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*Number 12 of 1933*

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**FORESHORE ACT 1933**

**REVISED**

**Updated to 11 December 2014**

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This Revised Act is an administrative consolidation of the *Foreshore Act 1933*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Civil Registration (Amendment) Act 2014* (34/2014), enacted 4 December 2014, and all statutory instruments up to and including *European Union (Control of Avian Influenza) Regulations 2006 (Amendment) (No. 2) Regulations 2014* (S.I. No. 570 of 2014), made 11 December 2014, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to [revisedacts@lawreform.ie](mailto:revisedacts@lawreform.ie).





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Number 12 of 1933

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**FORESHORE ACT 1933**

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**Updated to 11 December 2014**

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**Introduction**

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was first passed.

**Related legislation**

***Foreshore Acts 1933 to 2014:*** This Act is one of a group of Acts included in this collective citation, to be construed together as one (*Local Government Reform Act 2014*, s. 1(13)). The Acts in the group are:

- *Foreshore Act 1933* (12/1933)
- *Foreshore (Amendment) Act 1992* (17/1992)
- *Fisheries and Foreshore (Amendment) Act 1998* (54/1998), s. 5 and ss. 1 and 7 in so far as they relate to s. 5
- *Fisheries (Amendment) Act 2003* (21/2003), s. 32 and s. 2 in so far as it relates to s. 32
- *Maritime Safety Act 2005* (11/2005), Part 6
- *Foyle and Carlingford Fisheries Act 2007* (17/2007), s. 35
- *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), other than s. 1(3) and (5), Part 3 and sch. 2
- *Foreshore (Amendment) Act 2011* (11/2011)
- *Local Government Reform Act 2014* (1/2014), s. 1(13), amendments to *Foreshore (Amendment) Act 1992* provided for in s. 5(6) and sch. 2 part 6

**Annotations**

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at [www.lawreform.ie/annotations](http://www.lawreform.ie/annotations).

**Material not updated in this revision**

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1999, may be found in the Legislation Directory at [www.irishstatutebook.ie](http://www.irishstatutebook.ie).

#### **Acts which affect or previously affected this revision**

- *Water Services (No. 2) Act 2013* (50/2013)
- *Environment (Miscellaneous Provisions) Act 2011* (20/2011)
- *Foreshore (Amendment) Act 2011* (11/2011)
- *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009)
- *Foyle and Carlingford Fisheries Act 2007* (17/2007)
- *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006)
- *Maritime Safety Act 2005* (11/2005)
- *Fisheries (Amendment) Act 2003* (21/2003)
- *Planning and Development Act 2000* (30/2000)
- *Fisheries and Foreshore (Amendment) Act 1998* (54/1998)
- *Fisheries (Amendment) Act 1997* (23/1997)
- *Waste Management Act 1996* (10/1996)
- *Foreshore (Amendment) Act 1992* (17/1992)
- *Minerals Development Act 1940* (31/1940)

All Acts up to and including *Civil Registration (Amendment) Act 2014* (34/2014), enacted 4 December 2014, were considered in the preparation of this revision.

#### **Statutory instruments which affect or previously affected this revision**

- *European Union (Environmental Impact Assessment and Appropriate Assessment) (Foreshore) Regulations 2014* (S.I. No. 544 of 2014)
- *European Union (Access to Review of Decisions for Certain Bodies or Organisations promoting Environmental Protection) Regulations 2014* (S.I. No. 352 of 2014)
- *European Union (Environmental Impact Assessment) (Foreshore) Regulations 2012* (S.I. No. 433 of 2012)
- *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011)
- *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011)
- *Foreshore Regulations 2011* (S.I. No. 353 of 2011)
- *European Communities (Public Participation) Regulations 2010* (S.I. No. 352 of 2010)
- *European Communities (Foreshore) Regulations 2009* (S.I. No. 404 of 2009)
- *European Communities Environmental Objectives (Surface Waters) Regulations 2009* (S.I. No. 272 of 2009)
- *Sea Fisheries, Foreshore and Dumping at Sea (Transfer of Departmental Administration and Ministerial Functions) Order 2007* (S.I. No. 707 of 2007)
- *Waste Water Discharge (Authorisation) Regulations 2007* (S.I. No. 684 of 2007)
- *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999* (S.I. No. 93 of 1999)
- *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1998* (S.I. No. 351 of 1998)
- *European Communities (Natural Habitats) Regulations 1997* (S.I. No. 94 of 1997)
- *Foreshore (Environmental Impact Assessment) Regulations 1990* (S.I. No. 220 of 1990)
- *European Communities (Environmental Impact Assessment) Regulations 1989* (S.I. No. 349 of 1989)
- *Communications (Transfer of Departmental Administration and Ministerial Functions) Order 1987* (S.I. No. 91 of 1987)
- *Transport, Fuel and Power (Transfer of Departmental Administration and Ministerial Functions) Order 1959* (S.I. No. 125 of 1959)
- *Foreshore Act 1933 Prohibitory Order (No. 2) 1950* (S.I. No. 175 of 1950)
- *Foreshore Act 1933 Prohibitory Order (No. 1) 1950* (S.I. No. 116 of 1950)

All statutory instruments up to and including *European Union (Control of Avian Influenza) Regulations 2006 (Amendment) (No. 2) Regulations 2014* (S.I. No. 570 of 2014), made 11 December 2014, were considered in the preparation of this revision.





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*Number 12 of 1933*

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**FORESHORE ACT 1933**

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**Updated to 11 December 2014**

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ARRANGEMENT OF SECTIONS

Section

1. Definitions.
- 1A. Outer limit of foreshore.
- 1B. Meaning assigned to 'appropriate Minister' in Foreshore Acts 1933 to 2009.
- 1C. References to foreshore in Foreshore Acts 1933 to 2009.
- 1D.
2. Power for Minister to make leases of foreshore.
3. Power for Minister to grant licences of foreshore.
- 3A. Provisions relating to certain leases, licences, etc.
- 3B. Provisions relating to certain applications for lease, licence or consent.
- 3C. Provisions relating to certain aquaculture licences.
4. Surrenders, releases and waivers in respect of leases and licences.
5. Power for Minister to acquire foreshore, etc.
6. Order prohibiting removal of beach material from seashore.
7. Notice prohibiting removal of beach material from foreshore.
8. Regulations in respect of the public use of foreshore.
9. Authorisation by Minister of sea defence works.
10. Erection of structures on foreshore.
11. Removal of dilapidated structures from foreshore.
12. Structures unlawfully erected on State foreshore.
13. Prohibition of deposit of material on foreshore.
- 13A. Environmental impact assessment of certain proposals relating to the foreshore.
- 13B.
14. Prohibition of deposit of noxious articles.

## Section

- 15. Evidence of title to foreshore.
- 16. Jurisdiction of the Circuit Court.
- 16A. Provisions with respect to certain court proceedings.
- 17. Notice to Minister of certain sales, etc., of foreshore.
- 18. Public inquiries.
- 18A. Regulations relating to the submission of observations by certain bodies.
- 19. Notice of proposal or application for order, lease, or licence.
- 19A. Procedure in regard to certain relevant applications.
- 19B. Minister to have regard to certain matters in considering certain relevant applications.
- 19C. Consultation with other Member States of European Communities.
- 20. Laying of annual statement before the Oireachtas.
- 21. Publication of orders under this Act.
- 21A. Publication of notice of Minister's decision in relation to certain relevant applications.
- 21B.
- 22. Financial provisions.
- 23. Recovery of expenses of making orders.
- 24. Exclusion of application of certain Acts.
- 25. Repeals.
- 26. Short title.

## SCHEDULE

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ACTS REFERRED TO

State Lands Act, 1924

No. 45 of 1924

Mines and Minerals Act, 1931

No. 54 of 1931





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**FORESHORE ACT 1933**

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AN ACT TO MAKE PROVISION FOR THE GRANTING OF LEASES AND LICENCES IN RESPECT OF FORESHORE BELONGING TO SAORSTÁT EIREANN AND TO AMEND GENERALLY THE LAW RELATING TO FORESHORE AND THE SEASHORE. [30th June, 1933.]

BE IT ENACTED BY THE OIREACHTAS OF SAORSTÁT EIREANN AS FOLLOWS:—

**Annotations**

**Modifications (not altering text):**

- C1** Application of collectively cited *Foreshore Acts 1933 to 2011* affected (21.09.2011) by *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), regs. 42(22), 63(2) and sch. 2, in effect as per reg. 1(3).

*Screening for Appropriate Assessment and Appropriate Assessment of implications for European Sites*

42. ...

(22) Notwithstanding any provision of any statute listed in the *Second Schedule* that provides for the consent for a plan or project to which this Regulation applies to be obtained by default on the failure of the public authority to provide a response within a specified timescale or otherwise, that provision shall not have effect in respect of any plan or project to which this Regulation applies.

...

*General provisions regarding licences etc*

63. ...

(2) A licence, consent, permission, permit, derogation or other authorisation given under these Regulations or under any of the enactments referred to in the *Second Schedule* may include conditions requiring compliance with any guideline or code of practice issued under *Regulation 71* or such provisions thereof as may be specified in the conditions.

...

**SECOND SCHEDULE**

Number	Year	Short Title/Citation
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...	...	...
...	...	Foreshore Acts 1933 to 2011
...	...	...

- C2** Certain functions in relation to collectively cited *Foreshore Acts 1933 to 2009* transferred (7.07.2011) by *Foreshore (Amendment) Act 2011* (11/2011), s. 1, commenced on enactment, subject to transitional provisions in other sections of Act.

**Transfer and vesting of certain foreshore functions.**

1.— (1) Except as provided for by *subsection (2)*, the functions, immediately before the passing of this Act, of the Minister for Agriculture, Fisheries and Food under the Foreshore Acts 1933 to 2009 are, on such passing, transferred to the Minister for the Environment, Community and Local Government and this subsection has effect for the purpose of vesting in the Minister for the Environment, Community and Local Government the functions so transferred.

