consumption is borne by them individually or, as appropriate, collectively, and, as a consequence, each of the persons mentioned shall take all reasonable steps to ensure, in so far as the person is concerned, the safety and hygienic standard of that food.

(4) The Authority shall, in the performance of its functions, endeavour to consult representatives of consumers, producers, retailers, distributors, caterers and manufacturers and, where appropriate, official agencies about the activities or other measures to be undertaken.”.

2. In section 15—

(a) for “or may, on its own initiative, provide such advice on—” there shall be substituted “and may, on its own initiative, provide such advice—”, and

(b) paragraphs (a), (b) and (h) are deleted.

3. In section 16, subsection (3) is deleted.

4. In section 18—

(a) in subsection (1), after “The Authority may” there shall be inserted “, in the performance of its functions,”, and

(b) in subsection (2), after “State” there shall be inserted “or by the Food Safety Promotion Board”.

5. In section 41(4)(b), for “context” there shall be substituted “content”.

6. For section 46 there shall be substituted the following section:

“46. For the purposes of section 11(2), the Authority shall carry out or arrange to have carried out on its behalf under section 48 the following:

(a) the determination of compliance with food legislation by means of—

(i) the inspection, approval, licensing or registration of premises and equipment, including premises or equipment used in connection with the manufacture, processing, disposal, transport and storage of food,

(ii) the inspection, sampling and analysis of food, including food ingredients, and

(iii) the inspection and analysis of food labelling,

and

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

(b) the provision of food safety and food hygiene education to producers, manufacturers, distributors, retailers and caterers.”. Pt.III S.17

7. In section 48(9), for “inspections” there shall be substituted “its functions”.

8. In section 65—

(a) in paragraph (h), before “after” there shall be inserted “the insertion”, and

(b) in paragraph (j), for “to insert” there shall be substituted “the insertion of”.

## PART IV

### The Trade and Business Body

**18.**—In this Part “the Body” shall be construed in accordance with “the Body”.  
*section 19.*

**19.**—(1) The implementation body for trade and business development established by the Agreement and known as The Trade and Business Development Body is referred to in this Part as “the Body”. Status of Body.

(2) The Body shall be recognised as, and as having all the attributes of, a body corporate, including perpetual succession, the power to acquire, hold and dispose of land or other property and the power to sue.

(3) The Body may be sued in its corporate name.

**20.**—(1) The functions of the Body shall, in accordance with paragraph 1 of Article 2 of the Agreement, be those specified in Part 3 of Annex 1 to the Agreement. Functions of Body.

(2) The arrangements specified in Parts 3 and 7 of Annex 2 to the Agreement shall, in accordance with paragraph 2 of Article 2 of the Agreement, apply to the Body.

(3) Paragraph 1 of Article 3 of the Agreement shall apply to the Body.

## PART V

### The Special EU Programmes Body

**21.**—In this Part “the Body” shall be construed in accordance with “the Body”.  
*section 22.*

**22.**—(1) The implementation body for special European Union programmes and known as The Special EU Programmes Body is referred to in this Part, as “the Body”. Status of Body.

(2) The Body shall be recognised as, and as having all the attributes of, a body corporate, including perpetual succession, the power

Pt.V S.22

to acquire, hold and dispose of land or other property and the power to sue.

(3) The Body may be sued in its corporate name.

Functions of Body.

**23.**—(1) The functions of the Body shall, in accordance with paragraph 1 of Article 2 of the Agreement, be those specified in Part 4 of Annex 1 to the Agreement.

(2) The arrangements specified in Parts 4 and 7 of Annex 2 to the Agreement shall, in accordance with paragraph 2 of Article 2 of the Agreement, apply to the Body.

(3) Paragraph 1 of Article 3 of the Agreement shall apply to the Body.

## CUID VI

### An Foras Teanga

Téacs i mBéarla.

**24.**—Tá an téacs i mBéarla den alt seo agus *d'ailt 25 go 30* leagtha amach sa Tábla a ghabhann leis an gCuid seo.

Míitithe (*Cuid VI*).

**25.**—Sa Chuid seo, mura n-éilíonn an comhthéacs a mhalairt—

déanfar “an Foras” a fhorléiriú de réir *alt 26*;

ciallaíonn “an Chomhairle” an Chomhairle Aireachta Thuaidh/Theas nuair atá sí ag comhlíonadh feidhmeanna i ndáil leis an bhForas nó feidhmeanna de chuid an Fhorais.

Stádas an Fhorais.

**26.**—(1) Sa Chuid seo, gairtear “an Foras” den chomhlacht forfheidhmithe le haghaidh teanga a bhunaítear leis an gComhaontú agus ar a dtugtar i mBéarla “The North/South Language Body” nó i nGaeilge “An Foras Teanga” nó in Ultais “Tha Boord o Leid”.

(2) Tabharfar aitheantas don Fhoras mar chomhlacht corpraithe agus mar chomhlacht ag a bhfuil na tréithe go léir de chuid comhlachta chorpraithe, lena n-áirítear comharbas suthain, an chumhacht chun talamh nó maoin eile a fháil, a shealbhú agus a dhíúscairt agus an chumhacht chun agairt a dhéanamh.

(3) Féadfar an Foras a agairt faoina ainm corpraithe.

Feidhmeanna an Fhorais.

**27.**—(1) Is iad feidhmeanna an Fhorais, de réir mhír 1 d’Airteagal 2 den Chomhaontú, ná na feidhmeanna sin a shonraítear i gCuid 5 d’Iarscríbhinn 1 a ghabhann leis an gComhaontú agus tá éifeacht le *hailt 28 agus 41* chun críche na míre sin 1.

(2) De réir mhír 2 d’Airteagal 2 den Chomhaontú, beidh feidhm maidir leis an bhForas ag na socruithe a shonraítear i gCuid 5 agus i gCuid 7 d’Iarscríbhinn 2 a ghabhann leis an gComhaontú.

(3) Beidh feidhm ag mír 1 d’Airteagal 3 den Chomhaontú maidir leis an bhForas.

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

**28.**—(1) Déantar leis seo feidhmeanna Bhord na Gaeilge a aistriú chuig an bhForas. Pt.VI

Feidhmeanna a aistriú chuig an bhForas.

(2) (a) Déantar leis seo feidhmeanna an Aire Ealaíon, Oidhreacht, Gaeltachta agus Oileán, a mhéid a bhaineann na feidhmeanna sin le maoiniú na n-eagraíochtaí deonacha Gaeilge a shonraítear sa Tábla a ghabhann leis an alt seo, a aistriú chuig an bhForas.

(b) Féadfaidh an tAire le hordú, le comhaontú roimh ré ón gComhairle, an Tábla a ghabhann leis an alt seo a leasú trí thagairt d'aon eagraíocht Ghaeilge eile a chur leis an Tábla sin, trí thagairt d'eagraíocht den sórt sin a scríosadh as an Tábla sin nó trí iontráil maidir le heagraíocht den sórt sin sa Tábla sin a leasú.

(3) Déantar leis seo feidhmeanna an Aire Oideachais agus Eolaíochta—

(a) i ndáil le foilsitheoireacht ag an nGúm agus foilseacháin de chuid an Ghúim, agus

(b) i ndáil le forbairt téarmaíochta agus stóir focal ag an gCoiste Téarmaíochta,

i nGaeilge, a aistriú chuig an bhForas.

(4) Déanfar tagairtí, nó tagairtí atá le forléiriú mar thagairtí—

(a) don Aire Ealaíon, Oidhreacht, Gaeltachta agus Oileán nó don Roinn Stáit a bhfuil sé nó sí i gceannas uirthi,

(b) don Aire Oideachais agus Eolaíochta nó don Roinn Stáit a bhfuil sé nó sí i gceannas uirthi, nó

(c) do Bhord na Gaeilge,

in aon reacht nó in aon ionstraim arna déanamh faoi aon reacht agus a bhaineann le haon fheidhmeanna a aistrítear leis an alt seo a fhorléiriú, a mhéid a bhaineann siad leis na feidhmeanna sin, mar thagairtí don Fhoras.

## AN TÁBLA

1. Comhdháil Náisiúnta na Gaeilge
2. Gael Linn
3. Conradh na Gaeilge
4. An tOireachtas
5. An Comhlachas Náisiúnta Drámaíochta
6. Cumann na bhFiann
7. Comhluadar
8. Iontaobhas Ultach

**29.**—Discaoiltear leis seo Bord na Gaeilge.

Bord na Gaeilge a dhíscaoileadh.

**30.**—Aisghairtear leis seo an tAcht um Bord na Gaeilge, 1978.

An tAcht um Bord na Gaeilge, 1978, a aisghairm.

English language text.	24. The text in the English language of this section and <i>sections 25 to 30</i> are set out in the Table to this Part.
Definitions ( <i>Part VI</i> ).	25. In this Part, unless the context otherwise requires—  “the Body” shall be construed in accordance with <i>section 26</i> ;  “the Council” means the North/South Ministerial Council when performing functions in relation to the Body or functions of the Body.
Status of Body.	26. (1) The implementation body for language established by the Agreement and known in the English language as The North/South Language Body or in the Irish language as An Foras Teanga or in Ullans as Tha Boord o Leid is referred to in this Part as “the Body”.  (2) The Body shall be recognised as, and as having all the attributes of, a body corporate, including perpetual succession, the power to acquire, hold and dispose of land or other property and the power to sue.  (3) The Body may be sued in its corporate name.
Functions of Body.	27. (1) The functions of the Body shall, in accordance with paragraph 1 of Article 2 of the Agreement, be those specified in Part 5 of Annex 1 to the Agreement and <i>sections 28 and 41</i> have effect for the purpose of the said paragraph 1.  (2) The arrangements specified in Parts 5 and 7 of Annex 2 to the Agreement shall, in accordance with paragraph 2 of Article 2 of the Agreement, apply to the Body.  (3) Paragraph 1 of Article 3 of the Agreement shall apply to the Body.
Transfer of functions to Body.	28. (1) The functions of Bord na Gaeilge are hereby transferred to the Body.  (2) (a) The functions of the Minister for Arts, Heritage, Gaeltacht and the Islands, in so far as those functions relate to the funding of the voluntary Irish language organisations specified in the Table to this section, are hereby transferred to the Body.  (b) The Minister may, with the prior agreement of the Council, by order amend the Table to this section by adding a reference to any other Irish language organisation to, deleting a reference to such an organisation

from, or amending an entry in respect of such an organisation in, the said Table. Pt.VI S.30

(3) The functions of the Minister for Education and Science in relation to—

(a) publishing by and publications of An Gúm, and

(b) the development of terminology and vocabulary by An Coiste Téarmaíochta,

in the Irish language, are hereby transferred to the Body.

