BILLE NA SÉADCHOMHARTHAÍ NÁISIÚNTA (LEASÚ), 1986
NATIONAL MONUMENTS (AMENDMENT) BILL, 1986

Mar a ritheadh ag Seanad Éireann
As passed by Seanad Éireann

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[No. 23*b* of 1986]

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ACTS REFERRED TO

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BILLE NA SÉADCHOMHARTHAÍ NÁISIÚNTA (LEASÚ), 1986
NATIONAL MONUMENTS (AMENDMENT) BILL, 1986

BILL

entitled

AN ACT TO MAKE FURTHER PROVISION FOR THE PROTECTION AND PRESERVATION OF NATIONAL MONUMENTS AND ARCHAEOLOGICAL OBJECTS, INCLUDING PROVISION FOR THE REGULATION OF THE USE AND POSSESSION OF DETECTION DEVICES, TO MAKE PROVISION FOR THE PROTECTION AND PRESERVATION OF HISTORIC WRECKS, TO AMEND AND EXTEND THE NATIONAL MONUMENTS ACTS, 1930 AND 1954, AND TO PROVIDE FOR CONNECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Definitions.

1.—(1) In this Act—

"the Acts" means the National Monuments Acts, 1930 and 1954;

"archaeological area" means an area which the Commissioners consider to be of archaeological importance but does not include the area of a historic monument standing entered in the Register;

"historic monument" includes a prehistoric monument and any monument associated with the commercial, cultural, economic, industrial, military, religious or social history of the place where it is situated or of the country and also includes all monuments in existence before 1700 A.D. or such later date as the Minister may appoint by regulations;

"underwater heritage order" means an order under *section 3* of this Act;

"the Principal Act" means the National Monuments Act, 1930;

"the Register" means the Register of Historic Monuments established under *section 5* of this Act;

"restricted area" means an area standing designated in an underwater heritage order;

"sea" includes any area submerged at high water of ordinary spring tides, an estuary or an arm of the sea and the tidal waters of any channel, creek, bay or river, and "sea bed" shall be construed accordingly;

"territorial waters of the State" means the territorial seas of the State for the purposes of the Maritime Jurisdiction Act, 1959, and the internal waters of the State for the purposes of that Act;

"wreck" means a vessel, or part of a vessel, lying wrecked on, in or under the sea bed or on or in land covered by water, and any objects contained in or on the vessel and any objects that were formerly contained in or on a vessel and are lying on, in or under the sea bed or on or in land covered by water.

(2) References in *sections 2* and *3* of this Act to the prescribed fee are references to the fee prescribed under *section 21* of this Act.

Restriction on use of detection devices.

2.—(1) Subject to the provisions of this section a person shall not—

(*a*) use or be in possession of a detection device—

(i) in, or at the site of, a monument of which the Commissioners or a local authority are the owners or guardians or in respect of which a preservation order is in force or which stands registered in the Register, or

(ii) in an archaeological area that stands registered in the Register, or

(iii) in a restricted area,

or

(*b*) use, at a place other than a place specified in *paragraph* (*a*) of this subsection, a detection device for the purpose of searching for archaeological objects, or

(*c*) promote, whether by advertising or otherwise, the sale or use of detection devices for the purpose of searching for archaeological objects.

(2) (*a*) Upon application in writing therefor to the Commissioners by any person and upon being furnished by him with such information as they may reasonably require and upon payment to them by the person of the prescribed fee (if any), the Commissioners may, at their discretion, subject to *paragraph* (*b*) of this subsection, grant or refuse to grant their consent in writing to a person—

(i) authorising the use by (as may be specified in the consent) either that person or that person and his servants and agents of (as may be specified in the consent) one detection device or one specified detection device or one detection device of a specified class, kind or type, for the purpose of searching for archaeological objects at a specified place (not being a place specified in *subsection* (*1*) (*a*) of this section), or

(ii) authorising the use and possession by (as may be specified in the consent) either that person or that person and his servants and agents of (as may be specified in the consent) one detection device or one specified detection device or one detection device of a specified class, kind or type, at a place specified

in the consent (being a place specified in the said *subsection* (*1*) (*a*)).

(*b*) A decision to grant or refuse to grant a consent under this subsection in relation to a national monument of which a local authority are the owners or the guardians shall be made, and the consent shall be granted or refused, jointly by the Commissioners and the authority.

(*c*) A consent under this subsection shall remain in force for such period as may be specified in the consent.

