Number 50 *of* 2021

MARITIME AREA PLANNING ACT 2021

REVISED

Updated to 2 October 2025

This Revised Act is an administrative consolidation of the *Maritime Area Planning Act 2021*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Housing Finance Agency (Amendment) Act 2025* (11/2025), enacted 28 October 2025, and all statutory instruments up to and including the *Maritime Area Planning Act 2021 (Fit and Proper Person) Order 2025* (S.I. No. 467 of 2025), made 1 October 2025, were considered in the preparation of this Revised Act.

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MARITIME AREA PLANNING ACT 2021

REVISED

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MARITIME AREA PLANNING ACT 2021

REVISED

Updated to 2 October 2025

An Act to regulate the maritime area, to achieve such regulation by means of a National Marine Planning Framework, maritime area consents for the occupation of the maritime area for the purposes of maritime usages that will be undertaken for undefined or relatively long periods of time (including any such usages which also require development permission under the Planning and Development Act 2000) and licences for the occupation of the maritime area for maritime usages that are minor or that will be undertaken for relatively short periods of time, to establish a body corporate, the Maritime Area Regulatory Authority, to grant, revoke and suspend such consents and licences, take administrative responsibility for foreshore authorisations and generally oversee the enforcement of this Act in so far as it relates to such consents and licences, to amend the Planning and Development Act 2000 to provide for how that Act will treat applications for development permission which must have a maritime area consent before being made and to provide for consequential amendments to other enactments; and to provide for related matters.

[23*rd December,* 2021]

Be it enacted by the Oireachtas as follows:

PART 1

Preliminary and General

Short title, collective citations, construction and commencement

1. (1) This Act may be cited as the Maritime Area Planning Act 2021.

(2) The Foreshore Acts 1933 to 2014 and *Chapters 1* and *3* of *Part 9* may be cited together as the Foreshore Acts 1933 to 2021 and shall be construed together as one.

(3) The Electricity Regulation Acts 1999 to 2002 and *Chapter 4* of *Part 9* may be cited together as the Electricity Regulation Acts 1999 to 2021 and shall be construed together as one.

(4) The Planning and Development Acts 2000 to 2020, *Part 8* and *Schedules 10* to *12* may be cited together as the Planning and Development Acts 2000 to 2021 and shall be construed together as one.

(5) Subject to *subsection (6)*, this Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or

with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions.

(6) *Chapters 1* and *3* of *Part 9* shall come into operation on the establishment day.

Annotations

Editorial Notes:

E1 A table of commencement information ordered by section number is available at https://www.irishstatutebook.ie/eli/isbc/2021_50.html.

E2 Power pursuant to subs. (5) exercised (13.05.2024) by *Maritime Area Planning Act 2021 (Section 6) (Commencement) Order 2024* (S.I. No. 202 of 2024).

2. The 13th day of May 2024 is appointed as the day on which section 6 of the Maritime Area Planning Act 2021 (No. 50 of 2021) shall come into operation.

E3 Power pursuant to subs. (5) exercised (17.07.2023) by *Maritime Area Planning Act 2021 (Commencement of Certain Provisions) (No. 2) Order 2023* (S.I. No. 369 of 2023).

The 17th day of July 2023 is appointed as the day on which the following provisions of the Maritime Area Planning Act 2021 (No. 50 of 2021) shall come into operation:

(a) section 12;

(b) sections 40 to 55;

(c) sections 57 to 71;

(d) section 73;

(e) sections 105 to 109;

(f) Part 5;

(g) Part 7;

(h) Section 182;

(i) Schedules 7 and 8.

E4 Power pursuant to subs. (5) exercised (15.05.2023) by *Maritime Area Planning Act 2021 (Commencement of Certain Provisions) Order 2023* (S.I. No. 225 of 2023).

2. The 15th day of May 2023 is appointed as the day on which Part 2 (other than Chapter 9) of the Maritime Area Planning Act 2021 (No. 50 of 2021) shall come into operation.

E5 Power pursuant to subs. (5) exercised (1.12.2022) by *Maritime Area Planning Act 2021 (Commencement of Certain Provisions) (No. 4) Order 2022* (S.I. No. 599 of 2022).

2. The 1st day of December 2022 is appointed as the day on which section 56 of the Maritime Area Planning Act 2021 (No. 50 of 2021) shall come into operation.

E6 Power pursuant to subs. (5) exercised (1.10.2022) by *Maritime Area Planning Act 2021 (Commencement of Certain Provisions) (No. 3) Order 2022* (S.I. No. 488 of 2022).

2. The 1st day of October 2022 is appointed as the day on which the following provisions of the Maritime Area Planning Act 2021 (No. 50 of 2021) shall come into operation:

(a) Part 8, and

(b) Schedules 10, 11 and 12.

E7 Power pursuant to subs. (5) exercised (31.07.2022) by *Maritime Area Planning Act 2021 (Commencement of Certain Provisions) (No. 2) Order 2022* (S.I. No. 394 of 2022).

2. The 31st day of July 2022 is appointed as the day on which the following provisions of the Maritime Area Planning Act 2021 (No. 50 of 2021) shall come into operation:

(a) Part 1, other than sections 6 and 12,

(b) Chapter 4 of Part 9, and

(c) Schedules 2, 3, 4, 5, 6 and 9.

E8 Power pursuant to subs. (5) exercised (10.03.2022) by *Maritime Area Planning Act 2021 (Commencement of Certain Provisions) Order 2022* (S.I. No. 112 of 2022).

2. The 10th day of March 2022 is appointed as the day on which the following provisions of the Maritime Area Planning Act 2021 (No. 50 of 2021) shall come into operation:

(*a*) section 72;

(*b*) Part 4 (other than Chapter 12); and

(*c*) Part 6.

Interpretation - general

2. (1) In this Act—

"Act of 1933" means the Foreshore Act 1933;

"Act of 1963" means the Companies Act 1963;

"Act of 2000" means the Planning and Development Act 2000;

"Act of 2001" means the Local Government Act 2001;

"Act of 2014" means the Companies Act 2014;

"Act of 2018" means the Planning and Development (Amendment) Act 2018;

"Act of 2021" means the Maritime Jurisdiction Act 2021;

F1**[**"Act of 2024'" means the Planning and Development Act 2024;**]**

"applicant", in relation to an application under this Act, means the person who made the application;

"appropriate assessment" shall be construed in accordance with, as appropriate—

(a) section 177V of the Act of 2000, or

(b) Part 5 of the European Communities (Birds and Natural Habitats) Regulations (S.I. No. 477 of 2011);

"authorised officer" means a person appointed under *section 137(1)* to be an authorised officer;

"Birds Directive" has the meaning assigned to it by the F2**[**Act of 2024**]**;

"Board (P)" means An Bord Pleanála;

"coastal planning authority" means the planning authority (within the meaning of F2**[**section 2 of the Act of 2024**]**) for any of the following:

(a) the county of Louth, Meath, Fingal, Dun Laoghaire-Rathdown, Wicklow, Wexford, Carlow, Kilkenny, Tipperary, Cork, Kerry, Clare, Galway, Mayo, Sligo, Leitrim or Donegal;

(b) the City of Dublin, Cork or Galway;

(c) Waterford City and County or Limerick City and County;

"company" means—

(a) a company formed and registered under the Act of 2014, or

(b) an existing company;

"continental shelf" shall be construed in accordance with the Act of 2021;

"Convention" has the meaning assigned to it by the Act of 2021;

"CPA" means coastal planning authority;

"designated maritime area plan" shall be construed in accordance with *section 20(1)*;

"development" means development (other than exempted development within the meaning of the Act of 2000) within the meaning of Part XXI of the Act of 2000;

"development permission", in relation to any maritime usage which, if undertaken, would be development, means any permission (including any alteration thereto), within the meaning of section 2 of the Act of 2000, required under that Act in order for the undertaking of such usage to be lawful;

"DMAP" means designated maritime area plan;

"enactment" has the meaning assigned to it by the Interpretation Act 2005;

"environmental impact assessment" has the meaning given to it by the Act of 2000;

"Environmental Impact Assessment Directive" has the meaning assigned to it by the Act of 2000;

"establishment day" means the day appointed under *section 41* ;

"existing company" has the meaning assigned to it by section 2 of the Act of 2014;

"existing NMPF" means the marine spatial plans within the meaning of Part 5 of the Act of 2018 and known collectively, under that Part, as the National Marine Planning Framework;

"foreshore" has the meaning assigned to it by the Act of 1933;

"foreshore authorisation" means an authorisation (howsoever described) granted (or otherwise given) under section 2, 3, 10 or 13 of the Act of 1933 by the appropriate Minister, within the meaning of section 1B of that Act, who falls within paragraph (c) of such section 1B;

"functional area", in relation to a CPA, has the meaning assigned to it by the Act of 2000;

"General Data Protection Regulation" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 [1] on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC2;

[1] OJ No. L119, 4.5.2016, p. 1

"Habitats Directive" has the meaning assigned to it by the F2**[**Act of 2024**]**;

"indemnity" includes, in addition to a contract of indemnity—

(a) a contract of insurance,

(b) a guarantee,

(c) a surety,

(d) a warranty,

(e) a bond, or

(f) a financial security prescribed, with the consent of the Minister for Public Expenditure and Reform, for the purposes of this paragraph;

"levy" means a levy referred to in *Chapter 7* of *Part 4*;

"infrastructure" means any facility, structure or installation (or any part thereof) situated in the maritime area, and references in this Act to "proposed maritime usage" shall be construed to include any related proposed infrastructure;

"licence" means a licence granted under *section 119(1)(a)*;

"licence application" means an application under *section 117(1)*;

"local authority" has the meaning assigned to it by the Act of 2001;

"MAC" means maritime area consent;

"MAC application" means an application under *section 79(1)*;

"MARA" shall be construed in accordance with *section 42(1)*;

"marine planning policy statement" shall be construed in accordance with *section 6(1)*;

"maritime area" shall be construed in accordance with *section 3*;

"maritime area consent" means consent under *section 81(1)(a)*;

"maritime spatial plan" shall be construed in accordance with *section 16(1)*;

"Maritime Spatial Planning Directive" means Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 [2] establishing a framework for maritime spatial planning (the text of which is set out, in the English language and for ease of reference, in *Schedule 1*);

"maritime usage", in relation to the maritime area, means any activity, operation, works or development undertaken in that area for any purpose (including conservation), and includes—

(a) the construction or use, or both, of any infrastructure in that area associated with, or otherwise supporting, the activity, operation, works or development, and

(b) the maintenance of such infrastructure,

and references in this Act to "proposed maritime usage" shall be construed accordingly;

"material change of circumstances" shall be construed in accordance with *section 136*;

[2] OJ No. L257, 28.8.2014, p.135

"Minister" means the Minister for Housing, Local Government and Heritage;

"MSP" means maritime spatial plan;

"MSP Directive" means the Maritime Spatial Planning Directive;

"National Marine Planning Framework" means the following:

(a) the existing NMPF—

(i) as in force immediately before the coming into operation of *Chapter 2* of *Part 2*, and

(ii) until it is replaced by the first MSP;

(b) each MSP for the time being in force;

(c) each DMAP for the time being in force;

"national newspaper" means a newspaper published and circulating generally in the State, whether in hard copy or electronic copy, or both;

"National Planning Framework" means the National Planning Framework referred to in F2**[**Chapter 2 of Part 3 of the Act of 2024**]**;

"nearshore area", in relation to a CPA, shall be construed in accordance with *section 5*;

"obligations" includes liabilities;

"Order 84" means Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986);

"personal data" has the meaning it has in the General Data Protection Regulation;

"powers" includes rights;

"prescribed" means prescribed by regulations made by the Minister under this Act;

"public body" means—

(a) a Minister of the Government,

(b) a local authority,

(c) a body (other than a company) established by or under an enactment,

(d) a company established pursuant to a power conferred by or under an enactment, and financed wholly or partly by—

(i) moneys provided, or loans made or guaranteed, by a Minister of the Government, or

(ii) the issue of shares held by or on behalf of a Minister of the Government;

"record" includes—

(a) a book or other written or printed material in any form (including in any electronic device or in machine readable form),

(b) a map, plan or drawing,

(c) a disc, tape or other mechanical or electronic device in which data other than visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the disc, tape or other device,

(d) a film, disc, tape or other mechanical or electronic device in which visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the film, disc, tape or other device, and

(e) a copy or part of any thing which falls within *paragraph (a)*, *(b)*, *(c)* or *(d)*,

and a copy, in any form, of a record shall be deemed, for the purposes of this Act, to have been created at the same time as the record;

"screening for appropriate assessment" shall be construed in accordance with, as appropriate—

(a) section 177U of the Act of 2000, or

(b) Part 5 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011);

"sea" includes—

(a) an area which is submerged at high water of ordinary or medium tides,

(b) an estuary or arm of the sea, and

(c) the tidal waters of a channel, creek, bay, river, canal, waterway or other watercourse;

"seabed" means land under sea, and includes silts or other deposits lying on the land;

"specified" —

(a) in relation to a form, means specified under *section 72*, and

(b) in relation to a fee, means specified in regulations made under *section 78* or *116*, as appropriate;

"strategic environmental assessment" has the meaning assigned to it by F2**[**section 2 of the Act of 2024**]**;

"submissions" include observations;

"water" includes the water of rivers, streams, canals, waterways, ponds, lakes or any other form of watercourse or body of water or sea.

(2) A reference in this Act to an enactment (including this Act) includes a statutory instrument made under the enactment.

(3) A reference in this Act to a MAC includes—

(a) the maritime usage the subject of the MAC,

(b) the conditions attached, or deemed to be attached, to the MAC by virtue of *section 82*, and

(c) the rehabilitation schedule within the meaning of *Chapter 8* of *Part 4*.

(4) A reference in this Act to a licence includes—

(a) the *Schedule 7* usage (within the meaning of *section 110*) the subject of the licence, and

(b) the conditions attached, or deemed to be attached, to the licence by virtue of *section 120* .

(5) (a) A reference in this Act to a MAC for a maritime usage (howsoever expressed) shall be construed as a reference to the occupation of a specified part of the maritime area for the purposes of such usage.

(b) A reference in this Act for a licence for a maritime usage (howsoever expressed) shall be construed as a reference to the occupation of a specified part of the maritime area for the purposes of such usage.

Annotations

Amendments:

F1 Inserted (2.10.2025) by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, S.I. No. 452 of 2025, art. 11(a).

F2 Substituted (2.10.2025) by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, S.I. No. 452 of 2025, art. 11(b).

F3 Substituted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

Modifications (not altering text):

C1 Prospective affecting provision: certain definitions amended by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

"appropriate assessment" shall be construed in accordance with, as appropriate—

(a) F3**[**section 2 of the Act of 2024**]**, or

(b) Part 5 of the European Communities (Birds and Natural Habitats) Regulations (S.I. No. 477 of 2011);

...

F3**[**"development"—

(a) subject to paragraph (b), means—

(i) the carrying out of any works in the maritime area, or

(ii) the making of any material change in the use of the sea, seabed, or any structure, in the maritime area,

and includes the reclamation of any land in the nearshore area, and

(b) does not include exempted development within the meaning of the Act of 2024;**]**

...

"development permission", in relation to any maritime usage which, if undertaken, would be development, means any permission (including any alteration thereto), within the meaning of F3**[**section 2 of the Act of 2024**]**, required under that Act in order for the undertaking of such usage to be lawful;

...

"environmental impact assessment" has the meaning given to it by the F3**[**Act of 2024**]**;

"Environmental Impact Assessment Directive" has the meaning assigned to it by the F3**[**Act of 2024**]**;

...

"functional area", in relation to a CPA, has the meaning assigned to it by F3**[**the Act of 2000, notwithstanding any repeal of that Act by the Act of 2024**]**;

...

"screening for appropriate assessment" shall be construed in accordance with, as appropriate—

(a) F3**[**section 208 of the Act of 2024**]**, or

(b) Part 5 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011);

C2 Functions transferred and references to "Housing, Local Government and Heritage" construed as "Environment, Climate and Communications" (14.05.2024, vesting day) by *Gas (Amendment) and Miscellaneous Provisions Act 2024* (11/2024), ss. 24, 25, 29, S.I. No. 218 of 2024, subject to transitional provisions in ss. 26, 27, 28.

Transfer of functions to Minister

24. The functions conferred on the Minister for Housing, Local Government and Heritage by or under the Act of 2021 are transferred to the Minister on the vesting day.

...

Transfer of administration and business

25. (1) The administration and business in connection with the performance of the functions transferred by section 24 are, on the vesting day, transferred to the Department of the Environment, Climate and Communications.

(2) References to the Department of Housing, Local Government and Heritage contained in any enactment (other than this Act) in so far as they relate to the administration and business transferred by subsection (1) shall, from the vesting day, be construed as references to the Department of the Environment, Climate and Communications.

...

Construction of references to Minister for Housing, Local Government and Heritage

29. (1) References to the Minister for Housing, Local Government and Heritage contained in any enactment (other than this Act) in so far as they relate to any function transferred by section 24 shall, from the vesting day, be construed as references to the Minister.

(2) References to the Minister for Housing, Local Government and Heritage contained in the constitution of any company in so far as they relate to any function transferred by section 24 shall, from the vesting day, be construed as references to the Minister.

Application

3. F4**[**(1)**]** Subject to *section 14*, this Act applies to that area of the State (in this Act referred to as the "maritime area") extending from the high water of ordinary or medium tides of the sea to the outer limit of the continental shelf, and includes—

(a) the sea and tidal areas of internal waters of the State as construed in accordance with the Act of 2021,

(b) the territorial seas of the State as construed in accordance with the Act of 2021,

(c) the exclusive economic zone as construed in accordance with the Act of 2021, and

(d) the continental shelf F5**[**as construed in accordance with the Act of 2021**]**.

F6**[**(2) Where, but for this subsection, a public body would not be able to perform, in relation to any matter whatsoever, one or more than one of its public functions by virtue of the matter relating, whether in whole or

in part, to the continental shelf or any part thereof, then, by virtue of this subsection, the public body may perform the public function concerned in relation to that matter as if the continental shelf or the part thereof concerned were a part of the State where the public body may perform such function, and the other provisions of this Act or of any other enactment shall, with all necessary modifications, be construed accordingly.

(3) A public body shall, in the performance, in relation to any matter whatsoever, of its functions under this Act or any enactment amended by this Act, have regard to—

(a) the obligations placed on the State by the Convention, and

(b) the obligations in respect of the rights of the public or any class of the public over the foreshore in relation to navigation and fishing.

(4) For the purposes of this section, "foreshore" means the bed and shore, below the line of high water of ordinary or medium tides, of the sea and of every tidal river and tidal estuary and of every channel, creek, and bay of the sea or of any such river or estuary.**]**

Annotations

Amendments:

F4 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 43(a), S.I. No. 447 of 2022.

F5 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2022), s. 276, S.I. No. 653 of 2023.

F6 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 43(b), S.I. No. 447 of 2022.

Legal acts of European Union given effect to by this Act

4. Effect or further effect, as the case may be, is given to by this Act to an act specified in the Table to this section, adopted by an institution of the European Union or, where appropriate, to part of such an act:

Table

Item No.	Directive
(1)	(2)
1.	Habitats Directive.
2.	Directive 2001/42/EC of the European Parliament and Council of 27 June 2001[3] on the assessment of the effects of certain plans and programmes on the environment.
3.	Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003[4] on public access to environmental information and repealing Council Directive 90/313/EC.
4.	Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003[5] providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC.

[3] OJ No. L197, 21.7.2001, p. 30
[4] OJ No. L41, 14.2.2003, p. 26
[5] OJ No. L156, 25.6.2003, p. 17

Item No.	Directive
(1)	(2)
5.	Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008[6] establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) as amended by Commission Directive (EU) 2017/845 of 17 May 2017.
6.	Birds Directive.
7.	Environmental Impact Assessment Directive.
8.	Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014[7] amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment.
9.	MSP Directive.

Nearshore areas of CPAs

5. (1) Subject to *subsection (2)*, where a part of the maritime area (which part is in this Act referred to as the "nearshore area") meets all of the following requirements, that part shall, for the purposes of this Act, in so far as this Act relates to nearshore areas and CPAs, be the nearshore area of the CPA referred to in *paragraph (a)(i)* as if the boundaries between the nearshore area of that CPA and the adjoining nearshore area of another CPA were equidistant between the two of them as taken from the high water mark:

(a) the part is contiguous to either or both of the following:

(i) the functional area of a CPA;

(ii) reclaimed land adjoining such functional area that does not form part of the functional area of another local authority;

(b) the part is below the line of high water (in this section referred to as the "high water mark") of ordinary or medium tides of—

(i) the sea,

(ii) every tidal river and tidal estuary, and

(iii) every channel, creek and bay of—

(I) the sea, and

(II) every tidal river and tidal estuary;

(c) the part does not extend further than—

(i) the prescribed distance from the nearest point of the high water mark, or

(ii) if no such distance is prescribed for the time being, three nautical miles from the nearest point of the high water mark.

(2) Subject to *subsections (3)* to *(5)*, the Minister may, by order, vary the nearshore area of a CPA.

(3)(a) Subject to *paragraph (b)*, an order under *subsection (2)* shall specify the boundaries of the varied nearshore area, whether by reference to a map or otherwise.

[6] OJ No. L164, 25.6.2008, p. 19
[7] OJ No. L124, 25.4.2014, p. 1

(b) Those boundaries shall—

(i) have the high water mark as their baseline, and

(ii) have their outer limit determined in accordance with *subsection (4)*.

(4) The Minister, in exercising his or her power under *subsection (2)* in respect of the nearshore area and a CPA, shall, in so far as determining the boundaries of the varied nearshore area concerned, take into account the following:

(a) the representations (if any) of the CPA given to the Minister pursuant to *subsection (5)(a)*;

(b) the representations of members of the public given to the Minister pursuant to *subsection (5)(b)*;

(c) the distance between the high water mark and the low water mark of the nearshore area;

(d) the geography of the nearshore area, including islands, sandbars, sand spits, river mouths, bays and beaches;

(e) practical matters relating to the boundaries of the CPA and the proposed boundaries of the varied nearshore area;

(f) the practicability of the CPA effectively performing its functions under this Act in respect of the nearshore area as proposed to be varied.

(5) Where the Minister proposes to make, amend or revoke an order under this section, he or she shall—

(a) give a copy of the proposed order to the CPA concerned and invite the CPA to make representations in writing thereon to the Minister, not later than six weeks after the CPA is given that copy, at an address (which may be an electronic address) specified in the copy, and

(b) publish, in not less than one national newspaper, a notice—

(i) stating that the Minister proposes to make, amend or revoke an order under this section,

(ii) stating that a copy of the proposed order may be inspected on a website of the Government, and

(iii) inviting members of the public to make representations in writing thereon to the Minister, not later than four weeks after the date of publication of the notice in the newspaper (or, if the notice is published in more than one such newspaper, the last date of such publication), at an address (which may be an electronic address) specified in the notice.

Marine planning policy statement

6. (1) Subject to *subsection* s *(4)* to *(10)*, the Minister shall from time to time prepare and publish in accordance with this section a statement (in this Act referred to as the "marine planning policy statement") containing information setting out the principles and priorities of the Government in relation to maritime planning by the State in the maritime area for the period to which the statement relates.

(2) Where the Minister proposes to prepare a marine planning policy statement, he or she shall lay a draft of the statement, together with the Environmental Statement and Appropriate Assessment Determination in

respect thereof if required, before each House of the Oireachtas, and shall not prepare the statement until a resolution approving of the draft has been passed by each such House.

(3) The Minister shall, in the preparation of the marine planning policy statement, have regard to any resolution, report or recommendation of any committee of both Houses of the Oireachtas or either such House in so far as such resolution, report or recommendation, as the case may be, relates to a draft laid before each such House in accordance with *subsection (2)*.

(4) The Minister shall ensure that the first marine planning policy statement is prepared and published in accordance with this section not later than F7**[**twelve months**]** after the coming into operation of this section and relates to a period of not less than three years commencing on the date of the first publication of that statement.

(5) The Minister shall, in preparing the marine planning policy statement, have regard to the following:

(a) the National Planning Framework;

(b) the National Marine Planning Framework;

(c) obligations of the State under the Convention and the Act of 2021;

(d) the MSP Directive;

(e) Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 [8] establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive);

(f) the Habitats Directive;

(g) the Birds Directive;

(h) any current policy of the Government relating to maritime planning;

(i) representations (if any) referred to in *subsection (10)*.

(6) The Minister shall cause a copy of the marine planning policy statement to be laid before each House of the Oireachtas as soon as is practicable after the statement has been prepared.

(7) The Minister shall—

(a) publish, on a website of the Government, the marine planning policy statement as soon as is practicable after the statement has been prepared, and

(b) otherwise publish or cause to be published, in such manner as he or she considers appropriate, that statement.

(8) A public body shall have regard to the F7**[**marine planning**]** policy statement when performing a function under this Act F8**[**, F9**[**the Act of 2000, or the Act of 2024,**]]** to which information, setting out the principles and priorities of the Government referred to in *subsection (1)*, contained in the statement is relevant.

(9) The Minister may amend or revoke the F7**[**marine planning**]** policy statement prepared under this section.

[8] OJ No. L164, 25.6.2008, p. 19

(10) Where the Minister proposes to prepare the marine planning policy statement or amend or revoke it, he or she shall publish, in not less than one national newspaper, a notice—

(a) stating that the Minister proposes to prepare, amend or revoke a marine planning policy statement,

(b) stating that a copy of the proposed statement, amendment or revocation may be inspected on a website of the Government, and

(c) inviting members of the public to make representations in writing thereon to the Minister, not later than four weeks after the date of publication of the notice in the newspaper (or, if the notice is published in more than one such newspaper, the last date of publication), at an address (which may be an electronic address) specified in the notice.

Annotations

Amendments:

F7 Substituted (13.05.2024) by *Gas (Amendment) and Miscellaneous Provisions Act 2024* (11/2024), s. 31(1)(a), (b), (c), commenced as per subs. (2) by S.I No. 202 of 2024.

F8 Inserted (13.05.2024) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 44, S.I. No. 203 of 2024.

F9 Substituted (2.10.2025) by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, S.I. No. 452 of 2025, art. 11(c).

F10**[Provision relating to first marine planning policy statement**

6A. (1) For the avoidance of doubt, following the coming into operation of this section—

(a) a section 6 requirement shall apply to a thing done under a specified Act during the period of twelve months referred to in section 6(4) only where the Minister has prepared and published the first marine planning policy statement under section 6 prior to the thing being done, and

(b) a thing done under a specified Act shall not be invalid by reason only of being done under a specified Act otherwise than in accordance with a section 6 requirement during the period of twelve months referred to in section 6(4) where the Minister has not yet prepared and published the first marine planning policy statement under section 6 prior to the thing being done.

(2) For the avoidance of doubt—

(a) a section 6 requirement shall not apply to a thing done under a specified Act prior to the coming into operation of this section, and

(b) a thing done under a specified Act prior to the coming into operation of this section shall not be invalid by reason only of being done otherwise than in accordance with a section 6 requirement.

(3) In this section—

"section 6 requirement" means an obligation or requirement for a thing done under a specified Act—

(a) to be consistent with,

(b) not to cause any significant inconsistency with,

(c) to ascertain whether there is any inconsistency with, or

(d) to have regard to,the marine planning policy statement;

F11**[**"specified Act" means—

(a) this Act,

(b) the Act of 2000, or

(c) the Act of 2024.**]]**

Annotations

Amendments:

F10 Inserted (13.05.2024) by *Gas (Amendment) and Miscellaneous Provisions Act 2024* (11/2024), s. 32(1), commenced as per subs. (2) by S.I. No. 202 of 2024.

F11 Substituted (2.10.2025) by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, S.I. No. 452 of 2025, art. 11(d).

Ministerial guidelines

7. (1) Subject to *subsection (8)*, the Minister may, at any time, prepare and issue marine planning guidelines to public bodies regarding any of their functions F12**[**under this Act, or functions under the Act of 2024 relating to the maritime area,**]** and public bodies shall have regard to those guidelines in the performance of their respective functions.

(2) Without prejudice to the generality of *subsection (1)*, and for the purposes of that subsection, a public body, in having regard to the guidelines issued by the Minister under that subsection, shall consider the policies and objectives of the Minister contained in the guidelines when performing a function F12**[**under this Act, or functions under the Act of 2024 relating to the maritime area,**]** to which the guidelines relate.

(3) Without prejudice to the generality of *subsection (1)*, guidelines under that subsection may contain specific marine planning policy requirements with which public bodies shall, in the performance of their respective functions F12**[**under this Act, or functions under the Act of 2024 relating to the maritime area,**]** comply.

(4) The Minister may amend or revoke guidelines issued under this section.

(5) The Minister shall cause a copy of any guidelines issued under this section and of any amendment or revocation of those guidelines to be laid before each House of the Oireachtas as soon as is practicable after the guidelines have been prepared or, as appropriate, the amendment or revocation has been made.

(6) A public body shall make available for inspection by members of the public any guidelines issued to it under this section.

(7) The Minister shall publish or cause to be published, in such manner as he or she considers appropriate, guidelines issued under this section.

(8) The Minister shall, in preparing guidelines under this section (including any amendment to such guidelines), have regard to the matters listed in *section 6(5)(a)* to *(i)*.

Annotations

Amendments:

F12 Substituted (2.10.2025) by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, S.I. No. 452 of 2025, art. 11(e).

Ministerial policy directives

8. (1) Subject to *subsection (6)*, the Minister may, from time to time, prepare and issue policy directives to public bodies regarding any of their functions under this Act and the public bodies shall comply with any such directives in the performance of their respective functions.

(2) The Minister may amend or revoke a policy directive issued under this section.

(3) The Minister shall cause a copy of any policy directive issued under this section to be laid before each House of the Oireachtas.

(4) A public body shall make available for inspection by members of the public any policy directive issued to it under this section.

(5) The Minister shall publish or cause to be published, in such manner as he or she considers appropriate, policy directives issued under this section.

(6) The Minister shall, in preparing policy directives under this section (including amendments to such policy directives), have regard to the matters listed in *section 6(5)(a)* to *(i)*.

(7) *Subsections (3)* to *(5)* shall, with all necessary modifications, apply to an amendment made to, or a revocation of, a policy directive issued under this section as those subsections apply to a policy directive issued under this section.

Limitation on ministerial powers

9. (1) Subject to *subsections (2)* and *(3)*, *Parts 4* and *5* and Part XXI of the Act of 2000, the Minister shall not exercise any power or control in relation to—

(a) any particular MAC application, MAC, or enforcement matter relating to a particular MAC, with which the MARA is either involved or could be involved, or

(b) any particular licence application, licence, or enforcement matter relating to a particular licence, with which the MARA is either involved or could be involved.

(2) *Subsection (1)* shall not affect the performance by the Minister of functions transferred to him or her by the Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2020 (S.I. No. 339 of 2020) or transferred (whether before or after the coming into operation of this section) to him or her from the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media by an order under section 6(1) of the Ministers and Secretaries (Amendment) Act 1939.

(3) This section shall, with all necessary modifications, apply to a foreshore authorisation as it applies to a MAC or licence.

Regulations, etc.

10. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.

(2) Regulations made under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) Every order under *section 5(2)* F13**[**, *20***]** or *90(1)* or regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Annotations

Amendments:

F13 Inserted (13.05.2024) by *Gas (Amendment) and Miscellaneous Provisions Act 2024* (11/2024), s. 33, S.I. No. 208 of 2024.

Expenses

11. Any expenses incurred by the Minister or the MARA in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Repeals and revocations

12. (1) Sections 6, 7, 8, 9 and 17 of the Act of 1933 are repealed.

(2) Part XV of the Act of 2000 is repealed.

(3) Part 5 of the Act of 2018 is repealed.

(4) Each prohibitory order made under section 6 of the Act of 1933 is revoked.

(5) Each prohibitory notice made under section 7 of the Act of 1933 is revoked.

(6) (a) Notwithstanding *subsection (2)*, a permission granted under Part III of the Act of 2000 in relation to an application made—

(i) pursuant to a requirement under section 225 of that Act, and

(ii) before the commencement of that subsection,

shall continue to have effect, and Part XV of the Act of 2000 shall continue to apply in relation thereto, as if that subsection had not been commenced.

(b) Notwithstanding *subsection (2)*, Part XV of the Act of 2000 shall continue to apply in relation to an application for permission made under Part III of the Act of 2000—

(i) pursuant to a requirement under section 225 of that Act, and

(ii) before the commencement of that subsection,

as if that subsection had not been commenced.

(c) Notwithstanding *subsection (2)* —

(i) an approval granted under section 226 of the Act of 2000 in relation to an application made thereunder before the commencement of that subsection shall continue to have effect, and Part XV of the Act of 2000 shall continue to apply in relation thereto, as if *subsection (2)* had not been commenced, and

(ii) Part XV of the Act of 2000 shall continue to apply in relation to an application made before the commencement of that subsection for an approval under section 226 of the Act of 2000 as if *subsection (2)* had not been commenced.

PART 2

Maritime Spatial Plans and Designated Maritime Area Plans

Chapter 1

Interpretation and application

Interpretation - *Part 2*

13. (1) In this Part—

"competent authority (D)" shall be construed in accordance with *section 20(1)*;

"competent authority (M)" shall be construed in accordance with *section 15* ;

"protected site" means a site within (whether in whole or in part) the maritime area that is afforded some form of protection under another enactment;

"relevant proposal" shall be construed in accordance with *section 21(1)*.

(2) Unless the context otherwise requires, a word or expression that is used in this Part and is also used in the MSP Directive has the same meaning in this Part as it has in that Directive.

Application of *Part 2*, etc.

14. (1) This Part shall not apply to an area outside the maritime area (in this section referred to as an "outside area") unless it is expressly stated that this Part applies to the outside area concerned.

(2) A public body performing any function under this Part shall, in the performance of that function, have regard to appropriate land-sea interactions with a view to promoting integration and coherence between any thing arising from such performance and any thing arising from the performance by a public body of a function under Part II of the Act of 2000 F14**[**or Part 3 of the Act of 2024**]**.

(3) A public body performing any function under Part II of the Act of 2000 F14**[**or Part 3 of the Act of 2024**]** shall, in the performance of that function, have regard to appropriate land-sea interactions with a view to promoting integration and coherence between any thing arising from such performance

and any thing arising from the performance by a public body of a function under this Part.

(4) This Part shall not apply to maritime usages that relate solely to defence or national security.

Annotations

Amendments:

F14 Inserted (2.10.2025) by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, S.I. No. 452 of 2025, art. 11(f).

Chapter 2

Maritime spatial plans

Designation of competent authority for purposes of MSP Directive

15. The Minister shall be the competent authority (in this Part referred to as the "competent authority (M)") for the purposes of the MSP Directive.

Maritime spatial plans

16. (1) The competent authority (M) shall, following the carrying out of a process of maritime spatial planning, prepare and publish on a website of the Government a plan (in this Act referred to as a "maritime spatial plan") for the maritime area in accordance with this Part and the MSP Directive.

(2) The objectives of a MSP shall be—

(a) to analyse and organise maritime usages in the maritime area for the purpose of achieving ecological, economic and social priorities,

(b) to establish a national strategy for the Government in relation to the strategic planning and sustainable maritime usages in the maritime area,

(c) to apply an ecosystem based approach for the purpose of supporting proper planning and sustainable maritime usages in the maritime area, and

(d) to promote the coexistence of different types of maritime usages in the maritime area.

(3) The competent authority (M) may prepare—

(a) one MSP for the whole of the maritime area,

(b) different MSPs for different geographical or sectoral areas, or both, of the maritime area, or

(c) a MSP referred to in *paragraph (a)* and different MSPs referred to in *paragraph (b)*.

(4) The competent authority (M) shall, in the performance of his or her functions under this section—

(a) give consideration to the matters specified in paragraph 1 of Article 5 of the MSP Directive, and

(b) aim to contribute to the matters specified in paragraph 2 of Article 5 of the MSP Directive.

(5) A MSP shall identify the matters specified in paragraph 1 of Article 8 of the MSP Directive and the competent authority shall, when making a MSP, ensure compliance with paragraph 2 of that Article.

Requirements of maritime spatial planning

17. (1) The competent authority (M) shall, for the purpose of marine spatial planning and the preparation of a MSP—

(a) comply, or ensure compliance, with the requirements of paragraphs 1 and 2 of Article 6, and Articles 10, 11 and 12, of the MSP Directive,

(b) take account of circumstances particular to the marine region to which the Convention for the Protection of the Marine Environment of the North-East Atlantic, done at Paris on 22 September 1992, applies, and

(c) have regard to the obligations of the State under the Convention and the Act of 2021.

(2) The Minister shall, not later than six years after the existing NMPF was first published, carry out a review thereof and, following the completion of the review, either—

(a) prepare and publish, in accordance with this Part and the MSP Directive, a MSP to replace the existing NMPF, or

(b) in circumstances where he or she decides not to prepare and publish such MSP, as soon as is practicable after making that decision, prepare a statement setting out the reasons why he or she has made that decision and publish the statement on a website of the Government.

(3) The Minister shall, not later than six years after a MSP (being a MSP for the time being in force) was first published, carry out a review thereof and, following the completion of the review, either—

(a) prepare and publish, in accordance with this Part and the MSP Directive, a new MSP to replace the first-mentioned MSP, or

(b) in circumstances where he or she decides not to prepare and publish such new MSP, as soon as is practicable after making that decision, prepare a statement setting out the reasons why he or she has made that decision and publish the statement on a website of the Government.

Public participation on MSPs

18. (1) The competent authority (M) shall, as soon as is practicable after initiating a review referred to in *section 17(2)* or *(3)*, as appropriate, and for the purposes of ensuring compliance with Article 9 of the MSP Directive, prepare and publish on a website of the Government a statement (in this section referred to as the "public participation statement (M)") of the processes settled by the competent authority (M) in relation to the involvement of interested persons in the preparation of a relevant document.

(2) The competent authority (M) shall take all reasonable steps to comply with the public participation statement (M).

(3) The competent authority (M) shall keep the public participation statement (M) under review and, if the competent authority (M) considers it necessary

or expedient to revise the statement and does so, the competent authority shall publish on a website of the Government the statement as so revised.

(4) The Minister may by regulations specify requirements with which a public participation statement (M) shall comply, including requirements relating to any of the following:

(a) appropriate time periods for public consultation;

(b) arrangements for the publication of notices relating to relevant documents;

(c) the contents of notices, including the following:

(i) public consultation timeframes, including periods during which submissions may be made;

(ii) information on how submissions received will be acknowledged, considered and published;

(iii) information on the proposed methods of public participation;

(d) specific arrangements (including, if the Minister considers it appropriate to do so in the interests of clarity, separate sets of regulations made under this section) in relation to MSPs that fall within *section 16(3)(a)*, *(b)* or *(c)*;

(e) arrangements relating to the establishment of methods of public participation.

(5) Where the Minister makes regulations under *subsection (4)*, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the following principles and policies:

(a) compliance with the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus, Denmark on 25 June 1993;

(b) compliance with Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 [9] providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC - statement by the Commission;

(c) compliance with Article 9 of the MSP Directive;

(d) the opportunity to incorporate national and international good practices relating to public participation;

(e) public participation in the process is inclusive;

(f) the administrative burden on the competent authority (M) and participants is considered, making use, where possible, of existing public participation processes and methods;

(g) that public participation is initiated at an early stage in and continued throughout the development of MSPs;

(h) that appropriate use is made of a wide range of media to raise awareness to maritime spatial planning and public participation opportunities;

(i) that appropriate use is made of information technology;

[9] OJ No. L156, 25.6.2003, p. 17

(j) particular requirements relating to MSPs that fall within *section 16(3)(a)*, *(b)* or *(c)*.

(6) For the purposes of assisting any committee of the Oireachtas to engage in the public participation the subject of this section, the Minister shall cause a copy of the public participation statement (M) (including any such statement as revised under *subsection (3)*) to be laid before each House of the Oireachtas.

(7) In this section, "relevant document" means—

(a) a draft of a MSP that falls within *section 16(3)(a)*, *(b)* or *(c)*,

(b) a document specified in the public participation statement (M) as a document to which this paragraph applies, or

(c) a document specified in regulations made under *subsection (4)* as a document to which this paragraph applies.

Laying of MSPs before each House of Oireachtas

19. (1) This section shall not apply to a DMAP to which *Chapter 4* applies.

(2) Where the competent authority (M) proposes to make a MSP, he or she shall lay a draft of the MSP, together with the Environmental Statement and Appropriate Assessment Determination in respect thereof, before each House of the Oireachtas, and shall not make the MSP until a resolution approving of the draft has been passed by each such House.

(3) The competent authority (M) shall, in the making of a MSP, have regard to any resolution, report or recommendation of any committee of both Houses of the Oireachtas or either such House in so far as such resolution, report or recommendation, as the case may be, relates to a draft laid before each such House in accordance with *subsection (2)*.

(4) The competent authority (M) shall cause a copy of a MSP to be laid before each House of the Oireachtas as soon as is practicable after the MSP has been made.

Chapter 3

Designated maritime area plans

Designation of public bodies who may make DMAPs

20. (1) Without prejudice to *section 15* but subject to *subsections (3)* to *(5)* and *(7)*, the Minister may, F15**[**by order,**]** designate one or more than one public body (other than a public body which falls within *paragraph (d)* of the definition of "public body") to be a competent authority (in this Part referred to as a "competent authority (D)") for the purposes of preparing and publishing on a website of the public body a maritime area plan (in this Act referred as a "designated maritime area plan") in accordance with this Chapter and the MSP Directive and any such designation may be in respect of one or more than one of the following:

(a) all or specified activities of a competent authority for the purposes of the MSP Directive;

(b) acting as a coordinating body for some or all of the competent authorities for some of their activities;

(c) one or more than one designated geographical or sectoral area, or both, of the maritime area.

(2) A competent authority (D) shall be deemed to have all the functions necessary to perform functions for the purposes of the designation concerned.

(3) Where the Minister F16**[**proposes to designate by order a public body**]** as a competent authority (D) and the body is—

(a) a Minister of the Government, or

(b) any other public body that, in the opinion of the Minister, is a body directly or indirectly responsible to a Minister of the Government,

then the Minister F16**[**shall not make the order**]** without the consent of the Minister of the Government concerned.

(4) Where the Minister proposes to F16**[**designate, by order, a**]** public body as a competent authority then, without prejudice to *subsection (3)* where that subsection applies, the Minister shall consult with that body F16**[**before making the order**]**.

F16**[**(5) An order amending or revoking an order designating a public body as a competent authority (D) may provide for any matters ancillary or consequential to such amendment or revocation.**]**

(6) F17**[**...**]**

(7) Where the competent authority (M) has prepared and published on a website of the Government a DMAP in accordance with *Chapter 6*, the Minister may designate F15**[**by order**]** under this section, and with all necessary modifications to this section, a public body to perform any functions under this Act in relation to that DMAP that would, in the absence of F16**[**such order being made**]**, otherwise have to be performed by the competent authority (M).

Annotations

Amendments:

F15 Inserted (13.05.2024) by *Gas (Amendment) and Miscellaneous Provisions Act 2024* (11/2024), s. 34(a), (f)(i), S.I. No. 208 of 2024.

F16 Substituted (13.05.2024) by *Gas (Amendment) and Miscellaneous Provisions Act 2024* (11/2024), s. 34(b)(i), (ii), (c)(i), (ii), (d), (f)(ii), S.I. No. 208 of 2024.

F17 Deleted (13.05.2024) by *Gas (Amendment) and Miscellaneous Provisions Act 2024* (11/2024), s. 34(e), S.I. No. 208 of 2024.

Proposals for DMAPs

21. (1) Subject to *subsection (2)*, a competent authority (D) shall, as soon as is practicable after its designation under *section 20* as such or where *section 26(1)(a)* applies, prepare a proposal for a DMAP (in this Chapter referred to as the "relevant proposal").

(2) The relevant proposal shall specify—

(a) the objectives of the National Marine Planning Framework that it is proposed that the DMAP will seek to attain or assist in the attainment of,

(b) the geographical areas (including, at the discretion of the competent authority (D), alternatives thereto) of the maritime area proposed to be the subject of the DMAP,

(c) the protected sites proposed to be taken into consideration during the preparation of the DMAP,

(d) the maritime usages proposed to be the subject of the DMAP,

(e) any prohibitions or restrictions proposed to be imposed on the maritime usages referred to in *paragraph (d)*,

(f) the proposed evidence base of the DMAP,

(g) the proposed statement referred to in *section 23(1)*,

(h) the existing DMAPs or existing maritime usages, or both, proposed to be taken into consideration during the preparation of the DMAP,

(i) the timeframe within which it is reasonably expected that the DMAP will be prepared, and

(j) any other matters to which it is proposed that the competent authority (D) have regard to in preparing the DMAP.

(3) The competent authority (D) shall, as soon as is practicable after preparing the relevant proposal, submit the relevant proposal to the Minister for the Minister's approval to the competent authority (D) preparing a draft DMAP based on such proposal.

(4) Where the Minister receives a relevant proposal, he or she shall—

(a) if satisfied that such proposal complies with all the requirements of this Part and the MSP Directive in so far as they relate to the proposal, approve the competent authority (D) preparing a draft DMAP based on such proposal, or

(b) in any other case, giving a notice in writing to the competent authority (D) refusing to approve the competent authority (D) preparing a draft DMAP based on such proposal and stating the Minister's reasons for the refusal.

(5) The competent authority (D) shall, as soon as is practicable after it has been approved under *subsection (4)(a)* to prepare a draft DMAP based on the relevant proposal, publish, or cause to be published, such proposal on its website.

(6) Where the relevant proposal of a competent authority (D) is refused approval under *subsection (4)(b)*, the competent authority (D) may prepare a new relevant proposal to take account of the Minister's reasons for such refusal and, in any such case, the other provisions of this section (including *subsection (4)(b)*) shall apply accordingly.

Draft DMAPs, etc.

22. (1) The competent authority (D) shall, as soon as is practicable after the competent authority (D) has been approved under *section 21(4)(a)* to prepare a draft DMAP based on the relevant proposal concerned, prepare a draft DMAP consistent with—

(a) subject to *subsection (4)*, such proposal,

(b) the marine planning policy statement,

(c) the National Marine Planning Framework (except that, in the case of a DMAP forming part of such Framework, only to the extent that the draft applies to the same geographical or sectoral areas, or both, of the maritime area to which the DMAP applies),

(d) guidelines issued under *section 7* to the extent that the guidelines are relevant to the draft DMAP, and

(e) policy directives issued under *section 8* to the extent that the directives are relevant to the draft DMAP.

(2) The draft DMAP shall specify—

(a) the objectives of the National Marine Planning Framework that it is proposed that the DMAP will seek to attain or assist in the attainment of,

(b) the geographical or sectoral areas, or both, of the maritime area proposed to be the subject of the DMAP,

(c) the proposed extent of the maritime area (represented spatially or otherwise) proposed to be utilised by the maritime usages the subject of the DMAP,

(d) particulars of the maritime usages referred to in *paragraph (c)*,

(e) any prohibitions or restrictions proposed to be imposed on the maritime usages referred to in *paragraph (c)*,

(f) any proposed colocation or coexistence of the maritime usages referred to in *paragraph (c)*,

(g) any proposed measures to avoid or mitigate any adverse impact of the maritime usages referred to in *paragraph (c)* on protected sites, species or habitats,

(h) any proposals to—

(i) avoid or mitigate any potentially adverse effect on the environment of the undertaking of one or more than one of the maritime usages referred to in *paragraph (c)*, or

(ii) benefit the environment or protected sites taking into account the potential effect on the environment of the undertaking of one or more than one of the maritime usages referred to in *paragraph (c)*,

and

(i) any proposals to avoid or mitigate any potentially adverse impact on other lawful users of the maritime area of the undertaking of one or more than one of the maritime usages referred to in *paragraph (c)*.

(3) The competent authority (D) shall cause an appropriate assessment and a strategic environmental assessment to be carried out in relation to the draft DMAP.

(4) The draft DMAP may be inconsistent with the relevant proposal if the Minister has given notice in writing to the competent authority (D) that the Minister has no objection to the inconsistency concerned.

Public participation on DMAPs

23. (1) The competent authority (D) shall, as soon as is practicable after the relevant proposal has been approved under *section 21(4)(a)* and for the

purposes of ensuring compliance with Article 9 of the MSP Directive, prepare and publish on its website a statement (in this section referred to as the "public participation statement (D)") of the processes settled by the competent authority (D) in relation to the involvement of interested persons in the preparation of a relevant document.

(2) The competent authority (D) shall take all reasonable steps to comply with the public participation statement (D).

(3) The competent authority (D) shall keep the public participation statement (D) under review and, if the competent authority (D) considers it necessary or expedient to revise the statement and does so, the competent authority (D) shall publish on its website the statement as so revised.

(4) The Minister may by regulations specify requirements with which a public participation statement (D) shall comply, including requirements relating to any of the following:

(a) appropriate time periods for public consultation;

(b) arrangements for the publication of notices relating to relevant documents;

(c) the contents of notices, including the following:

(i) public consultation timeframes, including periods during which submissions may be made;

(ii) information on how submissions received will be acknowledged, considered and published;

(iii) information on the proposed methods of public participation;

(d) specific arrangements (including, if the Minister considers it appropriate to do so in the interests of clarity, separate sets of regulations made under this section for different competent authorities (D)) in relation to DMAPs prepared by different competent authorities (D);

(e) arrangements relating to the establishment of methods of public participation.

(5) When the Minister makes regulations under *subsection (4)*, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the following principles and policies:

(a) compliance with the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus, Denmark on 25 June 1998;

(b) compliance with Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 [10] providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC - Statement by the Commission;

(c) compliance with Article 9 of the MSP Directive;

(d) the opportunity to incorporate national and international good practices relating to public participation;

(e) public participation in the process is inclusive;

[10] OJ No. L156, 25.6.2003, p. 17

(f) the administrative burden on the competent authority (D) and participants is considered, making use, where possible, of existing public participation processes and methods;

(g) that public participation is initiated at an early stage in and continued throughout the development of DMAPs;

(h) that appropriate use is made of a wide range of media to raise awareness to maritime spatial planning and public participation opportunities;

(i) that appropriate use is made of information technology;

(j) particular requirements relating to DMAPs that are made by different competent authorities (D).

(6) For the purposes of assisting any committee of the Oireachtas to engage in the public participation the subject of this section, a copy of the public participation statement (D) shall be laid before each House of the Oireachtas.

(7) In this section, "relevant document" means—

(a) a draft of a DMAP,

(b) a document specified in the public participation statement (D) as a document to which this paragraph applies, or

(c) a document specified in regulations made under *subsection (4)* as a document to which this paragraph applies.

Minister and draft DMAP

24. (1) The competent authority (D) shall, as soon as is practicable after complying with *sections 22* and *23* in relation to the draft DMAP, revise (if necessary) the draft to take into account any relevant considerations arising from the public consultation, appropriate assessment and strategic environmental assessment carried out, as required by those sections, in relation to the draft and submit the draft to the Minister.

(2) The Minister shall review the draft DMAP to ascertain whether or not there are any inconsistencies between the plan and any of the following:

(a) the MSP Directive;

(b) the marine planning policy statement;

(c) the National Marine Planning Framework (except that, in the case of a DMAP forming part of such Framework, only to the extent that the draft applies to the same geographical or sectoral areas, or both, of the maritime area to which the DMAP applies);

(d) guidelines issued under *section 7* to the extent that the guidelines are relevant to the draft;

(e) policy directives issued under *section 8* to the extent that the directives are relevant to the draft.

(3) Where the Minister ascertains an inconsistency referred to in *subsection (2)*, he or she shall—

(a) make a recommendation in writing to the competent authority (D) to amend the draft DMAP to avoid or mitigate the inconsistency, or

(b) give notice in writing to the competent authority (D) of the inconsistency and in that notice state that the draft DMAP does not need to be amended to avoid or mitigate the inconsistency,

as the Minister thinks fit in all the circumstances of the case.

(4) Where *subsection (3)(a)* applies, the competent authority (D) shall—

(a) amend the draft DMAP in accordance with the recommendation concerned,

(b) cause an appropriate assessment and strategic environmental assessment to be carried out in relation to the amendment to the draft DMAP, and

(c) after *paragraphs (a)* and *(b)* have been complied with and, if necessary, revise the draft DMAP to ensure that *section 33* is complied with.

Laying of DMAPs before each House of Oireachtas

25. (1) This section shall not apply to a DMAP to which *Chapter 4* applies.

(2) Where the competent authority (D) proposes to make a DMAP after *section 24* has been complied with, a draft of the DMAP, together with the Environmental Statement and Appropriate Assessment Determination in respect thereof, shall be laid before each House of the Oireachtas, and the competent authority (D) shall not make the DMAP until a resolution approving of the draft has been passed by each such House.

(3) The competent authority (D) shall, in the making of a DMAP, have regard to any resolution, report or recommendation of any committee of both Houses of the Oireachtas or either such House in so far as such resolution, report or recommendation, as the case may be, relates to a draft laid before each such House in accordance with *subsection (2)*.

(4) A copy of a DMAP made by the competent authority (D) shall be laid before each House of the Oireachtas as soon as is practicable after the DMAP has been made.

Reviews of DMAPs, etc.

26. (1) Subject to *subsection (2)*, a competent authority (D) shall, not later than six years after a DMAP (being a DMAP for the time being in force) prepared by the competent authority (D) was first published, carry out a review thereof and, following the completion of the review, either—

(a) prepare and publish, in accordance with this Part and the MSP Directive, a new DMAP to replace the first-mentioned DMAP, or

(b) in circumstances where the competent authority (D) decides not to prepare and publish such new DMAP, as soon as is practicable after making that decision, prepare a statement setting out the reasons why the competent authority (D) has made that decision and publish the decision on its website.

(2) (a) The Minister may issue a policy directive under *section 8* requiring a competent authority (D) to review under *subsection (1)* a DMAP prepared by the competent authority (D) and to carry out such review in accordance with the provisions of the directive.

(b) The competent authority the subject of a policy directive referred to in *paragraph (a)* shall comply with the directive.

Chapter 4

Laying of certain DMAPs before CPAs

Laying of certain DMAPs before CPAs

27. (1) This section applies to a DMAP that applies exclusively within the nearshore area of one or more than one CPA.

(2) Where the relevant competent authority proposes to make a DMAP to which this section applies, the relevant competent authority (or, in the case of such competent authority which is a CPA, the chief executive of the CPA concerned or, if there are two or more CPAs concerned, the chief executives jointly of such CPAs) shall lay a draft of the DMAP before each CPA referred to in *subsection (1)* concerned and the relevant competent authority shall not make the DMAP until a resolution approving of the DMAP has been passed by each such CPA.

(3) The relevant competent authority (other than in the case of such competent authority which is a CPA) shall, in the making of a DMAP, have regard to—

(a) in the case of a draft of that DMAP laid before only one CPA in accordance with *subsection (2)*, any resolution, report or recommendation of the CPA in so far as such resolution, report or recommendation relates to the draft, or

(b) in the case of a draft of that DMAP laid before two or more CPAs in accordance with *subsection (2)*, any joint resolution, report or recommendation of the CPAs in so far as such resolution, report or recommendation relates to the draft.

(4) The relevant competent authority (not being a CPA) shall cause a copy of a DMAP made by the relevant competent authority to be laid before each CPA referred to in *subsection (1)*.

(5) In this section, "relevant competent authority", in relation to a DMAP, means the competent authority (M) or competent authority (D) who prepared the DMAP.

Chapter 5

Amendment of MSPs and DMAPs

Amendment of MSPs and DMAPs

28. (1) Where the relevant competent authority wishes to make a material amendment to a relevant plan without replacing the plan, the relevant provisions shall, with all necessary modifications, apply to the preparation and making of the amendment as they apply to the preparation and making of a relevant plan.

(2) Subject to *subsection (3)*, the Minister may by regulations specify classes of amendments to a relevant plan that are, for the purposes of this section, non-material amendments.

(3) Where the Minister makes regulations under *subsection (2)*, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the following principles and policies in relation to the proposed classes of amendments referred to in that subsection:

(a) that the amendments which fall within the class should be trivial, insignificant, minor or inconsequential;

(b) that the amendments which fall within that class should not cause any significant inconsistencies between the amendment concerned and any of the following:

(i) the MSP Directive;

(ii) the marine planning policy statement;

(iii) the National Marine Planning Framework;

(iv) guidelines issued under *section 7* ;

(v) policy directives issued under *section 8* ;

(c) that the amendments which fall within that class should not cause any significant erosion of the provisions of the relevant plan concerned relating to any avoidance or mitigation measures.

(4) Where the relevant competent authority is a competent authority (D) who wishes to make a non-material amendment to a relevant plan which is a DMAP, it shall give notice in the specified form to the Minister of the amendment not less than 10 working days before making the amendment.