(4) References to, or which are to be construed as references to—

(a) the Minister for Arts, Heritage, Gaeltacht and the Islands or the Department of State of which he or she has charge,

(b) the Minister for Education and Science or the Department of State of which he or she has charge, or

(c) Bord na Gaeilge,

in any statute or instrument made under any statute and relating to any functions transferred by this section shall, in so far as they relate to those functions, be construed as references to the Body.

TABLE

1. Comhdháil Náisiúnta na Gaeilge
2. Gael Linn
3. Conradh na Gaeilge
4. An tOireachtas
5. An Comhlachas Náisiúnta Drámaíochta
6. Cumann na bhFiann
7. Comhluadar
8. Iontaobhas Ultach

Dissolution of Bord na Gaeilge.

29. Bord na Gaeilge is hereby dissolved.

Repeal of Bord na Gaeilge Act, 1978.

30. The Bord na Gaeilge Act, 1978, is hereby repealed.

PART VII

The Foyle, Carlingford and Irish Lights Commission

Definitions  
(Part V).

**31.**—In this Part—

“the Act of 1952” means the Foyle Fisheries Act, 1952;

“the Body” shall be construed in accordance with *section 32*;

“the Carlingford Area” has the same meaning as it has in paragraph 5 of Part 6 of Annex 2 to the Agreement;

“the Foyle Area” has the meaning assigned to it by section 3 of the Act of 1952;

“the Louth Area” means that part of the Carlingford Area that is in the State.

Status of Body.

**32.**—(1) The implementation body for aquaculture and marine matters established by the Agreement and known as The Foyle, Carlingford and Irish Lights Commission is referred to in this Part as “the Body”.

(2) The Body shall be recognised as, and as having all the attributes of, a body corporate, including perpetual succession, the power to acquire, hold and dispose of land or other property and the power to sue.

(3) The Body may be sued in its corporate name.

Functions of Body.

**33.**—(1) The functions of the Body shall, in accordance with paragraph 1 of Article 2 of the Agreement (but subject to Article 4 thereof), be those specified in Part 6 of Annex 1 to the Agreement and *sections 34, 36 and 41* have effect for the purpose of the said paragraph 1.

(2) The arrangements specified in Parts 6 and 7 of Annex 2 to the Agreement shall, in accordance with paragraph 2 of the said Article 2 (but subject to the said Article 4), apply to the Body.

(3) Paragraph 1 of Article 3 of the Agreement shall apply to the Body.

Transfer of  
functions etc., to  
Body.

**34.**—(1) The functions vested in the Foyle Fisheries Commission immediately before the commencement of *section 35* shall, as on and from such commencement, stand transferred to the Body and accordingly, references to, or which are to be construed as references to, the Foyle Fisheries Commission in any statute or instrument made under any statute shall be construed as references to the Body.

(2) The Act of 1952 shall apply to the Carlingford Area as it applies to the Foyle Area with the modification that references in that Act (other than in section 6) to—

(a) the Foyle Area shall be construed as including references to the Carlingford Area, and

(b) the Merville Area shall be construed as including references to the Louth Area,

and with any other necessary modifications.

(3) The Act of 1952 is hereby amended by—

(a) the insertion in section 2(1) of the following definitions:

“ ‘the Carlingford Area’ and ‘the Louth Area’ have the meanings assigned to them respectively by *section 31* of the *British-Irish Agreement Act, 1999*;

‘the Council’ means the North/South Ministerial Council within the meaning of the *British-Irish Agreement Act, 1999*, when performing functions in relation to, or in relation to the functions of, The Foyle, Carlingford and Irish Lights Commission;”

(b) the deletion in section 2(1) of the definitions of “the Advisory Council” and “the Ministry”,

(c) the substitution of the following section for section 6:

“6. (1) A copy of every order or regulation made under this Act that applies to the Foyle Area shall be deposited—

(a) with the county registrar for the county of Donegal,

(b) with the District Court Clerk of every District Court District which or part of which is situate in the Merville Area, and

(c) in every station of the Garda Síochána situate in the Merville Area.

(2) A copy of every order or regulation made under this Act that applies to the Carlingford Area shall be deposited—

(a) with the county registrar for the county of Louth,

(b) with the District Court Clerk of every District Court District which or part of which is situate in the Louth Area, and

(c) in every station of the Garda Síochána situate in the Louth Area.”

and

(d) the substitution of “the Council” for “the Minister and the Ministry” in each place where it occurs.

(4) References in section 10 of the Foyle Fisheries (Amendment) Act, 1961, and in section 76 of the Fisheries Act, 1980, to the Merville Area shall be construed as including references to the Louth Area.

(5) References in the Local Government (Water Pollution) Acts, 1977 and 1990, to the Foyle Area shall be construed as including references to the Carlingford Area.

Pt. VII

Dissolution of Foyle Fisheries Commission.

Transfer of functions of Commissioners of Irish Lights.

**35.**—The Foyle Fisheries Commission is hereby dissolved.

**36.**—The functions vested in the Commissioners of Irish Lights immediately before the commencement of *section 37* shall, as on and from such commencement, stand transferred to the Body and, accordingly, references to, or which are to be construed as references to, the Commissioners of Irish Lights in any statute or instrument made under any statute shall be construed as references to the Body.

Dissolution of Commissioners of Irish Lights.

**37.**—The Commissioners of Irish Lights are hereby dissolved.

Repeals and revocation.

**38.**—(1) The enactments specified in *column (2)* of the Table to this Part are hereby repealed to the extent specified in *column (3)* thereof.

(2) The Irish Lights Commissioners (Adaptation) Order, 1935 (S.R. & O., No. 661 of 1935), is hereby revoked.

TABLE

Repeal of Enactments

Session and Chapter or Number and Year (1)	Long Title or Short Title (2)	Extent of Repeal (3)
26 Geo. 3, c. 19.	An Act of the Irish Parliament entitled “an Act for promoting the Trade of Dublin by rendering its Port and Harbour more commodious”.	The whole Act.
No. 5 of 1952.	Foyle Fisheries Act, 1952.	Sections 5 and 15 to 22, Part IV, the Third Schedule (other than paragraphs 2 and 15) and the Fourth Schedule.

PART VIII

Other Provisions

“appropriate Minister”.

**39.**—In this Part “the appropriate Minister” means—

- (a) in relation to Waterways Ireland, the Minister for Arts, Heritage, Gaeltacht and the Islands,
- (b) in relation to The Food Safety Promotion Board, the Minister for Health and Children,
- (c) in relation to The Trade and Business Development Body, the Minister for Enterprise, Trade and Employment,
- (d) in relation to The Special EU Programmes Body, the Minister for Finance,

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

- (e) in relation to An Foras Teanga, the Minister for Arts, Heritage, Gaeltacht and the Islands, or the Minister for Education and Science, as may be appropriate having regard to the functions of that Body, Pt.VIII S.39
- (f) in relation to The Foyle, Carlingford and Irish Lights Commission, the Minister for the Marine and Natural Resources.

- 40.—(1) (a) Where the appropriate Minister in relation to a particular Body designates an officer of his or hers for the purposes of this section, the officer shall, on such day as may be specified by the appropriate Minister, be transferred to, and become and be a member of, the staff of the Body. Transfer of staff to Bodies.
- (b) A designation may be made under *paragraph (a)* in relation to an officer of the appropriate Minister whose duties relate wholly or mainly to a function transferred to the Body to which the designation relates or who consents to the designation.
- (c) A designation under this subsection may be made at any time before but not more than 2 years after the day on which the functions of the appropriate Minister are transferred under this Act.
- (d) Before making a designation under this section the appropriate Minister shall consult the person concerned and any recognised trade union of which he or she is a member.

(2) Where the Minister for Arts, Heritage, Gaeltacht and the Islands designates a person who immediately before the dissolution of Bord na Gaeilge was a member of its staff for the purposes of this section, the member shall, on such day as may be specified by that Minister of the Government, be transferred to, and become and be a member of, the staff of An Foras Teanga.

(3) Where the Minister for the Marine and Natural Resources designates a person who immediately before the dissolution of the Foyle Fisheries Commission or the Commissioners of Irish Lights was a member of the staff of either of those bodies for the purposes of this section, the member shall, on such day as may be specified by that Minister of the Government, be transferred to, and become and be a member of, the staff of The Foyle, Carlingford and Irish Lights Commission.

- (4) (a) Where the Minister for Enterprise, Trade and Employment designates a member of the staff of Enterprise Ireland or Forfás for the purposes of this section, the member shall, on such day as may be specified by that Minister of the Government, be transferred to and become a member of the staff of The Trade and Business Development Body.
- (b) *Paragraphs (b), (c) and (d) of subsection (1)* shall apply to a designation under this subsection as it applies to a designation under that subsection with any necessary modifications.

(5) (a) In this subsection “the transferor” means Bord na Gaeilge, the Foyle Fisheries Commission, the Commissioners of Irish Lights, Enterprise Ireland or Forfás, as may be appropriate.

(b) The contract of employment between a person designated under *subsection (2), (3) or (4)* and the transferor shall have effect on and from the day specified by the appropriate Minister in relation to the designation as if originally made between the person and the Body of whose staff he or she becomes a member by virtue of the designation.

(c) Without prejudice to *paragraph (b)*—

(i) all the transferor’s rights, powers, duties and liabilities under or in connection with a contract to which that paragraph applies shall by virtue of that paragraph be transferred to the Body aforesaid on the day referred to in that paragraph;

(ii) anything done before that day by or in relation to the transferor in respect of that contract or the person shall be deemed from that day to have been done by or in relation to the said Body.

