



AN BILLE OIÐHREACHTA NÁISIÚNTA, 1982
NATIONAL HERITAGE BILL, 1982

Mar a tionscnaíodh
As initiated

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AN BILLE OIDHREACHTA NÁISIÚNTA, 1982

NATIONAL HERITAGE BILL, 1982

BILL

entitled

5 AN ACT TO MAKE PROVISION WITH RESPECT TO THE
NATIONAL HERITAGE AND FOR THAT PURPOSE TO
ESTABLISH A COUNCIL TO BE KNOWN IN THE IRISH
LANGUAGE AS COMHAIRLE NA hOIDHREACHTA
10 NÁISIÚNTA AND IN THE ENGLISH LANGUAGE AS THE
NATIONAL HERITAGE COUNCIL AND TO DEFINE ITS
FUNCTIONS AND TO PROVIDE FOR OTHER MATTERS
CONNECTED WITH THE MATTERS AFORESAID.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Interpretation.

15 “the Commissioners” means the Commissioners of Public Works in
Ireland;

“the Council” has the meaning assigned to it by *section 3* of this Act;

20 “functions” includes powers and duties and references to the perform-
ance of functions includes, with respect to powers and duties, refer-
ences to the exercise of those powers and the carrying out of those
duties and references to functions conferred on the Council by this
Act includes references to functions transferred to the Council by this
Act and cognate expressions shall be construed accordingly;

“land” includes land covered by water;

25 “member of the transferred staff” has the meaning assigned to it by
section 17 (4) of this Act;

“the Minister” means the Minister for the Public Service;

45 “national park” means a property declared by *section 6* of this Act to
be a national park;

30 “State authority” has the meaning assigned to it by the State Property
Act, 1954;

50 “statute” has the meaning assigned to it by the Interpretation Act,
1937.

Establishment day.

2.—The Minister may by order appoint a day to be the establishment day for the purposes of this Act.

Establishment of Council.

3.—(1) On the day appointed to be the establishment day for the purposes of this Act under *section 2* of this Act, there shall by virtue of this subsection stand established a body to be known in the Irish language as Comhairle na hOidhreachta Náisiúnta and in the English language as the National Heritage Council, and in this Act referred to as “the Council”, to perform the functions conferred on it by or under this Act.

(2) The provisions of the *First Schedule* to this Act shall have effect in relation to the Council.

Functions of Council.

4.—(1) It shall be the general function of the Council to identify, preserve, protect, enhance and develop for the benefit of the public, and to foster public interest and pride in, that part of the national heritage to which the functions conferred on the Council by or under the provisions of this Act relate.

(2) Subject to the provisions of this Act the following functions are hereby transferred to (and vested in) the Council—

(a) the functions in relation to the National Museum of Science and Art under the Ministers and Secretaries Act, 1924, and the Dublin Science and Art Museum Act, 1877, that, immediately before the commencement of this section in relation to those functions, were vested in the Minister for Education,

(b) the functions under the National Monuments Acts, 1930 and 1954, that, immediately before the commencement of this section in relation to those functions, were vested in the Commissioners,

(c) the functions under the Saint Stephen's Green (Dublin) Act, 1877, that, immediately before the commencement of this section in relation to those functions, were vested in the Commissioners,

(d) the functions under the Phoenix Park Act, 1925, that, immediately before the commencement of this section in relation to those functions, were vested in the Commissioners, other than functions relating to the lands specified in *Part III* of the *Second Schedule* to this Act,

(e) the functions under the Bourn Vincent Memorial Park Act, 1932, that, immediately before the commencement of this section in relation to those functions, were vested in the Commissioners, and

(f) the functions under the Shannon Acts, 1839 to 1885, and any other statutory functions, in relation to the navigation of the part of the River Shannon upstream of Thomond Bridge, Limerick and the tributaries thereof entering the River Shannon upstream of the said Thomond Bridge, Limerick, that, immediately before the commencement of this section in relation to those functions, were vested in the Commissioners and the functions in relation to the navigation of the part aforesaid of the River Shannon and the tributaries aforesaid that, immediately before such

commencement in relation to the last-mentioned functions, were vested in the Minister for Transport under section 2 of the Ministry of Transport Act, 1919.

Acquisition and disposal of property by Council.

5 (3) Subject to the provisions of this Act, there are hereby transferred to the Council the functions of the Commissioners in relation to the care, management, control, maintenance, improvement and development of the properties standing specified for the time being in column (2) of the *Second Schedule* to this Act that, immediately before the commencement of this subsection, were vested in the
10 Commissioners and the Council shall undertake the care, management, control, maintenance, improvement and development of any property acquired by or transferred to it, under this Act.

15 (4) The Council may do all such things as it considers necessary or expedient for, or incidental or supplementary to or consequential upon, the performance of its functions under this Act.

15 (5) This section shall come into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different
20 purposes and different provisions and for different functions or for functions in relation to different properties referred to in subsections (2) and (3) of this section.

25 5.—(1) The Minister may by order, after consultation with the Council, confer on the Council such additional functions as he thinks appropriate in respect of the national heritage, being functions that in the opinion of the Minister correspond to those conferred by this Act on the Council.

Conferral of additional functions on Council.

30 (2) An order under this section may contain such incidental, supplementary and consequential provisions (including provisions adapting statutes and instruments made under statute) as appear to the Minister to be necessary or expedient for the purposes of the order.

30 (3) The Minister may by order amend or revoke an order under this section, including an order under this subsection.

