



Number 39 of 2003

**MINISTER FOR COMMUNITY, RURAL AND GAELTACHT
AFFAIRS (POWERS AND FUNCTIONS) ACT 2003**

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Uimhir 39 de 2003

**ACHT AN AIRE GNÓTHAÍ POBAIL, TUAITHE AGUS
GAELTACHTA (CUMHACHTAÍ AGUS FEIDHMEANNA)
2003**

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[No. 39.] *Minister for Community, Rural and* [2003.]
Gaeltacht Affairs (Powers and
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ACTS REFERRED TO

Acquisition of Land (Assessment of Compensation) Act 1919	1919, c. 57
Aran Islands Transport Act 1946	1946, No. 5
Companies Acts 1963 to 2001	
Lands Clauses Consolidation Act 1845	1845, c. 18
Local Government Acts 1925 to 2003	
Minister for Arts, Heritage, Gaeltacht and the Islands (Powers and Functions) Act 1998	1998, No. 7

[2003.] *Acht an Aire Gnóthaí Pobail, Tuaithe agus Gaeltachta (Cumhachtaí agus Feidhmeanna) 2003.* [Uimh. 39.]

NA hAHTANNA DÁ dTAGRAÍTEAR

<i>Acquisition of Land (Assessment of Compensation) Act</i> 1919	1919, c. 57
Acht Iompair Oileán Árann 1946	1946, Uimh. 5
Achtanna na gCuideachtaí 1963 go 2001	
<i>Lands Clauses Consolidation Act</i> 1845	1845, c. 18
Na hAchtanna Rialtais Áitiúil 1925 go 2003	
Acht an Aire Ealaíon, Oidhreacht, Gaeltachta agus Oileán (Cumhachtaí agus Feidhmeanna) 1998	1998, Uimh. 7



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**MINISTER FOR COMMUNITY, RURAL AND GAELTACHT
AFFAIRS (POWERS AND FUNCTIONS) ACT 2003**

AN ACT TO MAKE FURTHER PROVISION IN RELATION
TO THE FUNCTIONS AND POWERS OF THE MINISTER
FOR COMMUNITY, RURAL AND GAELTACHT
AFFAIRS WITH RESPECT TO THE ISLANDS OF THE
STATE AND TO PROVIDE FOR RELATED MATTERS.

[16th December, 2003]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

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

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

“goods” includes matter sent by post and animals;

“island” means an inhabited island of the State;

“island connecting bus passenger service” has the meaning assigned to it by *section 2*;

“land” includes land covered by water and any estate, right or interest in or over land;

“Minister” means the Minister for Community, Rural and Gaeltacht Affairs.

(2) In this Act, unless the context otherwise requires—

(a) a reference to a section is to a section of this Act,

(b) a reference to a subsection is a reference to a subsection of the section in which the reference occurs, and

(c) references to any enactment are references to that enactment as amended by any subsequent enactment, including this Act.

Powers of Minister
in relation to
transport services
for islands.

2.—(1) Without prejudice to the generality of this, or any other enactment conferring functions on the Minister but subject to *subsection (2)*, the Minister, with the consent of the Minister for Finance, may, subject to such terms and conditions as the Minister, with that consent, may determine—



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**ACHT AN AIRE GNÓTHAÍ POBAIL, TUAITHE AGUS
GAELTACHTA (CUMHACHTAÍ AGUS FEIDHMEANNA)
2003**

ACHT DO DHÉANAMH SOCRÚ BREISE I nDÁIL LE
FEIDHMEANNA AGUS CUMHACHTAÍ AN AIRE GNÓ-
THAÍ POBAIL, TUAITHE AGUS GAELTACHTA MAI-
DIR LE hOILEÁIN AN STÁIT AGUS DO DHÉANAMH
SOCRÚ MAIDIR LE NITHE GAOLMHARA.