(d) *Paragraphs (b) and (c)* are without prejudice to any right of a person designated as aforesaid to terminate his or her contract of employment if a substantial change is made to his or her detriment in his or her working conditions, but no such right shall arise by reason only of the change in employer effected by *paragraph (b)*.

(6) In relation to staff transferred by this section, previous service in the civil service, Bord na Gaeilge, the Foyle Fisheries Commission, the Commissioners of Irish Lights, Enterprise Ireland or Forfás shall be reckonable for the purposes of the Redundancy Payments Acts, 1967 to 1991, the Holidays (Employees) Acts, 1973 and 1991, the Minimum Notice and Terms of Employment Acts, 1973 to 1991, and the Unfair Dismissals Acts, 1977 to 1993.

Provisions consequent upon transfer of functions, assets and liabilities to a Body.

**41.—(1)** Where any legal proceedings are pending to which a Minister, a Board or a Commission is a party and the proceedings have reference to functions transferred by the relevant section from that Minister, that Board or that Commission, the name of the Body to which the functions are transferred shall, in so far as the proceedings relate to any function transferred by the relevant section, be substituted in the proceedings for that of that Minister or that Board or that Commission or be added in the proceedings, as may be appropriate, and the proceedings shall not abate by reason of such substitution.

(2) Anything commenced and not completed before the transfer of a function under the relevant section by or under the authority of the person from whom the function is transferred may, in so far as it relates to that function, be carried on or completed on or after such commencement by the Body to which the function is so transferred.

(3) Every instrument made under statute and every other document (including any certificate or licence) granted or made in the exercise of a function transferred by the relevant section shall, if and in so far as it was operative immediately before such transfer, have

effect on and after such transfer as if it had been granted or made by the Body to which the function is transferred, and the transfer of a function by the relevant section shall not affect the validity of any such document as granted or made or any other act done by or in relation to the person from whom the function is transferred before such transfer, and any such document or act shall, if in force immediately before that transfer, continue in force to the same extent and subject to the same provisions as if it had been duly granted, made or done by, or in relation to, that Body.

(4) References to a Minister, a Board or a Commission in the memorandum or articles of association of any company and relating to a function transferred from that Minister, that Board or that Commission by the relevant section shall, on and after the transfer, be construed as references to the Body to whom the function is transferred.

(5) All property, rights and liabilities held, enjoyed or incurred in relation to a function transferred by the relevant section shall, on such transfer, be and are hereby transferred to the Body to whom the function is transferred and, accordingly, without any further conveyance, transfer or assignment—

- (a) the said property, real and personal, shall, on such transfer, vest in that Body,
- (b) the said rights shall, as on and from such transfer, be enjoyed by that Body,
- (c) the said liabilities shall, as on and from such transfer, be liabilities of that Body.

(6) Any moneys, stocks, shares or securities transferred by the relevant section that on such transfer are standing in the name of the person from whom they are transferred shall, on the request of the Body to which they are so transferred, be transferred into its name.

(7) The administration and business in connection with the performance of any function transferred by the relevant section are hereby transferred to the Body to which the function is so transferred.

(8) A certificate signed by a Minister that any property, right or liability has or, as the case may be, has not vested in a Body under the relevant section shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

(9) A Minister may by regulations make such adaptations and modifications of any statute (including *sections 11, 28, 34 and 36*) or instrument made under any statute or the memorandum or articles of association of any company as he or she considers necessary or expedient to enable this section and those sections to have full effect.

(10) In this section—

“a Board” means Bord na Gaeilge or Bord Fáilte Éireann;

“a Commission” means the Foyle Fisheries Commission or the Commissioners of Irish Lights;

“Minister” means the Minister for Arts, Heritage, Gaeltacht and the Islands, the Minister for the Marine and Natural Resources or the Minister for Education and Science, as may be appropriate having

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

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regard to the function, asset or liability concerned (including a function, asset or liability of a Board or a Commission);

“the relevant section” means *section 11, 28, 34 or 36.*

Grants to Bodies.

**42.**—(1) The Minister for Finance may make grants to the Special EU Programmes Body out of moneys provided by the Oireachtas of such amounts and subject to such conditions as he or she may determine for the purposes of expenditure by that Body in the performance of its functions.

(2) Any other appropriate Minister may, with the consent of the Minister for Finance, make grants to a Body out of moneys provided by the Oireachtas of such amounts and subject to such conditions as the appropriate Minister may, with the like consent, determine for the purposes of expenditure by that Body in the performance of its functions.

Restriction on borrowing by Bodies.

**43.**—The power to borrow money conferred on a Body by paragraph 2.2 of Part 7 of Annex 2 to the Agreement shall not be exercised without the consent of the Minister for Finance and the Northern Ireland Minister.

Fees.

**44.**—A Body may, with the approval of the Minister for Finance, charge fees and impose other charges in respect of the performance of its functions and any fee or other charge paid to a Body by virtue of this section or of any power transferred to it shall be retained by it and used for the purposes of the performance of its functions.

Gifts to Bodies.

**45.**—(1) A Body may, subject to the approval of the Minister for Finance, accept gifts of money, land or other property upon such trusts or conditions (if any) as may be specified by the donor.

(2) A Body shall not accept a gift if the trusts or conditions attached to it would be inconsistent with its functions.

Restriction of sections 43 to 45.

**46.**—Notwithstanding *section 1(2)*, a section, being *section 43, 44 or 45*, shall not come into operation in relation to a Body unless provision to the like effect is made in the financial memorandum relating to that Body referred to in paragraph 2.2 of Part 7 of Annex 2 to the Agreement.

Directions for purpose of Article 7 of Agreement.

**47.**—The Minister for Foreign Affairs is hereby authorised to give a direction under Article 7 of the Agreement to a Body, and a Body shall act in accordance with any such direction.

Judicial notice of seals of Bodies.

**48.**—Judicial notice shall be taken of the seal of each Body and a document purporting to be an instrument made by a Body and to be sealed with the seal of the Body (purporting to be authenticated in accordance with paragraph 4.2 of Part 7 of Annex 2 to the Agreement) shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

49.—(1) Subject to *subsection (2)*, the appropriate Minister shall cause a copy of the annual report of a Body to be laid before each House of the Oireachtas.

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Laying of reports of Bodies before Houses of Oireachtas.

(2) In the case of An Foras Teanga, the reference in *subsection (1)* to the appropriate Minister shall be construed as a reference to the Minister for Arts, Heritage, Gaeltacht and the Islands.

50.—(1) In this section—

Application of Ombudsman Act, 1980.

“the Act of 1980” means the Ombudsman Act, 1980;

“the Northern Ireland Ombudsman” means the person who performs in Northern Ireland functions corresponding to those of the Ombudsman.

(2) The Act of 1980 shall apply in relation to the Bodies with any necessary modifications and as if there were a reference to each of them in Part I of the First Schedule to that Act, but such application shall be restricted to actions taken in the State by or on behalf of a Body.

(3) During a preliminary examination or an investigation under the Act of 1980 of an action taken by or on behalf of a Body, the Ombudsman shall consult with the Northern Ireland Ombudsman in relation to the conduct of the examination or investigation and, where he or she considers it appropriate to do so, may make available to the Northern Ireland Ombudsman information (including a copy of a document) furnished to him or her for the purposes of the examination or investigation; but, any decision or recommendation falling to be made following such an examination or investigation shall be made solely by the Ombudsman and he or she shall furnish a statement in writing of any such decision or recommendation to the Northern Ireland Ombudsman.

(4) Where a complaint is made to the Northern Ireland Ombudsman in relation to an action taken in the State by or on behalf of a Body and the matter is referred to the Ombudsman by the Northern Ireland Ombudsman, the Act of 1980 shall apply as if a complaint in relation to the matter had been duly made under that Act to the Ombudsman.

(5) Where a complaint is made to the Ombudsman in relation to an action taken in Northern Ireland by or on behalf of a Body, he or she shall refer the matter to the Northern Ireland Ombudsman and shall furnish to him or her any information (including a copy of a document) in relation to the matter in his or her possession.

(6) The Ombudsman shall, when so requested by the Northern Ireland Ombudsman in relation to the investigation by the Ombudsman for Northern Ireland of an action taken in Northern Ireland by or on behalf of a Body, liaise and consult with him or her in relation to the matter.

51.—(1) In this section—

Application of Data Protection Act, 1988.

“the Act of 1988” means the Data Protection Act, 1988;

“action” includes failure to act and references to taking an action include references to such a failure;

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

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“the Commissioner” means the Data Protection Commissioner;

“data controller” and “data processor” have the meanings assigned to them by the Act of 1988;

“established” shall be construed in accordance with Directive 95/46/EC of the European Parliament and the Council of 24 October 1995<sup>1</sup> on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

“the Northern Ireland Commissioner” means the person who performs in Northern Ireland functions corresponding to those of the Commissioner.

(2) The Act of 1988 shall apply in relation to the Bodies with any necessary modifications and subject to the subsequent provisions of this section.

(3) Where the data controller concerned is established in the State only, the Act of 1988 shall apply in relation to any matter concerning that data controller.

(4) Where the data processor concerned is established in the State only, the Act of 1988 shall apply in relation to any matter concerning that data processor.

(5) Where the data controller concerned or the data processor concerned is established in the State and in Northern Ireland, the Act of 1988 shall apply in relation to any matter concerned only if the processing concerned takes place in the State.

(6) In so far as the Act applies to a Body or to a data processor of a Body, the Body shall be deemed to be a person to whom section 16 of the Act of 1988 applies.

(7) Where—

(a) a complaint is made to the Commissioner in relation to a Body or the data processor of a Body and the matter is one to which, by virtue of this section, the Act of 1988 does not apply, and

(b) the data controller concerned or the data processor concerned is situated in Northern Ireland or the processing takes place in Northern Ireland,

the Commissioner shall refer the matter to the Northern Ireland Commissioner and shall furnish to him or her any information in relation to the matter in his or her possession.