(5) In this section—

"material amendment", in relation to a relevant plan, means any amendment to the plan other than an amendment which falls within a class of amendments specified in regulations made under *subsection (2)*;

"non-material amendment", in relation to a relevant plan, means an amendment which falls within a class of amendments specified in regulations made under *subsection (2)*;

"relevant competent authority" means—

(a) in relation to a relevant maritime spatial plan that is a MSP, the competent authority (M), and

(b) in relation to a relevant maritime spatial plan that is a DMAP, the competent authority (D) concerned;

"relevant plan" means—

(a) a MSP, or

(b) a DMAP;

"relevant provisions" means—

(a) in relation to a relevant plan that is a MSP, the provisions of *Chapter 2* and, if applicable, *Chapter 4*, and

(b) in relation to a relevant plan that is a DMAP, the provisions of *Chapter 3* and, if applicable, *Chapter 4*.

Chapter 6

Competent authority (M) and DMAPs

Competent authority (M) may make DMAPs

29. (1) Subject to *subsection (3)*, the competent authority (M) may prepare and publish on a website of the Government a DMAP in accordance with

Chapter 3 and the MSP Directive in respect of one or more than one of the following:

(a) all or specified activities of a competent authority for the purposes of the MSP Directive;

(b) acting as a coordinating body for some or all of the competent authorities for some of their activities;

(c) one or more than one designated geographical or sectoral area, or both, of the maritime area.

(2) The competent authority (M) shall be deemed to have all the functions necessary to perform functions for the purposes of exercising his or her power under *subsection (1)*.

(3) Subject to *subsection (4)*, the provisions of *Chapters 3* to *5* shall, for the purposes of *subsection (1)*, apply to the competent authority (M) as if references in those provisions to the competent authority (D) were references to the competent authority (M).

(4) The following modifications shall apply, for the purposes of *subsection (1)*, to the provisions of *Chapters 3* to *5*:

(a) *section 20* shall be treated as being deleted (but without prejudice to the generality of *section 20(7)* once the competent authority (M) has prepared and published on a website of the Government a DMAP in accordance with *Chapter 6*);

(b) *section 21(1)* shall be treated as if the words "he or she decides to exercise the power under *section 29(1)* " were substituted for the words "its designation under *section 20* as such";

(c) *section 21(3)* and *(4)* shall be treated as being deleted;

(d) *section 21(5)* shall be treated as if the words "he or she has prepared the relevant proposal, publish, or cause to be published, such proposal on a website of the Government" were substituted for the words "it has been approved under *subsection (4)(a)* to prepare a draft DMAP based on the relevant proposal, publish, or cause to be published, such proposal on its website";

(e) *section 21(6)* shall be treated as being deleted;

(f) *section 22(1)* shall be treated as if the words "relevant proposal concerned has been published in accordance with *section 21(5)*" were substituted for the words "competent authority (D) has been approved under *section 21(4)(a)* to prepare a draft DMAP based on the relevant proposal concerned";

(g) *section 22(4)* shall be treated as being deleted;

(h) *section 23(1)* and *(3)* shall be treated as if the words "a website of the Government" were substituted for the words "its website";

F18**[**(i) *section 24(1)* shall be treated as if the words "and submit the draft to the Minister" were deleted;**]**

F19**[**(ia) *section 24(3)* to *(4)* shall be treated as being deleted;**]**

(j) *section 25(2)* shall be treated as if the words "after *section 24* has been complied with" were deleted;

(k) *section 26(2)* shall be treated as being deleted;

(l) *section 28(4)* shall be treated as being deleted;

(m) *section 28(5)* shall be treated, in the definition of "relevant provisions", in *paragraph (b)*, as if the words "and subject to *Chapter 6* if applicable" were inserted after "is a DMAP".

Annotations

Amendments:

F18 Substituted (31.05.2024) by *Gas (Amendment) and Miscellaneous Provisions Act 2024* (11/2024), s. 35(a), S.I. No. 208 of 2024.

F19 Inserted (31.05.2024) by *Gas (Amendment) and Miscellaneous Provisions Act 2024* (11/2024), s. 35(b), S.I. No. 208 of 2024.

Chapter 7

Public bodies and National Marine Planning Framework

Compliance by public bodies

30. (1) A public body shall adopt such measures, consistent with the body's functions, as are necessary to secure the objectives of the National Marine Planning Framework.

(2) In this section, "functions" includes—

(a) the formulation of any policy, programme or plan in relation to any maritime usage or proposed maritime usage,

(b) the giving of any authorisation by or under any enactment (whether the authorisation takes the form of a licence, consent, approval or any other type of authorisation) for the purposes of any maritime usage or proposed maritime usage, and

(c) the regulation of any maritime usage or proposed maritime usage.

Directions of Minister

31. (1) Subject to *section 32* , the Minister may give a direction to a public body to adopt such measures as are specified in the direction relating to—

(a) the implementation of maritime spatial planning,

(b) compliance with the National Marine Planning Framework, or

(c) compliance with the State's obligation under the MSP Directive.

(2) (a) A direction under this section shall be in writing and may apply to one or more than one public body.

(b) The Minister shall cause a direction under this section to be published on a website of the Government at the same time as it is given to the public body concerned or as soon as is practicable thereafter.

(3) A public body to whom a direction under this section is given shall comply with the direction.

(4) In this section, "public body" does not include the Minister.

Steps preliminary to deciding whether or not to issue direction under *section 31*

32. (1) This section applies where the Minister is minded to give a direction under *section 31* (in this section referred to as the "direction concerned") to a public body (in this section referred to as the "public body concerned").

(2) The Minister shall, in the interests of procedural fairness, give a notice in writing to the public body concerned to which is attached a draft of the direction concerned stating that—

(a) the Minister is minded to give that direction to that body, and

(b) the body may, if it wishes to do so, within the period specified in the notice (being a period of not less than four weeks from the giving of the notice) make submissions in writing to the Minister on the direction.

(3) Where the Minister receives submissions referred to in *subsection (2)* before the expiration of the period referred to in that subsection, he or she may, after having regard to those submissions—

(a) give the direction concerned to the public body concerned with such revisions to the direction as the Minister considers are warranted in view of those submissions,

(b) give the direction concerned to the public body concerned without any revisions to the direction if the Minister considers that no such revisions are warranted in view of those submissions, or

(c) decline to give the direction concerned to the public body concerned if the Minister considers that—

(i) in view of those submissions, the direction is not warranted, or

(ii) for any other reason, the direction is no longer warranted.

(4) Where the Minister receives no submissions referred to in *subsection (2)* before the expiration of the period referred to in that subsection, he or she may—

(a) give the direction concerned to the public body concerned, or

(b) decline to give the direction concerned to the public body concerned if the Minister considers that, for any reason, the direction is no longer warranted.

(5) Where *subsection (3)(c)* or *(4)(b)* applies, the Minister shall, as soon as is practicable after making the decision referred to in that subsection, give notice in writing of that decision to the public body concerned.

Chapter 8

Appropriate assessment and strategic environmental assessment

Appropriate assessment and strategic environmental assessment

33. (1) For the avoidance of doubt, the relevant competent authority shall, in the preparation of any thing to which this subsection applies, ensure that the thing does not contravene the following acts of the institutions of the European Union, or any provision of an Act of the Oireachtas enacted or made for the purposes of giving effect to any such act:

(a) Habitats Directive;

(b) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 [11] on the assessment of the effects of certain plans and programmes on the environment;

(c) Birds Directive.

(2) *Subsection (1)* applies to each of the following:

(a) the marine planning policy statement;

(b) guidelines issued under *section 7* ;

(c) policy directives issued under *section 8* ;

(d) each draft MSP;

(e) each draft DMAP;

(f) a proposed material amendment under *section 28* .

(3) In this section, "relevant competent authority" means the competent authority (M) or competent authority (D), as appropriate.

F20[Chapter 8A

Judicial review and MSPs and DMAPs]

Annotations

Amendments:

F20 Inserted (17.07.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 45, S.I. No. 370 of 2023.

F21[**Judicial review of matters relating to MSPs and DMAPs**

33A.— (1) Where a point of law arises on any matter with which a public body is concerned under this Part, the public body may refer the point to the High Court for decision.

(2) A person shall not question the validity of any decision made or other act done by a public body in the performance or purported performance of a function under this Part in relation to a MSP or DMAP otherwise than by way of an application for judicial review under Order 84.

(3) A public body may, at any time after the bringing of an application for leave to apply for judicial review of any decision or other act to which *subsection (2)* applies and which relates to a matter for the time being before the public body, apply to the High Court to stay the proceedings pending the making of a decision by the public body in relation to the matter concerned.

(4) On the making of such an application, the High Court may, where it considers that the matter before the public body is within the jurisdiction of the public body, make an order staying the proceedings concerned on such terms as it thinks fit.

(5) Subject to *subsection (6)*, an application for leave to apply for judicial review under Order 84 in respect of a decision or other act to which

[11] OJ No. L197, 21.7.2001, p. 30

subsection (2) applies shall be made within the period of eight weeks beginning on the date on which—

(a) the publication requirement of *section 16(1)*, *17(2)(a)* or *(b)*, *17(3)(a)* or *(b)*, or *18(1)* is complied with in respect of the public body's decision,

(b) the publication requirement of *section 26(1)(a)* or *(b)*, is complied with in respect of the public body's decision,

(c) the publication requirement of *section 29(1)* is complied with, or

(d) the public body does the act concerned,

as appropriate.

(6) The High Court may extend the period provided for in *subsection (5)* within which an application for leave referred to in that subsection may be made but shall only do so if it is satisfied that—

(a) there is good and sufficient reason for doing so, and

(b) the circumstances that resulted in the failure to make the application for leave within the period so provided were outside the control of the applicant for the extension.

(7) References in this section to Order 84 shall be construed as including references to the Order as amended or replaced (with or without modification) by rules of court.**]**

Annotations

Amendments:

F21 Inserted (17.07.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 45, S.I. No. 370 of 2023.

F22**[Provisions supplementary to *section 33A***

33B.—(1) In this section—

"Court", where used without qualification, means the High Court (but this definition shall not be construed as meaning that *subsections (2)* to *(6)* and *(9)* do not extend to and govern the exercise by the Court of Appeal of jurisdiction on any appeal that may be made);

"section 33A leave" means leave to apply for judicial review under Order 84 in respect of a decision or other act to which *section 33A(2)* applies.

(2) (a) An application for section 33A leave shall be made by motion ex parte and shall be grounded in the manner specified in Order 84 in respect of an ex parte motion for leave.

(b) The Court hearing the ex parte application for leave may decide, having regard to the issues arising, the likely impact of the proceedings on the respondent or another party, or for other good and sufficient reason, that the application for leave should be conducted on an inter partes basis and may adjourn the application on such terms as it may direct in order that a notice may be served on that person.

(c) If the Court directs that the leave hearing is to be conducted on an inter partes basis it shall be by motion on notice (grounded in the manner specified in Order 84 in respect of an ex parte motion for leave)—

(i) to the public body concerned, and

(ii) to any other person specified for that purpose by order of the High Court.

(d) The Court may—

(i) on the consent of all of the parties, or

(ii) where there is good and sufficient reason for so doing and it is just and equitable in all the circumstances, treat the application for leave as if it were the hearing of the application for judicial review and may for that purpose adjourn the hearing on such terms as it may direct.

(3) The Court shall not grant section 33A leave unless it is satisfied that—

(a) there are substantial grounds for contending that the decision or act concerned is invalid or ought to be quashed, and

(b) (i) the applicant has a sufficient interest in the matter which is the subject of the application, or

(ii) where the decision or act concerned relates to a development identified in or under regulations made under *section 176* of the Act of 2000, for the time being in force, as being development which may have significant effects on the environment, the applicant—

(I) is a body or organisation (other than a State authority, a public authority or governmental body or agency) the aims or objectives of which relate to the promotion of environmental protection, and

(II) has, during the period of 12 months preceding the date of the application, pursued those aims or objectives.

(4) A sufficient interest for the purposes of *subsection (3)(b)(i)* is not limited to an interest in land or other financial interest.

(5) If the court grants section 33A leave, no grounds shall be relied upon in the application for judicial review under Order 84 other than those determined by the Court to be substantial under *subsection (3)(a)*.

(6) The determination of the Court of an application for section 33A leave or of an application for judicial review on foot of such leave shall be final and no appeal shall lie from the decision of the Court to the Court of Appeal in either case save with leave of the Court which leave shall only be granted where the Court certifies that its decision involves a point of law of exceptional public importance and that it is desirable in the public interest that an appeal should be taken to the Court of Appeal.

(7) *Subsection (6)* shall not apply to a determination of the Court in so far as it involves a question as to the validity of any law having regard to the provisions of the Constitution.

(8) If an application is made for judicial review under Order 84 in respect of part only of a decision or other act to which *section 33A(2)* applies, the Court may, if it thinks fit, declare to be invalid or quash the part concerned or any provision thereof without declaring invalid or quashing the remainder of the decision or other act or part of the decision or other act, and if the Court does so, it may make any consequential amendments to the remainder of the decision or other act or the part thereof that it considers appropriate.

(9) The Court shall, in determining an application for section 33A leave or an application for judicial review on foot of such leave, act as expeditiously as possible consistent with the administration of justice.

(10) On an appeal from a determination of the Court in respect of an application referred to in *subsection (9)*, the Court of Appeal shall—

(a) have jurisdiction to determine only the point of law certified by the Court under *subsection (6)* (and to make only such order in the proceedings as follows from such determination), and

(b) in determining the appeal, act as expeditiously as possible consistent with the administration of justice.

(11) Rules of court may make provision for the expeditious hearing of applications for section 33A leave and applications for judicial review on foot of such leave.**]**

Annotations

Amendments:

F22 Inserted (17.07.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 45, S.I. No. 370 of 2023.

F23 Inserted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

Modifications (not altering text):

C3 Prospective affecting provision: subs. (3)(b)(ii) amended by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

(ii) where the decision or act concerned relates to a development identified in or under regulations made under *section 176* of the Act of 2000 F23**[**or Part 3 of the Act of 2024**]**, for the time being in force, as being development which may have significant effects on the environment, the applicant—

Chapter 9

Maritime Authorisation Database

Definitions - *Chapter 9*

34. In this Chapter—

"Database" means the Maritime Authorisation Database established under *section 35(1)*;

"relevant data" means the data referred to in *section 36(1)*;

"relevant particulars" means the particulars of relevant data required to be entered into the Database by regulations made under *section 36* .

Establishment of Maritime Authorisation Database

35. (1) The Minister shall, as soon as is practicable after the coming into operation of this section, establish and maintain a database to be known as the Maritime Authorisation Database.

(2) The Database shall be in the form of an electronic database which is easily accessible through public electronic telecommunications networks.

(3) The Minister shall enter the relevant particulars of the relevant data in the Database as soon as is practicable after he or she receives the data.

(4) Where relevant data is received by a public body other than the Minister, the public body shall, as soon as is practicable, give that data to the Minister in the form specified by the Minister.

(5) The Minister may, by notice in writing given to—

(a) a public body which has received relevant data, or

(b) a person who gave the relevant data referred to in *paragraph (a)* to the public body referred to in that paragraph,

require the public body or the person, as the case may be, to provide such additional relevant data, or additional information concerning relevant data, as the Minister reasonably considers necessary in maintaining the Database.

(6) The public body or person to whom a notice under *subsection (5)* has been given shall comply with that notice as soon as is practicable after the public body or person, as the case may be, has received the notice.

Data to which Database applies, etc.

36. (1) The Minister may by regulations specify the data to which the Database applies, being data that the Minister is satisfied—

(a) relate to an authorisation (in this section referred to as a "relevant authorisation") by or under this Act or any other enactment (whether the authorisation takes the form of a licence, consent, approval or any other type of authorisation) of any maritime usage or proposed maritime usage, and whether or not such authorisation also relates to an area outside the maritime area, and

(b) should be readily available for access by users or proposed users of the maritime area and interested members of the public.

(2) Without prejudice to the generality of *subsection (1)*, regulations made under that subsection may specify the particulars of the relevant data to which the Database applies that are to be entered in the Database.

(3) Where the Minister makes regulations under *subsection (1)* to which *subsection (2)* applies, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the following principles and policies in relation to the particulars of relevant data that are to be entered in the Database:

(a) that the particulars should be sufficient to enable persons accessing the Database to readily ascertain—

(i) the part of the maritime area to which the relevant authorisation relates,

(ii) the maritime usage or proposed maritime usage the subject of the relevant authorisation, and

(iii) the name and contact details of the holder of the relevant authorisation;

(b) the need to know the date (if any), or the occurrence of the event (if any), on which the relevant authorisation expires; and

(c) if *paragraph (b)* applies, the need to know whether the relevant authorisation may be renewed.

(4) The Minister may, for the purposes of this Chapter, combine or link, in such manner as he or she thinks appropriate, the Database with any other database (by whatever name called) which contains relevant data.

Correction of Database

37. (1) For the purposes of keeping the Database correct, the Minister may—

(a) subject to *paragraph (b)*, amend or delete any relevant particulars entered in the Database, or

(b) where *section 36(4)* applies, request in writing the public body who maintains the other database to amend or delete any relevant particulars, specified in the request and for the reasons specified in the request, entered in the other database.

(2) The Minister shall take such steps as he or she considers necessary from time to time to ensure that the particulars entered in the Database are correct.

General power of Minister to obtain information relating to maritime area

38. (1) The Minister may, for the purposes of promoting good governance in the sharing of information, whether under this Act or any other enactment, relating to the maritime area, give a direction in writing to a public body to give to the Minister, within the period specified in the direction (being a period reasonable in all the circumstances of the case), the information, relating to the maritime area, specified in the direction.

(2) A direction under *subsection (1)* may specify that the information concerned be given to the Minister on a periodic basis.

(3) A public body the subject of a direction under *subsection (1)* shall comply with the direction.

(4) The Minister may enter in the Database such particulars of information given to him or her pursuant to a direction under *subsection (1)* that the Minister is satisfied should be readily available for access by users or proposed users of the maritime area and interested members of the public.

Delegation by Minister to MARA

39. (1) The Minister may delegate to the MARA any of his or her functions under this Chapter (except the Minister's power to make regulations under *section 36*) which he or she considers can effectively be performed by the MARA and the Minister shall be responsible for monitoring, approving or reviewing the performance of such delegated functions by the MARA.

(2) Where a function of the Minister is delegated to the MARA under *subsection (1)*, the delegation shall remain in force until the Minister revokes it.

PART 3

Maritime Area Regulatory Authority

Chapter 1

Definitions and establishment day

Definitions - *Part 3*

40. In this Part—

"Act of 1990" means the Companies Act 1990;

"Board (M)" shall be construed in accordance with *section 45(1)*;

"chairperson" means the chairperson of the Board (M);

"chief executive officer" shall be construed in accordance with *section 56(1)*;

"statement of strategy", in relation to the MARA, shall be construed in accordance with *section 66* .

Establishment day

41. The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

Annotations

Editorial Notes:

E9 Power pursuant to section exercised (17.07.2023) by *Maritime Area Planning Act 2021 (Establishment Day) Order 2023* (S.I. No. 372 of 2023).

2. The 17th day of July 2023 is appointed to be the establishment day for the purposes of the Maritime Area Planning Act 2021 (No. 50 of 2021).

Chapter 2

Establishment and functions of Maritime Area Regulatory Authority

Establishment of Maritime Area Regulatory Authority

42. (1) There shall stand established on the establishment day a body which shall be known as *an tÚdarás Rialála Limistéir Mhuirí* or, in the English language, the Maritime Area Regulatory Authority (in this Act referred to as the "MARA") to perform the functions assigned to it under this Act or any other enactment.

(2) The MARA is a body corporate with perpetual succession and an official seal and may—

(a) sue and be sued in its own name,

(b) with the consent of the Minister and the Minister for Public Expenditure and Reform, acquire, hold and dispose of land or an interest in land, and

(c) acquire, hold and dispose of any other property.

(3) The seal of the MARA shall be authenticated by—

(a) the signature of the chairperson or another member of the Board (M) authorised in writing by the chairperson to do so, and

(b) the signature of the chief executive officer or another officer of the MARA authorised in writing by the chairperson to do so.

(4) Judicial notice shall be taken of the seal of the MARA, and every document purporting to be an instrument made by the MARA and sealed with the seal of the MARA authenticated in accordance with *subsection (3)* shall, unless the contrary is shown, be received in evidence and be deemed to be that instrument without further proof.

Functions of MARA

43. (1) The functions of the MARA are—

(a) considering MAC applications, granting MACs and revoking or suspending MACs,

(b) considering licence applications, granting licences and revoking or suspending licences,

(c) securing the enforcement of the provisions of this Act relating to MACs or licences,

(d) promoting and monitoring compliance with the provisions of this Act in so far as those provisions relate to MACs or licences, or both,

(e) investigating—

(i) instances of suspected offences under this Act, and

(ii) instances otherwise of suspected non-compliance with *Part 3* , *4* , *5* or *6* or with the obligations to which holders and former holders of MACs or licences are subject,

(f) the prosecuting of offences under this Act by way of summary proceedings,

(g) at the discretion of the MARA, referring cases to the Director of Public Prosecutions where the MARA has reasonable grounds for believing that an indictable offence under this Act has been committed,

(h) fostering and promoting co-operation between regulators of the maritime area, whether or not pursuant to a co-operation agreement referred to in *Chapter 6*,

(i) the undertaking of all administrative responsibility for foreshore authorisations, including—

(i) performing functions under or in relation to such authorisations as if—

(I) the authorisations had been granted (or otherwise given) by the MARA, and

(II) references in the authorisations (howsoever expressed) to the Minister of the Government who falls within paragraph (c) of section 1B of the Act of 1933 were references to the MARA,

(ii) investigating instances of suspected offences under the Act of 1933, and

(iii) investigating instances otherwise of suspected non-compliance with the Act of 1933 or with obligations to which holders and former holders of the authorisations are subject,

and

(j) performing such other functions as are conferred upon it by this Act, the Act of 2000 F24**[**, the Act of 2024**]** or any other enactment.

(2) Subject to this Act, the MARA shall be independent in the performance of its functions.

(3) The MARA shall perform its functions through or by—

(a) the Board (M), or

(b) the chief executive officer or any other member of the staff of the MARA duly authorised in that behalf by the Board (M).

(4) The MARA shall have all such powers as are necessary or expedient for the performance of its functions.

Annotations

Amendments:

F24 Inserted (2.10.2025) by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, S.I. No. 452 of 2025, art. 11(g).

Matters to which MARA shall have regard in performing functions

44. The MARA shall, in performing its functions, have regard to—

(a) the obligation imposed on it by *section 30*,

(b) obligations of the State under the Convention and the Act of 2021,

(c) the policies (whether set out in codes, guidelines or other documents, or any combination thereof) of the Government or any Minister of the Government to the extent that those policies may affect or relate to the functions of the MARA, and

(d) the need for co-operation between users of the same part, or adjoining parts, of the maritime area, or both.

Chapter 3

Board of MARA

Establishment and membership of board of MARA

45. (1) The MARA shall have a board (in this Part referred to as the "Board (M)") consisting of the following members:

(a) a chairperson;

(b) ordinary members as follows:

(i) an officer of the Department of Housing, Local Government and Heritage;

(ii) an officer of the Department of the Environment, Climate and Communications;

(iii) an officer of the Department of Public Expenditure and Reform;

(iv) a representative of the County and City Management Association;

(v) up to six other persons (if any).

(2) (a) Subject to *subsection (1)* and *paragraphs (b)* to *(d)*, the Minister shall appoint to be the chairperson and other members of the Board (M) persons who, in the opinion of the Minister, have sufficient expertise and experience relating to—

(i) matters connected with the functions of the MARA, or

(ii) corporate governance and management generally,

to enable them to make a substantial contribution to the effective and efficient performance of those functions.

(b) The Minister shall—

(i) for the purposes of appointing a member who falls within *subsection (1)(b)(i)*, *(ii)* or *(iii)*, so appoint a nominee put forward by the Minister of the Government for the Department concerned where the Minister first-mentioned in this paragraph is of the opinion referred to in *paragraph (a)* as regards that nominee, and

(ii) for the purposes of appointing a member who falls within *subsection (1)(b)(iv)*, so appoint a nominee put forward by the County and City Management Association where the Minister first-mentioned in this paragraph is of the opinion referred to in *paragraph (a)* as regards that nominee.

(c) The Minister shall, for the purposes of appointing members who fall within *subsection (1)(b)(v)*, ensure that any such appointment does not result in there being more than—

(i) two members who are officers of the same Department referred to in *subsection (1)(b)(i)*, *(ii)* or *(iii)*, or

(ii) two members who are representatives of the County and City Management Association.

(d) The Minister shall, in so far as is practicable, endeavour to ensure that among the members of the Board (M) there is an equitable balance between men and women.

(3) The chairperson shall hold office for such period, not exceeding four years, from the date of appointment to the office as the Minister shall determine.

(4) Subject to *subsection (5)*, each ordinary member shall hold office for such period, not exceeding four years, from the date of appointment to the office as the Minister shall determine.

(5) Of the ordinary members of the Board (M) first constituted under this section—

(a) three members shall hold office for a period of three years from the date appointed to the office, and

(b) three members shall hold office for a period of four years from the date appointed to the office.

(6) Subject to *subsection (7)*, a member of the Board (M) (including the chairperson) whose term of office expires by the effluxion of time shall be eligible for reappointment to the Board (M), whether as an ordinary member or as the chairperson.

(7) A person who is reappointed to the Board (M) in accordance with *subsection (6)* shall not hold office for more than two consecutive terms and in any event may not serve for a period of more than eight years.

(8) A member may resign from office by letter sent to the Minister and the resignation shall take effect on the later of—

(a) the date specified in the letter, or

(b) the date of receipt of the letter by the Minister.

(9) The Minister shall, as soon as is practicable after a person is appointed to be a member of the Board (M), publish on a website of the Government a notice of the name of the person so appointed.

(10) The Minister may, by notice in writing, nominate an ordinary member of the Board (M) to be the deputy chairperson of the Board (M) to act as the chairperson if, for whatever reason, the chairperson is unable to perform his or her functions.

Casual vacancies

46. (1) If a member resigns, dies, ceases to hold office (otherwise than by effluxion of time), ceases to be qualified to hold office or is removed from office, the Minister shall, as soon as is practicable, appoint, consistent with the provisions of *section 45* , a person to fill the casual vacancy so arising.

(2) A person appointed under *subsection (1)* shall hold office for the unexpired period of his or her predecessor's term of office or such other period as the Minister may determine not exceeding four years (including such unexpired period).

(3) A member appointed under *subsection (1)* is eligible for reappointment to the Board (M) on the expiry of the unexpired period or other period, as appropriate, referred to in *subsection (2)* but may not serve for more than two further consecutive terms and in any event may not serve for a period of more than eight years.

Functions of Board (M)

47. (1) The Board (M) is the governing body of the MARA with authority, in the name of the MARA, to perform the functions of the MARA.

(2) The Board (M) shall—

(a) ensure that the functions of the MARA are performed efficiently, effectively and to the highest standards,

(b) set the objectives of the MARA consistent with those functions and the statement of strategy,

(c) ensure that appropriate systems and procedures are in place to perform those functions and achieve those objectives,

(d) design a comprehensive framework for the setting of levies under *Chapter 7* of *Part 4* , and

(e) advise and make recommendations to the Minister in relation to policies of the Government or a Minister of the Government affecting the functions of the MARA.

(3) In performing its functions, the Board (M) shall act in good faith with care, skill and diligence.

(4) The Board (M) may delegate to the chief executive officer any of its functions which it considers should be carried out by the chief executive officer and the Board (M) shall be responsible for monitoring, approving or reviewing the performance of such functions by the chief executive officer.

(5) Where a function of the Board (M) is delegated to the chief executive officer, the delegation shall remain in force until the Board (M) revokes it.

(6) The Board (M) shall submit such information regarding the performance of its functions as may be requested in writing by the Minister.

(7) Subject to this Part, the Board (M) may regulate its own procedure.

Membership of either House of Oireachtas or European Parliament, etc.

48. (1) A person is not eligible for appointment as a member of the Board (M) or a committee of the Board (M) if the person is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,

(c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament, or

(d) elected or co-opted as a member of a local authority.

(2) A person who is for the time being entitled under the Standing Orders of either House of Oireachtas to sit therein or who is a member of the European Parliament or a local authority shall, while he or she is so entitled or such a member, be disqualified for membership of the Board (M) or a committee of the Board (M).

Removal of member of Board (M)

49. (1) The Minister may at any time remove from office a member of the Board (M) if, in the Minister's opinion—

(a) the member has become incapable through ill-health of performing his or her functions,

(b) the member has committed stated misbehaviour,

(c) the member's removal is necessary for the effective and efficient performance by the Board (M) of its functions,

(d) the member has contravened an applicable provision of the Ethics in Public Office Act 1995, or

(e) in performing functions under this Act, the member has not been guided by a code of conduct that has been drawn up under section 10(3) of the Standards in Public Office Act 2001 and that relates to the member.

(2) If a member of the Board (M) is removed from office in accordance with *subsection (1)*, the Minister shall give the member a statement in writing of the reasons for the removal.

(3) The Minister shall remove from office a member of the Board (M) if such removal is necessary in order to ensure that *section 45(2)(c)* continues to be complied with.

(4) A member of the Board (M) shall cease to be qualified for office and shall cease to hold office if he or she—

(a) is adjudicated bankrupt,

(b) makes a composition or arrangement with creditors,

(c) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(d) is convicted of any indictable offence,

(e) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,

(f) is, or is deemed to be, the subject of an order under section 160 of the Act of 1990 or a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014, or

(g) is removed by a competent authority for any reason (other than failure to pay a fee) from any register established for the purpose of registering members of a profession in the State or any other jurisdiction.

(5) A member who does not, for a consecutive period of six months, attend a meeting of the Board (M) ceases at the end of that period to hold office unless the member demonstrates to the Minister's satisfaction that the failure was due to ill-health.

(6) In this section, "applicable provision of the Ethics in Public Office Act 1995", in relation to a member, means a provision of that Act that, by virtue of a regulation under section 3 of that Act, applies to that member.

Potential conflicts of interest

50. (1) Where a matter is to be decided by the Board (M) at a meeting, any member of the Board (M) present at the meeting who has an interest in the matter, otherwise than as such a member, shall—

(a) at the meeting, in advance of any consideration of the matter, disclose to the Board (M) the fact of the interest and the nature of the interest,

(b) neither influence nor seek to influence a decision relating to the matter,

(c) absent himself or herself from any meeting or that part of the meeting during which the matter is discussed,

(d) take no part in any deliberation of the Board (M) or committee of the Board (M) relating to the matter, and

(e) not vote on a decision relating to the matter.

(2) Where a member discloses an interest in a matter under *subsection (1)* —

(a) the disclosure shall be recorded in the minutes of the meeting, and

(b) for so long as the matter is being dealt with by the meeting, the member shall not be counted in the quorum for the meeting unless the Board (M) or committee of the Board (M) otherwise determines.

(3) Where, at a meeting of the Board (M) or a committee of the Board (M), a question arises as to whether or not a course of conduct, if pursued by a member of the Board (M) or committee of the Board (M), as the case may be, would be a failure by the member to comply with the requirements of *subsection (1)* —

(a) the question may be determined by the chairperson of the Board (M) or of the committee of the Board (M), as the case may be, whose decision shall be final, and

(b) if the question is so determined, particulars of the determination shall be recorded in the minutes of the meeting concerned.

(4) Where satisfied that a member of the Board (M) or a committee of the Board (M) has contravened *subsection (1)*, the Minister may, if he or she thinks fit to do so, remove that member from office or take any other action that the Minister considers appropriate.

(5) A person who is removed from office under *subsection (4)* is disqualified from membership of the Board (M) or of a committee of the Board (M).

Removal of all members of Board (M)

51. (1) The Minister may remove all members of the Board (M) from office if—

(a) the Board (M) fails to achieve a quorum for three consecutive meetings,

(b) the Board (M) does not comply with a judgement, order or decree of any court,

(c) the Board (M) does not comply with a direction of the Minister or any other requirement imposed on it by or under any enactment (including this Act), or

(d) the Minister is of the opinion that the Board (M)'s functions are not being performed in an effective and efficient manner.

(2) The Minister may, if he or she is of the opinion that the Board (M)'s functions are not being performed in an effective and efficient manner, appoint a person to—

(a) conduct an independent review of any matter giving rise to that opinion, and

(b) submit a report to the Minister on the results of the review.

(3) The Board (M) shall co-operate with a review under *subsection (2)* and give the person conducting it all reasonable assistance, including access to such premises, equipment and books, records and other documents as the person may require for the purposes of the review.

(4) The removal of the members of the Board (M) from office does not revoke or otherwise affect any delegation of the Board (M)'s functions to the chief executive officer under *section 47(4)*.

Meetings of Board (M)

52. (1) The Board (M) shall hold as many meetings as are necessary for the performance of its functions, but in each year shall hold at least four meetings.

(2) The chairperson may at any reasonable time call a meeting of the Board (M).

(3) Any number of members of the Board (M) that is not fewer than the quorum for a meeting of the Board (M) may call a meeting of the Board (M) if the chairperson—

(a) refuses to call a meeting after being presented with a requisition for that purpose signed by not fewer than that number of members, or

(b) without refusing to call a meeting, does not call one within seven days of being presented with such a requisition.

(4) Subject to *section 45(10)*, at a meeting called under *subsection (3)*, or where the chairperson has called a meeting or cannot attend, or where the office of the chairperson is vacant, the members present shall choose one of those present to chair the meeting.

(5) The quorum for a meeting of the Board (M) shall be not less than the lowest integer that exceeds half of the total number of members for the time being.

(6) A meeting held while there is a vacancy on the Board (M) will be valid irrespective of the vacancy, as long as there is a quorum.

(7) With the exception of a meeting called in accordance with *subsection (3)*, the chairperson shall, if present, preside at all meetings of the Board (M).

(8) Any question at a meeting shall be determined by a majority of the votes of the members present and voting on the question.

(9) Where there is an equal division of votes, the chairperson has a second and casting vote at all meetings at which he or she is present except where a meeting has been called in accordance with *subsection (3)*, in which case the chairperson or, subject to *section 45(10)*, the person chosen in accordance with *subsection (4)*, as appropriate, has a second or casting vote.

Committees of Board (M)

53. (1) The Board (M) may establish committees to assist and advise it on matters relating to its functions, or the functions of the MARA, and may determine the membership and terms of reference of each committee.

(2) The Board (M) may appoint to a committee of the Board (M) persons who are not members of the Board (M) but have special knowledge and experience related to the purposes of the committee.

(3) The appointment of a person to a committee of the Board (M) is subject to such terms and conditions as may be determined—

(a) under *section 55(1)* to the extent that they relate to remuneration and allowances for expenses, and

(b) by the Board (M), in any other case.

(4) The Board (M) shall specify in writing the purposes and terms of reference of each committee of the Board (M).

(5) The acts of a committee of the Board (M) are subject to confirmation by the Board (M) unless the Board (M) dispenses with the necessity for confirmation.

(6) The Board (M) may regulate the procedure of a committee of the Board (M) but, subject to any such regulation, a committee may regulate its own procedure.

(7) The Board (M) may at any time dissolve a committee of the Board (M) established under this section.

Ineligibility of holders, etc., for appointment as member

54. (1) Subject to *subsection (2)*, a person shall not be eligible for appointment as a member of the Board (M) if the person is—

(a) the holder of a MAC,

(b) the holder of a licence,

(c) the holder of a foreshore authorisation, or

(d) the chief executive officer.

(2) *Subsection (1)* shall not apply to a person proposed to be appointed as a member of the Board (M) in his or her capacity as a representative of the County and City Management Association.

(3) A person shall not be eligible for appointment as a member of the Board (M) if the person is a member of staff of the MARA.

Remuneration and expenses of members of Board (M) and committees

55. (1) The Minister may, with the consent of the Minister for Public Expenditure and Reform, determine the remuneration and allowances for expenses payable under this section.

(2) The remuneration and allowances for expenses (if any) determined in accordance with *subsection (1)* are payable by the MARA out of funds at its disposal to—

(a) the members of the Board (M), and

(b) the members of a committee of the Board (M).

(3) The remuneration and allowances for expenses (if any) determined in accordance with *subsection (1)* are payable by the Minister out of money provided by the Oireachtas to a person appointed under *section 51(2)* to conduct an independent review.

Chapter 4

Chief executive officer of MARA

Appointment of chief executive officer

56. (1) F25**[**Subject to *subsection (9)*, the Board (M)**]** shall, as soon as is practicable after the establishment day and thereafter as required, appoint a person, being a person who has been recommended by the Public Appointments Service, to be the chief executive officer of the MARA (in this Act referred to as the "chief executive officer").

(2) Subject to *subsection (4)*, the Public Appointments Service shall recommend a person for appointment as the chief executive officer following an open selection competition held by the Service for that purpose.

(3) The Public Appointments Service shall appoint a selection panel to assist it in holding an open selection competition.

(4) The Public Appointments Service shall ensure that a person is recommended under *subsection (2)* for appointment only if it is satisfied that the person has the qualifications, experience and skills to effectively perform the functions of the chief executive officer.

(5) The chief executive officer shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration, allowances for expenses and superannuation) as may be determined by the Board (M) with the prior approval of the Minister given with the consent of the Minister for Public Expenditure and Reform.

(6) The remuneration and allowances for expenses determined under *subsection (5)* shall be paid out of funds at the disposal of the MARA.

(7) The chief executive officer shall not hold any other office or employment or carry on any business.

(8) The chief executive officer, although not eligible, by virtue of *section 54(1)*, to be a member of the Board (M) or a committee of the Board (M), may, in accordance with procedures established by the Board (M) or a committee of the Board (M), as the case may be, attend meetings of the Board (M) or a committee of the Board (M) and shall be entitled to speak at and advise such meetings.

F26**[**(9) (a) A selection competition to appoint a chief executive officer may be held before the establishment day and the successful candidate may be appointed by the Minister as the chief executive designate of the MARA.

(b) The chief executive designate shall be appointed chief executive officer on the establishment of the MARA.

(c) The date of the person's appointment under *paragraph (a)* shall be deemed to be the date of his or her appointment as chief executive officer.**]**

Annotations

Amendments:

F25 Substituted (1.12.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 46(a), S.I. No. 600 of 2022).

F26 Inserted (1.12.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 46(b), S.I. No. 600 of 2022).

Resignation, removal or disqualification of chief executive officer

57. (1) The chief executive officer may resign from office by giving notice in writing to the Board (M) of his or her resignation.

(2) The Board (M) may, at any time and with the prior approval of the Minister, remove the chief executive officer from office if, in the opinion of the Board (M) —

(a) the chief executive officer has become incapable through ill-health of performing his or her functions,

(b) the chief executive officer has committed stated misbehaviour, or

(c) the removal of the chief executive officer is necessary for the effective and efficient performance by the MARA of its functions.

(3) If the chief executive officer is removed from office in accordance with *subsection (2)*, the Board (M) shall provide the chief executive officer with a statement in writing of the reasons for the removal.

(4) The chief executive officer shall cease to be qualified for office and shall cease to hold office if he or she—

(a) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(b) is convicted of any indictable offence,

(c) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not, or

(d) is, or is deemed to be, the subject of an order under section 160 of the Act of 1990 or a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014.

Functions of chief executive officer

58. The chief executive officer shall—

(a) carry on and manage, and control generally, the administration and business of the MARA in accordance with the objectives referred to in *section 47(2)(b)*,

(b) perform such other functions as may be assigned to him or her under this Act or any other enactment or as may be delegated to him or her by the Board (M), and

(c) provide the Board (M) with such information (including financial information) relating to the performance of his or her functions and the implementation of the objectives referred to in *section 47(2)(b)* as the Board (M) may require.

Delegation of functions

59. (1) (a) Subject to *paragraph (c)*, the chief executive officer may delegate any of his or her functions under *section 58* in writing to a member of staff of the MARA, which member shall be specified by name, grade, position or otherwise.

(b) Without prejudice to the generality of *paragraph (a)*, the chief executive officer may exercise his or her power under that paragraph by delegating all of his or her functions under *section 58* to a single member of staff of the MARA to be performed by that member of staff during any period or periods when the chief executive officer is absent from duty or from the State or is, for any other reason, unable to perform such functions.

(c) The Board (M) may issue directions in writing to the chief executive officer in respect of the exercise of his or her power under *paragraph (a)* and the chief executive officer shall comply with such directions.

(2) Any function delegated under this section to a member of staff of the MARA shall be performed by the member under the general direction and control of the chief executive officer and in compliance with such directions, limitations and guidelines as may be specified by the chief executive officer.

(3) The delegation of a function does not preclude the chief executive officer from performing the function.

(4) The chief executive officer may—

(a) vary the delegation of a function under this section, or

(b) revoke the delegation.

(5) On varying or revoking the delegation of a function, the chief executive officer shall, as soon as is practicable, inform each member of staff of the MARA to whom the function was delegated of its variation or revocation.

Accountability of chief executive officer to committees of Houses of Oireachtas

60. (1) Subject to *subsection (2)*, the chief executive officer shall, at the request in writing of a Committee, attend before it to give account of the general administration of the MARA.

(2) The chief executive officer shall not be required to give account before a Committee for any matter which is or has been, or may be at a future date, the subject of proceedings before a court or tribunal in the State.

(3) Where the chief executive officer is of the opinion that a matter in respect of which he or she is requested to give an account before a Committee is a matter to which *subsection (2)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at a time when the chief executive officer is before it, the information shall be so conveyed in writing.

(4) Where the chief executive officer has informed a Committee of this opinion in accordance with *subsection (3)* and the Committee does not withdraw the request referred to in *subsection (1)* in so far as it relates to the subject matter of the opinion—

(a) the chief executive officer may, not later than 42 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (2)* applies, or

(b) the Chairperson of the Committee may, on behalf of the Committee, make such an application,

and the High Court shall determine the matter.

(5) Pending the determination of an application under *subsection (4)*, the chief executive officer shall not attend before the Committee to give account for the matter that is the subject of the application.

(6) If the High Court determines that the matter concerned is one to which *subsection (2)* applies, the Committee shall withdraw the request referred to in *subsection (1)*, but if the High Court determines that *subsection (2)* does not apply, the chief executive officer shall attend before the Committee to give account for the matter.

(7) In the performance of his or her duties under this section, the chief executive officer shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

(8) With the permission of the Chairperson of a Committee making the request under *subsection (1)*, either—

(a) the chairperson of the Board (M), or

(b) an employee of the MARA nominated by the chief executive officer,

may attend before the Committee in place of the chief executive officer to give an account of the general administration of the MARA, and in that case a reference in *subsections (2)* to *(7)* to the chief executive officer shall be read as including a reference to the person attending in his or her place.

(9) In this section, "Committee" means a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas, other than—

(a) the Committee of Public Accounts, the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann, or

(b) a subcommittee of a committee referred to in *paragraph (a)*.

Appearance of chief executive officer before Committee of Public Accounts

61. (1) The chief executive officer shall, whenever required in writing to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General (in this section referred to as the "Committee"), give evidence to that Committee in relation to—

(a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the MARA is required by or under this Act or another enactment to prepare,

(b) the economy and efficiency of the MARA in the use of its resources,

(c) the systems, procedures and practices employed by the MARA for the purpose of evaluating the effectiveness of its operations, and

(d) any matter affecting the MARA referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a)*, *(b)* or *(c)*) that is laid before Dáil Éireann.

(2) In the performance of his or her duties under this section, the chief executive officer shall not question or express an opinion on the merits of—

(a) any policy of the Government or of a Minister of the Government, or

(b) the objectives of such a policy.

Membership of either House of Oireachtas or European Parliament

62. (1) A person is not eligible for appointment as the chief executive officer if the person is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,

(c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament, or

(d) elected or co-opted as a member of a local authority.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament or of a local authority shall, while he or she is so entitled or is such a member, be disqualified for being the chief executive officer.

Acting chief executive officer

63. (1) Subject to *subsection (2)*, the Minister may appoint such other member of staff of the MARA to perform the functions of the chief executive officer during—

(a) any suspension from office of the chief executive officer, or

(b) any vacancy in the office of chief executive officer (including any such vacancy occurring before the appointment of the first chief executive officer).

(2) The Minister may at any time terminate an appointment under this section.

Chapter 5

Staff of MARA and other resources available to MARA

Staff of MARA, etc.

64. (1) The MARA may, with the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform, appoint such and so many persons to be members of the staff of the MARA as it may determine.

(2) (a) The terms and conditions of service of a member of the staff of the MARA and the grade at which he or she serves shall be such as may be determined by the MARA with the consent of the Minister and the Minister for Public Expenditure and Reform.

(b) The remuneration and allowances for expenses of the members of staff of the MARA are payable by the MARA out of funds at its disposal.

(3) A member of staff of the MARA appointed under *subsection (1)* shall be a civil servant (within the meaning of the Civil Service Regulation Acts 1956 to 2005) in the Civil Service of the State.

(4) The MARA shall be the appropriate authority (within the meaning of the Civil Service Commissioners Act 1956 and the Civil Service Regulation Acts 1956 to 2005) in relation to its officers.

(5) The MARA may make arrangements with—

(a) a public body, or

(b) any other person, organisation, group or body (including a company),

for the engagement with the MARA on a temporary basis of a person in the service of, or employed by, as the case may be, that public body, or person, organisation, group or body referred to in *paragraph (b)*.

(6) A person who is engaged on a temporary basis with the MARA pursuant to *subsection (5)* shall be under the direction and control of the MARA during the period of temporary engagement.

(7) The MARA may engage such consultants or advisers as it considers necessary for the performance of its functions.

(8) Fees due to a consultant or adviser engaged under this section are payable by the MARA out of funds at its disposal.

(9) Without prejudice to the generality of *subsection (5)*, the Minister may make available to the MARA, premises, equipment, services and other resources for the performance by the MARA of its functions.

(10) The Minister may, subject to agreement with the relevant chief executive (by whatever name called) of any public body, under the Minister's aegis, including any local authority, provide for the provision of services under *subsection (9)*.

Chapter 6

Co-operation

Provision for co-operation between MARA and public bodies

65. (1) The MARA may enter into an arrangement with a public body for the purposes of—

(a) any of the following:

(i) facilitating co-operation between the MARA and the body in the performance of their respective functions in so far as they relate to the maritime area;

(ii) the body rendering assistance to the MARA in the MARA's performance of its functions where such assistance is not inconsistent with the body's functions;

(iii) the MARA rendering assistance to the body in the body's performance of its functions where such assistance is not inconsistent with the MARA's functions,

(b) avoiding duplication of activities by the MARA and the body in so far as those activities relate to the maritime area,

(c) ensuring, as far as is practicable, consistency between decisions made or other steps taken by the MARA and the body in so far as any part of those decisions or steps consists of or relates to the maritime area,

(d) enabling the MARA to be consulted in relation to any decisions by the body which affect users or proposed users of the maritime area, or

(e) where appropriate, conducting joint studies or analyses of matters relating to the maritime area,

and each such arrangement that is entered into is referred to in this section as a "co-operation agreement".

(2) A co-operation agreement may include any or all of the following provisions:

(a) enabling each party to furnish to another party information in its possession if the information is required by that other party for the purpose of the performance by it of any of its functions;

(b) enabling each party to forbear to perform any of its functions in relation to a matter in circumstances where it is satisfied that another party is performing functions in relation to that matter;

(c) requiring each party to consult with any other party before performing any functions in circumstances where the respective exercise by each party of the functions concerned involves the determination of issues concerning the maritime area or users or proposed users of the maritime area that are identical to one another or are within the same category of such an issue, being a category specified in the co-operation agreement.

(3) A co-operation agreement may be varied by the parties concerned.

(4) The MARA shall give the Minister and any other appropriate Minister a copy of every co-operation agreement (including any variation of the agreement) that has been made within one month after the agreement (or the variation of it) has been made.

(5) A co-operation agreement, or any variation made to it, shall be in writing and, as soon as is practicable after the agreement or variation has been made and given to the Minister and any other appropriate Minister, each of the parties shall arrange for it to be published on its own website.

(6) If information is furnished by one party to another party pursuant to a provision of a co-operation agreement of the kind referred to in *subsection (2)(a)*, the provisions of any enactment concerning the disclosure of that information by the first-mentioned party shall apply to the second-mentioned party with respect to that information.

(7) A failure by the MARA or a public body to comply with a provision of a co-operation agreement shall not invalidate the exercise by it of any power.

(8) In this section—

"appropriate Minister" means the Minister of the Government on whom functions stand conferred in relation to the public body concerned;

"party" means a party to a co-operation agreement and a reference to another party (whether that expression or the expression "the other party" is used) shall, where there are two or more other parties to the agreement, be construed as a reference to one or more of those other parties or each of them, as appropriate.

Chapter 7

Corporate strategy, accounts and annual reports of MARA

Corporate strategy of MARA

66. (1) The MARA shall prepare a statement of strategy within 12 months of the establishment day and thereafter not earlier than six months before and not later than the expiration of each subsequent period of three years following that day.

(2) The statement of strategy shall be prepared on the basis of an organisational wide strategic approach encompassing the functions and principal activities of the MARA and shall include:

(a) a statement setting out the approach taken in respect of each of the MARA's functions referred to in *section 43(1)*;

(b) a statement of the principal activities of the MARA;

(c) the objectives and priorities for each of the principal activities and strategies for achieving those objectives;

(d) the manner in which the MARA proposes to assess its performance in respect of each such activity, taking account of indicators which shall be identified by the MARA and of the need to work towards best practice in service delivery and in the general operation of the MARA;

(e) human resources activities (including training and development) to be undertaken for the staff of the MARA;

(f) the organisational structure of the MARA, including corporate support and information technology and the improvements proposed to promote efficiency of operation and customer service and in general to support the statement of strategy;

(g) such other matters as the MARA considers necessary.

(3) Within three months of the preparation of the statement of strategy for the purposes of *subsection (1)*, the MARA shall submit copies of the statement to the Minister and the Minister shall, as soon as is practicable after those copies are submitted to him or her, cause copies of the statement to be laid before each House of the Oireachtas.

Accounts of MARA

67. (1) The MARA shall keep in such form as may be approved by the Minister all proper and usual accounts of money received or expended by it and of all financial transactions undertaken in the performance of its functions.

(2) The Board (M) shall, in respect of each financial year, cause to be prepared proper accounts of all income and expenditure and property, credits and liabilities of the MARA.

(3) The financial year of the MARA shall be the period of 12 months ending on the 31st day of December in any year, commencing on the establishment day except that, if the establishment day is a day other than 1 January, the first financial year of the MARA shall be the period commencing on the establishment day and ending on and including the next 31st day of December.

(4) The statement of accounts of the MARA for each financial year shall, as soon as may be after the end of the financial year, be prepared and the accounts of the MARA shall be submitted to the Comptroller and Auditor General for audit, as soon as is practicable, and not later than three months after the end of the financial year to which the accounts relate.

(5) Within one month of the Comptroller and Auditor General issuing an audit certificate for the accounts of the MARA, a copy of—

(a) the accounts, and

(b) the report of the Comptroller and Auditor General on the accounts,

shall be presented to the Minister who, within two months after their receipt, shall cause copies thereof to be laid before each House of the Oireachtas.

Annual report of MARA

68. (1) Subject to *subsections (2)* and *(4)*, the MARA shall, not later than 30 June in each year, prepare and adopt, and submit to the Minister, a report in writing (in this section referred to as the "annual report") on its activities during the immediately preceding calendar year.

(2) The first annual report shall be prepared in respect of the period beginning on and including the establishment day and ending on and including 31 December of the immediately succeeding calendar year.

(3) The Minister shall, within 21 days of receiving the annual report, cause copies of it to be laid before each House of the Oireachtas.

(4) The MARA shall include in the annual report the statement that, but for section 1E of the Act of 1933, the relevant Minister, within the meaning of

that section, would have been required by section 20 of that Act to lay before each House of the Oireachtas and, for that purpose, the references in such section 20 to the appropriate Minister shall be construed as references to the MARA to the extent that such references are references to such relevant Minister.

Chapter 8

Miscellaneous

Duty of MARA to give information

69. (1) The MARA shall—

(a) monitor and keep under review occurrences and developments concerning matters relating to its functions, and

(b) without delay, give the Minister information regarding—

(i) any occurrence or development that, in the opinion of the MARA, the Minister is likely to consider significant for the performance of his or her functions (whether under this Act or otherwise), or

(ii) any other occurrence or development that falls within a class of occurrences or developments of public interest or concern that has been specified in writing by the Minister.

(2) The Minister may issue guidelines in relation to the giving of information under *subsection (1)* and, if he or she does so, the MARA shall comply with those guidelines.

(3) The MARA shall submit, when required by the Minister to do so, a report on any matters connected with the functions of the MARA and specified in writing by the Minister.

(4) A report under *subsection (3)* shall—

(a) address matters of general or specific concern, and

(b) be made in such form and within such period,

as specified in the requirement.

Disclosure of confidential information

70. (1) Except in the circumstances specified in *subsection (2)*, a person shall not disclose confidential information obtained while performing functions as—

(a) a member of the Board (M) or a committee of the Board (M),

(b) a person appointed under *section 51(2)*,

(c) the chief executive officer or any other member of staff of the MARA (including a person who is such a member by virtue of *section 64(5)*),

(d) a person engaged under *section 64(7)* by the MARA as an advisor or consultant,

(e) an employee of a person referred to in *paragraph (b)* or *(d)*, or

(f) an authorised officer.

(2) A person does not contravene *subsection (1)* by disclosing confidential information if the disclosure—

(a) is made to or authorised by the MARA,

(b) is made to the Minister by or on behalf of the MARA or in compliance with this Act, or

(c) is required by law.

Processing of personal data

71. (1) The MARA may process personal data for the purposes of the functions assigned to it by or under this Act or any other enactment.

(2) Such processing shall go no further than is necessary for the carrying out of those functions.

Powers to specify form of document

72. (1) The MARA may specify the form of documents required for the purposes of this Act as it thinks appropriate.

(2) The MARA's power under *subsection (1)* may be exercised in such a way as to specify two or more forms of any document (whether in paper or electronic form or both) referred to in that subsection, whether as alternatives, or to provide for particular circumstances or particular cases, as the MARA thinks appropriate.

(3) The form of a document specified under this section shall be—

(a) completed in accordance with such directions and instruction as are specified in the document,

(b) accompanied by such other documents (including a statutory declaration) as are specified in the document, and

(c) if the completed document is required to be provided to—

(i) the MARA,

(ii) another person on behalf of the MARA, or

(iii) any other person,

so provided in the manner (if any) specified in the document.

Immunity from suit

73. (1) Civil or criminal proceedings shall not lie in any court against the MARA or a relevant person in respect of any thing said or done in good faith by the MARA or relevant person, as the case may be, in the course of the performance or purported performance of their respective functions under this Act.

(2) In this section, "relevant person" means—

(a) a member of the Board (M) or a committee of the Board (M),

(b) a person engaged under *section 51(2)*,

(c) the chief executive officer or any other member of staff of the MARA (including a person who is such a member by virtue of *section 64(5)*),

(d) an authorised officer, or

(e) an employee of a person referred to in *paragraph (b)*.

PART 4

Maritime Area Consent

Chapter 1

Interpretation

Interpretation - *Part 4*

74. (1) In this Part, "fit and proper person" shall be construed in accordance with *Schedule 2*.

(2) In *sections 85*, *88* and *89*, "MAC" includes part of a MAC.

Chapter 2

When MAC is required, etc.

When MAC is required prior to seeking development permission, etc.

75. (1) Subject to *subsection (4)* F27**[**and *sections 75A* and *76A***]**, where development permission is required for a proposed maritime usage in a part of the maritime area, a person shall not seek, or otherwise have (by whatever means), such permission unless he or she is, in respect of that part, the holder of a MAC for the occupation of that part for the purposes of such usage.

(2) (a) Subject to *subsection (3)*, the Minister may by regulations specify, for the purposes of *paragraph 8* of *Schedule 3*, a class of maritime usage where he or she is of the opinion that—

(i) by reason of the size, nature or limited impact on the maritime area, of maritime usage which falls within that class, the undertaking of such usage would not offend against the principles of proper management of the maritime area and sustainable usage of the maritime area, or

(ii) the maritime usage is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation).

(b) Regulations made under *paragraph (a)* may be subject to conditions and be of general application or apply to such part of the maritime area as may be specified in the regulations.

(3) On and after the establishment day, the Minister shall not make regulations under *subsection (2)* except after consultation with the MARA.

F28**[**(4) (a) *Subsection (1)* shall not apply to any proposed maritime usage specified in *Schedule 3*.

(b) Subject to *paragraph (c)*, *subsection (1)* shall not apply where—

(i) a prospective applicant for the development permission referred to in that subsection has, on or before 1 October 2022, entered into consultations with the Board (P) under section 37B of the Act of 2000, and

(ii) an application for such permission is made, on or before 1 October 2024, pursuant to Part III of the Act of 2000.

(c) Where a person is for the time being not required to be the holder of a MAC by virtue of the operation of *paragraph (b)*, the person shall make the MAC application concerned before the 2nd anniversary of the date of the grant of the permission concerned pursuant to Part III of the Act of 2000.**]**

F29**[**(5) Where *subsection (1)* applies, the application for the development permission referred to in that subsection shall have attached to it the rehabilitation schedule (within the meaning of *section 95*) that would otherwise have been required to be attached to the MAC referred to in that subsection but for the operation of *section 96(5)*.**]**

Annotations

Amendments:

F27 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2022), s. 277(a), S.I. No. 653 of 2023.