[16 Nollaig, 2003]

ACHTAÍTEAR AG AN OIREACHTAS MAR A LEANAS:

1.—(1) San Acht seo, mura n-éilíonn an comhthéacs a mhalairt— Léiriú.

folaíonn “feidhm” cumhacht agus dualgas, agus folaíonn tagairt do chomhlíonadh feidhme tagairt d’fheidhmiú cumhachta agus do chomhall dualgais;

folaíonn “earraí” ábhar arna chur leis an bpost agus ainmhithe;

ciallaíonn “oileán” oileán áitrithe de chuid an Stáit;

tá le “comhsheirbhís paisinéirí bus agus oileáin” an bhrí a shanntar dó le *halt 2*;

folaíonn “talamh” talamh atá faoi uisce agus aon eastát, ceart nó leas i dtalamh nó thar thalamh;

ciallaíonn “Aire” an tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

(2) San Acht seo, mura n-éilíonn an comhthéacs a mhalairt—

- (a) aon tagairt d’alt, is tagairt í d’alt den Acht seo,
- (b) aon tagairt d’fho-alt, is tagairt í d’fho-alt den alt ina bhfuil an tagairt, agus
- (c) aon tagairtí d’aon achtachán, is tagairtí iad don achtachán sin arna leasú le haon achtachán ina dhiaidh sin, lena n-áirítear an tAcht seo.

2.—(1) Gan dochar do ghinearáltacht an achtacháin seo nó aon achtacháin eile lena dtugtar feidhmeanna don Aire, ach faoi réir *fho-alt (2)*, féadfaidh an tAire, le toiliú an Aire Airgeadais, faoi réir cibé téarmaí agus coinníollacha a chinnfidh an tAire, le toiliú an Aire Airgeadais—

Cumhachtaí an Aire i ndáil le seirbhísí iompair le haghaidh oileán.

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(a) pay subsidies—

(i) for the operation of ferry services between the islands and the mainland, and

(ii) for the operation of island connecting bus passenger services,

and

(b) finance the building, acquisition, overhaul or repair of vessels suitable for the operation of such ferry services.

(2) A subsidy shall not be paid under *subsection (1)* for the operation of island connecting bus passenger services without the consent of the Minister for Transport to the payment and to the terms and conditions thereof.

(3) It shall be and be deemed always to have been a function of the Minister to pay subsidies for the operation of an island connecting bus passenger service.

(4) In this section “an island connecting bus passenger service” means a bus service provided in conjunction with a ferry service mentioned in *subsection (1)* or an air service mentioned in *section 3* connecting—

(a) the terminus on the mainland of such a ferry service or air service, and

(b) centres of population within a radius of 120 kilometres of that terminus specified in regulations made by the Minister,

and being a service for the carriage solely of goods and passengers carried by the air service or the ferry service.

Powers of Minister in relation to provision, etc., of aerodromes.

3.—(1) It shall be and be deemed always to have been a function of the Minister, for the purposes of, or as necessary or expedient for, the performance of any function of the Minister connected with the provision of air services between the islands and the mainland—

(a) to acquire by agreement or compulsorily, with the consent of the Minister for Finance and the Minister for Transport, any existing aerodromes or any land required for the construction, improvement, extension or development of aerodromes and ancillary facilities on the islands, or as the case may be, the mainland,

(b) to finance the construction, maintenance, restoration, repair or improvement of any such aerodromes and ancillary facilities, and

(c) to manage and operate any such aerodromes and ancillary facilities.

(2) (a) A statutory body may, if so authorised by order made by the Minister, with the consent of the Minister for Finance and the Minister for Transport, perform the functions aforesaid or such of them, subject to any conditions or restrictions, as are specified in the order.

[2003.] *Acht an Aire Gnóthaí Pobail, Tuaithe agus Gaeltachta (Cumhachtaí agus Feidhmeanna) 2003.* [Uimh. 39.]

(a) fóirdheontais a íoc—

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(i) chun seirbhísí farantóireachta idir na hoileáin agus an mhórthír a oibriú, agus

(ii) chun comhsheirbhísí paisinéirí bus agus oileáin a oibriú,

agus

(b) maoiniú a dhéanamh ar thógáil, fáil, imchóiriú nó deisiú soithí atá oiriúnach chun seirbhísí farantóireachta den sórt sin a oibriú.

