



**AN BILLE FUINNIMH (FORÁLACHA ILGHNÉITHEACHA),
1995
ENERGY (MISCELLANEOUS PROVISIONS) BILL, 1995**

*Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas*

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Transmission of gas by Bord Gáis Éireann on behalf of other persons.
3. Amendment of sections 2 and 40 of Act of 1976.
4. Amendment of sections 1, 3, 7 and 10 of Act of 1968.
5. Amendment of sections 5, 6 and 12 of Act of 1968.
6. Amendment of section 48 of Safety, Health and Welfare (Offshore Installations) Act, 1987.
7. Amendment of section 3 of Sea Pollution Act, 1991.
8. Extension of powers of Bord Gáis Éireann to effect certain commercial transactions.
9. Power of Bord Gáis Éireann to issue securities.
10. Appointment of authorised officers by Minister and powers of Minister and such officers.
11. Appointment of authorised officers by Minister for the Marine and powers of that Minister of the Government and such officers.
12. Power to order investigation into accident or incident involving energy infrastructure.
13. Restriction on exercise of powers under *section 12*.
14. Vesting of assets of town gas utilities in Bord Gáis Éireann.
15. Theft of electricity and gas and related offences.
16. Entry into, and search of, premises where offence under *section 15* is suspected.
17. Amendment of Act of 1960.
18. Amendment of Fuels (Control of Supplies) Act, 1971.
19. Amendment of section 9 (3) of Electricity (Supply) (Amendment) Act, 1958.

[No. 40c of 1995]

Section

20. Amendment of Electricity Supply Board (Superannuation) Act, 1942.
21. Amendment of section 2 (6) of Electricity (Supply) (Amendment) Act, 1988.
22. Review of the provision and regulation of electricity supply services in the State.
23. Amendment of section 31 of Turf Development Act, 1946.
24. Amendment of section 2 (6) of Turf Development Act, 1990.
25. Provision of moneys to Bord na Móna to enable the repayment by it of debts.
26. Amendment of section 7 of Radiological Protection Act, 1991.
27. Saving as respects the provisions of the Foreshore Acts, 1933 and 1992.
28. Repeals, revocation and saving.
29. Expenses.
30. Short title, construction and collective citation.

SCHEDULE

ENACTMENTS REPEALED

ACTS REFERRED TO

Civil Liability Act, 1961	1961, No. 41
Companies Act, 1963	1963, No. 33
Continental Shelf Act, 1968	1968, No. 14
Dumping at Sea Act, 1981	1981, No. 8
Electricity (Supply) Act, 1927	1927, No. 27
Electricity (Supply) (Amendment) Act, 1930	1930, No. 19
Electricity (Supply) (Amendment) Act, 1942	1942, No. 27
Electricity (Supply) (Amendment) Act, 1958	1958, No. 35
Electricity (Supply) (Amendment) Act, 1988	1988, No. 17
Electricity Supply Board (Superannuation) Act, 1942	1942, No. 17
Environmental Protection Agency Act, 1992	1992, No. 7
Finance Act, 1895	1895, c. 16
Foreshore Act, 1933	1933, No. 12
Foreshore Acts, 1933 and 1992	
Fuels (Control of Supplies) Act, 1971	1971, No. 3
Fuels (Control of Supplies) Act, 1982	1982, No. 18
Gas Act, 1976	1976, No. 30
Larceny Act, 1916	1916, c. 50
Local Government Act, 1941	1941, No. 23
Local Government (Planning and Development) Acts, 1963 to 1993	
Petroleum and Other Minerals Development Act, 1960	1960, No. 7
Petty Sessions (Ireland) Act, 1851	1851, c. 93
Radiological Protection Act, 1991	1991, No. 9
Safety, Health and Welfare (Offshore Installations) Act, 1987	1987, No. 18
Sea Pollution Act, 1991	1991, No. 27
State Property Act, 1954	1954, No. 25
Tribunals of Inquiry (Evidence) Act, 1921	1921, c. 7
Trustee Act, 1893	1893, c. 53
Trustee (Authorised Investments) Act, 1958	1958, No. 8
Turf Development Act, 1946	1946, No. 10
Turf Development Act, 1981	1981, No. 20
Turf Development Act, 1990	1990, No. 22



AN BILLE FUINNIMH (FORÁLACHA ILGHNÉITHEACHA),
1995

ENERGY (MISCELLANEOUS PROVISIONS) BILL, 1995

BILL

5

entitled

AN ACT TO MAKE FURTHER PROVISION IN RELATION
TO THE PRODUCTION, SUPPLY, SALE, TRANS-
MISSION, DISTRIBUTION AND USE OF CERTAIN
10 FORMS OF ENERGY AND MATTERS INCIDENTAL TO
THOSE ACTIVITIES (INCLUDING THE EXPLORATION
AND EXPLOITATION OF THE CONTINENTAL SHELF,
THE POWERS AND DUTIES OF CERTAIN BODIES
ENGAGED IN THOSE ACTIVITIES AND MATTERS
AFFECTING THE STAFF OF SUCH BODIES), TO
15 AMEND THE LAW RELATING TO THE THEFT OF
ELECTRICITY AND GAS, AND, FOR THE PURPOSES
AFORESAID, TO AMEND THE CONTINENTAL SHELF
ACTS, 1968 AND 1987, THE GAS ACTS, 1976 TO 1993, THE
ELECTRICITY (SUPPLY) ACTS, 1927 TO 1988, AND CER-
20 TAIN OTHER ENACTMENTS AND TO PROVIDE FOR
MATTERS CONNECTED WITH THE MATTERS
AFORESAID.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act —

Interpretation.

25 “the Act of 1960” means the Petroleum and Other Minerals Devel-
opment Act, 1960;

“the Act of 1968” means the Continental Shelf Act, 1968;

“the Act of 1976” means the Gas Act, 1976;

30 “authorised officer” means a person appointed under *section 10, 11*
or *16* (as appropriate);

“designated area” has the meaning assigned to it by the Act of 1968;

“energy infrastructure” means—

(a) any land, premises or installation (including an installation
located at sea), and

35 (b) unless the context otherwise requires, any plant, machinery
or equipment,

which is used or, subject to *subsection (2)*, has been used for the purposes of the production, storage, transmission or distribution of electricity, natural gas or petroleum not being—

(a) an installation, plant, machinery or equipment situate in any domestic premises, factory or place of work and supplying the energy requirements of that domestic premises, factory or place of work, 5

(b) a service station,

(c) a vehicle designed or adapted for the transport of petroleum or natural gas, or 10

(d) a battery, cable or other thing belonging to, or used in connection with, any appliance;

“the Minister” means the Minister for Transport, Energy and Communications;

“petroleum” includes any derivative of petroleum; 15

“production” includes, in relation to natural gas or petroleum, those steps preceding the production of natural gas or petroleum that consist of the exploration of land, sea-bed or subsoil (whether in the territorial seas of the State or a designated area) and the exploitation of the natural resources thereof with a view to such production, and, without prejudice to the foregoing, includes any activities carried on by a person to whom the Minister has undertaken under the Act of 1960 to grant an exploration licence, petroleum prospecting licence or petroleum lease where such activities— 20

(a) are carried on by that person in contemplation of the grant to him or her of an exploration licence, petroleum prospecting licence or petroleum lease (as the case may be) in pursuance of such an undertaking, and 25

(b) are directly related to the activities that that person would be authorised to carry on by such an exploration licence, petroleum prospecting licence or petroleum lease (as the case may be) were such an exploration licence, petroleum prospecting licence or petroleum lease to be granted to him or her; 30

“sea”, where used without qualification, includes a designated area; 35

“service station” means any installation where petroleum is capable of being dispensed to motor vehicle fuel tanks from stationary storage tanks.

(2) Land, premises, an installation or any other thing referred to in the definition of “energy infrastructure” in this section which has been, but is no longer being, used for a purpose referred to in that definition shall only be regarded as falling within that definition if and for so long as— 40

(a) steps are being taken to render it incapable of being used for that purpose, or 45

(b) in the opinion of the Minister or an authorised officer—

- (i) any steps that ought to be taken in the interests of the protection of persons, property or the environment to render it so incapable have not been taken, or
- 5 (ii) in case it is incapable of being used for that purpose (whether or not by reason of steps as aforesaid having been taken in relation to it) and its condition is such as to constitute a risk of injury or damage to persons, property or the environment, any steps that ought to be taken to remove that risk have not been
- 10 taken.

(3) In this Act—

- (a) a reference to a section is a reference to a section of this Act, unless it is indicated that reference to some other enactment is intended,
- 15 (b) a reference to a subsection or a paragraph is a reference to a subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

- (4) In this Act a reference to any enactment shall be construed as
- 20 a reference to that enactment as amended, extended or adapted by or under any subsequent enactment (including this Act).

2.—(1) The following section is hereby inserted after section 10 of the Act of 1976:

Transmission of gas
by Bord Gáis
Éireann on behalf
of other persons.

- 25 “10A. (1) Where a person requests the Board to make an offer to him to transmit on his behalf through pipelines under the control of the Board gas, at an annual rate that is not less than the rate of 25 million standard cubic metres per annum, to a single meter installation for consumption by a single customer, the Board may make such an offer to that person, including an
- 30 offer to transmit gas at a rate that is greater or less than the rate to which the request relates (but not less than the annual rate aforesaid).