(*d*) A consent under this subsection may—

(i) be made subject to such conditions as the Commissioners, or the Commissioners and the local authority concerned, as may be appropriate, think fit and specify in the consent, and

(ii) be revoked in writing at any time by the Commissioners or the Commissioners and the local authority concerned, as may be appropriate, and the revocation shall take effect at the time when the person named in the consent is notified of the revocation.

(3) Where an application is made to the Commissioners for a consent under *subsection* (*2*) of this section—

(*a*) the Commissioners or the Commissioners and the local authority concerned, as may be appropriate, shall, within three months of the receipt by them of the application—

(i) either grant or refuse to grant the application, and

(ii) notify in writing the person who made the application of their decision,

and

(*b*) if the person who made the application is not notified as aforesaid of their decision, the Commissioners, or the Commissioners and the local authority concerned, as may be appropriate, shall be deemed to have granted the consent without conditions.

(4) An application to the Commissioners under *subsection* (*2*) of this section shall be sent to the Commissioners by registered post or delivered by hand to an officer of the Commissioners at the head office of the Commissioners.

(5) A person who contravenes *subsection* (*1*) of this section or a condition of a consent under this section shall be guilty of an offence.

(6) Where in a prosecution for an offence under this section it is proved that a detection device was being used, it shall be presumed until the contrary is proved that the device was being used for the purpose of searching for archaeological objects.

(7) It shall be a defence for a person charged with an offence under *subsection (5)* of this section to show that the act constituting the offence—

(*a*) was the subject of a consent under this section granted to him, or to a person in relation to whom he was acting as

servant or agent at the time of the commission of the act, and in force at that time and was not a breach of a condition of the consent, or

(*b*) was authorised by a prospecting licence granted under Part II of the Minerals Development Act, 1940.

(8) In this section "detection device" means a device designed or adapted for detecting or locating any metal or mineral on or in the ground, on, in or under the sea bed or on or in land covered by water, but does not include a camera.

Protection of sites of historic wrecks.

3.—(1) Where the Commissioners are satisfied in respect of any place on, in or under the sea bed of the territorial waters of the State or on, in or under the sea bed to which section 2 (1) of the Continental Shelf Act, 1968, applies or on or in land covered by water that—

(*a*) it is or may prove to be the site where a wreck or an archaeological object lies or formerly lay, and

(*b*) on account of the historical, archaeological or artistic importance of the wreck or the object, the site ought to be protected,

they may by order (in this section referred to as "an underwater heritage order") designate an area of the sea bed, or land covered by water, around and including the site as a restricted area.

(2) The following provisions shall apply in relation to an underwater heritage order (and *paragraphs (c)* and *(d)* of this subsection shall apply in relation to an order revoking such an order):

(*a*) the restricted area shall be specified in the order and shall be of such size as the Commissioners think necessary for the protection of the site concerned,

(*b*) the order shall come into operation on the day specified in that behalf therein, or, if no such day is specified, on the seventh day after the day on which it is made,

(*c*) the order shall, as soon as may be after it is made, be published in *Iris Oifigiúil* and in one or more newspapers circulating in the district in which the restricted area aforesaid is situated or, in case the restricted area concerned is an area of the sea bed, which is nearest to the restricted area concerned,

(*d*) a copy of the order shall, as soon as may be after it is made, be deposited—

(i) with the county registrar for any county or county borough in which the restricted area aforesaid, or any part of it, is situated or, in case the said restricted area is an area of the sea bed, with the county registrar for the county or county borough which is nearest to the said restricted area,

(ii) with the District Court Clerk of any District Court district within which the restricted area aforesaid, or any part of it, is situated or, in case the said restricted area is an area of the sea bed, which is nearest to the said restricted area, and

(iii) in every Garda Síochána station situated in the District Court district aforesaid,

and a copy so deposited shall be made available for inspection, and may be inspected by members of the public during ordinary office hours,

(*e*) the Commissioners may by order revoke the order.

(3) Subject to the provisions of this section, a person shall not, in a restricted area, do any of the following, that is to say:

(*a*) tamper with, damage or remove any part of a wreck or any archaeological object,

(*b*) carry out diving, survey or salvage operations directed to the detection, location or exploration of a wreck or archaeological object or to recovering it or a part of it from, or from under, the sea bed or from land covered by water, as the case may be, or use equipment constructed or adapted for any purpose of diving, survey or salvage operations, or

(*c*) deposit, so as to fall and lie abandoned on the sea bed or land covered by water, as the case may be, anything which, if it were to fall on the site of a wreck or archaeological object (whether it so falls or not), would wholly or partly obliterate the site or obstruct access to it, or damage any part of the wreck or object.