(2) Ní íocfar fóirdheontas faoi *fho-alt (1)* chun comhsheirbhísí paisinéirí bus agus oileáin a oibriú, gan toiliú an Aire Iompair le híoc an chéanna agus le téarmaí agus coinníollacha an chéanna.

(3) Is feidhm de chuid an Aire agus measfar gurbh fheidhm de chuid an Aire riamh fóirdheontais a íoc chun comhsheirbhísí paisinéirí bus agus oileáin a oibriú.

(4) San alt seo ciallaíonn “comhsheirbhísí paisinéirí bus agus oileáin” seirbhís bus arna soláthar i gcomhar le seirbhís farantóireachta a luaitear i *bhfo-alt (1)* nó le haersheirbhís a luaitear in *alt 3*, ar seirbhís í a cheanglaíonn—

(a) an ceann cúrsa atá ag seirbhís farantóireachta nó ag aersheirbhís den sórt sin ar an mórthír, agus

(b) ionaid daonra atá laistigh de gha 120 ciliméadar ón gceann cúrsa sin agus a bheidh sonraithe i rialacháin arna ndéanamh ag an Aire,

agus nach bhfuil inti ach seirbhís chun earraí agus paisinéirí, a iompraíonn an aersheirbhís nó an tseirbhís farantóireachta, a iompar.

3.—(1) Is feidhm de chuid an Aire, agus measfar gurbh fheidhm de chuid an Aire riamh, d’fhonn aon fheidhm de chuid an Aire a chomhlíonadh, nó de réir mar is gá nó is fóirsteanach chun aon fheidhm den sórt sin a chomhlíonadh, ar feidhm í a bhaineann le haersheirbhísí idir na hoileáin agus an mhórthír a sholáthar—

Cumhachtaí an Aire i ndáil le haeradróim a sholáthar etc.

(a) aeradróim láithreacha nó aon talamh is gá chun aeradróim agus saoráidí coimhdeacha a fhoirgníú, a fheabhsú, a leathnú nó a fhorbairt ar na hoileáin nó, de réir mar a bheidh, ar an mórthír, a fháil trí chomhaontú nó go héigeantach, le toiliú an Aire Airgeadais agus an Aire Iompair,

(b) foirgníú, cothabháil, aisiriú, deisiú nó feabhsú aon aeradróm agus saoráidí coimhdeacha den sórt sin a mhaoiniú, agus

(c) aon aeradróim agus saoráidí coimhdeacha den sórt sin a bhainistiú agus a oibriú.

(2) (a) Féadfaidh comhlacht reachtúil, má údaraítear amhlaidh dó le hordú arna dhéanamh ag an Aire, le toiliú an Aire Airgeadais agus an Aire Iompair, na feidhmeanna a dúradh nó cibé feidhm nó feidhmeanna acu, faoi réir aon choinníollacha nó srianta, a bheidh sonraithe san ordú, a chomhlíonadh.

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- (b) Any such order may contain such ancillary and incidental provisions as the Minister considers necessary or expedient for the purposes of the authorisation effected by the order.
 - (c) The Minister may, with the consent of the Minister for Finance and the Minister for Transport by order amend or revoke at any time the authorisation effected by the order.
 - (d) An order under this subsection shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done under the order.
- (3) (a) If and whenever the Minister thinks proper to acquire compulsorily any land under this section, the Minister may, with the consent of the Minister for Finance, by order declare his or her intention so to acquire such land, and every such order shall operate to confer on the Minister power to acquire compulsorily the land mentioned therein under and in accordance with this section.
- (b) The Minister shall not make an order under this subsection in relation to any land covered by water, or which is foreshore, without previous consultation with the Minister for Communications, Marine and Natural Resources.
 - (c) Before making an order under this subsection, the Minister—
 - (i) shall deposit and keep open for inspection at some suitable place (public notice of which shall be given) such plans, specifications, and other documents as will show fully and clearly the land intended to be acquired or used by virtue of the order,
 - (ii) shall give notice, in such manner as he or she may consider best adapted for informing persons likely to be affected by the order, of his or her intention to consider the making thereof and of the manner in which representations and objections in respect of the order may be made, and
 - (iii) shall, if he or she considers it expedient so to do, cause a public inquiry to be held in regard to the making of the order.
 - (d) (i) Where, immediately before an order is made under this subsection by the Minister, any person has any estate, right, easement, title or interest of any kind in, over or in respect of the land acquired by the order, the person may apply to the Minister at any time after the making of the order for compensation in respect of the estate, right, easement, title or interest and the Minister shall, subject to *subparagraph (iii)*, thereupon pay to the person by way of compensation an amount equal to the value (if any), on the date of the order, of the estate, right, easement, title or interest together with interest at such