F28 Substituted by (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2022), s. 277(b), S.I. No. 653 of 2023.

F29 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 47, S.I. No. 447 of 2022.

F30**[When MAC is required after grant of certain development permission**

75A. (1) Subject to *subsections (2)* and *(3)*, where development permission has been granted, on or before 17 July 2023, for a proposed maritime usage in a part of the maritime area, a person shall not undertake such usage unless he or she is, in respect of that part, the holder of a MAC for the occupation of that part for the purposes of such usage.

(2) *Subsection (1)* shall not apply to a proposed maritime usage referred to in that subsection that is the subject of—

(a) a lease made under section 2 of the Act of 1933 that authorises the lessee to do, for the purposes of such usage, one or more than one of the acts referred to in that section, or

(b) a licence granted under section 3 of the Act that authorises the licensee to do, for the purposes of such usage, one or more than one of the acts referred to in that section.

(3) An application under *section 79(1)* for the grant of a MAC for the purposes of the undertaking of the proposed maritime usage referred to in *subsection (1)* shall be made before 17 July 2024.**]**

Annotations

Amendments:

F30 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2022), s. 278, S.I. No. 653 of 2023.

Editorial Notes:

E10 The section heading is taken from the amending section in the absence of one included in the amendment.

When MAC is required but not development permission, etc.

76. (1) Subject to *subsection (4)* F31**[**and *section 76A***]**, where development permission is not required for a proposed maritime usage in a part of the maritime area, a person shall not undertake such usage unless he or she is, in respect of that part, the holder of a MAC for the occupation of that part for the purposes of such usage.

(2) (a) Subject to *subsection (3)*, the Minister may by regulations specify, for the purposes of *paragraph 9* of *Schedule 4*, a class of maritime usage where he or she is of the opinion that—

(i) by reason of the size, nature or limited impact on the maritime area, of maritime usage which falls within that class, the undertaking of such usage would not offend against the principles of proper management of the maritime area and sustainable usage of the maritime area, or

(ii) the maritime usage is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation).

(b) Regulations made under *paragraph (a)* may be subject to conditions and be of general application or apply to such part of the maritime area as may be specified in the regulations.

(3) On and after the establishment day, the Minister shall not make regulations under *subsection (2)* except after consultation with the MARA.

(4) *Subsection (1)* shall not apply to any proposed maritime usage specified in *Schedule 4*.

Annotations

Amendments:

F31 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2022), s. 279, S.I. No. 653 of 2023.

F32**[When MAC is not required**

76A. Neither *section 75* nor *section 76* shall apply for a maritime usage in a part of the maritime area consisting of development (including the laying of cables or pipelines or both) authorised by—

(a) a lease made under section 2 of the Act of 1933 pursuant to an application for such lease made under that Act before the establishment day, or

(b) a licence granted under section 3 of the Act of 1933 pursuant to an application for such licence made under that Act before the establishment day.**]**

Annotations

Amendments:

F32 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2022), s. 280, S.I. No. 653 of 2023.

Application for declaration as to whether or not MAC is required, etc.

77. (1) A person may make an application in the specified form, accompanied by the specified fee, to the MARA for a declaration in writing by the MARA as to whether or not the occupation of the part of the maritime area the subject of the application for the purposes of the undertaking of the proposed maritime usage the subject of the application requires a MAC and, if so, whether *section 75* or *76* applies.

(2) Where an application under *subsection (1)* is made to the MARA, it may, by notice in writing given to the applicant, require the applicant to provide, whether in the specified form, by affidavit or otherwise, such additional information in relation to any matter to which the application relates as the MARA reasonably considers necessary to make the declaration sought by the application.

(3) The MARA shall, to the extent that it is practicable to do so, make the declaration sought by an application under *subsection (1)*, and give a copy of the declaration to the applicant, not later than 30 days after the day on which the MARA is satisfied that the applicant has complied with all the requirements of or under this section.

Fees for certain applications

78. (1) Subject to *subsections (2)* and *(3)*, the Minister may by regulations specify the fees to be paid to the MARA for relevant applications and, for that purpose—

(a) different amounts may be specified for such applications which fall within different classes of such applications specified in the regulations, and

(b) the regulations may specify the circumstances in which—

(i) an exemption from the payment of such a fee applies, or

(ii) a waiver, remission or refund (whether in whole or in part) of such fee applies.

(2) The Minister shall, when specifying, in regulations made under *subsection (1)*, the fees to be paid to the MARA for relevant applications have regard to the administrative costs associated with processing applications, including the costs of determining whether the requirements for making the relevant applications have been met.

(3) On and after the establishment day, the Minister shall not make regulations under *subsection (1)* except after consultation with the MARA.

(4) In this section, "relevant applications", means—

(a) applications under *section 77*,

(b) MAC applications,

(c) applications under *section 86(5)*, or

(d) applications under *section 88*.

Annotations

Editorial Notes:

E11 Power pursuant to subs. (1) exercised (24.10.2023) by *Maritime Area Consent (Certain Application Fees) (No. 2) Regulations 2023* (S.I. No. 508 of 2023).

E12 Previous affecting provision: power pursuant to subs. (1) exercised (14.08.2023) by *Maritime Area Consent (Certain Application Fees) Regulations 2023* (S.I. No. 403 of 2023); revoked (24.10.2023) by *Maritime Area Consent (Certain Application Fees) (No. 2) Regulations 2023* (S.I. No. 508 of 2023), reg. 8.

E13 Previous affecting provision: power pursuant to subs. (1) exercised (31.07.2022) by *Maritime Area Consent (Application Fee) Regulations 2022* (S.I. No. 395 of 2022), in effect as per reg. 2(1); revoked (14.08.2023) by *Maritime Area Consent (Certain Application Fees) Regulations 2023* (S.I. No. 403 of 2023), reg. 8.

Chapter 3

Grant or refusal of MAC and related matters

Application for grant of MAC

79. (1) Subject to *subsection (4)*, a person may make an application in the specified form, accompanied by the specified fee, to the MARA for the grant of a MAC for the occupation of the part of the maritime area the subject of the application for the purposes of the undertaking of the proposed maritime usage the subject of the application.

(2) Without prejudice to the generality of *section 72* or *subsection (3)*, a MAC application may require any information to be provided in relation to any of the matters to which the MARA shall have regard to by virtue of *section 80(1)*.

(3) Where a MAC application is made to the MARA, it may, by notice in writing given to the applicant, require the applicant to provide in the specified form, by affidavit or otherwise, such additional information in relation to any matter to which the application relates as the MARA reasonably considers necessary to assist it to determine the application.

(4) A person who is a body corporate may not make a MAC application unless it is—

(a) a company,

(b) an EEA company within the meaning of Part 21 of the Act of 2014,

(c) a public body, or

(d) engaged principally in non-commercial activities or works.

(5) For the avoidance of doubt and notwithstanding any other enactment, the MARA is not required to carry out, for the purposes of determining a MAC application under *section 81* —

(a) a screening for appropriate assessment or appropriate assessment, or

(b) a screening for environmental impact assessment (within the meaning of section 176A of the Act of 2000) or environmental impact assessment.

Annotations

Amendments:

F33 Substituted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

Modifications (not altering text):

C4 Prospective affecting provision: subs. (5)(b) amended by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

(b) a screening for environmental impact assessment F33**[**, pursuant to section 229 of the Act of 2024,**]** or environmental impact assessment.

Criteria to which MARA shall have regard in determining MAC application

80. (1) Without prejudice to the generality of *section 81(1)(b)* and subject to *section 103*, the MARA shall, in determining a MAC application under *section 81*, have regard to the criteria specified in *Schedule 5* in so far as such criteria are relevant to the occupation of the part of the maritime area the subject of the application for the purposes of the undertaking of the proposed maritime usage the subject of the application.

(2) (a) Subject to *subsections (3)* and *(4)*, the Minister may by regulations specify, for the purposes of *paragraph 11* of *Schedule 5*, additional criteria that the MARA shall have regard to in determining a MAC application under *section 81*.

(b) Regulations made under *paragraph (a)* may be subject to conditions and be of general application or apply to such part of the maritime area or such maritime usages as may be specified in the regulations.

(3) Where the Minister makes regulations under *subsection (2)*, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the following principles and policies in relation to the proposed additional criteria:

(a) whether, in the opinion of the Minister, the criteria assist in the furtherance of the objectives of the National Marine Planning Framework;

(b) whether, in the opinion of the Minister, the criteria assist in ensuring that the holder of a MAC and the State comply with their respective relevant obligations under the Convention and the Act of 2021;

(c) whether, in the opinion of the Minister, the criteria assist in promoting co-operation between users of the same part of the maritime area or adjoining parts of the maritime area, or both.

(4) On and after the establishment day, the Minister shall not make regulations under *subsection (2)* except after consultation with the MARA.

Grant or refusal of MAC

81. (1) Subject to *subsection (7)* and *sections 80* and *96*, the MARA shall determine a MAC application by—

(a) granting consent to the applicant for the occupation of a specific part of the maritime area for the purposes of the proposed maritime usage the subject of the application and subject to such conditions (if any) attached to the consent by virtue of *section 82(1)*, as the MARA thinks fit, or

(b) giving a notice in writing to the applicant refusing to grant a MAC.

(2) The MARA shall, to the extent that is practicable to do so, determine a MAC application not later than 90 days after the day on which the MARA is satisfied that the applicant has complied with all the requirements of or under this Part in so far as they relate to the application.

(3) Where the MARA—

(a) grants a MAC for part only of the MAC sought by the applicant (including any case where the part of the maritime area concerned is reduced in size),

(b) grants a MAC to which conditions are attached by virtue of *section 82(1)*, or

(c) refuses to grant a MAC,

the MARA shall, at the same time, give the applicant notice in writing of the reasons for the partial grant, conditions or refusal, as the case may be.

(4) A MAC shall include the following at a minimum:

(a) particulars of the name and address of the holder of the MAC;

(b) particulars of the maritime usage the subject of the MAC and the part of the maritime area where the usage will be undertaken;

(c) particulars of the period (if any) to which the MAC relates (including any time limits or other restrictions to apply during that period);

(d) the conditions (if any) attached to the MAC by virtue of *section 82(1)*.

F34**[**(5) Where *section 75(1)* applies, the grant of a MAC does not confer on the holder of the MAC any right in or over the part of the maritime area the subject of the MAC—

(a) unless and until the holder obtains development permission for the maritime usage the subject of the MAC (being development permission that is consistent with the MAC as in force from time to time) and *section 87* has been complied with as regards such permission, and

(b) unless and until the holder obtains all other authorisations (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) required under any other enactment in order to enable the holder to undertake such usage.**]**

(6) Where *section 76(1)* applies, the grant of a MAC does not confer on the holder of the MAC any F34**[**right**]** in or over the part of the maritime area the subject of the MAC unless and until the holder obtains all other authorisations (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) required under any other enactment in order to enable the holder to undertake the maritime usage the subject of the MAC.

(7)(a) *Paragraph (b)* applies where the MARA is minded to determine a MAC application by—

(i) granting a MAC to the applicant but—

(I) for part only of the MAC sought by the applicant (including any case where the part of the maritime area concerned is reduced in size), or

(II) with conditions attached to the consent by virtue of *section 82(1)*,

or

(ii) refusing to grant a MAC.

(b) The MARA shall, in the interests of procedural fairness, give a notice in writing to the applicant stating—

(i) how the MARA is minded to determine the application as specified in *paragraph (a)* and setting out the MARA's reasons why it is so minded, and

(ii) that the applicant may, if the applicant wishes to do so, within the period specified in the notice (being a period reasonable in all the circumstances of the case), provide, in view of those reasons only, supplementary material in the specified form to the MARA for the MARA's further consideration before making a determination under *subsection (1)* following the expiration of that period.

(8) For the avoidance of doubt, it is hereby declared that *subsection (7)* only applies once to the same MAC application.

Annotations

Amendments:

F34 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 48(a), (b), S.I. No. 447 of 2022.

Conditions attached to MAC

82. (1) The MARA may attach to a MAC one or more than one condition which falls within one or more than one of the types of conditions specified in *Part 1* of *Schedule 6*.

(2) Subject to *subsection (5)*, the conditions specified in *Part 2* of *Schedule 6* shall be deemed to be attached to each MAC.

(3) Subject to *subsections (4)* to *(6)*, the Minister may by regulations specify, for the purposes of *paragraph 23* of *Part 1* of *Schedule 6* or *paragraph 25* of *Part 2* of that Schedule, additional types of conditions which may be attached, or be deemed to be attached, as the case may be, to a MAC.

(4) Where the Minister makes regulations under *subsection (3)*, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the following principles and policies in relation to the additional types of conditions:

(a) whether the condition assists in the furtherance of the objectives of the National Marine Planning Framework;

(b) whether the condition assists in ensuring that the holder of a MAC and the State comply with their respective relevant obligations under the Convention and the Act of 2021;

(c) whether the condition assists in promoting co-operation between users of the same part of the maritime area or adjoining parts of the maritime area, or both;

(d) whether the condition assists in ensuring that the holder of a MAC fulfils his or her obligations under this Act in relation to the MAC.

(5) A condition specified for the purposes of *paragraph 25* of *Part 2* of *Schedule 6* by virtue of regulations made under *subsection (3)* shall not be deemed to be attached to a MAC granted before the condition was so specified.

(6) On and after the establishment day, the Minister shall not make regulations under *subsection (3)* except after consultation with the MARA.

Provisions supplementary to grant of MAC

83. (1) The MARA shall, in granting a MAC, specify, in the grant, whether the specific part of the maritime area the subject of that MAC, as the MARA thinks appropriate—

(a) is for the exclusive use of the maritime usage the subject of the MAC,

(b) is not for the exclusive use of such usage, or

(c) may or may not be for the exclusive use of such usage contingent on circumstances that may arise after the granting of the MAC.

(2) A provision of the grant of a MAC that purports to provide for the renewal of the MAC shall be void.

(3) *Section 82* shall not be construed to prejudice the generality of any power under the Act of 2000 to attach conditions to a development permission.

Annotations

Amendments:

F35 Substituted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

Modifications (not altering text):

C5 Prospective affecting provision: subs. (3) amended by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

(3) *Section 82* shall not be construed to prejudice the generality of any power under the F35**[**Act of 2024**]** to attach conditions to a development permission.

Notification of grant or refusal of MAC, etc.

84. (1) The MARA shall, as soon as is practicable after it grants a MAC, publish a notice on its website stating, at a minimum—

(a) the name of the holder of the MAC,

(b) the address (which may be an electronic address) of the holder,

(c) if applicable, the period for which the MAC will continue before it expires,

(d) if applicable, the occurrence of the event upon which the MAC will expire,

(e) the purposes for which the MAC has been granted,

(f) a spatial representation of the specified part of the maritime area the subject of the MAC,

(g) the date that the MARA granted the MAC,

(h) the conditions (if any) attached to the MAC by virtue of *section 82(1)*, and

(i) the levy or levies that the holder of the MAC is required to pay to the MARA in relation to the MAC.

(2) Where *section 81(3)* applies, the MARA shall, at the same time as it gives the notice referred to in that section to the applicant concerned or as soon as is practicable thereafter, publish the notice on its website.

(3) The MARA shall, at the same time as it publishes a notice on its website under this section, also publish a notice on its website stating—

(a) that a person may question the validity of a decision of the MARA to which the first-mentioned notice relates by way of an application for judicial review in accordance with *Chapter 13*, and

(b) where practical information on the review mechanism can be found.

(4) The MARA shall, as soon as is practicable after it refuses to grant a MAC, publish on its website a copy of the notice concerned referred to in *section 81(3)*.

Chapter 4

Assignment or amendment of MAC

Assignment of MAC

85. (1) This section applies where the holder of a MAC (in this section referred to as the "proposed assignor") wishes to assign the MAC to another person (in this section referred to as the "proposed assignee").

(2) F36**[**Subject to *subsection (2A)*, the proposed assignor**]** and the proposed assignee shall make a joint MAC application to the MARA for the MARA's consent in writing to the assignment and, in the case of such application, *section 79* and the other provisions of this Part (including *section 84*) applicable to a MAC application and its determination under *section 81* shall, with all necessary modifications, apply accordingly.

F37**[**(2A) Subject to *subsections (2B)* and *(2C)*, the Minister may by regulations specify—

(a) a class of assignments (including identifying such class by reference to a class of proposed assignees in relation to whom assignments which fall within that class may be made) to which *subsection (2)* shall not apply, and

(b) the procedures or requirements that will apply to an application by the proposed assignor or the proposed assignee, or both of them, made to the MARA for the MARA's consent in writing to an assignment which falls within that class (which procedures or requirements may be, or

include, modifications of the procedures or requirements which apply to an assignment to which *subsection (2)* does apply).

(2B) Where the Minister makes regulations under *subsection (2A)*, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the following principles and policies in relation to the class of assignments concerned and the procedures and requirements that will apply to the applications concerned:

(a) whether the nature of an assignment which falls within that class, or the nature of the proposed assignee to whom the assignment may be made, or both, warrants the disapplication of *subsection (2)* to that class on the basis that to apply that subsection to that class would be disproportionate;

(b) whether the procedures and requirements applicable to those applications are more proportionate for the purposes of the assignment concerned than the procedures and requirements that would otherwise apply to the assignment by virtue of *subsection (2)* if that subsection were to apply to the assignment.

(2C) On and after the establishment day, the Minister shall not make regulations under *subsection (2A)* except after consultation with the MARA.**]**

F38**[**(3) The assignment of a MAC purporting to be effected, as appropriate—

(a) without the consent referred to in *subsection (2)*, or

(b) otherwise than in compliance with regulations made under *subsection (2A)*,

shall be void.**]**

(4) References in this Act to the grant of a MAC shall include references to the assignment of a MAC in any case where the MAC has been assigned or reassigned in accordance with this section.

Annotations

Amendments:

F36 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 49(a), S.I. 447 of 2022.

F37 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 49(b), S.I. 447 of 2022.

F38 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 49(c), S.I. 447 of 2022.

Material amendment to MAC

86. (1) Subject to *sections 96* and *97*, the holder of a MAC who wishes to amend the MAC in any material way (including, if applicable, in order to obtain, or assist in the obtainment of, development permission for the maritime usage the subject of the MAC) shall make a MAC application for such amendment and, in the case of such application, *section 79* and the other provisions of this Part (including *section 84*) applicable to a MAC application and its determination under *section 81* shall, with all necessary modifications, apply accordingly.

(2) Subject to *subsection (3)* and *(4)*, the Minister may by regulations specify classes of amendments to a MAC that are, for the purposes of this section, non-material amendments.

(3) Where the Minister makes regulations under *subsection (2)*, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the following principles and policies in relation to the proposed classes of amendments referred to in that subsection:

(a) that the amendments which fall within the class should be trivial, insignificant, minor or inconsequential;

(b) that the amendments which fall within the class should not cause any significant erosion of the provisions of the MAC relating to any avoidance or abatement measures.

(4) On and after the establishment day, the Minister shall not make regulations under *subsection (2)* except after consultation with the MARA.

(5) (a) The holder of a MAC who wishes to make an amendment to the MAC which it considers to be a non-material amendment may make an application in the specified form, accompanied by the specified fee, to the MARA for the MARA to make such amendment to the MAC.

(b) Where the MARA is satisfied that the amendment sought is a non-material amendment (including in any case where it is so satisfied by virtue of submissions referred to in *paragraph (c)* made to it), it shall make the amendment to the MAC and issue the MAC as so amended to the holder and the MAC as so amended shall, on and after the date of such issue and for all purposes, replace the MAC as in force immediately before it was so amended.

(c) Where the MARA is not satisfied that the amendment sought is a non-material amendment, it shall, in the interests of procedural fairness, give a notice in writing to the holder stating—

(i) the MARA's reasons why it is not so satisfied, and

(ii) that the holder may, if the holder wishes to do so, within the period specified in the notice (being a period of not less than four weeks from the date that the holder receives the notice), make, in view of those reasons only, submissions in writing on those reasons for the MARA's further consideration before the MARA decides whether or not it is satisfied that the amendment is a non-material amendment.

(d) Where submissions referred to in *paragraph (c)* made before the expiration of the period concerned referred to in that paragraph do not satisfy the MARA that the amendment sought is a non-material amendment, or no such submissions are made before the expiration of that period, the MARA shall, as soon as is practicable after that expiration, give the holder notice in writing that the MARA is not satisfied that the amendment sought is a non-material amendment and setting out the reasons why the MARA is not so satisfied.

(e) Where *paragraph (b)* applies, the MARA shall, as soon as is practicable after issuing the MAC, as amended as referred to in that paragraph, to the holder, publish on its website, at a minimum, sufficient particulars of the amendment made to the MAC to enable members of the public to understand the nature of the amendment and sufficient particulars of the MAC to readily identify it.

(f) Where *paragraph (d)* applies, the MARA shall, as soon as is practicable after it gives the notice referred to in that paragraph to the holder, publish on its website, at a minimum, a copy of the notice.

(6) (a) This subsection applies where a maritime usage the subject of a MAC has development permission.

(b) Subject to *paragraph (c)*, the MARA shall specify in the amendment concerned made pursuant to *subsection (1)* that it has no effect unless and until the applicant has given the amendment to the Board (P) or CPA, as appropriate, and—

(i) the Board (P) or CPA has stated in writing that a new or amended development permission is not required to take account of such amendment, or

(ii) in any other case, the new or amended development permission is granted to take account of such amendment.

(c) *Paragraph (b)* shall not be construed to prevent the Board (P) or CPA, as the case may be, that is determining the application for the new or amended development permission from taking the amendment into account for the purposes of such determination.

(7) (a) This subsection applies where a maritime usage the subject of a MAC does not require development permission.

(b) Subject to *paragraph (c)*, the MARA shall specify in the amendment concerned made pursuant to *subsection (1)* that it has no effect unless and until the applicant has given the amendment to the Board (P) or CPA, as appropriate, and—

(i) the Board (P) or CPA has stated in writing that a development permission is not required to take account of such amendment, or

(ii) in any other case, a development permission is granted to take account of such amendment.

(c) *Paragraph (b)(ii)* shall not be construed to prevent the Board (P) or CPA, as the case may be, that is determining the application for development permission from taking the amendment into account for the purposes of such determination.

(8) In this section—

"material amendment", in relation to a MAC, means any amendment to the MAC other than a non-material amendment;

"non-material amendment", in relation to a MAC, means an amendment which falls within a class of amendments specified in regulations made under *subsection (2)*.

Annotations

Editorial Notes:

E14 Power pursuant to subs. (2) exercised (16.04.2024) by *Maritime Area Consent (Non-Material Amendment) Regulations 2024* (S.I. No. 155 of 2024).

F39**[Resolution of irreconciliation (if any) between MAC and planning permission**

87. (1) This section applies where the maritime usage the subject of a MAC has development permission (including any case where such usage has any further development permission subsequent to the initial development permission).

(2) Where, but for this subsection, there is an irreconciliation between a provision of a MAC and a provision of a development permission for the maritime usage the subject of the MAC, that first-mentioned provision shall, by virtue of this section, be deemed to be amended to the extent necessary to remove that irreconciliation in favour of the second-mentioned provision, and the other provisions of this Act shall, with all necessary modifications, be construed accordingly.**]**

Annotations

Amendments:

F39 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 50, S.I. No. 447 of 2022.

Chapter 5

Surrender of MAC

Surrender of MAC

88. (1) The holder of a MAC may make an application in the specified form, accompanied by the specified fee, to the MARA for the surrender of the MAC.

(2) Where an application under *subsection (1)* is made to the MARA, it may, by notice in writing given to the applicant, require the applicant to provide, in the specified form, by affidavit or otherwise, such additional information in relation to any matter to which the application relates as the MARA reasonably considers necessary to assist it to determine the application under *section 89*.

Determination of application under *section 88*

89. (1) The MARA shall determine an application under *section 88(1)* by—

(a) subject to *subsection (7)*, if the applicant has satisfied the MARA that all the obligations of the applicant arising from being the holder of the MAC concerned have been discharged, consenting to the surrender of the MAC by notice in writing given to the applicant specifying the date on which the surrender shall take effect,

(b) in any other case, giving a notice in writing to the applicant (subsequent to the applicant's response (if any) to a notice under *paragraph (c)* given to the applicant) refusing the application and specifying the MARA's reasons for the refusal, or

(c) in the interests of procedural fairness, giving a notice in writing to the applicant stating that—

(i) the MARA is minded to refuse to grant the application for the reasons specified in the notice, and

(ii) if the applicant wishes to do so, he or she may, within the period specified in the notice (being a period reasonable in all the circumstances of the case) provide, in view of those reasons only, supplementary material in the specified form to the MARA for the MARA's further consideration before making a decision under *paragraph (a)* or *(b)* in respect of the application.

(2) The MARA shall, as soon as is practicable after it consents to the surrender of a MAC, publish a notice on its website stating, at a minimum:

(a) the name of the holder or former holder of the MAC;

(b) the date on which the surrender was, or will be, effected;

(c) sufficient particulars of the MAC to readily identify it.

(3) Where *subsection (1)(b)* applies, the MARA shall, at the same time as it gives the notice referred to in that subsection to the applicant concerned or as soon as is practicable thereafter, publish the notice on its website.

(4) The MARA shall, at the same time as it publishes a notice on its website under this section, also publish a notice on its website stating—

(a) that a person may question the validity of a decision of the MARA to which the first-mentioned notice relates by way of an application for judicial review in accordance with *Chapter 13*, and

(b) where practical information on the review mechanism can be found.

(5) The surrender of a MAC purporting to be effected without the consent referred to in *subsection (1)(a)* shall be void.

(6) The MARA shall, as soon as is practicable after it refuses to consent to the surrender of a MAC, publish on its website a copy of the notice concerned referred to in *subsection (1)(b)*.

(7) The reference to obligations in *subsection (1)(a)* includes obligations not only under this Act but also obligations that arise under another enactment, including those arising under the development permission (if any) concerned.

(8) For the avoidance of doubt, it is hereby declared that *paragraph (c)* of *subsection (1)* only applies once to the same application under *section 88(1)*.

Chapter 6

Certain persons who are not individuals may be declared fit and proper

MARA may declare person, etc., who is not individual to be fit and proper person

90. (1) Subject to *subsections (2)* and *(3)*, the MARA may, after consultation with the Minister, by order declare that—

(a) a person (not being an individual) specified in the order is a fit and proper person to be granted and to hold—

(i) any MAC, or

(ii) a MAC which falls within a class of MAC specified in the order,

or

(b) a person who falls within a class of persons (not being individuals) specified in the order is a fit and proper person to be granted and to hold—

(i) any MAC, or

(ii) a MAC which falls within a class of MACs specified in the order.

(2) The MARA shall, in exercising its power under *subsection (1)(a)* in relation to a person, have regard to the following:

(a) the legal nature of the person;

(b) the statutory functions (if any) of the person;

(c) the purposes for which the person has made or may make a MAC application.

(3) The MARA shall, in exercising its power under *subsection (1)(b)* in relation to a class of persons, have regard to the following:

(a) the legal nature of the persons who fall within the class;

(b) the statutory functions (if any) of the persons who fall within the class;

(c) the purposes for which the persons who fall within the class have made or may make a MAC application.

Annotations

Editorial Notes:

E15 Power pursuant to subs. (1) exercised (1.10.2025) by *Maritime Area Planning Act 2021 (Fit and Proper Person) Order 2025* (S.I. No. 467 of 2025).

Chapter 7

Levies

Definition

91. In this Chapter, "levy framework" shall be construed in accordance with *section 92(1)*.

Levy framework

92. (1) Subject to *subsections (2)* and *(3)*, the MARA shall, as soon as is practicable after the establishment day and with the consent of the Minister for Public Expenditure and Reform, establish a framework (in this Chapter referred to as the "levy framework") in accordance with which a levy shall be paid to the MARA by the holder of a MAC for the occupation of the part of the maritime area the subject of the MAC for the purposes of the undertaking of the maritime usage the subject of the MAC (including any potential such usage where, for whatever reason, the usage is yet to be undertaken).

(2) The levy framework may provide for any of the following:

(a) different levies for different classes of MACs, different classes of maritime usages the subject of MACs, different parts of the maritime area the subject of MACs or any combination thereof;

(b) levies calculated by reference to—

(i) specified amounts,

(ii) a range of amounts within which the levies concerned must fall, or

(iii) formulae;

(c) levies that are required to be paid upon the occurrence of a specified event;

(d) the circumstances in which levies may be specified at a nil or token amount;

(e) in the case of MACs to which *section 75* applies—

(i) levies that apply between the grant of the MACs and before the development permission concerned is granted (including different levies that apply by reference to different parts of the length of time effluxing between the grant of the MAC concerned and the grant of the development permission concerned), and

(ii) levies that apply on and after the development permission concerned is granted.

(3) The MARA shall, in establishing the levy framework, have regard to the following:

(a) the nature of a class of maritime usages for which MACs may be granted;

(b) the degree of utilisation of parts of the maritime area that may be required by a class of maritime usages for which MACs may be granted (including the degree to which such utilisation may exclude the use by other persons of such parts);

(c) the likely profit or other benefit that may be gained by the holders of a class of MACs from the maritime usages the subject of those MACs;

(d) the likely public benefit to be gained from a class of maritime usages for which MACs may be granted;

(e) the nature of potential holders, or classes of potential holders, of MACs;

(f) the financial means of potential holders, or classes of potential holders, of MACs;

(g) the marine planning policy statement to the extent (if any) that the statement is relevant to levies;

(h) guidelines issued under *section 7* to the extent (if any) that the guidelines are relevant to levies;

(i) policy directives issued under *section 8* to the extent (if any) that the directives are relevant to levies;

(j) the outcomes of any processes that the MARA has undertaken for the purposes of establishing the levy framework;

(k) the extent that there needs to be a fair and reasonable return to the State for the use, by the holders of MACs, of the maritime area.

(4) The MARA shall, as soon as is practicable after it establishes the levy framework, publish the framework on its website.

(5)(a) The MARA shall keep the levy framework under review and may amend (including amend by way of replacing) it as it thinks fit.

(b) *Subsections (1)* to *(4)* shall, with all necessary modifications, apply to an amendment to the levy framework as they apply to the levy framework.

(c) A levy framework amended or replaced under this subsection shall, unless otherwise specified in the framework, apply to the holders of

MACs granted before the framework was amended or replaced as it applies to the holders of MACs granted on or after such amendment or replacement.

(6) Without prejudice to the generality of *subsection (5)*, the MARA shall not grant a MAC to the applicant for the MAC before the applicant knows the levy or levies that the applicant will be required to pay, under the levy framework as in force on the day that the MARA grants the MAC, to the MARA if the MAC is so granted.

Competitive process

93. (1) The MARA may, with the consent of the Minister for Public Expenditure and Reform, use a competitive process (whether by auction or otherwise) to determine the levy or levies to be paid by the holder of the MAC concerned to the MARA where—

(a) there are, or are expected to be, two or more MAC applications (whether or not relating to the same part of the maritime area) and the MARA is of the opinion that the grant of one or more than one of those applications would exclude the possibility of granting one or more than one of the other applications,

(b) the part of the maritime area concerned is the subject of—

(i) a MSP which falls within *section 16(3)(b)*, or

(ii) a DMAP,

or

(c) both *paragraphs (a)* and *(b)* apply.

(2) The MARA may, under *section 92*, amend the levy framework to take account of—

(a) competitive processes in general referred to in *subsection (1)*, or

(b) a particular competitive process referred to in *subsection (1)*,

as the MARA thinks fit in all the circumstances of the case.

(3) A competitive process referred to in *subsection (1)* shall be conducted in a manner which is open, transparent, competitive, non-discriminatory and cost effective.

When levy framework applies to MAC

94. Subject to *section 92(5)(c)*, the levy framework that applies to a MAC shall be the levy framework as in force on the day on which the MARA grants the MAC.

Chapter 8

Rehabilitation of maritime area and emergency works

Definitions - *Chapter 8*

95. In this Chapter and *Schedule 6* —

["planning rehabilitation schedule", in relation to a MAC to which *section 75(5)* applies where the development permission concerned referred to in that section has been granted, means the equivalent in such planning permission to the rehabilitation schedule that was attached to the application for such development permission (and regardless of whether or not such equivalent is a schedule attached to the development permission);**]**

"rehabilitate", in relation to a part of the maritime area, means—

(a) a treatment for the part in such a way as to either—

(i) restore the part to a satisfactory state, with particular regard to the seabed, water quality, wildlife, natural habitats, landscape and seascape, or

(ii) restore the part to a satisfactory state to enable it to be reused for the purpose for which it was previously used (and whether or not pursuant to a MAC) or for another purpose and, consistent with such purpose, with particular regard to the seabed, water quality, wildlife, natural habitats, landscape and seascape,

and

(b) after the restoration referred to in *paragraph (a)(i)* or *(ii)* has been completed and, if appropriate, to maintain, for a period specified in the rehabilitation schedule concerned, the part so that it continues to be in the satisfactory state referred to in that paragraph;

"rehabilitation schedule", in relation to a MAC, means the schedule referred to in *section 96(4)* F41**[**attached**]** to the MAC.

Annotations

Amendments:

F40 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 51(b), S.I. No. 447 of 2022.

F41 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 51(a), S.I. No. 447 of 2022.

Obligations on holder of MAC in relation to rehabilitation of maritime area

96. (1) The holder of a MAC shall, before the expiration (if any) of the MAC, rehabilitate that part of the maritime area the subject of the MAC, and any other part of the maritime area, adversely affected by the maritime usage the subject of the MAC.

(2) Without prejudice to the generality of the obligation under *subsection (1)* on the holder of a MAC to rehabilitate a part of the maritime area, that obligation may be or include one or more than one of the following:

(a) the decommissioning of infrastructure;

(b) the removal of infrastructure;

(c) the partial removal of infrastructure;

(d) the re-use of infrastructure for the same or another purpose;

(e) the burying or encasing of infrastructure;

(f) the removal of any deposited or waste material.

(3) The obligation under *subsection (1)* does not relieve the holder of a MAC from applying for and obtaining any other authorisations (whether the authorisation takes the form of the grant of a licence, consent, approval or any other authorisation) required under this Act or any another enactment in order to enable the holder to discharge that obligation.

(4) Subject to *subsection (5)*, the MARA shall not grant a MAC to the applicant for the MAC unless there is a schedule attached to the MAC setting out particulars of how the applicant, if granted the MAC, will discharge the obligation under *subsection (1)*, including particulars of the following:

(a) the proposed programme of rehabilitation;

(b) the proposed date, or the occurrence of the event, on which the programme will start to be implemented and (if no ongoing maintenance is required by the programme) the proposed date on which the programme will have been fully implemented;

(c) the estimated costs of the programme;

(d) the expected timelines for applying for and obtaining the other authorisations referred to in *subsection (3)* required in order to enable the applicant to discharge that obligation.

(5) *Subsection (4)* shall not apply to a MAC to which *section 75(1)* applies.

(6) F42**[**...**]**

Annotations

Amendments:

F42 Deleted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 52, S.I. No. 447 of 2022.

Power of MARA to require holder of MAC to make application under *section 86*

97. F43**[**(1) Subject to *subsection (4)*, this section applies where the MARA is of the opinion, subsequent to the grant of a MAC, or the grant of development permission for the maritime usage the subject of a MAC, as appropriate, but not earlier than the anniversary of that grant specified in the MAC for the purposes of this section, that due to—

(a) technological developments relating to the rehabilitation of marine environments,

(b) changes in what is accepted as best practice relating to the rehabilitation of marine environments,

(c) submissions or recommendations made to the MARA by interested parties, organisations and other bodies concerned with the rehabilitation of marine environments, or

(d) any combination of matters falling within any of *paragraphs (a)* to *(c)*,

the rehabilitation schedule or planning rehabilitation schedule, as the case may be, is no longer appropriate.**]**

F43**[**(2) The MARA may, by notice in writing given to the holder of a MAC to which a rehabilitation schedule is attached, require the holder to make an application under *section 86(1)*, within the period specified in the notice

(being a period reasonable in all the circumstances of the case), to amend or replace the rehabilitation schedule to take account of the matters, specified in the notice, which have led the MARA to form the opinion referred to in *subsection (1)* but excluding any case where to take account of those matters requires an environmental impact assessment (in this section referred to as the "exclusion (EIA)").**]**

(3) The holder of the MAC shall comply with the notice given to the holder under *subsection (2)*.

F44**[**(3A) Subject to *subsection (3E)*, the MARA may, by notice in writing given to the holder of a MAC to which a rehabilitation schedule is attached but to which *subsection (2)* does not apply by virtue of the exclusion (EIA), require the holder to make an application for development permission, within the period specified in the notice (being a period reasonable in all the circumstances of the case), to amend or replace the rehabilitation schedule to take account of the matters, specified in the notice, which have led the MARA to form the opinion referred to in *subsection (1)*.

(3B) The holder of the MAC shall comply with the notice given to the holder under *subsection (3A)*.

(3C) Subject to *subsection (3E)*, the MARA may, by notice in writing given to the holder of a MAC in respect of which development permission has been granted in respect of the maritime usage the subject of the MAC, require the holder to make an application to amend the planning rehabilitation schedule the subject of such development permission, within the period specified in the notice (being a period reasonable in all the circumstances of the case), to take account of the matters, specified in the notice, which have led the MARA to form the opinion referred to in *subsection (1)*.

(3D) The holder of the MAC shall comply with the notice given to the holder under *subsection (3C)*.

(3E) The matters specified in a notice under *subsection (3A)* or *(3C)* shall not be construed to constrain the generality of the provisions of the Act of 2000 that apply to the determination of an application referred to in that subsection.**]**

(4) The references to anniversary in *subsection (1)* may include a series of anniversaries, whether or not with different periods of time passing between one anniversary and the next anniversary in any part, or parts, of the series.

Annotations

Amendments:

F43 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 53(a), S.I. No. 447 of 2022.

F44 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 53(b), S.I. No. 447 of 2022.

F45 Substituted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

Modifications (not altering text):

C6 Prospective affecting provision: subs. (3E) amended by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

(3E) The matters specified in a notice under *subsection (3A)* or *(3C)* shall not be construed to constrain the generality of the provisions of the F45**[**Act of 2024**]** that apply to the determination of an application referred to in that subsection.

Emergency works in maritime area

98. (1) A relevant person shall not be required to be the holder of a MAC in respect of relevant works undertaken, or to be undertaken, in the maritime area for the purposes of protecting life or property in an emergency situation (including such works relating to sea defences).

(2) (a) *Paragraph (b)* applies where infrastructure in the maritime area—

(i) is or was lawfully in that area entirely or partly pursuant to a MAC, and

(ii) is, for whatever reason, damaged or destroyed.

(b) A person shall not be required to be the holder of a further MAC in order to undertake relevant works in relation to the infrastructure.

(3) Neither *subsection (1)* nor *subsection (2)* shall be construed to relieve a relevant person from applying for and obtaining any authorisations (whether the authorisation takes the form of a grant of a licence, consent, approval or any other authorisation) required under this Act or any other enactment in order to enable the person to undertake relevant works.

(4) Subject to *subsections (5)* to *(7)*, the Minister may by regulations specify, for the purposes of this section, any of the following matters:

(a) the works to which this section applies;

(b) the person who may undertake relevant works or relevant works falling within a class of relevant works specified in the regulations;

(c) the consultation that must be carried out by a relevant person before undertaking the relevant works;

(d) the notifications that a relevant person must give upon his or her completion of the relevant works;

(e) the indemnifications that a relevant person must give the MARA or a CPA before undertaking relevant works;

(f) the procedures for obtaining a MAC in respect of the relevant works after the works have been carried out where, but for this section, those works would have required a MAC before being undertaken.

(5) The Minister shall, in making regulations under *subsection (4)*, have regard to—

(a) the nature or gravity, or both, of emergency situations likely to arise in the maritime area and pose a threat to life or property, or both,

(b) the degree of urgency with which those emergency situations need to be dealt with and, concomitant to that, the need to avoid any unnecessary delay in dealing with those situations, and

(c) the expertise and experience required of persons to undertake works to promptly and effectively deal with those emergency situations.

(6) Regulations made under *subsection (4)* may be subject to conditions and be of general application or apply to such part of the maritime area as may be specified in the regulations.

(7) On and after the establishment day, the Minister shall not make regulations under *subsection (4)* except after consultation with the MARA.

(8) In this section—

"relevant person", in relation to relevant works, means a person specified in regulations made under *subsection (4)(b)* who may undertake the works;

"relevant works" means the works specified in regulations made under *subsection (4)(a)* to which this section applies.

Chapter 9

Privately owned part of maritime area

Privately owned part of maritime area, etc.

99. (1) In this section, "relevant part" means a part of the maritime area that is treated as privately owned by virtue of *subsection (2)*.

(2) For the purposes of this Act, no part of the maritime area shall be treated at any time as privately owned unless the part is land whose owner is, or is deemed to be, registered under the Registration of Title Act 1964.

(3) (a) This Part shall not apply to a proposed maritime usage to be undertaken entirely on a relevant part.

(b) Where a proposed maritime usage is to be undertaken entirely on a part of the maritime area that comprises—

(i) a relevant part, and

(ii) another part that is State-owned,

this Act shall apply to the usage to the extent that it is proposed to be undertaken on the part referred to in *subparagraph (ii)*.

(4) Where on the fixing of a judicial rent under the Land Law Acts a sum was added to or included in such rent for any foreshore or an account of any right or facility or alleged right or facility to or for taking material from any foreshore, the order of the sub-commission or court fixing such rent shall not be evidence, as against the State, of the ownership of such foreshore or of the existence of a right to take such material.

(5) Neither the taking, during any period however long, from any foreshore of seaweed deposited or washed up thereon by the action of tides, winds and waves or any of them and not rooted or growing thereon, nor the letting or licensing to other persons, during any period however long, of an alleged right to take such seaweed from any foreshore shall, by itself and without more, constitute possession of or be proof of title to such foreshore.

(6) Where any fee or levy has been paid under this Act that relates to a part of the maritime area that is subsequently shown to have been a relevant part at the time of such payment and which would not have been required to be paid by virtue of that fact, the MARA or the CPA concerned, as appropriate, to whom that fee was paid shall refund the fee or levy to the

person who paid it but only to the extent that the fee or levy related to that part.

(7) Nothing in this section shall be construed to prejudice the application of the Act of 2000 to a proposed maritime usage.

(8) In this section, "the Land Law Acts " means the Land Law Acts as defined by the Land Law (Commission) Act 1923, together with any subsequent Act which provides that it is construed as one with the Land Law Acts.

Annotations

Amendments:

F46 Substituted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

Modifications (not altering text):

C7 Prospective affecting provision: subs. (7) amended by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

(7) Nothing in this section shall be construed to prejudice the application of the F46**[**Act of 2024**]** to a proposed maritime usage.

Chapter 10

Special MAC cases

Definitions - *Chapter 10*

100. In this Chapter—

"foreshore authorisation" means a foreshore authorisation which falls within *section 105* by virtue of being a lease made under section 2 of the Act of 1933;

"incidental energy" means energy produced as an incidental by-product of—

(a) activities in respect of which—

(i) an aquaculture licence, or

(ii) a trial licence,

granted under Part II of the Fisheries (Amendment) Act 1997 relates, or

(b) any other fishing or aquacultural activities duly being carried out;

"offshore renewable energy" means energy (other than incidental energy) produced from a non-fossil renewable resource situated in the maritime area, and includes—

(a) wind or solar energy,

(b) wave or tidal or other hydropower, or

(c) biomass (including seaweed);

"relevant maritime usage" means any proposed maritime usage which is for the purposes of producing, from wind, offshore renewable energy where the usage—

(a) is the subject of an application for a foreshore authorisation made before 31 December 2019 and which has not been finally determined, or abandoned or withdrawn, before the coming into operation of *section 101*,

(b) is the subject of a foreshore authorisation, or

(c) was, on 31 December 2019, the subject of—

(i) a valid connection agreement from a transmission system operator, or

(ii) a confirmation by a transmission system operator as being eligible to be processed to receive a valid connection offer;

"relevant Minister" means the Minister for the Environment, Climate and Communications;

"transmission system operator" has the meaning assigned to it by the Electricity Regulation Act 1999.

Relevant maritime usages and MACs before establishment day

101. (1) The relevant Minister may, at any time during the relevant period, give public notice (in this section referred to as the "relevant notice") in accordance with this section that he or she intends to invite MAC applications for relevant maritime usages.

(2) (a) The relevant Minister shall publish the relevant notice on a website of the Government.

(b) The relevant notice shall specify the period within which the MAC applications invited by the notice shall be made to the relevant Minister.

(c) The relevant Minister shall disregard a MAC application invited by the relevant notice which is received by the relevant Minister after the expiration of the period referred to in *paragraph (b)*.

(3) During the relevant period, all references in *section 72* and *Parts 4* and *6* to the MARA shall, with all necessary modifications (including the modification that *section 92(1)* shall be construed as if the words "as soon as is practicable after the establishment day and" were deleted therefrom), be construed as references to the relevant Minister but only in so far as those references relate to MAC applications referred to in this section or MACs granted pursuant to such applications.

(4) In this section, "relevant period" means the period commencing on the coming into operation of *Parts 4* and *6* (including any Schedules referred to in those Parts) for the purposes of this section and ending on the establishment day.

Provisions supplementary to *section 101*

102. (1) Every MAC granted by the relevant Minister pursuant to *section 101* that is in force immediately before the establishment day shall, on and after that day, continue in force as if it had been granted by the MARA and, without prejudice to the generality of the foregoing, may continue to be terminated, amended, revoked or suspended in accordance with the provisions of this Act.

(2) Any legal proceedings, pending immediately before the establishment day, relating to a matter which arises from the performance of the relevant Minister's functions under *section 101* and to which the relevant Minister

is a party by virtue of such performance shall be continued, on and after the establishment day, with the substitution in the proceedings, in so far as the relevant Minister is such a party, of the MARA for the relevant Minister in the relevant Minister's capacity as such a party.

(3) Any thing commenced and not completed before the establishment day by, or under the authority of, the relevant Minister pursuant to the performance of the relevant Minister's functions under *section 101* may be carried on or completed on or after that day by the MARA.

(4) Any reference to the relevant Minister, in his or her capacity as the relevant Minister performing functions under *section 101*, in any document (howsoever described) created during the relevant period shall, on and after the establishment day, be construed as a reference to the MARA in so far as the reference relates to the relevant Minister in such capacity.

Certain MSPs and DMAPs and MACs after establishment day

103. (1) The MARA may give notice (in this section referred to as the "relevant notice") in accordance with this section that it intends to invite MAC applications or has received MAC applications, or both, for the maritime usage specified in the notice to be undertaken (if a MAC is granted) in a manner consistent with the MSP referred to in *section 16(3)(b)*, or the DMAP, specified in the notice.

(2) (a) The MARA shall publish the relevant notice on its website.

(b) The relevant notice shall specify the period within which the MAC applications invited by the notice shall be made to the MARA.

(c) The MARA shall disregard a MAC application invited by the relevant notice which is received by the MARA after the expiration of the period referred to in *paragraph (b)*.

(d) The relevant notice may specify the weighting that shall apply in respect of—

(i) the criteria specified in *Schedule 5*, and

(ii) subject to *paragraph (e)*, the extra criteria (if any) specified in the notice,

against which the MAC applications will be assessed.

(e) The extra criteria specified in a relevant notice pursuant to *paragraph (d)* shall not be inconsistent with the criteria specified in *Schedule 5*.

(3) Subject to *subsection (4)*, the MARA may use a competitive process (which may be, or include, a competitive process referred to in *section 93*) to determine which (if any) of the MAC applications invited by the relevant notice shall be granted a MAC.

(4) A competitive process referred to in *subsection (3)* shall be conducted in a manner which is open, transparent, competitive, non-discriminatory and cost effective.

Chapter 11

Keeping of records, etc.

Keeping of records and samples, etc., by holder of MAC

104.(1) (a) There may be prescribed a requirement, or the provisions of a MAC may contain a requirement, or both, that the holder of a MAC in respect of the part of the maritime area the subject of the MAC (in this section referred to as the "relevant part"), keep records or samples, or both, relating to the relevant part for any scientific purpose.

(b) For the purpose of prescribing a requirement referred to in *paragraph (a)*, the Minister shall, in addition to having regard to the other provisions of this Act, also have regard to the principle that scientific information concerning the maritime area ought to be preserved not just for the benefit of the undertaking of the particular maritime usage concerned for the purposes of which such information was acquired but also for the benefit of other and future undertakings of maritime usages.

(2) (a) The MARA may, by notice in writing given to the holder of a MAC, direct the holder to provide the MARA with copies of any specified data—

(i) within the period specified in the notice (being a period reasonable in all the circumstances of the case), or

(ii) if no such period is specified in the notice, within four weeks from the date on which the holder receives the notice.

(b) The holder of a MAC the subject of a direction under *paragraph (a)* shall comply with the direction.

(c) The costs entailed in complying with a direction under *paragraph (a)* shall be borne by the holder of the MAC the subject of the direction.

(3) (a) Where the MARA is given specified data by the holder of a MAC pursuant to the holder's compliance with a direction under *subsection (2)(a)*, it shall not disclose the data, or cause the data to be disclosed, to a third party except—

(i) pursuant to *subsection (4)*, or

(ii) subject to *paragraph (b)*, with the consent in writing of the holder to do so.

(b) The holder of a MAC shall not unreasonably withhold the giving of the consent referred to in *paragraph (a)(ii)*.

(4) Specified data may be disclosed where the disclosure—

(a) is in compliance with this Part or is otherwise permitted by law or any other enactment,

(b) is to a public body and for a purpose relevant to a function of that body, or

(c) in the opinion of the person making, or seeking to make, the disclosure, may disclose, to a member of the Garda Síochána or an officer of the Revenue Commissioners, the commission of an indictable offence.

(5) (a) A person who is given specified data pursuant to a disclosure under *subsection (4)* shall not disclose the data, or cause the data to be disclosed, to another person except—

(i) to the person who made the first-mentioned disclosure,

(ii) to the holder of the MAC to whom the data relate,

(iii) pursuant to *subsection (4)*, or

(iv) subject to *paragraph (b)*, with the consent in writing of that holder to do so.

(b) The holder of a MAC shall not unreasonably withhold the giving of a consent referred to in *paragraph (a)(iv)*.

(6) (a) Subject to *paragraph (b)*, the MARA may use specified data for the purpose of preparing and publishing such returns or reports, or both, as may be required of the MARA by law.

(b) The MARA shall ensure that the publication under *paragraph (a)* of specified data is done in such a manner that commercially sensitive information is not disclosed.

(c) The MARA may, by notice in writing given to the holder of a MAC, direct the holder to publish specified data in such media, and within such period, as are specified in the notice.

(d) The holder of a MAC given a notice under *paragraph (c)* shall comply with the notice.

(7) Subject to *subsection (8)*, the Minister may, after consultation with the Data Protection Commission, by regulations specify the personal data that are permitted to be included in specified data.

(8) Where the Minister makes regulations under *subsection (7)*, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the principle that personal data only need to be included in specified data to the extent reasonably necessary to enable the MARA or the Minister, as appropriate, to perform their respective functions under this Act in relation to MACs.

(9) In this section—

"commercially sensitive information" means—

(a) financial, commercial, scientific, technical or other information the disclosure of which could reasonably be expected to result in a material financial loss or gain to the person to whom it relates, or could prejudice the competitive position of that person in the conduct of his or her business or otherwise in his or her occupation, or

(b) information the disclosure of which could prejudice the conduct or outcome of contractual or other negotiations of the person to whom it relates;

"permitted personal data" means personal data permitted, by virtue of regulations made under *subsection (7)*, to be included in specified data;

"specified data", in relation to the holder of a MAC, means any books, records or other documents, returns, plans, maps, geological, hydrological and ecological samples, accounts, and information (including any copies thereof or parts thereof) which are required by this Part, regulations made under this Part, or the provisions of the MAC, to be kept but does not include any personal data other than permitted personal data.

Chapter 12

Transitional provisions - foreshore authorisations, unauthorised usages and MACs

Transitional provisions for certain foreshore authorisations

105. (1) This section applies to a foreshore authorisation where the maritime usage the subject of the authorisation would, if it were not the subject of the authorisation, have to be, *inter alia*, the subject of a MAC before it could be lawfully undertaken.

(2) (a) *Paragraphs (b)* and *(c)* apply where the holder of a foreshore authorisation—

(i) is lawfully occupying a part of the foreshore pursuant to the authorisation, and

(ii) wishes to—

(I) amend the authorisation, or

(II) continue to occupy that part after the expiration of the authorisation without undertaking any further maritime usage in addition to the maritime usage the subject of the authorisation.

(b) The holder may, at any time before the expiration of the foreshore authorisation, make a MAC application to surrender the authorisation to the MARA for a MAC and, in any such case, *section 79* and the other provisions of this Part (including *section 84*) shall, with all necessary modifications, apply to the authorisation, the MAC application, and the application's determination under *section 81*, accordingly.

(c) The foreshore authorisation shall expire—

(i) upon the holder being granted a MAC pursuant to the MAC application referred to in *paragraph (b)*, or

(ii) in accordance with the provisions of the authorisation and the Act of 1933,

whichever first occurs.

(3) (a) *Paragraphs (b)* and *(c)* apply where—

(i) the holder of a foreshore authorisation—

(I) is lawfully occupying a part of the foreshore area pursuant to the authorisation, and

(II) wishes to discontinue to occupy that part in favour of another person occupying that part,

and

(ii) the other person wishes to occupy that part without undertaking any further maritime usage in addition to the maritime usage the subject of the authorisation.

(b) The holder of the foreshore authorisation and the other person may, at any time before the expiration of the authorisation, make a joint MAC application to surrender the authorisation to the MARA for a MAC for the maritime usage the subject of the authorisation and, in any such case, *section 79* and the other provisions of this Part (including *section 84*) shall, with all necessary modifications, apply to the authorisation, the joint MAC application, and the application's determination under *section 81*, accordingly.

(c) The foreshore authorisation shall expire—

(i) upon the other person being granted a MAC pursuant to the joint MAC application referred to in *paragraph (b)*, or

(ii) in accordance with the provisions of the authorisation and the Act of 1933,

whichever first occurs.

Transitional provisions for certain unauthorised maritime usages

106. (1) The relevant person may, before the fifth anniversary of the coming into operation of this section (or, where *subsection (4)* applies, the first anniversary referred to in that subsection), make a MAC application for the unauthorised usage concerned and, in any such case, the provisions of this Act shall, with all necessary modifications, apply to take account of the fact that such usage is an existing maritime usage and not a proposed maritime usage.

(2) *Subsection (3)* applies to the relevant person (including any predecessors to such person) and the unauthorised usage concerned immediately on and after—

(a) the fifth anniversary of the coming into operation of this section (or, where *subsection (4)* applies, the first anniversary referred to in that subsection) without a MAC application referred to in *subsection (1)* having been made for such usage,

(b) the date on which the MARA is satisfied that, although a MAC application referred to in *subsection (1)* has been made for such usage, the application has been abandoned or withdrawn before its determination under *section 81*, or

(c) where a MAC application referred to in *subsection (1)* has been made for such usage, the date on which the applicant is notified of the refusal under *section 81*, in the determination of the application, to grant a MAC for such usage.

(3) (a) Where this subsection applies, the MARA may use, on behalf of the State, any and all remedies available to the State (whether under this Act or another enactment or under the common law) against or in relation to the relevant person (including any predecessors to such person) and the unauthorised usage concerned including, and without limiting the generality of the foregoing, remedies to provide for all or any of the following:

(i) cause the unauthorised usage to cease;

(ii) obtain compensation or damages for the unauthorised usage;

(iii) provide for the rehabilitation of the part of the maritime area the subject of the unauthorised usage.

(b) The MARA may exercise its power under *paragraph (a)* jointly with one or more than one other public body that has statutory functions in relation to maritime usages of the type that is the unauthorised usage concerned.

(4) The MARA may, where it is of the opinion that a particular unauthorised usage is an impediment to the effective and efficient performance of its functions, by notice in writing given to the relevant person, and for the reasons stated in the notice, specify that, in the case of that usage, the words "the first anniversary of the giving of the notice concerned under

subsection (4)" are substituted for the words "the fifth anniversary of the coming into operation of this subsection" in *subsections (1)* and *(2)(a)*.

(5) For the avoidance of doubt, it is hereby declared that nothing in this section shall be construed to limit the State or a public body other than the MARA from making use, independently of the MARA, of a remedy referred to in *subsection (3)* against or in relation to the relevant person (including any predecessors thereto) and the unauthorised usage concerned.

(6) In this section—

"relevant person", in relation to an unauthorised usage, means the person undertaking such usage immediately before 12 August 2021, and regardless of whether or not such person is the same person who first undertook such usage;

"unauthorised usage" means a maritime usage—

(a) undertaken by a person before 12 August 2021,

(b) which, in order to be lawfully undertaken before that date, was required to be, but was not, the subject of a foreshore authorisation, and regardless as to whether or not any other authorisations (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) were required, or were in fact granted, under any other enactment in order to enable the person referred to in *paragraph (a)* to undertake such usage, and

(c) which, if it were undertaken on or after the coming into operation of *Chapter 2*, would be required by that Chapter to be the subject of a MAC.