(4) Subject to the provisions of this section, a person shall not, at the site of a wreck (being a wreck which is more than 100 years old), or of another object (being an archaeological object), that is lying on, in or under the sea bed or on or in land covered by water—

(*a*) tamper with, damage or remove any part of the wreck or archaeological object,

(*b*) carry out diving, survey or salvage operations, directed to the exploration of the wreck or archaeological object or to recovering it or a part of it from, or from under, the sea bed or from land covered by water, as the case may be, or use equipment constructed or adapted for any purpose of diving, survey or salvage operations, or

(*c*) deposit, so as to fall and lie abandoned on the sea bed or land covered by water, as the case may be, anything which, if it were to fall on the site (whether it so falls or not) would wholly or partly obliterate the site or obstruct access to it, or damage any part of the wreck or object.

(5) (*a*) Upon application therefor to the Commissioners by any person and upon being furnished by him with such information in relation to the application as they may reasonably require and upon payment to them by the person of the prescribed fee (if any), the Commissioners may, at their discretion, after consultation with (in the case of an application relating to the sea bed) the Minister for Communications and with such other (if any) persons having a special knowledge of or interest in the matter as they consider ought to be consulted, grant or refuse to grant a licence in writing to a person authorising the doing by (as may be specified in the licence) that person or that person

and his servants and agents, subject to such conditions as the Commissioners may think fit and specify in the licence—

(i) in a specified restricted area or a specified part of such an area of the acts specified in *paragraphs* (*a*), (*b*) and (*c*) of *subsection* (*3*) of this section or of such of them as may be specified, or

(ii) at a specified site to which *subsection* (*4*) of this section applies or at a specified part of such a site of the acts specified in *paragraphs* (*a*), (*b*) and (*c*) of *subsection* (*4*) of this section or of such of them as may be specified.

(*b*) A licence under this subsection shall remain in force for such period as may be specified in the licence.

(*c*) A licence under this subsection may—

(i) be made subject to such conditions (if any) as the Commissioners think fit and specify in the licence, and

(ii) may be revoked at any time by the Commissioners and the revocation shall take effect at the time when the person named in the licence is notified of the revocation or at such later time as may be specified in the revocation.

(*d*) Where an application is made to the Commissioners for a licence under this subsection—

(i) they shall, within three months of the receipt by them of the application—

(I) either grant or refuse to grant the application, and

(II) notify in writing the person who made the application of their decision,

and

(ii) if the person who made the application is not notified as aforesaid of their decision, the Commissioners shall be deemed to have granted the licence, without conditions.

(*e*) An application to the Commissioners for a licence under this subsection shall be sent to the Commissioners by registered post or delivered by hand to an officer of the Commissioners at the head office of the Commissioners.

(6) A person who finds a wreck (being a wreck which is more than 100 years old) or other object (being an archaeological object) that is lying on, in or under the sea bed or on or in land covered by water, shall, within 4 days after such finding, make a report of the finding to a member of the Garda Síochána or to the Commissioners and shall, when making the report, give to the member or to the Commissioners his name and address, state the nature of the wreck or other object and the time and place at which and the circumstances in which it was found by him and shall also (and whether he has or has not made such report as aforesaid and irrespective of the person to whom he

has made such report (if any)) give to any member of the Garda Síochána or to an officer of the Commissioners on request any information within his knowledge in relation to the wreck, or other object.

(7) A person who contravenes *subsection (3)*, *(4)* or *(6)* of this section or a condition of a licence under *subsection (5)* of this section, shall be guilty of an offence.

(8) It shall be a defence for a person charged with an offence under this section to show that the act constituting the offence was the subject of a licence under this section granted to him, or to a person in relation to whom he was acting as servant or agent at the time of the commission of the act, and in force at that time.

(9) It shall be a defence for a person charged with an offence under this section to show that the act constituting the offence was done by him—

(*a*) in the course of any action taken by him for the sole purpose of dealing with an emergency of any description, or

(*b*) out of necessity due to stress of weather or navigational hazards.