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- (b) Féadfaidh cibé forálacha coimhdeacha agus teagmhasacha, a mheasfaidh an tAire is gá nó is fóirsteanach chun críocha an údaraithe a dhéantar le haon ordú den sórt sin, a bheith san ordú. A.3
- (c) Féadfaidh an tAire le hordú, le toiliú an Aire Airgeadais agus an Aire Iompair, an t-údarú a dhéantar leis an ordú a leasú nó a chúlghairm tráth ar bith.
- (d) Déanfar ordú faoin bhfo-alt seo a leagan faoi bhráid gach Tí den Oireachtas a luaithe is indéanta tar éis a dhéanta agus má dhéanann ceachtar Teach acu sin, laistigh den 21 lá a shuífidh an Teach sin tar éis an t-ordú a leagan faoina bhráid, rún a rith ag neamhniú an ordaithe, beidh an t-ordú ar neamhní dá réir sin, ach sin gan dochar do bhailíocht aon ní a rinneadh roimhe sin faoin ordú.
- (3) (a) Más cuí, agus aon uair is cuí, leis an Aire aon talamh a fháil go héigeantach faoin alt seo, féadfaidh an tAire, le toiliú an Aire Airgeadais, a dhearbhu le hordú go bhfuil ar intinn aige nó aici an talamh sin a fháil amhlaidh, agus oibreoidh gach ordú den sórt sin chun cumhacht a thabhairt don Aire an talamh a luaitear san ordú sin a fháil go héigeantach faoi réim agus de réir an ailt seo.
- (b) Ní dhéanfaidh an tAire ordú faoin bhfo-alt seo i ndáil le haon talamh atá faoi uisce, nó ar imeall trá í, gan dul i gcomhairle roimh ré leis an Aire Cumarsáide, Mara agus Acmhainní Náidúrtha.
- (c) Sula ndéanfaidh an tAire ordú faoin bhfo-alt seo, déanfaidh an tAire—
- (i) cibé pleananna, sonraíochtaí agus doiciméid eile a thaispeánfaidh go hiomlán agus go soiléir an talamh atáthar ar intinn a fháil nó a úsáid de bhua an ordaithe a thaisceadh agus a choimeád ar oscailt lena n-íniúchadh in áit oiriúnach éigin (a dtabharfar fógra poiblí ina taobh),
- (ii) fógra a thabhairt, i cibé slí is dóigh leis nó léi is fearr a oireann chun daoine ar dóigh go ndéanfaidh an t-ordú difear dóibh a chur ar an eolas, i dtaobh é a bheith ar intinn aige nó aici déanamh an ordaithe a bhreithniú agus i dtaobh na slí ina bhféadfar uirill agus agóidí a dhéanamh i leith an ordaithe, agus
- (iii) más fóirsteanach leis nó léi déanamh amhlaidh, a chur faoi deara fiosrúchán poiblí a sheoladh maidir leis an ordú a dhéanamh.
- (d) (i) Más rud é, díreach sula ndéanfaidh an tAire ordú faoin bhfo-alt seo, go mbeidh aon eastát, ceart, éasúint, teideal nó leas d'aon chineál ag aon duine sa talamh, thar an talamh nó maidir leis an talamh a gheofar leis an ordú, féadfaidh an duine, aon tráth tar éis an t-ordú a dhéanamh, iarratas a dhéanamh chuig an Aire ar chúiteamh maidir leis an eastát, leis an gceart, leis an éasúint, leis an teideal nó leis an leas agus, faoi réir *fhomhír (iii)*, íocfaidh an tAire air sin leis an duine, ar mhodh cúitimh, méid is comhionann le luach (más ann) an eastáit, an chirt, na héasúna, an teidil nó an leasa ar dháta an ordaithe, maille le

S.3

rate as the Minister, with the consent of the Minister for Finance, may determine from time to time, on the amount from that date to the date of payment thereof.