- 35 (2) (a) An offer referred to in subsection (1) of this section shall be made on such terms as the Board considers reasonable and specifies in the offer.

- (b) If any dispute arises between a person and the Board as to the reasonableness of terms on which the Board has made an offer aforesaid to that person, the dispute shall be referred to the Minister and, if the Minister, or a person nominated by him for the purpose ('the nominee'), considers those terms or any of them to be unreasonable, the Minister or the nominee, as the case may be, shall give a direction to the Board requiring the Board to make a further offer of the kind referred to in subsection (1) of this section to the first-mentioned person on such terms as the Minister or the nominee specifies in the direction and the Board shall comply with such a
- 40 direction.
- 45

- 50 (c) For the purpose of considering a dispute referred to the Minister under this subsection, the Minister or the nominee may request the Board or the person who requested the making of the offer concerned to

supply to him such information relating to the dispute as he considers necessary, and the Board or the said person, as the case may be, shall comply with such a request.

(d) The reference in paragraph (b) of this subsection to the terms on which the Board has made, or may be required to make, an offer shall be construed as including a reference to the specification in the offer of the rate at which gas is to be transmitted on behalf of the person concerned. 5 10

(3) An agreement entered into by the Board in consequence of an offer made by it under this section (including such an agreement as subsequently varied by any lawful means) may be carried into effect by the Board in accordance with its terms.

(4) This section is without prejudice to the powers of the Minister under section 11 (1) of this Act.”. 15

(2) Section 11 of the Act of 1976 is hereby amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) (a) The Minister may, from time to time, give the Board such general directives concerning the transmission on behalf of another person by the Board of gas through pipelines under its control as he considers appropriate (other than as respects the pricing policy of the Board in relation to that matter). 20 25

(b) The Minister may, from time to time, with the consent of the Minister for Finance, give the Board such general directives concerning—

(i) the pricing policy of the Board as to the sale or supply of gas or the transmission on behalf of another person by the Board of gas through pipelines under its control, or 30

(ii) the financial objectives of the Board, as he considers appropriate.”,

(b) by the substitution of the following subsection for subsection (3): 35

“(3) In performing its functions the Board shall—

(a) comply with any direction under this section,

(b) comply with any directive under this section concerning— 40

(i) the transmission on behalf of another person by it of gas through pipelines under its control (including any such directive concerning its pricing policy in relation to that matter), or 45

(ii) its pricing policy as to the sale or supply of gas,

(c) have regard to any directive under this section concerning its financial objectives.”,

- 5 (c) by the insertion in subsection (4) after “a particular case” of
“or in relation to the transmission on behalf of another
person by the Board of gas through pipelines under its
control in a particular case”,

and the said subsection (4), as so amended, is set out in the Table to this section.

TABLE

- 10 (4) Nothing in this section shall be construed as enabling the Minister to exercise any power or control in relation to a price to be charged by the Board in a particular case or in relation to the transmission on behalf of another person by the Board of gas through pipelines under its control in a particular case.

- 15 3.—(1) Section 2 of the Act of 1976 is hereby amended by the substitution of the following definition for the definition of “foreshore”:

Amendment of sections 2 and 40 of Act of 1976.

“ ‘foreshore’ has the meaning assigned to it by section 1 of the Fore-shore Act, 1933;”.

- 20 (2) Section 40 of the Act of 1976 is hereby amended by the insertion in subsection (1) after “land” of “or of any sea bed that is situate in the territorial seas of the State or a designated area (within the meaning of the Continental Shelf Act, 1968)”, and the said subsection (1), as so amended, is set out in the Table to this section.

TABLE

- 25 (1) A person, other than the Board, shall not, without giving previous and reasonable notice to the Minister, construct or operate a pipeline on, over or under the surface of land or of any sea bed that is situate in the territorial seas of the State or a designated area (within the meaning of the Continental Shelf Act, 1968).

- 30 4.—(1) Section 1 of the Act of 1968 is hereby amended—

Amendment of sections 1, 3, 7 and 10 of Act of 1968.

- (a) by the insertion of the following definition after the definition of “designated area”:

“ ‘energy product’ means electricity, natural gas, petroleum or any derivative of petroleum;”;

- 35 and

- (b) by the substitution of the following definition for the definition of “installation” (inserted by the Safety, Health and Welfare (Offshore Installations) Act, 1987):

“ ‘installation’ includes—

- 40 (a) any floating structure or device maintained on a station by whatever means,

- (b) any vessel which is for the time being within the vicinity of an installation (including a structure or device aforesaid) and being used in connection with the operation of the installation;”.

(2) The following section is hereby substituted for section 3 of the Act of 1968: 5

“3.—(1) (a) Any act which—

(i) is done on an installation in a designated area, and

(ii) would, if done in the State, constitute an offence under the law of the State, 10

shall be deemed, for all the purposes relating to the offence, to be done in the State.

(b) Any act which—

(i) is done on any waters in a designated area or under or above any waters or installation in a designated area and— 15

(I) is done in connection with the exploration of the sea bed or subsoil or the exploitation of their natural resources, 20
or

(II) is done in connection with the operation of a pipe-line or cable for the transport or transmission of an energy product derived from the said natural resources or for the transport or transmission of an energy product to or from the State, 25
or

(III) interferes with, or could interfere with, such exploration or exploitation or the operation of such a pipe-line or cable, 30

and

(ii) would, if done in the State, constitute an offence under the law of the State,

shall be deemed, for all the purposes relating to the offence, to be done in the State. 35

(2) (a) Any act which—

(i) is done on an installation in a designated area, and

(ii) would, if done in the State, constitute a wrong, 40

shall be deemed, for all the purposes relating to the wrong, to be done in the State.

(b) Any act which—

(i) is done on any waters in a designated area or under or above any waters or installation in a designated area and—

5 (I) is done in connection with the exploration of the sea bed or subsoil or the exploitation of their natural resources, or

10 (II) is done in connection with the operation of a pipe-line or cable for the transport or transmission of an energy product derived from the said natural resources or for the transport or transmission of an energy product to or from the State, or

15 (III) interferes with, or could interfere with, such exploration or exploitation or the operation of such a pipe-line or cable,

and

(ii) would, if done in the State, constitute a wrong,
shall be deemed, for all the purposes relating to the wrong, to be done in the State.

20 (3) (a) References in this section to an act include references to an omission and references to the doing of an act include references to the making of an omission.

25 (b) In this section 'wrong' has the meaning assigned to it by the Civil Liability Act, 1961.

(4) Any jurisdiction conferred on any court under this section shall be without prejudice to any jurisdiction exercisable apart from this section by that or any other court."

(3) Section 7 (inserted by the Sea Pollution Act, 1991) of the Act of 1968 is hereby amended—

(a) by the substitution, in subsection (1), for "in consultation with the Minister for the Marine" of "with the consent of the Minister for the Marine";

35 (b) by the substitution, in subsection (1), of the following paragraph for paragraph (a):

40 "(a) from a pipe-line or cable of any kind or in connection with the operation of a pipe-line or cable for the transport or transmission of an energy product (whether derived from natural resources referred to in paragraph (b) or not), or";

(c) by the substitution of the following subsection for subsection (2):

45 "(2) Where there is a contravention of any such regulations the owner of the pipe-line or cable or, as the case may be, the person carrying on the operations shall be guilty of an offence."

and

- (d) by the substitution of the following subsection for subsection (4):

“(4) In this section—

‘discharge’ in relation to any oil, oily mixture, noxious liquid substance, harmful substance, sewage or garbage means any release, howsoever caused, of such a substance, including any escape, disposal, spilling, leaking, pumping, emitting or emptying of such a substance, but does not include— 5 10

(a) dumping, within the meaning of the Dumping at Sea Act, 1981, or

(b) the release of any oil, oily mixture, noxious liquid substance or harmful substance for the purpose of legitimate scientific research into pollution abatement or control; 15

‘oil’, ‘oily mixture’, ‘noxious liquid substance’, ‘harmful substance’, ‘sewage’ and ‘garbage’ have the same meanings as in the Sea Pollution Act, 1991.”.

- (4) (a) Section 10 of the Act of 1968 is hereby amended by the substitution of the following paragraph for paragraph (a): 20

“(a) treating as insurable employment for all or any of the purposes of the Social Welfare Acts any employment prescribed by the regulations which is employment in connection with— 25

(i) the exploitation of the resources mentioned in section 2(1) of this Act,

(ii) the exploration of the sea bed or subsoil in any designated area, or

(iii) the operation of a pipe-line or cable for— 30

(I) the transport or transmission of an energy product derived from resources as aforesaid,

(II) the transport or transmission of an energy product to or from the State, 35

being a pipe-line or cable situate in a designated area,

notwithstanding that such employment is not employment in the State.”.

- (b) Regulations in force immediately before the passing of this Act under paragraph (a) of section 10 of the Act of 1968 shall continue in force as if made under the paragraph inserted in that section by this subsection and may be amended or revoked accordingly. 40

5.—(1) The following section is hereby substituted for section 5 of the Act of 1968:

Amendment of
sections 5, 6 and 12
of Act of 1968.