Chapter 13

Judicial review and MACs

Judicial review of matters relating to MAC applications or MACs

107. (1) Where a point of law arises on any matter with which the MARA is concerned under this Part, the MARA may refer the point to the High Court for decision.

(2) A person shall not question the validity of any decision made or other act done by the MARA in the performance or purported performance of a function under this Part in relation to a MAC application, MAC or foreshore authorisation otherwise than by way of an application for judicial review under Order 84.

(3) The MARA may, at any time after the bringing of an application for leave to apply for judicial review of any decision or other act to which *subsection (2)* applies and which relates to a matter for the time being before the MARA, apply to the High Court to stay the proceedings pending the making of a decision by the MARA in relation to the matter concerned.

(4) On the making of such an application, the High Court may, where it considers that the matter before the MARA is within the jurisdiction of the MARA, make an order staying the proceedings concerned on such terms as it thinks fit.

(5) Subject to *subsection (6)*, an application for leave to apply for judicial review under Order 84 in respect of a decision or other act to which *subsection (2)* applies shall be made within the period of eight weeks

beginning on the date of the publication of the decision under *section 84* or *89*, as appropriate, or, as the case may be, the date of the doing of the act by the MARA, as appropriate.

(6) The High Court may extend the period provided for in *subsection (5)* within which an application for leave referred to in that subsection may be made but shall only do so if it is satisfied that—

(a) there is good and sufficient reason for doing so, and

(b) the circumstances that resulted in the failure to make the application for leave within the period so provided were outside the control of the applicant for the extension.

(7) References in this section to Order 84 shall be construed as including references to Order 84 as amended or replaced (with or without modification) by rules of court.

Provisions supplementary to *section 107*

108. (1) In this section—

"Court", where used without qualification, means the High Court (but this definition shall not be construed as meaning that *subsections (2)* to *(6)* and *(9)* do not extend to and govern the exercise by the Court of Appeal of jurisdiction on any appeal that may be made);

" *section 107* leave" means leave to apply for judicial review under Order 84 in respect of a decision or other act to which *section 107(2)* applies.

(2) (a) An application for *section 107* leave shall be made by motion *ex parte* and shall be grounded in the manner specified in Order 84 in respect of an *ex parte* motion for leave.

(b) The Court hearing the *ex parte* application for leave may decide, having regard to the issues arising, the likely impact of the proceedings on the respondent or another party, or for other good and sufficient reason, that the application for leave should be conducted on an *inter partes* basis and may adjourn the application on such terms as it may direct in order that a notice may be served on that person.

(c) If the Court directs that the leave hearing is to be conducted on an *inter partes* basis it shall be by motion on notice (grounded in the manner specified in Order 84 in respect of an *ex parte* motion for leave)—

(i) to the MARA, and

(ii) to any other person specified for that purpose by order of the High Court.

(d) The Court may—

(i) on the consent of all of the parties, or

(ii) where there is good and sufficient reason for so doing and it is just and equitable in all the circumstances,

treat the application for leave as if it were the hearing of the application for judicial review and may for that purpose adjourn the hearing on such terms as it may direct.

(3) The Court shall not grant *section 107* leave unless it is satisfied that—

(a) there are substantial grounds for contending that the decision or act concerned is invalid or ought to be quashed, and

(b) the applicant has a sufficient interest in the matter which is the subject of the application.

(4) A sufficient interest for the purposes of *subsection (3)(b)* is not limited to an interest in land or other financial interest.

(5) If the Court grants *section 107* leave, no grounds shall be relied upon in the application for judicial review under Order 84 other than those determined by the Court to be substantial under *subsection (3)(a)*.

(6) The Court may, as a condition for granting *section 107* leave, require the applicant for such leave to give an undertaking as to damages.

(7) The determination of the Court of an application for *section 107* leave or of an application for judicial review on foot of such leave shall be final and no appeal shall lie from the decision of the Court to the Court of Appeal in either case save with leave of the Court which leave shall only be granted where the Court certifies that its decision involves a point of law of exceptional public importance and that it is desirable in the public interest that an appeal should be taken to the Court of Appeal.

(8) *Subsection (7)* shall not apply to a determination of the Court in so far as it involves a question as to the validity of any law having regard to the provisions of the Constitution.

(9) If an application is made for judicial review under Order 84 in respect of part only of a decision or other act to which *section 107(2)* applies, the Court may, if it thinks fit, declare to be invalid or quash the part concerned or any provision thereof without declaring invalid or quashing the remainder of the decision or other act or part of the decision or other act, and if the Court does so, it may make any consequential amendments to the remainder of the decision or other act or the part thereof that it considers appropriate.

(10) The Court shall, in determining an application for *section 107* leave or an application for judicial review on foot of such leave, act as expeditiously as possible consistent with the administration of justice.

(11) On an appeal from a determination of the Court in respect of an application referred to in *subsection (10)*, the Court of Appeal shall—

(a) have jurisdiction to determine only the point of law certified by the Court under *subsection (7)* (and to make only such order in the proceedings as follows from such determination), and

(b) in determining the appeal, act as expeditiously as possible consistent with the administration of justice.

(12) Rules of court may make provision for the expeditious hearing of applications for *section 107* leave and applications for judicial review on foot of such leave.

Judicial review does not prevent applications for development permission

109. (1) *Subsection (2)* applies in the case of the holder of a MAC for a proposed maritime usage in a part of the maritime area where such usage requires development permission.

(2) Neither—

(a) an application to the High Court for the grant of leave for judicial review under Order 84 of the decision of the MARA to grant the MAC, nor

(b) an application to the High Court for judicial review of such decision on foot of such leave granted,

shall be construed to prevent an application for such development permission being made or determined, or otherwise being dealt with, under the Act of 2000.

Annotations

Amendments:

F47 Inserted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

Modifications (not altering text):

C8 Prospective affecting provision: subs. (2) amended by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

shall be construed to prevent an application for such development permission being made or determined, or otherwis132e being dealt with, under the Act of 2000 F47**[**or the Act of 2024**]**.

PART 5

Licences authorising certain maritime usages in Maritime Area

Chapter 1

Interpretation, application and competent authority

Interpretation - *Part 5*

110. (1) In this Part and *Schedules 7* and *8* —

"exempted usage" shall be construed in accordance with *section 114*;

"*Schedule 7* usage" means a maritime usage specified in *Schedule 7* .

(2) In *sections 124*, *126* and *127*, "licence" includes part of a licence.

Application

111. (1) A licence shall not be granted for a *Schedule 7* usage that requires an environmental impact statement.

(2) Neither a prohibitory order made under section 6 of the Act of 1933 nor a prohibitory notice made under section 7 of that Act (whether made before or after the coming into operation of this section) shall operate to prevent a licence being granted for a *Schedule 7* usage which falls within *paragraph 12* of *Schedule 7* and is to be undertaken in a part of the maritime area the subject of such order or notice.

Competent authority

112. The MARA shall, for the purposes of this Part, be the competent authority for the purposes of Part 5 of the European Communities (Birds and Natural

Habitats) Regulations 2011 (S.I. No. 477 of 2011) and appropriate assessments to which that Part applies.

Chapter 2

Grant or refusal of licence and related matters

Prohibition against undertaking certain maritime usages in maritime area without licence

113. (1) A person shall not undertake a *Schedule 7* usage (other than an exempted usage) in any part of the maritime area unless he or she is, in respect of that part, the holder of a licence for such usage.

(2) Subject to *subsection (3)*, the Minister may by regulations specify, for the purposes of *paragraph 14* of *Schedule 7*, a maritime usage (not being a maritime usage which requires development permission) where the Minister is satisfied that such usage—

(a) would, if undertaken, have one or more than one of the following apply:

(i) be for, or occur over, a limited and ascertainable period;

(ii) be a usage that is required to be undertaken for the purposes of a condition attached to a MAC by virtue of *section 82*;

(iii) be investigative in nature or for the purposes of discovery;

(iv) be limited in scale;

(v) have a limited impact on the maritime area;

(vi) not require authorisation by or under any other enactment (whether the authorisation takes the form of a licence, consent, approval or any other type of authorisation),

and

(b) could effectively be regulated by the application of the provisions of this Part to the usage.

(3) On and after the establishment day, the Minister shall not make regulations under *subsection (2)* except after consultation with the MARA.

Exempted usage

114. (1) (a) Subject to *subsections (2)* and *(4)*, the Minister may by regulations provide for any class of *Schedule 7* usage to be exempted usage for the purposes of this Part where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on the maritime area, of usages belonging to that class, the undertaking of such usages without a licence would not offend against the objectives listed in Article 5 of the MSP Directive, or

(ii) usages belonging to that class are authorised, or are required to be authorised, by or under any other enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation).

(b) Regulations made under *paragraph (a)* may be subject to conditions and be of general application or apply to such part of the maritime area as may be specified in the regulations.

(c) Regulations made under *paragraph (a)* shall be the subject of screening for the purposes of—

(i) the Habitats Directive, and

(ii) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001[12] on the assessment of the effects of certain plans and programmes on the environment.

(2) Notwithstanding any regulations made under *subsection (1)* but subject to *subsection (3)*, any particular *Schedule 7* usage shall not be exempted usage if an appropriate assessment or environmental impact assessment of the usage is required.

(3) *Subsection (2)* shall not apply to a *Schedule 7* usage referred to in *subsection (1)(a)(ii)* where the enactment concerned referred to in *subsection (1)(a)(ii)* provides for appropriate assessment or environmental impact assessment, as appropriate, of the usage.

(4) On and after the establishment day, the Minister shall not make regulations under *subsection (1)* except after consultation with the MARA.

Application for declaration as to whether or not licence is required, etc.

115. (1) A person may make an application in the specified form, accompanied by the specified fee, to the MARA for a declaration in writing by the MARA as to whether or not the maritime usage the subject of the application is a *Schedule 7* usage and, if so, whether or not the undertaking of the *Schedule 7* usage requires a licence.

(2) Where an application under *subsection (1)* is made to the MARA, it may, by notice in writing given to the applicant, require the applicant to provide, whether in the specified form, by affidavit or otherwise, such additional information in relation to any matters to which the application relates as the MARA reasonably considers necessary to make the declaration sought by the application.

(3) The MARA shall, to the extent that it is practicable to do so, make the declaration sought by an application under *subsection (1)*, and give a copy of the declaration to the applicant, not later than 30 days after the day on which the MARA is satisfied that the applicant has complied with all of the requirements of or under this section.

Fees for licences

116. (1) Subject to *subsections (2)* and *(6)*, the Minister may by regulations specify the fees to be paid to the MARA for relevant applications and, for that purpose—

(a) different amounts may be specified for such applications which fall within different classes of such applications specified in the regulations, and

(b) the regulations may specify the circumstances in which—

(i) an exemption from the payment of such a fee applies, or

[12] OJ No. L197, 21.7.2001, p. 30

(ii) a waiver, remission or refund (whether in whole or in part) of such fee applies.

(2) The Minister shall, when specifying, in regulations made under *subsection (1)*, the fees to be paid to the MARA for relevant applications, have regard to the administrative costs associated with processing applications, including the costs of determining whether the requirements for making the relevant applications have been met.

(3) Subject to *subsections (4)* to *(6)*, the Minister may by regulations specify the fee or fees to be paid to the MARA by holders of licences and, for that purpose—

(a) different amounts may be prescribed for such holders which fall within different classes of such holders specified in the regulations, and

(b) the regulations may specify the circumstances in which—

(i) an exemption from the payment of such a fee applies, or

(ii) a waiver, remission or refund (whether in whole or in part) of such a fee applies.

(4) The Minister shall, when specifying, in regulations made under *subsection (3)*, the fee or fees to be paid to the MARA by the holders of licences, have regard to the need to defray the costs incurred by the MARA in the performance of its functions in relation to the holder concerned.

(5) A fee specified in regulations made under *subsection (3)* may be a one-off fee or an annual fee and, if the former, shall be paid to the MARA upon the grant of the licence concerned and, if the latter, shall be paid to the MARA not later than each anniversary of the date specified for the purpose in the licence concerned.

(6) On and after the establishment day, the Minister shall not make regulations under *subsection (1)* or *(3)* except after consultation with the MARA.

(7) In this section, "relevant applications" means—

(a) applications under *section 115*,

(b) licence applications, or

(c) applications under *section 126*.

Annotations

Editorial Notes:

E16 Power pursuant to section exercised (14.08.2023) by *Maritime Area Usage (Licence Fees) Regulations 2023* (S.I. No. 402 of 2023).

Application for grant of licence

117. (1) Subject to regulations made under *section 118*, a person may make an application in the specified form, accompanied by the specified fee, to the MARA for the grant of a licence for the *Schedule 7* usage the subject of the application.

(2) Without prejudice to the generality of *section 72* or *subsection (3)*, a licence application may require any information to be provided in relation to any of the matters to which this Part relates.

(3) Subject to *subsection (9)*, where a licence application is made to the MARA, the MARA may, by notice in writing given to the applicant, require the applicant to provide in the specified form, by affidavit or otherwise, such additional information in relation to any matter to which the application relates as the MARA reasonably considers necessary to assist it to determine the application under *section 119*.

(4) (a) The MARA shall, as soon as is practicable after it receives a licence application and if it considers it necessary to do so in its capacity as the competent authority referred to in *section 112*, carry out screening for appropriate assessment in respect of the proposed maritime usage the subject of the application.

(b) *Paragraph (a)* applies notwithstanding that the applicant may have submitted a Natura impact statement to the MARA, whether with the licence application or subsequently.

(5) (a) The MARA shall, as soon as is practicable after it receives a licence application, carry out screening for environmental impact assessment in respect of the proposed maritime usage the subject of the application if it considers that it is necessary to do so after having regard to Schedules 5 and 7 to the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

(b) Where the decision on the screening referred to in *paragraph (a)* is that an environmental impact assessment is required, the MARA shall, as soon as is practicable—

(i) return the licence application concerned to the applicant together with a copy of *section 111*, and

(ii) publish its decision on its website together with its reasons for such decision and a notice stating—

(I) that a person may question the validity of the decision by way of an application for judicial review under Order 84 in accordance with *Chapter 8*, and

(II) where practical information on the review mechanism can be obtained.

(6) Where the decision referred to in *subsection (4)(a)* is that an appropriate assessment is required, the MARA shall—

(a) subject to *paragraph (b)* and *subsection (8)*, by notice in writing given to the applicant, require the applicant to prepare, within the period specified in the notice (being a period reasonable in all the circumstances of the case), a Natura impact statement and submit it to the MARA,

(b) subject to *subsection (9)*, as soon as is practicable after the MARA has the Natura impact statement prepared by the applicant pursuant to *paragraph (a)* or, as the case may be, the MARA is satisfied with the adequacy of a Natura impact statement submitted by the applicant together with the licence application concerned, by notice in writing given to the applicant, require the applicant to give notice (in this section referred to as the "relevant notice") in the specified form to the public stating that—

(i) the licence application concerned has been made to the MARA, a related Natura impact statement has been submitted to the MARA and that the application and statement are available for inspection during the period concerned referred to in *subparagraph (ii)* —

(I) on the website of the MARA, and

(II) at the offices of the MARA specified in the relevant notice,

and

(ii) members of the public may make submissions in writing on the licence application and the Natura impact statement to the MARA for a period of not less than 30 days from the date of publication of the relevant notice at a location (which may be an electronic address) specified in, or in a form set out in and sent to an address specified in, the relevant notice.

(7) (a) The MARA shall, as soon as is practicable after the expiration of the 30 days referred to in *subsection (6)(b)(ii)*, carry out the appropriate assessment concerned and have regard to the submissions (if any) referred to in that subsection.

(b) The MARA shall comply with the determination of the appropriate assessment when determining the licence application concerned under *section 120*.

(8) Where the applicant fails to comply with *subsection (6)(a)* within the period specified in that subsection (or any extension to that period permitted by the MARA for good and sufficient reason), the licence application concerned shall be deemed to have been withdrawn.

(9) Where *subsection (6)* applies to the applicant, the MARA shall not—

(a) give the notice first-mentioned in *subsection (6)(b)* to the applicant until the applicant has complied with each notice (if any) given to the applicant under *subsection (3)*, and

(b) exercise its power under *subsection (3)* in respect of the applicant at any time after the commencement of the period concerned referred to in *subsection (6)(b)(ii)*.

(10) In this section, "Natura impact statement" has the same meaning as it has in Regulation 2 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011).

Provisions supplementary to *section 117*

118. (1) Without prejudice to the generality of *sections 72* and *117(2)*, *(3)* and *(6)* and subject to *subsections (2)* and *(3)*, the Minister may by regulations specify the nature and extent of the consultation that the applicants which fall within different classes of licence applications specified in the regulations need to carry out before making such applications.

(2) In making regulations under *subsection (1)*, the Minister shall, in addition to having regard to the other provisions of this Act, also have regard to the principle that the nature and extent of the consultation referred to in *subsection (1)* needs to be proportionate to the nature and extent of the *Schedule 7* usage the subject of the licence application concerned.

(3) On and after the establishment day, the Minister shall not make regulations under *subsection (1)* except after consultation with the MARA.

Grant or refusal of licence

119. (1) Subject to *section 117(2)*, *(3)* and *(7)* and *subsections (2)* and *(4)* to *(7)*, the MARA shall determine a licence application by—

(a) granting a licence to the applicant for the occupation of a specific part of the maritime area for the purposes of the proposed *Schedule 7* usage

the subject of the application and subject to such conditions (if any) attached to the licence by virtue of *section 120(1)* as the MARA thinks fit, or

(b) giving notice in writing to the applicant refusing to grant a licence.

(2) The MARA shall, to the extent that is practicable to do so, determine a licence application not later than 30 days after the day on which the MARA is satisfied that the applicant has complied with all the requirements of or under this Part in so far as they relate to the application.

(3) Where the MARA—

(a) grants a licence for part only of the *Schedule 7* usage sought by the applicant (including any case where the part of the maritime area concerned is reduced in size),

(b) grants a licence to which conditions are attached by virtue of *section 120(1)*, or

(c) refuses to grant a licence,

the MARA shall, at the same time, give the applicant notice in writing of the reasons for the partial grant, conditions or refusal, as the case may be.

(4) A licence shall include the following at a minimum:

(a) particulars of the name and address of the holder of the licence;

(b) particulars of the *Schedule 7* usage the subject of the licence and the part of the maritime area where the usage will be undertaken;

(c) particulars of the period (if any) to which the licence relates (including any time limits or other restrictions to apply during that period);

(d) the conditions (if any) attached to the licence by virtue of *section 120(1)*.

(5) The MARA shall, in determining a licence application, take into account any submissions referred to in *section 117(6)(b)(ii)*.

(6) (a) *Paragraph (b)* applies where the MARA is minded to determine a licence application by—

(i) granting a licence to the applicant but—

(I) for part only of the licence sought by the applicant (including any case where the part of the maritime area concerned is reduced in size), or

(II) with conditions attached to the licence by virtue of *section 120(1)*,

or

(ii) refusing to grant a licence.

(b) The MARA shall, in the interests of procedural fairness, give a notice in writing to the applicant stating that—

(i) the MARA is minded to determine the application as specified in *paragraph (a)* and setting out the MARA's reasons why it is so minded, and

(ii) the applicant may, if the applicant wishes to do so, within the period specified in the notice (being a period reasonable in all the circumstances of the case), provide, in view of those reasons only, supplementary material in the specified form to the MARA for the

MARA's further consideration before making a determination under *subsection (1)* following the expiration of that period.

(7) For the avoidance of doubt, it is hereby declared that *subsection (6)* only applies once to the same licence application.

Conditions attached to licence

120. (1) The MARA may attach to a licence one or more than one condition which falls within one or more than one of the types of conditions specified in *Schedule 8*.

(2) Subject to *subsections (3)* and *(8)*, the Minister may by regulations specify, for the purposes of *paragraph 18* of *Schedule 8*, additional types of conditions which may be attached to a licence.

(3) Where the Minister makes regulations under *subsection (2)*, he or she shall, in addition to having regard to the other provisions of this Act, have regard to the following principles and policies in relation to the additional types of conditions:

(a) whether the condition assists in the furtherance of the objectives of the National Marine Planning Framework;

(b) whether the condition assists in promoting co-operation between users of the same part of the maritime area or adjoining parts of the maritime area, or both;

(c) whether the condition assists in ensuring that the holder of a licence—

(i) fulfils his or her obligations under this Act in relation to the licence, or

(ii) manages the undertaking of the maritime usage the subject of the licence in an effective and efficient manner.

(4) (a) Subject to *subsection (5)*, it shall be deemed to be a condition of each licence that the MARA may, where it is of the opinion that the revocation, suspension or amendment of the licence is required in order to enable a MAC granted after the grant of the licence to have full force and effect, provide for such revocation, suspension or amendment, as the case may be, in the MAC and subject to such conditions (if any) as are specified in the MAC.

(b) The MARA shall, at the same time as it grants a MAC to which *paragraph (a)* applies, give the holder of the licence concerned a copy of the MAC together with a statement in writing specifying the MARA's reasons for the potential revocation, suspension or amendment, as the case may be, of the licence.

(5) (a) *Paragraph (b)* applies where the MARA is minded to exercise its discretion referred to in *subsection (4)(a)* to revoke, suspend or amend a licence.

(b) The MARA shall, in the interests of procedural fairness, give a notice in writing to the holder of the licence concerned stating—

(i) how the MARA is minded to exercise its discretion referred to in *subsection (4)(a)* and setting out the MARA's reasons why it is so minded, and

(ii) that the holder may, if the holder wishes to do so, within the period specified in the notice (being a period reasonable in all the circumstances of the case), provide, in view of those reasons only,

supplementary material in the specified form to the MARA for the MARA's further consideration before the MARA, following the expiration of that period, makes a decision whether or not to exercise the discretion referred to in *subsection (4)(a)* and, if so, how to exercise such discretion.

(6) Where the MARA decides to exercise its discretion referred to in *subsection (4)(a)* to revoke, suspend or amend a licence, the MARA shall give notice in writing of the decision to the holder of the licence and such decision shall not take effect until at least 30 days after the holder receives that notice.

(7) It shall be deemed to be a condition of each licence that the part of the maritime area the subject of the licence is not for the exclusive use of the *Schedule 7* usage the subject of the licence except where the licence expressly states that such part is for the exclusive use of such usage.

(8) On and after the establishment day, the Minister shall not make regulations under *subsection (2)* except after consultation with the MARA.

Annotations

Editorial Notes:

E17 Power pursuant to subs. (2) exercised (2.11.2023) by *Maritime Area Usage (Licence Conditions) Regulations 2023* (S.I. No. 530 of 2023).

Provisions supplementary to grant of licence

121. (1) Unless otherwise specified in regulations made under this section, nothing in this Part shall of itself be construed as preventing the MARA from granting a licence to an applicant—

(a) who is the holder of a licence for the same *Schedule 7* usage provided that the first-mentioned licence is for a period which will not overlap with the period of the second-mentioned licence, or

(b) who was the holder of a licence for the same *Schedule 7* usage where the licence has expired or is no longer in force.

(2) The MARA shall, before granting a licence, have regard to—

(a) the National Marine Planning Framework,

(b) the State's obligations under the following Directives in so far as those obligations are relevant to the undertaking of the *Schedule 7* usage concerned:

(i) Habitats Directive;

(ii) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000[13] establishing a framework for Community action in the field of water policy (Water Framework Directive);

(iii) Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008[14] establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) as amended by Commission Directive (EU) 2017/845 of 17 May 2017;

[13] OJ No. L327, 22.12.2000, p.1
[14] OJ No. L164, 25.6.2008, p. 19

(iv) Birds Directive;

(v) Environmental Impact Assessment Directive,

(c) the provisions of any enactment giving effect to a Directive referred to in *paragraph (b)* in so far as those provisions give effect to the obligations referred to in that paragraph that are relevant to the *Schedule 7* usage concerned, and

(d) any other maritime usage lawfully undertaken pursuant to this Act or another enactment in the same part of the maritime area to which the first-mentioned licence relates.

Notification of grant or refusal of licence, etc.

122. (1) The MARA shall, as soon as is practicable after it grants a licence, publish a notice on its website stating, at a minimum—

(a) the name of the holder of the licence,

(b) the address (which may be an electronic address) of the holder,

(c) if applicable, the period for which the licence will continue before it expires,

(d) if applicable, the occurrence of the event upon which the licence will expire,

(e) the nature of the maritime usage the subject of the licence,

(f) a spatial representation of the specified part of the maritime area the subject of the licence,

(g) the date that the MARA granted the licence, and

(h) the conditions (if any) attached to the licence by virtue of *section 120(1)*.

(2) Where *section 119(3)* applies, the MARA shall, at the same time as it gives the notice referred to in that section to the applicant concerned or as soon as is practicable thereafter, publish the notice on its website.

(3) Where—

(a) the MARA's decision referred to in *section 117(4)(a)* was that an appropriate assessment was, or was not, required, or

(b) the MARA's decision referred to in *section 117(5)(a)* was that an environmental impact assessment was not required,

the MARA shall, as soon as is practicable after the determination of the licence application concerned under *section 119*, publish that decision on its website together with its reasons for such decision.

(4) Where the MARA has, pursuant to *section 117(7)(a)*, carried out an appropriate assessment, it shall, as soon as is practicable after the determination of the licence application concerned under *section 119*, publish a notice of the carrying out of the assessment, together with the appropriate assessment determination, on its website.

(5) The MARA shall, whenever it publishes a notice on its website under this section, also publish a notice on its website stating—

(a) that a person may question the validity of a decision of the MARA to which the first-mentioned notice relates by way of an application for judicial review under Order 84 in accordance with *Chapter 8*, and

(b) where practical information on the review mechanism can be found.

(6) The MARA shall, as soon as is practicable after it refuses to grant a licence, publish on its website a copy of the notice concerned referred to in *section 119(3)*.

Chapter 3

Compensation for exercise of relevant power

Compensation for exercise of relevant power

123. (1) The holder of the relevant MAC shall (and, if a scheme or schemes of compensation have been made for the purposes of this section, in accordance with the scheme or schemes concerned)—

(a) either—

(i) make good any loss or damage caused to the holder of the relevant licence as a consequence of the exercise by the MARA of the relevant power, or

(ii) reimburse the holder the reasonable costs and expenses of such making good,

and

(b) as appropriate, pay to the holder of the relevant licence reasonable compensation for any loss, damage, disturbance or injury, caused to the holder as a consequence of the exercise by the MARA of the relevant power, together with interest payable on the amount of such compensation at such rate as the MARA, with the consent of the Minister for Public Expenditure and Reform, may determine from time to time for the purposes of this section, from the date on which the claim is made to the date of payment thereof.

(2) The MARA may make a scheme or schemes of compensation providing for the payment of compensation referred to in *subsection (1)* including but not limited to provision for the following:

(a) the matters or classes of matters in respect of which the scheme shall apply;

(b) the form and manner in which a claim for compensation may be made;

(c) the provision by the holder of the relevant licence of evidence and other information in support of the holder's claim and the verification of such evidence and information.

(3) The MARA may amend or revoke and replace by a subsequent scheme or schemes a scheme or schemes of compensation made under *subsection (2)*.

(4) The MARA shall—

(a) publish on its website and in such other manner as the MARA considers appropriate, and

(b) make available on request copies of,

the scheme or schemes of compensation made under *subsection (2)* or any amendment to such a scheme or schemes of compensation made under *subsection (3)*.

(5) (a) Any dispute or claim arising out of or in connection with a claim for compensation under this section shall be referred, by notice in writing from either party, to the decision of a single arbitrator as may be nominated by agreement between the parties to the arbitration, or failing such agreement, not later than 21 days after a notice in writing given by one of the parties to the arbitration, by the President for the time being of the Law Society of Ireland.

(b) Every reference to arbitration made pursuant to *paragraph (a)* shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 2010.

(6) The provisions of the Arbitration Act 2010 applicable to arbitrations referred to in section 29 of that Act shall apply to an arbitration referred to in *subsection (5)*.

(7) In this section—

"relevant licence" means a licence which has been, or will be, revoked, suspended or amended as a consequence of the exercise by the MARA of the relevant power;

"relevant MAC", in relation to the relevant licence, means the MAC in favour of which the MARA has exercised the relevant power in respect of that licence;

"relevant power" means the MARA's power, by virtue of the condition deemed to be attached to a licence by virtue of *section 120(4)(a)*, to revoke, suspend or amend the licence.

Chapter 4

Assignment or amendment of licence

Assignment of licence

124. (1) This section applies where the holder of a licence (in this section referred to as the "proposed assignor") wishes to assign the licence to another person (in this section referred to as the "proposed assignee").

(2) The proposed assignor and the proposed assignee shall make a joint licence application to the MARA for the MARA's consent in writing to the assignment and, in the case of such application, *section 117* and the other provisions of this Part (including *section 122*) applicable to a licence application and its determination under *section 119* shall, with all necessary modifications, apply accordingly.

(3) The assignment of a licence purporting to be effected without the consent referred to in *subsection (2)* shall be void.

(4) References in this Act to the grant of a licence shall include references to the assignment of a licence in any case where the licence has been assigned or reassigned in accordance with this section.

Material amendment to licence

125. (1) The holder of a licence who wishes to amend the licence in any material way shall make a licence application for such amendment and, in the case of such application, *section 117* and the other provisions of this Part (including *section 122*) applicable to a licence application and its determination under *section 119* shall, with all necessary modifications, apply accordingly.

(2) Subject to *subsections (3)* and *(4)*, the Minister may by regulations specify classes of amendments to a licence that are, for the purposes of this section, non-material.

(3) Where the Minister makes regulations under *subsection (2)*, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the following principles and policies in relation to the proposed classes of amendments referred to in that subsection:

(a) that the amendments which fall within the class should be trivial, insignificant, minor or inconsequential;

(b) that the amendments which fall within the class should not cause any significant erosion of the provisions of the licence relating to any avoidance or mitigation measures.

(4) On and after the establishment day, the Minister shall not make regulations under *subsection (2)* except after consultation with the MARA.

(5) (a) The holder of a licence who wishes to make a non-material amendment to the licence shall give notice in the specified form to the MARA of the amendment not less than 10 days before making the amendment.

(b) Nothing in *paragraph (a)* shall be construed to prejudice the generality of the MARA's powers under *Part 6*.

(6) In this section—

"material amendment", in relation to a licence, means any amendment to the licence other than a non-material amendment;

"non-material amendment", in relation to a licence, means an amendment which falls within a class of amendments specified in regulations made under *subsection (2)*.

Chapter 5

Surrender of licence

Surrender of licence

126. (1) The holder of a licence may make an application in the specified form, accompanied by the specified fee, to the MARA for the surrender of the licence.

(2) Where an application under *subsection (1)* is made to the MARA, the MARA may, by notice in writing given to the applicant, require the applicant to provide, in the specified form, by affidavit or otherwise, such additional information in relation to any matter to which the application relates as the MARA reasonably considers necessary to assist it to determine the application under *section 127*.

Determination of application under *section 126*

127. (1) The MARA shall determine an application under *section 126(1)* by—

(a) if the applicant has satisfied the MARA that all the obligations of the applicant arising from being the holder of the licence concerned (and whether or not such obligations arise under this Act or another enactment) have been discharged, consenting to the surrender of the licence by notice in writing given to the applicant specifying the date on which the surrender shall take effect,

(b) in any other case giving notice in writing to the applicant (subsequent to the applicant's response (if any) to a notice under *paragraph (c)* given to the applicant) refusing that application and specifying the MARA's reasons for the refusal, or

(c) in the interests of procedural fairness, giving a notice in writing to the applicant stating that the MARA is minded to refuse to grant the application for the reasons specified in the notice but that, if the applicant wishes to do so, he or she may, within the period specified in the notice for the purpose (being a period reasonable in all the circumstances of the case) provide, in view of those reasons only, supplementary material in the specified form to the MARA for the MARA's further consideration before making a decision under *paragraph (a)* or *(b)* in respect of the application.

(2) The MARA shall, as soon as is practicable after it consents to the surrender of a licence, publish a notice on its website stating, at a minimum—

(a) the name of the holder or former holder of the licence,

(b) the date on which the surrender was, or will be, effected, and

(c) sufficient particulars of the licence to readily identify it.

(3) Where *subsection (1)(b)* applies, the MARA shall, at the same time as it gives the notice referred to in that subsection to the applicant concerned or as soon as is practicable thereafter, publish the notice on its website.

(4) The MARA shall, at the same time as it publishes a notice on its website under this section, also publish a notice on its website stating—

(a) that a person may question the validity of a decision of the MARA to which the first-mentioned notice relates by way of an application for judicial review under Order 84 in accordance with *Chapter 8*, and

(b) where practical information on the review mechanism can be found.

(5) The surrender of a licence purporting to be effected without the consent referred to in *subsection (1)(a)* shall be void.

(6) For the avoidance of doubt, it is hereby declared that *paragraph (c)* of *subsection (1)* only applies once to the same application under *section 126(1)*.

Chapter 6

Keeping of records, etc.

Keeping of records and samples, etc., by holder of licence

128.(1) (a) There may be prescribed a requirement, or the provisions of a licence may contain a requirement, or both, that the holder of a licence, in respect of the part of the maritime area the subject of the licence (in this section referred to as the "relevant part"), keep records or samples, or both, relating to the relevant part for any scientific purpose.

(b) For the purposes of prescribing a requirement referred to in *paragraph (a)*, the Minister shall, in addition to having regard to the other provisions of this Act, also have regard to the principle that scientific information concerning the maritime area ought to be preserved not just for the benefit of the undertaking of the particular *Schedule 7* usage concerned for the purposes of which such information was acquired but also for the benefit of other and future undertakings of maritime usages.

(2) (a) The MARA may, by notice in writing given to the holder of a licence, direct the holder to provide the MARA with copies of any specified data—

(i) within the period specified in the notice (being a period reasonable in all the circumstances of the case), or

(ii) if no such period is specified in the notice, within four weeks from the date on which the holder receives the notice.

(b) The holder of a licence the subject of a direction under *paragraph (a)* shall comply with the direction.

(c) The costs entailed in complying with a direction under *paragraph (a)* shall be borne by the holder of the licence the subject of the direction.

(3) (a) Where the MARA is given specified data by the holder of a licence pursuant to the holder's compliance with a direction under *subsection (2)(a)*, it shall not disclose the data, or cause the data to be disclosed, to a third party except—

(i) pursuant to *subsection (4)*, or

(ii) subject to *paragraph (b)*, with the consent in writing of the holder to do so.

(b) The holder of a licence shall not unreasonably withhold the giving of the consent referred to in *paragraph (a)(ii)*.

(4) Specified data may be disclosed where the disclosure—

(a) is in compliance with this Part or is otherwise permitted by law or any other enactment,

(b) is to a public body and for a purpose relevant to a function of that body, or

(c) in the opinion of the person making, or seeking to make, the disclosure, may disclose, to a member of the Garda Síochána or an officer of the Revenue Commissioners, the commission of an indictable offence.

(5) (a) A person who is given specified data pursuant to a disclosure under *subsection (4)* shall not disclose the data, or cause the data to be disclosed, to another person except—

(i) to the person who made the first-mentioned disclosure,

(ii) to the holder of the licence to whom the data relate,

(iii) pursuant to *subsection (4)*, or

(iv) subject to *paragraph (b)*, with the consent in writing of that holder to do so.

(b) The holder of a licence shall not unreasonably withhold the giving of a consent referred to in *paragraph (a)(iv)*.

(6) (a) Subject to *paragraph (b)*, the MARA may use specified data for the purpose of preparing and publishing such returns or reports, or both, as may be required of the MARA by law.

(b) The MARA shall ensure that the publication under *paragraph (a)* of specified data is done in such a manner that commercially sensitive information is not disclosed.

(c) The MARA may, by notice in writing given to the holder of a licence, direct the holder to publish specified data in such media, and within such period, as are specified in the notice.

(d) The holder of a licence given a notice under *paragraph (c)* shall comply with the notice.

(7) Subject to *subsection (8)*, the Minister may, after consultation with the Data Protection Commission, by regulations specify the personal data that are permitted to be included in specified data.

(8) Where the Minister makes regulations under *subsection (7)*, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the principle that personal data only need to be included in specified data to the extent reasonably necessary to enable the MARA or the Minister, as appropriate, to perform their respective functions under this Act in relation to licences.

(9) In this section—

"commercially sensitive information" means—

(a) financial, commercial, scientific, technical or other information the disclosure of which could reasonably be expected to result in a material financial loss or gain to the person to whom it relates, or could prejudice the competitive position of that person in the conduct of his or her business or otherwise in his or her occupation, or

(b) information the disclosure of which could prejudice the conduct or outcome of contractual or other negotiations of the person to whom it relates;

"permitted personal data" means personal data permitted, by virtue of regulations made under *subsection (7)*, to be included in specified data;

"specified data", in relation to the holder of a licence, means any books, records or other documents, returns, plans, maps, geological, hydrological and ecological samples, accounts, and information (including any copies thereof or parts thereof) which are required by this Part, regulations made under this Part, or the provisions of the licence, to be kept but does not include any personal data other than permitted personal data.

Chapter 7

Transitional provisions - foreshore authorisations, unauthorised usages and licences

Transitional provisions for certain foreshore authorisations

129. (1) This section applies to a foreshore authorisation where the maritime usage the subject of the authorisation would, if it were not the subject of the authorisation, have to be, *inter alia*, the subject of a licence before it could be lawfully undertaken.

(2) (a) *Paragraphs (b)* and *(c)* apply where the holder of a foreshore authorisation—

(i) is lawfully occupying a part of the foreshore pursuant to the authorisation, and

(ii) wishes to—

(I) amend the authorisation, or

(II) continue to occupy that part after the expiration of the authorisation without undertaking any further maritime usage in addition to the maritime usage the subject of the authorisation.

(b) The holder may, at any time before the expiration of the foreshore authorisation, make a licence application to surrender the authorisation to the MARA for a licence and, in any such case, *section 117* and the other provisions of this Part (including *section 122*) shall, with all necessary modifications, apply to the authorisation, the licence application, and the application's determination under *section 119*, accordingly.

(c) The foreshore authorisation shall expire—

(i) upon the holder being granted a licence pursuant to the licence application referred to in *paragraph (b)*, or

(ii) in accordance with the provisions of the authorisation and the Act of 1933,

whichever first occurs.

(3) (a) *Paragraphs (b)* and *(c)* apply where—

(i) the holder of a foreshore authorisation—

(I) is lawfully occupying a part of the foreshore pursuant to the authorisation, and

(II) wishes to discontinue to occupy that part in favour of another person occupying that part,

and

(ii) the other person wishes to occupy that part without undertaking any further maritime usage in addition to the maritime usage the subject of the authorisation.

(b) The holder of the foreshore authorisation and the other person may, at any time before the expiration of the authorisation, make a joint licence application to surrender the authorisation for a licence for the maritime usage the subject of the authorisation and, in any such case, *section 117* and the other provisions of this Part (including *section 122*) shall, with all necessary modifications, apply to the authorisation, the joint licence application, and the application's determination under *section 119*, accordingly.

(c) The foreshore authorisation shall expire—

(i) upon the other person being granted a licence pursuant to the joint licence application referred to in *paragraph (b)*, or

(ii) in accordance with the provisions of the authorisation and the Act of 1933,

whichever first occurs.

Transitional provisions for certain unauthorised maritime usages

130. (1) The relevant person may, before the fifth anniversary of the coming into operation of this section (or, where *subsection (4)* applies, the first anniversary referred to in that subsection), make a licence application for the unauthorised usage concerned and, in any such case, the provisions of this Act shall, with all necessary modifications, apply to take account of the fact that such usage is an existing maritime usage and not a proposed maritime usage.

(2) *Subsection (3)* applies to the relevant person (including any predecessors to such person) and the unauthorised usage concerned immediately on and after—

(a) the fifth anniversary of the coming into operation of this section (or, where *subsection (4)* applies, the first anniversary referred to in that subsection) without a licence application referred to in *subsection (1)* having been made in respect of such usage,

(b) the date on which the MARA is satisfied that, although a licence application referred to in *subsection (1)* has been made for such usage, the application has been abandoned or withdrawn before its determination under *section 119*, or

(c) where a licence application referred to in *subsection (1)* has been made for such usage, the date on which the applicant is notified of the refusal under *section 119*, in the determination of the application, to grant a licence for such usage.

(3) (a) Where this subsection applies, the MARA may use, on behalf of the State, any and all remedies available to the State (whether under this Act or another enactment or under the common law) against or in relation to the relevant person (including any predecessors to such person) and the unauthorised usage concerned including, and without limiting the generality of the foregoing, remedies to provide for all or any of the following:

(i) cause the unauthorised usage to cease;

(ii) obtain compensation or damages for the unauthorised usage;

(iii) provide for the rehabilitation of the part of the maritime area the subject of the unauthorised usage.

(b) The MARA may exercise its power under *paragraph (a)* jointly with one or more than one other public body that has statutory functions in relation to maritime usages of the type that is the unauthorised usage concerned.

(4) The MARA may, where it is of the opinion that a particular unauthorised usage is an impediment to the effective and efficient performance of its functions, by notice in writing given to the relevant person and for the reasons stated in the notice, specify that, in the case of that usage, the words "the first anniversary of the giving of the notice concerned under

subsection (4) " are substituted for the words "the fifth anniversary of the coming into operation of this subsection" in *subsections (1)* and *(2)(a)*.

(5) For the avoidance of doubt, it is hereby declared that nothing in this section shall be construed to limit the State or a public body other than the MARA from making use, independently of the MARA, of a remedy referred to in *subsection (3)* against or in relation to the relevant person (including any predecessors thereto) and the unauthorised usage concerned.

(6) In this section—

"relevant person", in relation to an unauthorised usage, means the person undertaking such usage immediately before 12 August 2021, and regardless of whether or not such person is the same person who first undertook such usage;

"unauthorised usage" means a maritime usage—

(a) undertaken by a person before 12 August 2021,

(b) which, in order to be lawfully undertaken before that date, was required to be, but was not, the subject of a foreshore authorisation, and regardless as to whether or not any other authorisations (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) were required, or were in fact granted, under any other enactment in order to enable the person referred to in *paragraph (a)* to undertake such usage, and

(c) which, if it were undertaken on or after the coming into operation of *Chapter 2*, would be required by that Chapter to be the subject of a licence.

Chapter 8

Judicial review and licences

Judicial review of matters relating to licence applications or licences

131. (1) Where a point of law arises on any matter with which the MARA is concerned under this Part, the MARA may refer the F48**[**point**]** to the High Court for decision.

(2) A person shall not question the validity of any decision made or other act done by the MARA in the performance or purported performance of a function under this Part in relation to a licence application, licence or foreshore authorisation otherwise than by way of an application for judicial review under Order 84.

(3) The MARA may, at any time after the bringing of an application for leave to apply for judicial review of any decision or other act to which *subsection (2)* applies and which relates to a matter for the time being before the MARA, apply to the High Court to stay the proceedings pending the making of a decision by the MARA in relation to the matter concerned.

(4) On the making of such an application, the High Court may, where it considers that the matter before the MARA is within the jurisdiction of the MARA, make an order staying the proceedings concerned on such terms as it thinks fit.

(5) Subject to *subsection (6)*, an application for leave to apply for judicial review under Order 84 in respect of a decision or other act to which *subsection (2)* applies shall be made within the period of eight weeks

beginning on the date of the publication of the decision under *section 122* or *127*, as appropriate, or, as the case may be, the date of the doing of the act by the MARA, as appropriate.

(6) The High Court may extend the period provided for in *subsection (5)* within which an application for leave referred to in that subsection may be made but shall only do so if it is satisfied that—

(a) there is good and sufficient reason for doing so, and

(b) the circumstances that resulted in the failure to make the application for leave within the period so provided were outside the control of the applicant for the extension.

(7) References in this section to Order 84 shall be construed as including references to the Order as amended or replaced (with or without modification) by rules of court.

Annotations

Amendments:

F48 Substituted (17.07.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 54, S.I. No. 370 of 2023.

Provisions supplementary to *section 131*

132. (1) In this section—

"Court", where used without qualification, means the High Court (but this definition shall not be construed as meaning that *subsections (2)* to *(6)* and *(9)* do not extend to and govern the exercise by the Court of Appeal of jurisdiction on any appeal that may be made);

"*section 131* leave" means leave to apply for judicial review under Order 84 in respect of a decision or other act to which *section 131(2)* applies.

(2) (a) An application for *section 131* leave shall be made by motion *ex parte* and shall be grounded in the manner specified in Order 84 in respect of an *ex parte* motion for leave.

(b) The Court hearing the *ex parte* application for leave may decide, having regard to the issues arising, the likely impact of the proceedings on the respondent or another party, or for other good and sufficient reason, that the application for leave should be conducted on an *inter partes* basis and may adjourn the application on such terms as it may direct in order that a notice may be served on that person.

(c) If the Court directs that the leave hearing is to be conducted on an *inter partes* basis it shall be by motion on notice (grounded in the manner specified in Order 84 in respect of an *ex parte* motion for leave)—

(i) to the MARA, and

(ii) to any other person specified for that purpose by order of the High Court.

(d) The Court may—

(i) on the consent of all of the parties, or

(ii) where there is good and sufficient reason for so doing and it is just and equitable in all the circumstances,

treat the application for leave as if it were the hearing of the application for judicial review and may for that purpose adjourn the hearing on such terms as it may direct.

(3) The Court shall not grant *section 131* leave unless it is satisfied that—

(a) there are substantial grounds for contending that the decision or act concerned is invalid or ought to be quashed, and

(b) (i) the applicant has a sufficient interest in the matter which is the subject of the application, or

(ii) where the decision or act concerned relates to a development identified in or under regulations made under section 176 of the Act of 2000, for the time being in force, as being a development which may have significant effects on the environment, the applicant—

(I) is a body or organisation (other than a State authority, a public authority or governmental body or agency) the aims or objectives of which relate to the promotion of environmental protection, and

(II) has, during the period of 12 months preceding the date of the application, pursued those aims or objectives.

(4) A sufficient interest for the purposes of *subsection (3)(b)(i)* is not limited to an interest in land or other financial interest.

(5) If the Court grants *section 131* leave, no grounds shall be relied upon in the application for judicial review under Order 84 other than those determined by the Court to be substantial under *subsection (3)(a)*.

(6) The Court may, as a condition for granting *section 131* leave, require the applicant for such leave to give an undertaking as to damages.

(7) The determination of the Court of an application for *section 131* leave or of an application for judicial review on foot of such leave shall be final and no appeal shall lie from the decision of the Court to the Court of Appeal in either case save with leave of the Court which leave shall only be granted where the Court certifies that its decision involves a point of law of exceptional public importance and that it is desirable in the public interest that an appeal should be taken to the Court of Appeal.

(8) *Subsection (7)* shall not apply to a determination of the Court in so far as it involves a question as to the validity of any law having regard to the provisions of the Constitution.

(9) If an application is made for judicial review under Order 84 in respect of part only of a decision or other act to which *section 131(2)* applies, the Court may, if it thinks fit, declare to be invalid or quash the part concerned or any provision thereof without declaring invalid or quashing the remainder of the decision or other act or part of the decision or other act, and if the Court does so, it may make any consequential amendments to the remainder of the decision or other act or the part thereof that it considers appropriate.

(10) The Court shall, in determining an application for *section 131* leave or an application for judicial review on foot of such leave, act as expeditiously as possible consistent with the administration of justice.

(11) On an appeal from a determination of the Court in respect of an application referred to in *subsection (10)*, the Court of Appeal shall—

(a) have jurisdiction to determine only the point of law certified by the Court under *subsection (7)* (and to make only such order in the proceedings as follows from such determination), and

(b) in determining the appeal, act as expeditiously as possible consistent with the administration of justice.

(12) Rules of court may make provision for the expeditious hearing of applications for *section 131* leave and applications for judicial review on foot of such leave.

Annotations

Amendments:

F49 Inserted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

Modifications (not altering text):

C9 Prospective affecting provision: subs. (3)(b)(ii) amended by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

(ii) where the decision or act concerned relates to a development identified in or under regulations made under section 176 of the Act of 2000 F49**[**or regulations made under section 225 of the Act of 2024**]**, for the time being in force, as being a development which may have significant effects on the environment, the applicant—

Costs in environmental matters

133. (1) This section applies to proceedings of the following kinds:

(a) proceedings in the High Court by way of judicial review, or of seeking leave to apply for judicial review, of—

(i) any decision or purported decision made or purportedly made,

(ii) any action taken or purportedly taken, or

(iii) any failure to take any action,

pursuant to a provision of an enactment that gives effect to a relevant provision;

(b) an appeal (including an appeal by way of case stated) to the Supreme Court from a decision of the High Court in a proceeding referred to in *paragraph (a)*;

(c) proceedings in the High Court or the Supreme Court for interim or interlocutory relief in relation to a proceeding referred to in *paragraph (a)* or *(b)*.

(2) Notwithstanding anything contained in Order 99 of the Rules of the Superior Courts (S.I. No. 15 of 1986) and subject to *subsections (3)* to *(5)*, in proceedings to which this section applies, each party to the proceedings (including any notice party) shall bear its own costs.

(3) The costs of proceedings, or a portion of such costs, as are appropriate, may be awarded to the applicant to the extent that the applicant succeeds in obtaining relief and any of those costs shall be borne by the respondent or notice party, or both of them, to the extent that the actions or omissions of the respondent or notice party, or both of them, contributed to the applicant obtaining relief.

(4) The Court may award costs against a party in proceedings to which this section applies if the Court considers it appropriate to do so—

(a) because the Court considers that a claim or counterclaim by the party is frivolous or vexatious,

(b) because of the manner in which the party has conducted the proceedings, or

(c) where the party is in contempt of the Court.

(5) *Subsection (2)* does not affect the Court's entitlement to award costs in favour of a party in a matter of exceptional public importance and where in the special circumstances of the case it is in the interests of justice to do so.

(6) In this section a reference to "the Court" shall be construed as, in relation to particular proceedings to which this section applies, a reference to the High Court or the Supreme Court, as may be appropriate.

(7) In this section, "relevant provision" means a provision of—

(a) Council Directive 85/337/EEC of 27 June 1985[15] to which Article 10a (inserted by Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 [16] providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directive 85/337/EEC and Council Directive 96/61/EC[17]) of that Council Directive applies,

(b) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001[18] on the assessment of the effects of certain plans and programmes on the environment, or

(c) paragraph 3 or 4 of Article 6 of the Habitats Directive.

PART 6

Enforcement

Chapter 1

Interpretation, application and material change of circumstances

Interpretation

134. (1) In this Part—

"act" includes an omission;

"enforcement notice" means a notice under *section 141(2)*;

"holder" means the holder or former holder, as appropriate, of a relevant authorisation;

"investigation" means an investigation under *section 146*;

"investigation report", in relation to an investigation, means a report in writing prepared, following the completion of an investigation, by the

[15] OJ No. L 175, 05.07.1985, p. 40
[16] OJ No. L 156, 25.6.2003, p. 17
[17] OJ No. L 257, 10.10.1996, p. 26
[18] OJ No. L 197, 21.7.2001, p. 30

authorised officer appointed under *section 146(1)(b)* to carry out the investigation—

(a) stating that the authorised officer—

(i) is satisfied that a relevant ground applies to the holder the subject of the investigation, or

(ii) is not so satisfied,

as appropriate,

(b) if *paragraph (a)(i)* is applicable, stating the grounds on which the authorised officer is so satisfied, and

(c) if *paragraph (a)(ii)* is applicable, stating—

(i) the basis on which the authorised officer is not so satisfied, and

(ii) the authorised officer's opinion, in view of such basis, on whether or not a further investigation of the holder the subject of the investigation is warranted and, if warranted, the authorised officer's opinion on the principal matters to which the further investigation should relate;

"MAC" includes a MAC which has been F50**[**revoked under *Chapter 3A*,**]** terminated under *Chapter 4* or revoked under *Chapter 5*;

"licence" includes a licence which has been F50**[**revoked under *Chapter 3A*,**]** terminated under *Chapter 4* or revoked under *Chapter 5*;

"major sanction", in relation to a holder, means—

(a) the revocation of the relevant authorisation concerned and a prohibition (which may be a permanent prohibition, a prohibition for a specified period or a prohibition subject to specified conditions) against the holder making a relevant application for a new relevant authorisation or a particular class of relevant authorisation,

(b) the suspension for a specified period of the relevant authorisation concerned and a prohibition for a specified period against the holder making a relevant application for a new relevant authorisation or a particular class of relevant authorisation,

(c) a direction to the holder that the holder pay a sum, as specified in the direction but not exceeding the prescribed amount (or, if no amount is prescribed, not exceeding €50,000), to the MARA, being the whole or part of the cost to the MARA of an investigation of the holder,

(d) a direction to the holder that the holder pay a sum, as specified in the direction but not exceeding the prescribed amount (or, if no amount is prescribed, not exceeding €5,000,000), to the MARA by way of a financial penalty for an act of the holder specified in the direction, or

(e) any combination of any of the sanctions specified in *paragraphs (a)*, *(c)* and *(d)* or *paragraphs (b)*, *(c)* and *(d)*;

"minor sanction", in relation to a holder, means—

(a) the issue, to the holder, of—

(i) advice,

(ii) a caution,

(iii) a warning, or

(iv) a reprimand,

or

(b) any combination of any of the sanctions specified in *paragraph (a)*;

"premises" includes place and any fixed or moveable structure;

"relevant application" means, as appropriate—

(a) a MAC application,

(b) a licence application,

(c) both a MAC application and a licence application, or

(d) an application under *section 88* or *126*;

"relevant authorisation" means a MAC or licence;

"relevant ground", in relation to a holder, means that—

(a) the holder has contravened a relevant provision,

(b) the holder is contravening a relevant provision,

(c) the holder has contravened a relevant provision in circumstances that make it likely that the contravention will continue or be repeated,

(d) there has been a material change of circumstances F51**[**...**]**,

(e) the holder (including in the holder's former capacity as an applicant for the relevant authorisation concerned) has given information to the MARA under this Act that was false or misleading in a material particular, or

(f) the holder has failed to comply with an enforcement notice;

F52**[**"relevant provision" means a provision of—

(a) a relevant authorisation,

(b) a development permission granted in respect of the maritime usage the subject of a relevant authorisation, or

(c) this Act.**]**

(2) Where a provision of this Part confers a discretion on the MARA or a court to revoke or suspend a relevant authorisation which is a MAC and the holder of the relevant authorisation holds two or more relevant authorisations which are MACs, that discretion may be exercised so as to revoke or suspend, as the case may be, some or all of those relevant authorisations as the MARA or the court, as the case may be, thinks fit in all the circumstances of the case, and the other provisions of this Part shall, with all necessary modifications, be construed accordingly.

Annotations

Amendments:

F50 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 55(a), (b), S.I. No. 447 of 2022.

F51 Deleted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 55(c), S.I. No. 447 of 2022.

F52 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 55(d), S.I. No. 447 of 2022.

Application

135. (1) The MARA may, as it thinks fit in all the circumstances of the case—

(a) initiate proceedings under *Chapter 3* in respect of a matter without initiating proceeding under *Chapter 5* in respect of that same matter,

(b) initiate proceedings under *Chapter 5* in respect of a matter without initiating proceedings under *Chapter 3* in respect of that same matter,

(c) initiate proceedings under both *Chapters 3* and *5* in respect of the same matter, whether at the same or different times,

(d) abandon proceedings initiated under *Chapter 3* in respect of a matter in favour of initiating, or continuing, proceedings under *Chapter 5* in respect of that same matter, or

(e) abandon proceedings initiated under *Chapter 5* in respect of a matter in favour of initiating, or continuing, proceedings under *Chapter 3* in respect of that same matter.

(2) No proceedings shall be initiated under *Chapter 3* in respect of a relevant ground which falls within *paragraph (e)* or *(f)* of the definition of "relevant ground".

F53**[**(2A) Without prejudice to the generality of *subsection (1)*, the MARA may, as it thinks fit in all the circumstances of the case—

(a) abandon proceedings initiated under *Chapter 3* or *5* in respect of a matter in favour of initiating proceedings under *Chapter 3A* in respect of the same matter, or

(b) abandon proceedings initiated under *Chapter 3A* in respect of a matter in favour of initiating proceedings under *Chapter 3* or *5* in respect of the same matter.**]**

F54**[**(3) A revocation under *Chapter 3A*, a suspension under *Chapter 4A*, or a revocation or suspension under *Chapter 5*, of a relevant authorisation may relate to a part only of the maritime usage the subject of the relevant authorisation and, in any such case, the other provisions of this Part shall, with all necessary modifications, be construed accordingly.**]**

Annotations

Amendments:

F53 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 56(a), S.I. No. 447 of 2022.

F54 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 56(b), S.I. No. 447 of 2022.

Material change of circumstances

136. For the purposes of this Act, a material change of circumstances F55**[**...**]** is where the MARA or a court, as appropriate, is satisfied that—

(a) there has been a change of circumstances of the holder F56**[**concerned**]**, or of the part of the maritime area the subject of the relevant authorisation, that will or may adversely affect, in a material way, the undertaking of the maritime usage or proposed maritime usage the subject of the relevant authorisation (including adversely affecting any period within which, or the occurrence of any event on which, the undertaking of the usage is to commence or be completed), or

(b) there has been a change of circumstances of the holder F56**[**concerned**]**, or of the part of the maritime area the subject of the relevant authorisation, such that, if the holder did not hold that relevant authorisation and were to make a relevant application for a relevant authorisation in the like terms, the provisions of *Part 4* or *5*, as appropriate, as in force at the time that the relevant authorisation was granted, would prevent the MARA from granting a relevant authorisation in such terms to the holder.