(ii) The compensation to be paid under this paragraph in respect of any estate, right, easement, title or interest of any kind in, over or in respect of land shall, in default of agreement, be determined by arbitration under and in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919.

(iii) (A) The Minister may by regulations, in such cases (if any) and to such extent as he or she considers necessary for the purposes of this subsection, apply all or any of the provisions of sections 69 to 83 of the Lands Clauses Consolidation Act 1845 as if such compensation were purchase money or compensation under the said Act, as if the Minister was the promoter of the undertaking and with any other necessary modifications.

(B) Where money is paid into court under the said section 69, as applied under this section, by the Minister, no costs shall be payable by the Minister to any person in respect of any proceedings for the investment, payment of income or payment of capital of such money.

(e) Nothing in this section shall authorise the Minister to acquire, use, or otherwise interfere with compulsorily under this section any land which at the date of the first publication of notice of the intention of the Minister to consider the making of an order under this subsection belongs to any railway, electricity, gas, or water undertaker and is used or authorised to be used by such undertaker for the purpose of the undertaking concerned.

(f) The following provisions shall have effect in relation to any public inquiry held under this section—

(i) the Minister shall appoint a fit and proper person to hold the inquiry,

(ii) such person is hereby authorised to administer oaths to persons appearing as witnesses at the inquiry, and

(iii) any person interested in the subject matter of the inquiry shall be entitled to appear personally or by counsel or solicitor and to adduce evidence.

(4) In this section “statutory body” means—

(a) a local authority for the purposes of the Local Government Acts 1925 to 2003,

(b) a company established under the Companies Acts 1963 to 2001, financed wholly or partly by means of moneys provided, or loans made or guaranteed, by a Minister of the

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hús, de réir cibé ráta a chinnfidh an tAire ó am go ham le toiliú an Aire Airgeadais, ar an méid ón dáta sin go dtí an dáta a n-íocfar é. A.3

(ii) Déanfar an cúiteamh a bheidh le híoc faoin mír seo, maidir le haon eastát, ceart, éasúint, teideal nó leas d'aon chineál i dtalamh, thar thalamh nó maidir le talamh, a chinneadh, cheal comhaontaithe, trí eadráin faoi réim agus de réir an *Acquisition of Land (Assessment of Compensation) Act 1919*.

(iii) (A) Féadfaidh an tAire, le rialacháin, i cibé cásanna (más ann) agus a mhéid a mheasfaidh sé nó sí is gá chun críocha an fho-ailt seo, forálacha uile nó aon chuid d'fhorálacha ailt 69 go 83 den *Lands Clauses Consolidation Act 1845* a chur chun feidhme amhail is dá mba airgead ceannaigh nó cúiteamh faoin Acht sin an cúiteamh sin, amhail is dá mba é nó í an tAire tionscnóir an ghnóthais agus fara aon mhodhnuithe eile is gá.

(B) I gcás ina n-íocfaidh an tAire airgead isteach sa chúirt faoin alt sin 69, arna chur chun feidhme faoin alt seo, ní bheidh aon chostais iníoctha ag an Aire le haon duine maidir le haon imeachtaí chun an t-airgead sin a infheistiú nó chun ioncam nó caipiteal an airgid sin a íoc.