(10) If wreck that is an archaeological object and was removed from a restricted area is in the possession of the receiver of wreck for any district and no person establishes a claim under the Merchant Shipping Act, 1894, to the ownership of the wreck within one year after it came into the possession of the said receiver, the said receiver shall, as the Director of the National Museum may request, either—

(*a*) deliver the wreck to the Director of the National Museum who, as soon as may be after such delivery, shall—

(i) retain it on behalf of the State, and

(ii) pay—

(I) to the said receiver, any expenses incurred by him, and his fees, in relation to the wreck, and

(II) to any salvors of the wreck, such amount of salvage as appears to the Director of the National Museum to be reasonable in all the circumstances,

or

(*b*) sell the wreck and pay the proceeds of the sale (after deducting therefrom the expenses of the sale and any other expenses incurred by him, and his fees, in relation to the wreck and paying to any salvors of the wreck such amount of salvage as appears to the Director of the National Museum to be reasonable in all the circumstances) to the Minister for Finance.

(11) (*a*) Proceedings for an offence under this section committed in an area consisting of part of the sea bed may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the State.

(*b*) Proceedings for an offence under this section committed in an area consisting of land that is covered by water and is situated in two or more District Court districts, may be

taken, and the offence may for all incidental purposes be treated as having been committed, in any one of those districts.

(12) *Section 2 (1)* of this Act and *subsections (3)* and *(4)* of this section shall not apply to a member of the Garda Síochána, or a member of the Defence Forces, on duty, or to a person while acting on the instructions of the Commissioners.

The Historic Monuments Council.

4.—(1) The Minister shall establish by order a council which shall be known as "the Historic Monuments Council" and is in this section referred to as "the Council".

(2) It shall be the function of the Council to advise and assist the Commissioners in relation to any matter respecting the carrying into execution of the provisions of the *National Monuments Acts, 1930 to 1987,* or any other matter affecting historic monuments or other archaeological areas or wrecks, and their protection and preservation and the Council shall, if requested by the Commissioners to do so, advise them in relation to any specified such matter as aforesaid.

(3) The members of the Council shall be appointed from time to time as occasion requires by the Minister and shall consist of—

(*a*) a representative of the Taoiseach nominated by the Taoiseach,

(*b*) a representative of the Minister for Communications nominated by the Minister for Communications,

(*c*) a representative of the Minister for the Environment nominated by the Minister for the Environment,

(*d*) a representative of the Commissioners nominated by the Commissioners,

(*e*) a representative of each of the following bodies nominated by the body of which he is the representative, namely:

(i) Trinity College, Dublin,

(ii) University College, Dublin,

(iii) University College, Cork,

(iv) University College, Galway,

(v) Queen's University, Belfast,

(vi) Bord Fáilte Éireann,

(vii) the Royal Irish Academy,

(viii) the Royal Society of Antiquaries of Ireland,

(ix) the Royal Institute of the Architects of Ireland,

(x) the Maritime Institute of Ireland,

and

(*f*) such other persons not exceeding five in number as the Minister may determine from time to time.

(4) (*a*) There shall be a chairman of the Council.

(*b*) The chairman of the Council shall be appointed from time to time as occasion requires by the Minister from amongst the members of the Council.

(5) (*a*) Subject to *paragraph* (*b*) of this subsection, the term of office of a member of the Council shall be six years but members of the Council shall, upon the expiry of their terms of office, be eligible for re-appointment to the Council from time to time.

(*b*) The term of office of eight (who shall be chosen by the Council by lot from amongst the members of the Council other than the chairman) of the members of the Council first appointed after the establishment of the Council shall be three years.

(6) Where a member of the Council dies, resigns or is temporarily unable to act as such member, the Minister may appoint another person to be a member of the Council in his place for such period as the Minister may determine and where the first-mentioned member was nominated for appointment to the Council by a person specified in *subsection (3)* of this section, the person appointed under this subsection shall be nominated for appointment to the Council by the person so specified.

(7) The Council may act notwithstanding one or more vacancies among its members.

(8) There may be paid to members of the Council by the Minister, out of moneys to be provided by the Oireachtas, such amounts in respect of travelling and subsistence or other expenses incurred by members of the Council in the performance of their functions as such members as the Minister may determine.

(9) The Council shall regulate, by rules or otherwise, the procedure and business of the Council.

(10) References in any other Act or instrument made thereunder to the National Monuments Advisory Council shall be construed as references to the Historic Monuments Council.

Register of Historic Monuments.

5.—(1) The Commissioners shall cause to be established and maintained a register of historic monuments which shall be known as "the Register of Historic Monuments" and is referred to in this Act as "the Register".

(2) The Commissioners shall cause to be entered in the Register the name, location and a brief description of—

(*a*) the historic monuments in the State which are known to them upon the commencement of this section,

(*b*) the other archaeological areas in the State which are known to them upon such commencement, and

(*c*) any historic monuments, or other archaeological areas, which become known to them after such commencement

and which, in their opinion, should be so entered.