Annotations

Amendments:

F55 Deleted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 57(a), S.I. No. 447 of 2022.

F56 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 57(b), (c), S.I. No. 447 of 2022.

Chapter 2

Appointment and powers of authorised officers

Authorised officers of MARA

137. (1) The MARA may appoint in writing such and so many persons (including a person referred to in *section 64(5)*), including but not limited to members of staff of the MARA, to be authorised officers for the purposes of all or any of the provisions of this Act as it thinks appropriate and such appointment may be specified to be for a fixed period.

(2) Every authorised officer appointed under this section shall be given a warrant of appointment and shall, when exercising any power conferred on him or her by or under this Act, if requested by a person affected, produce the warrant of appointment or a copy of it to that person.

(3) An appointment under this section as an authorised officer shall cease—

(a) if the MARA revokes the appointment, or

(b) if the appointment is for a fixed period, on the expiry of that period.

(4) (a) *Paragraph (b)* applies to an authorised officer appointed under *subsection (1)* who is not a member of staff of the MARA.

(b) The authorised officer shall be so appointed as such on such terms and conditions as the MARA thinks fit with the approval of the Minister and the consent of the Minister for Public Expenditure and Reform.

Powers of authorised officers

138. (1) Regardless of whether or not an investigation is being carried out, the powers conferred on an authorised officer by this section may be exercised for the purposes of—

(a) ascertaining whether or not a relevant ground applies to a holder,

(b) ascertaining whether or not an offence under this Act or Part VIII of the Act of 2000 has been committed or is being committed, or

(c) otherwise securing the enforcement of this Act or the Act of 2000.

(2) An authorised officer may do all or any of the following:

(a) subject to *subsection (3)*, at all reasonable times enter (or, as appropriate, board) any premises, at which there are reasonable grounds for believing that any books, records or other documents in relation to any relevant authorisation are kept, and search and inspect the premises and such books, records or other documents on the premises (including taking photographs or video or other recordings of the premises or such books, records or other documents on the premises);

(b) secure for later inspection any premises or any part of a premises in which such books, records or other documents are kept or there are reasonable grounds for believing that such books, records or other documents are kept;

(c) require any holder or any person employed by the holder to produce to the authorised officer such books, records or other documents and in the case of information in a non-legible form to reproduce it in a legible form or to give to the officer such information or explanation as the officer may reasonably require in relation to any entries in such books, records or other documents;

(d) inspect and take copies of or extracts from, or remove for a reasonable period for further examination, any books, records or other documents in whatever form kept (including, in the case of information in a non-legible form, a copy of or extract from such information in a permanent legible form) which the officer finds or which is produced to the officer in the course of inspection;

(e) require any holder or any person employed by the holder to give to the authorised officer such information as the officer may reasonably require in relation to any entries in such books, records or other documents;

(f) require any holder to give to the authorised officer any information which the authorised officer may require in regard to the maritime usage concerned or in regard to the persons carrying on such usage or employed in connection therewith;

(g) require any person by whom or on whose behalf data equipment is or has been used or any person having charge of, or otherwise concerned with the operation of, the data equipment or any associated apparatus or material, to afford the authorised officer reasonable assistance in relation thereto;

(h) summon, at any reasonable time, any other person employed in connection with the maritime usage concerned to give to the authorised officer any information which the officer may reasonably require in regard to such usage and to produce to the authorised officer any books, records or other documents which are in that person's power or control;

(i) require any person employed in the premises concerned by any holder to prepare a report on aspects of the maritime usage concerned specified by the authorised officer or to explain entries in any books, records, documents or other materials referred to in this section.

(3) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant issued by a judge of the District Court under *subsection (8)* authorising such entry.

(4) A person who has in his or her power, possession or procurement any books, records or other documents referred to in *subsection (2)* shall—

(a) produce them at the request of an authorised officer and permit the authorised officer to inspect and take copies of, or extracts from, them,

(b) at the request of an authorised officer, give any information which may be reasonably required with regard to them, and

(c) give such other assistance and information to an authorised officer as is reasonable in all the circumstances of the case.

(5) Where any person from whom production of a book, record or other document is required claims a lien thereon, the production of it shall be without prejudice to the lien.

(6) The duty to produce or provide any information, document, material or explanation extends to an examiner, liquidator, receiver, official assignee or any person who is or has been an officer or employee or agent of a holder, or who appears to the MARA or the authorised officer to have the information, document, material or explanation in his or her possession or under his or her control.

(7) An authorised officer, where he or she considers it necessary, may be accompanied by a member of the Garda Síochána when performing any powers conferred on an authorised officer by this Act.

(8) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is information required by an authorised officer under this section held on any premises or any part of any premises, the judge may issue a warrant authorising an authorised officer, accompanied by other authorised officers or by a member of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production of the warrant if so requested, to enter (or, as appropriate, board) the premises, if need be by reasonable force, and exercise all or any of the powers conferred on an authorised officer under this section.

(9) (a) If any officer, employee, shareholder or agent of a holder refuses to produce to an authorised officer when requested to do so any book, record or document which it is his or her duty under this section to produce, or refuses to co-operate with an authorised officer when required to do so, or refuses to answer any question put to him or her by an authorised officer with respect to the affairs of the holder, the authorised officer may certify the refusal under his or her hand to the High Court.

(b) Where a refusal is certified to the High Court, the High Court may enquire into the case and, after hearing any witnesses who may be produced against or on behalf of the officer, employee, shareholder or agent of the holder and any statement which may be offered in defence, make any order or direction as it thinks fit.

(c) An order or direction made under *paragraph (b)* may include a direction to the person concerned to attend or reattend before the authorised

officer or produce particular books, records or other documents or answer a particular question put to him or her by the authorised officer, or a direction that the person concerned need not produce a particular book, record or other document or answer a particular question put to him or her by the authorised officer.

(10) (a) Subject to *paragraph (b)*, the District Court for the purposes of *subsection (8)* shall be the District Court for the District Court district where the premises concerned referred to in that subsection are situated.

(b) Where the premises concerned referred to in *subsection (8)* are situated within the maritime area, the District Court for the purposes of that subsection shall be the District Court assigned to the Dublin Metropolitan District.

(11) In this section—

"agent", in relation to a holder, includes past as well as present agents, and includes the holder's bankers, accountants, solicitors, auditors and the holder's financial and other advisers;

"premises" includes (and without prejudice to the generality of the definition of "premises" in *section 134*)—

(a) any vessel, aircraft, vehicle and any other means of transport, and

(b) any part of the maritime area the subject of a relevant authorisation and any infrastructure situated in that part pursuant to the relevant authorisation.

Annotations

Amendments:

F57 Substituted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

Modifications (not altering text):

C10 Prospective affecting provision: subs. (1)(b), (c) amended by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

(b) ascertaining whether or not an offence under this Act F57**[**, Part VIII of the Act of 2000 or Part 11 of the Act of 2024**]** has been committed or is being committed, or

(c) otherwise securing the enforcement of this Act F57**[**, the Act of 2000 or the Act of 2024**]**.

Privileged legal material

139. (1) Subject to *subsection (2)*, nothing in this Chapter shall compel the disclosure by any person of privileged legal material or authorise the taking of privileged legal material.

(2) The disclosure of information may be compelled, or possession of it taken, pursuant to the powers of this Chapter, notwithstanding that it is apprehended that the information is privileged legal material provided the compelling of its disclosure or the taking of its possession is done by means whereby the confidentiality of the information can be maintained (as against the person compelling such disclosure or taking such possession) pending the determination by the court of the issue as to whether the information is privileged legal material.

(3) Without prejudice to *subsection (4)*, where, in the circumstances referred to in *subsection (2)*, information has been disclosed or taken possession of pursuant to the powers in this Chapter, the person—

(a) to whom such information has been so disclosed, and

(b) who has taken possession of it,

shall (unless the person has, within the period subsequently mentioned in this subsection, been served with notice of an application under *subsection (4)* in relation to the matter concerned) apply to the court for a determination as to whether the information is privileged legal material and an application under this subsection shall be made within seven days after the disclosure or the taking of possession.

(4) A person who, in the circumstances referred to in *subsection (2)*, is compelled to disclose information, or from whose possession information is taken, pursuant to the powers in this Chapter, may apply to the court for a determination as to whether the information is privileged legal material.

(5) Pending the making of a final determination of an application under *subsection (3)* or *(4)*, the court may give such interim or interlocutory directions as the court considers appropriate including, without prejudice to the generality of the foregoing, directions as to—

(a) the preservation of the information, in whole or in part, in a safe and secure place in any manner specified by the court,

(b) the appointment of a person with suitable legal qualifications possessing the level of experience, and the independence from any interest falling to be determined between the parties concerned, that the court considers to be appropriate for the purpose of—

(i) examining the information, and

(ii) preparing a report for the court with a view to assisting or facilitating the court in the making by the court of its determination as to whether the information is privileged legal material.

(6) An application under *subsection (3)*, *(4)* or *(5)* shall be by motion and may, if the court directs, be heard otherwise than in public.

(7) In this section—

"court" means the High Court;

"information" means information contained in a document, a computer (including a personal organiser or any other electronic means of information storage or retrieval) or otherwise;

"privileged legal material" means information which, in the opinion of the court, a person is entitled to refuse to produce on the grounds of legal professional privilege.

Chapter 3

Enforcement notices

Circuit Court's jurisdiction under this Chapter

140. (1) Subject to *subsection (2)*, the Circuit Court shall have jurisdiction to hear and determine proceedings under this Chapter in relation to an enforcement notice given to a holder.

(2) (a) Subject to *paragraph (b)*, the Circuit Court for the purposes of *subsection (1)* shall be the Circuit Court for that circuit in which the holder the subject of the enforcement notice concerned resides or ordinarily carries on any profession, business or occupation.

(b) Where the holder the subject of the enforcement notice concerned—

(i) does not reside or ordinarily carry on any profession, business or occupation in the State, or

(ii) resides or ordinarily carries on any profession, business or occupation in the maritime area,

the Circuit Court for the purposes of *subsection (1)* shall be the Circuit Court for the Dublin Circuit.

Issue of enforcement notices

141. (1) *Subsection (2)* applies where the MARA is of the opinion (in this section referred to as the "relevant opinion") that a relevant ground applies to a holder.

(2) Without prejudice to the generality of the other provisions of this Part and subject to *subsection (3)*, the MARA may give the holder a notice in writing, accompanied by a copy of this Chapter—

(a) stating the relevant opinion,

(b) specifying the relevant ground as to why it is of that opinion and the reasons why it is of that opinion,

(c) directing the holder to take such steps as are specified in the notice to remedy the relevant ground or, as the case may be, the matters occasioning it, and

(d) specifying a period (ending not earlier than the period specified in *section 142(1)* within which an application under that section to cancel a direction specified in the notice may be made) within which those steps must be taken.

(3) The MARA shall not give the holder an enforcement notice unless, in the interests of procedural fairness, the MARA has first—

(a) given the holder a notice in writing stating the nature of the enforcement notice that the MARA is minded to give to the holder and the reasons why the MARA is so minded,

(b) given the holder a reasonable opportunity, in the circumstances concerned, to make representations in writing to the MARA on what is stated in the notice referred to in *paragraph (a)*, and

(c) had regard to the representations (if any) referred to in *paragraph (b)* made to the MARA.

(4) The steps specified in an enforcement notice to remedy any relevant ground to which the notice relates may be framed so as to afford the holder a choice between different ways of remedying the relevant ground.

(5) Where the holder to whom an enforcement notice has been given makes an application under *section 142(1)* to cancel a direction specified in the notice, the steps specified in the notice, in so far as they relate to that direction, need not be taken by the holder pending the determination, withdrawal or abandonment of the application.

(6) The MARA may cancel an enforcement notice by notice in writing given to the holder.

(7) Where the holder fails to take the steps specified in an enforcement notice given to him or her, the MARA may, on notice to the holder, apply in a summary manner to the Circuit Court for an order requiring the holder to take those steps (or to take such varied or other steps for the like purpose as may be specified in the order), and the Circuit Court—

(a) may—

(i) make the order sought,

(ii) make the order sought subject to such variations to those steps as may be specified in the order, or

(iii) make the order sought subject to such other steps for the like purpose as may be specified in the order,

or

(b) may dismiss the application,

and, whether *paragraph (a)* or *(b)* is applicable, may make such order as to costs as it thinks fit in respect of the application.

(8) For the avoidance of doubt, it is hereby declared that the giving of an enforcement notice to the holder does not relieve the holder of—

(a) any duty, obligation or responsibility under another provision of this Act or another enactment that relates to, or

(b) any liability arising from,

the relevant ground to which the notice relates.

Application for cancellation of direction specified in enforcement notice, etc.

142. (1) The holder to whom an enforcement notice has been given may, on notice to the MARA, not later than 30 days after being given the notice, apply to the Circuit Court for the cancellation of any direction specified in the notice and, on such an application, the Circuit Court may—

(a) cancel the direction,

(b) confirm the direction, or

(c) vary the direction,

and, whether *paragraph (a)*, *(b)* or *(c)* is applicable, make such order as to costs as it thinks fit in respect of the application.

(2) The decision of the Circuit Court on a direction specified in an enforcement notice shall be final save that, by leave of the High Court, an appeal by the holder, or the MARA, as the case may be, from the decision shall lie to the High Court on a point of law.

Rules of court

143. Rules of court may make provision for the expedition of the hearing of proceedings under this Chapter.

F58[CHAPTER 3A

Special enforcement notices]

Annotations

Amendments:

F58 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 58, S.I. No. 447 of 2022.

F59[**Definitions**

143A. In this Chapter, "special enforcement notice" means a notice under *section 143B(2)*.]

Annotations

Amendments:

F59 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 58, S.I. No. 447 of 2022.

F60[**Issue of special enforcement notices**

143B. (1) *Subsection (2)* applies where the MARA is of the opinion (in this section referred to as the "relevant opinion") that a relevant ground applies to a holder and the gravity or potential gravity of such ground is so great that the provisions of this Chapter should apply to that ground rather than the provisions of *Chapter 3*.

(2) Without prejudice to the generality of the other provisions of this Part and subject to *subsection (3)*, the MARA may give the holder a notice in writing, accompanied by a copy of this Chapter—

(a) stating the relevant opinion,

(b) specifying the relevant ground as to why it is of that opinion and the reasons why it is of that opinion,

(c) directing the holder to take such steps as are specified in the notice to remedy the relevant ground or, as the case may be, the matters occasioning it, and

(d) specifying a period (being a period reasonable in all the circumstances of the case) within which those steps must be taken.

(3) The period specified by the MARA pursuant to *subsection (2)(d)* may, at the request of the holder, be extended at the discretion of the MARA.

(4) The MARA shall not give the holder a special enforcement notice unless, in the interests of procedural fairness, the MARA has first—

(a) given the holder a notice in writing stating the nature of the special enforcement notice that the MARA is minded to give to the holder and the reasons why the MARA is so minded,

(b) given the holder a reasonable opportunity, in the circumstances concerned, to make representations in writing to the MARA on what is stated in the notice referred to in *paragraph (a)*, and

(c) had regard to the representations (if any) referred to in *paragraph (b)* made to the MARA.

(5) The steps specified in a special enforcement notice to remedy any relevant ground to which the notice relates may be framed so as to afford the holder a choice between different ways of remedying the relevant ground.

(6) The MARA may cancel a special enforcement notice by notice in writing given to the holder.

(7) Subject to *subsection (8)*, where the holder fails to take the steps specified in a special enforcement notice, the MARA may, by notice in writing given to the holder, revoke the holder's relevant authorisation.

(8) The revocation of a relevant authorisation under *subsection (7)* shall not take effect until—

(a) the date (if any) on which the MARA receives a notice in writing from the holder, not later than 30 days after the holder is given the notice concerned under *subsection (6)*, stating that the holder accepts the revocation, or

(b) the date (if any) that the High Court specifies that the revocation shall take effect in an order under *section 143C* confirming the termination,

whichever first occurs.

(9) For the avoidance of doubt, it is hereby declared that the giving of a special enforcement notice to the holder does not relieve the holder of—

(a) any duty, obligation or responsibility under another provision of this Act or another enactment that relates to, or

(b) any liability arising from,

the relevant ground to which the notice relates.**]**

Annotations

Amendments:

F60 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 58, S.I. No. 447 of 2022.

F61**[Application to High Court to confirm revocation of relevant authorisation under section 143B(6)**

143C. (1) Where the MARA does not receive a notice referred to in *section 143B(7)(a)* within the period specified in that section, it may, as soon as is practicable after the expiration of that period and on notice to the holder, make an application in a summary manner to the High Court for an order confirming the revocation of the holder's relevant authorisation under *section 143B(6)*.

(2) The High Court may determine an application under *subsection (1)* by—

(a) making any order that it considers appropriate, including an order revoking the relevant authorisation the subject of the application from the date specified for the purpose by the High Court in the order, and

(b) giving to the MARA any other direction that it considers appropriate.

(3) The MARA shall, on complying with a direction of the High Court under *subsection (2)(b)*, give notice in writing to the holder concerned of the MARA's compliance with such direction.

(4) The decision of the High Court on an application under *subsection (1)* is final except that the MARA or the holder the subject of the decision may, by leave of that Court or the Court of Appeal, appeal against the decision to the Court of Appeal on a point of law.**]**

Annotations

Amendments:

F61 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 58, S.I. No. 447 of 2022.

F62**[Rules of court**

143D. Rules of court may make provision for the expedition of the hearing of proceedings under this Chapter.**]**

Annotations

Amendments:

F62 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 58, S.I. No. 447 of 2022.

Chapter 4

F63**[***Termination***]** *of relevant authorisation*

Annotations

Amendments:

F63 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 59, S.I. No. 447 of 2022.

Automatic termination of relevant authorisation

144. (1) Subject to F64**[***section 144A* and**]** *Chapter 6*, a relevant authorisation terminates immediately upon the occurrence of any of the following events:

(a) where the holder is an individual, the holder—

(i) dies,

(ii) is adjudicated bankrupt (whether in the State or elsewhere), or

(iii) becomes an arranging debtor (whether in the State or elsewhere);

(b) where the holder is a body corporate—

(i) the holder commences a voluntary winding-up or becomes subject to a winding-up order,

(ii) a receiver or examiner is appointed to the holder,

(iii) the holder proposes a compromise or arrangement that is sanctioned under section 453(2) of the Act of 2014 or section 201(3) of the Act of 1963, or

(iv) where the body is incorporated under the laws of another state, on the commencement of any event which corresponds to an event referred to in *subparagraph (i)*, *(ii)* or *(iii)*;

(c) development permission is required for the maritime usage the subject of the authorisation and the application for such permission—

(i) has not been made within the period specified in a condition, referred to in *paragraph 5* of *Part 1* of *Schedule 6*, attached to the authorisation, or

(ii) has been refused in circumstances where no further step can be taken by the holder, or a court, in respect of that application.

(2) (a) Where *subsection (1)(a)(i)* applies to the holder, the personal representative of the holder's estate shall, as soon as is practicable after the death of the holder, give notice in the specified form to the MARA informing the MARA of such death.

(b) Where *subsection (1)(a)(ii)* or *(iii)* applies to the holder, the holder shall, as soon as is practicable after that subsection so applies, give notice in the specified form to the MARA informing the MARA of such application.

(3) (a) Where *subsection (1)(b)(i)*, *(iii)* or *(iv)* applies to the holder, the holder shall, as soon as is practicable after that subsection so applies, give notice in the specified form to the MARA informing the MARA of such application.

(b) Where *subsection (1)(b)(ii)* applies to the holder, the receiver or examiner concerned shall, as soon as is practicable after that subsection so applies, give notice in the specified form to the MARA informing the MARA of such application.

(4) Where *subsection (1)(c)(ii)* applies to a relevant authorisation, the holder concerned shall, as soon as is practicable after that subsection so applies, give notice in the specified form to the MARA informing the MARA of such application.

(5) The MARA shall, as soon as is practicable after it becomes aware of the termination under this section of a relevant authorisation, publish a notice on its website—

(a) stating the name of the holder,

(b) giving particulars of the authorisation sufficient to identify the authorisation,

(c) stating the ground under *subsection (1)* on which the authorisation was terminated, and

(d) the date on which the termination occurred.

Annotations

Amendments:

F64 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2022), s. 281, S.I. No. 653 of 2023.

F65**[Termination of relevant authorisation for breach**

144A. (1) The following breaches shall constitute grounds for termination of a relevant authorisation—

(a) where the holder of a relevant authorisation fails to comply with a development permission granted in respect of the maritime usage the subject of that relevant authorisation and such failure is not remedied in accordance with, and within such reasonable period as is specified in, a notice from the MARA to the holder requiring such failure to be remedied,

(b) where the holder of a relevant authorisation fails to pay relevant moneys, as defined in *section 167*, due and owing to the MARA,

(c) where the holder of a relevant authorisation is in material breach of any provision of the relevant authorisation, the Act or the law, which breach is not remedied in accordance with, and within such reasonable period as is specified in, a notice from the MARA to the holder requiring such breach to be remedied, or which breach is not capable of being remedied, or

(d) where the holder of a relevant authorisation is in repeated or cumulative breach of any one or more provisions of the relevant authorisation, the Act or the law, which collectively are reasonably determined by the MARA to constitute a material breach and which are not remedied in accordance with, and within such reasonable period as is specified in, a notice from the MARA to the holder requiring such failure to be remedied.

(2) Where the MARA is satisfied that there is a ground for termination of the relevant authorisation under *subsection (1)*, it shall serve a notice in writing on the holder of the relevant authorisation—

(a) specifying the particular breach complained of;

(b) if the breach is capable of remedy, requiring the holder of the relevant authorisation to remedy the breach;

(c) specifying a reasonable period, of at least 30 days, within which the breach must be remedied.

(3) If the breach is not remedied within the period specified in the notice served under *subsection (2)*, then the MARA shall serve notice of termination on the holder of the relevant authorisation.

(4) The holder of the relevant authorisation shall accept that the relevant authorisation has terminated or object to the notice of termination within a period of 30 days.

(5) Where the holder of the relevant authorisation does not accept that the relevant authorisation has terminated or objects to the termination of the relevant authorisation, then the MARA shall make as soon as practicable and on notice to the holder of the relevant authorisation, make an

application to the High Court to confirm that the relevant authorisation has terminated.

(6) The Court may either confirm that the relevant authorisation has terminated or refuse to confirm that the relevant authorisation has terminated, as the Court sees fit, having regard to the conduct of the parties under the foregoing provisions of this section and all other circumstances and where the Court refuses to confirm that the relevant authorisation has terminated, the Court may make such order subject to such terms and conditions as the Court sees fit.

(7) The entitlement of the MARA to terminate a relevant authorisation for a failure to comply with a development permission is independent of and without prejudice to the entitlement of the MARA to take enforcement action under Part VIII of the Act of 2000 and shall not be construed to prejudice the application of the Act of 2000 in the event of a failure by the holder of a relevant authorisation to comply with a development permission granted in respect of the maritime usage the subject of the relevant authorisation.

(8) The entitlement of the MARA to terminate a relevant authorisation for a failure to pay relevant moneys due and owing by the holder of the relevant authorisation to the MARA is independent of and without prejudice to the entitlement of the MARA to recover, as a simple contract debt in any court of competent jurisdiction, from a person by whom relevant moneys is payable, any amount due and owing to the MARA in respect of such moneys in accordance with section 169 of the Act.

(9) The entitlement of the MARA to terminate a relevant authorisation in accordance with this section is without prejudice to the entitlement of the MARA to exercise any of the other enforcement powers conferred on it under Part 6 of the Act.**]**

Annotations

Amendments:

F65 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 60, S.I. No. 447 of 2022.

F66 Substituted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

Modifications (not altering text):

C11 Prospective affecting provision: subs. (7) amended by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

(7) The entitlement of the MARA to terminate a relevant authorisation for a failure to comply with a development permission is independent of and without prejudice to the entitlement of the MARA to take enforcement action under Part VIII of the Act of 2000 F66**[**or under Part 11 of the Act of 2024 and shall not be construed to prejudice the application of the Act of 2000 or the Act of 2024**]** in the event of a failure by the holder of a relevant authorisation to comply with a development permission granted in respect of the maritime usage the subject of the relevant authorisation.

F67**[Disapplication of *section 144(1)(a)* or *(b)* of Act of 2021 in specified circumstances**

144A. (1) *Subject to subsections (4), (6), (8)* and *(9)*, the relevant event shall not terminate the relevant authorisation until the expiration of the relevant period.

(2) The MARA may, at any time during the relevant period, by notice in writing given to the relevant person, require the person to submit a return, in the specified form and within such period as is specified in the notice (being a period reasonable in all the circumstances of the case), to the MARA on the person's prospects of finding a proposed assignee within the relevant period.

(3) The relevant person who is given a notice under *subsection (2)* shall comply with the notice.

(4) Where—

(a) the relevant person who was given a notice under *subsection (2)* fails to comply with the notice, or

(b) the MARA, having considered a return submitted to it by the relevant person pursuant to a notice under *subsection (2)*, is satisfied that there is no reasonable prospect of the person finding a proposed assignee within the relevant period,

the MARA shall, by notice published on its website, disapply *subsection (1)* to the relevant authorisation (and *subsection (5)* of *section 144* applies accordingly in respect of the termination of the authorisation).

(5) The relevant person may, by notice in the specified form, request the MARA to extend or further extend the relevant period on the grounds specified in the notice.

(6) The MARA, after having considered a notice given to it by the relevant person pursuant to *subsection (5)*, shall—

(a) if it is satisfied that there is a reasonable prospect of the person finding a proposed assignee within the relevant period as extended or further extended for such period as the MARA thinks reasonable in all the circumstances of the case, by notice in writing given to the person, extend or further extend the relevant period for such period as is specified in the notice, or

(b) if not so satisfied, by notice in writing given to the person refuse to extend or further extend the relevant period.

(7) For the purposes of this section, the references to 'holder' and 'proposed assigner' in *section 85* may be construed as references to the relevant person.

(8) Where, before the expiration of the relevant period, an application is made under *section 85* for the assignment of the relevant authorisation, the relevant period shall not expire until the determination of the application.

(9) Where the relevant authorisation is assigned to the proposed assignee pursuant to the determination of an application under *section 85*, the relevant event shall not apply to the authorisation but without prejudice to any future application of *section 144* to the authorisation.

(10) In this section—

"proposed assignee" shall be construed in accordance with *section 85*;

"relevant authorisation" means a relevant authorisation which is a MAC in respect of which an event which falls within *section 144(1)(a)* or *(b)* has occurred in respect of the holder of the authorisation;

"relevant event", in relation to the relevant authorisation, means the event referred to in the definition of "relevant authorisation";

"relevant person", in relation to the relevant authorisation, means—

(a) the holder of the authorisation,

(b) a secured party, or

(c) both the holder and such party;

"relevant period", in relation to the relevant authorisation, means the following:

(a) subject to *paragraph (b)*, the period of 90 days commencing on the day immediately following the day on which the relevant event occurs;

(b) that 90 days as extended or by virtue of *subsection (6)(a)* or *(8)*;

"security interest" means any mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any agreement or other arrangement having a similar effect;

"secured party", in relation to a relevant authorisation, means a person—

(a) in whose favour a security interest has been created over—

(i) the maritime usage the subject of the authorisation, or

(ii) the shares (if any) of the holder of the authorisation,

or

(b) who has, pursuant to an agreement in writing, been afforded rights to step in to the interest that the holder of the authorisation has in the maritime usage the subject of the authorisation,

and whether or not the person is acting for the person's own benefit or as agent, security agent, security trustee or otherwise for the first-mentioned person or another person, and includes any transferee of, or purchaser from, the first-mentioned person or nominee or novatee of the holder of the authorisation or of the first-mentioned person.**]**

Annotations

Amendments:

F67 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2022), s. 282, S.I. No. 653 of 2023.

Editorial Notes:

E18 The section heading is taken from the amending section in the absence of one included in the amendment.

F68**[**CHAPTER 4A

*Immediate suspension of relevant authorisation***]**

Annotations

Amendments:

F68 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 61, S.I. No. 447 of 2022.

Circumstances in which application may be made to High Court for immediate suspension of relevant authorisation, etc.

145. (1) (a) *Paragraph (b)* applies where the MARA is of the opinion that a relevant ground may apply to a holder and the potential gravity of such ground (whether for safety or environmental reasons or otherwise), if it were found that it does so apply, is so great that the immediate suspension of the relevant authorisation concerned is warranted until steps or further steps are taken under *Chapter 3* F69**[**, *3A* or *5***]**.

(b) The MARA may, on notice to the holder, make an application in a summary manner to the High Court for an order to suspend the relevant authorisation.

(2) The High Court may determine an application under *subsection (1)* by—

(a) making any order that it considers appropriate, including an order suspending the relevant authorisation the subject of the application for such period, or until the occurrence of such event, as is specified in the order, and

(b) giving to the MARA any other direction that the High Court considers appropriate.

(3) The MARA shall, on complying with a direction of the High Court under *subsection (2)(b)*, give notice in writing to the holder concerned of the MARA's compliance with the direction.

(4) *Sections 151(3)* and *(4)* and *158(6)* shall, with all necessary modifications, apply to a relevant authorisation suspended under *subsection (2)* as they apply to a relevant authorisation suspended pursuant to a decision confirmed or given under *section 149(3)* or *150(2)*.

Annotations

Amendments:

F69 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 62, S.I. No. 447 of 2022.

F70**[**CHAPTER 5

*Investigations and sanctions***]**

Annotations

Amendments:

F70 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 63, S.I. No. 447 of 2022.

Investigations

146. (1) (a) The MARA may, where it is of the opinion that a relevant ground may apply to a holder, cause such investigation as it thinks fit to be carried out to identify any relevant ground.

(b) The MARA shall, for the purposes of the investigation, appoint an authorised officer, subject to such terms and conditions as it thinks fit—

(i) to carry out the investigation, and

(ii) to submit to it an investigation report following the completion of the investigation.

(2) The MARA may appoint more than one authorised officer to carry out an investigation but, in any such case, the investigation report concerned shall be prepared jointly by the authorised officers so appointed and the other provisions of this Act (including the definition of "investigation report" in *section 134*) shall, with all necessary modifications, be construed accordingly.

(3) The terms and conditions of appointment of an authorised officer may define the scope of the investigation to be carried out by the authorised officer, whether as respects the matters or the period to which it is to extend or otherwise, and in particular may limit the investigation to matters connected with particular circumstances.

(4) Where the MARA has appointed an authorised officer to carry out an investigation, the authorised officer shall, as soon as is practicable after being so appointed—

(a) give notice in writing to the holder concerned of the matter to which the investigation relates, and

(b) give the holder—

(i) copies of any documents relevant to the investigation, and

(ii) a copy of this Part, and

(iii) without prejudice to the generality of *section 138*, afford the holder an opportunity to respond within 30 days from the date on which the holder received the notice referred to in *paragraph (a)*, or such further period not exceeding 30 days as the authorised officer allows, to the matter to which the investigation relates.

Actions to be taken by authorised officer and MARA upon completion of investigation

147. (1) Subject to *subsection (3)*, where an authorised officer has completed an investigation, the authorised officer shall, as soon as is practicable after having considered, in so far as they are relevant to the investigation, any information or books, records or other documents (whether kept in manual form or otherwise) provided to the authorised officer pursuant to any requirement under *section 138*, any statement or admission made by any person pursuant to any requirement under that section, any submissions made and any evidence presented—

(a) prepare a draft of the investigation report, and

(b) give to the holder the subject of the investigation—

(i) a copy of the draft of the investigation report,

(ii) a copy of this section, and

(iii) a notice in writing stating that the holder may, not later than 30 days from the date on which the notice was received by the holder, or such further period not exceeding 30 days as the authorised officer allows, make submissions in writing to the authorised officer on the draft of the investigation report.

(2) Subject to *subsection (3)*, an authorised officer who has complied with *subsection (1)* following the completion of an investigation shall, as soon as is practicable after—

(a) the expiration of the period referred to in *subsection (1)(b)(iii)*, and

(b) having—

(i) considered the submissions (if any) referred to in *subsection (1)(b)(iii)* made before the expiration of that period on the draft of the investigation report concerned, and

(ii) made any revisions to the draft of the investigation report which, in the opinion of the authorised officer, are warranted following such consideration,

prepare the final form of the investigation report and submit it to the MARA with any such submissions annexed to the report.

(3) Where an authorised officer states, whether in a draft of the investigation report or in the final form of the investigation report, that he or she is satisfied that a relevant ground applies to the holder the subject of the investigation, the authorised officer shall not make any recommendation, or express any opinion, in the report as to the minor sanction or major sanction that he or she thinks ought to be imposed on the holder in respect of such ground in the event that the MARA is also satisfied that such ground applies to the holder.

(4) Subject to *subsection (5)*, where the MARA has considered an investigation report (and any submissions annexed thereto) submitted to it pursuant to *subsection (2)*, the MARA—

(a) if it is satisfied that a relevant ground applies to the holder the subject of the investigation, shall, subject to *subsection (6)* and *section 148* —

(i) impose a minor sanction on the holder, or

(ii) impose a major sanction on the holder,

as it thinks fit in all the circumstances of the case, or

(b) if it is not satisfied that a relevant ground applies to the holder the subject of the investigation but is of the opinion that a further investigation of the holder is warranted, shall cause the further investigation to be carried out pursuant to its powers under *section 146(1)*.

(5) The MARA shall, as soon as is practicable after making a decision under *subsection (4)*, give notice in writing of the decision and the reasons for the decision to the holder the subject of the investigation concerned and, if *subsection (4)(a)* applies in the case of that holder, set out in that notice—

(a) the minor sanction or major sanction imposed on the holder for the relevant ground specified in the notice in respect of which the MARA is satisfied as referred to in that subsection, and

(b) the reasons for the imposition of such minor sanction or major sanction, as the case may be.

(6) Where *subsection (4)(a)* applies in the case of a holder, the MARA shall, in deciding the minor sanction or major sanction to be imposed on the holder, take into consideration the matters referred to in *section 152*.

Confirmation of High Court required before decision under *section 147(4)(a)* to impose major sanction takes effect

148. Subject to *section 145*, a decision under *section 147(4)(a)* to impose a major sanction on a holder shall not take effect unless the decision is confirmed by the High Court under *section 149(3)* or *150(2)*.

Appeal to High Court against decision to impose major sanction

149. (1) A holder the subject of a decision under *section 147(4)(a)* by the MARA to impose a major sanction on the holder may, not later than 30 days from the date the holder received the notice under *section 147(5)* of the decision and on notice to the MARA, appeal to the High Court against the decision.

(2) The High Court may, on the hearing of an appeal under *subsection (1)* by a holder, consider any evidence adduced or argument made, whether or not adduced or made to an authorised officer or the MARA.

(3) Subject to *subsection (4)*, the High Court may, on the hearing of an appeal under *subsection (1)* by a holder—

(a) either—

(i) confirm the decision the subject of the appeal, or

(ii) cancel that decision and replace it with such other decision as the Court considers appropriate, which may be a decision—

(I) to do either or both of the following:

(A) impose a different major sanction on the holder;

(B) impose a minor sanction on the holder,

or

(II) to impose neither a major sanction nor a minor sanction on the holder,

and

(b) whether *paragraph (a)(i)* or *(ii)* is applicable, make such order as to costs as it thinks fit in respect of the appeal.

(4) The High Court shall, for the purposes of *subsection (3)(a)(i)* or *(ii)(I)*, take into consideration the matters referred to in *section 152*.

Application to High Court to confirm decision to impose major sanction

150. (1) Where a holder does not, within the period allowed under *section 149(1)*, appeal to the High Court against a decision under *section 147(4)(a)* by the MARA to impose a major sanction on the holder, the MARA shall, as soon as is practicable after the expiration of that period and on notice

to the holder, make an application in a summary manner to the High Court for confirmation of the decision.

(2) The High Court shall, on the hearing of an application under *subsection (1)*, confirm the decision under *section 147(4)(a)* the subject of the application unless the Court considers that there is good reason not to do so.

Provisions supplementary to *sections 149* and *150*

151. (1) The decision of the High Court on an appeal under *section 149(1)* or an application under *section 150(1)* is final except that the MARA or the holder the subject of the decision may, by leave of that Court or the Court of Appeal, appeal against the decision to the Court of Appeal on a point of law.

(2) Where the High Court confirms or gives a decision under *section 149(3)* or *150(2)*, the MARA shall, as soon as is practicable after the decision is confirmed or given, as the case may be, give notice in writing of the decision to the holder the subject of the decision and, if the decision provides for the imposition of a major sanction on the holder which falls within *paragraph (b)* of the definition of "major sanction", the notice shall specify the day on which the specified period referred to in that paragraph is to commence, being a day not earlier than seven days from the date on which the decision is confirmed or given, as the case may be.

(3) Subject to *Chapter 6*, a MAC which is suspended pursuant to a decision confirmed or given under *section 149(3)* or *150(2)* by the High Court shall not be in force during the period of its suspension.

(4) The holder whose relevant authorisation has been revoked or suspended pursuant to a decision confirmed or given under *section 149(3)* or *150(2)* by the High Court shall comply with any directions of the MARA given to the person in respect of the surrender or temporary surrender of the relevant authorisation and any copies thereof.

Matters to be considered in determining sanctions to be imposed

152. (1) The MARA or the High Court, as appropriate, in considering—

(a) the minor sanction or major sanction to be imposed on a holder pursuant to *section 147(4)(a)*, or

(b) the minor sanction (if any) or major sanction (if any) to be imposed on a holder pursuant to a decision confirmed or given under *section 149(3)* or *150(2)*,

shall take into account the circumstances of the relevant ground concerned (including the factors occasioning it).

(2) Without prejudice to the generality of *subsection (1)*, the MARA or the High Court, as appropriate, may, in relation to the holder concerned, have regard to—

(a) the need to ensure that any sanction imposed—

(i) is appropriate and proportionate to the relevant ground, and

(ii) if applicable, will act as a sufficient incentive to ensure that any like relevant ground will not apply to the holder in the future,

(b) the seriousness of the relevant ground,

(c) the income of the holder in the financial year ending in the year previous to the year in which the relevant ground last applied to the holder and the ability of the holder to pay an amount which falls within *paragraph (c)*, *(d)* or *(e)* of the definition of "major sanction",

(d) the extent of any failure by the holder to co-operate with the investigation concerned of the holder,

(e) any excuse or explanation by the holder for the relevant ground or failure to co-operate with the investigation concerned,

(f) any gain (financial or otherwise) made by the holder or by any other person in which the holder has a financial interest as a consequence of the relevant ground,

(g) the amount of any loss suffered, or costs incurred, by the State as a result of the relevant ground,

(h) the duration of the relevant ground,

(i) the repeated application of the relevant ground to the holder,

(j) if applicable, the continuation of the relevant ground after the holder was notified of the investigation concerned,

(k) if applicable, the absence, ineffectiveness or repeated failure of internal mechanisms or procedures of the holder intended to prevent relevant grounds,

(l) if applicable, the extent and timeliness of any steps taken to end the relevant ground and any steps taken for remedying the consequences of the relevant ground,

(m) whether a sanction in respect of the relevant ground has already been imposed on the holder by a court, the MARA or another person, and

(n) any precedents set by a court, the MARA or another person in respect of previous relevant grounds.

Protection for persons reporting alleged relevant ground, etc.

153. (1) Subject to *subsection (3)*, a person who, apart from this section, would be so liable shall not be liable in damages in respect of the communication to the MARA, whether in writing or otherwise, of his or her opinion that a relevant ground may apply to a holder, or that a contravention of a provision of this Act by a person other than a holder may have been or may be being committed, unless—

(a) in communicating his or her opinion to the MARA did so—

(i) knowing it to be false, misleading, frivolous or vexatious, or

(ii) reckless as to whether it was false, misleading, frivolous or vexatious,

or

(b) in connection with the communication of his or her opinion to the MARA, gave information that he or she knew to be false or misleading.

(2) The reference in *subsection (1)* to liability in damages shall be construed as including a reference to liability to any other form of relief.

(3) *Subsection (1)* shall not apply to a communication, or giving of information, that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.

(4) *Subsection (1)* is in addition to, and not in substitution for, any privilege or defence available in legal proceedings, by virtue of any statutory provision or rule of law in force immediately before the coming into operation of this section, in respect of the communication by a person to another (whether that other person is the MARA or not) of an opinion of the kind referred to in *subsection (1)*.

(5) Subject to *subsection (6)*, an employer shall not penalise or threaten penalisation against an employee, or cause or permit any other person to penalise or threaten penalisation against an employee, for—

(a) having formed an opinion of the kind referred to in *subsection (1)* and communicated it, whether in writing or otherwise, to the MARA unless the employee—

(i) in communicating his or her opinion to the MARA did so—

(I) knowing it to be false, misleading, frivolous or vexatious, or

(II) reckless as to whether it was false, misleading, frivolous or vexatious,

or

(ii) in connection with the communication of his or her opinion to the MARA, gave information that he or she knew to be false or misleading in a material particular,

or

(b) giving notice of his or her intention to do the thing referred to in *paragraph (a)*.

(6) *Subsection (5)* shall not apply to a communication, or giving of information, that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.

(7) *Schedule 9* shall have effect for the purposes of *subsection (5)*.

(8) For the purposes of this section, a reference to "dismissal" includes—

(a) a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2015, and

(b) a dismissal wholly or partly for or connected with the purpose of the avoidance of a fixed-term contract being deemed to be a contract of indefinite duration under section 9(3) of the Protection of Employees (Fixed-Term Work) Act 2003.

(9) *Paragraphs (a)*, *(c)*, *(d)*, *(e)* and *(f)* of the definition of "penalisation" in *subsection (10)* shall not be construed in a manner which prevents an employer from—

(a) ensuring that the business concerned is carried on in an efficient manner, or

(b) taking any action required for economic, technical or organisational reasons.

(10) In this section and *Schedule 9* —

"contract of employment" means a contract of employment or of service or of apprenticeship, whether the contract is express or implied and, if express, whether it is oral or in writing;

"employee" means a person who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer;

"employer", in relation to an employee, means the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment, and includes—

(a) a person (other than an employee of that person) under whose control and direction an employee works, and

(b) where appropriate, the successor of the employer or an associated employer of the employer;

"penalisation" means any act or omission by an employer, or by a person acting on behalf of an employer, that affects an employee to his or her detriment with respect to any term or condition of his or her employment, and, without prejudice to the generality of the foregoing, includes—

(a) suspension, lay-off or dismissal,

(b) the threat of suspension, lay-off or dismissal,

(c) demotion or loss of opportunity for promotion,

(d) transfer of duties, change of location of place of work, reduction in wages or change in working hours,

(e) the imposition or the administering of any discipline, reprimand or other penalty (including a financial penalty),

(f) unfair treatment, including selection for redundancy,

(g) coercion, intimidation or harassment,

(h) discrimination, disadvantage or adverse treatment,

(i) injury, damage or loss, and

(j) threats of reprisal.

Chapter 6

Provisions supplementary to Chapters F71**[***3A,***]** *4 and 5*

Annotations

Amendments:

F71 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 64, S.I. No. 447 of 2022.

Effect of termination or revocation of relevant authorisation

154. (1) On and after the date, or the occurrence of the event, as the case may be, on which the F72**[**revocation under *Chapter 3A*, termination under *Chapter 4*, or revocation under *Chapter 5***]**, as the case may be, takes effect, the holder of the relevant authorisation shall cease to be able to exercise any powers under the relevant authorisation.

(2) All the holder's obligations under the relevant authorisation or this Act shall continue to apply to the holder and the holder shall continue to discharge the obligations unless—

(a) the effect of *subsection (1)* prevents the holder from doing so, or

(b) in the case of the revocation of a relevant authorisation under *Chapter 5*, the notice concerned under *section 151(2)* specifies that the holder is not required to discharge the obligation concerned.

Annotations

Amendments:

F72 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 65, S.I. No. 447 of 2022.

Effect of suspension of relevant authorisation

155. Where a relevant authorisation is for the time being suspended under *Chapter* F73**[***4A* or**]** *5*—

(a) the only powers which may be exercised under the relevant authorisation during the suspension are those specified for the purpose in the order concerned under *section 145(2)* or the notice concerned under *section 151(2)*, as appropriate, and

(b) all of the holder's obligations under the relevant authorisation or this Act continue to apply to the holder and the holder shall continue to discharge the obligations unless—

(i) the effect of *paragraph (a)* prevents the holder from doing so, or

(ii) the order concerned under *section 145(2)* or the notice concerned under *section 151(2)*, as appropriate, specifies that the holder is not required to comply with the obligation concerned during such suspension.

Annotations

Amendments:

F73 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 66, S.I. No. 447 of 2022.

Notice of revocation or suspension of relevant authorisation to be given to certain bodies

156. (1) The MARA shall, as soon as is practicable after the date on which the revocation or suspension under *Chapter* F74**[***3A*, *4A* or**]** *5* of a relevant authorisation takes effect, give notice in writing to each relevant body of—

(a) the name of the holder,

(b) particulars of the relevant authorisation sufficient to identify the authorisation, and

(c) such date.

(2) In this section, "relevant body" means—

(a) the Board (P),

(b) the CPA (if any) for the part of the maritime area the subject of the relevant authorisation concerned, and

(c) the Environmental Protection Agency.

Annotations

Amendments:

F74 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 67, S.I. No. 447 of 2022.

No fee, etc., refundable following termination, revocation or suspension of relevant authorisation, etc.

157. F75**[**The revocation under *Chapter 3A*, the termination**]** under *Chapter 4,* or the revocation or suspension under *Chapter 5*, as the case may be, of a relevant authorisation shall not entitle the holder to—

(a) any refund of all or any part of any levy or specified fee that the holder has paid to the MARA pursuant to this Act in relation to the relevant authorisation, or

(b) any compensation from the State in relation to any expenditure, or loss of income, incurred by the holder in relation to the relevant authorisation.

Annotations

Amendments:

F75 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 68, S.I. No. 447 of 2022.

Chapter 7

Offences and related provisions

Offences - general

158. (1) A person who contravenes *section 70(1)* shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding two years or both.

(2) A person who contravenes *section 75(1)*, *76(1)* or *113(1)* shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding five years or both.

(3) A person who falsely represents himself or herself as an authorised officer shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding two years or both.

(4) Without prejudice to the generality of the powers of the Circuit Court to enforce an order under *section 141(7)(a)*, if the holder concerned fails to comply with the order, the holder shall be guilty of an offence and shall be liable on conviction on indictment to a fine not exceeding €250,000.

(5) A person who contravenes *section 144(2)(a)* or *(b)*, *(3)(a)* or *(b)* or *(4)* shall be guilty of an offence and shall be liable on summary conviction to a class A fine.

(6) A person who, without reasonable excuse, contravenes a direction referred to in *section 151(4)* shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.

(7) Subject to *subsection (8)*, a person who makes a communication under *section 153(1)*, which the person knows to be false, that a relevant ground may apply to a holder, or that a contravention of a provision of this Act by a person other than a holder may have been or may be being committed, shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding three years or both.

(8) *Subsection (7)* shall not apply to a communication that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.

(9) An employer who contravenes *section 153(5)* shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine and imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding three years or both.

False or misleading information

159. (1) Any relevant person who knowingly, or recklessly, provides the MARA with information which is false or misleading in a material particular in his or her capacity as a relevant person shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding five years or both.

(2) In this section, "relevant person" means—

(a) the case of a relevant application, the applicant, or

(b) a holder.

Obstruction

160. (1) A person shall not interfere with, or otherwise obstruct (including obstruct by way of withholding information reasonably required by, or by knowingly or recklessly providing false or misleading information to)—

(a) the MARA,

(b) a member of staff of the MARA (including a person referred to in *section 64(5)*),

(c) an authorised officer, or

(d) a member of the Garda Síochána

in the performance of their respective functions under this Act.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both,

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding two years or both.

Evidentiary presumptions

161. (1) The MARA may, by notice in writing, authorise the chief executive officer or another member of staff of the MARA to give, on the MARA's behalf, a certificate under this section.

(2) In proceedings, a certificate signed by an authorised person containing a relevant statement shall, without further proof of the signature of the person purporting to sign the certificate or that the person was an authorised person, be evidence, unless the contrary is shown, of the matters the subject of the relevant statement.

(3) A certificate under this section may contain two or more relevant statements.

(4) In this section—

"authorised person" means the chief executive officer or another member of staff of the MARA authorised under *subsection (1)* by the MARA to give, on the MARA's behalf, a certificate under this section;

"chief executive officer" shall be construed in accordance with *section 56(1)*;

"relevant statement" means either or both of the following statements:

(a) a statement to the effect that the person specified in the statement was or was not the holder of a relevant authorisation on the date or dates specified in the statement;

(b) a statement to the effect that the particulars (including particulars relating to conditions) specified in the statement were the particulars of a relevant authorisation specified in the statement on the date or dates specified in the statement.

Offences by bodies corporate

162. (1) Where an offence under this Act is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* applies to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Vicarious liability

163. (1) Anything done by a person in the course of his or her employment shall, in any proceedings brought under this Act, be treated, for the purposes of this Act, as done also by that person's employer, whether or not it was done with the employer's knowledge or approval.

(2) Anything done by a person as agent for another person, with the authority (whether express or implied and whether precedent or subsequent) of that other person shall, in any proceedings brought under this Act, be treated as done also by that other person.

(3) Subject to *subsection (4)*, in proceedings brought under this Act against an employer in respect of an act alleged to have been done by an employee of the employer, it shall be a defence for the employer to prove that the employer took such steps as were practicable to prevent the employee—

(a) from doing that act, or

(b) from doing in the course of his or her employment acts of that description.

(4) *Subsection (3)* shall not apply to any civil proceedings, whether under this Act or otherwise.

(5) In this section—

"contract of employment" means a contract of employment or of service or of apprenticeship, whether the contract is express or implied and, if express, whether it is oral or in writing;

"employee" means a person who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer;

"employer", in relation to an employee, means the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment, and includes—

(a) a person (other than an employee of that person) under whose control and direction an employee works, and

(b) where appropriate, the successor of the employer or an associated employer of the employer.

Summary proceedings

164. An offence under this Act may be prosecuted summarily by the MARA.

Time limit for offences that may only be brought by summary proceedings

165. (1) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act to which that provision applies may be instituted—

(a) within 12 months after the date on which the offence was committed,

(b) within six months after the date on which evidence sufficient, in the opinion of the person instituting the proceedings, to justify proceedings comes to that person's knowledge,

whichever is the later, provided that no such proceedings shall be commenced later than two years after the date on which the offence concerned was committed.

(2) For the purposes of *subsection (1)(b)*, a certificate signed by or on behalf of the person initiating the proceedings as to the date on which evidence referred to in that subsection came to his or her knowledge shall be evidence of that date and, in any legal proceedings, a document purporting to be a certificate under this subsection and to be so signed shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate, unless the contrary is shown.

(3) *Subsections (1)* and *(2)* shall not be construed to prejudice the generality of section 7 of the Criminal Justice Act 1951.

Costs of prosecutions

166. (1) The court shall, unless it is satisfied that there are special and substantial reasons for not so doing, where a person is convicted of an offence under this Act, order the person to pay the Minister or the MARA, as appropriate, the costs and expenses of the action, measured by the court.

(2) Where costs or expenses are to be paid to the Minister or the MARA, they shall include any such costs or expenses reasonably incurred by either of them in relation to the investigation, detection and prosecution of the offence, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers.

F76[CHAPTER 8

Civil remedies exercisable by holders of relevant authorisations]

Annotations

Amendments:

F76 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 69, S.I. No. 447 of 2022.

F77**[Rights of action**

166A. (1) Subject to *subsection (2)*, notwithstanding that a relevant authorisation does not confer on the holder of the authorisation any estate or interest in or over the part of the maritime area the subject of the authorisation, the holder shall, by virtue of this section, have the same rights of action—

(a) in nuisance as if the holder were the owner of that part, and

(b) in trespass as if the holder were the owner of such areas of that part in which any infrastructure or other property owned by the holder are situated.

(2) The rights referred to in *subsection (1)* are not exercisable against—

(a) the MARA,

(b) a member of staff of the MARA (including a person referred to in *section 64(5)*),

(c) an authorised officer, or

(d) a member of the Garda Síochána,

in the performance of their respective functions under this Act.**]**

Annotations

Amendments:

F77 Inserted (9.09.2002) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 69, S.I. No. 447 of 2022.

PART 7

Miscellaneous

Definition

167. In this Part, "relevant moneys" means—

(a) any fee or costs required under this Act to be paid to the MARA,

(b) any levy required to be paid to the MARA, or

(c) any payment required to be paid to the MARA pursuant to a decision confirmed or given under *section 149(3)(a)* or *150(2)*.

Disposal of relevant moneys

168. (1) Subject to *subsections (2)* and *(3)*, the Minister for Public Expenditure and Reform shall, after consultation with the Minister, from time to time

give directions to the MARA as to how the MARA shall dispose of relevant moneys it receives.

(2) The Minister for Public Expenditure and Reform may give different directions under *subsection (1)* in respect of different classes of relevant moneys.

(3) The MARA shall pay relevant moneys which fall within *paragraph (c)* of the definition of "relevant moneys" into the Exchequer.

Recovery of relevant moneys

169. F78**[**(1)**]** The MARA may recover, as a simple contract debt in any court of competent jurisdiction, from a person by whom relevant moneys is payable, any amount due and owing to the MARA in respect of such moneys.

F79**[**(2) Interest shall be payable on an amount referred to in *subsection (1)*, from the time it is due and owing to the MARA until it is paid to the MARA, at—

(a) the prescribed rate, or

(b) if no such rate stands prescribed, the rate of 2 per cent,

and that reference to amount shall include a reference to the amount of interest payable thereon as calculated under this subsection.**]**

Annotations

Amendments:

F78 Inserted (17.07.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 70(a), S.I. 370 of 2023.

F79 Inserted (17.07.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 70(b), S.I. 370 of 2023.

Ways of giving notice, etc.

170. (1) A notice that is required to be given to a person under this Act shall be addressed to the person concerned by name, and may be so given to the person in one of the following ways:

(a) by delivering it to the person;

(b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;

(c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;

(d) by electronic means, in a case in which the person has given notice in writing to the person giving the notice concerned of his or her consent to the notice (or notices of a class to which the notice belongs) being served on, or given to him or her, in that manner.

(2) Where the name of a particular person referred to in *subsection (1)* cannot be ascertained after reasonable efforts to ascertain such name have been unsuccessful, a notice that is required under this Act to be given to the

person may be addressed to "the occupier", "the owner" or "the person in charge", as the case requires.

(3) A notice given under *subsection (1)* shall be deemed to have been received by the person—

(a) in the case of prepaid registered post, or other recorded delivery, on the third working day after the day on which it was so sent, and

(b) in the case of electronic mail, when the sender's facility for the reception of electronic mail generates a message confirming the receipt of the electronic mail.

(4) For the purposes of this section, a company shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

(5) (a) *Paragraph (b)* applies where a person (not being the Minister) is, pursuant to and in accordance with a provision of this Act, required to publish a notice referred to in this Act in one or more than one specific way.

(b) Subject to *paragraph (c)*, the Minister may by regulations require the person to publish the notice in one or more than one other additional specific way.

(c) Where the Minister makes regulations under *paragraph (b)*, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the principle that the notice needs to be published in sufficient different ways to ensure, in so far as is practicable, that it is brought to the attention of those persons (which may be the public in general) most likely to be interested in the contents of the notice.

(d) *Paragraphs (e)* and *(f)* apply where a notice, referred to in this Act, specifies a time period (in this subsection referred to as the "relevant period") within which submissions may be made on the contents (howsoever described) of the notice.

(e) The period between 24 December and 1 January, both dates inclusive, shall not count towards the calculation of the relevant period and, accordingly, the relevant period shall be extended by so much of that first-mentioned period as falls within the relevant period.

(f) Subject to *paragraph (g)*, the Minister may by regulations specify public holidays (not being a public holiday falling within the period first-mentioned in *paragraph (e)*) which shall not count towards the calculation of the relevant period and, accordingly, the relevant period shall be extended by the number of public holidays falling with the relevant period that are so specified as regards that notice.

(g) Where the Minister makes regulations under *paragraph (f)*, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the principle that members of the public should not have the relevant period inordinately reduced by the number of public holidays that may occur during that period.

(6) In this section, "notice" includes any other document that is required to be given to a person under this Act.

PART 8

Amendment of Planning and Development Act 2000

Development in maritime area

171. The Act of 2000 is amended by the insertion of the following Part:

"PART XXI

Maritime Development

Chapter 1

Preliminary and General

Definitions

278. In this Part, except where the context otherwise requires—

'development' means—

(a) the carrying out of any works in the maritime area, or

(b) the making of any material change in the use of the sea, seabed or any structure, in the maritime area,

and includes the reclamation of any land in the nearshore area;

'marine planning policy statement' has the meaning assigned to it by the *Maritime Area Planning Act 2021*;

'public body' means a body established by or under statute that, for the time being, stands prescribed for the purposes of this Part;

'Regulations of 2001' means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

Extension of functional area of coastal planning authority

279. For the purposes of this Act but subject to section 308, the functional area of a coastal planning authority includes the nearshore area of that coastal planning authority, and in this Act references to functional area, administrative area or area of a planning authority shall be construed accordingly.