35 (4) Before making an order under this section, the Minister shall consult with any Minister of the Government whom he considers would be affected by the order.

40 6.—(1) The property standing specified for the time being in column (2) of *Part I* of the *Second Schedule* to this Act at reference number 1 and the Bourn Vincent Memorial Park shall together be a national park and shall be known by the title specified in column (3) of that Part at that reference number.

National parks.

45 (2) Each of the properties standing specified for the time being in column (2) of the said *Part I* at any other reference number shall be a national park and shall be known by the title specified in column (3) of that Part opposite the mention of the property in the said column (2).

50 (3) (a) The Council may, with the consent of the Minister, by regulations make such provision as it thinks necessary or expedient for preserving the character of national parks and different provisions may be made in relation to different national parks.

Power of Council to advise Minister and others.

(b) A person who contravenes a regulation under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £300.

(4) The Minister may, on the recommendation of the Council, by order amend *Part I* of the *Second Schedule* to this Act—

(a) by adding to *column (1)* thereof a reference number and by adding to *column (2)* thereof opposite the reference number a description of any property and by adding to *column (3)* thereof opposite the reference number a title,

(b) by deleting the matter at any reference number,

(c) by adding to a description of any property in the said *column (2)* a description of other property, or

(d) by deleting from a description of any property in the said *column (2)* any part of the property included in the description,

and this Act shall have effect accordingly.

(5) The Minister may, on the recommendation of the Council, by order amend *Part II* of the *Second Schedule* to this Act by deleting from *column (2)* thereof the description of any property the subject of an order under *subsection (4)* of this section and by deleting from *columns (1)* and *(3)* thereof opposite the mention of the said property the reference number and the description of the property, respectively, and this Act shall have effect accordingly.

7.—(1) The Council shall, whenever it thinks it appropriate to do so, in relation to a heritage building that is vested in a State authority, do either or both of the following, that is to say, consult with and advise the State authority in relation to the maintenance, preservation, restoration, repair, upkeep and improvement of the building.

(2) (a) Where a State authority proposes to demolish, or (by means of alteration to the structure, decoration or finish thereof or by means of any other alteration thereto) to alter fundamentally the character of, a heritage building, or any part thereof, vested in the authority, the authority shall, before carrying out the proposal, notify the Council in writing of the proposal and the Council shall tender its advice to the authority in writing in relation to the proposal not later than six weeks after the receipt by the Council of the notification.

(b) A State authority shall not proceed to carry out a proposal to which this subsection relates without having received and taken into account the advice of the Council in relation thereto.

(3) In this section “heritage building” includes any building the preservation of which is, in the opinion of the Council, a matter of national importance because of its intrinsic architectural or artistic quality or because of its association with the commercial, cultural, economic, industrial, military, political, social or religious history of the place where it is situated or of the country or generally.

(4) The Council shall prepare and cause to be published in *Iris Oifigiúil* a list of the heritage buildings vested in State authorities and shall, whenever it thinks it appropriate to do so, review and, where necessary, amend the list and shall cause to be published in *Iris Oifigiúil* notice of any such amendment.

8.—(1) The Council may, with the consent of the Government, acquire such land or other property, as it considers appropriate, having regard to its functions under, and the spirit and purposes of, this Act.

Acquisition and disposal of property by Council.

5 (2) A State authority or a local authority (within the meaning of the Local Government Act, 1941) may, if the Council considers it appropriate, having regard to its functions under, and the spirit and purposes of, this Act, to do so—

10 (a) transfer to the Council any land, or other property, vested in the State authority or the local authority, as the case may be, or

15 (b) make such arrangements with the Council as it and the Council think appropriate for the care, management, control, maintenance, improvement or development of any such land or other property.

(3) (a) The Council may reserve for any particular purpose or use of or by or on behalf of the State, a State authority, the Irish Land Commission or the public or any part of the public any land or other property vested in it.

20 (b) The Council shall have the like power to sell, lease, let or otherwise dispose of any such land or other property as had the person in whom such land or other property was vested immediately before it became vested in the Council.

25 (4) The functions specified in *paragraph (a) of subsection (3)* of this section shall not be exercised without the consent of the Minister and the functions specified in *paragraph (b) of the said subsection (3)* shall not be exercised without the consent of the Government, and the consent may, in each case, be given generally in relation to all performances of the functions specified in the said *paragraph (a)* or 30 *(b)*, as the case may be, or be given in relation to one or more specified performances of one or more of those functions.

(5) *Subsections (1) and (2)* of this section apply only to land or other property, that, in the opinion of the Council, is part of the national heritage.

35 (6) Section 12 of the Finance Act, 1895, shall not apply to the vesting in the Council of any property under this section.

40 9.—(1) The Council may, on its own initiative, and shall, whenever so requested by the Minister, advise the Minister in relation to matters relating to the Council's functions or otherwise relating to that part of the national heritage to which the functions conferred on the Council by or under this Act relate.

Power of Council to advise Minister and others.

45 (2) Whenever requested so to do by any person, the Council may, if it so thinks fit, advise the person in relation to matters relating to the Council's functions.

(3) The Minister for Fisheries and Forestry and the Council shall consult together, and the Council may advise the Minister for Fisheries and Forestry, in relation to the provision and development on lands, under the care and management of the Minister for Fisheries and

Forestry and used for or in connection with the development of forests, of facilities for amenity and the recreation and enjoyment of the public, in so far as such consultation or advice, as the case may be, is, having regard to the functions of the Council under, and the spirit and purpose of, this Act, considered appropriate by the Council. 5

Power of Council to co-operate with and assist persons.