“5.—(1) In this section—

5 ‘object or material’ means an object or material which consists of, or is a part of, the sea bed or subsoil in a designated area or is placed in a designated area for the purpose of, or in connection with, the exploration of such sea bed or subsoil or the exploitation of the natural resources thereof;

10 ‘relevant Minister’ means the Minister or the Minister for the Marine, as may be appropriate.

(2) A person shall not construct, alter or improve any structure or works in or remove any object or material from a designated area without the consent of the Minister and the Minister for the Marine.

15 (3) A relevant Minister may, as a condition of considering an application to him for consent under this section, require to be furnished with such plans and particulars as he may consider necessary and, on receipt of any such application, he may cause notice of the application, and of the time within which and the manner in which objections thereto may be made, to be published in such manner as he may consider appropriate for informing persons affected thereby, and, before granting his consent, may, if he thinks fit, appoint a person to hold an inquiry, and notice of the holding of the inquiry shall be given
20 in accordance with the provisions of this Act.
25

(4) If the Minister is of opinion that the action in respect of which his consent was sought would not be in the best interests of the orderly and proper use of the designated area concerned, he shall either refuse his consent thereto or grant his consent
30 subject to such conditions as he may think proper.

(5) If the Minister for the Marine is of opinion that the action in respect of which his consent was sought would cause an obstruction or danger to navigation, constitute a risk of pollution to the marine environment or harm living marine resources (within the meaning of the Sea Pollution Act, 1991), he shall either refuse his consent thereto or grant his consent subject to such conditions as he may think proper.
35

(6) (a) Without prejudice to subsections (4) and (5) of this section, a relevant Minister may, on the grant by him of a consent under this section or at any time thereafter, attach to the consent such conditions as he may think proper.
40

(b) Such conditions may include conditions specifying requirements to be complied with by the grantee during a specified period after the consent has ceased to be in force (including requirements as to the removal of any structure or works concerned) and those conditions shall, accordingly, bind the grantee notwithstanding the cesser of the consent.
45

(c) A relevant Minister may amend or revoke a condition attached to a consent granted by him under this section.
50

(d) A consent under this section shall remain in force for such period as the relevant Minister may determine and specify in the consent.

(7) All expenses incurred by a relevant Minister in holding an inquiry under this section shall, unless that Minister with the sanction of the Minister for Finance otherwise directs (in which case they shall, to the extent of the direction, be defrayed out of moneys provided by the Oireachtas), be paid by the person who applied for the consent to which the inquiry related, and the amount of the expenses shall be fixed by the Minister for Finance and shall be recoverable by the relevant Minister from the person as a simple contract debt in any court of competent jurisdiction.

(8) The person holding an inquiry under this section may, if he so thinks proper, order the costs and expenses incurred by any person in relation to the inquiry to be paid by any other person who appeared or was represented at the inquiry and, if the person who incurred, or the person who is liable to pay, the costs so requires, the costs and expenses shall be taxed and ascertained by a taxing-master of the High Court and the amount of such costs and expenses when so taxed and ascertained shall be recoverable as a simple contract debt in any court of competent jurisdiction.

(9) Where a person constructs, alters or improves a structure or works, or removes an object or materials, without the consent under this section of a relevant Minister, being the Minister, or fails to comply with a condition subject to which the consent of that Minister was given under this section and the construction, alteration, improvement, removal or failure is, in the opinion of that Minister, detrimental to the orderly and proper use of the designated area concerned, that Minister may serve a notice on the person requiring him, within a period specified in the notice (being a period of not less than thirty days beginning on the date of the service of the notice), to, as appropriate, remove the structure or works or carry out such other directions of that Minister as that Minister may think necessary or, if it appears to that Minister urgently necessary so to do, may himself remove the structure or works or do such other things as he thinks appropriate.

(10) Where a person constructs, alters or improves a structure or works, or removes an object or materials, without the consent under this section of a relevant Minister, being the Minister for the Marine, or fails to comply with a condition subject to which the consent of that Minister was given under this section and the construction, alteration, improvement, removal or failure, in the opinion of that Minister, constitutes an obstruction or danger to navigation or a risk of pollution to the marine environment or is causing or is likely to cause harm to living marine resources (within the meaning of the Sea Pollution Act, 1991), that Minister may serve a notice on the person requiring him, within a period specified in the notice (being a period of not less than thirty days beginning on the date of the service of the notice), to, as appropriate, remove the structure or works or carry out such other directions of that Minister as that Minister may think necessary or, if it appears to that Minister urgently necessary so to do, may himself remove the structure or works or do such other things as he thinks appropriate.

5 (11) If within the period specified in a notice under subsection (9) or (10) of this section, the person upon whom the notice is served fails to comply with the terms thereof, the relevant Minister may himself remove the structure or works to which the notice refers or carry out the directions contained in the notice, as the case may be.

10 (12) Where under subsection (9), (10) or (11) of this section a relevant Minister removes any structure or works referred to in a notice under the said subsection (9) or (10), as the case may be, carries out any direction contained in such a notice or does any other thing, that Minister may recover the expense thereof from the person upon whom the notice was served as a simple contract debt in any court of competent jurisdiction.

15 (13) A person who contravenes subsection (2) of this section or fails to comply with a condition subject to which a consent of a relevant Minister has been given under this section (including a condition referred to in subsection (6)(b)) shall be guilty of an offence and shall be liable—

20 (a) on summary conviction to a fine not exceeding fifteen hundred pounds, and

(b) on conviction on indictment to a fine of such amount as the court may consider appropriate.”.

25 (2) A consent given under section 5 of the Act of 1968 before the passing of this Act shall continue in force and be deemed to have been given by the Minister for the Marine under section 5 (inserted by subsection (1)) of the Act of 1968.

(3) Section 6 of the Act of 1968 is hereby amended—

(a) by the substitution of the following subsections for subsections (1) and (2):

30 “(1) The Minister may, for the purposes of protecting any installation in a designated area or in the vicinity of a designated area, with the consent of the Minister for the Marine, by order, subject to any exceptions provided by the order, prohibit ships generally or a specified class or classes of ship from entering without his consent—

(a) a specified part of that designated area, or

(b) a specified area outside that designated area.

40 (2) If a ship enters part of a designated area or an area outside a designated area in contravention of an order under this section, its owner and master shall each be guilty of an offence unless it is proved that the prohibition imposed by the order was not, and would not on reasonable inquiry have become, known to the master.”,

and

45 (b) by the substitution in paragraph (a) of subsection (3) of “fifteen hundred pounds” for “one hundred pounds”,

and the said paragraph (a), as so amended, is set out in the Table to this section.

(4) Section 12 of the Act of 1968 is hereby amended by the substitution of the following subsection for subsection (1):

“(1) Whenever the Minister or the Minister for the Marine proposes to hold an inquiry under this Act, notice of the holding thereof shall be given in such manner as the Minister or the Minister for the Marine (as the case may be) directs.”. 5

TABLE

(a) on summary conviction to a fine not exceeding fifteen hundred pounds or to imprisonment for a term not exceeding three months, or to both the fine and the imprisonment, and 10

Amendment of section 48 of Safety, Health and Welfare (Offshore Installations) Act, 1987.

6.—Section 48 of the Safety, Health and Welfare (Offshore Installations) Act, 1987, is hereby amended by the substitution of the following subsection for subsection (1):

“(1) It is hereby declared that, notwithstanding that any provision of the Act of 1968 may affect individuals or bodies corporate outside the State, such a provision applies to any individual whether or not he is an Irish citizen and to any body corporate whether or not it is incorporated under the law of the State.”. 15

Amendment of section 3 of Sea Pollution Act, 1991.

7.—Section 3 (1) of the Sea Pollution Act, 1991, is hereby amended by the insertion in paragraph (b) of the definition of “discharge”, after “mineral resources”, of “or in connection with the operation of a pipe-line or cable for the transport or transmission of an energy product (within the meaning of the Continental Shelf Act, 1968), whether derived from mineral resources as aforesaid or not”, and the said definition, as so amended, is set out in the Table to this section. 20 25

TABLE

“discharge”, in relation to oil, oily mixtures, noxious liquid substances, harmful substances, sewage or garbage, or any effluent containing any of those substances, means any release, howsoever caused, from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying of any substance from a ship, but does not include— 30

- (a) dumping, within the meaning of the Dumping at Sea Act, 1981, or
- (b) the release of oil, oily mixtures, noxious liquid substances or harmful substances directly arising from the exploration, exploitation and associated offshore processing of sea-bed mineral resources or in connection with the operation of a pipe-line or cable for the transport or transmission of an energy product (within the meaning of the Continental Shelf Act, 1968), whether derived from mineral resources as aforesaid or not, or 35
- (c) the release of oil, oily mixtures, noxious liquid substances or harmful substances for the purpose of legitimate scientific research into pollution abatement or control; 40

Extension of powers of Bord Gáis Éireann to effect certain commercial transactions.

8.—(1) The Act of 1976 is hereby amended by the insertion of the following section after section 8:

“8A.—(1) In this section ‘company’ means— 45

- (a) a company within the meaning of the Companies Act, 1963, or

(b) a body formed or established under the laws of a state other than the State and corresponding to a body referred to in paragraph (a) of this subsection.