(2) The following functions of the Minister for Agriculture, Fisheries and Food under the Foreshore Acts 1933 to 2009 remain with and continue to be functions of that Minister:

- (a) any function in relation to a fishery harbour centre,
- (b) any function in respect of—
  - (i) an activity which is wholly or primarily for the use, development or support of aquaculture, or
  - (ii) an activity which is wholly or primarily for the use, development or support of sea-fishing including the processing and sale of sea-fish and manufacture of products derived from sea-fish.

(3) The administration and business in connection with the performance of any functions transferred to the Minister for the Environment, Community and Local Government from the Minister for Agriculture, Fisheries and Food by *subsection (1)* are, on the passing of this Act, transferred to the Department of the Environment, Community and Local Government.

- C3** Certain functions under collectively cited *Foreshore Acts 1933 to 2005* transferred (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 3, commenced as per s. 1(4).

**Transfer and vesting of certain foreshore functions.**

3.— (1) Such of the functions, immediately before the commencement date, of the Minister for Agriculture, Fisheries and Food under the Foreshore Acts 1933 to 2005 to which this Part and *Schedule 1* relate are, on that date, transferred to the Minister for the Environment, Heritage and Local Government in accordance with and to the extent provided for by this Part and that Schedule and those provisions have effect for the purpose of vesting in the Minister for the Environment, Heritage and Local Government the functions so transferred.

(2) The administration and business in connection with the performance of any functions transferred to the Minister for the Environment, Heritage and Local Government from the Minister for Agriculture, Fisheries and Food by *subsection (1)* are, on the commencement date, transferred to the Department of the Environment, Heritage and Local Government.

- C4** Provision for additional foreshore functions to be vested in the Minister for the Environment, Heritage and Local Government made (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 4, commenced as per s. 1(4).

**Vesting of additional foreshore functions in Minister for the Environment, Heritage and Local Government, etc.**

4.— (1) The functions of the Minister for the Environment, Heritage and Local Government and the Minister for Agriculture, Fisheries and Food under the *Foreshore Acts 1933 to 2009* and to which section 1B (inserted by *section 6*) of the Act of 1933 relates may be vested in the same

Minister of the Government pursuant to an order under section 6(1) of the Ministers and Secretaries (Amendment) Act 1939.

(2) In relation to the functions of the Minister for the Environment, Heritage and Local Government under the *Foreshore Acts 1933 to 2009*, any function vested in another Minister of the Government by or under any provision of any other Act, where that function relates or corresponds to functions of the Minister for the Environment, Heritage and Local Government under the *Foreshore Acts 1933 to 2009*, may be transferred under section 6(1) of the Ministers and Secretaries (Amendment) Act 1939 to the Minister for the Environment, Heritage and Local Government and, for that purpose, such order may also—

- (a) in respect of provisions containing the function which so relates or corresponds, transfer to any Minister of the Government some or all of the function which does not so relate or correspond,
- (b) transfer the functions concerned to the Minister for the Environment, Heritage and Local Government notwithstanding any requirement relating to the consent or approval of or consultation with that Minister would be required as part of the exercise by that other Minister of the function concerned before such transfer,
- (c) transfer to the Department of State concerned the administration and business in connection with the exercise, performance or execution of any functions transferred by section 6(1) of the Ministers and Secretaries (Amendment) Act 1939 and to which *paragraph (a) or (b)* relate.

- C5** Application of collectively cited *Foreshore Acts 1933-1992* to be reviewed and subject to new conditions as provided (30.07.2009) by *European Communities Environmental Objectives (Surface Waters) Regulations 2009* (S.I. No. 272 of 2009), regs. 7, 9 and 11, in effect as per reg. 1(2).

*Emission controls and environmental quality standards*

7. Point source and diffuse source discharges liable to cause water pollution are prohibited except where subject to a system of prior authorisation or registration based on general binding rules. A public authority that authorises a discharge to waters shall lay down emission limits in the authorisation granted that satisfy the following requirements:

- (a) the emission limits shall establish the maximum concentration and the maximum quantity of a substance permissible in a discharge and shall aim to achieve the environmental objectives established in Part III of these Regulations including the environmental quality standards set out in Schedules 5 and 6 and any standards or objectives laid down for protected areas, and
- (b) discharges shall be controlled according to the combined approach whereby emission limits shall be established according to the stricter of the requirements which would result from the application of limits which aim to achieve the quality standards referred to in sub-paragraph (a) and, where relevant, the application of limits based on—
  - (i) emission controls based on best available techniques, or
  - (ii) relevant emission limit values, or
  - (iii) in the case of diffuse impacts controls including, as appropriate, best environmental practices set out in:
    - a specification prepared by the Agency in accordance with section 5 of the Environmental Protection Agency Act 1992 as amended by section 7 of the Protection of the Environment Act 2003 or
    - the Urban Waste Water Treatment Regulations 2001 (S.I. No. 254 of 2001) as amended by the Urban Waste Water Treatment (Amendment) Regulations 2004 (S.I. No. 440 of 2004) or any future amendment thereof or
    - the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2009 (S.I. No. 101 of 2009) or any future amendment thereof or
    - the Local Government (Water Pollution) Act, 1977 (Control of Cadmium Discharges) Regulations 1985 (S.I. No. 294 of 1985) or

- the Local Government (Water Pollution) Act, 1977 (Control of Hexachlorocyclohexane and Mercury Discharges) Regulations 1986 (S.I. No. 55 of 1986) or
- the Local Government (Water Pollution) Acts, 1977 and 1990 (Control of Carbon Tetrachloride, DDT and Pentachlorophenol Discharges) Regulations 1994 (S.I. No. 43 of 1994) or
- measures or controls identified in a pollution reduction plan for the river basin district prepared in accordance with Part V of these Regulations for the reduction of pollution by priority substances or the ceasing or phasing out of emissions, discharges and losses of priority hazardous substances.

...

9. Requirements under Article 7 shall apply to all new authorisations to discharge into surface waters and to reviews of existing authorisations, granted under the Dumping at Sea Acts 1996-2004, the Foreshore Acts 1933-1992, the Fisheries Acts 1959-2003, the Act of 1977, the Act of 1992, the Act of 1996 and Regulations made for such purpose under the Act of 1972, or any other enactment, from the date of coming into force of these Regulations.

...

#### *Review of existing authorisations*

11. (1) Notwithstanding any existing provisions of the Acts or Regulations referred to in Article 9, or any Regulation made to give effect to a requirement of the said Acts, a public authority shall as soon as may be practicable, but not later than 22 December 2012 and sooner if required or where directed by the Minister,

- (a) examine the terms of every authorisation or revised authorisation to which Article 9 applies and for the time being in force and determine whether, having regard to the requirements of Article 7 of these Regulations, the authorisation or revised authorisation requires to be reviewed for the purposes of compliance with the said Article, and
- (b) if the authorisation or revised authorisation requires to be so reviewed complete such a review by the required date, or
- (c) if the authorisation or revised authorisation does not require to be so reviewed and accordingly, that no further action is required, declare in writing that this is the case.

(2) A public authority shall from time to time carry out such further examination, and where necessary review, of authorisations as may be necessary to ensure compliance with the environmental objectives and quality standards established by these Regulations.

- C6** Application of Act restricted by *Planning and Development Act 2000* (30/2000), s. 228(5) as inserted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 45, S.I. No. 525 of 2006.

#### **Entering on foreshore for certain purposes.**

**228.** ...

(5) No licence shall be required under the Foreshore Act 1933 in respect of any such entry or any site investigations carried out in accordance with this section.

- C7** Application of collectively cited *Foreshore Acts 1933 to 2005* restricted (11.03.2002) by *Planning and Development Act 2000* (30/2000), s. 227(8), S.I. No. 599 of 2001, as substituted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 44(b), S.I. No. 525 of 2006.

#### **Acquisition of land etc. on foreshore.**

**227.—** ...

[(8) (a) Subject to paragraph (b), the Foreshore Acts 1933 to 2005 shall not apply in relation to any application to the Board under section 226, or matters to which subsection (5)(b) applies or a scheme submitted under section 49 of the Roads Act 1993.

(b) In any case where a local authority that is a planning authority applies for an approval for proposed development under section 226 or has been granted such an approval by the

Board, but has not sought the compulsory acquisition of any foreshore on which the proposed development would be carried out under an enactment specified in section 214, the authority may apply for a lease or licence under section 2 or 3 of the Foreshore Act 1933 in respect of that proposed development; in such cases, it shall not, notwithstanding the provisions of any other enactment, be necessary for—

- (i) the local authority to submit an environmental impact statement in connection with its application for such lease or licence, or
- (ii) the Minister for Communications, Marine and Natural Resources to consider the likely effects on the environment of the proposed development.]

...

- C8** Application of collectively cited *Foreshore Acts 1933 and 1992* extended to offences committed by officers of a body corporate (20.07.1992) by *Foreshore (Amendment) Act 1992* (17/1992), s. 8, commenced on enactment.

**Offences committed by body corporate.**

**8.—**(1) Where an offence under the *Foreshore Acts, 1933 and 1992*, has been committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* of this section shall apply in relation to the acts and defaults of a member in connection with the functions of management as if he were a director or manager of the body corporate.

- C9** Application of Act restricted (14.11.1940) by *Minerals Development Act 1940* (31/1940), s. 5, commenced on enactment.

**5.—**The following minerals and exclusive mining rights shall be State minerals for the purposes of this Act and the expression “State minerals” shall in this Act be construed accordingly, that is to say:— ...