Exemption of  
Bodies from rates  
and taxes.

**52.—**(1) A Body shall not be liable to pay any rates under the Valuation Acts and any hereditament or tenement used or occupied by a Body shall, for the purpose of section 2 of the Valuation (Ireland) Act, 1854, be deemed to be of a public nature and occupied for the public service.

(2) A Body shall not be liable for the payment of any direct tax, or any duty, in respect of any lands or income.

<sup>1</sup>O.J. No. L281 23.11.95, p. 31.

**53.**—A Body shall be deemed to be—

- (a) a State authority for the purposes of section 13 of the Statute of Limitations, 1957, and
- (b) an appropriate State authority for the purposes of section 70 of the Landlord and Tenant (Amendment) Act, 1980.

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Application of section 13 of Statute of Limitations, 1957, and section 70 of the Landlord and Tenant (Amendment) Act, 1980, to Bodies.

**54.**—Section 4 of the Documentary Evidence Act, 1925, shall apply to regulations and bye-laws made by a Body.

Proof of regulations and bye-laws made by a Body.

**55.**—(1) For the purpose of ensuring that the arrangements for the agreed co-operation referred to in paragraphs 8 and 9(i) of Strand Two of the Multi-Party Agreement, in so far as they relate to public bodies, will commence contemporaneously with the transfer of powers to the Northern Ireland Assembly, public bodies concerned shall have such functions as are necessary or expedient for that purpose.

Functions for public bodies.

(2) In this section “public body” means a local authority for the purposes of the Local Government Act, 1941, a health board or any other body established by any enactment.

**56.**—For the purposes of the Comptroller and Auditor General (Amendment) Act, 1993—

Application of Comptroller and Auditor General (Amendment) Act, 1993.

- (a) the examination referred to in paragraph 2.5 of Part 7 of Annex 2 to the Agreement shall be deemed to be an audit, and
- (b) the value for money examinations referred to in paragraph 2.7 of that Part shall be deemed to be examinations provided for by section 9 of that Act.

SCHEDULE

Section 2.

Agreement Between The Government Of Ireland And The Government Of The United Kingdom Of Great Britain And Northern Ireland Establishing Implementation Bodies

The Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland:

Having regard to Article 2 of the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland done at Belfast on 10th April 1998 (“the British-Irish Agreement”), and to the Multi-Party Agreement reached at Belfast on 10th April 1998 (“the Multi-Party Agreement”), annexed to the British-Irish Agreement;

Recalling that the participants in the multi-party negotiations pledged that they would in good faith work to ensure the success of each and every one of the arrangements to be established under the Multi-Party Agreement, and that it was accepted that “all of the institutional and constitutional arrangements — an Assembly in

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

Sch.

Northern Ireland, a North/South Ministerial Council, implementation bodies, a British-Irish Council, and a British-Irish Intergovernmental Conference and any amendments to British Acts of Parliament and the Constitution of Ireland — are interlocking and interdependent and that in particular the functions of the Assembly and the North/South Council are so closely inter-related that the success of each depends on that of the other”;

Have agreed as follows:

ARTICLE 1

Under and in furtherance of Article 2 of the British-Irish Agreement the following Bodies are hereby established:

- (a) an implementation body for inland waterways, to be known as Waterways Ireland;
- (b) an implementation body for food safety, to be known as The Food Safety Promotion Board;
- (c) an implementation body for trade and business development, to be known as The Trade and Business Development Body;
- (d) an implementation body for special EU programmes, to be known as The Special EU Programmes Body;
- (e) an implementation body for language, to be known as The North/South Language Body, which shall be known in Irish as An Foras Teanga or in Ullans as Tha Boord o Leid;
- (f) an implementation body for aquaculture and marine matters, to be known as The Foyle, Carlingford and Irish Lights Commission.

ARTICLE 2

1. The functions of each Body shall be those specified in the relevant part of Annex 1 hereto insofar, in relation to Northern Ireland, as they relate to matters within the competence of Northern Ireland Ministers.

2. Each Body shall exercise its functions and be structured in accordance with the arrangements set out in the relevant parts of Annex 2 hereto.

ARTICLE 3

1. Each Body shall operate in accordance with the provisions of the Multi-Party Agreement, and shall in particular implement any decisions of the North/South Ministerial Council on policies and actions relating to matters within the scope of the Body’s functions.

2. Each Body shall be funded in accordance with the provisions of the Multi-Party Agreement on the basis that it constitutes a necessary public function.

ARTICLE 4

Sch.

In relation to the Body for aquaculture and marine matters, Articles 2 and 3 shall apply subject to any arrangements which the two Governments shall determine for the provision and maintenance of aids to navigation pursuant to paragraph 7.1 of Part 6 of Annex 2 hereto.

ARTICLE 5

The North/South Ministerial Council may propose to the two Governments amendments to Annexes 1 and 2 hereto. Such amendments may be made by the two Governments by exchange of notes.

ARTICLE 6

Each Body shall have legal personality. Its legal capacity shall include the capacity to contract, to acquire and dispose of property and to institute legal proceedings.

ARTICLE 7

1. Each Body shall act in accordance with any direction of the British Secretary of State for Foreign and Commonwealth Affairs or the Irish Minister for Foreign Affairs necessary to ensure compliance, within their respective jurisdictions, with any international obligations of the British Government or the Irish Government other than international obligations arising under this Agreement or the British-Irish Agreement.

2. Such directions shall be issued only in the event that the North/South Ministerial Council is unable to reach a decision on measures necessary to ensure compliance with the above international obligations.

ARTICLE 8

This Agreement supplements the provisions of the British-Irish Agreement and shall be read together with that Agreement.

ARTICLE 9

This Agreement shall enter into force on the date on which the British-Irish Agreement enters into force.

In witness whereof the undersigned, being duly authorised thereto by the respective Governments, have signed this Agreement.

Done in two originals at Dublin on the 8th day of March 1999.

For the Government of  
Ireland

For the Government of the United  
Kingdom of Great Britain and  
Northern Ireland

ANNEX 1

PART 1

Inland Waterways

A Body with the following functions:

Management, maintenance, development and restoration of the inland navigable waterway system throughout the island, principally for recreational purposes:

immediately in respect of the Shannon-Erne Waterway and of the possible restoration and development of the Ulster Canal;

progressively thereafter, in respect of the wider Shannon-Erne system and the island's other waterways (principally the Royal Canal, Grand Canal, Barrow and Lagan).

The Body would take on the functions, together with the appropriate support functions, exercised in that regard by the Waterways Service of the Department of Arts, Heritage, Gaeltacht and the Islands and the Rivers Agency of the Department of Agriculture in Northern Ireland, and would also take over the functions of Shannon-Erne Waterway Promotions Ltd.

PART 2

Food Safety

A Body with the following functions:

- promotion of food safety
- research into food safety
- communication of food alerts
- surveillance of food-borne diseases
- promotion of scientific co-operation and linkages between laboratories
- development of cost-effective facilities for specialised laboratory testing.

PART 3

Trade and Business Development

A Body to exchange information and co-ordinate work on trade, business development and related matters, in areas where the two administrations specifically agree it would be in their mutual interest.

The specific areas of implementation would include:

- co-operation on business development opportunities, North and South;

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

- devising new approaches to business development in a cross-border context, in such areas as research, training, marketing and quality improvement; Sch.
- supporting business by making recommendations to increase enterprise competitiveness in a north-south context in areas such as skills availability, telecoms, IT and electronic commerce;
- promotion of north-south trade and supply chains, including through business linkages and partnerships;
- promoting cross-border trade events and marketing initiatives;
- identifying new areas of trade between North and South;
- promoting market awareness and trade development in a north-south context;
- undertaking specific projects and events in relation to trade promotion, when tasked jointly on a project by project basis;
- providing advice on specific aspects of trade promotion, when tasked jointly to do so.

Existing economic agencies North and South would continue to be funded by and operate under the direction of their respective administrations.

#### PART 4

##### Special EU Programmes

A Body with the following functions:

Until the conclusion of the current Community Initiatives

- the central secretariat, monitoring, research, evaluation, technical assistance and development roles currently exercised jointly in respect of INTERREG and PEACE by the Department of Finance and the Department of Finance and Personnel;
- administration of certain sectoral sub-programmes under INTERREG and PEACE (interest rate subsidy and cross border co-operation between public bodies).

In relation to post-1999 Structural Funds

- advising North/South Ministerial Council and two Departments of Finance on negotiation with the EU Commission of post-1999 Community Initiatives and of Common Chapter;
- preparing, for the approval of the two administrations in the Council and in close consultation with the two Departments of Finance and other relevant Departments, detailed programme proposals under the new Community Initiatives (likely to be INTERREG III, LEADER III and EQUAL, and possibly a successor to PEACE);

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

- Sch.
- central secretariat, monitoring, research, evaluation, technical assistance and development roles in respect of these Initiatives;
  - grant-making and other managerial functions in respect of INTERREG III and of north-south elements of programmes under other Initiatives, within the framework of the relevant overall policies of North and South respectively, and subject to the expenditure allocations and specific programme parameters agreed between the two administrations and with the EU Commission;
  - monitoring and promoting implementation of the Common Chapter, which would have a specific budgetary allocation.

PART 5

Language

One Body, with two separate parts, with the following functions:

Irish Language

- promotion of the Irish language;
- facilitating and encouraging its use in speech and writing in public and private life in the South and, in the context of Part III of the European Charter for Regional or Minority Languages, in Northern Ireland where there is appropriate demand;
- advising both administrations, public bodies and other groups in the private and voluntary sectors;
- undertaking supportive projects, and grant-aiding bodies and groups as considered necessary;
- undertaking research, promotional campaigns, and public and media relations;
- developing terminology and dictionaries;
- supporting Irish-medium education and the teaching of Irish.

Ulster Scots

- promotion of greater awareness and use of Ullans and of Ulster Scots cultural issues, both within Northern Ireland and throughout the island.