5 (2) The Board may promote and take part in the formation or establishment of a company.

(3) The Board may acquire, hold and dispose of shares or other interests in a company and become a member of a company.

10 (4) The Board may exercise total or partial control of the composition of the board of directors of, or other authority, by whatever name called, that controls or manages a company.

(5) The Board may —

(a) lend or advance money upon such terms and conditions as it may determine, and

15 (b) (i) guarantee in such form and manner and on such terms and conditions as it thinks fit, the due repayment by any person of the principal of any moneys (including moneys in a currency other than the currency of the State) borrowed by the
20 person or the payment of interest on such moneys or both the repayment of the principal and the payment of the interest and any such guarantee may include a guarantee of payment of incidental expenses arising in connection with
25 such borrowings and may be a guarantee of payment of a promissory note made by any person or a bill of exchange drawn or accepted by any person,

30 (ii) otherwise give guarantees or indemnities in respect of any obligation of, or contract entered into by, any person,

where such lending or advancing of money, or other activity aforesaid appears to the Board to be requisite, advantageous or incidental to, or appears to the Board to facilitate, the performance by it of any function under this Act.
35

(6) The exercise by the Board of any power conferred by this section shall be subject to the prior written consent of the Minister given with the approval of the Minister for Finance and after consultation with any other Minister of the Government
40 who, in the opinion of the Minister, having regard to the functions of that Minister of the Government, ought to be consulted.”.

(2) (a) This section shall be deemed to have come into operation on the 3rd day of July, 1991.

45 (b) Any thing done by Bord Gáis Éireann before the passing of this Act which apart from this section it would have not had power to do shall not be invalid by reason of subsection (6) of section 8A (inserted by subsection (1)) of the Act of 1976 not having been complied with.

9.—Section 23 of the Act of 1976 is hereby amended—

- (a) by the insertion in subsection (1) after “chargeable to capital” of the following:

“and such borrowing may be by whatever means the Board considers appropriate including the creation of stock or other forms of security to be issued, transferred, dealt with and redeemed in such manner and on such terms and conditions as the Board may, with the prior consent of the Minister given with the approval of the Minister for Finance, determine”; and

- (b) by the addition of the following subsection:

“(5) Any security created under subsection (1) of this section shall be deemed to be included amongst the securities in which trustees may invest trust funds under the powers of section 1 (inserted by the Trustee (Authorised Investments) Act, 1958) of the Trustee Act, 1893.”

and the said subsection (1), as so amended, is set out in the Table to this section.

TABLE

(1) The Board may from time to time borrow money, including money in a currency other than the currency of the State, to defray expenditure incurred by it that is properly chargeable to capital and such borrowing may be by whatever means the Board considers appropriate including the creation of stock or other forms of security to be issued, transferred, dealt with and redeemed in such manner and on such terms and conditions as the Board may, with the prior consent of the Minister given with the approval of the Minister for Finance, determine.

Appointment of
authorised officers
by Minister and
powers of Minister
and such officers.

- 10.—(1) (a) The Minister may appoint one or more persons to be an authorised officer or authorised officers for the purposes of this section.

(b) Before appointing a person under this subsection the Minister shall consult with the Minister for Enterprise and Employment where the Minister considers it appropriate to do so having regard to the functions of that Minister of the Government.

(2) A person appointed under *subsection (1)* shall, on his or her appointment, be furnished by the Minister with a certificate of his or her appointment and when exercising a power conferred by this section shall, if requested by any person thereby affected, produce such certificate to that person for inspection.

- (3) An authorised officer may —

(a) enter at any time an energy infrastructure for the purpose of exercising any powers conferred on him or her by this section,

(b) make such inspections and carry out such tests as he or she thinks fit in relation to the carrying on of any activities in or on an energy infrastructure (which may include the monitoring and assessment of the effects on the marine environment of the carrying on of any such activities),

- 5 (c) require any person in or on an energy infrastructure to produce to him or her such documents, records or materials as are in that person's possession or control relating to the infrastructure and to give to him or her such information as he or she may reasonably require in regard to such documents, records or materials,
- 10 (d) either in or on an energy infrastructure or elsewhere, inspect and copy or extract information from documents, records or materials produced to him or her under *paragraph (c)* or which he or she finds in or on the energy infrastructure,
- 15 (e) take samples of any substance, gas or liquid present in or on an energy infrastructure, and carry out tests, either in or on the infrastructure or elsewhere, on or in relation to the substance, gas or liquid,
- 20 (f) require any person holding any position of authority or responsibility in relation to the carrying on of any activities in or on an energy infrastructure to give to him or her such information as he or she may reasonably require in relation to the procedures employed or steps taken in the carrying on of such activities to comply with the provision of any enactment or instrument thereunder relating to the safety of the carrying on of such activities.
- 25 (4) Subject to *subsection (5)*, where the Minister or an authorised officer is of the opinion that the manner in which any activities that are being carried on at an energy infrastructure is causing or is likely to cause injury to persons or damage to property or an environmental medium or the undue loss, contamination, deterioration or misuse of petroleum, as the case may be, the Minister or the authorised
- 30 officer may serve a notice on the person carrying on such activities requiring that person to take within a period specified in the notice such steps as are specified in the notice to prevent such injury or damage or such loss, contamination, deterioration or misuse of petroleum.
- 35 (5) The powers of the Minister or an authorised officer under *subsection (4)* in respect of—
- 40 (a) damage to an environmental medium shall not extend to any case in which functions stand vested for the time being in the Environmental Protection Agency or a local authority in relation to the protection of the environmental medium concerned, and
- 45 (b) injury to persons shall not extend to any case in which functions stand vested for the time being in the National Authority for Occupational Safety and Health or any other person in relation to the taking of steps to prevent or reduce the risk of the injury concerned to persons arising.
- 50 (6) Where the Minister or the authorised officer concerned regards it as necessary in the interests of safety that the notice should so require, a notice under *subsection (4)* may include a provision requiring the person carrying on the activities concerned to cause the infrastructure concerned to be evacuated of persons or specified persons within such period as is specified in the notice (which may be different from the period specified in the notice for the doing of

any other thing) and to ensure that no person (other than an authorised officer or any other person entitled by or under statute to enter the infrastructure concerned) or only specified persons enters or enter the infrastructure during such period as is specified in the notice.

5

(7) If a person fails to comply with a requirement contained in a notice under *subsection (4)*—

(a) the Minister or the authorised officer concerned, as the case may be, may enter the infrastructure concerned and carry out the requirement and do all things necessary for or incidental to that purpose, and 10

(b) the expenses incurred in so carrying out the requirement shall be paid by the person to the Minister or the authorised officer, as the case may be, and, in default of payment, shall be recoverable by the Minister or the authorised officer from the person as a simple contract debt in any court of competent jurisdiction. 15

(8) Where a notice under *subsection (4)* requires the carrying out of any works within the meaning of the Local Government (Planning and Development) Acts, 1963 to 1993, the carrying out of such works, whether by the person on whom the notice has been served or, as the case may be, the Minister or the authorised officer concerned under *subsection (7)*, shall be exempted development for the purposes of those Acts. 20

(9) An authorised officer, in exercising a power under this section, may be accompanied by, and assisted in the exercise of the power by, one or more members of the Garda Síochána. 25

(10) Any person who—

(a) obstructs or impedes an authorised officer in the exercise of his or her powers under this section, 30

(b) without reasonable excuse, refuses or fails to comply with a requirement made of him or her under *subsection (3)* or with a requirement contained in a notice under *subsection (4)*, or

(c) makes a statement or furnishes information to an authorised officer, pursuant to a requirement made of him or her under *subsection (3)* by such an officer, which is false or misleading in a material respect, knowing it to be so false or misleading or being reckless as to whether it is so false or misleading, 35
40

shall be guilty of an offence.

(11) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months or to both, 45

(b) on conviction on indictment, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding 3 years or to both.

(12) In this section—

“activities” includes steps referred to in *section 1 (2)*;

“environmental medium” has the meaning assigned to it by the Environmental Protection Agency Act, 1992;

5 “local authority” means a local authority for the purposes of the Local Government Act, 1941.

11.—(1) (a) The Minister for the Marine may appoint one or more persons to be an authorised officer or authorised officers for the purposes of this section.

Appointment of authorised officers by Minister for the Marine and powers of that Minister of the Government and such officers.

10 (b) Before appointing a person under this subsection the Minister for the Marine shall consult with the Minister for Enterprise and Employment where he or she considers it appropriate to do so having regard to the functions of that Minister of the Government.

15 (2) The powers conferred on—

(a) an authorised officer appointed under *section 10 (1)* by *subsections (3) to (7)* of *section 10* (“the first-mentioned powers”), and

20 (b) the Minister by *subsections (4) to (7)* of that section (“the second-mentioned powers”),

may be exercised—

(i) in the case of the first-mentioned powers, by an authorised officer appointed under *subsection (1)*, and

25 (ii) in the case of the second-mentioned powers, by the Minister for the Marine,

in respect of a structure or works in relation to the construction, alteration or improvement of which the consent of the Minister for the Marine has been granted under *section 5* (inserted by *section 5*) of the Act of 1968 or in respect of an object or material in relation
30 to the removal of which the consent of the said Minister of the Government has been granted under the said section.