- (d) notwithstanding anything contained in the Foreshore Act, 1933 (No. 12 of 1933), and without prejudice to the generality of paragraphs (a) and (b) of this section, any minerals lying on or under foreshore belonging to the State within the meaning of that Act, as adapted in consequence of the enactment of the Constitution;

...

**Editorial Notes:**

- E1** Provision for costs of certain proceedings under Act to be borne by each party in certain circumstances made (7.07.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), Part 2 (ss. 3-8), commenced on enactment. The 2011 Act, s. 8 provides for judicial notice to be taken of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus, Denmark on 25 June 1998.
- E2** Validity of certain documents, approvals and consents under Act continued (7.07.2011) by *Foreshore (Amendment) Act 2011* (11/2011), s. 6, commenced on enactment.
- E3** A summary offence under the collectively cited *Foreshore Acts 1933 to 2009* may be prosecuted under ss. 6, 7, 13 or 14 of the Act or s. 6 of the *Foreshore (Amendment) Act 1992* by the Minister for the Environment, Heritage and Local Government; under s. 8(2) of the Act by the appropriate Minister; or by a local authority in respect of any area of seashore which is in whole or in part within its functional area or contiguous thereto as provided (20.07.1992) by *Foreshore (Amendment) Act 1992* (17/1992), s. 7, commenced on enactment, as substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009) s. 19, commenced as per s. 1(4).

- E4** Provision for carrying forward of certain regulations and orders made prior to commencement of *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009) in relation to functions exercisable by the Minister for the Environment, Heritage and Local Government and other transitional provisions made (15.12.2009) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 23 and ss. 22-27, commenced as per s. 1(4).
- E5** Nothing in the *Gas Acts 1976 to 1995*, or the *Petroleum and Other Minerals Development Acts 1960 and 1995*, are to prejudice the provisions of the *Foreshore Acts 1933 and 1992* as provided (21.12.1995) by *Energy (Miscellaneous Provisions) Act 1995*, s. 35, commenced on enactment.
- E6** Previous affecting provision: functions in relation to collectively cited *Foreshore Acts 1933 to 2005* transferred and references to “Department of Communications, Marine and Natural Resources” and “Minister for Communications, Marine and Natural Resources” construed (19.10.2007) by *Sea Fisheries, Foreshore and Dumping at Sea (Transfer of Departmental Administration and Ministerial Functions) Order 2007* (S.I. No. 707 of 2007), arts. 2, 3 and sch. part 1, in effect as per art. 1.
- E7** Previous affecting provision: application of collectively cited *Foreshore Acts 1933 to 1992* restricted (26.02.1997) by *European Communities (Natural Habitats) Regulations 1997* (S.I. No. 94 of 1997), reg. 15(2); revoked (21.09.2011) by *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), reg. 73(1).
- E8** Previous affecting provision: functions in relation to Act transferred and references to “Department of Communications” and “Minister for Communications” construed (31.03.1987) by *Communications (Transfer of Departmental Administration and Ministerial Functions) Order 1987* (S.I. No. 91 of 1987), arts. 3, 4 and sch. part 1, in effect as per art. 1(2).
- E9** Previous affecting provision: functions in relation to Act transferred and references to “Department of Industry and Commerce” and “Minister for Industry and Commerce” construed (27.07.1959) by *Transport, Fuel and Power (Transfer of Departmental Administration and Ministerial Functions) Order 1959* (S.I. No. 125 of 1959), arts. 3, 4(1) and (4) and sch. 1 part 1 item 15.

## Definitions.

**1.—In this Act—**

F1[‘Act of 2000’ means the Planning and Development Act 2000 (No. 30 of 2000);]

F2[the expression ‘the Act of 2005’ means the Maritime Safety Act 2005;]

F1[‘Council Directive’ means Council Directive No. 2011/92/EU on the assessment of the effects of certain public and private projects on the environment;]

F1[‘environmental impact assessment’ means an assessment, to include an examination, analysis and evaluation, carried out by the appropriate Minister in accordance with this Act that shall identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of the Council Directive, the direct and indirect effects of a proposed development on the following:

- (a) human beings, flora and fauna,
- (b) soil, water, air, climate and the landscape,
- (c) material assets and the cultural heritage, and
- (d) the interaction between the factors mentioned in paragraphs (a), (b) and (c);

‘environmental impact statement’ means a statement of the direct and indirect effects which the proposed development will have or is likely to have on the environment and shall include the information specified in regulations prescribed under section 177 of the Act of 2000;]

F3[...]

the word “foreshore” means the bed and shore, below the line of high water of ordinary or medium tides, of the sea and of every tidal river and tidal estuary and

of every channel, creek, and bay of the sea or of any such river or estuary F4[and the outer limit of the foreshore shall be determined in accordance with section 1A of this Act ];

the expression “tidal lands” means the bed and shore, below the line of high water of ordinary spring tides, of the sea and of every tidal river and tidal estuary and of every channel, creek, and bay of the sea or of any such river or estuary;

the word “seashore” means the foreshore and every beach, bank, and cliff contiguous thereto and includes all sands and rocks contiguous to the foreshore;

the expression “beach material” means sand, clay, gravel, shingle, stones, rocks, and mineral substances on the surface of the seashore and includes outcrops of rock or any mineral substance above the surface of the seashore and also includes bent grass growing on the seashore and also seaweed whether growing or rooted on the seashore or deposited or washed up thereon by the action of tides, winds, and waves or any of them;

the expression “sea defence work” means any wall, pier, groyne, stakes, bank, or other work constructed for the purpose of protecting any land, building, or other structure from injury by the sea or the waves or tides thereof;

the word “lease” includes a letting for one year or for any period less than one year;

the word “term” includes a period of one year and any period less than one year;

F5[the word ‘aquaculture’ has the same meaning as it has for the purposes of the Fisheries (Amendment) Act 1997;

the word ‘development’ means the carrying out of any works on, in, over or under the foreshore or the making of any material change in the use of any structures on the foreshore;

the expression ‘fishery harbour centre’ means any area defined by an order for the time being in force under section 2 of the Fishery Harbour Centres Act 1968 and declared by such order to be a fishery harbour centre;

the word ‘harbour’ means—

(a) a harbour, functions in respect of which are conferred on a company (within the meaning of the Harbours Act 1996) by or under that Act, and

(b) the harbour of a harbour authority within the meaning of the Harbours Act 1946,

and references to ‘port’ shall be construed accordingly.]

#### Annotations

##### Amendments:

- F1** Inserted (31.10.2012) by *European Union (Environmental Impact Assessment) (Foreshore) Regulations 2012* (S.I. No. 433 of 2012), reg. 3.
- F2** Inserted (29.06.2005) by *Maritime Safety Act 2005* (11/2005), s. 60(a)(ii), commenced on enactment.
- F3** Deleted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 5(a), commenced as per s. 1(4).
- F4** Inserted (29.06.2005) by *Maritime Safety Act 2005* (11/2005), s. 60(a)(i), commenced on enactment.
- F5** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 5(b), commenced as per s. 1(4).

**Editorial Notes:**

- E10** Previous affecting provision: definition of “development” inserted (1.02.1990) by *European Communities (Environmental Impact Assessment) Regulations 1989* (S.I. No. 349 of 1989), art. 13(a), in effect as per art. 2(1); substituted as per F-Note above.

**F6**[Outer limit of foreshore.

**1A.**—(1) The outer limit of the foreshore is, and shall be deemed always to have been and to be, coterminous with the seaward limit of the territorial seas of the State as provided, from time to time, by Act of the Oireachtas.

(2) If immediately before 21 June 2005 any part of the foreshore, being foreshore as determinable before that date without reference to subsection (1) of this section, was not owned by the State by virtue of any grant, charter, purchase or other means, then nothing in subsection (1) of this section shall be construed so as to extend any person's interest in that part of the foreshore beyond the outer limit of that part of the foreshore as determined or determinable at the time of such grant, charter or purchase or the time ownership by other means arose.]

**Annotations****Amendments:**

- F6** Inserted (29.06.2005) by *Maritime Safety Act 2005* (11/2005), s. 60(b), commenced on enactment.

**F7**[Meaning assigned to ‘appropriate Minister’ in *Foreshore Acts 1933 to 2009*.

**F8**[**1B.**— In the *Foreshore Acts 1933 to 2011* ‘appropriate Minister’ means—

(a) in relation to a fishery harbour centre, the Minister for Agriculture, Fisheries and Food,

(b) in relation to a function in respect of—

(i) an activity which is wholly or primarily for the use, development or support of aquaculture, or

(ii) an activity which is wholly or primarily for the use, development or support of sea-fishing including the processing and sale of sea-fish and manufacture of products derived from sea-fish,

the Minister for Agriculture, Fisheries and Food,

(c) in relation to any other function exercisable under the *Foreshore Acts 1933 to 2011*, the Minister for the Environment, Community and Local Government.]]

**Annotations****Amendments:**

- F7** Inserted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(1), commenced as per s. 1(4).
- F8** Substituted (7.07.2011) by *Foreshore (Amendment) Act 2011* (11/2011), s. 2, commenced on enactment.

**F9**[References to foreshore in *Foreshore Acts 1933 to 2009*.

**1C.**— References in the *Foreshore Acts 1933 to 2009* to foreshore belonging to the State shall be construed as references to foreshore which for the time being belongs to the State, including foreshore so belonging whether by virtue of Article 10.2 of the Constitution or otherwise.]



**Annotations****Amendments:**

- F9** Inserted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(1), commenced as per s. 1(4).

**F10[1D.—**Subject to this Act, a word or expression that is used in this Act and that is also used in the Council Directive has, unless the context otherwise requires, the same meaning in this Act as it has in the Council Directive.]

**Annotations****Amendments:**

- F10** Inserted (31.10.2012) by *European Union (Environmental Impact Assessment) (Foreshore) Regulations 2012* (S.I. No. 433 of 2012), reg. 3(b).