10.—The Council may, with the consent of the Minister, given generally in relation to all cases of co-operation or assistance or given in relation to one or more cases or classes of cases of co-operation or assistance or both, co-operate with and assist any persons, where such co-operation or assistance is appropriate to the functions or interests of the Council, and the assistance may include payments by the Council upon such terms and conditions as it may, with the consent of the Minister, approve. 10

Power of Council to make charges.

11.—(1) The Council may impose such charges (if any) as it considers appropriate for the time being for admission to any property under its care and management. 15

(2) (a) The Council may charge such fees (if any) as it considers appropriate in respect of any service provided by it.

(b) Fees charged under this subsection—

(i) shall be a debt due to the Council by the person for whom the service to which the fees relate was provided by the Council, and 20

(ii) may be recovered by the Council from the person as a simple contract debt in any court of competent jurisdiction. 25

Power of Council to make bye-laws.

12.—(1) Subject to the provisions of this Act, the Council may, for the purposes of its functions under this Act, with the approval of the Minister, make bye-laws in relation to any property under its care and management.

(2) A person who contravenes a bye-law under this section shall be guilty of an offence. 30

(3) Copies of any bye-law under this section shall be displayed at, or in the vicinity of, the property to which the bye-law relates, in such manner and place as, in the opinion of the Council, are best calculated to bring the bye-law to the attention of those on or at the property. 35

(4) Subsection (1) of this section does not apply in relation to the Bourn Vincent Memorial Park, Phoenix Park, Saint Stephen's Green or the River Shannon or its tributaries.

(5) An officer or servant of the Council, duly authorised in that behalf in writing by the Council, may, if he sees a person doing or omitting to do anything and has reasonable grounds for believing such doing or omission, is a contravention of a bye-law under this section, upon production, if so requested by the person, of his authorisation, do either or both of the following: 40

(a) request of such person his name and address, 45

(b) if the person is on or in property under the care and management of the Council, request him to leave such property.

5 (6) A person who obstructs or impedes an officer or servant of the Council acting in the exercise of functions conferred on him by or under this Act shall be guilty of an offence.

(7) Where a person to whom a request is made under this section refuses or fails to comply with the request or, upon his name and address being requested of him, gives a name or address which is false or misleading, he shall be guilty of an offence.

10 (8) Where a member of the Garda Síochána has reasonable grounds for believing that a person is committing or has committed an offence under this section, he may arrest the person without warrant.

15 (9) (a) A person guilty of an offence under subsection (6) shall be liable, on summary conviction, to a fine not exceeding £500.

(b) A person guilty of an offence under subsection (2), (5) or (7) shall be liable, on summary conviction, to a fine not exceeding £300.

20 (10) It shall be lawful for members of the Garda Síochána to be employed on police duties in or on any property under the care and management of the Council and such members shall, in addition to any other powers vested in them by law, have and may exercise, while so employed, the powers conferred on officers and servants of the Council by this section.

25 (11) An offence under this section or section 6 or 20 of this Act may be prosecuted by the Council.

30 (12) Sections 7 (6) and 9 (1) of the Phoenix Park Act, 1925, and sections 15 (6) and 17 of the Bourn Vincent Memorial Park Act, 1932, are hereby repealed.

35 13.—(1) The Council may, with the concurrence of the Minister and the Minister for Finance, either accept or refuse to accept gifts made to it of money, land or any other property for purposes connected with its functions but shall not accept any gift if the trusts or conditions attached thereto are inconsistent with its functions.

Acceptance of gifts
by Council.

40 (2) Any funds of the Council, being a gift or the proceeds of a gift to it, may, subject to the terms of any trusts or conditions attached to the gift, and with the concurrence of the Minister for Finance, be invested by the Council in any manner in which a trustee is empowered by law to invest trust funds.

(3) If the Council accepts a gift under this section, the subject of the gift shall thereupon vest in the Council.

(4) Where property vests in the Council by virtue of this section and the gift thereof was made subject to conditions, the property shall not be dealt with in a manner inconsistent with those conditions.

(5) The Council may for the purposes of a gift to it accept a trusteeship and act as trustee with or without other persons and hold the property the subject of the gift upon the trusts of the gift and with and subject to the powers and provisions of those trusts.

Financial provisions.

14.—(1) There shall be paid to the Council in each year, out of moneys provided by the Oireachtas, a grant or grants of such amount or amounts as the Minister, with the consent of the Minister for Finance, may fix.

Power of Council to co-operate with and assist persons.

(2) Subject to the provisions of *subsection (3)* of this section and *section 17* or *18* of this Act any payments which the Council makes out of moneys received by it under this section shall be made in such manner and subject to such conditions as the Council thinks fit.

(3) The Minister, with the consent of the Minister for Finance, may attach such conditions as he thinks proper to the payment of a grant or portion of a grant to the Council under this section.

Power of Council to make charges.

(4) The Council may, with the consent of the Minister and the concurrence of the Minister for Finance and subject to any conditions imposed by the Minister, borrow temporarily by arrangement with bankers such sums as it may require for the purpose of providing for current expenditure.

Accounts and audits.

15.—(1) The Council shall keep, in such form as may be approved of by the Minister, with the consent of the Minister for Finance, all proper and usual accounts of all moneys received or expended by it, including an income and expenditure account and a balance sheet, and, in particular, shall keep in such form as aforesaid such special accounts as the Minister, with the consent of the Minister for Finance, may from time to time direct.