(3) For the purposes of *subsection (2)*, references in *subsections (3) to (7)* of *section 10* to energy infrastructure shall be construed as references to a structure, works and, where the context admits, an
35 object or material referred to in *subsection (2)*.

(4) *Subsection (2)*, and *subsections (8) to (12)*, of *section 10* shall apply and have effect for the purposes of *subsection (2)* with the necessary modifications.

12.—(1) Subject to *section 13*, the Minister may cause to be carried out by a person whom the Minister considers appropriate for the purpose an investigation into the causes of and circumstances surrounding any accident or incident involving an energy infrastructure.

Power to order investigation into accident or incident involving energy infrastructure.

45 (2) A person carrying out an investigation under this section who is not an authorised officer appointed under *section 10* shall, for the

purposes of the investigation, have the powers of an authorised officer specified in *subsection (3) of section 10*, and *subsections (9) and (10) of that section* shall apply as respects the exercise of those powers by that person as they apply as respects the exercise of them by an authorised officer; *subsection (11) of that section* shall apply for the purposes of the said *subsection (10)* as applied by this section. 5

(3) As soon as may be after the completion by a person of an investigation under this section the person shall prepare a report in writing in relation to the investigation and shall furnish the report to the Minister. 10

(4) The Minister may cause a report as aforesaid to be published in such manner as he or she thinks fit.

(5) The Minister may pay such fees and expenses as may be determined by him or her to a person (other than an officer of the Minister) in respect of the carrying out and preparation by the person of an investigation and report under this section. 15

Restriction on
exercise of powers
under *section 12*.

13.—(1) In this section—

“accident or incident” means an accident or incident referred to in *section 12*;

“tribunal to which this section applies” means a tribunal to which the Tribunals of Inquiry (Evidence) Act, 1921, is applied under section 1 of that Act. 20

(2) Without prejudice to *subsection (3)*, where in relation to a particular accident or incident there stands vested in a person, other than the Minister, a power under any enactment to cause to be carried out an investigation or an inquiry to be held, the Minister shall, before deciding to exercise his or her power under *section 12* in relation to the accident or incident, ascertain whether that person proposes to exercise the said power in relation thereto and if that person proposes so to exercise the said power and the Minister is satisfied that the results of the investigation or inquiry will provide sufficient information and facts as respects the matters concerned the Minister shall not exercise his or her power under *section 12* in relation to the accident or incident unless at any subsequent time (whether before or after the completion of the investigation or inquiry) it appears to him or her that sufficient information and facts as respects the matters concerned will not be provided or have not been provided, as the case may be, by the investigation or inquiry. 25 30 35

(3) The Minister shall not exercise his or her power under *section 12* in relation to an accident or incident that is for the time being the subject of an inquiry by a tribunal to which this section applies. 40

Vesting of assets of
town gas utilities in
Bord Gáis Éireann.

14.—(1) The Minister may by order provide that all or such part or parts as shall be specified in the order of the real and personal property, rights and liabilities of a company mentioned in the Table to this section shall vest in Bord Gáis Éireann (hereafter in this section referred to as “the Board”) on a day specified in the order. 45

(2) An order under *subsection (1)* shall operate to vest in the Board on the day specified in the order—

(a) in so far as the order relates to real property of the company concerned, that property for all the estate or interest for 50

which immediately before the day specified in the order it was vested in the company concerned, but subject to all trusts and equities affecting that property subsisting and capable of being performed;

5 (b) in so far as the order relates to personal property (including choses-in-action) of the company concerned, that property without any assignment;

(c) in so far as the order relates to rights and liabilities of the company concerned, those rights and liabilities.

10 (3) Where immediately before the day specified in an order under subsection (1) for the vesting by such order of property, rights or liabilities of a company in the Board any legal proceedings concerning the property, rights or liabilities are pending and the company is a party to those proceedings, then, on and from the said day, those
15 proceedings shall be continued with the substitution of the name of the Board for that of the company and those proceedings shall not abate by reason of such substitution.

(4) Every chose-in-action vested in the Board by an order under subsection (1) may, after the day specified in the order for such vesting, be sued on, recovered or enforced by the Board in its own name
20 and it shall not be necessary for the Board to give notice to the person bound by the chose-in-action of the vesting effected by the order.

(5) Section 12 of the Finance Act, 1895, shall not apply to the
25 vesting in the Board of property or rights by an order under subsection (1).

(6) An order under subsection (1) shall not be made in relation to the property, rights or liabilities of the Dublin Gas Company other than the property, rights and liabilities of that company specified in
30 an agreement made on the 3rd day of November, 1987, between the Dublin Gas Company of the first part, Bernard Somers, the receiver of the property of that company of the second part and the Board of the third part.

TABLE

35 Dublin Gas Company
Limerick Gas Company Limited
Cork Gas Company
City of Waterford Gas Company
Clonmel Gas Company Limited

40 15.—(1) In this section—

“article” means any meter, line, fitting, piping, receptacle or other apparatus;

“Bord Gáis Éireann” includes a subsidiary of that body;

45 “contract of supply” means a contract for the time being in force whereby the Electricity Supply Board or Bord Gáis Éireann agrees to supply electricity or gas, as the case may be, to a premises;

“Electricity Supply Board” includes a subsidiary of that body;

“interferes with”, in relation to any article, includes the doing of any of the following things, as the context admits, namely—

Theft of electricity and gas and related offences.

- (a) damaging, injuring, altering or modifying the article (including opening or detaching any sealing or locking device attached to the article),
 - (b) in the case of a meter (without prejudice to the application of *paragraph (a)* to such a thing)— 5
 - (i) altering artificially the index to the meter, or
 - (ii) preventing the meter from duly registering a quantity of electricity or gas, as the case may be, supplied to a premises,
- and cognate words shall be construed accordingly; 10
- “registered consumer of electricity or gas” means a person who has entered into a contract of supply with the Electricity Supply Board or Bord Gáis Éireann, as the case may be;
- “subsidiary” has the meaning assigned to it by the Companies Act, 1963. 15
- (2) (a) A person who dishonestly uses, or causes to be wasted or diverted, any electricity or gas shall be guilty of an offence.
 - (b) For the purposes of this subsection an act is done by a person dishonestly if the person does the act without 20 claim of legal right.
- (3) A person who unlawfully interferes with any article owned by or under the control of the Electricity Supply Board or Bord Gáis Éireann shall be guilty of an offence.
 - (4) If in proceedings for an offence under *subsection (3)* it is 25 alleged that the defendant—
 - (a) altered artificially an index to a meter owned by or under the control of the Electricity Supply Board or Bord Gáis Éireann and situate in any premises or in the precincts thereof, or 30
 - (b) prevented a meter aforesaid from duly registering a quantity of electricity or gas, as the case may be, supplied to the premises in which or in the precincts of which the said meter is situate,
- and it is proved that, during the period that such alteration or pre- 35 vention is alleged to have occurred or immediately thereafter—
 - (i) an artificial means for causing such alteration or preventing such registration, as the case may be, was present in the said premises or in the precincts thereof, and
 - (ii) the defendant was in occupation of the said premises, 40
- such proof shall be *prima facie* evidence, in those proceedings, of the matters referred to in *paragraph (a)* or *(b)*, as the case may be.
- (5) A person who, without lawful excuse, manufactures, imports, sells, offers for sale, supplies or has in his or her possession any thing designed or adapted— 45

- (a) to alter artificially the index to any meter owned by or under the control of the Electricity Supply Board or Bord Gáis Éireann, or
- 5 (b) to prevent the due registration by such a meter of a quantity of electricity or gas, as the case may be, supplied to any premises,
- (whether the thing is specifically designed or adapted to achieve such an effect only as respects a meter owned by or under the control of a body aforesaid or not) shall be guilty of an offence.
- 10 (6) (a) A registered consumer of electricity or gas who has reasonable grounds for believing that a meter to which this subsection applies is not duly registering a quantity of electricity or gas being supplied to the premises concerned by reason of the meter being unlawfully interfered with shall take all reasonable steps to ensure that such
- 15 interference is discontinued.
- (b) A person who fails to comply with *paragraph (a)* shall be guilty of an offence.
- (c) This subsection applies to a meter that—
- 20 (i) is owned by or under the control of the Electricity Supply Board or Bord Gáis Éireann, and
- (ii) is situate in premises or in the precincts of premises to which electricity or gas, as the case may be, is supplied under a contract of supply entered into by
- 25 the registered consumer of electricity or gas concerned.
- (7) (a) A person guilty of an offence under *subsection (2), (3) or (5)* shall be liable—
- 30 (i) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both,
- (ii) on conviction on indictment, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding 5 years or to both.
- 35 (b) A person guilty of an offence under *subsection (6)* shall be liable on summary conviction—
- (i) in the case of a first offence, to a fine not exceeding £500 or to imprisonment for a term not exceeding 3 months or to both,
- 40 (ii) in the case of a second or subsequent offence, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months or to both.
- (8) (a) A court before which a person is convicted of an offence under *subsection (2), (3) or (6)* may, in addition to any
- 45 penalty it may impose under *subsection (7)* in respect of the offence, order the person to pay to the Electricity Supply Board or, as appropriate, Bord Gáis Éireann either or both of the following—