Power for Minister to make leases of foreshore.

**2.—(1)—** If, in the opinion of the F11[appropriate Minister], it is in the public interest that a lease shall be made to any person of any foreshore belonging to F12[the State], F13[that Minister] may, subject to the provisions of this Act, demise by deed under his official seal such foreshore with the buildings and other structures (if any) thereon to such person by way of lease for such term, not exceeding ninety-nine years, commencing at or before the date of such lease, as F13[that Minister] shall think proper.

**F14[(1A)** Where the Minister for Agriculture, Fisheries and Food or the Minister for the Environment, Heritage and Local Government (being the appropriate Minister) is considering making a lease in accordance with this section, then the Minister so considering shall consult with the other Minister on the matter before deciding on whether or not to make the lease.]

(2) Every lease made under this section shall (unless the F15[appropriate Minister] is of opinion that such lease should in the public interest be made free of any payment) be made subject to the payment to F16[that Minister] of such moneys, whether by way of fine or other preliminary payment or by way of rent or other periodical payment or by way of royalty on material removed or by all or any of such ways, as F16[that Minister] shall think proper and shall agree upon with the person to whom such lease is made.

**F17[(3)** Notwithstanding anything contained in this section, no lease reserving a rent or other annual payment exceeding €63,250 a year shall be made under this section without the sanction of the Minister for Finance.]

(4) Every lease made under this section shall contain a power or proviso for re-entry on the breach, non-performance, or non-observance by the lessee of any covenant on the lessee's part (including a covenant for payment of rent, royalty, or other money), condition, or agreement contained therein.

(5) No lease made under this section shall contain any covenant or agreement for the renewal of such lease.

(6) Every lease under this section shall (subject to the provisions of this section) contain such covenants, conditions, and agreements as the F18[appropriate Minister] shall consider proper or desirable in the public interest and shall agree upon with the person to whom such lease is made.

(7) A lease made under this section may include all minerals on or in the demised foreshore to a depth of thirty feet from the surface of such foreshore, together with the right to get and take such minerals, but no such lease shall extend to or include any mines or minerals more than thirty feet below the surface of the demised foreshore.

(8) Whenever an application is made to the F19[appropriate Minister] for a lease under this section, F20[that Minister] may, if he thinks fit, hold a public inquiry in regard to the making of such lease.

#### Annotations

##### Amendments:

- F11** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 1, commenced as per s. 1(4).
- F12** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(b) and sch. 1 part 2 item 1, commenced as per s. 1(4).
- F13** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 2, commenced as per s. 1(4).
- F14** Inserted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 7(a), commenced as per s. 1(4).
- F15** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 3, commenced as per s. 1(4).
- F16** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 4, commenced as per s. 1(4).
- F17** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 7(b), commenced as per s. 1(4).
- F18** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 5, commenced as per s. 1(4).
- F19** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 6, commenced as per s. 1(4).
- F20** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 7, commenced as per s. 1(4).

##### Modifications (not altering text):

- C10** Functions transferred and references to “Department of Finance” and “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts 2, 3(a), 5 and sch. 1 part 2, in effect as per art. 1(2).
  - 2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.
  - (2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.
  - 3. The functions conferred on the Minister for Finance by or under the provisions of –
    - (a) the enactments specified in Schedule 1, and
    - ...
 are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

## Schedule 1

## Enactments

...

## Part 2

## 1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...
No. 12 of 1933	Foreshore Act 1933	Sections 2, 3, 5, 18 and 22(2)
...	...	...

- C11** Application of section made subject to requirement (30.06.1998) by *Fisheries (Amendment) Act 1997* (23/1997), s. 82, S.I. No. 203 of 1998.

**Application of Foreshore Acts, 1933 and 1992 to aquaculture.**

**82.**—The Minister, in considering an application for a lease or a licence under the Foreshore Acts, 1933 and 1992, which is sought in connection with the carrying on of aquaculture pursuant to an aquaculture licence, shall have regard to any decision of the licensing authority in relation to the aquaculture licence.

- C12** Term “minerals” construed for purpose of subs. (7) (14.11.1940) by *Minerals Development Act 1940* (31/1940), s. 82, commenced on enactment.

**Amendment of the Foreshore Act, 1933.**

**82.**—The Foreshore Act, 1933 (No. 12 of 1933) shall be construed and have effect as if the word “minerals”, where it occurs in sub-section (7) of section 2 and sub-section (1) of section 3 of that Act, included all minerals within the meaning of this Act other than scheduled minerals, mineral compounds, and mineral substances.

**Editorial Notes:**

- E11** Provision for costs of certain proceedings under section to be borne by each party in certain circumstances made (7.07.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), Part 2 (ss. 3-8), commenced on enactment. The 2011 Act, s. 8 provides for judicial notice to be taken of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus, Denmark on 25 June 1998.
- E12** Minister empowered, with the consent of Minister for Finance, to prescribe fees for an application for a lease or an amendment of any such lease under section (1.07.2003) by *Fisheries (Amendment) Act 2003* (21/2003), s. 32(1)(a) and (e), commenced on enactment, as amended (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 21, commenced as per s. 1(4).
- E13** Court granted power to prohibit continued breach of licence under section and impose penalties (20.07.1992) by *Foreshore (Amendment) Act 1992* (17/1992), ss. 5 and 6, commenced on enactment.

Power for Minister to grant licences of foreshore.

**3.**—(1) If, in the opinion of the F21[appropriate Minister], it is in the public interest that a licence should be granted to any person in respect of any foreshore belonging to F22[the State] authorising such person to place any material or to place or erect

any articles, things, structures, or works in or on such foreshore, F23[to remove any beach material from, or disturb any beach material in, such foreshore], to get and take any minerals in such foreshore and not more than thirty feet below the surface thereof, or to use or occupy such foreshore for any purpose, F24[that Minister] may, subject to the provisions of this Act, grant by deed under his official seal such licence to such person for such term not exceeding ninety-nine years commencing at or before the date of such licence, as F24[that Minister] shall think proper.

F25[(1A) ...]

F26[(1B) Where the Minister for Agriculture, Fisheries and Food or the Minister for the Environment, Heritage and Local Government is considering granting a licence under this section (being the appropriate Minister), then the Minister so considering shall consult with the other Minister on the matter before granting the licence.]

(2) Every licence granted under this section shall (unless the F27[appropriate Minister] is of opinion that such licence should in the public interest be granted free of any payment) be granted subject to the payment to F28[that Minister] of such moneys, whether by way of fine or other preliminary payment or by way of rent or other periodical payment or by way of royalty on material removed or by all or any of such ways, as F28[that Minister] shall think proper and shall agree upon with the person to whom such licence is granted.

(3) Where, in the opinion of the F29[appropriate Minister], a licence proposed to be granted under this section is, owing to its nature, duration, or otherwise, of a trivial character and should be granted without payment or subject to a nominal payment only, such licence may, notwithstanding anything contained in this section, be granted by way of permission in writing signed by F30[that Minister] or one of the principal officers of his Department.

F31[(4) Notwithstanding anything contained in this section, no licence requiring payment by the licensee of a rent or other annual payment exceeding €63,250 a year shall be granted under this section without the sanction of the Minister for Finance.]

(5) Every licence granted under this section shall contain a power to the F32[appropriate Minister] to terminate such licence on breach, non-performance, or non-observance by the licensee of any covenant on the licensee's part (including a covenant for payment of rent, royalty or other money), condition or agreement contained therein.

(6) No licence granted under this section shall contain any covenant or agreement for the renewal of such licence.

(7) Every licence granted under this section shall (subject to the provisions of this section) contain such covenants, conditions, and agreements as the F33[appropriate Minister] shall consider proper or desirable in the public interest and shall agree upon with the person to whom such licence is granted.

(8) No licence granted under this section shall extend to or authorise the removal of any minerals lying more than thirty feet below the surface of the foreshore to which such licence relates.

(9) Whenever an application is made to the F34[appropriate Minister] for the grant of a licence under this section, F35[that Minister] may, if he thinks fit, hold a public inquiry in regard to the granting of such licence.

#### Annotations

#### Amendments:

- F21** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 8, commenced as per s. 1(4).

- F22** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(b) and sch. 1 part 2 item 2, commenced as per s. 1(4).
- F23** Substituted (20.07.1992) by *Foreshore (Amendment) Act 1992* (17/1992), s. 2 subject to transitional provisions in s. 9, commenced on enactment.
- F24** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 9, commenced as per s. 1(4).
- F25** Inserted by *Foyle and Carlingford Fisheries Act 2007* (17/2007), s. 35, not commenced as of date of revision.
- F26** Inserted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 8(a), commenced as per s. 1(4).
- F27** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 11, commenced as per s. 1(4).
- F28** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 12, commenced as per s. 1(4).
- F29** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 13, commenced as per s. 1(4).
- F30** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 14, commenced as per s. 1(4).
- F31** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 8(b), commenced as per s. 1(4).
- F32** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 15, commenced as per s. 1(4).
- F33** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 16, commenced as per s. 1(4).
- F34** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 17, commenced as per s. 1(4).
- F35** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 18, commenced as per s. 1(4).
- F36** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 10, commenced as per s. 1(4).

**Modifications (not altering text):**

- C13** Prospective amending provision: subs. (1A) inserted by *Foyle and Carlingford Fisheries Act 2007* (17/2007), s. 35, (and amended (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 10, commenced as per s. 1(4)), not commenced as of date of revision.