(2) Accounts kept in pursuance of this section shall be submitted annually by the Council to the Comptroller and Auditor General for audit on a date not later than the 30th day of April in the year following the year to which the accounts relate and, immediately after the audit, a copy of the income and expenditure account and of the balance sheet and of such other (if any) of the accounts kept by the Council pursuant to *subsection (1)* of this section as the Minister, after consultation with the Minister for Finance, may direct together with a copy of the report of the Comptroller and Auditor General on the accounts shall be presented by the Council to the Minister.

Power of Council to make bye-laws.

(3) The Minister shall cause copies of summaries of the accounts presented to him under this section by the Council, together with copies of the report of the Comptroller and Auditor General thereon, to be laid before each House of the Oireachtas.

Annual report and information to Minister.

16.—(1) The Council shall—

(a) as soon as conveniently may be after the end of each year but not later than the 30th day of April in the following year, prepare and submit to the Minister a report of the work of the Council in that year and the report shall be in such form, and shall include information in relation to such matters, as the Minister may specify from time to time, and

(b) supply to the Minister such information regarding the performance of the functions of the Council as he may from time to time require.

(2) The Minister shall cause a copy of a report submitted to him under *subsection (1) (a)* of this section to be laid before each House of the Oireachtas.

(3) A copy of each annual report in relation to the National Museum of Science and Art made to the Council by the Board of

Visitors of the National Museum of Science and Art and the Botanic Gardens, Dublin, shall, as soon as conveniently may be, be submitted by the Council to the Minister and the Minister shall, as soon as conveniently may be, cause a copy thereof to be laid before each

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17.—(1) The Council shall appoint such and so many persons to be officers and servants of the Council as the Council, subject to the approval of the Minister as to the number and kind of such employees, from time to time thinks proper.

Officers and
servants of Council.

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(2) Subject to *subsection (6)* of this section, an officer or servant of the Council shall hold his office or employment on such terms and conditions as the Council, subject to the approval of the Minister, may from time to time determine.

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(3) There shall be paid by the Council to its officers and servants such remuneration and allowances as, subject to the approval of the Minister, the Council may from time to time determine.

(4) A civil servant, or other person, who—

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(a) was in the service of a Minister of the Government or the Commissioners immediately before the transfer of a function to the Council by or under this Act,

(b) was engaged in the performance of that function immediately before such transfer, and

(c) is designated by that Minister of the Government or the Commissioners, as may be appropriate,

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shall, on such date as may be specified in the designation, be transferred to and become, as may be appropriate, an officer or servant of the Council (and a person who is so transferred or who is otherwise transferred from the service of a Minister of the Government or the Commissioners and who is for the time being an officer or servant of the Council is referred to in this Act as "a member of the transferred staff").

(5) Subject to *subsection (6)* of this section, a member of the transferred staff shall not—

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(a) be remunerated by reference to a scale of pay that is less beneficial than the scale to which he was entitled immediately before his transfer to the Council, or

(b) be subject to less beneficial conditions of service with the Council than the conditions of service to which he was subject immediately before such transfer.

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(6) Until such time as the scale of pay and conditions of service of a member of the transferred staff are varied by the Council, with the approval of the Minister and following consultation with any recognised trade unions and staff associations concerned, the member shall be remunerated by reference to a scale of pay corresponding to the scale of pay by reference to which the member was remunerated immediately before his transfer to the Council and he shall be subject to conditions of service corresponding to the conditions of service to which he was subject immediately before such transfer.

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(7) In relation to a member of the transferred staff, previous service as a civil servant or as a person in the service of a Minister of the Government or the Commissioners shall, subject to the provisions (including provisions providing for exceptions and exclusions) of the Holidays (Employees) Act, 1973, the Minimum Notice and Terms of

Employment Act, 1973, and the Unfair Dismissals Act, 1977, be reckonable for the purposes of those Acts.

(8) (a) In this section "recognised trade unions and staff associations" means trade unions and staff associations recognised by the Council for the purposes of negotiations in relation to the remuneration, conditions of employment or working conditions of employees of the Council.

(b) In this section and in section 18 of this Act "civil servant" has the meaning assigned to it by the Civil Service Regulation Act, 1956.

Superannuation of officers and servants of Council.

18.—(1) As soon as conveniently may be, the Council shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation payments by way of pension, lump sum or gratuity to, or in respect of, such officers and servants of the Council as it thinks fit.

(2) The Council may at any time prepare and submit to the Minister a scheme amending a scheme submitted to the Minister under this section and approved of by him.

(3) The Minister may approve of or refuse to approve of a scheme submitted to the Minister under this section and, if such a scheme is approved of by the Minister it shall be carried out by the Council in accordance with its terms.

(4) A scheme submitted and approved of under this section shall fix the time and conditions of retirement for all persons to whom superannuation payments are payable under the scheme and different times and conditions may be fixed in respect of different classes of persons.

(5) If any dispute arises as to the claim of any person to, or the amount of, any superannuation allowance payable in pursuance of a scheme under this section, it shall be submitted to the Minister for determination by him and that determination shall be final.

(6) Subject to subsection (9) of this section, no superannuation payment by way of pension, lump sum, gratuity or other payment shall be granted by the Council, nor shall any arrangements be entered into by the Council for the provision of such a superannuation payment, on the resignation, retirement or death of an officer or servant of the Council other than in accordance with a scheme made under this section.

(7) Every scheme submitted and approved of under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if either such House, within the next twenty-one days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(8) A member of the transferred staff shall not be subject to less favourable conditions in relation to the grant of superannuation payments by the Council (whether by way of pension, lump sum or gratuity) than the conditions in relation thereto to which he was subject immediately before his transfer to the service of the Council.