PART 6

Aquaculture and Marine Matters

A Body with the following functions:

Lough Foyle and Carlingford Lough

- promotion of development of Lough Foyle and Carlingford Lough, for commercial and recreational purposes;

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

- existing functions of Foyle Fisheries Commission in regard Sch. to inland fisheries conservation, protection, management and development, and equivalent functions in respect of Carlingford Lough;
- development and licensing of aquaculture;
- development of marine tourism.

#### Lighthouses

- existing functions of the Commissioners of Irish Lights in respect of providing and maintaining aids to navigation along the coast of the whole island of Ireland and its adjacent seas and islands.

Given that the CIL functions in an East-West context, arrangements to maintain linkage with the relevant British authorities.

## ANNEX 2

### DEFINITIONS

In this Annex—

“the Finance Departments” means the Northern Ireland Department of Finance and Personnel and the Irish Department of Finance;

“the Finance Ministers” means the Northern Ireland Minister of Finance and Personnel and the Irish Minister for Finance;

“NSMC” means the North/South Ministerial Council.

### PART 1

#### Inland Waterways

### EXERCISE OF FUNCTIONS

Part 1 of Annex 1 sets out the functions of the Body. The Body will exercise these functions in accordance with the following arrangements and those set out in Part 7 below.

1.1 The Body will with immediate effect—

- (a) be responsible for the management, maintenance and development principally for recreational purposes of the Shannon-Erne Waterway;
- (b) take forward appropriate studies and appraisals in relation to the possible restoration of the Ulster Canal; and
- (c) take over the control of Shannon-Erne Waterway Promotions Ltd.

1.2 With effect from 1 April 2000, the Body will assume responsibility for the management, maintenance and development principally for recreational purposes of the following inland waterways—

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

Sch.

the Erne System  
the Grand Canal (including the Barrow Navigation)  
the Lower Bann Navigation  
the Royal Canal  
the Shannon Navigation.

- 1.3 If, in the light of the outcome of the studies and appraisals referred to at paragraph 1.1(b), NSMC so decides, the Body will, with effect from such date as NSMC may decide, be responsible for the restoration of the Ulster Canal and, following restoration, for its management, maintenance and development principally for recreational purposes.
- 1.4 With effect from such date as may be specified by legislation in each jurisdiction, following agreement in NSMC, the Body will assume responsibility for—
  - (a) the restoration of any other inland waterway specified in the legislation;
  - (b) the management, maintenance and development principally for recreational purposes of any other inland waterway so specified.
- 1.5 From 1 April 2000, there will be three regional divisions of the Body — Northern, Western and Eastern.
- 1.6 In the discharge of its management and development function principally for recreational purposes, the Body will engage in promotion, including marketing and development of the tourism and commercial potential of the inland waterways for which it has responsibility.
- 1.7 The Body will have all the powers necessary for, or incidental to, the exercise of its functions.

## STRUCTURE

- 2.1 The Body will have a Chief Executive, appointed by NSMC.
- 2.2 The functions of the Body will be exercised by the Chief Executive or another member of the staff of the Body authorised by the Chief Executive. In exercising its functions the Body will at all times act in accordance with any directions (whether of a general or specific nature) given by NSMC.

## PART 2

### Food Safety

#### EXERCISE OF FUNCTIONS

Part 2 of Annex 1 sets out the functions of the Body. The Body will exercise these functions in accordance with the following arrangements and those set out in Part 7 below.

1. Promotion of food safety:
  - 1.1 It will be a key and priority function of the Body to bring about general acceptance that responsibility for the provision

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

of safe food is shared among producers, processors, distributors at all levels, caterers and the general public. This function includes:

- (a) promoting awareness and knowledge of food safety issues among the public, professionals with an interest in, or responsibility for, food safety, and the food industry;
- (b) arranging public awareness campaigns, conferences, training and strategic support;
- (c) providing food safety advice and guidance (including advice on the nutritional aspects of various foods);
- (d) establishing and maintaining links with key interests in the food safety field, including the Northern Ireland and Irish bodies responsible for food safety enforcement.

1.2 The Body will have a remit throughout the island of Ireland in relation to the promotion of food safety and will work in association with the Northern Ireland and Irish food safety agencies, which will continue to be responsible for inspection and enforcement. Existing arrangements for international negotiations, the setting of food standards and the promulgation of legislation and regulations will continue to apply. The Body may review and advise on the adequacy of food enforcement arrangements in place throughout the food chain in the island of Ireland, at the request of NSMC.

1.3 The Northern Ireland and Irish food safety enforcement agencies will retain a promotional role to support their inspection and enforcement functions.

2. Research into food safety:

The Body will have a general remit to promote research into all aspects of food safety, including:

- (a) identifying priorities for research;
- (b) commissioning and funding research projects as necessary to fill identified gaps;
- (c) establishing and maintaining a database of research programmes and monitoring progress;
- (e) disseminating research findings to relevant interests;
- (f) recommending action arising from research findings;
- (g) maintaining links with international research bodies.

3. Communication of food alerts:

The Body will have a responsibility to ensure prompt, accurate and complete dissemination of information on national and international food alerts by:

- (a) developing and monitoring protocols for responding to food alerts;
- (b) liaising with the Northern Ireland and Irish enforcement agencies;

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

Sch.

(c) promoting and, where appropriate, arranging training for those likely to be involved in managing and responding to food alerts;

(d) developing cross-border emergency response procedures.

4. Surveillance of food borne diseases:

The Body will have a general responsibility to promote cross-border co-operation in the microbiological surveillance of food borne diseases:

(a) identifying priorities for the development of surveillance;

(b) establishing a forum for the exchange of information between relevant interests;

(c) promoting collaboration in surveillance-related activity, where appropriate, including training and professional development;

(d) accessing and analysing surveillance data held by the appropriate Northern Ireland and Irish authorities;

(e) publishing surveillance information and analysis;

(f) promoting harmonisation, where appropriate, in the development of surveillance systems including methodologies, approaches to reporting, and information technology systems.

5. Promotion of scientific co-operation and linkages between laboratories:

The Body will have a general remit to promote scientific co-operation and linkages between laboratories accredited, or working towards accreditation, under relevant EU directives:

(a) developing a strategy for such co-operation and linkages between laboratories, including proposed funding arrangements;

(b) developing a reporting system for rapid access to laboratory results;

(c) sharing knowledge and experience on methodologies of testing and surveillance;

(d) setting priorities for laboratory network development;

(e) advising on developing linkages and on the means to be employed;

(f) establishing and promoting appropriate information technology solutions;

(g) monitoring effectiveness of the linked laboratories system, including advising on its continuing development.

6. Developing of cost-effective facilities for specialised laboratory testing:

The Body will have a general remit to develop and sustain a

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

strategy for the island of Ireland for the delivery of specialised laboratory services, including: Sch.

- (a) conducting an early study of the relative cost-effectiveness of the available options, including use of laboratories in Great Britain, for the development of specialised laboratory services;
- (b) preparing cost-effective proposals, including funding arrangements, for consideration by NSMC;
- (c) overseeing the implementation of the strategy once approved by NSMC, including advising on its continuing development.

- 7.1 The Body will draw on the pool of scientific advice and expertise available separately to the Northern Ireland and Irish food safety regimes.
- 7.2 It is intended that the Body will provide an independent assessment, through independent scientific advice, of the safety and hygiene of food produced, distributed or marketed in the island of Ireland.
- 8. The Body will issue reports on specific issues related to its functions, either on request from NSMC, or on its own initiative.
- 9. The Body will have all the powers necessary for, or incidental to, the exercise of its functions.

#### STRUCTURE

- 10.1 The Body will have an Advisory Board consisting of not fewer than 8 and not more than 12 members, including a Chairperson and a Vice-Chairperson. NSMC will appoint the members, including one member as Chairperson and one member as Vice-Chairperson.
- 10.2 Subject to the other provisions in this Annex, the remuneration, allowances and expenses of the Chairperson, Vice-Chairperson and other members, and any other terms and conditions on which they hold office, will be determined by NSMC, with the approval of the Finance Ministers.
- 11.1 The term of office of the first members of the Advisory Board will be 3 years. The term of subsequent appointments may be varied by NSMC to facilitate continuity of membership but will not exceed 5 years. Members will not serve more than 2 consecutive terms.
- 11.2 A person may resign as a member or as Chairperson or Vice-Chairperson by notice in writing to NSMC. NSMC may dismiss a person from his or her office as a member, or as Chairperson or Vice-Chairperson, if —
  - (a) he or she fails without reasonable excuse to discharge his or her functions for a continuous period of 3 months;
  - (b) he or she is convicted of a criminal offence;

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

Sch.

- (c) a bankruptcy order is made against him or her, or he or she makes a composition or arrangement with his or her creditors; or
  - (d) he or she is unable or unfit to carry out his or her functions.
- 11.3 If a member dies, resigns or is removed from office, NSMC may appoint a person to fill the vacancy, and the person so appointed will be appointed in the same manner as the member who occasioned the vacancy. The person so appointed will hold office for the remainder of the term of office of the member who occasioned the vacancy and will be eligible for re-appointment as a member.
- 11.4 The Body will have a Chief Executive, appointed by NSMC.
- 11.5 The functions of the Body will be exercised by the Chief Executive or another member of the staff of the Body authorised by the Chief Executive. In exercising its functions the Body will at all times act in accordance with any directions (whether of a general or specific nature) given by NSMC.
- 11.6 NSMC will appoint an Advisory Committee including scientific experts and representatives of broader food safety interests.

### PART 3

#### Trade and Business Development

##### EXERCISE OF FUNCTIONS

Part 3 of Annex 1 sets out the functions of the Body. The Body will exercise these functions in accordance with the following arrangements and those set out in Part 7 below.

- 1.1 The Body will develop co-operation on business development opportunities, North and South, including through:
- (a) reviewing the scope, extent and effectiveness of relevant existing activities undertaken by government agencies and Departments, and recommend to NSMC for consideration and decision areas where cross-border co-operation would add value, and ways of extending and deepening such co-operation;
  - (b) administering a programme to enable companies to undertake joint product and process development projects of commercial benefit, with assistance of institutions where appropriate (this includes projects in which a company and an institution can co-operate on a North/South basis);
  - (c) administering a pre-competitive research programme aimed at supporting commercially focused research within the third level sector, encouraging in particular projects which bring together researchers, companies and institutions, North and South; and

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

- (d) initiating new programmes to assist small and medium Sch. enterprises with researching and implementing joint venture partnerships on a North/South basis or jointly with overseas partners.