**F25[(1A) (a)** Notwithstanding the provisions of subsection (1), where the **F36[Minister for Agriculture, Fisheries and Food]** grants a licence under that subsection (a ‘foreshore licence’) to the Commission, such licence may, if the terms and conditions of the foreshore licence so provide, permit a person holding a licence under Part VIA of the *Foyle Fisheries Act 1952* (an ‘aquaculture licence’) in respect of part or all of the area covered by the foreshore licence to do in the area specified in the aquaculture licence concerned any thing permitted by the aquaculture licence as specified in the foreshore licence as being permitted to be done by a person holding such an aquaculture licence, subject to such terms and conditions as may be contained in the foreshore licence.

**(b)** In this section ‘Commission’ means the body referred to in section 32 of the *British-Irish Agreement Act 1999*.]

**C14** Functions transferred and references to “Department of Finance” and “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts 2, 3(a), 5 and sch. 1 part 2, in effect as per art. 1(2).

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

...

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

#### Schedule 1

#### Enactments

...

#### Part 2

#### 1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...
No. 12 of 1933	Foreshore Act 1933	Sections 2, 3, 5, 18 and 22(2)
...	...	...

**C15** Application of section restricted (27.09.2007) by *Waste Water Discharge (Authorisation) Regulations 2007* (S.I. No. 684 of 2007), reg. 45, in effect as per reg. 1(2).

#### *Discharges requiring licensing under Foreshore Acts*

45. (1) Where the Agency has decided to grant an authorisation under Part VII and a foreshore licence has been granted under the Foreshore Act 1933 (No. 12 of 1933) in relation to the same discharge, any conditions attached to that foreshore licence shall, in so far as they are for the purpose of preventing environmental pollution, cease to have effect.

(2) The grant of a licence under the Foreshore Act 1933 in relation to any activity shall not prejudice, affect or restrict in any way the application of any provision of these Regulations to such an activity.

**C16** Application of section extended (30.06.1998) by *Fisheries (Amendment) Act 1997* (23/1997), s. 82, S.I. No. 203 of 1998.

#### **Application of Foreshore Acts, 1933 and 1992 to aquaculture.**

**82.**—The Minister, in considering an application for a lease or a licence under the Foreshore Acts, 1933 and 1992, which is sought in connection with the carrying on of aquaculture pursuant to an aquaculture licence, shall have regard to any decision of the licensing authority in relation to the aquaculture licence.

- C17** Application of section restricted (1.07.1996) by *Waste Management Act 1996* (10/1996), s. 40(6), S.I. No. 192 of 1996.

**Grant of waste licences.**

**40.—** ...

(6) (a) Where a waste licence is granted in relation to an activity, and a foreshore licence has been granted under the Foreshore Act, 1933, in relation to the same activity, any conditions attached to that foreshore licence shall, in so far as they are for the purpose of preventing environmental pollution, cease to have effect.

(b) The grant of a licence under the Foreshore Act, 1933, in relation to any activity shall not prejudice, affect or restrict in any way the application of any provision of this Act to such an activity.

...

- C18** Term “minerals” construed for purpose of subs. (1) (14.11.1940) by *Minerals Development Act 1940* (31/1940), s. 82, commenced on enactment.

**Amendment of the Foreshore Act, 1933.**

**82.—**The Foreshore Act, 1933 (No. 12 of 1933) shall be construed and have effect as if the word “minerals”, where it occurs in sub-section (7) of section 2 and sub-section (1) of section 3 of that Act, included all minerals within the meaning of this Act other than scheduled minerals, mineral compounds, and mineral substances.

**Editorial Notes:**

- E14** Provision made for any licence granted to a water services authority under section to continue in force for the unexpired period of the licence (1.01.2014) by *Water Services (No. 2) Act 2013* (50/2013), s. 17(1), S.I. No. 575 of 2013.
- E15** Provision made for an application for a licence under section not yet granted to be considered made to Irish Water (1.01.2014) by *Water Services (No. 2) Act 2013* (50/2013), s. 17(3), S.I. No. 575 of 2013.
- E16** Provision for costs of certain proceedings under section to be borne by each party in certain circumstances made (7.07.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), Part 2 (ss. 3-8), commenced on enactment. The 2011 Act, s. 8 provides for judicial notice to be taken of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus, Denmark on 25 June 1998.
- E17** Minister empowered, with the consent of Minister for Finance, to prescribe fees for an application for a licence or an amendment of any such licence under section (1.07.2003) by *Fisheries (Amendment) Act 2003* (21/2003), s. 32(1)(b) and (e), commenced on enactment as amended (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 21, commenced as per s. 1(4).

**F37**[Provisions relating to certain leases, licences, etc.

**3A.—**(1) Where a lease, licence or consent was granted by the Minister before the passing of Part 6 of the Act of 2005, that relates to or includes an area that, but for section 1A(1) of this Act, would not be foreshore, then the lease, licence or consent (including any terms and conditions) shall have effect by reference to the definition of ‘foreshore’ (as amended by Part 6 of the Act of 2005) in section 1 of this Act.

(2) Where—

(a) any measures were taken by the Minister before the passing of Part 6 of the Act of 2005, and

(b) those measures relate in whole or in part to an area that, but for section 1A(1) of this Act, would not form part of the foreshore,

then those measures shall have effect, and be deemed always to have had effect, by reference to the definition of ‘foreshore’ (as amended by Part 6 of the Act of 2005) in section 1 of this Act.

(3) If, because of any provision of subsection (1) or (2) of this section, that provision would conflict with the constitutional rights of any person, then that provision shall be subject to such limitations as are necessary to secure that it does not so conflict but shall otherwise be of full force and effect.]

F38[(4) In this section and section 3B ‘Minister’ has the same meaning as it had in this Act before the passing of Part 6 of the Act of 2005, and section 3C shall be construed accordingly.]

#### Annotations

#### Amendments:

**F37** Inserted (29.06.2005) by *Maritime Safety Act 2005* (11/2005), s. 60(c), commenced on enactment.

**F38** Inserted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 19, commenced as per s. 1(4).

**F39**[Provisions relating to certain applications for lease, licence or consent.

**3B.—**(1) Where before the passing of Part 6 of the Act of 2005—

- (a) an application was made to the Minister for a lease, licence or consent,
- (b) the application relates to or includes an area that, but for section 1A(1) of this Act, would not be foreshore, and
- (c) the application has not been finally determined before such passing,

then in determining the application account may be taken of the definition of ‘foreshore’ (as amended by Part 6 of the Act of 2005) in section 1 of this Act.

(2) If, because of any provision of subsection (1) of this section, that provision would conflict with the constitutional rights of any person, then that provision shall be subject to such limitations as are necessary to secure that it does not so conflict but shall otherwise be of full force and effect.]

#### Annotations

#### Amendments:

**F39** Inserted (29.06.2005) by *Maritime Safety Act 2005* (11/2005), s. 60(c), commenced on enactment.

**F40**[Provisions relating to certain aquaculture licences.

**3C.—**(1) Where a foreshore licence was deemed by—

- (a) section 75 of the Fisheries (Amendment) Act 1997, or
- (b) section 3 of the Fisheries and Foreshore (Amendment) Act 1998,

to be an aquaculture licence and that foreshore licence relates to or includes an area that, but for section 1A(1) of this Act, would not be foreshore, then the aquaculture licence shall have effect, and be deemed always to have had effect, by reference to the definition of ‘foreshore’ (as amended by Part 6 of the Act of 2005) in section 1 of this Act.

(2) Where before the passing of Part 6 of the Act of 2005—



(a) a foreshore licence was granted that relates in whole or in part to aquacultural purposes, and

(b) an aquaculture licence was granted in respect of those aquacultural purposes and those purposes relate to or include an area which, in whole or in part, would not be foreshore but for section 1A(1) of this Act,

then the aquaculture licence shall have effect, and be deemed always to have had effect, by reference to the definition of 'foreshore' (as amended by Part 6 of the Act of 2005) in section 1 of this Act.

(3) If, because of any provision of subsection (1) or (2) of this subsection, that provision would conflict with the constitutional rights of any person, then that provision shall be subject to such limitations as are necessary to secure that it does not so conflict but shall otherwise be of full force and effect.]

#### Annotations

#### Amendments:

**F40** Inserted (29.06.2005) by *Maritime Safety Act 2005* (11/2005), s. 60(c), commenced on enactment.

Surrenders, releases and waivers in respect of leases and licences.

**4.—**(1) The F41[appropriate Minister] may, if and whenever he thinks proper so to do, accept a surrender of any lease or licence of foreshore belonging to F42[the State] whether such lease or licence was made or granted under this Act or before the passing of this Act.

(2) The F43[appropriate Minister] may, if and whenever he thinks proper so to do, waive or release by deed under his official seal any covenant or condition contained in any lease or licence (whether made or granted under this Act or before the passing of this Act) of foreshore belonging to F44[the State], whether a breach of such covenant or condition has or has not taken place, and may also, if and whenever he thinks proper so to do, waive any breach (whether occasioning or not occasioning a forfeiture) of any covenant or condition contained in any such lease or licence.

(3) The F45[appropriate Minister] may accept a surrender, waive or release a covenant or condition, or waive a breach of covenant or condition under this section either, as he thinks proper, without consideration or for such consideration as he thinks proper.

#### Annotations

#### Amendments:

**F41** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 20, commenced as per s. 1(4).

**F42** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(b) and sch. 1 part 2 item 3, commenced as per s. 1(4).

**F43** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 21, commenced as per s. 1(4).

**F44** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(b) and sch. 1 part 2 item 4, commenced as per s. 1(4).

**F45** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 22, commenced as per s. 1(4).

Power for Minister to acquire foreshore, etc.

5.—The F46[**appropriate Minister**] may at any time at his discretion, but subject to the consent of the Minister for Finance, either—

- (a) purchase by agreement at such price and on such terms as he shall, with the consent aforesaid, think proper any foreshore, any easement, profit-a-prendre, or other right over any foreshore, or any right of wreck not belonging to F47[**the State**]; or
- (b) take by agreement a lease for such term, at such rent, and subject to such covenants and conditions as he shall, with the consent aforesaid, think proper of any foreshore, any easement, profit-a-prendre or other right over any foreshore, or any right of wreck not belonging to F47[**the State**].