(9) Where—

(a) a member of the transferred staff ceases in any circumstances to be such member at a time when there is not in force a scheme under this section that applies in relation to him, and

5 (b) the circumstances were such that, if the member had ceased in corresponding circumstances at that time to be a civil servant or other person in the service of a Minister of the Government or the Commissioners, he would have been eligible for the grant to or in respect of him of a superannuation payment (whether by way of pension, lump sum or gratuity) under the arrangements in relation to superannuation that applied in relation to him immediately before he became a member of the transferred staff—

10 he shall be eligible for and shall have granted to or in respect of him by the Council the like payment (whether by way of pension, lump sum or gratuity), and for the purpose of such payment his service with the Council corresponding to his pensionable service immediately before his transfer to the Council shall be deemed to be pensionable service.

20 19.—(1) Where a member of the Council is nominated as a member of Seanad Éireann or as a candidate for election to either House of the Oireachtas or to the Assembly of the European Communities or is appointed to such Assembly, he shall upon accepting nomination as a member of Seanad Éireann or upon nomination for such election or upon appointment to such Assembly, as the case may be, cease to be a member of the Council.

Membership of Houses of the Oireachtas and Assembly of European Communities by members, officers and servants of Council.

25 (2) Where a person who is either an officer or servant of the Council is nominated as a member of Seanad Éireann or as a candidate for election to either House of the Oireachtas or to the Assembly of the European Communities or is appointed to such Assembly, he shall stand seconded from employment by the Council and shall not be paid by, or be entitled to receive from, the Council any remuneration or allowances—

30 (a) in case he is nominated as a member of Seanad Éireann or is appointed to such Assembly, in respect of the period commencing upon such nomination or upon such appointment, as the case may be, and ending when he ceases to be a member of Seanad Éireann or of such Assembly,

35 (b) in case he is nominated as a candidate for election to either such House or to such Assembly, in respect of the period commencing upon his nomination and ending when he ceases to be a member of that House or that Assembly, as the case may be, or fails to be elected or withdraws his candidature, as may be appropriate.

40 (3) A person who is, for the time being, entitled under the Standing Orders of either House of the Oireachtas to sit therein or is a member of the Assembly of the European Communities shall, while he is so entitled or is such member, be disqualified for becoming a member of the Council or an officer or servant of the Council.

45 (4) Subsection (2) of this section shall be construed as prohibiting, *inter alia*, the reckoning of a period mentioned in paragraph (a) or (b) of that subsection as service with the Council for the purposes of any superannuation benefit.

Prohibition of disclosure of information.

20.—(1) A person shall not, without the consent of the Council, disclose any information obtained by him while performing duties as a member, officer or servant of, or an adviser or consultant to, the Council.

(2) A person who contravenes *subsection (1)* of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

Performance of functions of Council by officer or servant.

21.—The Council may perform any of its functions through or by any of its officers or servants, or any other person, duly authorised by the Council in that behalf but nothing in this section shall be construed as enabling any person to execute on behalf of the Council any document under seal.

Supervision of officers and servants of Council.

Employment of consultants.

22.—The Council may from time to time, with the consent of the Minister given generally or in relation to a specified case or cases or class or classes of case or cases, engage such consultants or advisers as it may consider necessary for the performance of its functions.

Adaptation of enactments and documents.

23.—(1) References to the Minister for Transport, the Department of Transport, the Minister for Education, the Department of Education or the Commissioners in any statute or instrument made thereunder, or in any document, and relating to any function conferred on the Council by this Act shall, on and from the date upon which that function becomes conferred on the Council, in so far as they relate to that function, be construed as references to the Council.

(2) References to the Minister for Finance in any statute or instrument made thereunder, or in any document, and relating to any function conferred on the Council by this Act, shall, on and from the date upon which that function becomes conferred on the Council, in so far as they relate to that function, be construed as references to the Minister for the Public Service; and every bye-law, licence, certificate or other like document granted or made in the exercise of a function conferred on the Council by this Act and in relation to the granting or making of which the Minister for Finance exercised a function shall, in so far as it was operative immediately before the date on which the function becomes so conferred and in so far as it relates to the function, have effect on and from that date as if it had been granted or made by the Council.

Provisions in respect of pending legal proceedings and certain other matters affecting functions conferred on Council.

24.—(1) Where, immediately before the date on which a function becomes conferred on the Council by this Act from the Minister for Transport, the Minister for Education or the Commissioners, any legal proceedings are pending to which the Minister for Transport, the Minister for Education or the Commissioners is or are a party—

(a) if the proceedings have reference solely to that function, the name of the Council shall, on that date, be substituted in the proceedings for that of the Minister for Transport, the Minister for Education or the Commissioners, as the case may be, and

(b) if the proceedings have reference to that function and to one or more other functions, the name of the Council shall, on that date, be added in the proceedings to that of the

Minister for Transport, the Minister for Education or the Commissioners, as the case may be,

and the proceedings shall not abate by reason of such substitution or addition.

(2) Where, immediately before the date on which a function becomes conferred on the Council by this Act, any legal proceedings are pending to which the Minister for Finance is a party and the proceedings have reference to that function—

(a) if the proceedings have reference solely to that function, the name of the Minister shall, on that date, be substituted for that of the Minister for Finance, and

(b) if the proceedings have reference to that function and to one or more other functions, the name of the Minister shall, on that date, be added in the proceedings to that of the Minister for Finance,

and the proceedings shall not abate by reason of such substitution or addition.