In this area the Body will also be tasked to bring forward to NSMC within 3 months proposals on the development of a North/South equity investment fund programme taking account of the effectiveness of the existing range of equity fund provision, North and South, for consideration and decision by NSMC.

1.2 The Body will devise new approaches to business development in a cross-border context, in such areas as research, training, marketing and quality improvement including through:

- (a) reviewing research on business development and experience of business development, including relevant training, in appropriate comparative countries and regions, and in relevant international institutions, with a view to recommending new approaches to the NSMC for consideration and decision;
- (b) examining options for the achievement of greater coherence and deepening of research and development, and for cementing and formalising ongoing industry and third level collaboration in the area, North and South;
- (c) co-ordinating annual programmes of 'Best Practice' visits for companies on a North/South basis;
- (d) implementing a science and technology awareness programme on a North/South basis;
- (e) implementing an innovation award scheme on a North/South basis, with support from the private sector;
- (f) drawing on findings and recommendations emerging from the Foresight initiatives (medium-to-long-term planning) in Ireland and the United Kingdom, and examining the possibility for their application on a North/South basis; and
- (g) recommending to NSMC for implementation on a North/South basis specific measures regarding training and skills development.

In this area the Body will also be tasked to bring forward to NSMC, within 3 months proposals for consideration and decision by NSMC on:

- (h) the development of graduate and other placement programmes on a North/South basis;
- (i) the carrying out of a range of testing services for industry with a view to the development of testing services, North and South, on a fully commercial basis by private interests; and
- (j) the implementation of standards development and certification programmes on a North/South basis.

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

Sch.

- 1.3 The Body will support business by making recommendations to increase enterprise competitiveness in a North/South context in areas such as skills availability, telecoms, information technology and electronic commerce. In particular, it will:
- (a) investigate the effectiveness of existing arrangements in regard to all aspects of competitiveness of business environment North and South, including skills availability, telecoms, information technology and infrastructure and make recommendations for consideration and decision by NSMC;
  - (b) promote an awareness of electronic commerce, including conducting research and advising on the co-ordination of electronic commerce infrastructure, North and South;
  - (c) implement on a North/South basis a number of actions to facilitate development of the Information Society in the interests of trade and business; and
  - (d) examine possibilities for promoting inter-regional economic development and co-operation, including through clusters and centres of excellence, particularly in border areas.
- 1.4 The Body will promote North/South trade and supply chains, including through business linkages and partnerships, including by:
- (a) co-ordinating, gathering and disseminating information on linkage programmes matching suppliers and buyers on a North/South basis, including joint supplier databases; and
  - (b) organising public procurement programmes and events on a North/South basis.
- 1.5 The Body will, under its own brand, promote cross-border trade events and marketing initiatives, identify new areas of trade between North and South and promote market awareness and trade development in a North/South context, including through identifying sectors and products in which cross-border trade is relatively low, establishing the reasons for the low levels, and making recommendations where appropriate for raising the level of trade, including recommendations for the removal of any artificial impediments to trade.
- 1.6 The Body will undertake specific projects and events in relation to trade promotion and provide advice on specific aspects of trade promotion, when tasked jointly to do so.
- The Body will bring forward proposals for consideration by NSMC on specific projects in these areas.
2. The Body will have all the powers necessary for, or incidental to, the exercise of its functions.

STRUCTURE

Sch.

- 3.1 The Body will have a Board of not fewer than 8 and not more than 12 members, including a Chairperson and a Vice-Chairperson. NSMC will appoint the members, including one member as Chairperson and one member as Vice-Chairperson.
- 3.2 The functions of the Body will be exercised by the Board. In exercising its functions the Body will at all times act in accordance with any directions (whether of a general or specific nature) given by NSMC.
- 3.3 Subject to the other provisions in this Annex, the remuneration, allowances and expenses of the Chairperson, Vice-Chairperson and other members, and any other terms and conditions on which they hold office, will be determined by NSMC, with the approval of the Finance Ministers.
- 4.1 The term of office of the first members of the Board will be 3 years. The term of subsequent appointments may be varied by NSMC to facilitate continuity of membership but shall not exceed 5 years. Members will not serve more than 2 consecutive terms.
- 4.2 A person may resign as a member or as Chairperson or Vice-Chairperson by notice in writing to NSMC. NSMC may dismiss a person from his or her office as a member, or as Chairperson or Vice-Chairperson, if —
- (a) he or she fails without reasonable excuse to discharge his or her functions for a continuous period of 3 months;
  - (b) he or she is convicted of a criminal offence;
  - (c) a bankruptcy order is made against him or her, or he or she makes a composition or arrangement with his or her creditors; or
  - (d) he or she is unable or unfit to carry out his or her functions.
- 4.3 If a member dies, resigns or is removed from office, NSMC may appoint a person to fill the vacancy, and the person so appointed will be appointed in the same manner as the member who occasioned the vacancy. The person so appointed will hold office for the remainder of the term of office of the member who occasioned the vacancy and will be eligible for re-appointment as a member.
- 4.4 NSMC will appoint a Chief Executive to the Body. The Chief Executive will be responsible for the management and control generally of the administration and business of the Body.

PART 4

Special EU Programmes

EXERCISE OF FUNCTIONS

Part 4 of Annex 1 sets out the functions of the Body. The Body will exercise these functions in accordance with the following arrangements and those set out in Part 7 below.

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

Sch.

1. Until the conclusion of the current Community Initiatives:—
  - 1.1 The Body will—
    - (a) prepare documentation relating to financial progress of programmes, monitoring of performance, associated reports, agendas and summary records of meetings, preparation of annual report, publicity requirements;
    - (b) chair the Monitoring Committee for INTERREG II, and act as secretariat to the PEACE Monitoring Committee which will continue to be jointly chaired by the Finance Departments until 31 December 1999 or such later date as NSMC may agree; collect from Departmental Sub-Programme leaders all financial returns relating to EU expenditure and commitments (i.e. allocations under the Programmes), prepare financial tables for the Monitoring Committees, collate progress reports from Departments, prepare and submit overview reports regarding overall progress of the Programmes to the Monitoring Committees and manage physical and impact indicator monitoring;
    - (c) commission any research in the form of evaluation exercises on a Programme-wide basis which may be agreed by the Monitoring Committees;
    - (d) ensure that the legal requirements for evaluation in terms of agreeing and monitoring performance indicators (financial, non-financial and impact) for the Programmes, as laid down in the Structural Funds Regulations and Programme documents, are met;
    - (e) be responsible for managing the technical assistance Measures of the Programmes;
    - (f) manage the contract with the INTERREG Development Officer, who will continue to work with Measure Leaders in functional Departments, and liaise with the Consultative Forum within the PEACE programme;
    - (g) oversee the remaining co-ordination tasks in relation to INTERREG II and act as Sub-Programme Leader in relation to the cross-border elements of PEACE, including the completion of the allocation of funds for the Cross-Border Development Sub-Programme as a whole;
    - (h) act as Measure Leader for the Co-operation between Public Bodies and Business and Cultural Linkages Measures of that Sub-programme.
  - 1.2 Internal audit and financial control functions will remain with Departments, while public expenditure overview will remain with Ministers. The implementation of the measures, including decision-making on allocation of grant, will continue to be dealt with as at present through Northern Ireland and Irish Departments and other relevant non-Governmental bodies.

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

2. In relation to post-1999 Structural Funds:— Sch.

- 2.1 The Body will advise NSMC and the Finance Departments on the negotiation with the European Commission of the post-1999 Community Initiatives (CIs) and the Common Chapter on co-operation between Northern Ireland and Ireland in the Structural Funds Plans relating to the next round of funding for 2000-2006. It will be asked to bring forward, following consultation with all relevant interests, proposals in relation to the application of the post-1999 CIs and the Common Chapter which would take account of the policy objectives of the EU, best fulfil the policy objectives of the Irish Government and Northern Ireland Ministers and appropriately reflect the needs of the target areas. On the relevant defined areas of responsibility, the Body's advice will be considered in the context of:—
- (a) the Irish Government's negotiating strategy in respect of the CIs and the Common Chapter; and
  - (b) the views of Northern Ireland Ministers represented to the British Government to contribute to the UK's negotiating strategy on these topics.
- 2.2 On the Common Chapter, the Body will provide views to assist Ministers in drawing up their Structural Funds Plans.
- 2.3 The Body will be responsible for preparing, for the approval of NSMC and in close consultation with the Finance Departments and other relevant Departments, detailed Programme proposals under the new CIs (likely to be INTERREG III, LEADER III and EQUAL and possibly a successor to PEACE). These will reflect the Guidelines for the CIs as agreed by the EU and any guidance issued, following agreement in NSMC, by the Finance Ministers. Before the proposals are put to NSMC, there will be consultation and agreement on the proposed programmes between the Body, the Finance Departments and the appropriate lead Departments in order to provide a clear basis for discussion in NSMC. The Body will contribute as appropriate to negotiations with the European Commission on these matters undertaken by representatives of the British and Irish Governments.
- 2.4 The proposals will include recommendations on:—
- (a) the structure of Measures for inclusion;
  - (b) the allocations to Measures;
  - (c) the objectives of each Measure, so that clear output objectives and eligibility criteria can be drawn up; and
  - (d) the implementation mechanism ie what body would have the role of authorising specific grant allocations to programmes and projects.
- 2.5 The arrangements set out at paragraph 1.1 will be continued for the CIs as appropriate having regard to the particular features of the Programmes under these Initiatives.
- 2.6 The Body will be responsible for grant-making and other managerial functions in respect of INTERREG III and of North/South elements of Programmes under other Initiatives, within the framework of the relevant overall policies of the

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

Sch.