(3) The Commissioners may amend or delete an entry in the Register.

(4) Subject to *subsection (6)* of this section, the Commissioners shall, as soon as may be after the establishment of the Register, cause to be published in *Iris Oifigiúil* a list specifying the historic monuments and archaeological areas then entered in the Register and such extracts, if any, from the Register in relation to those monuments and areas as they think appropriate.

(5) The Commissioners shall, as soon as may be after the making of an addition to, amendment of, or deletion from the Register, cause notice of the addition, amendment or deletion to be published in *Iris Oifigiúil*.

(6) The name, location and a brief description of a monument that was included in a list published in *Iris Oifigiúil* pursuant to section 8 of the National Monuments (Amendment) Act, 1954, shall be entered in the Register, but *subsection (4)* of this section shall not apply in relation to the monument.

(7) Where—

(*a*) an entry is made in the Register in respect of a historic monument, or other archaeological area, or

(*b*) an entry made in the Register in respect of a monument or other archaeological area is amended or deleted,

the Commissioners shall, as soon as may be, cause the reputed owner and (if the owner is not the occupier) the reputed occupier of the monument or area to be notified in writing of the entry, amendment or deletion as the case may be and, in a case to which *paragraph* (*a*) of this subsection applies, of the penalties which may be incurred by a person guilty of an offence under this section or *section 2* of this Act.

(8) Where the owner or occupier (not being the Commissioners) of a historic monument or archaeological area that is entered in the Register or any other person proposes to carry out, or to cause or permit the carrying out of, any work at or in relation to the monument or area, he shall give notice in writing of his proposal to the Commissioners and shall not, except in a case of urgent necessity and with the consent of the Commissioners, commence the work for a period of two months after having given the notice.

(9) A notification under *subsection (7)* of this section shall be sent to the person concerned by registered post or be delivered to him by hand by an officer, servant or agent of the Commissioners.

(10) A person shall not, otherwise than in accordance with *subsection (8)* of this section or a consent under section 14 (2) of the Principal Act, demolish or remove wholly or in part or disfigure, deface, alter or in any manner interfere with a historic monument that is entered in the Register.

(11) A person who contravenes this section shall be guilty of an offence.

(12) Prima facie evidence of the fact that a historic monument or archaeological area is entered in the Register may be given in any court by the production of a copy of *Iris Oifigiúil* purporting to contain a list published therein pursuant to *subsection (4)* of this section or section 8 of the National Monuments (Amendment) Act, 1954, or a notice published therein pursuant to *subsection (5)* of this section, being a list or notice in which is specified the monument or archaeological area, as the case may be, aforesaid.

Acquisition of national monuments etc., by Commissioners.

6.—(1) The Commissioners may, with the consent of the Minister, acquire by agreement or compulsorily—

(*a*) any monument that is, in their opinion, a national monument,

(*b*) part of such a monument, or

(*c*) any land that is in the vicinity of such a monument and is intended to be used by them for the provision of facilities for persons having access to the monument under the *National Monuments Acts, 1930 to 1987,*

and the Commissioners may so acquire any such monument or land whether they or a local authority are or are not the guardians of the monument and whether a preservation order is or is not in force in regard thereto.

(2) The amount of the price or compensations to be paid by the Commissioners for any property acquired by them under this section shall, in default of agreement, be fixed under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, and that Act shall apply accordingly with any necessary modifications.

(3) Sections 69 to 83 of the Lands Clauses Consolidation Act, 1845 (as adapted or amended by or under any subsequent enactment), shall apply, with any necessary modifications, to any price or compensation payable under this section and to the conveyance to the Commissioners of any property acquired under this section and, for the purposes of the application, the Commissioners shall be deemed to be the promoters of the undertaking and this Act shall be deemed to be the special Act.

(4) The price or compensation payable on the acquisition of property under this section shall, to such extent as may be sanctioned by the Minister, be paid out of moneys provided by the Oireachtas.

(5) The Commissioners shall not acquire under this section without the consent of the Irish Land Commission any property on or forming part of land subject to a land purchase annuity or the subject of a land purchase agreement or vested or in the course of being vested in the Irish Land Commission.