Chapter II

Certain Development in Nearshore Area

Application of Chapter

280. (1) Subject to subsection (2), this Chapter applies to development situated—

(a) wholly in the nearshore area of a coastal planning authority, or

(b) partly in the nearshore area of a coastal planning authority and partly on land.

(2) This Chapter does not apply to development—

(a) of a class specified in the Eighth Schedule (inserted by *section 172* of the *Maritime Area Planning Act 2021*),

(b) in accordance with—

(i) a permission under Part III (whether or not granted before the repeal of Part XV) that, immediately before the repeal of Part XV, was required in accordance with section 225, or

(ii) an approval under section 226 (whether or not granted before the repeal of Part XV),

or

(c) consisting of—

(i) the erection of a building, pier, wall or other structure in accordance with a map, plan or specification approved in accordance with section 10 of the Act of 1933, or

(ii) the deposit of any material in accordance with a consent referred to in section 13 of the Act of 1933.

Obligation to obtain permission to carry out development

281. (1) Subject to this Act, permission shall be required for development (other than exempted development) to which this Chapter applies, and accordingly a person shall not carry out any such development except under and in accordance with a permission granted under section 34.

(2) Subject to section 283, a person shall not be eligible to make an application for permission to carry out development to which this Chapter applies, unless that person—

(a) is the holder of—

(i) a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, or

(ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purpose of the development on, or in relation to, the maritime site in which the development is proposed to be situated,

(b) is the owner of land on which it is proposed to carry out the development concerned,

(c) is the lessee under a lease—

(i) made under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned, and

(ii) that contains a covenant, condition or agreement, to which subsection (4) of the said section 2 applies, requiring the lessee to carry out, on that maritime site, the proposed development concerned, or

(d) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.

(3) An application for permission to carry out development to which this Chapter applies shall be made, under and in accordance with section 34, to the coastal planning authority within whose

functional area that part of the nearshore area in which it is proposed to carry out the development is situated.

Consideration by planning authority of application for permission for development

282. (1) Subject to section 283, a planning authority shall neither consider an application for permission under section 34 for development to which this Chapter applies nor grant such permission, unless the applicant for such permission—

(a) is the holder of—

(i) a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, or

(ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purpose of the development on, or in relation to, the maritime site in which the development is proposed to be situated,

(b) is the owner of land on which it is proposed to carry out the development concerned,

(c) is the lessee under a lease—

(i) made under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned, and

(ii) that contains a covenant, condition or agreement, to which subsection (4) of the said section 2 applies, requiring the lessee to carry out, on that maritime site, the proposed development concerned, or

(d) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.

(2) A coastal planning authority shall, in the performance of its functions under this section and section 34 in relation to a maritime application, have regard to—

(a) the National Marine Planning Framework and the National Planning Framework,

(b) the marine planning policy statement,

(c) guidelines issued under *section 7* of the *Maritime Area Planning Act 2021*,

(d) guidelines issued under section 28,

(e) any regional, spatial and economic strategy of a regional assembly—

(i) within whose functional area it is proposed to carry out development to which the application relates, or

(ii) whose functional area adjoins the maritime site to which the application relates,

(f) the development plan of—

(i) the coastal planning authority within whose functional area it is proposed to carry out development to which the application relates, and

(ii) any coastal planning authority whose functional area adjoins the maritime site to which the application relates,

(g) any local area plan applicable to a part of the functional area of any coastal planning authority—

(i) within which it is proposed to carry out development to which the application relates, or

(ii) that adjoins the maritime site to which the application relates,

(h) any submissions or observations made by prescribed bodies or members of the public in relation to the application,

(i) Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008[19] establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) as amended by Commission Directive (EU) 2017/845 of 17 May 2017[20], and any enactment or instrument under an enactment that gives effect thereto,

(j) land-sea interactions within the meaning of Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014[21] establishing a framework for maritime spatial planning,

(k) objectives of maritime spatial planning, and

(l) principles of proper planning and sustainable development.

(3) In addition to any conditions that may be attached to a permission in accordance with subsection (4) or (5) of section 34, a coastal planning authority may, when granting permission under that section for development in the nearshore area, attach any or all of the following conditions to the permission:

(a) conditions requiring the carrying out of works for the preservation of any site of archaeological interest or any wreck within the meaning of the National Monuments (Amendment) Act 1987;

(b) conditions requiring the carrying out of such works as the coastal planning authority may specify for the purposes of the development;

(c) for the purpose of ensuring compliance with the terms of the maritime area consent granted for the occupation of the maritime site concerned, conditions regulating the development or use of any part of the maritime area that adjoins that maritime site;

(d) conditions requiring—

[19] OJ No. L164, 25.6.2008, p. 19
[20] OJ No. L125, 18.5.2017, p.27
[21] OJ No. L257, 28.8.2014, p. 135

(i) the provision, protection or maintenance of access to the maritime area and land adjoining the maritime area by members of the public or members of a class of the public, or

(ii) the carrying out of works for the purpose of such provision, protection or maintenance;

(e) conditions aimed at protecting rights to navigate in the maritime area;

(f) conditions aimed at protecting rights to fish in the maritime area;

(g) conditions for, or in connection with—

(i) the protection of the marine environment (including the protection of fisheries),

(ii) the safety of navigation, or

(iii) the protection of underwater cables, wires, pipelines or other similar apparatus used for the purpose of—

(I) transmitting electricity or telecommunications signals, or

(II) carrying gas, petroleum, oil or water;

(h) conditions requiring the adoption of measures to reduce or prevent the emission of any noise or vibration from any structure or area comprised in the development concerned;

(i) conditions relating to the sequence of, and the times at which, works for the purposes of the development shall be carried out;

(j) conditions requiring, and relating to, the maintenance or management of the proposed development;

(k) conditions requiring the recovery and disposal, in such a manner as may be specified by the coastal planning authority, of construction and demolition waste;

(l) conditions requiring, and relating to—

(i) the removal of any structures authorised by the permission, or

(ii) the discontinuance of any activity so authorised,

upon the expiration of such period as the coastal planning authority may specify, and requiring, and relating to, the carrying out of any works necessary for the reinstatement of the site concerned upon such expiration;

(m) conditions requiring, and relating to, the provision to the coastal planning authority concerned, and maintenance, of adequate financial security for the purpose of ensuring the satisfactory completion of the proposed development;

(n) a condition requiring the person to whom the permission is granted to submit such information, as may be specified by the coastal planning authority, to the coastal planning authority or any other public body prior to commencement of the development concerned.

(4) Paragraph (a) of subsection (2) of section 34 shall not apply in relation to a maritime application.

(5) In this section 'maritime application' means—

(a) an application to a coastal planning authority for permission for development wholly within the nearshore area of that coastal planning authority, or

(b) in relation to an application to a coastal planning authority for permission for development partly in the nearshore area of the coastal planning authority and partly on land, the part of the application that relates to permission for development in the said nearshore area.

Effect of bringing of judicial review of maritime area consent on application under section 34 or appeal under section 37

283. (1) Where the Maritime Area Regulatory Authority grants a maritime area consent, the person who applied for that consent shall, notwithstanding the making by any other person of an application under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) for judicial review of the decision to grant that consent, be eligible to make an application under section 34 for permission for development to which this Chapter applies.

(2) Where a person makes an application in accordance with this Chapter for permission for development in circumstances to which subsection (1) applies, the coastal planning authority concerned shall, notwithstanding any pending application for judicial review referred to in that subsection, perform the functions conferred on it by and in accordance with this Chapter in relation to that application for permission as if no such application for judicial review had been made.

(3) Where an application for permission for development made in circumstances to which subsection (1) applies is refused by a coastal planning authority and the applicant for such permission appeals the refusal to the Board under section 37, the Board shall, notwithstanding any pending application for judicial review referred to in that subsection, perform the functions conferred on it under this Act in relation to the appeal concerned as if no such application for judicial review had been made.

(4) A permission granted under section 34 or 37 for development to which this Chapter applies in circumstances to which this section applies shall not come into effect unless and until—

(a) final judgment is given—

(i) in relation to the application for judicial review referred to in this section, and

(ii) upholding the grant of the maritime area consent concerned in respect of which that application was made,

or

(b) the application for judicial review referred to in this section is withdrawn.

CHAPTER III

Other Development in Maritime Area

Definitions

284. In this Chapter—

'material alteration' means a requested alteration—

(a) that the Board determines, under subparagraph (i) of paragraph (a) of subsection (5) of section 297, is likely to have significant effects on the environment,

(b) in respect of which the Board determines, under subsection (4) of section 177U, that an appropriate assessment is required, or

(c) that the Board determines, under paragraph (b) of the said subsection (5), would otherwise constitute a material alteration of the terms of the permission concerned;

'prospective applicant' has the meaning assigned to it by section 287;

'reasoned conclusion' has the meaning assigned to it by the Environmental Impact Assessment Directive;

'requested alteration' means an alteration of the terms of a permission under section 293 specified in a request made in accordance with subsection (1) of section 297;

'requesting person' means a person who makes a request in accordance with subsection (1) of section 297.

Application of Chapter

285. (1) Subject to subsection (2), this Chapter applies to—

(a) development situated—

(i) wholly in the outer maritime area,

(ii) partly in the outer maritime area and partly in—

(I) the nearshore area of a coastal planning authority, or

(II) the nearshore areas of more than one coastal planning authority,

(iii) partly in the outer maritime area, partly in—

(I) the nearshore area of a coastal planning authority, or

(II) the nearshore areas of more than one coastal planning authority,

and partly on land, or

(iv) partly in the outer maritime area and partly on land,

(b) development situated—

(i) wholly in the nearshore areas of more than one coastal planning authority, or

(ii) partly on land and partly in the nearshore areas of more than one coastal planning authority,

and

(c) development of a class specified in the Eighth Schedule situated—

(i) wholly in—

(I) the nearshore area of a coastal planning authority, or

(II) the nearshore areas of more than one coastal planning authority,

or

(ii) partly on land and partly in—

(I) the nearshore area of a coastal planning authority, or

(II) the nearshore areas of more than one coastal planning authority.

(2) This Chapter does not apply to development—

(a) in accordance with—

(i) a permission under Part III (whether or not granted before the repeal of Part XV) that, immediately before the repeal of Part XV, was required in accordance with section 225, or

(ii) an approval under section 226 (whether or not granted before the repeal of Part XV),

or

(b) consisting of—

(i) the erection of a building, pier, wall or other structure in accordance with a map, plan or specification approved in accordance with section 10 of the Act of 1933, or

(ii) the deposit of any material in accordance with a consent referred to in section 13 of the Act of 1933.

Obligation to obtain permission to carry out development

286. (1) Subject to this Act, permission shall be required for development (other than exempted development) to which this Chapter applies, and accordingly a person shall not carry out any such development except under and in accordance with a permission granted under section 293.

(2) An application for permission to carry out development to which this Chapter applies shall be made to the Board under section 291.

(3) Subject to section 304, a person shall not be eligible to apply for permission to carry out development to which this Chapter applies unless that person—

(a) is the holder of—

(i) a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, or

(ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purpose of the development on, or in

relation to, the maritime site in which the development is proposed to be situated,

(b) is the owner of land on which it is proposed to carry out the development concerned,

(c) is the lessee under a lease—

(i) made under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned, and

(ii) that contains a covenant, condition or agreement, to which subsection (4) of the said section 2 applies, requiring the lessee to carry out, on that maritime site, the proposed development concerned, or

(d) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.

(4) Subject to section 304, the Board shall neither consider an application under section 291 for permission for development to which this Chapter applies nor grant such permission, unless the applicant for such permission—

(a) is the holder of—

(i) a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, or

(ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purpose of the development on, or in relation to, the maritime site in which the development is proposed to be situated,

(b) is the owner of land on which it is proposed to carry out the development concerned,

(c) is the lessee, under a lease granted under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned, or

(d) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.

Consultation with Board prior to application for permission

287. (1) A person (in this Chapter referred to as a 'prospective applicant') who—

(a) having regard to subsection (3) of section 286, is eligible to apply for permission to carry out development to which this Chapter applies, and

(b) proposes to make an application under section 291 for such permission,

shall, before making the application, consult with the Board in relation thereto.

(2) The Board may, upon being consulted by a prospective applicant in accordance with subsection (1), provide its opinion to the prospective applicant regarding the making of the application concerned and, in particular, as respects—

(a) the procedures to be followed by the prospective applicant when making the application and by the Board when considering the application,

(b) the documents required to accompany the application,

(c) the need for the prospective applicant to create an internet website for the purpose of publishing the application and all documentation accompanying the application,

(d) the publication of notices in accordance with this Act, the furnishing of documentation to persons referred to in subsection (3) of section 291 and the making of submissions and observations in relation to an application under that section,

(e) such persons as may be prescribed for the purposes of this Chapter,

(f) some or all of the matters that the Board is likely to take into consideration relating to—

(i) the National Marine Planning Framework,

(ii) objectives of maritime spatial planning,

(iii) principles of proper planning and sustainable development, and

(iv) the environment or any European site,

when making a decision under section 293 in relation to the application,

(g) the fees payable to the Board in relation to the making of the application, and

(h) compliance by the prospective applicant with any direction of the Board under subsection (3) of section 291.

(3) The Board may, at any time, conclude a consultation under this section where it considers it appropriate to so do.

Provision supplementing section 287

288. (1) A prospective applicant shall, for the purpose of consulting with the Board in accordance with section 287—

(a) provide the Board with such information as the Board may require for the purpose of enabling the Board to assess the proposed development concerned, and

(b) in the case of proposed development of a class to which Part 2 of Schedule 5 to the Regulations of 2001 applies, provide the Board with such information (where not already provided) in relation to the proposed development as is specified in Schedule 7A to those Regulations.

(2) The performance by the Board of functions under section 287 shall not—

(a) prejudice the performance by it of any of its other functions in relation to the prospective applicant, proposed application or proposed development concerned, or

(b) be relied on by any person—

(i) in relation to an application or request under this Chapter,

(ii) in relation to—

(I) the consideration by the Board of such application or request, or

(II) the making of a decision under this Chapter in respect of such application or request,

or

(iii) in proceedings before a court relating to, or in connection with, such application, request, consideration or decision.

(3) The Board shall keep a record in writing of every consultation conducted in accordance with section 287, and each such record shall identify the persons who participated in the consultation.

(4) A copy of a record referred to in subsection (3) shall be placed and kept with all documentation relating to the application for permission concerned.

(5) The Board may consult with any person who, in the opinion of the Board, is likely to be in possession of information that might have a bearing on matters to which the consultation relating to the proposed development concerned applies.

Screening for environmental impact assessment in respect of proposed development

289. (1) Section 176A shall apply to proposed development to which this Chapter applies as if—

(a) references to a planning authority, the planning authority (other than in subparagraph (i) of paragraph (b) of subsection (4)) or the authority were construed as references to the Board,

(b) the following subsection was inserted:

'(1B) The Board shall not consider an application under this section in respect of proposed development to which Chapter III of Part XXI applies, unless the applicant—

(a) is the holder of—

(i) a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, or

(ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purpose of the development on, or in relation to, the maritime site in which the development is proposed to be situated,

(b) is the owner of land on which it is proposed to carry out the development concerned,

(c) is the lessee under a lease—

(i) made under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned, and

(ii) that contains a covenant, condition or agreement, to which subsection (4) of the said section 2 applies, requiring the lessee to carry out, on that maritime site, the proposed development concerned, or

(d) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.',

(c) the words 'in whose area the development would be situated' in paragraph (a) of subsection (2) were deleted, and

(d) the words 'in whose area the development would be situated' in paragraph (b) of subsection (2) were deleted.

(2) Section 176B shall apply to proposed development to which this Chapter applies as if—

(a) references to a planning authority, the planning authority or the authority were construed as references to the Board,

(b) paragraph (ii) of subsection (4) was deleted, and

(c) in subsection (5) —

(i) the following paragraph was substituted for paragraph (b) of subsection (5):

'(b) in a national newspaper.',

and

(ii) paragraph (i) was deleted.

(3) Section 176C shall not apply to proposed development to which this Chapter applies.

Opinion of Board on information to be contained in environmental impact assessment report

290. (1) A prospective applicant may, in relation to proposed development to which this Chapter applies, request the Board to give to him or her an opinion in writing on the scope of the information and the extent of detail that should be set out in an environmental impact assessment report.

(2) Upon receipt by the Board of a request referred to in subsection (1), the Board shall—

(a) consult with the prospective applicant and such other persons as may be prescribed for the purpose of this section, and

(b) after considering the information provided to the Board by the prospective applicant, in particular in relation to—

(i) the specific characteristics of the proposed development, including its location and technical capacity (within the

meaning of paragraph 2 of Article 5 of the Environmental Impact Assessment Directive), and

(ii) the likely effects of the proposed development on the environment,

comply with the request as soon as is practicable.

(3) A prospective applicant shall give the Board such information in relation to the proposed development as the Board may reasonably require for the purpose of enabling it to comply with subsection (2).

(4) An environmental impact assessment report shall—

(a) take account of an opinion provided to the applicant concerned in accordance with this section, and

(b) contain such information (including such information as is specified in the said opinion) as is reasonably necessary to enable the Board to come to a reasoned conclusion with regard to the likely effects of the proposed development concerned on the environment.

(5) The provision of an opinion under this section shall not prejudice the performance by the Board of any of its functions under this Act.

(6) An opinion provided under this section may not be relied upon in relation to the making of an application under this Chapter or the bringing of any proceedings before a court.

Application to Board

291. (1) An application for permission for development to which this Chapter applies shall be made to the Board, and shall—

(a) be accompanied by—

(i) the prescribed fee, and

(ii) such information, plans and drawings as may be prescribed,

(b) if required by the Board, be accompanied by either—

(i) an environmental impact assessment report, or

(ii) the information in relation to the proposed development specified in Schedule 7A to the Regulations of 2001,

and

(c) if required by the Board, be accompanied by either—

(i) a Natura impact statement, or

(ii) a screening statement for appropriate assessment in relation to the proposed development.

(2) The Board may refuse to consider an application under this section where it is of the opinion that—

(a) the application,

(b) the environmental impact assessment report or the information specified in Schedule 7A to the Regulations of 2001 in relation to environmental impact assessment, as the case may be, or

(c) the Natura impact statement or the screening statement for appropriate assessment, as the case may be,

is inadequate or incomplete having regard, in particular, to the permission regulations or other regulations under this Act.

(3) A person shall, before applying for permission for development under this section—

(a) publish a notice in at least one national newspaper and such other newspapers (if any) as the Board may specify—

(i) stating—

(I) the nature and location of the proposed development,

(II) that the person proposes to make an application to the Board for permission for the proposed development,

(III) where applicable, that an environmental impact assessment report has been prepared in respect of the proposed development,

(IV) where applicable, that a Natura impact statement has been prepared in respect of the proposed development,

(V) where applicable, that the proposed development is likely to have significant effects on the environment of a Member State of the European Union or a state that is a party to the Transboundary Convention,

(VI) that—

(A) a copy of the application,

(B) a copy of any such environmental impact assessment report, and

(C) a copy of any such Natura impact statement,

has been published on the internet website created by him or her for the purpose of the application, and may be inspected free of charge or purchased on payment of such fee (which shall not be more than the reasonable cost of making such copy or copies) as may be specified in the notice at such times and places and during such period (which shall not be less than eight weeks) as is specified in the notice,

(ii) inviting the making, during the period referred to in clause (VI) of subparagraph (i), of submissions and observations to the Board relating to—

(I) the implications of the proposed development for maritime spatial planning,

(II) the implications of the proposed development for proper planning and sustainable development, and

(III) the likely effects on the environment or any European site of the proposed development,

if carried out, and

(iii) specifying the types of decision that the Board is permitted to make under section 293 in relation to the application,

(b) if directed by the Board, send—

(i) a prescribed number of copies of the application,

(ii) a copy of any environmental impact assessment report, and

(iii) a copy of any Natura impact statement,

to each of the following:

(I) the Environmental Protection Agency;

(II) the Minister;

(III) the Minister for Agriculture, Food and the Marine;

(IV) the Minister for the Environment, Climate and Communications;

(V) any coastal planning authority within—

(A)whose nearshore area, or

(B) any other part of whose functional area,

it is proposed that the development would (in whole or in part) be situated;

(VI) any coastal planning authority—

(A) whose nearshore area, or

(B) any other part of whose functional area,

adjoins that part of the maritime area in which it is proposed that the development would (in whole or in part) be situated,

(c) if directed by the Board, send to such persons as may be prescribed—

(i) a prescribed number of copies of the application,

(ii) a copy of any environmental impact assessment report,

(iii) a copy of any Natura impact statement, and

(iv) a notice stating that submissions or observations may, during the period referred to in clause (VI) of subparagraph (i) of paragraph (a), be made in writing to the Board in relation to—

(I) the implications of the proposed development for maritime spatial planning,

(II) the implications of the proposed development for proper planning and sustainable development, and

(III) the likely effects on the environment or any European site of the proposed development,

and

(d) if directed by the Board, in the case of proposed development that is likely to have significant effects on the environment of a Member State of the European Union or a state that is a party to the Transboundary Convention, send to each such Member State or state—

(i) such number of copies of the application as may be prescribed,

(ii) a copy of any environmental impact assessment report, and

(iii) a notice stating that submissions or observations may, during the period referred to in clause (VI) of subparagraph (i) of paragraph (a), be made in writing to the Board in relation to—

(I) the implications of the proposed development for maritime spatial planning,

(II) the implications of the proposed development for proper planning and sustainable development, and

(III)the likely effects on the environment of the proposed development.

(4) A coastal planning authority—

(a) within—

(i) whose nearshore area, or

(ii) any other part of whose functional area,

it is proposed that the development concerned would (in whole or in part) be situated, or

(b) whose nearshore area, or any other part of whose functional area, adjoins that part of the maritime area in which it is proposed that the development concerned would (in whole or in part) be situated,

may, not later than 10 weeks (or such longer period as may be specified by the Board) from the making of the application under this section in respect of the proposed development, prepare and submit to the Board a report setting out the views of the coastal planning authority in relation to the proposed development, having regard in particular to the matters to which a coastal planning authority is required to have regard in accordance with subsection (2) of section 34 and subsection (2) of section 282 in relation to an application referred to in subsection (3) of section 281.

(5) The Board may, in addition to a report referred to in subsection (4), require a coastal planning authority to which that subsection applies or any planning authority on whose functional area the proposed development is, in the opinion of the Board, likely to have a significant effect to furnish to the Board such information as the Board may specify in relation to—

(a) the implications of the proposed development for maritime spatial planning,

(b) the implications of the proposed development for proper planning and sustainable development in the functional area concerned, and

(c) the likely effects of the proposed development on the environment or any European site.

(6) The chief executive of a coastal planning authority shall, before that coastal planning authority submits a report to the Board under subsection (4) in relation to a proposed development, submit the report to the members of the coastal planning authority and request their views on the proposed development.

(7) The members of a coastal planning authority may, by resolution, decide to attach recommendations specified in the resolution to the report of the coastal planning authority under subsection (4) and, where those members so decide—

(a) those recommendations, and

(b) a record prepared by the meetings administrator (within the meaning of section 46 of the Local Government Act 2001) of the views expressed by the members on the proposed development,

shall be attached to the report submitted to the Board under that subsection.

Provision supplementing section 291

292. (1) The Board may, before making a decision under section 293 in respect of an application under section 291—

(a) require the applicant to submit, within such period as the Board may specify, such further information (which may include a revised environmental impact assessment report or Natura impact statement) as the Board may specify,

(b) inform the applicant that it is considering granting such permission, subject to the applicant's submitting such revised particulars, plans or drawings in relation to the development as the Board may specify,

(c) invite further submissions or observations (to be made within such period as may be specified by the Board) from—

(i) the applicant for permission,

(ii) any person who made submissions or observations in relation to the application, or

(iii) any other person who, in the opinion of the Board, is likely to have information that might have a bearing on the consideration by the Board of the application,

or

(d) without prejudice to subsections (2) and (3) —

(i) make any information relating to the application available for inspection by members of the public at its offices during normal office hours,

(ii) notify (in such manner as it considers appropriate) any person or the public that the information is being made so available, and

(iii) invite further submissions or observations in relation to the application to be made to it within such period as it may specify.

(2) Where, in accordance with a requirement under paragraph (a) of subsection (1), an applicant submits a revised environmental impact assessment report, revised Natura impact statement, further information or revised particulars, plans or drawings to the Board that, in the opinion of the Board, contains or contain significant additional information on the effects of the proposed development on the environment or a European site, the Board shall—

(a) make any such revised report or statement, information, particulars, plans or drawings available for inspection by members of the public at its offices during normal office hours,

(b) publish in such manner as it considers appropriate a notice informing the public that any such report, statement, information, particulars, plans or drawings are being so made available, and

(c) invite further submissions or observations in relation to the application to be made to it within such period as it may specify.

(3) The Board may, before making a decision under section 293 in respect of an application under section 291, invite—

(a) the Maritime Area Regulatory Authority,

(b) any coastal planning authority to whom copies of the application for permission concerned were sent in accordance with a direction under paragraph (b) of subsection (3) of section 291,

(c) the Environmental Protection Agency,

(d) the Minister,

(e) the Minister for Agriculture, Food and the Marine, or

(f) the Minister for the Environment, Climate and Communications,

to make submissions or observations in relation to the application within such period (which shall not be less than 3 weeks from the date of the invitation) as may be specified by the Board.

(4) When making a decision under section 293 in respect of an application under section 291, the Board shall have regard to any submissions or observations made in accordance with an invitation under subsection (1), (2) or (3).

(5) The Board may, at any time after the expiration of the period within which submissions or observations may be made pursuant to—

(a) a notice or an invitation in a notice under section 291, or

(b) an invitation under this section,

whichever occurs later, make a decision under section 293 in relation to the application.

(6) (a) The making of submissions or observations by the Maritime Area Regulatory Authority under this section shall not prejudice the performance by it of any of its other functions.

(b) The making of submissions or observations by a coastal planning authority under this section shall not prejudice the performance by it of any of its other functions.

(c) The making of submissions or observations by the Environmental Protection Agency under this section shall not prejudice the performance by it of any of its other functions.

(d) The making of submissions or observations by the Minister, the Minister for Agriculture, Food and the Marine or the Minister for the Environment, Climate and Communications under this section shall not prejudice the performance by that Minister of the Government of any of his or her other functions.

(7) Where an applicant for permission under this Chapter fails or refuses to comply with paragraph (a) of subsection (1), the application concerned is deemed to have been withdrawn.

Decision by Board in respect of application under section 291

293. (1) When making a decision in respect of an application under section 291, the Board may consider—

(a) any information before it that it considers relevant to the application, and

(b) any other matter to which, by virtue of this Act, it is permitted to have regard.

(2) (a) Subject to paragraph (b), the Board shall not grant a permission under this section that would materially contravene the National Marine Planning Framework or a maritime spatial plan.

(b) The Board may grant a permission under this section that would materially contravene the National Marine Planning Framework or a maritime spatial plan if it is satisfied that—

(i) the proposed development is of strategic, economic or social importance to the State, and

(ii) the National Marine Planning Framework or the maritime spatial plan, as the case may be, contains objectives that conflict with one another or that are ambiguous with regard to their application to the proposed development.

(3) Without prejudice to the generality of subsection (1), the Board shall, in the making of a decision in relation to an application under section 291, have regard to—

(a) the marine planning policy statement,

(b) guidelines issued under *section 7* of the *Maritime Area Planning Act 2021*,

(c) guidelines issued under section 28,

(d) any regional, spatial and economic strategy of a regional assembly—

(i) within whose functional area it is proposed to carry out development to which the application relates, or

(ii) whose functional area adjoins the maritime site to which the application relates,

(e) the development plan of any coastal planning authority—

(i) within whose functional area it is proposed to carry out development to which the application relates, or

(ii) whose functional area adjoins the maritime site to which the application relates,

(f) any local area plan applicable to a part of the functional area of any coastal planning authority—

(i) within which it is proposed to carry out development to which the application relates, or

(ii) that adjoins the maritime site to which the application relates,

(g) any submissions or observations made in relation to the application for permission concerned—

(i) by prescribed bodies,

(ii) by members of the public, or

(iii) pursuant to and in accordance with a notice referred to in paragraph (c) or (d) of subsection (3) of section 291,

(h) any—

(i) environmental impact assessment report,

(ii) information specified in Schedule 7A of the Regulations of 2001,

(iii) Natura impact statement, or

(iv) screening statement in relation to appropriate assessment in respect of the proposed development,

accompanying the application for permission,

(i) the likely effects of the proposed development on the environment or any European site,

(j) any submissions or observations from—

(i) the Maritime Area Regulatory Authority,

(ii) the Environmental Protection Agency,

(iii) the Minister,

(iv) the Minister for Agriculture, Food and the Marine,

(v) the Minister for the Environment, Climate and Communications, or

(vi) a coastal planning authority—

(I) within whose functional area it is proposed to carry out development to which the application relates, or

(II) whose functional area adjoins the maritime site to which the application relates,

(k) any report prepared or recommendation made in relation to the application for permission in accordance with section 146,

(l) any recommendation or record referred to in subsection (7) of section 291 in relation to the application for permission,

(m) Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 [22], and any enactment or instrument under an enactment that gives effect thereto,

(n) land-sea interactions within the meaning of Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014[23],

(o) objectives of maritime spatial planning, and

(p) principles of proper planning and sustainable development.

(4) The Board may, in respect of an application for permission under section 291—

(a) grant the permission subject to such modifications (if any) to the proposed development as it may specify,

(b) grant the permission in respect of part of the proposed development concerned subject to such modifications (if any) to that part as it may specify, or

(c) refuse to grant the permission,

and the Board may attach such conditions to a permission granted under paragraph (a) or (b) as it considers appropriate.

(5) Where the Board decides to grant permission under this section for development that consists, or is for the purpose, of an activity for which an integrated pollution control licence or a waste licence is required, the Board shall not attach conditions to that permission that would be for the purpose of—

(a) controlling, preventing or limiting emissions resulting from the activity, or

(b) controlling emissions related to, or consequential on, the cessation of the activity.

(6) The Board may refuse permission for proposed development that consists, or is for the purpose, of an activity for which—

(a) a licence under Part IV of the Environmental Protection Agency Act 1992, or

(b) an authorisation under the Waste Water Discharge (Authorisation) Regulations 2007 (S.I. No. 684 of 2007),

is required (whether or not such licence or authorisation has been granted), if it is satisfied that the proposed development would not be consistent with objectives of maritime spatial planning or principles of proper planning and sustainable development.

(7) Without prejudice to the generality of subsection (4), the Board may attach any one or more of the following conditions to a permission for development under this section:

[22] OJ No. L164, 25.6.2008, p. 19
[23] OJ No. L257, 28.8.2014, p.135

(a) conditions requiring the carrying out of works for the preservation of any site of archaeological interest or any wreck within the meaning of the National Monuments (Amendment) Act 1987;

(b) conditions requiring the carrying out of such works as the Board may specify for the purposes of the development;

(c) for the purpose of ensuring compliance with the terms of the maritime area consent granted for the occupation of the maritime site concerned, conditions regulating the development or use of any part of the maritime area that adjoins that maritime site;

(d) conditions requiring—

(i) the provision, protection or maintenance of access to the maritime area and land adjoining the maritime area by members of the public or members of a class of the public, or

(ii) the carrying out of works for the purpose of such provision, protection or maintenance;

(e) conditions aimed at protecting rights to navigate in the maritime area;

(f) conditions aimed at protecting rights to fish in the maritime area;

(g) conditions for or in connection with—

(i) the protection of the marine environment (including the protection of fisheries),

(ii) the safety of navigation, or

(iii) the protection of underwater cables, wires, pipelines or other similar apparatus used for the purpose of—

(I) transmitting electricity or telecommunications signals, or

(II) carrying gas, petroleum, oil or water;

(h) conditions requiring the adoption of measures to reduce or prevent the emission of any noise or vibration from any structure or area comprised in the development authorised by the permission;

(i) conditions relating to the sequence of, and the times at which, works for the purposes of the development may be carried out;

(j) conditions requiring, and relating to, the maintenance or management of the proposed development;

(k) conditions requiring the recovery or disposal of construction and demolition waste in such manner as may be specified by the Board;

(l) conditions requiring, and relating to—

(i) the removal of any structures authorised by the permission, or

(ii) the discontinuance of any activity so authorised,

upon the expiration of such period as the Board may specify, and requiring, and relating to, the carrying out of any works necessary for the reinstatement of the site concerned upon such expiration;

(m) a condition requiring the applicant to submit such information, as may be specified by the Board, to—

(i) the Maritime Area Regulatory Authority,

(ii) such coastal planning authority as may be specified by the Board, or

(iii) any such other public body as may be specified by the Board,

prior to commencement of the development concerned;

(n) a condition requiring—

(i) the construction, or the financing (in whole or in part) of the construction, of a facility that, in the opinion of the Board, would provide a substantial gain to the community, or

(ii) the provision, or the financing (in whole or in part) of the provision, of a service that, in the opinion of the Board, would provide such a gain,

in the area in which it is proposed to carry out the development;

(o) conditions requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the functional area of any coastal planning authority in which the development concerned is (in whole or in part) proposed to be situated; and

(p) any condition that may be attached to a permission in accordance with subsection (4) of section 34.

(8) A condition attached to a permission in accordance with paragraph (n) of subsection (7) shall not require such an amount of financial resources to be committed for the purposes of compliance with the condition as would substantially deprive the person in whose favour the permission operates of the benefits likely to accrue from the grant of the permission.

(9) (a) Without prejudice to the generality of subsection (4), the Board may, in addition to any condition attached (in accordance with subsection (7)) to a permission for development proposed to be situated in the nearshore area of a coastal planning authority, attach to that permission a condition that the person who carries out the development agree matters of detail with the coastal planning authority and the Board relating to compliance with the permission, and if agreement cannot be reached in relation to any such matter by that person with the coastal planning authority and the Board within such period as may be specified in the condition, the Board shall determine the matter.

(b) Without prejudice to the generality of subsection (4), the Board may, in addition to any condition attached (in accordance with subsection (7)) to a permission for development proposed to be situated in the outer maritime area, attach to that permission a condition that the person who carries out the development agree matters of detail with the Board relating to compliance with the permission, and if agreement cannot be reached in

relation to any such matter by that person with the Board within such period as may be specified in the condition, the Board shall determine the matter.

Provision supplementing section 293

294. (1) The Board shall send a copy of a decision under section 293 to—

(a) the applicant for permission,

(b) the Maritime Area Regulatory Authority,

(c) any planning authority—

(i) within whose functional area it is proposed to carry out the development concerned, or

(ii) whose functional area adjoins the maritime site in which it is proposed to carry out the development concerned,

and

(d) any person, Member State of the European Union or other state that made submissions or observations in relation to the application for permission,

and the said copy shall be accompanied by a document containing a statement of the matters referred to in subsection (3).

(2) (a) The Board shall, as soon as may be, cause to be published on its internet website and in at least one national newspaper a notice informing the public of a decision under section 293.

(b) The notice referred to in paragraph (a) shall state that a person may, in accordance with section 50, question the validity of any such decision by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).

(c) The notice referred to in paragraph (a) shall specify where information relating to the making of an application referred to in paragraph (b) may be obtained.

(3) The document referred to in subsection (1) shall—

(a) state the main reasons and considerations on which the decision is based,

(b) where conditions are imposed in relation to the grant of any permission, state the reasons for the imposition of any such conditions,

(c) in the case of a decision (whether to grant or refuse permission) of the Board that conflicts with a recommendation in a report under section 146 in relation to the application for permission, state the reasons for not following that recommendation,

(d) in the case of a permission to which the Board (after having considered an environmental impact assessment report or Natura impact statement) has, for environmental reasons, attached a condition that conflicts with a recommendation in a report under section 146 in relation to the application for permission, state the reason for not following that recommendation,

(e) in relation to the grant or refusal of any permission, state that the Board is satisfied that the reasoned conclusion regarding the effects on the environment of the development concerned was up to date at the time of the decision,

(f) state the sum payable by the applicant to the Board for the purpose of contributing to the cost to the Board of—

(i) its consulting with the applicant under section 287,

(ii) its acceding to a request by the applicant for an opinion under section 290, and

(iii) its performing functions under section 293 in relation to the application under section 291,

and

(g) state the sum payable by the applicant to—

(i) the Maritime Area Regulatory Authority,

(ii) any coastal planning authority, or

(iii) any other person,

for the purpose of contributing to the cost incurred as a result of the performance of functions in relation to the application by any or all of the foregoing.

(4) A copy of a decision referred to in subsection (1) shall contain—

(a) a summary of—

(i) the outcome of any consultation that took place in relation to the application concerned, and

(ii) the manner in which the matters (if any) agreed during such consultation were taken account of in the decision or otherwise addressed,

(b) a summary of the information collected during the carrying out of an environmental impact assessment in relation to the application, and

(c) a summary of any submissions or observations of a Member State of the European Union or a state that is a party to the Transboundary Convention in relation to the application.

(5) The cost to the Board referred to in paragraph (f) of subsection (3) is the cost incurred by the Board less the prescribed fee (referred to in paragraph (a) of subsection (1) of section 291), or any part thereof, paid to the Board by or on behalf of the applicant.

(6) A permission granted under section 293 shall not come into effect unless and until all sums referred to in paragraphs (f) and (g) of subsection (3) payable by the applicant have been paid.

(7) Where an applicant for permission fails to pay a sum in respect of costs in accordance with a statement referred to in paragraph (f) of subsection (3), the Board may recover the sum as a simple contract debt in any court of competent jurisdiction.

(8) Where an applicant for permission fails to pay a sum in respect of costs in accordance with a statement referred to in paragraph

(g) of subsection (3), the Maritime Area Regulatory Authority, the coastal planning authority concerned or any other person to whom the sum is owed, as the case may be, may recover the sum as a simple contract debt in any court of competent jurisdiction.

(9) A person shall not be entitled to carry out development to which this Chapter applies solely by reason of a grant of permission under section 293.

Period within which decision under section 293 to be made

295. (1) Subject to this section, a decision under section 293 in relation to an application under section 291 shall be made not later than—

(a) 18 weeks from—

(i) the expiration of the period referred to in clause (VI) of subparagraph (i) of paragraph (a) of subsection (3) of section 291,

(ii) the day on which the Board receives further information from the applicant for permission pursuant to a requirement under paragraph (a) of subsection (1) of section 292, or

(iii) the conclusion of an oral hearing in relation to the application for permission concerned in accordance with section 305,

whichever occurs latest, or

(b) the expiration of such other period as the Minister may prescribe either generally or with respect to any particular class of application.

(2) Where the Board is of the opinion that it would not be possible or appropriate, by reason of the existence of special circumstances in relation to the application concerned, for the Board to comply with subsection (1), the Board shall, by notice in writing served on—

(a) the applicant for permission,

(b) the Maritime Area Regulatory Authority,

(c) any planning authority—

(i) within whose functional area it is proposed to carry out the development concerned, or

(ii) whose functional area adjoins the maritime site in which it is proposed to carry out the development concerned,

and

(d) any other person who made submissions or observations in relation to the application before the expiration of the period within which those submissions or observations were required to be made pursuant to—

(i) a notice or an invitation in a notice under section 291, or

(ii) an invitation under section 292,

state the reason for that opinion and specify the date by which the Board intends to make a decision under section 293 in relation to the application, and the Board shall make all such efforts as are

reasonably necessary or expedient to ensure that it makes the decision by that date.

(3) Where the Minister considers it necessary or expedient that decisions under section 293, in relation to applications under section 291 of a particular class or classes, be determined as expeditiously as is consistent with objectives of maritime spatial planning and principles of proper planning and sustainable development, by reason of its or their being of special strategic, economic or social importance to the State, he or she may give a direction to the Board to give priority to the making of such decisions, and the Board shall comply with any such direction.

(4) The Board shall, in each report made under section 118, include—

(a) a statement of the number of decisions under section 293 that it has made in compliance with a direction under subsection (3) during the year to which the report relates, and

(b) such other information as the Minister may direct relating to the time within which such decisions were made.

Discussions with Board prior to application for alteration of development in maritime area

296. (1) A person who intends to make a request under section 297 may, before making that request, apply to the Board for the Board's consent to the person's consulting with the Board in relation to the intended request.

(2) The Board may, in any consultation with a person in relation to an intended request under section 297, advise the person in relation to—

(a) the making of the request, and

(b) the considerations with regard to—

(i) objectives of maritime spatial planning,

(ii) principles of proper planning and sustainable development, and

(iii) the protection of the environment or any European site,

that are likely to have a bearing on its decision in relation to the request.

(3) The Board shall prepare and maintain a record in writing of each consultation to which this section applies.

(4) The performance by the Board of functions under this section shall not—

(a) prejudice the performance by it of any of its other functions in relation to the requesting person, requested alteration or development concerned, or

(b) be relied on by any person in relation to an application or request under this Chapter or in proceedings before a court relating to such application or request.

Request for alteration of terms of permission to which this Chapter applies

297. (1) A person who has commenced or intends to commence development in the maritime area in accordance with a permission under section 293 may make a request (other than a request to extend the period for which such a permission shall have effect) to the Board to alter the terms of a permission under section 293.

(2) (a) A request under subsection (1) shall—

(i) be accompanied by—

(I) a document in writing specifying the particulars of the requested alteration,

(II) such plans or drawings relating to the requested alteration as the Board may specify,

(III) such other information (if any) as the Board may specify in the course of any consultation under section 296 relating to the requested alteration, and

(IV) such fee as may be prescribed,

(ii) if required by the Board, be accompanied by the information specified in Schedule 7A to the Regulations of 2001 in relation to the requested alteration,

(iii) if required by the Board, be accompanied by an environmental impact assessment report prepared in respect of the requested alteration, and

(iv) if required by the Board, be accompanied by a Natura impact statement prepared in respect of the requested alteration.

(b) A requesting person may submit any one or more of the following documents with a request under subsection (1):

(i) the information specified in Schedule 7A to the Regulations of 2001 in relation to the requested alteration even if not the subject of a requirement to which subparagraph (ii) of paragraph (a) applies;

(ii) such information as the requesting person considers the Board might require to enable it to carry out a screening for appropriate assessment in respect of the requested alteration in accordance with section 177U,

(iii) an environmental impact assessment report prepared in respect of the requested alteration even if not the subject of a requirement to which subparagraph (iii) of paragraph (a) applies;

(iv) a Natura impact statement prepared in respect of the requested alteration even if not the subject of a requirement to which subparagraph (iv) of paragraph (a) applies.

(3) A requesting person shall provide the Board with such information (additional to any information provided in accordance with subsection (2)) as the Board may reasonably require for the purposes of its functions under this section.

(4) The Board may, for the purposes of its making a determination under subsection (5), invite such persons, or persons belonging to such class or classes (including the public) of persons, as the Board considers appropriate, to make observations and submissions in

relation to the requested alteration concerned, and the Board shall, in the performance of its functions under that subsection, have regard to any such observations or submissions.

(5) (a) The Board shall, not later than eight weeks after it has received the relevant materials—

(i) determine whether or not the requested alteration is likely to have significant effects on the environment, and

(ii) make a determination under subsection (4) or (5) of section 177U in relation to the requested alteration.

(b) Where the Board—

(i) determines under subparagraph (i) of paragraph (a) that the requested alteration is not likely to have significant effects on the environment, and

(ii) makes a determination under subsection (5) of section 177U in relation to the requested alteration,

it shall forthwith determine whether or not the requested alteration would otherwise constitute a material alteration of the terms of the permission concerned.

(c) A determination under subparagraph (i) of paragraph (b) or referred to in subparagraph (ii) of that paragraph, and the reasons therefor, shall be published by the Board on its internet website as soon as practicable after the making of such determination.

(d) In this subsection 'relevant materials' means—

(i) the requested alteration,

(ii) the document referred to in clause (I) of subparagraph (i) of paragraph (a) of subsection (2),

(iii) plans or drawings referred to in clause (II) of that subparagraph,

(iv) any information referred to in clause (III) of that subparagraph,

(v) any information, report or statement that was the subject of a requirement referred to in subparagraph (ii), (iii) or (iv) of the said paragraph (a),

(vi) any document submitted in accordance with paragraph (b) of subsection (2), and

(vii) in relation to the performance by the Board of its functions under, or referred to in, paragraph (a) or (b) of this subsection, any submissions or observations made pursuant to an invitation under subsection (4).

(6) (a) Where a requested alteration is a material alteration by virtue of a determination of the Board under subparagraph (i) of paragraph (a) of subsection (5) that the requested alteration is likely to have significant effects on the environment, the Board shall publish that determination and the reasons therefor on its internet website as soon as practicable after the making of the determination and, by notice in writing—

(i) inform the requesting person that the requested alteration is a material alteration, and of the reasons therefor, and

(ii) require the requesting person to prepare, and submit to the Board (if not already submitted), an environmental impact assessment report in relation to the requested alteration in accordance with section 301.

(b) Where a requested alteration is a material alteration by virtue of a determination of the Board under subsection (4) of section 177U, the Board shall publish that determination and the reasons therefor on its internet website as soon as practicable after the making of the determination and, by notice in writing—

(i) inform the requesting person that the requested alteration is a material alteration, and of the reasons therefor, and

(ii) require the requesting person to prepare, and submit to the Board (if not already submitted), a Natura impact statement in relation to the requested alteration in accordance with Part XAB.

(c) Where a requested alteration is a material alteration by virtue of a determination of the Board under paragraph (b) of subsection (5), the Board shall, by notice in writing, inform the requesting person that the requested alteration is a material alteration, and of the reasons therefor.

(7) A requesting person shall comply with a requirement under paragraph (a) or (b) of subsection (6) within such period as may be specified in the notice under that paragraph.

(8) If a requesting person fails or refuses to comply with subsection (7), his or her request under subsection (1) is deemed to have been withdrawn.

Alteration, other than material alteration, of terms of permission

298. Where the Board makes a determination under paragraph (b) of subsection (5) of section 297 that a requested alteration would not constitute a material alteration of the terms of a permission, it shall—

(a) make the requested alteration,

(b) publish a notice of the making of the requested alteration in at least one national newspaper and on its internet website, and

(c) notify each of the following in writing of the making of the requested alteration:

(i) the requesting person;

(ii) the Maritime Area Regulatory Authority;

(iii) any planning authority—

(I) within whose functional area it is proposed that the development to which the permission concerned relates would be situated, or

(II) whose functional area adjoins the maritime site in which it is proposed that the development to which the permission concerned relates would be situated;

and

(iv) each person who made submissions or observations in relation to the requested alteration in accordance with an invitation under subsection (4) of section 297.

Material alteration of terms of permission

299. (1) The Board may, in relation to a requested alteration that is a material alteration—

(a) make the requested alteration of the terms of the permission concerned,

(b) make the requested alteration of the terms of the permission concerned subject to such modifications as the Board considers appropriate, or

(c) refuse to make the requested alteration,

in this section referred to as a 'decision'.

(2) The Board shall, in the performance of its functions under subsection (1), have regard to—

(a) any environmental impact assessment report submitted to the Board under paragraph (a) of subsection (1) of section 302 and any subsequent reasoned conclusion of the Board, relating to the requested alteration concerned, and any submissions or observations made in relation thereto in accordance with a notice under paragraph (c), (d) or (e) of that subsection,

(b) any Natura impact statement submitted to the Board under paragraph (a) of subsection (2) of section 302 and any subsequent determination under section 177V, relating to the requested alteration concerned, and any submissions or observations made in relation thereto in accordance with a notice under paragraph (c) or (d) of that subsection,

(c) the National Marine Planning Framework,

(d) the National Planning Framework,

(e) the marine planning policy statement,

(f) any regional, spatial and economic strategy of a regional assembly—

(i) within whose functional area it is proposed to carry out development to which the requested alteration relates, or

(ii) whose functional area adjoins the maritime site to which the requested alteration relates,

(g) the development plan of any coastal planning authority—

(i) within whose functional area it is proposed to carry out development to which the requested alteration relates, or

(ii) whose functional area adjoins the maritime site to which the requested alteration relates,

(h) any local area plan applicable to a part of the functional area of any coastal planning authority—

(i) within which it is proposed to carry out development to which the requested alteration relates, or

(ii) that adjoins the maritime site to which the requested alteration relates,

(i) any social or economic benefit that would likely accrue to the State or a part of the State by virtue of the requested alteration,

(j) land-sea interactions within the meaning of Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014[24],

(k) objectives of maritime spatial planning,

(l) principles of proper planning and sustainable development,

(m) contractual commitments entered into by the requesting person in relation to the development concerned,

(n) the extent to which the development has already been advanced (if at all) in accordance with the permission granted in respect thereof under section 293, and

(o) relevant materials within the meaning of subsection (5) of section 297.

(3) The Board may attach conditions to an alteration under this section of the terms of a permission under section 293.

(4) (a) The Board shall, as soon as may be after compliance by the requesting person with section 302 but not before the expiration of the period specified in the notice referred to in paragraph (c) of subsection (1) of that section, make a decision under this section in respect of a requested alteration that it has determined under subparagraph (i) of paragraph (a) of subsection (5) of section 297 is likely to have significant effects on the environment.

(b) The Board shall, as soon as may be after compliance by the requesting person with section 302 but not before the expiration of the period specified in the notice referred to in paragraph (c) of subsection (2) of that section, make a decision under this section in respect of a requested alteration to which a determination under subsection (4) of section 177U applies.

(c) The Board shall, as soon as may be after—

(i) it has been provided with information in accordance with section 297, or

(ii) it has been provided with information in accordance with a requirement under subsection (5),

whichever occurs later, make a decision under this section in respect of a requested alteration that it has determined under paragraph (b) of subsection (5) of section 297 would constitute a material alteration of the terms of the permission concerned.

(5) A requesting person shall provide the Board with such information (additional to any information provided in accordance with section 297) as the Board may reasonably require for the purposes of its functions under this section.

[24] OJ No. L257, 28.8.2014, p.135

(6) Where the Board makes a decision under this section, it shall—

(a) publish—

(i) in at least one national newspaper, and

(ii) on its internet website,

a notice of the decision,

(b) make the decision available for inspection at its offices during normal office hours,

(c) in circumstances where the requesting person was required under subsection (6) of section 297 to prepare an environmental impact assessment report in relation to the requested alteration, inform—

(i) the persons to whom copies of that report were sent in accordance with paragraph (d) of subsection (1) of section 302, of the decision, and

(ii) any Member State of the European Union and any other state to which that report was sent in accordance with paragraph (e) of subsection (1) of section 302, of the decision,

and

(d) in circumstances where the requesting person was required under subsection (6) of section 297 to prepare a Natura impact statement in relation to the requested alteration, inform the persons to whom copies of that statement were sent in accordance with paragraph (c) of subsection (2) of section 302, of the decision.

(7) A decision under this section shall—

(a) state the main reasons for the decision, and

(b) where the decision does not follow a recommendation in relation to the requested alteration made in a report prepared in accordance with section 146, state the reasons for not following that recommendation.

(8) The Board may attach such conditions (if any) as it considers appropriate to the alteration of the terms of a permission made under this section, and where it so attaches a condition to such alteration—

(a) for reasons resulting from a consideration by the Board of an environmental impact assessment report or a Natura impact statement, or

(b) that is not consistent with a recommendation in such statement or in a report prepared in accordance with section 146,

the decision under paragraph (a) or (b) of subsection (1) shall state the reasons for attaching that condition.

Request for opinion of Board with regard to environmental impact assessment

300. (1) The Board shall, on the request of—

(a) a person who has commenced or intends to commence development in the maritime area in accordance with a permission under section 293, or

(b) a requesting person of whom a requirement under paragraph (a) of subsection (6) of section 297 is made,

give such person or requesting person its opinion on the scope and content of an environmental impact assessment report in relation—

(i) in the case of a person to whom paragraph (a) applies, to an alteration of the terms of a permission under section 293 in respect of which he or she proposes to make a request under subsection (1) of section 297, or

(ii) in the case of such requesting person, to a requested alteration.

(2) A requesting person shall give the Board such information in relation to the requested alteration as the Board may reasonably require for the purpose of enabling it to comply with subsection (1).

Environmental impact assessment report in accordance with requirement under section 297

301. An environmental impact assessment report prepared in accordance with a requirement under subsection (6) of section 297 shall—

(a) contain such information (if any) as is required under this Act to be included in an environmental impact assessment report,

(b) contain the information specified in paragraph 1 of Article 5 of the Environmental Impact Assessment Directive,

(c) contain a summary of the information referred to in paragraphs (a) and (b) expressed in language that could reasonably be considered to be easily comprehensible to an ordinary member of the public, and

(d) take account of any opinion given by the Board under section 300 pursuant to a request made under that section by the person by, or on whose behalf, the report is prepared.

Submission and notification of environmental impact assessment report and Natura impact statement

302. (1) The requesting person shall, as soon as may be after preparing an environmental impact assessment report in accordance with a requirement under subsection (6) of section 297—

(a) submit to the Board—

(i) such number of copies, as the Board may specify, of the report in paper form, and a copy of the report in electronic form, and

(ii) a copy of the notice—

(I) published in accordance with paragraph (c), or

(II) that he or she proposes to publish in accordance with paragraph (c), accompanied by particulars of the date on which he or she proposes to so publish the notice,

(b) submit a copy of the confirmation notice relating to that report to the Board,

(c) publish a notice, in the prescribed form, on his or her internet website and in at least one national newspaper stating—

(i) that an environmental impact assessment report has been submitted to the Board in relation to the requested alteration,

(ii) the times at which, the period (which shall not be less than 30 days) during which and the place or places at which a copy of the environmental impact assessment report may be inspected by members of the public,

(iii) that a copy of the environmental impact assessment report may be purchased on payment of such fee (not exceeding the reasonable cost of making such copy) as may be specified in the notice, and

(iv) that submissions or observations in relation to the likely effects on the environment of the requested alteration may be made in writing to the Board before the expiration of such period (which shall not be less than 30 days after the notice is first published in accordance with this paragraph) as is specified in the notice,

(d) send a copy of the environmental impact assessment report to—

(i) the Environmental Protection Agency,

(ii) any planning authority—

(I) within whose functional area it is proposed that the development would be situated, or

(II) whose functional area adjoins the maritime site in which it is proposed that the development would be situated,

and

(iii) each person who made submissions or observations in relation to the requested alteration in accordance with an invitation under section 297,

and a notice in the prescribed form to each of the foregoing stating that—

(A) that report has been submitted to the Board, and

(B) submissions or observations may be made in writing to the Board, in relation to the likely effects on the environment of the requested alteration, within the period (for the making of submissions and observations) specified in the notice published under paragraph (c) in respect of the requested alteration,

and

(e) if the Board informs the requesting person that it is of the opinion that the requested alteration is likely to have significant effects on the environment of a Member State of the European Union or another state that is a party to the Transboundary

Convention, send a copy of the environmental impact assessment report and a notice in the prescribed form stating—

(i) that that report has been submitted to the Board, and

(ii) submissions or observations may be made in writing to the Board, in relation to the likely effects on the environment of the requested alteration, within the period (for the making of submissions and observations) specified in the notice published under paragraph (c) in respect of the requested alteration,

to that Member State or other state, as the case may be.

(2) The requesting person shall, as soon as may be after preparing a Natura impact statement in accordance with a requirement under subsection (6) of section 297—

(a) submit to the Board—

(i) a copy of the statement in paper form and a copy of the statement in electronic form, and

(ii) a copy of the notice—

(I) published in accordance with paragraph (c), or

(II) that he or she proposes to publish in accordance with paragraph (c), accompanied by particulars of the date on which he or she proposes to so publish the notice,

(b) publish a notice in the prescribed form in at least one national newspaper stating—

(i) that a Natura impact statement has been submitted to the Board in relation to the requested alteration,

(ii) the times at which, the period (which shall not be less than 30 days) during which and the place or places at which a copy of the Natura impact statement may be inspected by members of the public,

(iii) that a copy of the Natura impact statement may be purchased on payment of such fee (not exceeding the reasonable cost of making such copy) as may be specified in the notice, and

(iv) that submissions or observations in relation to the likely effects on the environment or any European site of the requested alteration may be made in writing to the Board before the expiration of such period (which shall not be less than 30 days after the notice is first published in accordance with this paragraph) as is specified in the notice,

and

(c) send a copy of that statement to—

(i) the Environmental Protection Agency,

(ii) any planning authority—

(I) within whose functional area it is proposed that the development would be situated, or

(II) whose functional area adjoins the maritime site in which it is proposed that the development would be situated,

and

(iii) each person who made submissions or observations in relation to the requested alteration in accordance with an invitation under section 297,

and a notice in the prescribed form to each of the foregoing stating that—

(A) that statement has been submitted to the Board in relation to the requested alteration, and

(B) submissions or observations may, within the period (for the making of submissions and observations) specified in the notice published under paragraph (b) in respect of the requested alteration, be made in writing to the Board in relation to the likely effects on the environment or any European site of the requested alteration.