- (i) such sum as it is satisfied the person owes to a body aforesaid in respect of the supply of electricity or gas and payment of which would not have been obtained by the body if the act or acts or, as the case may be, default in respect of which the person has been convicted of the offence had not been detected, 5
 - (ii) such sum as it is satisfied will compensate a body aforesaid for any damage done to an article owned by or under the control of the body, being damage that has resulted from the act or acts or, as the case may be, default in respect of which the person has been convicted of the offence. 10
- (b) In the case of proceedings in the District Court for an offence under this section, the amount that the court may order a person to pay under this subsection in respect of the offence shall not exceed an amount equal to the difference between £1,500 and the fine (if any) it has imposed on the person in respect of the offence. 15
- (9) (a) A court before which a person is convicted of an offence under this section may order any thing referred to in *subsection (5)* which was used by the person to commit the offence or, in the case of an offence under the said subsection, any thing referred to in that subsection to which the offence relates, to be forfeited and either destroyed or otherwise disposed of in such manner as the court may determine. 20 25
- (b) An order under this subsection shall not take effect until the ordinary time for instituting an appeal against the conviction or order concerned has expired or, where such an appeal is instituted, until it or any further appeal is finally decided or abandoned or the ordinary time for instituting any further appeal has expired. 30
- (10) (a) Summary proceedings for an offence under this section may be brought by the Electricity Supply Board or, as appropriate, Bord Gáis Éireann. 35
- (b) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this section may be instituted within 12 months from the date of the offence.

Entry into, and search of, premises where offence under *section 15* is suspected.

16.—(1) Each of the following, namely the Electricity Supply Board and Bord Gáis Éireann, may appoint such and so many of its employees as it considers appropriate to be authorised officers for the purposes of this section. 40

(2) A person appointed under *subsection (1)* shall, on his or her appointment, be furnished by the Electricity Supply Board or Bord Gáis Éireann, as the case may be, with a certificate of his or her appointment and when exercising a power conferred by this section shall, if requested by any person thereby affected, produce such certificate to that person for inspection. 45

(3) Subject to *subsection (4)*, an authorised officer who suspects with reasonable cause that an offence under *subsection (2)*, (3), (5) or (6) of *section 15* has been or is being committed on or in any land, premises or vehicle (being an offence that concerns the body referred 50

to in *subsection (1)* which appointed the particular authorised officer) may—

5 (a) enter the land or premises or, as the case may be, halt (if necessary) and board the vehicle and require the driver (if any) of the vehicle to take it to a place designated by the authorised officer (and such a vehicle may be detained at that place by the authorised officer for such period as he or she may consider necessary for the purposes of this subsection),

10 (b) search the land, premises or vehicle and seize any thing he or she finds thereon or therein (being a thing referred to in *subsection (5)* of *section 15* or which is evidence of, or evidence related to, the commission of an offence under that subsection or *subsection (2), (3) or (6)* of the said section, as the case may be).

15 (4) The powers of an authorised officer under *subsection (3)* may only be exercised in respect of a dwelling or so much of a vehicle or premises as constitutes a dwelling where the authorised officer has reasonable cause to suspect that, before a warrant could be sought
20 in relation to the dwelling under *subsection (5)*, any thing referred to in *subsection (3) (b)*—

 (a) is being destroyed, disposed of or removed from the premises or vehicle, or

25 (b) is likely to be destroyed, disposed of or removed from the premises or vehicle.

 (5) (a) Where an authorised officer in the exercise of his or her powers under this section is prevented from entering any land or premises or if an authorised officer has reason to believe that evidence of or related to a suspected offence under *subsection (2), (3), (5) or (6)* of *section 15* may be present on or in any land or premises and that the evidence may be removed therefrom or destroyed or disposed of, the authorised officer or the body by whom he or she was appointed may apply to a judge of the District Court for a warrant under this subsection authorising the entry by the authorised officer onto or into the land or premises.

40 (b) If on application being made to him or her under this subsection, a judge of the District Court is satisfied, on the sworn information of the applicant, that the authorised officer concerned has been prevented from entering land or premises as aforesaid or that the authorised officer has reasonable grounds for believing the other matters aforesaid, the judge may issue a warrant under his or her hand authorising that officer, accompanied, if the judge deems it appropriate so to provide, by such number of members of the Garda Síochána as may be specified in the warrant, at any time or times within 1 month from the date of the issue of the warrant, on production if so requested of the warrant, to enter, if need be by force, the land or premises concerned and exercise the powers referred to in *subsection (3) (b)*.

 (c) In this subsection “premises” includes so much of a vehicle as constitutes a dwelling.

55 (6) A person who—

- (a) refuses to allow an authorised officer to enter any land or premises or board any vehicle in the exercise of his or her powers under this section, or
 - (b) obstructs or impedes an authorised officer in the exercise of his or her powers under this section, 5
- shall be guilty of an offence and shall be liable—
- (i) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months or to both,
 - (ii) on conviction on indictment, to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 3 years or to both. 10
- (7) *Subsection (10) of section 15 shall apply to an offence under subsection (6) as it applies to an offence under the said section.*
- (8) (a) The powers conferred by the preceding provisions of this section are not in substitution for any other powers standing conferred on an officer or employee of a body referred to in *subsection (1)*, a member of the Garda Síochána or any other person by virtue of section 108 of the Electricity (Supply) Act, 1927, or any other enactment in force immediately before the passing of this Act, or of any rule of law. 15 20
 - (b) A person who enters any premises pursuant to subsection (2) of section 108 of the Electricity (Supply) Act, 1927, shall have the same power to seize anything referred to in *subsection (3) (b)* which he or she finds on the premises in the course of exercising any power conferred on him or her by the said section 108 as an authorised officer has under the said *subsection (3)*. 25
 - (9) (a) Any thing seized by an authorised officer under *subsection (3)* or by a person under *subsection (8) (b)* may, subject to the provisions of this subsection, be detained by that officer or the person by whom he or she is employed and either destroyed or disposed of in such manner as he or she thinks appropriate. 30 35
 - (b) A thing detained as aforesaid shall not be destroyed or disposed of under this subsection—
 - (i) in case an application is made under *paragraph (c)* in relation to the thing, save under and in accordance with an order of a judge of the District Court under that paragraph. 40
 - (ii) in case no such application is made or such an application is made but is withdrawn, before the expiration of 3 months from the date on which the thing was seized. 45
 - (c) A person who claims an interest in a thing referred to in *paragraph (a)* may, not later than 3 months after the date on which the thing was seized, apply to a judge of the District Court for the District Court district in which the seizure was effected for an order directing the return to 50

that person of the thing or, as the case may be, enabling that person to exercise the rights in or over the thing which he or she was entitled to exercise immediately before the seizure and the said judge of the District Court shall, on the hearing of the application—

5

(i) determine whether the thing is, in fact, a thing referred to in *subsection (5) of section 15* or, as the case may be, a thing which is evidence of, or evidence related to, the commission of an offence under that subsection or *subsection (2), (3) or (6) of the said section*, and

10

(ii) having regard to that determination and any other relevant matters, make such order in relation to the application as he or she considers just and equitable.

15

(d) A judge of the District Court may adjourn the hearing of an application made to him or her under *paragraph (c)* until after the conclusion of any proceedings being brought for an offence under *section 15* in relation to the matter concerned.

20

(10) In this section “Bord Gáis Éireann” and “Electricity Supply Board” have the same meaning as they have in *section 15*.

17.—(1) Section 7 of the Act of 1960 is hereby amended by the substitution of the following subsections for subsection (2):

Amendment of Act of 1960.

“(2) An undertaking under this section—

25

(a) shall be in such form as the Minister shall, with the consent of the Minister for Finance, determine; and

30

(b) may be subject to such terms or conditions as the Minister may determine, including a term or condition providing for the payment to the Minister by the grantee of the undertaking of such consideration in respect of the grant of the undertaking as the Minister, with the consent of the Minister for Finance, may determine.

35

(3) Where the Minister enters into an undertaking under this section it shall be lawful for him to carry out the undertaking in accordance with the terms and conditions thereof.

(4) The Minister may revoke an undertaking under this section where he is satisfied that the grantee of the undertaking has failed to comply with any term or condition thereof.”.

40

(2) The following section is hereby substituted for section 10 of the Act of 1960:

“10.—(1) The Minister may enter into an undertaking to grant a petroleum lease to take effect not later than the date specified in that behalf in the undertaking.