Irish Government and Northern Ireland Ministers respectively, and subject to the expenditure allocations agreed between the two administrations and specific Programme parameters. The Body will be given guidance on these matters, which will be issued, following agreement in NSMC, by the Finance Ministers. When the Programmes are formally approved, they will be overseen by the relevant Monitoring Committee, and the latter will be serviced by the Body which will also provide analysis and advice on any subsequent amendments that may be appropriate. In developing these, there will be consultation in order to secure agreement between the Body, the Finance Departments and the appropriate lead Northern Ireland and Irish Departments to provide a clear basis for discussion and agreement in NSMC.

- 2.7 For INTERREG III and the North/South elements of Programmes under other Initiatives, the Body will, as appropriate, pay grant directly or contract with government Departments (which in turn might subcontract as appropriate to other agencies) or contract directly with other agencies to deliver the Measures. In all cases, it will be the responsibility of the Body to agree with the Finance Ministers and the Ministers of the lead Departments, as appropriate, how to ensure that the specific funding proposals are consistent with the relevant overall policies of the Irish Government and Northern Ireland Ministers respectively and with the expenditure allocations agreed by the two administrations.
- 2.8 The Body will be responsible for monitoring and promoting implementation of North/South co-operative actions through the medium of the Common Chapter; the Common Chapter to set out the allocation of funding for such actions. The Body may commission studies as appropriate to identify and alleviate constraints affecting such co-operation, for which purpose a specific budget will be allocated to the Body.
3. The Body will ensure that all the relevant reporting requirements of the EU are met. The Body will also be responsible for producing the full documentation, including progress reports and a technical annual report, for the Monitoring Committees.
4. The Body's operations will be overseen by the relevant Monitoring Committees established according to the EU Structural Funds Regulations.
5. The Finance Ministers will each appoint a senior official to each Monitoring Committee to work closely with the Chief Executive and ensure that the accountability obligations of each jurisdiction are fulfilled.
6. The Body will have all the powers necessary for, or incidental to, the exercise of its functions.

#### STRUCTURE

- 7.1 The Body will have a Chief Executive, appointed by NSMC.
- 7.2 The functions of the Body will be exercised by the Chief Executive or another member of the staff of the Body authorised by the Chief Executive. In exercising its functions the

[1999.] *British-Irish Agreement Act, 1999.* [No. 1.]

Body will at all times act in accordance with any directions Sch.  
(whether of a general or specific nature) given by NSMC.

## PART 5

### Language

#### EXERCISE OF FUNCTIONS

Part 5 of Annex 1 sets out the functions of the Body. The Body will exercise these functions in accordance with the following arrangements and those set out in Part 7 below.

- 1.1 The functions of Bord na Gaeilge in regard to the promotion of the Irish language and its staff, assets and obligations will be transferred to the Body. Bord na Gaeilge will be dissolved. The functions of the Irish Minister for Arts, Heritage, Gaeltacht and the Islands in relation to financial support for certain voluntary Irish language organisations will also be transferred to the Body.
- 1.2 In carrying out its functions of developing terminology and dictionaries and supporting Irish-medium education and the teaching of Irish, the Body, having regard to the legislative and other curriculum requirements applicable to each jurisdiction—
  - (a)
    - (i) may review the curriculum resources made available for Irish-medium education and the teaching of Irish, including the provision of appropriate textbooks, other teaching materials and teaching aids;
    - (ii) may conduct research into any matters relating to the provision of Irish-medium education and the teaching of Irish in schools or other places, including the methods of teaching employed, the curricula taught and the assessment procedures adopted;
    - (iii) may publish, in such form as it considers appropriate, the outcomes of its research and reviews, including recommendations for action;
  - (b) will exercise the functions exercised prior to the establishment of the Body by the Irish Department of Education and Science, through An Gúm, with respect to the publication of books in Irish in support of Irish-medium education and the teaching of Irish in schools and elsewhere;
  - (c) will exercise the functions exercised prior to the establishment of the Body by the Irish Department of Education and Science, through An Coiste Téarmaíochta with respect to the development of terminology and vocabulary in Irish; and
  - (d) will facilitate co-operation between the body to be established in accordance with Section 31 of the Irish *Education Act, 1998* and any promotional body funded under Article 89 of the *Education (Northern Ireland) Order 1998*.

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

Sch.

- 1.3 Arising out of research or a review carried out under paragraph 1.2 (a) the Body may give advice or make recommendations for action in relation to Irish-medium education and the teaching of Irish.
- 1.4 The functions of the Body in relation to the Irish language will be exercised by an Irish language agency of the Body. The working language of the agency will be Irish, subject to the provisions of the Financial Memorandum. Subject to the agreement of the Body, the agency will decide its own title. In carrying out the Body's functions, the Irish language agency will have regard to the positions of the Irish language in the two jurisdictions. In Northern Ireland this position will be the British Government's commitments in respect of the Rights, Safeguards and Equality of Opportunity section of the Multi-Party Agreement and any relevant legislation. In Ireland, this position will be the constitutional and legal position of the Irish language, Irish Government policy and the measures and practices built up to foster and promote the language.
- 1.5 An Education Unit within this agency will carry out the functions outlined in paragraphs 1.2 and 1.3.
- 1.6 In carrying out its functions in relation to Ullans and Ulster-Scots cultural issues the Body may, having regard to the contexts in both jurisdictions—
  - (a) provide advice to both administrations, public bodies and other groups in the private and voluntary sectors;
  - (b) undertake research and promotional campaigns; and
  - (c) undertake support of projects and grant-aid bodies and groups as necessary; but this does not exclude Ulster-Scots bodies and groups operating exclusively in Northern Ireland from accessing Northern Ireland Government funding programmes.
- 1.7 "Ullans" is to be understood as the variety of the Scots language traditionally found in parts of Northern Ireland and Donegal. "Ulster-Scots cultural issues" relate to the cultural traditions of the part of the population of Northern Ireland and the border counties which is of Scottish ancestry and the influence of their cultural traditions on others, both within the island of Ireland and in the rest of the world.
- 1.8 The functions of the Body in relation to Ullans and Ulster-Scots cultural issues will be exercised by an Ulster-Scots agency of the Body. Subject to the agreement of the Body, the agency will decide its own title.
- 1.9 The Body will have all the powers necessary for, or incidental to, the exercise of its functions.
- 1.10 The annual report of the Body will incorporate reports of the agencies on their activities.
- 1.11 NSMC will designate the amounts of the grants received under paragraph 2.1 of Part 7 to be applied for
  - (a) the functions of the Body in relation to the Irish language; and

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(b) the functions of the Body in relation to Ullans and Ulster Scots cultural issues. Sch.

1.12 The Body will require each of the agencies to keep proper accounts and financial records and to prepare a statement of accounts in respect of each year.

## STRUCTURE

2.1 The Body will have a Board of 24 members appointed by NSMC. Of those members—

(a) 16 will be drawn from among persons appearing to NSMC to have an interest in, or experience of, matters relating to the functions of the Body in relation to Irish language and

(b) 8 will be drawn from among persons appearing to NSMC to have an interest in, or experience of, matters relating to the functions of the Body in relation to Ullans and Ulster-Scots cultural issues.

2.2 The 16 members appointed under paragraph 2.1(a) will have responsibility for the exercise of the functions of the Body through the Irish language agency. One member will be appointed by NSMC as Chairperson of that agency. In exercising the functions of the Body, the agency will at all times act in accordance with any directions (whether of a general or specific nature) given by NSMC.

2.3 The 8 members appointed under paragraph 2.1(b) will have responsibility for the exercise of the functions of the Body through the Ulster-Scots agency. One member will be appointed by NSMC as Chairperson of that agency. In exercising the functions of the Body, the agency will at all times act in accordance with any directions (whether of a general or specific nature) given by NSMC.

2.4 The Chairperson of the Irish language agency and the Chairperson of the Ulster-Scots agency will be joint Chairpersons of the Body.

2.5 Subject to the other provisions in this Annex, the remuneration, allowances and expenses of the Chairpersons and other members, and any other terms and conditions on which they hold office, will be determined by NSMC, with the approval of the Finance Ministers.

2.6 The term of office of the first members of the Board will be 3 years. The term of subsequent appointments may be varied by NSMC to facilitate continuity of membership but shall not exceed 5 years. Members will not serve more than two consecutive terms.

2.7 A person may resign as a member or as a Chairperson by notice in writing to NSMC. NSMC may dismiss a person from his or her office as a member, or as a Chairperson, if —

(a) he or she fails without reasonable excuse to discharge his or her functions for a continuous period of 3 months;

(b) he or she is convicted of a criminal offence;

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Sch.

- (c) a bankruptcy order is made against him or her, or he or she makes a composition or arrangement with his or her creditors; or
  - (d) he or she is unable or unfit to carry out his or her functions.
- 2.8 If a member dies, resigns or is removed from office, NSMC may appoint a person to fill the vacancy, and the person so appointed will be appointed in the same manner as the member who occasioned the vacancy. The person so appointed will hold office for the remainder of the term of office of the member who occasioned the vacancy and will be eligible for re-appointment as a member.
- 2.9 The staff assigned to each agency will be responsible to and report to the Body through that agency.
- 2.10 The Body will appoint a Chief Executive for each agency subject to the approval of NSMC. The Chief Executive will be responsible for the management and control generally of the administration and business of the agency.

## PART 6

### Aquaculture and Marine Matters

#### EXERCISE OF FUNCTIONS

Part 6 of Annex 1 sets out the functions of the Body. The Body will exercise these functions in accordance with the following arrangements and those set out in Part 7 below.

- 1. Promotion of development of Lough Foyle and Carlingford Lough for commercial and recreational purposes:
  - 1.1 This function is restricted to marine, fishery and aquaculture matters and will include the preparation of a strategic plan for commercial and recreational development of the Foyle and Carlingford Areas, and the promotion (including by grant aid) and co-ordination of the delivery of the development strategy;
- 2. Existing functions of the Foyle Fisheries Commission in regard to inland fisheries conservation, protection, management and development, and equivalent functions in respect of Carlingford Lough:
  - 2.1 The Body will exercise the functions formerly exercised by the Foyle Fisheries Commission, which will be dissolved, and corresponding functions in relation to the Carlingford Area. Legislation will be introduced to provide for the exercise of an inland fisheries development function in relation to the Foyle and Carlingford Areas as set out in paragraph 6 below.
- 3. Development and licensing of aquaculture:
  - 3.1 Legislation will be required to provide for the aquaculture development and licensing functions in the Foyle and Carlingford Areas. This will be introduced as set out in paragraph 6 below.