#### Annotations

#### Amendments:

**F46** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 23, commenced as per s. 1(4).

**F47** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(b) and sch. 1 part 2 item 5, commenced as per s. 1(4).

#### Modifications (not altering text):

**C19** Functions transferred and references to “Department of Finance” and “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts 2, 3(a), 5 and sch. 1 part 2, in effect as per art. 1(2).

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of –

(a) the enactments specified in Schedule 1, and

...

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

#### Schedule 1

#### Enactments

...

#### Part 2

#### 1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...
No. 12 of 1933	Foreshore Act 1933	Sections 2, 3, 5, 18 and 22(2)

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...

Order prohibiting removal of beach material from seashore.

6.—(1) In this Act the expression “prohibitory order” means an order made, or deemed to have been made under this section F48[prohibiting the removal of beach material from, or disturbance of beach material in, an area of seashore].

F49[(2) Whenever the F50[Minister for the Environment, Heritage and Local Government] is of the opinion that, in relation to beach material or any kind or kinds of beach material—

(a) the removal, the unrestricted removal or the removal by specified means from, or

(b) the disturbance or the disturbance in one or more than one specified manner in,

any particular area, or class or classes of areas, of seashore—

(i) has affected or is likely to affect prejudicially any flora or fauna of such area or areas, as the case may be, of seashore or of any area in the neighbourhood thereof, or

(ii) has affected or is likely to affect prejudicially any amenities or public rights in respect of such area or areas, as the case may be, of seashore or any lands or water in the neighbourhood thereof, or

(iii) has caused or is likely to cause injury to any land or to any building, wall, pier or other structure,

the F50[Minister for the Environment, Heritage and Local Government] may prohibit by order any such removal or disturbance by any person of beach material either (as the case may require) of any kind or of the said particular kind or kinds from or in (as appropriate) the said area or classes of area of seashore.]

(3) The F51[Minister for the Environment, Heritage and Local Government] may by order at any time at his discretion, revoke or amend a prohibitory order.

(4) Whenever the F52[Minister for the Environment, Heritage and Local Government] has made or proposes to make, amend, or revoke a prohibitory order, F53[that Minister] may, if he thinks fit, hold a public inquiry in regard to the continuation, making, amendment, or revocation (as the case may be) of such order.

F54[(5) Every person who removes any beach material from, or disturbs any beach material in, any foreshore or seashore in contravention of a prohibitory order shall be guilty of an offence under this section and shall be liable—

(a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding six months, or to both,

(b) on conviction on indictment, to a fine not exceeding—

(i) £100,000, in the case of a first offence under this section, and

(ii) £200,000 in the case of a second or subsequent offence under this section,

or to imprisonment for a term not exceeding five years, or to both.]

(6) Every order made under section 14 of the Harbours Act, 1814, and in force at the passing of this Act shall continue in force notwithstanding the repeal of that

section by this Act, and every such order shall for all purposes be deemed to have been made under this section on the date on which it was actually made although such date is prior to the passing of this Act.

F55[(7) A prohibitory order shall not operate to prevent the granting under this Act of a licence to remove beach material from, or disturb beach material in, foreshore to which such order applies or to prevent such removal or disturbance under and in accordance with a licence granted (whether before or after the making of such order) under this Act.

(8) In this section—

‘fauna’ means all wild animals (both aquatic and terrestrial) and includes in particular wild birds, wild mammals, reptiles, non-aquatic invertebrate animals and amphibians, and all such wild animals’ eggs, larvae, pupae or other immature stage and young;

‘flora’ means all plants (both aquatic and terrestrial) which occur in the wild (whether within or outside the State) and are not trees, shrubs or other plants being grown in the course of agriculture, forestry or horticulture, and includes in particular lichens, mosses, liverworts, fungi, algae and vascular plants, namely flowering plants, ferns and fern-allied plants and any community of such plants.]

#### Annotations

##### Amendments:

- F48** Substituted (20.07.1992) by *Foreshore (Amendment) Act 1992* (17/1992), s. 3(a) subject to transitional provisions in s. 9, commenced on enactment.
- F49** Substituted (20.07.1992) by *Foreshore (Amendment) Act 1992* (17/1992), s. 3(b) subject to transitional provisions in s. 9, commenced on enactment.
- F50** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 24, commenced as per s. 1(4).
- F51** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 25, commenced as per s. 1(4).
- F52** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 26, commenced as per s. 1(4).
- F53** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 27, commenced as per s. 1(4).
- F54** Substituted (20.07.1992) by *Foreshore (Amendment) Act 1992* (17/1992), s. 3(c) subject to transitional provisions in s. 9, commenced on enactment.
- F55** Substituted (20.07.1992) by *Foreshore (Amendment) Act 1992* (17/1992), s. 3(d) subject to transitional provisions in s. 9, commenced on enactment.

##### Editorial Notes:

- E18** Court granted power to prohibit continued breach of order under section and impose penalties (20.07.1992) by *Foreshore (Amendment) Act 1992* (17/1992), ss. 5 and 6, commenced on enactment.
- E19** Power pursuant to section exercised (17.06.1950) by *Foreshore Act 1933, Prohibitory Order (No. 2) 1950* (S.I. No. 175 of 1950).
- E20** Power pursuant to section exercised (24.04.1950) by *Foreshore Act 1933, Prohibitory Order (No. 1) 1950* (S.I. No. 116 of 1950).

Notice prohibiting removal of beach material from foreshore.

F56[7.—(1) Whenever the F57[Minister for the Environment, Heritage and Local Government] is of the opinion that the removal of beach material from, or the disturbance of beach material in, any area of foreshore belonging to the State in respect of which no prohibitory order is in force should be restricted or controlled, F58[that Minister] may serve on any person a notice (in this Act referred to as a prohibitory notice) in writing prohibiting such person from—

(a) removing or removing by specified means, or

(b) disturbing or disturbing in one or more than one specified manner,

beach material of any kind or of any specified kind or kinds from or in (as appropriate) the said area of foreshore.

(2) It shall not be lawful for any person on whom a prohibitory notice has been served—

(a) to remove or disturb, or

(b) cause to be removed or disturbed,

otherwise than in accordance with a licence granted under this Act, any beach material to which such notice applies from or in (as appropriate) the area of foreshore to which such notice applies.

(3) Every person who removes any beach material from, or disturbs any beach material in, any foreshore in contravention of a prohibitory notice, or connives in such contravention, shall be guilty of an offence under this section and shall be liable—

(a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding six months, or to both,

(b) on conviction on indictment, to a fine not exceeding—

(i) £100,000 in the case of a first offence under this section, and

(ii) £200,000 in the case of a second or subsequent offence under this section,

or to imprisonment for a term not exceeding five years, or to both.]

#### Annotations

#### Amendments:

**F56** Substituted (20.07.1992) by *Foreshore (Amendment) Act 1992* (17/1992), s. 4 subject to transitional provisions in s. 9, commenced on enactment.

**F57** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 28, commenced as per s. 1(4).

**F58** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 29, commenced as per s. 1(4).

#### Editorial Notes:

**E21** Court granted power to prohibit continued breach of notice under section and impose penalties (20.07.1992) by *Foreshore (Amendment) Act 1992* (17/1992), ss. 5 and 6, commenced on enactment.

Regulations in respect of the public use of foreshore.

8.—(1) If and whenever the F59[appropriate Minister] is of opinion that the entry of the public on or the use by the public of any particular area of foreshore belonging to F60[the State] ought in the public interest to be prohibited, restricted, regulated, or controlled, either permanently or temporarily, F61[that Minister] may by order

make regulations prohibiting, restricting, regulating, or controlling in such manner, to such extent, and for such period, limited or unlimited, as F61[that Minister] shall think proper the entry of the public on or the use by the public of such area of foreshore either for any purpose or any specified purpose or purposes other than the purposes hereinafter excepted.

(2) Every person who shall do any act (whether of commission or omission) which is a breach of a regulation made under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds.

(3) Whenever the F62[appropriate Minister] has made or proposes to make a regulation under this section, F63[that Minister] may if he thinks fit hold a public inquiry in regard to the continuation or the making (as the case may be) of such regulation.

(4) Regulations made under this section shall not extend to or affect the use of any foreshore for the purpose of navigation or of fishing, nor the removal of beach material from any foreshore.

#### Annotations

##### Amendments:

- F59** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 30, commenced as per s. 1(4).
- F60** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(b) and sch. 1 part 2 item 6, commenced as per s. 1(4).
- F61** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 31, commenced as per s. 1(4).
- F62** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 32, commenced as per s. 1(4).
- F63** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 33, commenced as per s. 1(4).

Authorisation by Minister of sea defence works.

**9.—(1)** Any person desiring to erect on any seashore which is not owned by him and does not belong to F64[the State] any sea defence work may apply to the F65[Minister for the Environment, Heritage and Local Government] for authority to erect such work, and thereupon F66[that Minister], if he is satisfied that the erection of a sea defence work is necessary for the protection of the property of such person and that it is right and proper that such person should be empowered to erect such work, may by order authorise such person to erect on such seashore the sea defence work mentioned in his said application with such (if any) modifications as F66[that Minister] shall think proper to specify.

(2) The F67[Minister for the Environment, Heritage and Local Government] may insert in any order made by him under this section such conditions and restrictions (including conditions in relation to the assessment and payment of compensation) as he shall think proper.

(3) Whenever an application is made to the F68[Minister for the Environment, Heritage and Local Government] for an order under this section, F69[that Minister] may, if he thinks fit, hold a public inquiry in relation to the making of such order.