45

(2) An undertaking under this section shall be in such form as the Minister shall, with the consent of the Minister for Finance, determine and may—

- (a) be subject to such terms or conditions as the Minister may determine, including a term or condition providing for the payment to the Minister by the grantee of the undertaking of such consideration in respect of the grant of the undertaking as the Minister, with the consent of the Minister for Finance, may determine; and 5
 - (b) specify the terms and conditions (if any) upon which the petroleum lease which is the subject of the undertaking shall be granted. 10
- (3) Where the Minister enters into an undertaking under this section it shall be lawful for him to carry out the undertaking in accordance with the terms and conditions thereof.
- (4) The Minister may revoke an undertaking under this section where he is satisfied that the grantee of the undertaking has failed to comply with any term or condition thereof.”. 15
- (3) (a) In this subsection—
 - “foreshore” has the meaning assigned to it by section 1 of the Foreshore Act, 1933;
 - “State land” has the meaning assigned to it by section 20 2(1) of the State Property Act, 1954;
 - “permit” means a working facilities (State land) permit (within the meaning of section 27 of the Act of 1960).
- (b) The grant by the Minister of a permit in relation to State land that consists in whole or part of foreshore shall require (in addition to the consent specified in section 27 of the Act of 1960) the consent of the Minister for the Marine. 25
- (c) Where a permit relates to State land that consists in whole or part of foreshore, the determination by the Minister of the sum to be paid under subsection (5) of section 27 of the Act of 1960 as consideration for the grant of the permit shall be made (as well as with the concurrence of the Minister of the Government specified in the said subsection (5)) with the concurrence of the Minister for the Marine. 30 35
- (d) Where a permit relates to State land that consists wholly of foreshore the sum paid to the Minister under section 27(5) of the Act of 1960 as consideration for the grant of that permit shall be paid by the Minister to the Minister for the Marine. 40
- (e) Where a permit relates to State land that consists in part of foreshore, the determination referred to in *paragraph (c)* shall specify what amount of the sum concerned is attributable to the said foreshore (“the attributed amount”) and on payment of the sum concerned to the Minister, the Minister shall pay the attributed amount to the Minister for the Marine. 45
- (f) Compensation payable under section 28 of the Act of 1960 shall, in so far as it is in respect of damage or nuisance caused in relation to foreshore that is the subject 50

5 (whether or not in addition to other State land) of a permit, be paid to the Minister for the Marine and the provisions of Chapter VII of Part II of the said Act shall apply in respect of such compensation as they apply in respect of compensation that is payable under the said section 28 to the Minister.

10 (g) For the purposes of the said application of the said Chapter VII, references in the said Chapter to the Minister shall be construed as references to the Minister for the Marine.

(4) (a) The Minister shall not approve, pursuant to a petroleum lease—

15 (i) the abandonment by the lessee under the lease of any offshore installation used in connection with the activities carried on, in or over the land (within the meaning of the Act of 1960), seabed or subsoil demised by the lease, or

(ii) the placing by such a lessee of—

(I) such an installation, or

20 (II) any offshore pipeline that has been used in connection with the said activities,

25 being an installation or pipeline which is no longer used in connection with the said activities, in the sea for a purpose other than that for which it was designed and constructed,

without the consent of the Minister for the Marine.

(b) In this subsection “petroleum lease” means a petroleum lease (within the meaning of the Act of 1960) that is granted after the passing of this Act.

30 18.—(1) In the Fuels (Control of Supplies) Act, 1971 (as amended by the Fuels (Control of Supplies) Act, 1982) — Amendment of Fuels (Control of Supplies) Act, 1971.

(a) references to petroleum oils shall be construed as including references to any thing referred to in the definition of “petroleum” in the Act of 1960;

35 (b) references to the acquisition, supply, distribution or marketing of fuels or of a type or types of fuel shall be construed as including references to —

(i) the production of fuels or, as the case may be, of a type or types of fuel,

40 (ii) the exploitation of such of the natural resources of a designated area as constitute fuels or, as the case may be, a type or types of fuel.

(2) The Petroleum Oils (Regulation or Control of Acquisition, Supply, Distribution or Marketing) Order, 1983 (S.I. No. 1 of 1983),
45 shall be construed as one with this section.

Amendment of
section 9 (3) of
Electricity (Supply)
(Amendment) Act,
1958.

19.—(1) Section 9 (3) of the Electricity (Supply) (Amendment) Act, 1958, is hereby amended by the substitution of the following paragraph for paragraph (b):

“(b) if he has paid any contributions in accordance with the provisions of subsection (2) of this section in respect of the period referred to in paragraph (a) of this subsection, those contributions shall be returned to him if and when a payment of benefit or a return of other contributions is made to him under the scheme, and”.

(2) This section shall be deemed to have come into operation on the 3rd day of June, 1988.

Amendment of
Electricity Supply
Board
(Superannuation)
Act, 1942.

20.—(1) In this section—

“the Act of 1942” means the Electricity Supply Board (Superannuation) Act, 1942;

“amending superannuation scheme”, “general employees superannuation scheme”, “manual workers” and “manual workers superannuation scheme” have the meaning assigned to them by the Act of 1942.

(2) Notwithstanding anything contained in section 4 (1), section 6 (4) or any other provision of the Act of 1942 an amending superannuation scheme may —

(a) amend the general employees superannuation scheme so as to enable persons who are manual workers to participate in, and to be granted and paid superannuation benefits under, that scheme;

(b) provide for the winding up of the fund established by regulations under section 8 of the Act of 1942 in respect of the manual workers superannuation scheme and the transfer of the moneys comprised in that fund (including the securities and other investments representing such moneys) to the fund established by regulations under the said section 8 in respect of the general employees superannuation scheme;

(c) provide for matters incidental to or consequent upon the winding up of the fund referred to in *paragraph (b)*;

(d) revoke the manual workers superannuation scheme.

(3) An amending superannuation scheme may, if the scheme so provides, have retrospective effect.

(4) Section 7 (1) of the Act of 1942 is hereby amended by the substitution in paragraph (b) for “make to the said fund payments equal in the aggregate to the aggregate amount of the said contributions thereto” of “from time to time make to the said fund such payments as are determined by the actuary to the scheme”, and the said paragraph (b), as so amended, is set out in paragraph 1 of the Table to this section.

(5) Section 7 (1) of the Act of 1942 is hereby further amended by the substitution of the following paragraphs for paragraph (c):

5 “(c) provide that the Board shall defray the expenses of administering the scheme and managing the said fund including, where in its discretion it decides to defray the whole or any part of the fees and expenses referred to in paragraph (cc) of this subsection, the whole or such part of the said fees and expenses, and

10 (cc) provide that where the persons in whom as trustees the said fund is for the time being vested by regulations under section 8 of this Act employ the professional services of one or more persons to assist them in the management of the said fund, the fees and expenses payable to the said person or persons for rendering the said services shall, save to the extent that the Board decides to defray them, be defrayed by the first-mentioned persons out of moneys standing to the credit of the said fund, and”.

20 (6) Section 8 (2) of the Act of 1942 is hereby amended by the deletion in paragraph (b) (inserted by the Electricity (Supply) (Amendment) Act, 1982) of “, with the approval of the Minister for Finance,” and the said paragraph (b), as so amended, is set out in paragraph 2 of the Table to this section.

TABLE

25 1. (b) provide (save as otherwise provided by this section) that every person entitled to superannuation benefits under the scheme shall pay contributions to the said fund and that the Board shall from time to time make to the said fund such payments as are determined by the actuary to the scheme, and

2. (b) in such other manner as the trustees think proper;

30 **21.**—Section 2 of the Electricity (Supply) (Amendment) Act, 1988, is hereby amended by the substitution in subsection (6) for “consent of the Minister and the Minister for Finance given” of “prior written consent of the Minister given with the approval of the Minister for Finance and”, and the said subsection (6), as so amended, is set out in the Table to this section. Amendment of section 2 (6) of Electricity (Supply) (Amendment) Act, 1988.

TABLE

35 (6) The exercise by the Board of any power conferred by this section shall be subject to the prior written consent of the Minister given with the approval of the Minister for Finance and after consultation with any other Minister of the Government who, in the opinion of the Minister, having regard to the functions of that Minister of the Government, ought to be consulted.

40 **22.**—(1) In this section “the Board” means the Electricity Supply Board.

(2) Whenever the Minister—

45 (a) carries out or causes to be carried out a review of the provision and regulation of electricity supply services in the State (including a review of the efficiency and cost-effectiveness of the performance by the Board of its functions), or

50 (b) participates in a review which is carried out by the Board or another person of the efficiency and cost-effectiveness of the performance by the Board of its functions,

Review of the provision and regulation of electricity supply services in the State.

the Minister may require the Board to pay to him or her, in such manner as he or she may determine, such sum as he or she specifies to be the sum that will defray the costs incurred by him or her in—

- (i) carrying out or causing to be carried out the review concerned referred to in *paragraph (a)*, or 5
- (ii) participating in the review concerned referred to in *paragraph (b)*,

and the Board shall comply with such a requirement.

(3) The payment of a sum referred to in *subsection (2)* shall be regarded as an outgoing properly chargeable to the income of the Board for the purposes of section 21 of the Electricity (Supply) Act, 1927. 10

(4) This section shall be deemed to have come into operation on the 16th day of November, 1993.

Amendment of section 31 of Turf Development Act, 1946.

23.—Section 31 of the Turf Development Act, 1946, is hereby amended by the deletion in subsection (4) of “in the City of Dublin”, and the said subsection (4), as so amended, is set out in the Table to this section. 15

TABLE

(4) The maps, plans and books of reference required by this section to be deposited by the Board shall be deposited at the head office of the Board and at such other places as shall be prescribed and shall remain so deposited for such period as may be prescribed and shall, while so deposited, be open to inspection by any person, free of charge, between the hours of ten o'clock in the morning and four o'clock in the afternoon on every day except Saturdays, Sundays, and bank holidays. 20 25

Amendment of section 2 (6) of Turf Development Act, 1990.