Application of section 177AA to request for material alteration of terms of permission

303. Section 177AA shall apply to a requested alteration as if—

(a) references to applicant were references to requesting person, and

(b) references to applicant for consent for proposed development were references to requesting person.

Effect of bringing of judicial review of maritime area consent on application for permission

304. (1) Where the Maritime Area Regulatory Authority grants a maritime area consent, the person who applied for that consent shall, notwithstanding the making by any other person of an application under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) for judicial review of a decision to grant that consent, be eligible to make an application in accordance with this Chapter for permission for development in accordance with that consent.

(2) Where a person makes an application in accordance with this Chapter for permission for development in circumstances to which subsection (1) applies, the Board shall, notwithstanding any pending application for judicial review referred to in that subsection, perform the functions conferred on it by this Chapter in relation to that application for permission as if no such application for judicial review had been made.

(3) A permission for development granted under this Chapter in circumstances to which this section applies shall not come into effect unless and until—

(a) final judgment is given—

(i) in relation to the application for judicial review referred to in this section, and

(ii) upholding the grant of the maritime area consent concerned in respect of which that application was made,

or

(b) the application for judicial review referred to in this section is withdrawn.

Oral hearings

305. (1) The Board may at its discretion hold an oral hearing of an application under section 291 or a request under section 297.

(2) An applicant under section 291 or requesting person under section 297 or any person who makes a submission or observation pursuant to a notice or an invitation under section 291, 292, 297 or 302 may make a request in writing for an oral hearing of the application or request, as the case may be.

(3) A request under this section shall be accompanied by such fee (if any) as the Board may specify, and the Board shall not consider a request under this section that is not accompanied by a fee so specified.

(4) The Board shall not consider a request for an oral hearing made—

(a) in the case of a request made by an applicant under section 291, later than the expiration of—

(i) the period referred to in clause (VI) of subparagraph (i) of paragraph (a) of subsection (3) of section 291, or

(ii) the period within which submissions and observations are required to be made pursuant to an invitation under section 292,

whichever occurs later,

(b) in the case of a request made by a requesting person under section 297, later than the expiration of the period within which submissions and observations are required to be made pursuant to a notice or an invitation under section 302,

(c) in the case of a request made by a person who made submissions or observations in respect of an application under section 291 pursuant to a notice under subsection (3) of that section, later than the expiration of the period referred to in clause (VI) of subparagraph (i) of paragraph (a) of that subsection,

(d) in the case of a request made by a person who made submissions or observations in respect of an application under section 291 pursuant to an invitation under section 292, later than the expiration of the period within which such submissions and observations are required to be made, and

(e) in the case of a request made by a person who made submissions or observations in respect of a request under section 297 pursuant to a notice or an invitation under section 302, later than the expiration of the period within which such submissions and observations are required to be made.

(5) Where the Board refuses a request made in accordance with this section, it shall, by notice in writing, inform the following persons thereof:

(a) in the case of a request made in respect of an application under section 291, the person who made that application and all

persons who made submissions or observations in relation to that application in accordance with this Chapter; and

(b) in the case of a request made in respect of a request under section 297, the person who made the second-mentioned request and all persons who made submissions or observations in relation to the second-mentioned request in accordance with this Chapter.

(6) Where a request under this section is withdrawn by the person who made the request, the Board shall, by notice in writing, inform the following persons thereof:

(a) in the case of a request made by an applicant under section 291, all persons who made observations or submissions to the Board in relation to the application concerned in accordance with this Chapter;

(b) in the case of a request made by a requesting person under section 297, all persons who made observations or submissions to the Board in relation to the request under that section in accordance with this Chapter;

(c) in the case of a request made by a person who made submissions or observations in respect of an application under section 291, the person who made that application; and

(d) in the case of a request made by a person who made submissions or observations in respect of a request under section 297, the person who made the second-mentioned request.

Regulations

306. (1) The Minister may make regulations for the purposes of this Part.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision in relation to any one or more of the following:

(a) the conduct of a consultation under section 287;

(b) the giving of an opinion under section 290;

(c) the making of an application under section 291;

(d) the making of a decision under section 293;

(e) oral hearings under section 305;

(f) the publication of documentation in relation to applications under section 291; and

(g) the making of submissions and observations in accordance with section 291 or 292.

CHAPTER IV

Manner of Application of Certain Provisions to Maritime Area

Definition

307. In this Chapter 'maritime development' means—

(a) development situated wholly within the maritime area, or

(b) in relation to development situated partly in the maritime area and partly on land, the part of the development that is situated in the maritime area.

Disapplication of certain provisions of Act in relation to maritime area

308. (1) The following provisions shall not apply in relation to the maritime area, and accordingly references in those provisions to functional area, administrative area or area of a planning authority or local authority shall not include references to the nearshore area of a coastal planning authority:

(a) Parts II (other than sections 28, 29 and 30), IIA, IV, V, IX, XIII and XVI; and

(b) sections 37A, 37B, 37C, 37D, 37E, 37F, 37G, 37H, 37I, 37J, 37K, 37L, 37M, 37N, 37O, 37P, 37Q, 37R, 37S, 261, 261A and 266.

(2) Subject to subsection (2) of section 282 and subsection (3) of section 293, a requirement under this Act to—

(a) comply (howsoever expressed) with a development plan, local area plan or regional spatial and economic strategy, or

(b) act in accordance with, consider, have regard to or otherwise take account of (howsoever expressed) any such plan or strategy in the performance of any function under this Act,

shall not apply in relation to the maritime area.

(3) Part XII shall not apply to that part of the maritime area that does not consist of land covered by coastal water.

Construction of references to land

309. (1) The relevant provisions shall apply to—

(a) maritime development,

(b) proposed maritime development, and

(c) the maritime area,

as if references to land or the land were references to a maritime site.

(2) References in a relevant provision to occupier shall, in so far as that provision applies to a maritime site, be construed as including references to the holder of a maritime area consent granted for the occupation of that maritime site for the purposes of maritime development.

(3) References in a relevant provision (other than section 182) to owner shall, in so far as that provision applies to a maritime site, not include references to a Minister of the Government in whom the maritime site vests by virtue of section 5 of the Act of 1954.

(4) Section 37 shall apply to a decision under section 34 in respect of an application for permission for development to which Chapter II applies as if references to land in subsection (6) included references to a maritime site.

(5) The reference in paragraph (b) of subsection (2) of section 43 to land shall be construed as including a reference to a maritime site.

(6) A power conferred on a local authority by a relevant provision (by virtue of the operation of this section) to compulsorily acquire a maritime site shall not apply to a maritime site that vests in a Minister of the Government by virtue of section 5 of the Act of 1954.

(7) In this section—

'Act of 1954' means the State Property Act 1954; and

'relevant provision' means a provision of this Act specified in Part 1 of the Ninth Schedule (inserted by *section 173* of the *Maritime Area Planning Act 2021*).

Construction of references to proper planning and sustainable development

310. (1) Subject to section 308, this Act (other than this Part and paragraph (b) of subsection (1) of section 31Q) shall apply to—

(a) maritime development,

(b) proposed maritime development, and

(c) the maritime area,

as if references to proper planning and sustainable development were references to maritime spatial planning.

(2) Subject to section 308, this Act (other than this Part and paragraph (c) of subsection (3) of section 179) shall apply to—

(a) maritime development,

(b) proposed maritime development, and

(c) the maritime area,

as if references to principles of proper planning and sustainable development were references to objectives of maritime spatial planning.

Construction of references to National Planning Framework

311. (1) Subject to section 308, this Act (other than this Part, section 178A, subsection (18) of section 12, subsection (14) of section 13 and paragraph (c) of subsection (3) of section 179) shall apply to—

(a) maritime development,

(b) proposed maritime development, and

(c) the maritime area,

as if references to the National Planning Framework were references to the National Marine Planning Framework.

Construction of references to development plan

312. (1) The relevant provisions shall apply to—

(a) maritime development,

(b) proposed maritime development, and

(c) the maritime area,

as if references to a development plan or the development plan were references to the National Marine Planning Framework.

(2) In this section 'relevant provision' means a provision of this Act specified in Part II of the Ninth Schedule (inserted by *section 173* of the *Maritime Area Planning Act 2021*).

Construction of references to planning authority

313. (1) The relevant provisions shall apply to the outer maritime area as if references to a planning authority, the planning authority, relevant planning authority or planning authorities were references to the Maritime Area Regulatory Authority.

(2) The relevant provisions shall apply to the outer maritime area as if references to a local authority, the local authority, relevant local authority or local authorities were references to the Maritime Area Regulatory Authority.

(3) In this section 'relevant provision' means a provision of this Act specified in Part III of the Ninth Schedule (inserted by *section 173* of the *Maritime Area Planning Act 2021*).

Application of section 5 to outer maritime area

314. For the purpose of determining the question as to whether or not any development situated wholly or partly in the outer maritime area is exempted development, section 5 shall apply as if—

(a) references to a planning authority, the planning authority, the relevant planning authority or the authority were references to the Board, and

(b) subsections (3) and (4) were deleted.

Application of section 137

315. Section 137 shall apply to applications under section 291 in the same manner as it applies to referrals, and accordingly references in section 137 to referrals shall be construed as including references to applications under section 291.

Application of section 146

316. Section 146 shall apply to the performance by the Board of its functions for the purposes of this Part as if—

(a) 'the State' were substituted for 'the area in which it is proposed to carry out the development, or in which the development is located,' in subparagraph (iii) of paragraph (a) of subsection (4), and

(b) '7 years' were substituted for '5 years' in paragraph (b) of subsection (7).

Application of Part X

317. (1) Subject to section 289, Part X (other than the excluded provisions) shall apply to—

(a) development to which Chapter III applies, and

(b) proposed such development,

as if—

(i) 'the Board' were substituted for 'a planning authority or the Board' in each place that it occurs,

(ii) 'the Board' were substituted for 'the planning authority or the Board' in each place that it occurs,

(iii) 'the Board' were substituted for 'a planning authority or the Board, as may be appropriate,' in each place that it occurs,

(iv) 'the Board' were substituted for 'the planning authority concerned or the Board, as may be appropriate,' in each place that it occurs,

(v) 'the Board' were substituted for 'planning authority or the Board, as the case may be,' in each place that it occurs,

(vi) all other references to a planning authority or the planning authority were references to the Board,

(vii) in subsection (4) of section 173A, 'the relevant planning authority or' were deleted, and

(viii) in subsection (4) of section 173B, 'the relevant planning authority or' were deleted.

(2) In this section 'excluded provision' means—

(a) section 175,

(b) subsections (1) and (2) of section 173,

(c) subsection (9) of section 173C,

(d) subsections (1) and (2) of section 174, and

(e) paragraphs (a), (b) and (c) of subsection (3), and subsection (4), of section 172.

Application of Part XAB

318. (1) Part XAB (other than the excluded provisions) shall apply to—

(a) development to which Chapter III applies, and

(b) proposed such development,

as if—

(i) references to a planning authority or the planning authority were references to the Board, and

(ii) in section 177U, 'the Board' were substituted for 'a planning authority or the Board' in each place that it occurs.

(2) In this section 'excluded provisions' means subsections (9) and (10) of section 177U.

Public notice of application

319. (1) A requirement under a provision of this Act to publish a notice in a newspaper circulating in the functional area or administrative area of a planning authority or local authority or in any district shall, in relation to an application for permission for development to which Chapter III applies, be deemed to be a requirement to publish the notice in a national newspaper.

(2) A requirement under a provision of this Act to erect a notice on land or affix or attach a notice to a structure shall, in so far as that provision applies to the maritime area, be deemed to be a requirement to publish the notice in a national newspaper on such consecutive number of days (in this subsection referred to as the 'publication period') as may be prescribed, and different publication periods may be prescribed in respect of different classes of development or proposed development.

(3) A requirement under a provision of this Act to submit to the Board or a planning authority a notice erected on land or a notice affixed or attached to a structure pursuant to the requirement referred to in subsection (2) shall be deemed to be a requirement to submit to the Board or coastal planning authority concerned the notice published in accordance with the requirement second-mentioned in that subsection.

Consultation by coastal planning authority with Maritime Area Regulatory Authority

320. (1) A coastal planning authority may consult with the Maritime Area Regulatory Authority for the purposes of this Part.

(2) A coastal planning authority may, for the purpose of the performance of its functions under Part III and this Part, request the Maritime Area Regulatory Authority to provide the coastal planning authority with such information (including information in relation to an applicant for permission for development referred to in subsection (3) of section 281) as is in the possession, or procurement, of the Maritime Area Regulatory Authority.

(3) The Maritime Area Regulatory Authority shall accede to a request under subsection (2).

Consultation by Board with Maritime Area Regulatory Authority

321. (1) The Board may consult with the Maritime Area Regulatory Authority for the purposes of this Part.

(2) The Board may, for the purpose of the performance of its functions under this Part, request the Maritime Area Regulatory Authority to provide the Board with such information (including information in relation to an applicant under section 291 or requesting person within the meaning of Chapter III) as is in the possession, or procurement, of the Maritime Area Regulatory Authority.

(3) The Maritime Area Regulatory Authority shall accede to a request under subsection (2).".

Classes of development to which Chapter III of Part XXI of Act of 2000 applies

172. The Act of 2000 is amended by the insertion of the Schedule set out in *Schedule 10*.

Relevant provisions for purposes of sections 309, 312 and 313 of Act of 2000

173. The Act of 2000 is amended by the insertion of the Schedule set out in *Schedule 11*.

Amendment of certain other provisions of Act of 2000

174. The Act of 2000 is amended to the extent specified in *Schedule 12*.

PART 9

Consequential Amendments

Chapter 1

Amendment of Foreshore Act 1933

Application - Act of 1933 and *Maritime Area Planning Act 2021*

175. The Act of 1933 is amended by the insertion of the following section after section 1D:

"Application - this Act and *Maritime Area Planning Act 2021*

1E. (1) In this section, 'relevant Minister' means the Minister of the Government who falls within paragraph (c) of section 1B.

(2) Subject to subsection (3), the relevant Minister shall not, on or after the relevant date, perform a function under a relevant section.

(3) Subsection (2) shall not apply to the relevant Minister's determination of an application made under this Act before the relevant date but not finally determined before that date.

(4) The MARA may, on or after the establishment day—

(a) exercise the power or proviso for re-entry referred to in section 2(4), or

(b) exercise the power to terminate referred to in section 3(5),

to the same extent that the relevant Minister may have done so before the establishment day.

(5) (a) The relevant Minister shall not, on or after the establishment day, perform a function under the other provisions of this Act.

(b) The references in the other provisions of this Act to the appropriate Minister shall, on and after the establishment day and to the extent that such references are references to the relevant Minister, be construed as references to the MARA.

(c) The references in section 13AA to a Minister of the Government shall, on and after the establishment day and to the extent that such references are references to the relevant Minister, be construed as references to the MARA.

(6) In this section—

'Act of 2021' means the *Maritime Area Planning Act 2021*;

'establishment day' means the day appointed under *section 41* of the Act of 2021;

'foreshore authorisation' has the meaning assigned to it by the Act of 2021;

'function', in relation to the relevant Minister, includes the relevant Minister being the person to whom a rent, fine, royalty, or other money, is paid or is required to be paid;

'MARA' means the Maritime Area Regulatory Authority;

'other provisions of this Act' means any provisions of this Act other than a relevant section;

'relevant date' means—

(a) in the case of a relevant section and a foreshore authorisation which falls within *section 105* of the Act of 2021, the coming into operation of that last-mentioned section, and

(b) in the case of a relevant section and a foreshore authorisation which falls within *section 129* of the Act of 2021, the coming into operation of that last-mentioned section;

'relevant section' means section 2, 3, 10, 13 or 20.".

Amendment of section 10 of Act of 1933

176. Section 10 of the Act of 1933 is amended—

(a) in subsection (3)—

(i) by the substitution of "appropriate Minister" for "Minister for the Environment, Heritage and Local Government", and

(ii) by the substitution of "the appropriate Minister" for "that Minister" in both places that it occurs,

(b) in subsection (4), by the substitution of "appropriate Minister" for "Minister for the Environment, Heritage and Local Government", and

(c) by the insertion of the following after subsection (4):

"(5) For the avoidance of doubt, it is hereby declared that where a reference in this section to the appropriate Minister means the Minister of the Government who falls within paragraph (a) or (b) of section 1B, that reference shall be construed as only enabling that Minister to perform functions under this section which relate to that Minister's functions under either or both of those paragraphs.".

Amendment of section 11 of Act of 1933

177. Section 11 of the Act of 1933 is amended—

(a) in subsection (1)—

(i) by the substitution of "appropriate Minister" for "Minister for the Environment, Heritage and Local Government", and

(ii) by the substitution of "the appropriate Minister" for "that Minister",

(b) in subsection (2), by the substitution of "appropriate Minister" for "Minister for the Environment, Heritage and Local Government", and

(c) in subsection (3)—

(i) by the substitution of "appropriate Minister" for "Minister for the Environment, Heritage and Local Government", and

(ii) by the substitution of "the appropriate Minister" for "that Minister".

Amendment of section 12 of Act of 1933

178. Section 12 of the Act of 1933 is amended by the substitution of "appropriate Minister" for "Minister for the Environment, Heritage and Local Government" in each place that it occurs.

Amendment of section 13 of Act of 1933

179. Section 13(1) of the Act of 1933 is amended by the substitution of "appropriate Minister" for "Minister for the Environment, Heritage and Local Government".

Environmental impact assessments - special cases

180. The Act of 1933 is amended by the insertion of the following section after section 13B:

"13C. (1) Subsection (2) applies where a local authority that is a planning authority (within the meaning of the Act of 2000)—

(a) applies for approval for a proposed development under—

(i) section 226 of the Act of 2000, or

(ii) on and after the coming into operation of *section 12(2)* of the *Maritime Area Planning Act 2021*, section 175 of the Act of 2000, or

(b) has an approval referred to in paragraph (a).

(2) Notwithstanding the provisions of any other enactment, it shall not be necessary for—

(a) the local authority to submit an Environmental Impact Assessment Report in connection with its application under this Act for a lease or licence for the proposed development, or

(b) the appropriate Minister to undertake an environmental impact assessment in determining an application referred to in paragraph (a).".

Amendment of section 18A of Act of 1933

181. Section 18A(1) of the Act of 1933 is amended—

(a) by the substitution of "Minister for Agriculture, Food and the Marine may" for "Minister for the Environment, Heritage and Local Government may, after consultation with the Minister for Agriculture, Fisheries and Food,", and

(b) in paragraph (a), by the deletion of "for the Environment, Heritage and Local Government, or the Minister for Agriculture, Fisheries and Food or to both".

Chapter 2

Amendment of Registration of Title Act 1964

Amendment of section 125 of Registration of Title Act 1964

182. Section 125 of the Registration of Title Act 1964 is amended by the substitution of "Minister for Agriculture, Food and the Marine and the Maritime Area Regulatory Authority" for "Minister for Transport and Power".

Chapter 3

Amendment of Foreshore (Amendment) Act 1992

Definition

183. In this Chapter, "Act of 1992" means the Foreshore (Amendment) Act 1992.

Application - Act of 1992 and *Maritime Area Planning Act 2021*

184. (1) The Act of 1992 is amended by the insertion of the following section after section 1:

"Application - this Act and *Maritime Area Planning Act 2021*

1A. (1) In this section, 'relevant Minister' means the Minister of the Government who falls within paragraph (c) of section 1B of the Principal Act.

(2) Subject to subsection (3), the relevant Minister shall not, on or after the establishment day, perform a function under section 5(1), 6(1) or (4) or 7(1).

(3) Subsection (2) shall not apply to—

(a) an application made by the relevant Minister under section 5(1) or 6(1) before the establishment day but not finally determined before that day, or

(b) any proceedings initiated by the relevant Minister under section 6(4) or 7(1) before the establishment day but not concluded before that day.

(4) Except where subsection (3) applies, references to the appropriate Minister in section 5(1), 6(1) or (4) or 7(1) shall, on and after the establishment day and to the extent that such references are references to the relevant Minister, be construed as references to the Maritime Area Regulatory Authority.

(5) In this section, 'establishment day' means the day appointed under *section 41* of the *Maritime Area Planning Act 2021*.".

Amendment of section 5 of Act of 1992

185. Section 5(1)(a) of the Act of 1992 is amended by the substitution of "appropriate Minister" for "Minister for the Environment, Heritage and Local Government".

Amendment of section 6 of Act of 1992

186. Section 6 of the Act of 1992 is amended—

(a) in subsections (1)(a)(i) and (4)(a)(i) and (b), by the substitution of "appropriate Minister" for "Minister for the Environment, Heritage and Local Government", and

(b) in subsection (4)(b)—

(i) by the substitution of "appropriate Minister" for "Minister for the Environment, Heritage and Local Government", and

(ii) by the substitution of "appropriate Minister" for "that Minister".

Chapter 4

Amendment of Electricity Regulation Act 1999

Definition - *Chapter 4*

187. In this Chapter, "Act of 1999" means the Electricity Regulation Act 1999.

Amendment of section 2 of Act of 1999

188. Section 2(1) of the Act of 1999 is amended—

(a) in the definition of "transmission", by the insertion of "in the State or offshore, or both," after "transmission system", and

(b) by the insertion of the following definition:

" 'offshore' has the meaning assigned to it by section 13A;".

Amendment of section 14 of Act of 1999

189. Section 14 of the Act of 1999 is amended by the insertion of the following subsection after subsection (2A):

"(2AA) A licence under paragraph (e) of subsection (1) shall provide for the ownership, by the transmission system operator concerned, of transmission assets for the following purposes:

(a) the development or proposed development of a transmission system which is offshore;

(b) the extension or proposed extension of an existing transmission system to a transmission system referred to in paragraph (a) ;

(c) facilities that are not offshore but that relate, or will relate, to connecting a transmission system (or part thereof) referred to in paragraph (a) to an existing transmission system;

(d) any transmission assets as may be determined by the Commission as assets of the transmission system operator.".

Amendment of section 37 of Act of 1999

190. Section 37(4) of the Act of 1999 is amended—

(a) in paragraph (a), by the insertion of "section 34(1A) or (1B) or" after "constructed under",

(b) by the insertion of the following paragraph after paragraph (a):

"(aa) Where there is a connection made between a direct line constructed under section 34(1A) and the transmission system of the transmission system operator, the Commission shall, on the application of the transmission system operator, direct the owner of such direct line to transfer the ownership of the direct line to the transmission system operator on such terms, including terms as to compensation, as may be agreed between the transmission system operator and the owner of the direct line or as may be determined by the Commission.",

and

(c) by the substitution of the following paragraph for paragraph (b):

"(b) In default of agreement between the Board, or the transmission system operator, and the owner as to compensation (and save where such compensation is determined by the Commission under paragraph (aa)), such compensation shall be assessed under the provisions of the Acquisition of Land (Assessment of Compensation) Act 1919, and for this purpose the Board, or the transmission system operator, as appropriate, shall be deemed to be a public authority.".

SCHEDULE 1

Maritime Spatial Planning Directive

Section 2

DIRECTIVE 2014/89/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 23 July 2014

establishing a framework for maritime spatial planning

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 43(2), 100(2), 192(1), and 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee([1]),

Having regard to the opinion of the Committee of the Regions([2]),

Acting in accordance with the ordinary legislative procedure([3]),

Whereas:

(1) The high and rapidly increasing demand for maritime space for different purposes, such as installations for the production of energy from renewable sources, oil and gas exploration and exploitation, maritime shipping and fishing activities, ecosystem and biodiversity conservation, the extraction of raw materials, tourism, aquaculture installations and underwater cultural heritage, as well as the multiple pressures on coastal resources, require an integrated planning and management approach.

(2) Such an approach to ocean management and maritime governance has been developed in the Integrated Maritime Policy for the European Union ('IMP'), including, as its environmental pillar, Directive 2008/56/EC of the European Parliament and of the Council([4]). The objective of the IMP is to support the sustainable development of seas and oceans and to develop coordinated, coherent and transparent decision-making in relation to the Union's sectoral policies affecting the oceans, seas, islands, coastal and outermost regions and maritime sectors, including through sea-basin strategies or macro-regional strategies, whilst achieving good environmental status as set out in Directive 2008/56/EC.

(3) The IMP identifies maritime spatial planning as a cross-cutting policy tool enabling public authorities and stakeholders to apply a coordinated, integrated and trans-boundary approach. The application of an ecosystem-based approach will contribute to promoting the sustainable development and growth of the maritime and coastal economies and the sustainable use of marine and coastal resources.

(4) Maritime spatial planning supports and facilitates the implementation of the Europe 2020 Strategy for smart, sustainable and inclusive growth ('the Europe 2020 Strategy'), endorsed by the European Council in its conclusions of 17 June

[1] OJ C 341, 21.11.2013, p. 67.
[2] OJ C 356, 5.12.2013, p. 124.
[3] Position of the European Parliament of 17 April 2014 (not yet published in the Official Journal) and decision of the Council of 23 July 2014.
[4] Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

2010, which aims to deliver high levels of employment, productivity and social cohesion, including promotion of a more competitive, resource-efficient and green economy. The coastal and maritime sectors have significant potential for sustainable growth and are keys to the implementation of the Europe 2020 Strategy.

(5) In its communication entitled 'Blue Growth: opportunities for marine and maritime sustainable growth', the Commission has identified a number of ongoing Union initiatives which are intended to implement the Europe 2020 Strategy, as well as a number of activities on which blue growth initiatives could focus in the future and which could be adequately supported by greater confidence and certainty for investors provided through maritime spatial planning.

(6) Regulation (EU) No 1255/2011 of the European Parliament and of the Council([5]) supported and facilitated the implementation of maritime spatial planning and integrated coastal management. European Structural and Investment Funds, including the European Maritime and Fisheries Fund([6]), will provide opportunities to support the implementation of this Directive for 2014-2020.

(7) The United Nations Convention on the Law of the Sea of 1982 ('Unclos') states in its preamble that issues relating to the use of ocean space are closely interrelated and need to be considered as a whole. Planning of ocean space is the logical advancement and structuring of obligations and of the use of rights granted under Unclos and a practical tool in assisting Member States to comply with their obligations.

(8) In order to promote the sustainable coexistence of uses and, where applicable, the appropriate apportionment of relevant uses in the maritime space, a framework should be put in place that consists at least of the establishment and implementation by Member States of maritime spatial planning, resulting in plans.

(9) Maritime spatial planning will contribute to the effective management of marine activities and the sustainable use of marine and coastal resources, by creating a framework for consistent, transparent, sustainable and evidence-based decision-making. In order to achieve its objectives, this Directive should lay down obligations to establish a maritime planning process, resulting in a maritime spatial plan or plans; such a planning process should take into account land-sea interactions and promote cooperation among Member States. Without prejudice to the existing Union *acquis* in the areas of energy, transport, fisheries and the environment, this Directive should not impose any other new obligations, notably in relation to the concrete choices of the Member States about how to pursue the sectoral policies in those areas, but should rather aim to contribute to those policies through the planning process.

(10) In order to ensure consistency and legal clarity, the geographical scope for maritime spatial planning should be defined in conformity with existing legislative instruments of the Union and international maritime law, in particular Unclos. The competences of Member States relating to maritime boundaries and jurisdiction are not altered by this Directive.

(11) While it is appropriate for the Union to provide a framework for maritime spatial planning, Member States remain responsible and competent for designing and determining, within their marine waters, the format and content of such plans,

[5] Regulation (EU) No 1255/2011 of the European Parliament and of the Council of 30 November 2011 establishing a Programme to support the further development of an Integrated Maritime Policy (OJ L 321, 5.12.2011, p. 1).

[6] Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJ L 149, 20.5.2014, p. 1).

including institutional arrangements and, where applicable, any apportionment of maritime space to different activities and uses respectively.

(12) In order to respect proportionality and subsidiarity, as well as to minimise additional administrative burdens, the transposition and implementation of this Directive should to the greatest extent possible build upon existing national, regional and local rules and mechanisms, including those set out in Recommendation 2002/413/EC of the European Parliament and of the Council([7]) or in Council Decision 2010/631/EU([8]).

(13) In marine waters, ecosystems and marine resources are subject to significant pressures. Human activities, but also climate change effects, natural hazards and shoreline dynamics such as erosion and accretion, can have severe impacts on coastal economic development and growth, as well as on marine ecosystems, leading to deterioration of environmental status, loss of biodiversity and degradation of ecosystem services. Due regard should be had to these various pressures in the establishment of maritime spatial plans. Moreover, healthy marine ecosystems and their multiple services, if integrated in planning decisions, can deliver substantial benefits in terms of food production, recreation and tourism, climate change mitigation and adaptation, shoreline dynamics control and disaster prevention.

(14) In order to promote the sustainable growth of maritime economies, the sustainable development of marine areas and the sustainable use of marine resources, maritime spatial planning should apply an ecosystem-based approach as referred to in Article 1(3) of Directive 2008/56/EC with the aim of ensuring that the collective pressure of all activities is kept within levels compatible with the achievement of good environmental status and that the capacity of marine ecosystems to respond to human-induced changes is not compromised, while contributing to the sustainable use of marine goods and services by present and future generations. In addition, an ecosystem-based approach should be applied in a way that is adapted to the specific ecosystems and other specificities of the different marine regions and that takes into consideration the ongoing work in the Regional Sea Conventions, building on existing knowledge and experience. The approach will also allow for an adaptive management which ensures refinement and further development as experience and knowledge increase, taking into account the availability of data and information at sea basin level to implement that approach. Member States should take into account the precautionary principle and the principle that preventive action should be taken, as laid down in Article 191(2) of the Treaty on the Functioning of the European Union.

(15) Maritime spatial planning will contribute, inter alia, to achieving the aims of Directive 2009/28/EC of the European Parliament and of the Council([9]), Council Regulation (EC) No 2371/2002([10]), Directive 2009/147/EC of the European Parliament and of the Council([11]), Council Directive 92/43/EEC([12]), Decision No

[7] Recommendation 2002/413/EC of the European Parliament and of the Council of 30 May 2002 concerning the implementation of Integrated Coastal Zone Management in Europe (OJ L 148, 6.6.2002, p. 24).

[8] Council Decision 2010/631/EU of 13 September 2010 concerning the conclusion, on behalf of the European Union, of the Protocol on Integrated Coastal Zone Management in the Mediterranean to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (OJ L 279, 23.10.2010, p. 1).

[9] Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

[10] Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy (OJ L 358, 31.12.2002, p. 59).

[11] Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

[12] Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

884/2004/EC of the European Parliament and of the Council([13]), Directive 2000/60/EC of the European Parliament and of the Council([14]), Directive 2008/56/EC, recalling the Commission communication of 3 May 2011 entitled 'Our life insurance, our natural capital: an EU biodiversity strategy to 2020', the Commission communication of 20 September 2011 entitled 'Roadmap to a Resource Efficient Europe', the Commission communication of 16 April 2013 entitled 'An EU Strategy on Adaptation to Climate Change' and the Commission communication of 21 January 2009 entitled 'Strategic goals and recommendations for the EU's maritime transport policy until 2018', as well as, where appropriate, those of the Union's Regional Policy, including the sea-basin and macro-regional strategies.

(16) Marine and coastal activities are often closely interrelated. In order to promote the sustainable use of maritime space, maritime spatial planning should take into account land-sea interactions. For this reason, maritime spatial planning can play a very useful role in determining orientations related to sustainable and integrated management of human activities at sea, preservation of the living environment, the fragility of coastal ecosystems, erosion and social and economic factors. Maritime spatial planning should aim to integrate the maritime dimension of some coastal uses or activities and their impacts and ultimately allow an integrated and strategic vision.

(17) This framework Directive does not interfere with Member States' competence for town and country planning, including any terrestrial or land spatial planning system used to plan how land and coastal zone should be used. If Member States apply terrestrial planning to coastal waters or parts thereof, this Directive should not apply to those waters.

(18) Maritime spatial planning should cover the full cycle of problem and opportunity identification, information collection, planning, decision-making, implementation, revision or updating, and the monitoring of implementation, and should have due regard to land-sea interactions and best available knowledge. Best use should be made of mechanisms set out in existing or future legislation, including Commission Decision 2010/477/EU([15]) and the Commission's Marine Knowledge 2020 initiative.

(19) The main purpose of maritime spatial planning is to promote sustainable development and to identify the utilisation of maritime space for different sea uses as well as to manage spatial uses and conflicts in marine areas. Maritime spatial planning also aims at identifying and encouraging multi-purpose uses, in accordance with the relevant national policies and legislation. In order to achieve that purpose, Member States need at least to ensure that the planning process or processes result in a comprehensive planning identifying the different uses of maritime space and taking into consideration long-term changes due to climate change.

(20) Member States should consult and coordinate their plans with the relevant Member States and should cooperate with third-country authorities in the marine region concerned in conformity with the rights and obligations of those Member States and of the third countries concerned under Union and international law. Effective cross-border cooperation between Member States and with neighbouring third countries requires that the competent authorities in each Member State be identified. Member States therefore need to designate the competent authority or authorities responsible for the implementation of this Directive. Given the

[13] Decision No 884/2004/EC of the European Parliament and of the Council of 29 April 2004 amending Decision No 1692/96/EC on Community guidelines for the development of the trans-European transport network (OJ L 167, 30.4.2004, p. 1).

[14] Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

[15] Commission Decision 2010/477/EU of 1 September 2010 on criteria and methodological standards on good environmental status of marine waters (OJ L 232, 2.9.2010, p. 14).

differences between various marine regions or sub-regions and coastal zones, it is not appropriate to prescribe in detail in this Directive the form which those cooperation mechanisms should take.

(21) The management of marine areas is complex and involves different levels of authorities, economic operators and other stakeholders. In order to promote sustainable development in an effective manner, it is essential that stakeholders, authorities and the public be consulted at an appropriate stage in the preparation of maritime spatial plans under this Directive, in accordance with relevant Union legislation. A good example of public consultation provisions can be found in Article 2(2) of Directive 2003/35/EC of the European Parliament and of the Council([16]).

(22) Through maritime spatial plans, Member States can reduce the administrative burden and costs in support of their action to implement other relevant Union legislation. The timelines for maritime spatial plans should therefore, where possible, be coherent with the timetables set out in other relevant legislation, especially: Directive 2009/28/EC, which requires the share of energy from renewable sources in gross final consumption of energy in 2020 to be at least 20 % and which identifies coordination of authorisation, certification and planning procedures, including spatial planning, as an important contribution to the achievement of the Union's targets for energy from renewable sources; Directive 2008/56/EC and point 6 of Part A of the Annex to Decision 2010/477/EU, which require Member States to take the necessary measures to achieve or maintain good environmental status in the marine environment by 2020 and which identify maritime spatial planning as a tool to support the ecosystem-based approach to the management of human activities in order to achieve good environmental status; Decision No 884/2004/EC, which requires that the trans-European transport network be established by 2020 by means of the integration of Europe's land, sea and air transport infrastructure networks.

(23) Directive 2001/42/EC of the European Parliament and of the Council([17]) establishes environmental assessment as an important tool for integrating environmental considerations into the preparation and adoption of plans and programmes. Where maritime spatial plans are likely to have significant effects on the environment, they are subject to Directive 2001/42/EC. Where maritime spatial plans include Natura 2000 sites, such an environmental assessment can be combined with the requirements of Article 6 of Directive 92/43/EEC, to avoid duplication.

(24) With a view to ensuring that maritime spatial plans are based on reliable data and to avoid additional administrative burdens, it is essential that Member States make use of the best available data and information by encouraging the relevant stakeholders to share information and by making use of existing instruments and tools for data collection, such as those developed in the context of the Marine Knowledge 2020 initiative and Directive 2007/2/EC of the European Parliament and of the Council([18]).

(25) Member States should send copies of their maritime spatial plans and any updates to the Commission, so as to enable the latter to monitor the implementation of this Directive. The Commission will use the information provided by the Member States, and existing information available under Union legislation, to keep the

[16] Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (OJ L 156, 25.6.2003, p. 17).

[17] Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30).

[18] Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

European Parliament and the Council informed of progress made in implementing this Directive.

(26) Timely transposition of this Directive is essential since the Union has adopted a number of policy initiatives that are to be implemented by the year 2020 and which this Directive aims to support and complement.

(27) A landlocked Member State would be under a disproportionate and unnecessary obligation if it had to transpose and implement this Directive. Therefore, such Member States should be exempted from the obligation to transpose and implement this Directive,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. This Directive establishes a framework for maritime spatial planning aimed at promoting the sustainable growth of maritime economies, the sustainable development of marine areas and the sustainable use of marine resources.

2. Within the Integrated Maritime Policy of the Union, that framework provides for the establishment and implementation by Member States of maritime spatial planning, with the aim of contributing to the objectives specified in Article 5, taking into account land-sea interactions and enhanced cross-border cooperation, in accordance with relevant Unclos provisions.

Article 2

Scope

1. This Directive shall apply to marine waters of Member States, without prejudice to other Union legislation. It shall not apply to coastal waters or parts thereof falling under a Member State's town and country planning, provided that this is communicated in its maritime spatial plans.

2. This Directive shall not apply to activities the sole purpose of which is defence or national security.

3. This Directive shall not interfere with Member States' competence to design and determine, within their marine waters, the extent and coverage of their maritime spatial plans. It shall not apply to town and country planning.

4. This Directive shall not affect the sovereign rights and jurisdiction of Member States over marine waters which derive from relevant international law, particularly Unclos. In particular, the application of this Directive shall not influence the delineation and delimitation of maritime boundaries by the Member States in accordance with the relevant provisions of Unclos.

Article 3

Definitions

For the purposes of this Directive, the following definitions apply:

(1) 'Integrated Maritime Policy' (IMP) means a Union policy whose aim is to foster coordinated and coherent decision-making to maximise the sustainable development, economic growth and social cohesion of Member States, and

notably the coastal, insular and outermost regions in the Union, as well as maritime sectors, through coherent maritime-related policies and relevant international cooperation;

(2) 'maritime spatial planning' means a process by which the relevant Member State's authorities analyse and organise human activities in marine areas to achieve ecological, economic and social objectives;

(3) 'marine region' means the marine region referred to in Article 4 of Directive 2008/56/EC;

(4) 'marine waters' means the waters, the seabed and subsoil as defined in point (1)(a) of Article 3 of Directive 2008/56/EC and coastal waters as defined in point 7 of Article 2 of Directive 2000/60/EC and their seabed and their subsoil.

CHAPTER II

MARITIME SPATIAL PLANNING

Article 4

Establishment and implementation of maritime spatial planning

1. Each Member State shall establish and implement maritime spatial planning.

2. In doing so, Member States shall take into account land-sea interactions.

3. The resulting plan or plans shall be developed and produced in accordance with the institutional and governance levels determined by Member States. This Directive shall not interfere with Member States' competence to design and determine the format and content of that plan or those plans.

4. Maritime spatial planning shall aim to contribute to the objectives listed in Article 5 and fulfil the requirements laid down in Articles 6 and 8.

5. When establishing maritime spatial planning, Member States shall have due regard to the particularities of the marine regions, relevant existing and future activities and uses and their impacts on the environment, as well as to natural resources, and shall also take into account land-sea interactions.

6. Member States may include or build on existing national policies, regulations or mechanisms that have been or are being established before the entry into force of this Directive, provided they are in conformity with the requirements of this Directive.

Article 5

Objectives of maritime spatial planning

1. When establishing and implementing maritime spatial planning, Member States shall consider economic, social and environmental aspects to support sustainable development and growth in the maritime sector, applying an ecosystem-based approach, and to promote the coexistence of relevant activities and uses.

2. Through their maritime spatial plans, Member States shall aim to contribute to the sustainable development of energy sectors at sea, of maritime transport, and of the fisheries and aquaculture sectors, and to the preservation, protection and improvement of the environment, including resilience to climate change impacts. In addition, Member States may pursue other objectives such as the promotion of sustainable tourism and the sustainable extraction of raw materials.

3. This Directive is without prejudice to the competence of Member States to determine how the different objectives are reflected and weighted in their maritime spatial plan or plans.

Article 6

Minimum requirements for maritime spatial planning

1. Member States shall establish procedural steps to contribute to the objectives listed in Article 5, taking into account relevant activities and uses in marine waters.

2. In doing so, Member States shall:

(a) take into account land-sea interactions;

(b) take into account environmental, economic and social aspects, as well as safety aspects;

(c) aim to promote coherence between maritime spatial planning and the resulting plan or plans and other processes, such as integrated coastal management or equivalent formal or informal practices;

(d) ensure the involvement of stakeholders in accordance with Article 9;

(e) organise the use of the best available data in accordance with Article 10;

(f) ensure trans-boundary cooperation between Member States in accordance with Article 11;

(g) promote cooperation with third countries in accordance with Article 12.

3. Maritime spatial plans shall be reviewed by Member States as decided by them but at least every ten years.

Article 7

Land-sea interactions

1. In order to take into account land-sea interactions in accordance with Article 4(2), should this not form part of the maritime spatial planning process as such, Member States may use other formal or informal processes, such as integrated coastal management. The outcome shall be reflected by Member States in their maritime spatial plans.

2. Without prejudice to Article 2(3), Member States shall aim through maritime spatial planning to promote coherence of the resulting maritime spatial plan or plans with other relevant processes.

Article 8

Setting-up of maritime spatial plans

1. When establishing and implementing maritime spatial planning, Member States shall set up maritime spatial plans which identify the spatial and temporal distribution of relevant existing and future activities and uses in their marine waters, in order to contribute to the objectives set out in Article 5.

2. In doing so and in accordance with Article 2(3), Member States shall take into consideration relevant interactions of activities and uses. Without prejudice to Member States' competences, possible activities and uses and interests may include:

—aquaculture areas,

—fishing areas,

—installations and infrastructures for the exploration, exploitation and extraction of oil, of gas and other energy resources, of minerals and aggregates, and for the production of energy from renewable sources,

—maritime transport routes and traffic flows,

—military training areas,

—nature and species conservation sites and protected areas,

—raw material extraction areas,

—scientific research,

—submarine cable and pipeline routes,

—tourism,

—underwater cultural heritage.

Article 9

Public participation

1. Member States shall establish means of public participation by informing all interested parties and by consulting the relevant stakeholders and authorities, and the public concerned, at an early stage in the development of maritime spatial plans, in accordance with relevant provisions established in Union legislation.

2. Member States shall also ensure that the relevant stakeholders and authorities, and the public concerned, have access to the plans once they are finalised.

Article 10

Data use and sharing

1. Member States shall organise the use of the best available data, and decide how to organise the sharing of information, necessary for maritime spatial plans.

2. The data referred to in paragraph 1 may include, *inter alia*:

(a) environmental, social and economic data collected in accordance with Union legislation pertaining to the activities referred to in Article 8;

(b) marine physical data about marine waters.

3. When implementing paragraph 1, Member States shall make use of relevant instruments and tools, including those already available under the IMP, and under other relevant Union policies, such as those mentioned in Directive 2007/2/EC.

Article 11

Cooperation among Member States

1. As part of the planning and management process, Member States bordering marine waters shall cooperate with the aim of ensuring that maritime spatial plans are coherent and coordinated across the marine region concerned. Such cooperation shall take into account, in particular, issues of a transnational nature.

2. The cooperation referred to in paragraph 1 shall be pursued through:

(a) existing regional institutional cooperation structures such as Regional Sea Conventions; and/or

(b) networks or structures of Member States' competent authorities; and/or

(c) any other method that meets the requirements of paragraph 1, for example in the context of sea-basin strategies.

Article 12

Cooperation with third countries

Member States shall endeavour, where possible, to cooperate with third countries on their actions with regard to maritime spatial planning in the relevant marine regions and in accordance with international law and conventions, such as by using existing international forums or regional institutional cooperation.

CHAPTER III

IMPLEMENTATION

Article 13

Competent authorities

1. Each Member State shall designate the authority or authorities competent for the implementation of this Directive.

2. Each Member State shall provide the Commission with a list of those competent authorities, together with the items of information listed in the Annex to this Directive.

3. Each Member State shall inform the Commission of any change to the information provided pursuant to paragraph 1 within six months of such a change coming into effect.

Article 14

Monitoring and reporting

1. Member States shall send copies of the maritime spatial plans, including relevant existing explanatory material on the implementation of this Directive, and all subsequent updates, to the Commission and to any other Member States concerned within three months of their publication.

2. The Commission shall submit to the European Parliament and to the Council, at the latest one year after the deadline for establishment of the maritime spatial plans, and every four years thereafter, a report outlining the progress made in implementing this Directive.

CHAPTER IV

FINAL PROVISIONS

Article 15

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 18 September 2016. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. The authority or authorities referred to in Article 13(1) shall be designated by 18 September 2016.

3. The maritime spatial plans referred to in Article 4 shall be established as soon as possible, and at the latest by 31 March 2021.

4. The obligation to transpose and implement this Directive shall not apply to landlocked Member States.

Article 16

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 17

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 23 July 2014.

For the European Parliament	*For the Council*
The President	*The President*
M. SCHULZ	S. GOZI

ANNEX

COMPETENT AUTHORITIES

(1) Name and address of the competent authority or authorities — the official name and address of the competent authority or authorities identified.

(2) Legal status of the competent authority or authorities — a brief description of the legal status of the competent authority or authorities.

(3) Responsibilities — a brief description of the legal and administrative responsibilities of the competent authority or authorities, and of its/their role in relation to the marine waters concerned.

(4) Membership — when the competent authority or authorities act(s) as a coordinating body for other competent authorities, a list of the latter is required together with a summary of the institutional relationships established, in order to ensure coordination.

(5) Regional coordination — a summary is required of the mechanisms established, in order to ensure coordination between Member States where their waters are covered by this Directive and fall within the same marine region or sub-region.

SCHEDULE 2

Fit and Proper Person

Section 74

1. In this Schedule—

"person concerned", in relation to a relevant person which is a body corporate, means—

(a) a person who exercises control (within the meaning of section 11 or 432 of the Taxes Consolidation Act 1997) in relation to the body,

(b) a member (including the chairperson) of the body, or the board or board of directors of the body, or any other person acting in such capacity,

(c) the managing director or chief executive officer of the body, or any other person acting in such capacity, or

(d) a person to whom *paragraph 2(f)* relates or, in the case of a relevant person who falls within *clause (a)* of the definition of "relevant person", would relate if the MARA grants the MAC concerned;

"relevant person" means—

(a) in the case of a MAC application, the applicant, or

(b) the holder of a MAC.

2. Subject to *section 90* , the MARA shall, in determining whether a relevant person is a fit and proper person to be granted a MAC or to continue to be the holder of a MAC, as the case may be, have regard to the following:

(a) letters of reference;

(b) that the relevant person, or any other person concerned, stands convicted of—

(i) an indictable offence under this Act or an offence in another state equivalent to an indictable offence,

(ii) an indictable offence under an enactment prescribed for the purposes of this clause, or

(iii) an offence involving fraud or dishonesty;

(c) if the relevant person is a body corporate, whether any of its directors has a declaration under section 819 of the Act of 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or is subject to or deemed to be subject to—

(i) a disqualification order, within the meaning of Chapter 4 of Part 14 of the Act of 2014, whether by virtue of that Chapter or any other provision of that Act, or

(ii) a disqualification outside the State to like effect which corresponds to a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014;

(d) if the relevant person is an individual, whether he or she is adjudicated bankrupt or is subject to proceedings for a declaration of bankruptcy or becomes an arranging debtor;

(e) if the relevant person is a body corporate, whether it—

(i) has commenced a voluntary winding-up or is subject to a winding-up order or is subject to proceedings for such an order,

(ii) is subject to the appointment of a receiver or examiner, or

(iii) has proposed a compromise or arrangement that is sanctioned under section 453(2) of the Act of 2014 or section 201(3) of the Act of 1963;

(f) if the relevant person is a body corporate incorporated under the law of another state—

(i) whether an event which corresponds to an event referred to in *clause (c)* has occurred in relation to any of its directors, or

(ii) whether an event which corresponds to an event referred to in *clause (e)* has occurred in relation to the body corporate;

(g) whether the relevant person, or a person acting for or on behalf of the relevant person in the relevant person's capacity as such, has (or has access to), or continues to have (or have access to), as the case may be, the requisite technical knowledge or qualifications, or both, to undertake the proposed maritime usage, or continue to undertake the maritime usage, as the case may be;

(h) whether the relevant person is likely to be in a position to meet, or continue to meet, as the case may be, any financial commitments or obligations that the MARA reasonably considers will be entered into or incurred by the relevant person—

(i) in undertaking the proposed maritime usage, or in continuing to undertake the maritime usage, as the case may be, or

(ii) in ceasing to undertake the proposed maritime usage or the maritime usage, as the case may be;

(i) the previous performance of the relevant person when granted—

(i) a MAC,

(ii) a development permission,

(iii) a licence, or

(iv) an authorisation (howsoever described) under the Act of 1933.

SCHEDULE 3

Proposed maritime usages to which *section 75(1)* shall not apply

Section 75

1. Any maritime usage which falls within a function referred to in section 1B of the Act of 1933.

2. Subject to regulations made under *section 98(4)(f)*, any maritime usage to the extent to which it comprises relevant works within the meaning of *section 98* .

3. Any maritime usage to the extent to which it is undertaken on a privately owned part of the maritime area.

4. Any maritime usage which is navigation or fishing.

5. Any maritime usage authorised under section 638 of the Merchant Shipping Act 1894 or section 3 of the Merchant Shipping (Commissioners of Irish Lights) Act 1997 for the purposes of, or consisting of, the placement of aids to navigation.

6. Any maritime usage for the purposes, or consisting, of the exploration or working of petroleum (within the meaning of the Petroleum and Other

Minerals Development Act 1960), or the restoration of the area in which such exploration for, or working of, such petroleum has taken place.

7. Subject to *sections 111* and *119* , any *Schedule 7* usage (within the meaning of *section 110*) undertaken, or proposed to be undertaken, in the maritime area.

8. Any maritime usage which falls within a class of maritime usage specified, for the purposes of this paragraph, in regulations made under *section 75(2)*.

SCHEDULE 4

Proposed maritime usages to which *section 76(1)* shall not apply

Section 76

1. Any maritime usage which falls within a function referred to in section 1B of the Act of 1933.

2. Subject to regulations made under *section 98(4)(f)*, any maritime usage to the extent of which it comprises relevant works within the meaning of *section 98* .

3. Subject to *sections 111 and 119* , any *Schedule 7* usage (within the meaning of *section 110*) undertaken, or proposed to be undertaken, in the maritime area.

4. Any exempted usage (within the meaning of *section 114*) undertaken, or proposed to be undertaken, in the maritime area.

5. Any maritime usage to the extent to which it is undertaken on a privately owned part of the maritime area.

6. Any maritime usage which is navigation or fishing.

7. Any maritime usage authorised under section 638 of the Merchant Shipping Act 1894 or section 3 of the Merchant Shipping (Commissioners of Irish Lights) Act 1997 for the purposes of, or consisting of, the placement of aids to navigation.

(8) Any maritime usage for the purposes, or consisting, of the exploration or working of petroleum (within the meaning of the Petroleum and Other Minerals Development Act 1960), or the restoration of the area in which such exploration for, or working of, such petroleum has taken place.

9. Any maritime usage which falls within a class of maritime usage specified, for the purposes of this paragraph, in regulations made under *section 76(2)*.

SCHEDULE 5

Criteria that MARA shall have regard to in determining MAC application

Section 80

1. The nature, scope and duration of the occupation of the maritime area concerned for the purposes of the proposed maritime usage.

2. Whether the proposed maritime usage is in the public interest.

3. The location and spatial extent of the occupation of the maritime area concerned for the purposes of the proposed maritime usage.

4. Guidelines issued under *section 7* which are relevant to the proposed maritime usage.

5. Whether the applicant is a fit and proper person (within the meaning of *Schedule 2*) to be granted a MAC, both at the time the application is made and at the time that the MAC application concerned is determined by the MARA.

6. Whether the applicant is tax compliant, both at the time the application is made and at the time that the MAC application concerned is determined by the MARA.

7. In the case of any maritime usage relating to offshore renewable energy (within the meaning of *section 100*), the consistency of the MAC application concerned with the development plans of the transmission system operator (within the meaning of *section 100*).

8. The National Marine Planning Framework.

9. The extent and nature of the preparatory work already undertaken by the applicant towards ensuring the efficacious undertaking of the proposed maritime usage the subject of the MAC application concerned should the applicant be granted a MAC in respect of such usage.

10. The extent and nature of stakeholder engagement undertaken by the applicant in respect of the proposed maritime usage.

11. Where a competitive process referred to in *section 93* or *103* is used, the outcome of such process.

12. Any additional criteria specified, for the purposes of this paragraph, in regulations made under *section 80(2)*.

SCHEDULE 6

Types of conditions that MARA may attach to MAC or that are deemed to be attached to MAC

Section 82

Part 1

Types of conditions MARA may attach to MAC

F80**[**1. A condition requiring the holder of a MAC to provide an indemnity to the State for one or both of the following:

(a) a failure to comply with—

(i) a provision of the MAC,

(ii) a provision of this Act relevant to a MAC, or

(iii) a provision of one or more than one condition attached,

or deemed to be attached, to the MAC, or

(b) any liability arising from the undertaking of the maritime usage the subject of the MAC.**]**

2. A condition specifying the nature of an indemnity referred to in *paragraph 1*.

3. A condition that the holder of a MAC gives notice in writing to the MARA of any F81**[**...**]** material change of circumstances.

4. A condition requiring the holder of a MAC to maintain, update and adhere to any work programme submitted as part of the application, whether or not such programme was initially so submitted.

5. A condition specifying the date on or before which the application for the planning permission concerned shall be made.

6. A condition providing for the payment of any levy by the holder of a MAC.

7. A condition specifying the date or dates, or the occurrence of the event or events, on which other conditions or obligations, or both, imposed under this Act, the Act of 2000 or any other enactment, specified in the first-mentioned condition and which relate to the maritime usage the subject of the MAC, are required to be complied with or otherwise discharged.

8. A condition requiring the holder of a MAC to permit the MARA to—

(a) enter the maritime area the subject of the MAC if the MARA is satisfied that the holder has materially contravened—

(i) a provision of the MAC,

(ii) a provision of this Act relevant to the MAC, or

(iii) a provision of one or more than one condition attached, or deemed to be attached, to the MAC,

or

(b) enter the part of the maritime area the subject of the MAC for the purposes of enabling the MARA to carry out inspections (including periodic inspections) for the purposes of ascertaining whether or not *clause (a)* applies.

F82**[**9. If a MAC is revoked under *Chapter 3A* of *Part 6*, terminated under *Chapter 4* of that Part or revoked under *Chapter 5* of that Part, a provision requiring the former holder of the MAC (and notwithstanding that revocation or termination) to comply, in relation to that MAC, with *section 96*—

(a) as if the reference in *section 96(1)* to the expiration of a MAC were a reference to that revocation or termination, and

(b) to the extent practicable in all the circumstances of the case.**]**

10. If a condition referred to in *paragraph 1* is attached to a MAC, a condition requiring the holder of the MAC to increase the amount of the indemnity referred to in that paragraph, or to provide a further such indemnity—

    (a) if the holder receives a notice in writing from the MARA stating that the MARA is satisfied the first-mentioned indemnity is, for the reasons stated in the notice, insufficient to cover the likely cost of one or more than one failure referred to that paragraph and identified in the notice,

    (b) in such amount as is not less that the amount specified in the notice for the purpose, and

    (c) within the period (being a period reasonable in all the circumstances of the case) specified in the notice for the purpose.

11. F83**[**...**]**

12. A condition specifying the date, or the occurrence of the event, on which a MAC expires.

13. In the case of a maritime usage the subject of a MAC that has been granted development permission, a condition requiring the holder of the MAC—

    (a) to give a copy of the development permission to the MARA as soon as is practicable after the development permission has been granted, and

    (b) to give a copy of any material alteration made to the development permission to the MARA as soon as is practicable after the alteration has been made.

14. A condition requiring the holder of a MAC to not use the part of the maritime area the subject of the MAC for any purpose other than the maritime usage the subject of the MAC.

15. A condition requiring the holder of a MAC to give notice in writing to the MARA of any proposed use or occupation of a part of the maritime area adjacent to that part of the maritime area that is the subject of the MAC where such use or occupation is reasonably required in order to fulfil a provision of an authorisation by or under another enactment (whether the authorisation takes the form of a licence, consent, approval or any other type of authorisation).

16. Without prejudice to the generality of *Chapter 6* of *Part 6*, a condition imposing obligations on the former holder of a MAC that has been terminated under *Chapter 4* of *Part 6*.

17. A condition specifying the circumstances in which there is a moratorium on the payment of any levy (or part thereof) by the holder of a MAC which is otherwise due and owing to the MARA.

18. F83**[**...**]**

19. A condition requiring the holder of a MAC not to use the MAC as an asset for the purposes of collateral for loans.

20. Where *section 105(2)(b)* or *(3)(b)* applies, a condition enabling the MARA to attach to a MAC one or more than one covenant, condition or agreement contained in the foreshore authorisation concerned.

21. A condition requiring the holder of a MAC to prepare, publish, maintain, update and adhere to a plan relating to public engagement on all or any matters relating to the maritime usage the subject of the MAC.

22. A condition requiring the holder of a MAC which is not an individual to follow steps specified by the MARA relating to any prospective change of control in the ownership of the holder.