(4) An order under this section shall be expressed and shall operate to authorise the person named therein to enter on the seashore specified therein and to erect on such seashore a specified sea defence work, but subject to payment of compensation

for all damage done and subject to such conditions and restrictions as shall be specified in such order.

#### Annotations

##### Amendments:

- F64** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(b) and sch. 1 part 2 item 7, commenced as per s. 1(4).
- F65** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 34, commenced as per s. 1(4).
- F66** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 35, commenced as per s. 1(4).
- F67** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 36, commenced as per s. 1(4).
- F68** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 37, commenced as per s. 1(4).
- F69** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 38, commenced as per s. 1(4).

Erection of structures on foreshore.

**10.—(1)** No person shall erect on any tidal lands not belonging to F70[the State] any building, pier, wall, or other permanent structure otherwise than in accordance with maps, plans, and specifications approved of by the F71[appropriate Minister].

(2) The F72[appropriate Minister] shall not refuse to approve under this section of any maps, plans, and specifications on any ground save that a structure erected in accordance with such maps, plans, and specifications would be or would cause or be likely to cause (directly or indirectly) an obstruction to navigation or to fishing F73[or would have or be likely to have significant adverse effects on the environment].

(3) Whenever any structure is erected in contravention of this section and the F74[Minister for the Environment, Heritage and Local Government] is of opinion that such structure is or causes or is likely to cause (directly or indirectly) an obstruction to navigation or to fishing, F75[that Minister] may serve on the person by whom such structure was erected or, if such person is dead or (if a corporate body) is dissolved or if such person is not known or cannot be found, on any person in possession of such structure a notice in writing requiring such person to pull down and remove such structure within such time (not being less than one month) from the service of such notice as F75[that Minister] shall think proper and shall specify in such notice.

(4) Whenever a person on whom a notice has been served under the next preceding sub-section of this section fails to pull down and remove the structure to which such notice relates within the time specified in that behalf in such notice, the F76[Minister for the Environment, Heritage and Local Government] may (as the case may require) pull down and remove or complete the pulling down and removal of such structure or cause (as the case may require) such structure to be pulled down and removed or the pulling down and removal thereof to be completed and (in any case) shall be entitled to be paid by and to recover from the said person on whom the said notice was so served the costs and expenses of such pulling down and removal or completion (as the case may be) as a civil debt in any Court of competent jurisdiction.

**Annotations****Amendments:**

- F70** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(b) and sch. 1 part 2 item 8, commenced as per s. 1(4).
- F71** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 39, commenced as per s. 1(4).
- F72** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 40, commenced as per s. 1(4).
- F73** Inserted (1.02.1990) by *European Communities (Environmental Impact Assessment) Regulations 1989* (S.I. No. 349 of 1989), reg. 13(b), in effect as per reg. 2(1).
- F74** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 41, commenced as per s. 1(4).
- F75** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 42, commenced as per s. 1(4).
- F76** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 43, commenced as per s. 1(4).

**Editorial Notes:**

- E22** Minister empowered, with the consent of Minister for Finance, to prescribe fees for an application for an approval or an amendment of any such approval under section and to prescribe fees for an approval under section (1.07.2003) by *Fisheries (Amendment) Act 2003* (21/2003), s. 32(1)(c), (e) and (2)(a), commenced on enactment as amended (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 21, commenced as per s. 1(4).

Removal of dilapidated structures from foreshore.

**11.—**(1) Where any building, pier, wall, or other structure erected (whether before or after the passing of this Act) with or without lawful authority on any foreshore, whether belonging or not belonging to F77[the State], is out of repair or dilapidated and in the opinion of the F78[Minister for the Environment, Heritage and Local Government] is or causes or is likely to cause (directly or indirectly) an obstruction to navigation or to fishing F79[that Minister] may pull down and remove such structure or cause such structure to be pulled down and removed, and may for that purpose authorise any person to enter on such structure and the foreshore and the seashore adjacent thereto.

(2) The F80[Minister for the Environment, Heritage and Local Government] shall not under this section pull down or remove or cause to be pulled down and removed any structure of which the owner is known and can be found without serving on such owner a notice in writing requiring him either to repair or to pull down and remove such structure and giving him a reasonable opportunity so to do.

(3) Whenever the F81[Minister for the Environment, Heritage and Local Government] pulls down and removes or causes to be pulled down and removed any structure under this section, F82[that Minister] shall be entitled to be paid by and to recover from the owner of such structure the costs and expenses of such pulling down and removal as a civil debt in any Court of competent jurisdiction.



**Annotations****Amendments:**

- F77** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(b) and sch. 1 part 2 item 9, commenced as per s. 1(4).
- F78** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 44, commenced as per s. 1(4).
- F79** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 45, commenced as per s. 1(4).
- F80** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 46, commenced as per s. 1(4).
- F81** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 47, commenced as per s. 1(4).
- F82** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 48, commenced as per s. 1(4).

Structures unlaw-  
fully erected on  
State foreshore.

**12.—**(1) Where any building, pier, wall or other structure has been erected (whether before or after the passing of this Act) without lawful authority on foreshore belonging to F83[the State], the F84[judge of the District Court] having jurisdiction in the district in which such foreshore is situate may, on the application of the F85[Minister for the Environment, Heritage and Local Government], either (as the case may require)—

- (a) make an order requiring the person by whom such structure was erected or, where such person is dead or (if a corporate body) is dissolved or such person is not known or cannot be found, any person in possession of such structure, to pull down and remove such structure within a specified time, or
- (b) where F86[such judge] is satisfied that the person by whom such structure was erected is dead or (if a corporate body) is dissolved or is not known or cannot be found and that no person is in possession of such structure, make an order authorising the F87[Minister for the Environment, Heritage and Local Government] to pull down and remove such structure.

(2) The following provisions shall have effect in relation to the making and operation of an order under this section requiring a person (in this sub-section referred to as the defendant) to pull down and remove a structure, that is to say:—

- (a) such order shall not be made without notice to the defendant of the application for such order;
- (b) F88[...]
- (c) where such order has been made and the defendant does not pull down and remove such structure within the time specified in such order, the F89[Minister for the Environment, Heritage and Local Government] may pull down and remove such structure or cause such structure to be pulled down and removed and shall be entitled to be paid by and to recover from the defendant as a civil debt the costs and expenses of such pulling down and removal.

**Annotations****Amendments:**

- F83** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(b) and sch. 1 part 2 item 10, commenced as per s. 1(4).
- F84** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 9(a), commenced as per s. 1(4).
- F85** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 49, commenced as per s. 1(4).
- F86** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 9(b), commenced as per s. 1(4).
- F87** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 50, commenced as per s. 1(4).
- F88** Deleted (23.12.1998) by *Fisheries and Foreshore (Amendment) Act 1998* (54/1998), s. 5(1)(a), commenced on enactment.
- F89** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 51, commenced as per s. 1(4).

**Modifications (not altering text):**

- C20** Application of section extended (26.02.1998) by *Fisheries (Amendment) Act 1997* (23/1997), s. 67, S.I. No. 46 of 1998.

**Removal of unlawful aquaculture structures and equipment under Foreshore Act.**

**67.—**(1) Section 12 (other than subsection (2)(b)) of the Foreshore Act, 1933, shall, with the necessary modifications, extend and apply to and in relation to—

- (a) structures, articles or equipment used or capable of being used for aquaculture which, before or after the commencement of this section, have been erected or placed in position without lawful authority on foreshore belonging to the State, and
- (b) any such structure, article or equipment erected or placed in position on such foreshore for a purpose authorised by or in accordance with a condition of a licence or other permission under this Act, where its operation for that purpose has ceased to be so authorised.

(2) A person who fails to comply with an order under section 12(1)(a) of the Foreshore Act, 1933 as modified by *subsection (1)* of this section shall be guilty of an offence under this Act.

Prohibition of deposit of material on foreshore.

**13.—**(1) No person shall, without the consent of the F90[Minister for the Environment, Heritage and Local Government] or otherwise than in accordance with such consent, deposit or cause to be deposited any material whatsoever on any foreshore nor on any seashore or other place from which such material would by the operation of gravity, wind, water or other natural cause escape or be transported to such foreshore.

(2) Every person who deposits or causes to be deposited any material whatsoever on any foreshore, seashore, or other place in contravention of this section shall be guilty of an offence under this sub-section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

(3) Whenever a person is convicted of an offence under the next preceding subsection of this section, the Court by whom such person is so convicted may, if such Court so thinks proper, make an order requiring such person, within a specified time, to remove the material in respect of the deposit of which he was so convicted from the foreshore, seashore, or other place in which it was so deposited, and to remove

from such foreshore, seashore, or other place all other (if any) material deposited thereon by him in contravention of this section.

(4) If any person in respect of whom an order has been made under the next preceding sub-section of this section fails to comply with such order, such person shall be guilty of an offence under this sub-section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds together with a further fine not exceeding one pound for every day during which such failure is continued.

#### Annotations

#### Amendments:

- F90** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 52, commenced as per s. 1(4).

#### Modifications (not altering text):

- C21** Penalties for an offence under subs. (2) or (4) prescribed (23.12.1998) by *Fisheries and Foreshore (Amendment) Act 1998* (54/1998), s. 5(2), commenced on enactment.

#### Amendment of Act of 1933.

##### 5.— ...

(2) A person who is guilty of an offence under subsection (2) or (4) of section 13, or subsection (2) of section 14 of the Act of 1933 shall, in lieu of the penalties provided under each of those subsections, be liable—

- (a) on summary conviction, to a fine not exceeding £1,500, or to imprisonment for a term not exceeding 12 months, or to both, or
- (b) on conviction on indictment, to a fine not exceeding £100,000, or to imprisonment for a term not exceeding two years, or to both.