(6) Where any property acquired under this section is subject, either alone or in conjunction with other land, to a land purchase annuity, payment in lieu of rent or other sum payable periodically (and not being merely rent payable under a contract of tenancy) payable to the Irish Land Commission —

(*a*) the Commissioners shall as from the date on which they acquire, or enter on and take possession of, the land, whichever date is the earlier, become and be liable for payment to the said Commission of such periodical sum, or such portion thereof as shall be apportioned by the said Commission on the property, as if the property had been transferred to the Commissioners by the owner thereof on that date,

(*b*) the Commissioners shall be entitled, if they so think fit, to redeem the periodical sum or the portion thereof aforesaid, and

(*c*) the Commissioners shall be obliged, if required by the said

Commission so to do, to redeem the periodical sum or the portion thereof aforesaid.

Removal of national monuments to museums, etc.

7.—(1) Where the Commissioners or a local authority are the owners of a national monument, the Commissioners or the authority (as the case may be) may, if in their opinion they can do so without undue injury to the monument and it is desirable for the protection or preservation of the monument or in the interests of archaeology or for any other reason to do so, and with, in case the authority are the owners of the monument, the consent of the Commissioners, remove the monument or any part of it, and deposit it and keep it deposited in a public museum, or other place, in the State approved of for the time being for the purpose by the Minister.

(2) A monument deposited under this section in a museum shall while so deposited be open to inspection by the public in like manner and to the like extent as the other objects in the museum.

Inspection of historic monuments.

8.—(1) The Commissioners may cause such inspections, investigations and reports as they may direct (either generally or particularly) to be made by their officers, servants, agents or other persons duly authorised by them in that behalf in regard to—

(*a*) historic monuments and places where the Commissioners have reason to believe that historic monuments exist, and

(*b*) restricted areas and sites that the Commissioners have reason to believe to be the sites of wreck or archaeological objects.

(2) The Commissioners, their officers, servants or agents, or other persons duly authorised by the Commissioners in that behalf, may for the purpose of performing their functions under this section enter on any lands or premises and there do all such things as may reasonably be necessary for the purposes of those functions.

Power of Commissioners and local authorities to make bye-laws.

9.—(1) The Commissioners with the approval of the Minister, or a local authority with the approval of the Commissioners, as the case may be, may, for the purposes of their functions under this Act, make bye-laws in relation to any national monument of which they are the owners or the guardians.

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

(3) Copies of a bye-law under this section shall be displayed at, or in the vicinity of, any national monument to which it relates in such manner and place as, in the opinion of the Commissioners or the local authority concerned, as the case may be, are best calculated to bring the bye-law to the attention of those at or in the vicinity of the monument.

Acceptance of voluntary contributions.

10.—The Commissioners or a local authority may accept voluntary contributions towards the cost of, or voluntary assistance in the performance of, any of their functions under the *National Monuments Acts, 1930 to 1987,* or in relation to the carrying out of an archaeological excavation authorised by the Commissioners by licence under section 26 of the Principal Act if the conditions (if any) attached by the donor to the acceptance thereof are not inconsistent with those functions or the carrying out of the excavation.

11.—Section 2 of the Principal Act is hereby amended— Amendment of section 2 of Principal Act.

(*a*) by the substitution of the following definition for the definition of "monument":

" 'monument' includes the following, whether above or below the surface of the ground or the water and whether affixed or not affixed to the ground—

(*a*) any artificial or partly artificial building, structure or erection or group of such buildings, structures or erections,

(*b*) any cave, stone or other natural product, whether or not forming part of the ground, that has been artificially carved, sculptured or worked upon or which (where it does not form part of the place where it is) appears to have been purposely put or arranged in position,

(*c*) any, or any part of any, prehistoric or ancient—

(i) tomb, grave or burial deposit, or

(ii) ritual, industrial or habitation site,

and

(*d*) any place comprising the remains or traces of any such building, structure or erection, any such cave, stone or natural product or any such tomb, grave, burial deposit or ritual, industrial or habitation site,

situated on land or in the territorial waters of the State, but does not include any building, or part of any building, that is habitually used for ecclesiastical purposes;",

(*b*) by the substitution of the following definition for the definition of "owner":

" 'owner', when used in relation to a monument or archaeological area, means the person for the time being having such estate or interest in the monument or archaeological area as entitles him to the actual possession and occupation thereof;",

and

(*c*) by the insertion of the following definition:

" 'land' includes land covered by water; ".

12.—Section 12 of the Principal Act is hereby amended by the insertion of the following subsection after subsection (2): Amendment of section 12 of Principal Act.

"(3) Where the Commissioners or a local authority are the owners of a national monument, the Commissioners or the authority, as the case may be, may, in addition to maintaining the monument, carry out such other work and do such other things as they think fit to or at the monument and for those

purposes they and their officers, workmen, agents and licensees shall have free access to the monument and may for those purposes and for the purpose of such maintenance bring onto and use on any land machinery, vehicles, equipment and materials.".