F84**[**22A. A condition requiring the holder of a MAC to comply with the enactments specified in the condition that are relevant to the maritime usage the subject of the MAC.

22B. A condition specifying the steps that must be taken by the holder of a MAC when force majeure or other change of circumstances prevents one or both of the following:

(a) the holder from discharging (whether in whole or in part) an obligation of the holder under the MAC, this Act or the Act of 2000;

(b) the MARA from discharging (whether in whole or in part) an obligation of the MARA under the MAC, this Act or the Act of 2000 where the obligation relates, whether in whole or in part or directly or indirectly, to the holder.

22C. A condition that the MARA considers necessary and appropriate in the particular circumstances of a particular holder of a MAC.**]**

23. A condition specified for the purposes of this paragraph in regulations made under *section 82(3)*.

Annotations

Amendments:

F80 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 74(a)(i), S.I. No. 447 of 2022.

F81 Deleted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 74(a)(ii), S.I. No. 447 of 2022.

F82 Substituted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 74(a)(iii), S.I. No. 447 of 2022.

F83 Deleted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 74(a)(iv), S.I. No. 447 of 2022.

F84 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 74(a)(v), S.I. No. 447 of 2022.

F85 Inserted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

F86 Substituted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

Modifications (not altering text):

C12 Prospective affecting provision: paras. 7, 22B amended by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

7. A condition specifying the date or dates, or the occurrence of the event or events, on which other conditions or obligations, or both, imposed under this Act, the Act of 2000 F85**[**, the Act of 2024**]** or any other enactment, specified in the first-mentioned condition and which relate to the maritime usage the subject of the MAC, are required to be complied with or otherwise discharged.

...

22B. A condition specifying the steps that must be taken by the holder of a MAC when force majeure or other change of circumstances prevents one or both of the following:

(a) the holder from discharging (whether in whole or in part) an obligation of the holder under the MAC, this Act F86**[**, the Act of 2000 or the Act of 2024**]**;

(b) the MARA from discharging (whether in whole or in part) an obligation of the MARA under the MAC, this Act F86**[**, the Act of 2000 or the Act of 2024**]** where the obligation relates, whether in whole or in part or directly or indirectly, to the holder.

Part 2

Conditions deemed to be attached to MAC

24. A condition that the holder of a MAC continues to be a fit and proper person (within the meaning of *Schedule 2*) to hold the MAC.

F87**[**24A. A condition requiring the holder of a MAC to comply with any development permission granted in respect of the maritime usage the subject of the MAC.

24B. A condition requiring the holder of a MAC to cooperate with and assist the MARA in—

(a) the MARA's performance of its functions under and in relation to the MAC, and

(b) the MARA's performance of its functions under this Act in so far as those functions relate to the MAC or to a class of MACs into which the MAC falls.**]**

25. A condition specified for the purposes of this paragraph in regulations made under *section 82(3)*.

Annotations

Amendments:

F87 Inserted (9.09.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 74(b), S.I. No. 447 of 2022.

SCHEDULE 7

Maritime Usages which may be undertaken in Maritime Area pursuant to Licence

Section 110

1. Dredging (including dredging involving the use of a device to remove any material, whether or not suspended in water, from one part of the seabed to another part of the seabed) other than—

(a) dredging carried out to create a new harbour, berth or waterway, or to deepen existing facilities in order to allow access for larger ships, or

(b) dredging ancillary to development authorised under the Act of 2000, whether or not it involves the removal of any material from the sea or seabed.

2. Marine environmental surveys for the purposes of scientific discovery or research.

3. Marine environmental surveys for the purposes of site investigation or in support of an application under Part XXI of the Act of 2000.

4. The installation or placement of navigational markers or aids to navigation, or both, not undertaken or authorised by the Commissioners of Irish Lights.

5. The installation of non-permanent platforms, pontoons or slipways.

6. The deposit of any substance or object, either in the sea or on or under the seabed, from—

(a) a vehicle, vessel (including a craft capable of travelling on, in or under water, whether or not self-propelled), boat, aircraft or marine structure (other than a pipeline),

(b) a container floating in the sea, or

(c) a structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea.

7. The use of a vehicle, vessel (including a craft capable of travelling on, in or under water, whether or not self-propelled), boat, aircraft, marine structure (other than a pipeline) or floating container to remove any substance or object from the seabed.

8. The use of explosives not related to development authorised under the Act of 2000 and not requiring authorisation under any other enactment.

9. The maintenance of any cable, pipeline, oil, gas or carbon storage facility structure that does not require an authorisation (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) under any other enactment in order to be undertaken.

10. The harvesting, disturbance or removal of seaweed, whether growing or rooted on the seabed, or deposited in or washed up thereon by the action of any one or more than one of the following:

(a) tides;

(b) winds;

(c) waves.

11. The deposit, construction or removal of any mooring not requiring authorisation under any other enactment.

12. (a) The removal of beach material from, or the disturbance of beach material in, the maritime area otherwise than in the course of the ordinary or reasonable recreational enjoyment of the maritime area.

(b) In this paragraph, "beach material" means sand, clay, gravel, shingle, stones, rocks, mineral substances, seashells, coral and maerl and any flora, in or on the surface of the seabed or suspended in the water of

the maritime area, and includes outcrops of rock or any other mineral substance above the surface of the seabed.

13. The laying or installation of telecommunications cables or ducting by or between coastal States where such cables or ducting pass through the exclusive economic zone (as construed in accordance with the Act of 2021) or the continental shelf but do not land in the State.

14. A maritime usage specified, for the purposes of this paragraph, in regulations made under *section 113(2)*.

Annotations

Amendments:

F88 Inserted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

F89 Substituted by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

Modifications (not altering text):

C13 Prospective affecting provision: para. 1(b) amended, para. 3 substituted, para. 8 amended by *Planning and Development Act 2024* (34/2024), s. 631 and sch. 7 ref. no. 58, not commenced as of date of revision.

(b) dredging ancillary to development authorised under the Act of 2000 F88**[**or the Act of 2024**]**, whether or not it involves the removal of any material from the sea or seabed.

...

F89**[**3. Marine environmental surveys—

(a) for the purposes of site investigation,

(b) in support of an application under Part XXI of the Act of 2000, or

(c) in support of an application for maritime development within the meaning of the Act of 2024.**]**

...

8. The use of explosives not related to development authorised under the Act of 2000 F88**[**, or under the Act of 2024,**]** and not requiring authorisation under any other enactment.

SCHEDULE 8

Types of conditions that MARA may attach to Licence

Section 120

F90**[**1. A condition requiring the holder of a licence to provide an indemnity to the State for one or both of the following:

(a) a failure to comply with—

(i) a provision of the licence,

(ii) a provision of this Act relevant to the licence, or

(iii) a provision of one or more than one condition attached (or deemed to be attached) of the licence,

or

(b) any liability arising from the undertaking of the maritime usage the subject of the licence.**]**

2. A condition specifying the nature of an indemnity referred to in *paragraph 1*.

3. A condition requiring the holder of a licence to give notice in writing to the MARA of any F91**[**...**]** material change of circumstances.

4. A condition requiring the holder of a licence to adhere to a work programme specified, or referred to, in the condition (including the specification of dates by which, or the occurrence of events on which, a stage of the work programme should be commenced or completed).

5. A condition specifying the date or dates, or the occurrence of the event or events, on which other conditions or obligations, or both, imposed under this Act, or any other enactment, specified in the first-mentioned condition and which relate to the *Schedule 7* usage the subject of the licence, are required to be complied with or otherwise discharged.

6. A condition requiring the holder of a licence to permit the MARA to—

(a) enter the part of the maritime area the subject of the licence if the MARA is satisfied that the holder has materially contravened—

(i) a provision of the licence,

(ii) a provision of this Act relevant to the licence, or

(iii) a provision of one or more than one condition attached, or deemed to be attached, to the licence,

or

(b) enter the part of the maritime area the subject of the licence for the purposes of enabling the MARA to carry out inspections (including periodic inspections) for the purposes of ascertaining whether or not *subparagraph (a)* applies.

7. If a condition referred to in *paragraph 1* is attached to a licence, a condition requiring the holder of the licence to increase the amount of the indemnity referred to in that paragraph, or to provide a further such indemnity—

(a) if the holder receives a notice in writing from the MARA stating that the MARA is satisfied the first-mentioned indemnity is, for the reasons stated in the notice, insufficient to cover the likely cost of one or more than one potential failure or liability referred to in that paragraph and identified in the notice,

(b) in such amount as is not less than the amount specified in the notice for the purpose, and

(c) within the period (being a period reasonable in all the circumstances of the case) specified in the notice for the purpose.

8. A condition specifying the date, or the occurrence of the event, on which a licence expires.

9. A condition requiring the holder of a licence to not use the part of the maritime area the subject of the licence for any purpose other than the *Schedule 7* usage the subject of the licence.

10. A condition requiring the holder of a licence to ensure that, on completion of any site investigation or survey works, all data (not being commercially sensitive data within the meaning of *section 128*) collected in consequence thereof is given to a public body or other body specified in the condition where the information is relevant to a function of the body and so given—

(a) in a format requested by the body, and

(b) as soon as is practicable after the data has been so obtained.

11. A condition requiring the holder of a licence to give the MARA not less than 14 days advance notice in writing before undertaking any site investigation or survey works specified in the condition or the licence.

12. A condition requiring the holder of a licence to arrange for the publication of appropriate marine notices giving a general description of operations and approximate dates of commencement and completion of operations.

13. A condition requiring the holder of a licence to appoint—

(a) a fisheries liaison officer to consult with the Sea Fisheries Protection Authority and relevant fishers' groups in order to ensure that appropriate actions are taken to avoid or minimise any adverse interactions between the activities or operations the subject of the licence and any ongoing fishing activities in the part of the maritime area the subject of the licence, or

(b) a liaison officer who may be consulted by relevant stakeholders in order to ensure that appropriate actions are taken to avoid or minimise any adverse interactions between the activities or operations the subject of the licence and any other activities or operations in the part of the maritime area the subject of the licence.

14. A condition requiring the holder of a licence to ensure that the least amount necessary of the maritime area is used to provide access to the part of the maritime area the subject of the licence.

15. A condition requiring the holder of a licence to schedule the activities or operations the subject of the licence so as to cause the least amount necessary of disruption and inconvenience to other users of the maritime area.

16. Without prejudice to the generality of *Chapter 6* of *Part 6*, a condition imposing obligations on the former holder of a licence that has been terminated under *Chapter 4* of *Part 6*.

17. Where *section 129(2)(b)* or *(3)(b)* applies, a condition enabling the MARA to attach to a licence one or more than one covenant, condition or agreement contained in the foreshore authorisation concerned.

F92**[**17A. A condition that the MARA considers necessary and appropriate in the particular circumstances of a particular holder of a licence.**]**

18. Any type of condition specified, for the purposes of this paragraph, in regulations made under *section 120(2)*.

Annotations

Amendments:

F90 Substituted (17.07.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 75(a), S.I. No. 370 of 2023.

F91 Deleted (17.07.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 75(b), S.I. No. 370 of 2023.

F92 Inserted (17.07.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 75(c), S.I. No. 370 of 2023.

SCHEDULE 9

Redress for Contravention of *section 153(5)*

Section 153

Complaints to rights commissioner

1. (1) In proceedings under Part 4 of the Workplace Relations Act 2015 in respect of a complaint of a contravention of *section 153(5)*, it shall not be necessary for the employee to show that he or she has at least one year's continuous service with the employer concerned.

(2) Where a complaint under *subparagraph (1)* is made, the rights commissioner shall—

(a) give the parties an opportunity to be heard by the commissioner and to present to the commissioner any evidence relevant to the complaint,

(b) give a decision in writing in relation to it, and

(c) notify the parties of that decision.

(3) A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention of *section 153(5)* shall do one or more of the following, namely—

(a) declare that the complaint was or, as the case may be, was not well founded,

(b) require the employer to take a specified course of action, which may include, in a case where the penalisation constitutes a dismissal, reinstatement or reengagement, or

(c) require the employer to pay to the employee compensation of such amount (if any) as the adjudication officer considers just and equitable having regard to all of the circumstances of the case, but not exceeding 104 weeks' remuneration in respect of the employee's employment calculated in accordance with regulations made under section 17 of the Unfair Dismissals Act 1977.

(4) Subject to *subparagraph (10)*, a rights commissioner shall not entertain a complaint under this paragraph if it is presented to him or her after the expiration of the period of 6 months beginning on the date of the contravention to which the complaint relates.

(5) Notwithstanding *subparagraph (4)*, a rights commissioner may entertain a complaint under this paragraph presented to him or her after the expiration of the period referred to in that subparagraph (but not later than 6 months after such expiration) if he or she is satisfied that the failure to present the complaint within that period was due to exceptional circumstances.

(6) A complaint shall be presented by giving notice of it in writing to a rights commissioner and the notice shall contain such particulars and be in such form as may be specified from time to time by the Minister for Enterprise, Trade and Employment.

(7) A copy of a notice under *subparagraph (6)* shall be given to the other party concerned by the rights commissioner.

(8) Proceedings under this paragraph before a rights commissioner shall be conducted otherwise than in public.

(9) A rights commissioner shall give the Labour Court a copy of each decision given by the commissioner under *subparagraph (2)*.

(10) Where a delay by an employee in presenting a complaint under this paragraph is due to any misrepresentation by the employer, *subparagraph (4)* shall be construed as if the reference to the date of the contravention were a reference to the date on which the misrepresentation came to the employee's notice.

Appeals from decisions of rights commissioner

2. A decision of the Labour Court under section 44 of the Workplace Relations Act 2015, on appeal from a decision of an adjudication officer referred to in *paragraph 1(3)*, shall affirm, vary or set aside the decision of the adjudication officer.

Paragraphs 1 and 2: supplemental provisions

3. In proceedings under Part 4 of the Workplace Relations Act 2015 in relation to a complaint that *section 153(5)* has been contravened, it shall be presumed, until the contrary is proved, that the employee concerned acted reasonably and in good faith in forming the opinion and making the communication concerned.

(1) (a) If penalisation of an employee, in contravention of *section 153(5)*, constitutes a dismissal of the employee as referred to in *paragraph (a)* of the definition of "penalisation" in *section 153(10)*, the employee (or, in the case of an employee who has not reached the age of 18 years, the employee's parent or guardian with the consent of the employee) may institute proceedings in respect of that dismissal under the Unfair Dismissals Acts 1977 to 2015 or to recover damages at common law for wrongful dismissal and, if the employee or his or her parent or guardian, as the case may be, does so, a complaint in relation to such dismissal may not be presented to an adjudication officer under section 41 of the Workplace Relations Act 2015.

(b) If an employee (or, in the case of an employee who has not reached the age of 18 years, the employee's parent or guardian with the consent of the employee) presents a complaint to an adjudication officer under section 41 of the Workplace Relations Act 2015 in respect of a dismissal referred to in *clause (a)*, the employee or his or her parent or guardian, as the case may be, may not institute proceedings in respect of that dismissal under the Unfair Dismissals Acts 1977 to 2015 or to recover damages at common law for wrongful dismissal.

SCHEDULE 10

Insertion of Eighth Schedule of Act of 2000

Section 172

"EIGHTH SCHEDULE

Section 285

Classes of Development specified for purposes of Chapter III of Part XXI

1. Development referred to in the Seventh Schedule.

2. Development consisting of a trading port or pier for loading and unloading goods that—

   (a) is connected to land, and

   (b) can accommodate vessels of over 1,350 tonnes.

3. Development consisting of a pipeline that is not less than 20 kilometres in length and that is intended for the transport of—

   (a) gas, oil or chemicals, or

   (b) carbon dioxide (CO2) streams for the purposes of geological storage, including associated booster stations.

4. Development consisting of the construction of an electrical power line that has a voltage of not less than 220 kilovolts and a length of not less than 15 kilometres.

5. Development consisting of the laying of a telecommunications cable or pipeline of not less than 15 kilometres in length.

6. Development consisting of the construction of a storage site within the meaning of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009[25] on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006.

7. Development consisting of an installation for the capture of CO2 streams within the meaning of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009—

   (a) intended for geological storage of CO2 within such meaning, or

   (b) where the intended capture of CO2 is not less than 1,500,000 tonnes per annum.

8. Development consisting of the drainage or reclamation of not less than 2 hectares of wetland.

9. Development consisting of a seawater fish breeding installation with an intended output exceeding 100 tonnes per annum.

10. Development consisting of the reclamation of not less than 10 hectares of land from the sea.

[25] OJ No. L140, 5.6.2009, p.114

11. Development consisting of—

(a) the extraction of stone, gravel, sand or clay where the area of extraction would be greater than 5 hectares, or

(b) the extraction of stone, gravel, sand or clay by marine dredging (other than maintenance dredging), where the area of extraction would be greater than 5 hectares.

12. Development consisting of deep drilling (other than deep drilling for the purposes of investigating the stability of the soil, seabed or substrata beneath the soil or seabed) for—

(a) geothermal purposes, or

(b) the purpose of securing water supplies exceeding 2 million cubic metres per annum.

13. Development consisting of the construction or operation of—

(a) an installation for the manufacture of vegetable or animal oils or fats, where the capacity for processing raw materials would exceed 40 tonnes per day, or

(b) any fish-meal or fish-oil factory.

14. Development consisting of the construction or operation of a sea water marina where the number of berths exceeds 300.

15. Development consisting, or for the purposes, of—

(a) a terminal, building or installation ancillary to a natural gas storage facility (either above or below the surface of the water or seabed) the storage capacity of which would exceed 1mscm, or

(b) a terminal, building or installation ancillary to a terminal that is used for the liquefaction of natural gas or the importation, offloading and re-gasification of liquefied natural gas, and ancillary services.

16. Development consisting, or for the purposes, of an installation for the storage of—

(a) natural gas, where the storage capacity would exceed 200 tonnes,

(b) combustible gases, where the storage capacity would exceed 200 tonnes, or

(c) oil or coal, where the storage capacity would exceed 100,000 tonnes.

17. An installation for the production of hydroelectric energy—

(a) that has an output of not less than 20 megawatts,

(b) that would result in the new or extended area of water impounded being not less than 20 hectares, or

(c) that would result in a 30 per cent change in the maximum, minimum or mean flows in the main river channel or tidal bay concerned.

18. An installation for the production of energy by harnessing the power of the wind that has—

(a) more than 5 turbines, or

(b) a total output of more than 5 megawatts.

19. Any floating or fixed installation (either temporary or permanent) for the production of energy by harnessing the power of the sun.

20. An installation for the production of energy by harnessing wave or tidal power that has a total output greater than 5 generating units or 5 megawatts.

21. A harbour or port installation, including—

(a) loading or unloading areas,

(b) vehicle queuing and parking areas,

(c) ship repair areas,

(d) areas for berthing or dry docking of ships, and

(e) areas for the weighing, handling or transport of goods or the movement or transport of passengers (including customs or passport control facilities),

and any associated offices or other similar facilities that would—

(i) result in the enclosed area of water in the harbour or port installation being not less than 20 hectares,

(ii) involve the reclamation of an area of land of not less than 5 hectares,

(iii) involve the construction of a quay greater than 100 metres in length, or

(iv) be capable of admitting a vessel of more than 1,350 tonnes.".

SCHEDULE 11

Insertion of Ninth Schedule of Act of 2000

Section 173

"NINTH SCHEDULE

Sections 309, 312 and 313

Part I

Relevant provisions for purposes of section 309

1. Part XA.

2. Sections 2 (other than the definition of 'land' and the definition of 'strategic infrastructure development'), 4, 5, 7, 8, 31AW, 33, 34, 39 (other than subsection (4)), 40, 41, 44, 44A, 46, 142, 147, 148, 154 (other than paragraph (b) of subsection (7)) and 247.

3. Subsection (2) of section 3.

4. Subsection (4) of section 152.

5. Subsection (1), and paragraph (b) of subsection (6), of section 160.

6. Subsection (1) of section 182.

7. Paragraph (b) of subsection (4) of section 157.

8. Paragraph (b) of subsection (3), and subsections (5) and (7), of section 176A.

9. Paragraph (b) of subsection (2A), paragraph (i) of subsection (5) and subparagraph (i) of paragraph (a) of subsection (6) of section l76B.

10. Paragraph (b) of subsection (6) and subparagraph (i) of paragraph (a) of subsection (11) of section 176C.

Part II

Relevant provisions for purposes of section 312

1. Sections 37, 42, 44, 46, 108, 177I and 177AE.

2. Subsection (6) of section 34.

3. Subsection (2) of section 177K.

4. Subsection (2) of section 247.

Part III

Relevant provisions for purposes of section 313

1. Part VIII (other than subsection (1) of section 157).

2. Section 46.".

SCHEDULE 12

Amendment of certain provisions of Act of 2000

Section 174

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
1.	Section 2	In subsection (1) — (a) the definition of "permission" is amended by the substitution of "section 34, 37G, 37N or 293" for "section 34, 37G or 37N", (b) the following definition is substituted for the definition of "permission regulations", " 'permission regulations' means regulations under section 33, 37P, 172(2), 174 or 306;",

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)

(c) the definition of "unauthorised structure" is amended, in paragraph (b), by the substitution of "section 34, 37G, 37N or 293" for "section 34, 37G or 37N",

(d) the definition of "unauthorised use" is amended, in paragraph (b), by the substitution of "section 34, 37G, 37N or 293" for "section 34, 37G or 37N", and

(e) the definition of "unauthorised works" is amended, in paragraph (b), by the substitution of "section 34, 37G, 37N or 293" for "section 34, 37G or 37N".

Subsection (1) is further amended by the insertion of the following definitions:

" 'Act of 1933' means the Foreshore Act 1933;

'coastal planning authority' has the meaning assigned to it by the *Maritime Area Planning Act 2021*;

'maritime area' has the meaning assigned to it by the *Maritime Area Planning Act 2021*;

'maritime area consent' has the meaning assigned to it by the *Maritime Area Planning Act 2021*;

'maritime site' means a part of the maritime area, and includes—

(a) the waters of that part of the maritime area,

(b) the seabed in that part of the maritime area, and

(c) all substrata beneath the seabed in that part of the maritime area;

'maritime spatial plan' has the meaning assigned to it by the *Maritime Area Planning Act 2021*;

'maritime spatial planning' means—

(a) maritime spatial planning within the meaning of Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 [26], and

(b) land-sea interactions within the meaning of that Directive;

'National Marine Planning Framework' has the meaning assigned to it by the *Maritime Area Planning Act 2021*;

[26] OJ No. L257, 28.8.2014, p. 135

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		'national newspaper' has the meaning assigned to it by the *Maritime Area Planning Act 2021*; 'nearshore area' has the meaning assigned to it by the *Maritime Area Planning Act 2021*; 'objectives of maritime spatial planning' means— (a) those matters to which the State is required, in accordance with paragraph 1 of Article 5 of Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014, to give consideration when establishing and implementing maritime spatial planning, (b) those matters to which the State is required, in accordance with paragraph 2 of the said Article 5, to aim to contribute through maritime spatial plans, and (c) objectives that the State is, for the time being, seeking to pursue in accordance with the second sentence of the said paragraph 2; 'outer maritime area' means that part of the maritime area that is not within the nearshore area of any coastal planning authority;".
2.	Section 3	The following subsection is substituted for subsection (1): "(1) In this Act, except where the context otherwise requires, 'development' means— (a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or (b) development within the meaning of Part XXI (inserted by *section 171* of the *Maritime Area Planning Act 2021*).".
3.	Section 4	Subsection (1) is amended by the substitution of the following paragraphs for paragraph (aa): "(aa) development by a local authority in its functional area (other than, in the case of a local authority that is a coastal planning authority, its nearshore area); (ab) development by a coastal planning authority that—

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)

(i) owns the maritime site on which the development is proposed to be situated, or

(ii) is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development,

in its nearshore area;".

The following subsections are inserted:

"(1A) Subject to subsection (1B), the following classes of development shall also be exempted development for the purposes of this Act if carried out wholly in the maritime area:

(a) development for the purposes of any survey for archaeological purposes;

(b) development for the purposes, or consisting, of—

(i) the exploration for petroleum, within the meaning of Part II of the Petroleum and Other Minerals Development Act 1960, in accordance with a licence under section 8, 9 or 19 of that Act or a lease under section 13 of that Act,

(ii) the working, within such meaning, of such petroleum, in accordance with such lease or licence, or

(iii) the restoration of the area in which such exploration or working has taken place;

(c) development consisting, or for the purposes, of the construction or operation, in accordance with a consent under subsection (1) of section 40 of the Gas Act 1976, of an upstream pipeline,

(d) development for the purposes, or consisting, of dumping within the meaning of the Dumping At Sea Act 1996;

(e) development authorised under section 638 of the Merchant Shipping Act 1894 or section 3 of the Merchant Shipping (Commissioners of Irish Lights) Act 1997 by the Commissioners of Irish Lights for the purposes, or consisting, of the placement of aids to navigation;

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		(f) activities that are the subject of, or require, a licence under *Part 5* of the *Maritime Area Planning Act 2021*;
		(g) development consisting of the use of any land or maritime site for the purposes of—
		(i) the harvesting of shellfish, or
		(ii) activities relating to fishing or aquaculture.
		(1B) Development referred to in paragraph (a), (d), (e), (f) or (g) of subsection (1A) shall not be exempted development if an environmental impact assessment of the development is required.
		(1C) Development referred to in paragraph (a), (d), (e) or (g) of subsection (1A) shall not be exempted development if an appropriate assessment of the development is required.".
		Subsection (3) is amended by the substitution, in paragraph (a), of "subsection (1) or (1A)" for "subsection (1)".
4.	Section 12	The following subsection is substituted for subsection (18):
		"(18) In this section 'statutory obligations' includes—
		(a) in relation to a local authority, the obligation to ensure that the development plan is consistent with—
		(i) the national and regional development objectives specified in—
		(I) the National Planning Framework, and
		(II) the regional spatial and economic strategy, and
		(ii) specific planning policy requirements specified in guidelines under subsection (1) of section 28, and
		(b) in relation to a local authority that is a coastal planning authority, the obligation to ensure that the development plan is, in addition to being consistent with the obligation referred to in paragraph (a), consistent with the National Marine Planning Framework.".
5.	Section 13	The following subsection is substituted for subsection (14):

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		"(14) In this section 'statutory obligations' includes— (a) in relation to a local authority, the obligation to ensure that the development plan is consistent with— (i) the national and regional development objectives specified in— (I) the National Planning Framework, and (II) the regional spatial and economic strategy, and (ii) specific planning policy requirements specified in guidelines under subsection (1) of section 28, and (b) in relation to a local authority that is a coastal planning authority, the obligation to ensure that the development plan is, in addition to being consistent with the obligation referred to in paragraph (a), consistent with the National Marine Planning Framework.".
6.	Section 23	Subsection (3) is amended, in paragraph (a), by the insertion of the following subparagraph: "(iiia) the National Marine Planning Framework, in circumstances where the strategy is likely to affect the maritime area,".
7.	Section 31	Subsection (1) is amended, in paragraph (ba), by— (a) the deletion, in subparagraph (i), of "or", and (b) the insertion of the following subparagraph: "(ia) the National Marine Planning Framework, or".
8.	Section 31Q	Subsection (1) is amended— (a) in paragraph (a), by the insertion of the following subparagraph: "(ia) the role of such members, authorities and assemblies in relation to guidelines under *section 7* of the *Maritime Area Planning Act 2021* and directives under *section 8* of that Act,", and (b) in paragraph (b), by the substitution of the following subparagraph for subparagraph (i):

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		"(i) such matters as the Minister may specify relating to—
		(I) proper planning and sustainable development, and
		(II) maritime spatial planning, and".
9.	Section 31S	Subsection (1) is amended—
		(a) in paragraph (a), by—
		(i) the insertion, after "Chapter IV of Part II", of "or *section 7* or *8* of the *Maritime Area Planning Act 2021*,", and
		(ii) the insertion, after "rural,", of "or maritime spatial planning,", and
		(b) in paragraph (c), by the insertion, after "Strategy)", of ", the National Marine Planning Framework".
10.	Section 31AM	Subsection (2) is amended, in paragraph (b), by the insertion of "and the National Marine Planning Framework" after "National Spatial Strategy)".
11.	Section 31AQ	Subsection (2) is amended, in paragraph (b), by the insertion of "and the National Marine Planning Framework" after "National Spatial Strategy)".
12.	Section 35	Subsection (1) is amended, in paragraph (b), by the substitution of "this Part or Chapter III of Part XXI," for "this Part".
13.	Section 37A	Subsection (1) is amended by the substitution of "Subject to Part XXI, an application for permission" for "An application for permission".
14.	Section 40	Subsection (1) is amended by the substitution of "this Part or Part XXI" for "this Part".
15.	Section 41	Subsection (1) is amended by—
		(a) the substitution of "this Part and Part XXI" for "this Part", and
		(b) the substitution of "section 34, 37, 37G, 37N or 293" for "section 34, 37, 37G or 37N" in each place that it occurs.
16.	Section 44	Subsection (1) is amended by the substitution of "this Part or Part XXI" for "this Part".
17.	Section 125	The following subsection is inserted:
		"(2) This Chapter (other than sections 126, 127, 128, 129, 130, 131, 132, 133 and 134) shall apply to—
		(a) applications under section 291, and
		(b) requests under section 297.",

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		and section 125 as it stood immediately before the insertion of the foregoing shall be referred to as subsection (1) of section 125.
18.	Section 139	Subsection (2) is amended by the substitution of the following paragraphs for paragraph (a): "(a) the matters to which a planning authority shall have regard specified in paragraph (a) of subsection (2) of section 34, (aa) in the case of the appeal of a decision of a planning authority in respect of development to which Chapter II of Part XXI applies or proposed such development, the matters referred to in paragraph (a) and the matters to which a planning authority shall have regard specified in subsection (2) of section 282,".
19.	Section 140	Subsection (1) is amended, in subparagraph (v) of paragraph (a), by the insertion of "or 291" after "section 37L". Subsection (2) is amended, in paragraph (a), by the insertion of "or 291" after "section 37L".
20.	Section 143	Subsection (1) is amended by the substitution of "The Board shall, in the performance of its functions (other than functions conferred by Chapter III of Part XXI), have regard to" for "The Board shall, in performing its functions, have regard to".
21.	Section 144	Subsection (1A) is amended— (a) by the insertion of the following paragraph: "(bb) an application under section 291 or a request under section 297;", and (b) in paragraph (j), by the insertion of "or pursuant to a notice under section 291 or 297 or an invitation under section 292, or under" after "226,".
22.	Section 154	Subsection (5) is amended, in subparagraph (ii) of paragraph (a), by the insertion of "or section 293" after "Part III".
23.	Section 157	The following subsection is inserted: "(1A) Summary proceedings for an offence under this Part may be brought and prosecuted by the Maritime Area Regulatory Authority whether or not the offence is committed in the maritime area.". Subsection (4) is amended, in subparagraph (ii) of paragraph (a), by the insertion of "or section 293" after "Part III".

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
24.	Section 160	The following subsections are inserted: "(5A) (a) An application under this section to the Circuit Court shall, in respect of development situated wholly or partly in the nearshore area of a coastal planning authority, be made to the judge of the Circuit Court for the circuit in which the functional area (other than the nearshore area) of that coastal planning authority is situated. (b) The Circuit Court shall have jurisdiction to hear and determine an application under this section in relation to a development referred to in paragraph (a) where the aggregate amount of the levy or levies payable under *Chapter 7* of *Part 4* of the *Maritime Area Planning Act 2021* in respect of the maritime area consent granted to the person who carried out the development does not exceed €500,000. (5B) (a) An application under this section, in respect of development situated wholly or partly in the nearshore area of a coastal planning authority, shall be made to the High Court if that development was carried out by or on behalf of a person who at the time of the carrying out of the development was not the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development. (b) An application under this section, in respect of development situated wholly in the outer maritime area, shall be made to the High Court.". Subsection (6) is amended, in subparagraph (ii) of paragraph (a), by the insertion of "or section 293" after "Part III".
25.	Section 162	Subsection (1) is amended, in paragraph (a), by the insertion of "or section 293" after "Part III".
26.	Section 163	The words "or section 293" are inserted after "Part III" in each place that the latter occurs.
27.	Section 172	The definition of "proposed development" in paragraph (a) of subsection (1A) is amended, in subparagraph (i), by— (a) the deletion of "and" at the end of that subparagraph, and (b) the insertion of the following clause after clause (VI):

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		"(VII) development to which Chapter III of Part XXI applies; and".
28.	Section 173	Subsection (1) is amended by the insertion, after "section 34(3)", of "or Chapter III of Part XXI".
29.	Section 173A	Subsection (1) is amended by— (a) the substitution of the following definition for the definition of "application for permission": " 'application for permission' means— (a) an application for permission for development under Part III, (b) an application for permission for development under section 291, (c) an application for approval for development under section 175, 177AE, 181A, 182A, 182C or 226, (d) an application for substitute consent under section 177E, or (e) a request under section 297;", and (b) the substitution of the following definition for the definition of "grant of permission": " 'grant of permission' means— (a) a grant of permission for development under Part III, (b) a grant of permission for development under section 293, (c) an approval for development under section 175, 177AE, 181B, 182D or 226, (d) a grant of substitute consent under section 177K, or (e) a decision under section 299 consisting of the grant of an alteration of the terms of a permission for development.".
30.	Section 173B	Subsection (1) is amended by— (a) the substitution of the following definition for the definition of "application for permission": " 'application for permission' means— (a) an application for permission for development under Part III, (b) an application for permission for development under section 291,

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		(c) an application for approval for development under section 175, 177AE, 181A, 182A, 182C or 226, (d) an application for substitute consent under section 177E, or (e) a request under section 297;", and (b) the substitution of the following definition for the definition of "grant of permission": " 'grant of permission' means— (a) a grant of permission for development under Part III, (b) a grant of permission for development under section 293, (c) an approval for development under section 175, 177AE, 181B, 182D, or 226, (d) a grant of substitute consent under section 177K, or (e) a decision under section 299 consisting of the grant of an alteration of the terms of a permission for development;".
31.	Section 173C	Subsection (10) is amended by the substitution of the following definition for the definition of "permission": " 'permission' means— (a) permission for development under Part III, (b) permission for development under section 293, (c) approval for development under section 175, 177AE, 181B, 182D or 226, (d) substitute consent under section 177K, or (e) the alteration of the terms of a permission for development in accordance with a decision under section 297;".
32.	Section 174	Subsection (2) is amended by the substitution of "182B(1), 182D(1), 282(2), 293(2) and 297" for "182B(1) and 182D(1)". Subsection (4) is amended by the insertion, after "Ireland", of "(including the maritime area)".
33.	Section 175	The following subsection is substituted for subsection (3):

Reference Number	Provision of Act of 2000	Extent of Amendment
(1)	(2)	(3)
		"(3) Subject to subsection (3A), where an environmental impact assessment report has been prepared in accordance with subsection (1), the local authority shall apply to the Board for approval of the proposed development to which the report relates.".
		The following subsections are inserted:
		"(3A) A local authority shall not be eligible to make an application under subsection (3) in relation to proposed development in the maritime area unless it—
		(a) is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development,
		(b) is the owner of land on which it is proposed to carry out the development concerned, or
		(c) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.
		(3B) The Board shall neither consider an application under subsection (3) in relation to proposed development in the maritime area nor grant approval for such development under subparagraph (i), (ii) or (iii) of paragraph (a) of subsection (9) unless the applicant for such approval—
		(a) is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development,
		(b) is the owner of land on which it is proposed to carry out the development concerned, or
		(c) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.".
		Subsection (12) is amended by the substitution of the following paragraphs for paragraph (a):
		"(a) in the case of an area other than a maritime site, the provisions of the development plan for the area,

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		(aa) in the case of a maritime site, the matters to which the Board is required to have regard under subsection (3) of section 293 when making a decision in relation to an application under section 291,".
34.	Section 176A	The following subsection is inserted: "(1A) A planning authority shall not consider an application under this section in respect of proposed development to which Chapter II of Part XXI applies, unless the applicant— (a) is the holder of a— (i) maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, or (ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purpose of the development on, or in relation to, the maritime site in which the development is proposed to be situated, (b) is the owner of land on which it is proposed to carry out the development concerned, (c) is the lessee, under a lease granted under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned, or (d) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.". Subsection (3) is amended by the substitution of the following paragraph for paragraph (b): "(b) where the applicant is not the owner or occupier of the land that is the subject of the proposed development, the name and address of the owner (if any) and, where the owner is not the occupier of the land, the occupier (if any),". Subsection (5) is amended by—

Reference Number	Provision of Act of 2000	Extent of Amendment
(1)	(2)	(3)
		(a) the insertion, in paragraph (a), of "(if any)" after "owner", and (b) the substitution of the following paragraph for paragraph (b): "(b) where the owner is not the occupier of the land, the occupier (if any) of that land to make such a submission,". Subsection (7) is amended by the substitution of "the planning authority shall also notify the owner (if any) or, where the owner is not the occupier of the land, the occupier (if any) of its decision under subsection (6)" for "the planning authority shall also notify the owner and, where the owner is not the occupier of the land, the occupier of its decision under subsection (6)".
35.	Section 176B	Subsection (2A) is amended by— (a) the insertion, in subparagraph (ii) of paragraph (b), of "(if any)" after "owner", and (b) the insertion, in subparagraph (iii) of paragraph (b), of "(if any)" after "occupier". Subsection (4) is amended by the substitution of the following paragraph for paragraph (c): "(c) where subsection (5) of section 176A applies, the owner (if any) and the occupier (if any) of the land that is the subject of the proposed development,". Subsection (5) is amended, in paragraph (i), by— (a) the insertion, in subparagraph (II), of "(if any)" after "owner", and (b) the insertion, in subparagraph (III), of "(if any)" after "occupier". Subsection (6) is amended, in subparagraph (i) of paragraph (a), by— (a) the insertion, in clause (II), of "(if any)" after "owner", and (b) the insertion, in clause (III), of "(if any)" after "occupier".
36.	Section 176C	Subsection (6A) is amended, in paragraph (b), by— (a) the insertion, in subparagraph (iii), of "(if any)" after "owner", and (b) the insertion, in subparagraph (iv), of "(if any)" after "occupier". Subsection (8) is amended by the substitution of the following paragraph for paragraph (d):

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		"(d) where subsection (5) of section 176A applies, the owner (if any) and the occupier (if any) of the land that is the subject of the proposed development, and".
		Subsection (11) is amended, in subparagraph (i) of paragraph (a), by— (a) the insertion, in clause (II), of "(if any)" after "owner", and (b) the insertion, in clause (III), of "(if any)" after "occupier".
37.	Section 177K	Subsection (2) is amended, in paragraph (i), by the insertion of "282(3) or 293(7)" after "section 34(4),". Subsection (3) is amended, in paragraph (a), by the insertion of "282(3) or 293(7), as may be appropriate," after "section 34(4),".
38.	Section 177R	Subsection (1) is amended, in paragraph (a), by the substitution of the following definition for the definition of "proposed development": " 'proposed development' means— (a) a proposal to carry out— (i) development to which Part III applies, (ii) development that may be carried out under Part IX, (iii) development that may be carried out by a local authority under Part X or XAB or development that may be carried out under Part XI, (iv) development on the foreshore under Part XV, (v) development under section 43 of the Act of 2001, (vi) development under section 51 of the Roads Act 1993, or (vii) development to which Chapter II or III of Part XXI applies, (b) notwithstanding that the development has been carried out, development in relation to which an application for substitute consent is required under Part XA, or (c) a requested alteration within the meaning of Chapter III of Part XXI;".
39.	Section 177S	Subsection (2) is amended by—

Reference Number	Provision of Act of 2000	Extent of Amendment
(1)	(2)	(3)
		(a) the substitution of "Subject to subsection (3), the competent authority" for "The competent authority", and (b) the substitution of the following paragraph for paragraph (h): "(h) in relation to proposed development that may be carried out by a local authority under Part X or XAB or proposed development that may be carried out under Part XI, the Board.". The following subsection is inserted: "(3) The competent authority in the State for the purposes of this Part and Articles 6 and 7 of the Habitats Directive, shall, in relation to proposed development to which Chapter III of Part XXI applies, be the Board.".
40.	Section 177U	Subsection (8) is amended— (a) in paragraph (g), by the deletion of "or", (b) in paragraph (h), by the substitution of "Part XA, or" for "Part XA.", and (c) the insertion of the following paragraph: "(i) a decision to make a requested alteration under subsection (2) of section 297.".
41.	Section 177AE	Subsection (1) is amended by the deletion of the words ", or on the foreshore". The following subsections are inserted: "(3A) A local authority shall not be eligible to make an application under subsection (3) in relation to proposed development in the maritime area, unless it— (a) is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, (b) is the owner of land on which it is proposed to carry out the development concerned, or (c) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		(3B) The Board shall neither consider an application for permission under subsection (3) in relation to proposed development in the maritime area nor grant approval for such development under subparagraph (i), (ii) or (iii) of paragraph (a) of subsection (8), unless the applicant for such approval— (a) is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, (b) is the owner of land on which it is proposed to carry out the development concerned, or (c) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.".
42.	Part XI	The following section is inserted: **"Development in maritime area by local authority or State authority** **178A.** (1) A local authority shall not carry out, or make an agreement with another person for the carrying out, of development in the maritime area, unless— (a) it is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, (b) it is the owner of land on which it is proposed to carry out the development concerned, or (c) in circumstances where it proposes to carry out the development on land that it does not own, it carries out the development with the consent, or on behalf, of the owner of that land. (2) A State authority shall not carry out, or make an agreement with another person for the carrying out, of development in the maritime area, unless— (a) it is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, (b) it is the owner of land on which it is proposed to carry out the development concerned, or

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		(c) in circumstances where it proposes to carry out the development on land that it does not own, it carries out the development with the consent, or on behalf, of the owner of that land. (3) A coastal planning authority shall not carry out development in the maritime area that materially contravenes the National Planning Framework or any maritime spatial plan applicable to that area.".
43.	Section 179	Subsection (3) is amended by the insertion of the following paragraph: "(c) A report prepared in accordance with paragraph (a) shall— (i) in the case of development situated wholly within the maritime area— (I) contain an evaluation of the consistency of the proposed development with principles of proper planning and sustainable development and the objectives of maritime spatial planning, having regard to the National Planning Framework, the National Marine Planning Framework and any maritime spatial plan applicable to the maritime site in which it is proposed that the development would be carried out, and (II) specify the reasons and considerations for that evaluation, and (ii) in the case of development proposed to be situated partly on the landward side of a coastal planning authority's functional area and partly in the maritime area— (I) contain an evaluation referred to in subparagraph (ii) of paragraph (b) and an evaluation of the consistency of the proposed development with principles of proper planning and sustainable development and objectives of maritime spatial planning, having regard to the National Planning Framework, the National Marine Planning Framework and any

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		maritime spatial plan applicable to the maritime site in which it is proposed that the development would be carried out, and (II) specify the reasons and considerations for those evaluations, in addition to the matters referred to in subparagraphs (i), (iia), (iii), (iv) and (v) of paragraph (b).".
44.	Section 181	Subsection (1) is amended by the substitution of the following subparagraph for subparagraph (vi) of paragraph (b): "(vi) the reference to a specified person of any dispute or disagreement, with respect to the proposed development— (I) between a State authority and the planning authority for the area (including, in circumstances where the planning authority is a coastal planning authority, the nearshore area of that authority) in which the proposed development is to be carried out, or (II) between a State authority and the Board or the Maritime Area Regulatory Authority in relation to proposed development that is to be carried out in the outer maritime area;". Subsection (2B) is amended— (a) in paragraph (b), by the substitution of "if carried out" for "if carried out, and", and (b) by the insertion of the following paragraph: "(bb) in the case of proposed development in the maritime area, send a— (i) copy of the application, (ii) copy of the environmental impact assessment report (if any) and Natura impact statement (if any), and (iii) a notice stating that submissions or observations may, during the period referred to in subparagraph (ii) of paragraph (a), be made in writing to the Board in relation to the application for approval, to the Maritime Area Regulatory Authority, and".

Reference Number	Provision of Act of 2000	Extent of Amendment
(1)	(2)	(3)
		Subsection (2M) is amended by the insertion of the following paragraph: "(aa) The Board shall, in the case of development proposed to be situated wholly or partly in the outer maritime area, send a copy of the decision under paragraph (a) of subsection (2L) to— (i) the Minister concerned, (ii) any coastal planning authority in whose nearshore area it is proposed that part of the development would be situated, (iii) the Maritime Area Regulatory Authority, and (iv) any person who made submissions or observations on the application for approval.".
		The following subsection is substituted for subsection (2AA): "(2AA) Where an application for approval is made to the Board under subsection (2A), or where further information is required by and furnished to the Board in relation to an application made under that subsection, the Minister concerned shall, simultaneously, forward a copy of the application, any environmental impact assessment report or Natura impact statement prepared in relation to the application and any further information provided in relation to the application, to— (a) the planning authority or each planning authority in whose functional area it is proposed to carry out the development, or (b) in the case of an application for approval for development in the outer maritime area, the Maritime Area Regulatory Authority, and the Board, and any such planning authority or the Maritime Area Regulatory Authority (as may be appropriate), shall, as soon as may be thereafter, publish on their internet websites and make available for inspection at their offices during normal office hours— (i) that application, (ii) any such environmental impact assessment report, (iii) any such Natura impact statement, and

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		(iv) any such further information.".
		Subsection (3) is amended—
		(a) in paragraph (a), by the deletion of the definition of "foreshore",
		(b) in paragraph (b), by the deletion of ", including development on the foreshore,", and
		(c) in paragraph (d), by—
		(i) the substitution of the following clause for clause (I) of subparagraph (ii):
		"(I) the following were substituted for subsection (1):
		'(1) Where an appropriate assessment is required in respect of development (in this section referred to as "proposed development") to which subsection (3) of section 181 applies, the Minister concerned (in this section referred to as the "Minister concerned") within the meaning of that subsection shall prepare, or cause to be prepared, a Natura impact statement in respect thereof.',",
		and
		(ii) the deletion of subparagraph (iii),
		and
		(d) the substitution of the following paragraph for paragraph (e):
		"(e) Where an application is made to the Board under this subsection, or where further information is required by and furnished to the Board in relation to an application made under this subsection, the Minister concerned shall at the same time forward a copy of the application, any environmental impact assessment report or Natura impact statement prepared in relation to the application and any further information provided in relation to the application, to—
		(i) the planning authority in whose functional area it is proposed to carry out the development, or

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		(ii) in the case of an application for approval for development in the outer maritime area, the Maritime Area Regulatory Authority, and the Board, and the planning authority or the Maritime Area Regulatory Authority (as may be appropriate), shall as soon as may be thereafter, publish on their internet websites and make available for inspection at their offices during normal office hours— (I) the application, (II) any environmental impact assessment report, (III) any Natura impact statement, and (IV) any such further information.".
45.	Section 181B	Subsection (11) is amended by— (a) the substitution of the following paragraph for paragraph (a): "(a) in the case of proposed development on land or partly on land and partly in the nearshore area of a coastal planning authority, the development plan for the area,", and (b) the insertion of the following paragraph: "(aa) in the case of proposed development wholly or partly in the maritime area, the National Marine Planning Framework,".
46.	Section 182	The following subsection is inserted: "(1A) A local authority shall not be eligible to apply for approval referred to in subsection (1) for development on a maritime site, and no such approval shall be given to a local authority, unless the local authority— (a) is the holder of a maritime area consent granted for the occupation of the maritime site for the purposes of the proposed development, (b) is the owner of land on which it is proposed to carry out the development concerned, or

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		(c) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.".
47.	Section 182A	The following subsection is inserted: "(1A) An undertaker shall not be eligible to apply for approval referred to in subsection (1) for development in a maritime site and no such approval shall be given to him or her, unless he or she— (a) is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, (b) is the owner of land on which it is proposed to carry out the development concerned, or (c) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.".
48.	Section 182B	Subsection (10) is amended by— (a) the substitution of the following paragraph for paragraph (a): "(a) in the case of proposed development on land or partly on land and partly in the nearshore area of a coastal planning authority, the development plan for the area,", and (b) the insertion of the following paragraph: "(aa) in the case of proposed development wholly or partly in the maritime area, the National Marine Planning Framework,". Subsection (11) is amended, in paragraph (a), by the substitution of "section 34, 37G or 293" for "section 34 or 37G".
49.	Section 182D	Subsection (10) is amended by— (a) the substitution of the following paragraph for paragraph (a):

Reference Number	Provision of Act of 2000	Extent of Amendment
(1)	(2)	(3)
		"(a) in the case of proposed development on land or partly on land and partly in the nearshore area of a coastal planning authority, the development plan for the area,", and (b) the insertion of the following paragraph: "(aa) in the case of proposed development wholly or partly in the maritime area, the National Marine Planning Framework,".
		Subsection (11) is amended, in paragraph (a), by the substitution of "section 34, 37G or 293" for "section 34 or 37G".
50.	Section 247	The following subsection is substituted for subsection (1): "(1) Subject to subsection (1A), a person who— (a) has an interest (including a lease granted under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned) in land, or (b) is the holder of— (i) a maritime area consent granted for the occupation of a maritime site for the purposes of proposed development, or (ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purposes of proposed development on, or in relation to, the maritime site in which the development is proposed to be situated, and who intends to make a planning application may, with the agreement (which shall not be unreasonably withheld) of the planning authority concerned, consult with the planning authority for the purposes of discussing any proposed development in relation to the land or maritime site, as the case may be, and the planning authority may advise the person regarding the proposed application.".
51.	Section 250	Subsection (1) is amended by the insertion of the following paragraph:

Reference Number (1)	Provision of Act of 2000 (2)	Extent of Amendment (3)
		"(dd) where the address at which he or she ordinarily resides cannot be ascertained by reasonable inquiry and the notice or copy is so required or authorised to be given or served in respect of any maritime site, by publishing the notice or copy on 7 consecutive days in a national newspaper;".

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MARITIME AREA PLANNING ACT 2021

REVISED

Updated to 2 October 2025

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Foreshore Acts 1933 to 2023: this Act, Part 13 chapter 1, is one of a group of Acts included in this collective citation, to be construed together as one (*Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*, s. 1(2)). The Acts in this group are:

- *Foreshore Act 1933* (12/1933)
- *Foreshore (Amendment) Act 1992* (17/1992)
- *Fisheries and Foreshore (Amendment) Act 1998* (54/1998), ss. 1 and 7(3) in so far as they relate to s. 5
- *Fisheries (Amendment) Act 2003* (21/2003), s. 32 and s. 2 insofar as it relates to s. 32
- *Maritime Safety Act 2005* (11/2005), Part 6
- *Foyle and Carlingford Fisheries Act 2007* (17/2007), s. 35
- *Foreshore and Dumping at Sea (Amendment) Act 2009* 39/2009), other than s. 1(3), (5), Part 3 and sch. 2
- *Foreshore (Amendment) Act 2011* (11/2011)
- *Local Government Reform Act 2014*(1/2014), s. 1(13) and the amendment to the Foreshore (Amendment) Act 1992 provided for in s. 5(6) and sch. 2 part 6
- *Maritime Area Planning Act 2021* (50/2021), Part 9 chapters 1, 3
- *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), Part 3
- *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023), Part 13 chapter 1 (ss. 187-190)

Electricity Regulation Acts 1999 to 2021: this Act, Part 9 chapter 4, is one of a group of Acts included in this collective citation, to be construed together as one (*Maritime Area Planning Act 2021*, s. 1(3)). The Acts in this group are:

- *Electricity Regulation Act 1999* (23/1999)
- *Gas (Amendment) Act 2000* (26/2000), ss. 12-16.
- *Maritime Area Planning Act 2021* (50/2021), Part 9 chapter 4 (ss. 187-190).

Planning and Development Acts 2000 to 2025: this Act, Part 13 chapter 3, is one of a group of Acts and statutory instruments included in this collective citation, to be

construed together as one (*Planning and Development (Amendment) Act 2025*, s. 1(3)). The Acts and statutory instruments in this group are:

- *Planning and Development Act 2000* (30/2000)
- *Local Government Act 2001* (37/2001), ss. 2, 5(3) and sch. 4 (in so far as they relate to the Act of 2000) and s. 247
- *Planning and Development (Amendment) Act 2002* (32/2002), Parts 2 and 3
- *Housing (Miscellaneous Provisions) Act 2004* (43/2004), s. 2
- *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006)
- *Water Services Act 2007* (30/2007), ss. 1(6) and 114
- *Harbours (Amendment) Act 2009* (26/2009), ss. 7(1) and (2) and 21(3)
- *Compulsory Purchase Orders (Extension of Time Limits) Act 2010* (17/2010)
- *Planning and Development (Amendment) Act 2010* (30/2010), other than Part 3
- *Environment (Miscellaneous Provisions) Act 2011* (20/2011), Part 5
- *Electoral, Local Government and Planning and Development Act 2013* (27/2013), Part 8
- *Local Government Reform Act 2014* (1/2014), ss. 1(8), 5(7) and sch. 2 part 4
- *Urban Regeneration and Housing Act 2015* (33/2015)
- *Planning and Development (Amendment) Act 2015* (63/2015)
- *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), other than s. 1(2)(b) and (c), Parts 3 to 5 and sch.
- *Planning and Development (Amendment) Act 2017* (20/2017)
- *Planning and Development (Amendment) Act 2018* (16/2018), other than Part 4 and sch. 3 ref. nos. 12-18
- *European Union (Planning and Development) (Environment Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), Parts 2, 3, 4 and schs. 1 and 2
- *Aircraft Noise (Dublin Airport) Regulation Act* (12/2019), Part 3
- *Residential Tenancies (Amendment) Act 2019* (14/2019), s. 38
- *Local Government Rates and Other Matters Act 2019* (24/2019), ss. 23, 24
- *Emergency Measures in the Public Interest (Covid-19) Act 2020* (2/2020), s. 9
- *European Union (Waste Water Discharge) Regulations 2020* (S.I. No. 214 of 2020), Part II (reg. 5)
- *Planning and Development, and Residential Tenancies, Act 2020* (27/2020)
- *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), Part 2 chapters 2, 5)
- *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021)
- *Maritime Area Planning Act 2021* (50/2021), Part 8 (ss. 171-174) and schs. 10-12
- *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), Part 2 (ss. 2-14)
- *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), Part 2 (ss. 2-14)
- *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023), Part 13 chapter 3 (ss. 246-253)
- *Planning and Development (Amendment) Act 2025* (9/2025), Part 3 (ss. 27-35)

Maritime Area Planning Act 2021 to 2024: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Gas (Amendment) and Miscellaneous Provisions Act 2024*, s. 1(3)). The Acts in this group are:

- *Maritime Area Planning Act 2021* (50/2021)
- *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), Part 3 (ss. 42-75)
- *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023), Part 13 chapter 8 (ss. 275-282)
- *Gas (Amendment) and Miscellaneous Provisions Act 2024* (11/2024), Part 4 (ss. 22-35)

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at

www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Planning and Development Act 2024* (34/2024)
- *Gas (Amendment) and Miscellaneous Provisions Act 2024* (11/2024)
- *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023)
- *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022)

All Acts up to and including *Housing Finance Agency (Amendment) Act 2025* (11/2025), enacted 28 October 2025, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Maritime Area Planning Act 2021 (Fit and Proper Person) Order 2025* (S.I. No. 467 of 2025)
- *Maritime Area Planning Act 2021 (Section 6) (Commencement) Order 2024* (S.I. No. 202 of 2024)
- *Maritime Area Consent (Non-Material Amendment) Regulations 2024* (S.I. No. 155 of 2024)
- *Maritime Area Usage (Licence Conditions) Regulations 2023* (S.I. No. 530 of 2023)
- *Maritime Area Consent (Certain Application Fees) (No. 2) Regulations 2023* (S.I. No. 508 of 2023)
- *Maritime Area Consent (Certain Application Fees) Regulations 2023* (S.I. No. 403 of 2023)
- *Maritime Area Usage (Licence Fees) Regulations 2023* (S.I. No. 402 of 2023)
- *Maritime Area Planning Act 2021 (Establishment Day) Order 2023* (S.I. No. 372 of 2023)
- *Maritime Area Planning Act 2021 (Commencement of Certain Provisions) (No. 2) Order 2023* (S.I. No. 369 of 2023)
- *Maritime Area Planning Act 2021 (Commencement of Certain Provisions) Order 2023* (S.I. No. 225 of 2023)
- *Maritime Area Planning Act 2021 (Commencement of Certain Provisions) (No. 4) Order 2022* (S.I. No. 599 of 2022)
- *Maritime Area Planning Act 2021 (Commencement of Certain Provisions) (No. 3) Order 2022* (S.I. No. 488 of 2022)
- *Maritime Area Consent (Application Fee) Regulation* (S.I. No. 395 of 2022)
- *Maritime Area Planning Act 2021 (Commencement of Certain Provisions) (No. 2) Order 2022* (S.I. No. 394 of 2022)
- *Maritime Area Planning Act 2021 (Commencement of Certain Provisions) Order 2022* (S.I. No. 112 of 2022)

All statutory instruments up to and including *Maritime Area Planning Act 2021 (Fit and Proper Person) Order 2025* (S.I. No. 467 of 2025), made 1 October 2025, were considered in the preparation of this revision.