(3) Anything commenced before the date on which a function becomes transferred to the Council by or under this Act from the Minister for Transport, the Minister for Education or the Commissioners may, so far as it relates to that function, be carried on or completed on or after that date by the Council.

(4) Every order, bye-law, licence, certificate or other like document granted or made by the Minister for Education, the Minister for Transport or the Commissioners in the exercise of a function conferred on the Council by this Act shall, if and in so far as it was operative immediately before the date on which the function becomes so transferred and in so far as it relates to the function, have effect as on and from that date as if it had been granted or made by the Council.

25.—Any rights or liabilities enjoyed or incurred by the Minister for Finance, the Minister for Transport, the Minister for Education or the Commissioners in connection with a function transferred to the Council by or under this Act from the Minister for Finance, the Minister for Transport, the Minister for Education or the Commissioners immediately before the date of such transfer shall, on that date, be and are hereby transferred to the Council, and, accordingly, without any further transfer or assignment—

(a) the said rights shall, as on and from that date, be enjoyed by the Council, and

(b) the said liabilities shall, as on and from that date, be liabilities of the Council.

26.—(1) A State authority may, with the consent of the Minister and the Minister for Finance, transfer to the Council (whether by assignment, lease, letting, licence or otherwise), for use by the Council for the purposes of its functions under this Act, on such terms and conditions as the authority and the Council, with the consent of the Minister and the Minister for Finance, may determine—

(a) any land vested in the authority, being land that, immediately before the commencement of this section, was being used

Dissolution of National Movement Advisory Council.

Expenses.

Laying of orders, regulations and bye-laws before House of Oireachtas.

Transfer of certain rights and liabilities of Ministers and Commissioners to Council.

Short title.

Section 2.

Transfer of land and plant to Council by State authorities and transitional provision.

Appointment of chairman and members.

Prohibition of disclosure of information.

for the purposes of functions transferred to the Council by this Act,

(b) any plant, machinery, vehicle, material or other thing that is owned by the authority and that, immediately before such commencement, was being used for the purposes of functions transferred to the Council by this Act.

Performance of functions of Council by officer or servant.

(2) Section 12 of the Finance Act, 1895, shall not apply to the vesting in the Council of any property under this section.

Employment of consultants.

(3) (a) If in any respect any difficulty arises in bringing into operation this Act, the Minister may by order do anything that appears to him to be necessary or expedient for bringing this Act into operation, and any such order may modify the provisions of this Act so far as may appear to the Minister necessary or expedient for carrying the Act into effect.

(b) No order shall be made under this subsection after the expiration of two years from its commencement.

Adaptation of enactments and documents.

(4) (a) The Minister for Finance, the Minister for Transport, the Minister for Education or the Commissioners may, as a temporary measure, with the consent of the Minister provide, upon such terms and conditions as the Minister for Finance, the Minister for Transport, the Minister for Education or the Commissioners, as the case may be, and the Council, may, with the consent of the Minister, determine, any services and facilities to the Council for the purpose of enabling it to perform its functions during the period (if any) beginning upon the commencement of this section before it is in a position to provide those services and facilities out of its own resources.

(b) Services or facilities shall not be provided under this subsection by the Minister for Transport, the Minister for Education or the Commissioners without the consent of the Minister for Finance.

Transfer of certain rights and liabilities to Minister and of arrangements for maintenance of certain roads to Council.
Increase of amounts of certain fines.

27.—(1) Section 16 of the Saint Stephen's Green (Dublin) Act, 1877, is hereby amended by the substitution of "not exceeding in respect of any offence £250" for "not exceeding in respect of any offence five pounds".

(2) The Phoenix Park Act, 1925, is hereby amended by—

Provisions in respect of pending legal proceedings and certain other matters affecting functions conferred on Council.

(a) the substitution of "a fine not exceeding £400" for "a penalty not exceeding five pounds" in sections 7 (5), 9 (3) and 10 (2), and

(b) the substitution of "a fine not exceeding £500" for "a fine not exceeding twenty pounds" in section 8.

Transfer of land and plant to Council by State authorities and provision.

(3) The Bourn Vincent Memorial Park Act, 1932, is hereby amended by—

(a) the substitution of "a fine not exceeding £400" for "a fine not exceeding five pounds" in sections 14 (2) and 15 (5), and

(b) the substitution of "a fine not exceeding £500" for "a fine not exceeding twenty pounds" in section 16.