Amendment of section 14 of Principal Act.

13.—Section 14 of the Principal Act is hereby amended by the insertion in subsection (1) of the following paragraph after paragraph (*b*):

"(*bb*) to renovate or restore a national monument without or otherwise than in accordance with the consent hereinafter mentioned, or".

Amendment of section 22 of Principal Act.

14.—Section 22 of the Principal Act is hereby amended by the substitution of "Historic" for "National" in subsection (1) and the said subsection, as so amended, is set out in the Table to this section.

TABLE

(1) A local authority may establish an advisory committee (in this Act referred to as a local advisory committee) to perform the functions mentioned in this section and every such committee shall be styled and known by the name of the functional area of the local authority by whom it is established followed by the words "Historic Monuments Advisory Committee".

Amendment of section 23 of Principal Act.

15.—Section 23 (1) of the Principal Act is hereby amended by—

(*a*) the substitution of "4" for "fourteen",

(*b*) the insertion after "Director of the National Museum" of "or a servant or agent of the said Director", and

(*c*) the insertion after "said Director", in each place where it occurs, of "or a servant or agent of the said Director",

and the said subsection, as so amended, is set out in the Table to this section.

TABLE

(1) Every person who finds any archaeological object shall, within 4 days after he has found such object, make a report of such finding to a member of the Garda Síochána on duty in the district in which such object was so found or the Director of the National Museum or a servant or agent of the said Director and shall when making such report state his own name and address, the nature or character of the said object and the time and place at which and the circumstances in which it was found by him, and shall also, and whether he has or has not made such report as aforesaid, and irrespective of the person to whom he has made such report (if any) give to any member of the Garda Síochána or to the said Director or a servant or agent of the said Director on request any information within his knowledge in relation to such object or the finding thereof and shall permit any member of the Garda Síochána or the said Director or a servant or agent of the said Director to inspect, examine or photograph such object.

Amendment of section 26 of Principal Act.

16.—Section 26 of the Principal Act is hereby amended by the substitution in subsection (2) for "The Commissioners" of "Upon application therefor by any person to the Commissioners and upon being furnished by him with such information in relation to the application as they may reasonably require and after payment to them by the person of such fee (if any) as may be prescribed under *section 21* of the *National Monuments (Amendment) Act, 1987,* for the purposes of this section, the Commissioners", and the said subsection, as so amended, is set out in the Table to this section.

TABLE

(1) Upon application therefor by any person to the Commissioners and upon being furnished by him with such information in relation to the application as they may reasonably require and after payment to them by the person of such fee (if

any) as may be prescribed under *section 21* of the *National Monuments (Amendment) Act, 1987,* for the purposes of this section, the Commissioners may at their discretion issue to any person a licence to dig or excavate in or under any specified land for any specified archaeological purpose and may insert in any such licence such conditions and restrictions as they shall think proper.

Increase of certain penalties under Principal Act.

17.—(1) Sections 14 (4), 24 (3) and 25 (3) of the Principal Act are hereby amended by the substitution of:

"shall be liable—

(*a*) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the Court, to imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment, or

(*b*) on conviction on indictment, to a fine not exceeding £50,000 or, at the discretion of the Court, to imprisonment for a term not exceeding 12 months or to both the fine and the imprisonment"

for "shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or, at the discretion of the Court, to imprisonment for any term not exceeding six months or to both such fine and such imprisonment".

(2) Section 17 (4) of the Principal Act is hereby amended by the substitution of "a fine not exceeding £300" for "a fine not exceeding twenty pounds".

(3) Section 23 (2) of the Principal Act is hereby amended by the substitution of "a fine not exceeding £1,000" for "a fine not exceeding ten pounds".

(4) Section 26 (3) of the Principal Act is hereby amended by the substitution of:

"shall be liable—

(*a*) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the Court, to imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment, or

(*b*) on conviction on indictment, to a fine not exceeding £50,000 or, at the discretion of the Court, to imprisonment for a term not exceeding 12 months or to both the fine and the imprisonment"

for "shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds".

Provisions in relation to officers, servants and agents of Commissioners.

18.—(1) An officer, servant or agent of the Commissioners, or other person duly authorised by them in that behalf, acting in the exercise of powers or the performance of functions or duties, under the *National Monuments Acts, 1930 to 1987,* shall be authorised in writing by the Commissioners so to act and shall, if so requested by any person affected by his so acting, produce the authorisation for inspection by the person.