24.—Section 2 of the Turf Development Act, 1990, is hereby amended by the substitution in subsection (6) for “consent of the Minister and the Minister for Finance given” of “prior written consent of the Minister given with the approval of the Minister for Finance and”, and the said subsection (6), as so amended, is set out in the Table to this section. 30

TABLE

(6) The exercise by the Board of any power conferred by this section shall be subject to the prior written consent of the Minister given with the approval of the Minister for Finance and after consultation with any other Minister of the Government who, in the opinion of the Minister, having regard to the functions of that Minister of the Government, ought to be consulted. 35

Provision of moneys to Bord na Móna to enable the repayment by it of debts.

25.—(1) In this section “the Board” means Bord na Móna.

(2) (a) The Minister for Finance shall cause to be kept in the joint names of himself or herself and the Minister an account with the Paymaster General for the purposes of this section and such an account is referred to in this section as “the special account”. 40

(b) The special account shall be operated subject to such terms and conditions as the Minister for Finance, after consultation with the Minister, may determine. 45

(3) The Minister for Finance may from time to time pay out of the special account such sums of money to the Board as he or she considers appropriate for the purpose of enabling the Board to—

- (a) repay the principal of any money borrowed by it,
- 5 (b) pay any instalments or other amounts of money owed by it under a contract entered into by it,
- (c) pay interest on any money, instalment or amount referred to in *paragraph (a) or (b)*, and
- 10 (d) pay any commission or incidental expenses arising in connection with the borrowing by it of any money or the entry by it into any contract,

and any sums of money paid to the Board under this section shall be used by it for the said purposes and for no other purpose.

- 15 (4) (a) Any moneys paid to the Board under *subsection (3)* shall not be required to be repaid by it to the Minister for Finance.

- (b) Notwithstanding the provisions of any enactment, the receipt by the Board of any moneys under *subsection (3)* shall not give rise to any charge to, or liability on the part of the Board for, tax of whatsoever kind.
- 20

- (5) (a) Whenever and so often as the Minister for Finance gives a direction in that behalf there shall be paid out of the Central Fund or the growing produce thereof into the special account such sums of money as are specified in the direction for the purpose of enabling the payment under *subsection (3)*, at any subsequent date, of moneys from that account to the Board.
- 25

- (b) Any moneys standing to the credit of the special account may, where the Minister for Finance gives a direction in that behalf, be paid into, or, in such manner as is specified in the direction, disposed of for the benefit of, the Exchequer.
- 30

- (6) The total of the sums of money that may be paid out of the special account to the Board under this section shall not exceed £100 million.
- 35

26.—Section 7 of the Radiological Protection Act, 1991, is hereby amended by the substitution of the following subsection for subsection (2):

Amendment of section 7 of Radiological Protection Act, 1991.

- “(2) Without prejudice to the European Communities (Ionising Radiation) Regulations, 1991 (S.I. No. 43 of 1991), the functions of the Institute, in relation to the use of a radioactive substance, nuclear device or irradiating apparatus as a prophylactic, diagnostic or therapeutic agent for the purpose of the prevention, diagnosis or treatment of any human ailment, infirmity, injury or defect, shall relate to—
- 40
- 45

- (a) the supervision and care of the radioactive substance, nuclear device or irradiating apparatus concerned, and

(b) ensuring that the said substance, device or apparatus is properly calibrated and maintained so as—

(i) to reduce to a minimum the effects of such substance, device or apparatus on property and persons other than a patient receiving a particular medical or dental application, or 5

(ii) to enable a medical or dental practitioner to achieve the maximum degree of accuracy and safety where the said substance, device or apparatus is used for the benefit of an individual patient.”. 10

Saving as respects the provisions of the Foreshore Acts, 1933 and 1992.

27.—Nothing in the *Gas Acts, 1976 to 1995*, or the *Petroleum and Other Minerals Development Acts, 1960 and 1995*, shall prejudice the provisions of the Foreshore Acts, 1933 and 1992.

Repeals, revocation and saving.

28.—(1) The enactments mentioned in *column (2)* of the *Schedule* to this Act are hereby repealed to the extent specified in *column (3)* of that Schedule. 15

(2) The Gas Act, 1976 (Section 9) (Establishment of Subsidiaries) Order, 1990 (S.I. No. 178 of 1991), is hereby revoked.

(3) Notwithstanding the repeal of provisions of the Turf Development Act, 1981, by this section, any thing commenced but not completed before the passing of this Act by the Minister, the Minister for Finance or Bord na Móna under any of those provisions may be carried on and completed after the passing of this Act by the Minister, the Minister for Finance or Bord na Móna, as the case may be, as if the provision concerned had not been repealed. 20 25

Expenses.

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

Short title, construction and collective citation.

30.—(1) This Act may be cited as the Energy (Miscellaneous Provisions) Act, 1995. 30

(2) The Gas Acts, 1976 to 1993, and, in so far as it amends those Acts, this Act shall be construed together as one and may be cited together as the Gas Acts, 1976 to 1995.

(3) The Continental Shelf Acts, 1968 and 1987, and, in so far as it amends those Acts, this Act may be cited together as the Continental Shelf Acts, 1968 to 1995. 35

(4) The Safety, Health and Welfare (Offshore Installations) Act, 1987, and, in so far as it amends that Act, this Act may be cited together as the Safety, Health and Welfare (Offshore Installations) Acts, 1987 and 1995. 40

(5) The Sea Pollution Act, 1991, and, in so far as it amends that Act, this Act may be cited together as the Sea Pollution Acts, 1991 and 1995.

- (6) The Act of 1960 and, in so far as it amends that Act, this Act shall be construed together as one and may be cited together as the Petroleum and Other Minerals Development Acts, 1960 and 1995.
- 5 (7) The Fuels (Control of Supplies) Acts, 1971 and 1982, and, in so far as it amends those Acts, this Act shall be construed together as one and may be cited together as the Fuels (Control of Supplies) Acts, 1971 to 1995.
- 10 (8) The Electricity Supply Acts, 1927 to 1988, and, in so far as it amends those Acts, this Act shall be construed together as one and may be cited together as the Electricity Supply Acts, 1927 to 1995.
- (9) The Turf Development Acts, 1946 to 1990, and, in so far as it amends those Acts, this Act shall be construed together as one and may be cited together as the Turf Development Acts, 1946 to 1995.
- 15 (10) The Radiological Protection Act, 1991, and, in so far as it amends that Act, this Act may be cited together as the Radiological Protection Acts, 1991 and 1995.

SCHEDULE

Section 28.

ENACTMENTS REPEALED

20	Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
	6 & 7 Geo. 5, c. 50	Larceny Act, 1916	Section 10
25	No. 19 of 1930	Electricity (Supply) (Amendment) Act, 1930	Section 11
	No. 17 of 1942	Electricity Supply Board (Superannuation) Act, 1942	Paragraphs (d) and (g) of section 7 (1) and subsections (2) and (3) of section 7
30	No. 27 of 1942	Electricity (Supply) (Amendment) Act, 1942	Sections 4 and 6
	No. 14 of 1968	Continental Shelf Act, 1968	Section 11
	No. 20 of 1981	Turf Development Act, 1981	The whole Act (other than sections 13 and 14)

BILLE

dá ngairtear

Acht do dhéanamh socrú breise i ndáil le táirgeadh, soláthar, díol, traiseoladh, dáileadh agus úsáid cineálacha áirithe fuinnimh agus le nithe a bhaineann leis na gníomhaíochtaí sin (lena n-áirítear taiscéaladh agus saothrú na Scairbhe Ilchríochaí, cumhachtaí agus dualgais comhlachtaí áirithe a ghabhann do na gníomhaíochtaí sin agus nithe a fhearann ar fhoireann na gcomhlachtaí sin), do leasú an dlí i ndáil le leictreachas agus gás a ghoid agus, chun na gcríoch réamhráite, do leasú na nAchtanna um an Scairbh Ilchríochach, 1968 agus 1987, na nAchtanna Gáis, 1976 go 1993, na nAchtanna Leictreachais (Soláthar), 1927 go 1988, agus achtachán áirithe eile agus do dhéanamh socrú i dtaobh nithe a bhaineann leis na nithe réamhráite.

*Ritheadh ag dhá Theach an Oireachtais,
20 Nollaig, 1995*

BILL

entitled

An Act to make further provision in relation to the production, supply, sale, transmission, distribution and use of certain forms of energy and matters incidental to those activities (including the exploration and exploitation of the Continental Shelf, the powers and duties of certain bodies engaged in those activities and matters affecting the staff of such bodies), to amend the law relating to the theft of electricity and gas, and, for the purposes aforesaid, to amend the Continental Shelf Acts, 1968 and 1987, the Gas Acts, 1976 to 1993, the Electricity (Supply) Acts, 1927 to 1988, and certain other enactments and to provide for matters connected with the matters aforesaid.

*Passed by both Houses of the Oireachtas,
20th December, 1995*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhiolta Foilseachán Rialtais, Teach Sun Alliance, Sráid Theach Laighean,
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