	(4) The National Monuments Act, 1930, is hereby amended by—	
	(a) the substitution of "a fine not exceeding £500" for "a fine not exceeding fifty pounds" in sections 14 (4), 24 (3) and 25 (3),	
5	(b) the substitution of "a fine not exceeding £300" for "a fine not exceeding twenty pounds" in section 17 (4), and	
	(c) the substitution of "a fine not exceeding £400" for "a fine not exceeding twenty-five pounds" in section 26 (3).	
10	(5) The National Monuments (Amendment) Act, 1954, is hereby amended by the substitution of "a fine not exceeding £500" for "a fine not exceeding fifty pounds" in section 8 (4).	
15	28.—(1) The National Monuments Advisory Council is hereby dissolved and, accordingly, section 21 of the National Monuments Act, 1930, and section 15 of the National Monuments (Amendment) Act, 1954, are hereby repealed.	Dissolution of National Monuments Advisory Council.
	(2) References to the National Monuments Advisory Council in any statute or instrument made thereunder or in any document shall be construed as references to the Council.	
20	29.—The expenses incurred by the Minister in the administration of this Act shall be paid out of moneys voted by the Oireachtas.	Expenses.
	30.—(1) Where an order is proposed to be made under section 5 of this Act, a draft thereof shall be laid before Dáil Éireann and the order shall not be made until a resolution approving of the draft has been passed by Dáil Éireann.	Laying of orders, regulations and bye-laws before Houses of Oireachtas.
25	(2) Every order made under this Act other than an order made under section 5 and every regulation or bye-law 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, regulation or bye-law is passed by either such House within the next twenty-one days	
30	on which that House has sat after the order, regulation or bye-law is laid before it, the order, regulation or bye-law shall be annulled accordingly, but without prejudice to the validity of anything done under the order, regulation or bye-law.	
35	31.—This Act may be cited as the National Heritage Act, 1982.	Short title.
35	FIRST SCHEDULE	Section 3.
	PROVISIONS RELATING TO THE COUNCIL	
40	1. The Council shall be a body corporate with perpetual succession and power to sue and be sued in its own name and to acquire, hold and dispose of land and rights over land.	Body corporate.
40	2. The Council shall consist of not more than fifteen members including a chairman.	Membership.
	3. The chairman and the other members of the Council shall be	Appointment of chairman and members.

	appointed from time to time as occasion requires by the Government and may be removed from office at any time by the Government.	
Period of Office.	4. (1) A member of the Council shall hold office for such term (not exceeding four years), and subject to such terms and conditions, as the Government may determine when appointing him.	5
	(2) The chairman of the Council shall, unless he sooner dies, resigns the office of chairman or otherwise ceases to be chairman, hold office until the expiration of his period of office as a member of the Council.	
Eligibility for re-appointment.	5. (1) A chairman of the Council whose term of office expires by effluxion of time shall be eligible for re-appointment as chairman of the Council.	10
	(2) A member of the Council whose term of office expires by effluxion of time shall be eligible for re-appointment as a member of the Council.	15
Resignation.	6. (1) The chairman of the Council may at any time resign his office as chairman by letter sent to the Government, and the resignation shall, unless it is previously withdrawn in writing, take effect at the meeting of the Council held next after the Council has been informed by the Minister of the resignation.	20
	(2) Where the chairman of the Council ceases during his term of office as chairman to be such chairman, he shall also then cease to be a member of the Council.	
	(3) A member of the Council (other than the chairman of the Council) may resign his office as such member by letter addressed to the Government and the resignation shall take effect as on and from the date of receipt of the letter by the Government.	25
Expenses of members.	7. A member of the Council shall be paid, out of funds at the disposal of the Council, such amounts in respect of expenses (if any) as the Minister may consider reasonable.	30
Disqualification.	8. A member of the Council shall cease to hold office as such member if he is adjudged bankrupt or makes a composition or arrangement with creditors, or is sentenced by a court of competent jurisdiction to a term of imprisonment or becomes of unsound mind or fails to disclose an interest of a pecuniary or other beneficial nature in any transactions or dealings of the Council in accordance with paragraph 10 of this Schedule.	35
Seal of Council.	9. (1) The Council shall, as soon as may be after its establishment, provide itself with a seal.	
	(2) The seal of the Council shall be authenticated by the signature of the chairman or some other member thereof authorised by the Council to act in that behalf and by the signature of an officer of the Council authorised by the Council to act in that behalf.	40
	(3) Judicial notice shall be taken of the seal of the Council, and every document sealed with the seal of the Council shall be received in evidence and shall be deemed to be an instrument made by the Council without further proof unless the contrary is shown.	45

10. Where a member of the Council has directly or indirectly a beneficial interest in any property in relation to which the Council performs a function conferred on it by or under this Act or any other enactment or has a pecuniary or other interest in any contract which the Council proposes to make, he shall disclose to the Council the fact of the interest and the nature thereof, and shall take no part in any deliberation or decision of the Council relating to the matter and the disclosure shall be recorded in the minutes of the meeting of the Council at which the matter is brought to the notice of the Council.
11. (1) The Council shall hold such and so many meetings as may be necessary for the due fulfilment of its functions.
- (2) The first meeting of the Council shall be held on or as soon as conveniently may be after the day appointed to be the establishment day for the purposes of this Act under *section 2* of this Act.
- (3) Every question at a meeting of the Council shall be determined by a majority of the votes of the members present and voting on the question, and, in the case of an equal division of votes, the chairman of the meeting shall have a second or casting vote.
- (4) The Council may act notwithstanding one or more vacancies among its members.
- (5) At a meeting of the Council, the chairman of the Council shall, if present, be chairman of the meeting, but if the chairman of the Council is not present at a meeting or if the office of such chairman is vacant, then the members of the Council present at the meeting shall choose one of their number to be chairman of the meeting.
- (6) Subject to the provisions of this Act, the Council shall regulate its own procedure by rules or otherwise.
- (7) The quorum for a meeting of the Council shall, unless the Minister otherwise directs, be seven.
12. (1) The Council may from time to time establish committees to perform such functions of the Council as, in the opinion of the Council, would be better or more conveniently performed by a committee and are assigned to a committee by the Council or to advise the Council in relation to such of its functions or such matters connected with its functions as the Council may determine.
- (2) A committee established under this paragraph may, if the Council thinks fit, include in its membership persons who are not members of the Council.
- (3) The appointment of a person to act as a member of a committee established under this paragraph shall be subject to such conditions (including conditions in relation to the term and tenure of office of the member) as the Council may think fit to impose when making the appointment.
- (4) A member of a committee established under this paragraph may be removed from office at any time by the Council.
- (5) The Council may at any time dissolve a committee appointed under this paragraph.