4. Development of marine tourism: Sch.
- 4.1 This function will include the preparation of a strategic plan for marine tourism in the Foyle and Carlingford Areas and the promotion and marketing of those Areas (including by grant aid) and co-ordination of the delivery of the development strategy.
5. The Carlingford Area means—
- (a) the whole of the sea along the coast between the low water line of the most southerly point of Cranfield Point in the County of Down and the low water line of the most easterly point of Ballaghan Point, in the County of Louth, and within a straight line between those points, and any islands or rocks within the same, with the whole of the tideway along the said coast; and
- (b) the whole of all lakes, rivers and their tributaries which flow into the sea within the area defined in sub-paragraph (a) and all of the land catchment from which water drains into those lakes and rivers.
6. The legislation required to provide for the development and licensing of aquaculture and for the exercise of a development function in relation to inland fisheries in the Foyle and Carlingford Areas will, following consultation with NSMC, be brought forward in both jurisdictions before the end of 1999. Pending the enactment of such legislation, the existing statutory provisions in each jurisdiction will continue to apply.
7. Existing functions of the Commissioners of Irish Lights in respect of providing and maintaining aids to navigation along the coast of the whole island of Ireland and its adjacent seas and islands:
- 7.1 United Kingdom and Irish legislation will be required for the Body to become the General Lighthouse Authority for the island of Ireland. Such legislation will be brought forward by the British and Irish Governments, if possible, before the entry into force of this Agreement or, in any event, as soon as possible thereafter. In the event that the functions of the Body as the General Lighthouse Authority are not brought within the competence of Northern Ireland Ministers, the two Governments agree to determine any additional arrangements necessary to enable the Body to exercise the functions of the General Lighthouse Authority for the island of Ireland in accordance with Article 4 of this Agreement. The Body will receive funding from the General Lighthouse Fund, subject to financial arrangements with the Trustees of the Fund.
8. The Body will have all the powers necessary for, or incidental to, the exercise of its functions.

## STRUCTURE

- 9.1 The Body will have a Board of not more than 12 members, including a Chairperson and a Vice-Chairperson. NSMC will appoint the members, including one member as Chairperson and one member as Vice-Chairperson.

[No. 1.] *British-Irish Agreement Act, 1999.* [1999.]

Sch.

- 9.2 The functions of the Body will be exercised by the Board. In exercising its functions the Body will at all times act in accordance with any directions (whether of a general or specific nature) given by NSMC.
- 9.3 Subject to the other provisions in this Annex, the remuneration, allowances and expenses of the Chairperson, Vice-Chairperson and other members, and any other terms and conditions on which they hold office, will be determined by NSMC, with the approval of the Finance Ministers.
- 10.1 The term of office of the first members of the Board will be 3 years. The term of subsequent appointments may be varied by NSMC to facilitate continuity of membership but shall not exceed 5 years. Members will not serve more than 2 consecutive terms.
- 10.2 A person may resign as a member or as Chairperson or Vice-Chairperson by notice in writing to NSMC. NSMC may dismiss a person from his or her office as a member or as Chairperson or Vice-Chairperson, if —
- (a) he or she fails without reasonable excuse to discharge his or her functions for a continuous period of 3 months;
  - (b) he or she is convicted of a criminal offence;
  - (c) a bankruptcy order is made against him or her, or he or she makes a composition or arrangement with his or her creditors; or
  - (d) he or she is unable or unfit to carry out his or her functions.
- 10.3 If a member dies, resigns or is removed from office, NSMC may appoint a person to fill the vacancy, and the person so appointed will be appointed in the same manner as the member who occasioned the vacancy. The person so appointed will hold office for the remainder of the term of office of the member who occasioned the vacancy and will be eligible for re-appointment as a member.
- 10.4 The functions of the Body in relation to the Foyle and Carlingford Areas will be exercised through an agency of the Body known as the Loughs Agency. The functions of the Body referred to in paragraph 7 above will be exercised through an agency of the Body known as the Lights Agency.
- 10.5 The Body will appoint a Chief Executive to each agency subject to the approval of NSMC. The Chief Executives will be responsible for the management and control generally of the administration and business of the agencies.

## PART 7

### Common Arrangements

The following arrangements will apply to all six implementation bodies.

- 1.1 The Body will prepare annually a corporate plan, subject to the approval of NSMC, including Finance Ministers. The Plan will include a description of the proposed activities of the Body and the funding implications.
- 1.2 The Body will submit a report on its activities in each year to NSMC at such date and in such form as NSMC may direct.
- 1.3 A copy of the report will be laid before the Northern Ireland Assembly and both Houses of the Oireachtas.
- 1.4 The Body will provide NSMC or a relevant Minister with such other reports and information as NSMC or the Minister may from time to time require.
- 1.5 A member of the Body or of its staff will, if so requested, appear before, or otherwise co-operate with—
  - (a) a Northern Ireland Assembly Committee or a Committee or sub-Committee of either House or both Houses of the Oireachtas, in accordance with normal practice and relevant legislation within each jurisdiction;
  - (b) NSMC.

#### FINANCIAL ARRANGEMENTS

- 2.1 The Body will receive grants from money voted by the Northern Ireland Assembly and Dáil Éireann. NSMC will, with the approval of the Finance Ministers, make recommendations as to the amount of such grants. The initial grants will be made from money appropriated by the *Appropriation (Northern Ireland) Order 1999* and from money voted by Dáil Éireann.
- 2.2 The Body will comply with the provisions of a Financial Memorandum drawn up for the Body by the Northern Ireland and Irish departments paying grants to the Body and the Finance Departments. It will prescribe the detailed financial arrangements, including those in relation to accounts, the accounting year and currency, to be complied with by the Body. Subject to any terms and conditions specified in the Financial Memorandum, the Body may borrow money for the purposes of its functions.
- 2.3 For the purposes of its functions the Body may provide financial assistance to any body or person whether directly or indirectly in accordance with arrangements to be approved by NSMC and Finance Ministers. Such assistance may be by any description of investment or lending or by making grants.
- 2.4 The Body will keep proper accounts and financial records and will prepare a statement of accounts in respect of each year containing such information and in such form as the Northern Ireland and Irish departments paying grants to the Body may direct with the approval of the Finance Departments.
- 2.5 The Body will submit copies of the above statement to NSMC as well as to the Comptroller and Auditor General for Northern Ireland and the Irish Comptroller and Auditor General who will in co-operation examine and certify the accounts.

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- 2.6 The statement will be laid before the Northern Ireland Assembly and both Houses of the Oireachtas. Any report concerning the Body by the Comptroller and Auditor General for Northern Ireland will be laid before the Northern Ireland Assembly and any such report by the Irish Comptroller and Auditor General will be laid before both such Houses.
- 2.7 The Body will also permit officers of the Comptroller and Auditor General for Northern Ireland and the Irish Comptroller and Auditor General access to all records as may be required to carry out the above functions or value for money examinations and will require any person or body receiving grant from the Body to permit such access.

#### STAFFING ARRANGEMENTS

- 3.1 The Body may for the purposes of its functions—
- (a) employ staff; and
  - (b) employ the services of such other persons as the Body considers expedient for any particular purpose.
- 3.2 The Body may be staffed by open recruitment, temporary secondment and the transfer of staff. The Body will, with the approval of NSMC and the Finance Ministers, determine the remuneration, grading, numbers and other conditions of service of the Chief Executive and other staff of the Body. The Body may, in the case of such of its staff as may be determined by it with the approval of NSMC and the Finance Ministers, pay such pensions, allowances or gratuities, or provide and maintain such pension schemes, as may be so determined.
- 3.3 Remuneration and other conditions of service for transferred staff will not be less favourable than those to which the transferred staff were subject immediately before their transfer, save in accordance with a collective agreement negotiated with a recognised trade union. Superannuation arrangements for transferred staff will not be less favourable than those to which transferred staff were subject immediately before their transfer and any dispute relating thereto shall be determined by the Irish Minister for Finance or the Department of Finance and Personnel, as may be appropriate.
- 3.4 The Finance Departments will draw up staffing principles.
- 3.5 Pending the appointment of the first Chief Executive of the Body, or of an agency of the Body, the functions of the Chief Executive will be exercised by such person as will, prior to the entry into force of this Agreement, have been designated by the Irish Government and the British Government.

#### PROCEDURE

- 4.1 The Body will determine its own procedures.
- 4.2 The Body will have a seal, the application of which will be authenticated by the signature of—
- (a) the Chief Executive of the Body or of an agency of the Body; or

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- (b) another member of the staff of the Body authorised in Sch. that behalf by the Chief Executive of the Body or of an agency of the Body.

#### OMBUDSMAN

5. The Body will be brought within the jurisdiction of the Northern Ireland Assembly Ombudsman and of the Irish Ombudsman who will liaise and consult with each other.

#### CODE OF CONDUCT

- 6.1 The Body will as soon as practicable draw up a code of conduct for approval by NSMC.
- 6.2 The code will cover the Body's aims and values, its obligations to the public, and the accountability and conduct of its members and staff (including membership of or employment by other organisations, acceptance of gifts or other benefits and the disclosure of other interests relevant to the work of the Body and confidentiality).

#### FREEDOM OF INFORMATION

7. The Irish and Northern Ireland Ministers with responsibility for freedom of information will as soon as practicable draw up a code of practice on access to information for approval by NSMC.

#### DATA PROTECTION

8. The Body will be subject to the data protection legislation applicable in each jurisdiction. In carrying out investigations into complaints relating to the Body the United Kingdom Data Protection Commissioner and the Irish Data Protection Commissioner will liaise and consult with each other.