(e) Ní údaróidh aon ní san alt seo don Aire aon talamh a fháil nó a úsáid go héigeantach faoin alt seo, nó cur isteach ar aon talamh go héigeantach faoin alt seo ar shlí eile, ar talamh de chuid aon ghnóthaire iarnróid, leictreachais, gáis nó uisce í, an tráth a chéadfhoilsítear fógra go bhfuil ar intinn ag an Aire déanamh ordaithe faoin bhfo-alt seo a bhreithniú, agus ar talamh í, an tráth sin, a úsáideann gnóthaire den sórt sin nó atá údaraithe lena húsáid ag gnóthaire den sórt sin chun críocha an ghnóthais lena mbaineann.

(f) Beidh éifeacht leis na forálacha seo a leanas i ndáil le haon fhiosrúchán poiblí a sheolfar faoin alt seo—

(i) ceapfaidh an tAire duine oiriúnach cuí chun an fiosrúchán a sheoladh,

(ii) údaraítear don duine sin leis seo daoine a láithríonn mar fhinnéithe ag an bhfiosrúchán a chur faoi mhionn, agus

(iii) beidh aon duine a bhfuil leas aige nó aici in ábhar an fhiosrúcháin i dteideal láithriú i bpearsa nó trí abhcóide nó aturnae agus fianaise a thabhairt ar aird.

(4) San alt seo, ciallaíonn “comhlacht reachtúil”—

(a) údarás áitiúil chun críocha na nAchtanna Rialtais Áitiúil 1925 go 2003,

(b) cuideachta arna bunú faoi Achtanna na gCuideachtaí 1963 go 2001, agus arna maoiniú go hiomlán nó go páirteach le hairgead arna sholáthar, nó le hiasachtaí arna dtabhairt

[No. 39.] *Minister for Community, Rural and Gaeltacht Affairs (Powers and Functions) Act 2003* [2003.]

A.3 Government or the issue of shares held by or on behalf of a Minister of the Government, or

(c) a body established in pursuance of powers conferred by or under another enactment and financed as aforesaid.

Repeals and saver. **4.**—(1) The Aran Islands Transport Act 1946 and section 4 of the Minister for Arts, Heritage, Gaeltacht and the Islands (Powers and Functions) Act 1998 are repealed.

(2) *Subsection (1)* shall not affect any contract entered into by the Minister under the enactments aforesaid.

Expenses of Ministers. **5.**—(1) The expenses incurred by the Minister or the Minister for Transport in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

(2) The expenses incurred by the Minister for Finance in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

Short title. **6.**—This Act may be cited as the Minister for Community, Rural and Gaeltacht Affairs (Powers and Functions) Act 2003.

[2003.] *Acht an Aire Gnóthaí Pobail, Tuaithe agus Gaeltachta (Cumhachtaí agus Feidhmeanna) 2003.* [Uimh. 39.]

nó arna ráthú, ag Aire den Rialtas nó le heisiúint scair-eanna arna sealbhú ag Aire den Rialtas nó arna sealbhú thar a cheann nó thar a ceann, nó A.3

(c) comhlacht arna bhunú de bhun cumhachtaí a thugtar le hachtachán eile nó faoi achtachán eile, agus arna mhaoiniú mar a dúradh.

4.—(1) Déantar Acht Iompair Oileán Árann 1946 agus alt 4 d’Acht an Aire Ealaíon, Oidhreachta, Gaeltachta agus Oileán (Cumhachtaí agus Feidhmeanna) 1998 a aisghairm. Aisghairm agus cosaint.

(2) Ní dhéanfaidh *fo-alt (1)* difear d’aon chonradh a rinne an tAire faoi na hachtacháin a dúradh.

5.—(1) Déanfar na caiteachais a thabhóidh an tAire nó an tAire Iompair ag riaradh an Achta seo a íoc, a mhéid a cheadóidh an tAire Airgeadais, as airgead a sholáthróidh an tOireachtas. Caiteachais Airí.

(2) Déanfar na caiteachais a thabhóidh an tAire Airgeadais ag riaradh an Achta seo a íoc as airgead a sholáthróidh an tOireachtas.

6.—Féadfar Acht an Aire Gnóthaí Pobail, Tuaithe agus Gaeltachta (Cumhachtaí agus Feidhmeanna) 2003 a ghairm den Acht seo. Gearrtheideal.