Declaration of interest.

Meetings and procedure.

Committees of Council.

(6) The acts of a committee established under this paragraph shall be subject to confirmation by the Council unless the Council dispenses with the necessity for such confirmation.

(7) The Council may regulate the procedure of committees established under this paragraph, but, subject to any such regulation, committees established under this paragraph may regulate their own procedure.

(8) A member of a committee established under this paragraph shall be paid, out of funds at the disposal of the Council, such amounts in respect of expenses (if any) as the Minister may consider reasonable.

Section 4.

SECOND SCHEDULE

PROPERTIES IN RELATION TO WHICH THE COUNCIL PERFORMS FUNCTIONS

PART I

NATIONAL PARKS

Reference Number (1)	Description of Property (2)	Title of Property (3)
1	The lands vested in the Commissioners in the following townlands in the county of Kerry and used as, or solely in connection with, public parks: Bunrower, Derrycunihy, Demesne, Glена, Gortroe, Incheens, Knockreer, Reen, Ross Island and the lower and middle lakes of Killarney and the islands therein.	Killarney National Park
2	The lands vested in the Commissioners in the following townlands in the county of Galway and used as, or solely in connection with, public parks: Addergoole, Derrygimlagh, Keelkyle, Letterfrack, Mweelin, Slieveburke.	Connemara National Park
3	The lands vested in the Commissioners in the following townlands in the county of Donegal and used as, or solely in connection with, public parks: Ardaturr, Ardaturr Mountain, Attinadague, Bingorms, Bunnatreesruhaun, Carrowtrasna, Casheltown, Casheltown Mountain, Churchtown, Claggan Mountain, Claggan Mountain North, Claggan Mountain South, Claggan North, Devlin, Derrybeg, Derrylahan, Drumnalifferry, Drumnalifferry Mountain, Dunlewy Far, Gartan Mountain, Glebe, Glenbeagh, Kilmore, Lossett, Loughnacoo, Maghernashangan, Moneymore, Mullangore, Roshin, Sruhanganrow, Sruhanganrow Mountain, Staghall, Staghall Mountain, Staghall Mountain East, Staghall Mountain West, Warrentown, Warrentown Mountain North, Warrentown Mountain South, and Whitehill.	Glenveagh National Park
4	The lands vested in the Commissioners in the following townlands in the county of Clare and used as, or solely in connection with, public parks: Glenquin and Gortlecka.	Burren National Park

PART II

OTHER PROPERTIES

Reference Number (1)	Description of Property (2)	Title of Property (3)
1	The lands vested in the Commissioners in the townlands of Abbey Island, Derrynane Beg and Derrynane More and county of Kerry and known by the title specified in <i>column (3)</i> of this schedule at this reference number.	Derrynane National Historic Park
2	The lands vested in the Commissioners in the townland of Dukesmeadows and county of Kilkenny and known by the title specified in <i>column (3)</i> of this schedule at this reference number.	Kilkenny Castle
3	The lands vested in the Minister for Finance and managed by the Commissioners and comprising Garinish Island in the townland of Shrone and county of Cork and known by the title specified in <i>column (3)</i> of this schedule at this reference number.	Garinish Island or Innacullin
4	The lands vested in the Minister for Finance and managed by the Commissioners in the townland of Haroldsgrange and county of Dublin and known by the title specified in <i>column (3)</i> of this schedule at this reference number.	Saint Enda's Rathfarnham
5	The lands vested in the Commissioners in the townlands of Glebe and Tirargus and county of Donegal and known by the title specified in <i>column (3)</i> of this schedule at this reference number.	The Glebe Gallery (Derek Hill's collection)

PART III

CERTAIN LANDS IN PHOENIX PARK REFERRED TO IN *section 4* OF THIS ACT

5

Áras an Uachtaráin

Ordnance Survey Office

The lands formerly occupied by the Phoenix Park National School

The following lands used by the Minister for Defence, namely:

- 10 (a) the Offices of the Minister for Defence
- (b) the Civil Defence School at Ratra House
- (c) the Magazine Fort
- (d) the Stationery Stores
- (e) the Army Sports Ground

- 15 The following lands used by the Minister for Justice namely:

The Headquarters of the Garda Síochána

The Garda Síochána Sports Ground

The lands described in this Part shall be deemed to include any lands attached to such lands and used in connection with the use of

- 20 the lands.

AN BILLE OIDHREACHTA NÁISIÚNTA,
1982

NATIONAL HERITAGE BILL, 1982

BILLE

(mar a tionscnaíodh)

dá ngairtear

BILL

(as initiated)

entitled

Acht do dhéanamh socrú maidir leis an oidhreacht náisiúnta agus chun na críche sin do bhunú comhairle dá ngairfear, sa Ghaeilge, Comhairle na hOidhreachta Náisiúnta agus, sa Bhéarla, *the National Heritage Council* agus do shainiú a feidhmeanna agus do dhéanamh socrú i dtaobh nithe eile a bhaineann leis na nithe réamhráite.

An Act to make provision with respect to the national heritage and for that purpose to establish a council to be known in the Irish language as Comhairle na hOidhreachta Náisiúnta and in the English language as the National Heritage Council and to define its functions and to provide for other matters connected with the matters aforesaid.

An Seanadóir Eoin Ó Riain a thíolaic,
15 Meitheamh, 1982

Presented by Senator Eoin Ryan,
15th June, 1982

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

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