(2) A person who obstructs or otherwise interferes with an officer, servant or agent of the Commissioners, or any other person duly authorised by them in that behalf, acting in the exercise of powers, or

the performance of functions or duties, under the *National Monuments Acts, 1930 to 1987,* shall be guilty of an offence.

Registration as burdens affecting registered land of certain matters.

19.—There may be registered under the Registration of Title Act, 1964, in the appropriate register maintained under that Act as a burden affecting registered land (within the meaning of that Act) any of the following, namely:

(*a*) the entry in the Register of a historic monument or an archaeological area situated on the land,

(*b*) a preservation order in respect of a national monument situated on the land,

(*c*) a deed of a kind referred to in section 5 or 6 of the Principal Act appointing the Commissioners or a local authority to be the guardians of a national monument situated on the land,

(*d*) an order under section 9 (2) of the Principal Act appointing the Commissioners to be guardians of a national monument situated on the land.

Penalties, etc.

20.—(1) A person guilty of an offence under *section 2* (other than an offence consisting of a contravention of *subsection (1) (c)*), *3* (other than an offence consisting of a contravention of *subsection (6)*) or *5* of this Act shall be liable—

(*a*) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the Court, to imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment, or

(*b*) on conviction on indictment, to a fine not exceeding £50,000 or, at the discretion of the Court, to imprisonment for a term not exceeding 12 months or to both the fine and the imprisonment.

(2) A person guilty of an offence under *section 2* (being an offence consisting of a contravention of *subsection (1) (c)*), *3* (being an offence consisting of a contravention of *subsection (6)*), *9* or *18* of this Act shall be liable, upon summary conviction, to a fine not exceeding £1,000.

(3) A summary offence under the *National Monuments Acts, 1930 to 1987,* may be prosecuted by the Commissioners.

Fees.

21.—(1) The Commissioners may, with the consent of the Minister by regulations prescribe fees for the purposes of *sections 2* and *3* of this Act and section 26 of the Principal Act.

(2) Regulations under this section may prescribe different fees for different circumstances and for different classes of persons, and may prescribe fees for some circumstances only or for all circumstances or for some classes of persons only or for all classes of persons.

(3) Fees paid to the Commissioners under this Act shall be paid by them to the Minister for Finance.

(4) The Public Offices Fees Act, 1879, shall not apply in respect of any fees payable under this Act.

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

22.—Every order, regulation and bye-law made 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, as the case may be, is passed by either such House within the next twenty-one days on which that House has sat after the order, regulation or bye-law, as the case may be, is laid before it, the order, regulation or bye-law, as the case may be, shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Repeals.

23.—Sections 11, 13, 20 and 21 of the Principal Act and sections 8, 11 and 15 of the National Monuments (Amendment) Act, 1954, are hereby repealed.

Short title, construction, collective citation and commencement.

24.—(1) This Act may be cited as the National Monuments (Amendment) Act, 1987.

(2) The Acts and this Act shall be construed together as one Act.

(3) The Acts and this Act may be cited together as the National Monuments Acts, 1930 to 1987.

(4) This Act 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 purposes and different provisions.

BILLE NA SÉADCHOMHARTHAÍ NÁISIÚNTA (LEASÚ), 1986

BILLE

dá ngairtear

Acht do dhéanamh socrú breise chun séadchomharthaí náisiúnta agus rudaí ársa a chosaint agus a bhuanchoimeád, lena n-áirítear socrú chun úsáid agus seilbh feistí braite a rialú, do dhéanamh socrú chun raic stairiúil a chosaint agus a bhuanchoimeád, do leasú agus do leathnú Achta na Séadchomharthaí Náisiúnta, 1930 agus 1954, agus do dhéanamh socrú i dtaobh nithe comhghaolmhara.

Na Seanadóirí Séamas Ó Dubhaigh agus Micheál Ó Fearais a thíolaic

Ritheadh ag Seanad Éireann,
21 *Eanáir, 1987*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais, Teach Sun Alliance, Sráid Theach Laighean, Baile Átha Cliath 2, nó trí aon díoltóir leabhar.

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NATIONAL MONUMENTS (AMENDMENT) BILL, 1986

BILL

entitled

An Act to make further provision for the protection and preservation of national monuments and archaeological objects, including provision for the regulation of the use and possession of detection devices, to make provision for the protection and preservation of historic wrecks, to amend and extend the National Monuments Acts, 1930 and 1954, and to provide for connected matters.

Presented by Senators James Dooge and Michael Ferris

Passed by Seanad Éireann,
21*st January,* 1987

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