#### Editorial Notes:

- E23** Minister empowered, with the consent of Minister for Finance, to prescribe fees for an application for a consent or an amendment of any such consent under section and to prescribe fees for a consent under section (1.07.2003) by *Fisheries (Amendment) Act 2003* (21/2003), s. 32(1)(d), (e) and (2)(b), commenced on enactment as amended (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 21, commenced as per s. 1(4).

**F91**[Environmental impact assessment of certain proposals relating to the foreshore.

**13A.—F92**[(1)(a) The appropriate Minister shall, as part of his consideration of a relevant application, in accordance with paragraph (b), ensure that, before a decision on the application is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to an environmental impact assessment.

**F93**[(b)(i) An environmental impact assessment shall be carried out by the appropriate Minister in respect of a relevant application for consent where the proposed development would be of a class specified in—

- (I) Part 1 of Schedule 5 of the Planning and Development Regulations 2001, and either—
  - (A) such development would exceed any relevant quantity, area or other limit specified in that Part, or
  - (B) no quantity, area or other limit is specified in that Part in respect of the development concerned,

or

- (II) Part 2 of Schedule 5 of the Planning and Development Regulations 2001 and either—
  - (A) such development would exceed any relevant quantity, area or other limit specified in that Part, or
  - (B) no quantity, area or other limit is specified in that Part in respect of the development concerned.
- (ii) An environmental impact assessment shall be carried out by the appropriate Minister in respect of a proposed development where such development—
  - (I) would be of a class specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001 but does not exceed the relevant quantity, area or other limit specified in that Part, and
  - (II) the appropriate Minister determines that the proposed development would be likely to have significant effects on the environment.]
- (c) An environmental impact statement shall be submitted with all applications for consent in respect of development referred to in paragraph (b)(i) and shall also be submitted where the appropriate Minister determines that development referred to in paragraph (b)(ii) would be likely to have significant effects on the environment.
- (d) The appropriate Minister shall require the production by the applicant of any additional or supplemental information that he considers necessary to enable him to make an assessment as required under this section.
- (e) The appropriate Minister shall consider the content of the environmental impact statement (and any other material including maps or plans) submitted as part of the application and determine whether same adequately identifies, describes and assesses the direct and indirect effects on the environment of the proposed development.
- (f) If he considers that the environmental impact statement (and other material) is inadequate, then the appropriate Minister shall serve a notice (in this section referred to as 'a request for further information') which sets out the manner in which the information is inadequate and requires the applicant to submit further information to remedy those inadequacies.
- (2)(a) In carrying out his consideration and environmental impact assessment the appropriate Minister shall have regard to the following matters:
  - (i) the particulars submitted with the application for consent, including the environmental impact statement and any other material, including maps and plans,
  - (ii) any additional material submitted in response to a request for further information, if any, pursuant to paragraph (f) of subsection (1),
  - (iii) any submissions or observations made in relation to the effects on the environment of the proposed development, including those made by bodies referred to in section 19A(3) (as amended by section 13 of the Foreshore and Dumping at Sea (Amendment) Act 2009) or members of the public, and
  - (iv) the views, if any, furnished by other Member States of the European Communities pursuant to section 19C.
- (b) In the event that the appropriate Minister decides to grant consent for the relevant application, he may attach such conditions to the consent as he

considers necessary to avoid, reduce and, if possible, offset the major adverse effects (if any) of the proposed development.

- (c) In carrying out his consideration and environmental impact assessment, the appropriate Minister may have regard to, and adopt in whole or in part, any reports prepared by his officials or by consultants, experts or other advisors.
- (d) When a decision to grant or refuse consent for the relevant application has been taken, the appropriate Minister shall, without prejudice to section 21A, inform the applicant and the public thereof and shall make the following information available to the applicant and the public:
  - (i) the content of the decision and any conditions attached thereto,
  - (ii) his evaluation of the project's direct and indirect effects on the factors set out in paragraphs (a) to (c) of the definition of 'environmental impact assessment' and the interaction between those factors,
  - (iii) having examined the concerns and opinions expressed by the public concerned, the main reasons and considerations on which the decision is based and the main reasons and considerations for the attachment of any conditions,
  - (iv) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects,
  - (v) the reports referred to in paragraph (c),
  - (vi) information for the public on the procedures available to review the substantive and procedural legality of the decision.]

F94[(2A) Where a relevant application would involve the undertaking of development which would—

F95[(a) be of a class referred to in subsection (1)(b)(ii), and]

(b) be located on—

F96[(i) a European Site, meaning

- (I) a candidate site of Community importance,
- (II) a site of Community importance,
- (III) a candidate special area of conservation,
- (IV) a special area of conservation,
- (V) a candidate special protection area, or
- (VI) a special protection area]

(ii) F97[...]

(iii) F97[...]

(iv) F97[...]

(v) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act, 1976 (No. 39 of 1976),

(vi) land designated as a refuge for fauna under section 17 of the Wildlife Act, 1976, (No. 39 of 1976),

the F98[appropriate Minister] shall decide whether the said development would or would not be likely to have significant effects on the environment.

F95[(2B) The appropriate Minister shall, where he is deciding pursuant to this section whether a proposed development would or would not be likely to have significant effects on the environment, have regard to the criteria specified in Annex III to the Council Directive.]

(2C) Where the F99[appropriate Minister] makes a decision pursuant to subsection (2A) on whether a proposed development would or would not be likely to have significant effects on the environment, he shall make arrangements to make the said decision available for inspection by members of the public.]

(3) F100[...]

F101[(3A) (a) If a person, before submitting an environmental impact statement in accordance with a requirement of or under this section, so requests, the F102[appropriate Minister] shall, after consulting the person who made the request and such bodies as may be prescribed for that purpose, give a written opinion on the information to be contained in such statement.

(b) The giving of a written opinion in accordance with paragraph (a) of this subsection shall not prejudice the exercise by the F103[appropriate Minister] of his powers under this Act to require the person who made the request to furnish further information in relation to the effects on the environment of development proposed in the relevant application concerned.]

F104[(4) (a) The appropriate Minister may—

(i) where that Minister is satisfied that exceptional circumstances so warrant, and

(ii) where the appropriate Minister is the Minister for Agriculture, Fisheries and Food, after consultation with the Minister for the Environment, Heritage and Local Government,

exempt a relevant application or a proposed relevant application from the requirement of subsection (1) of this section.

(b) The appropriate Minister shall, in granting an exemption under paragraph (a) of this subsection—

(i) consider whether the effects, if any, of the proposed development on the environment should be assessed in some other manner, and

(ii) make available to the public—

(I) the information obtained in any assessment carried out under subparagraph (i),

(II) the information relating to any decision to exempt a relevant application under paragraph (a), and

(III) the reasons for the decision referred to in clause (II).]

F105[(c) Notice of any exemption granted under paragraph (a) of this subsection, of the reasons for granting such exemption and of any requirements applied under paragraph (b) of this subsection shall, as soon as may be, —

(i) be published in the *Iris Oifigiúil* and in one or more newspapers circulating in the district in which is situated the foreshore to which the relevant application or the proposed relevant application relates, and

(ii) be given, together with a copy of the information, if any, made available to members of the public in accordance with the said paragraph (b), to the Commission of the European Communities.]

F106[(d) An exemption shall not be granted under paragraph (a) of this subsection in respect of a relevant application or a proposed relevant application if another Member State of the European Communities, having been informed pursuant to section 19C of this Act about the proposed development and its likely effects on the environment in that State, has indicated that it intends to furnish views on the said effects.]

(5) In this section and in F93[sections 13B, 19A, 19C, 21A and 21B] “relevant application” means, as the case may be—

- (a) an application to the F107[appropriate Minister] for a lease under section 2 of this Act,
- (b) an application to the F108[appropriate Minister] for a licence under section 3 of this Act,
- (c) an application to the F109[appropriate Minister] for his approval under section 10 of this Act for maps, plans, and specifications for erection of structures on the foreshore,
- (d) an application to the F110[Minister for the Environment, Heritage and Local Government] for his consent under section 13 of this Act for the deposit of material on the foreshore.]

F111[(6) In this section ‘relevant application’ does not include an application for an aquaculture licence (within the meaning of the Fisheries (Amendment) Act 1997) that is accompanied by an environmental impact statement. ]

#### Annotations

#### Amendments:

- F91** Inserted (1.02.1990) by *European Communities (Environmental Impact Assessment) Regulations 1989* (S.I. No. 349 of 1989), reg. 13(c), in effect as per reg. 2(1).
- F92** Substituted (31.10.2012) by *European Union (Environmental Impact Assessment) (Foreshore) Regulations 2012* (S.I. No. 433 of 2012), reg. 3(c)(i).
- F93** Substituted (5.12.2014) by *European Union (Environmental Impact Assessment and Appropriate Assessment) (Foreshore) Regulations 2014* (S.I. No. 544 of 2014), reg. 2(a), (b), in effect as per reg. 1(2).
- F94** Inserted (1.05.1999) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999* (S.I. No. 93 of 1999), reg. 9(a), in effect as per reg. 2(1).
- F95** Substituted (31.10.2012) by *European Union (Environmental Impact Assessment) (Foreshore) Regulations 2012* (S.I. No. 433 of 2012), reg. 3(c)(ii) and (iii).
- F96** Substituted (21.09.2011) by *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), reg. 56(1)(a), in effect as per reg. 1(3).
- F97** Repealed (21.09.2011) by *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), reg. 56(1)(b), in effect as per reg. 1(3).
- F98** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 55, commenced as per s. 1(4).
- F99** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 57, commenced as per s. 1(4).
- F100** Deleted (31.10.2012) by *European Union (Environmental Impact Assessment) (Foreshore) Regulations 2012* (S.I. No. 433 of 2012), reg. 3(c)(iv).



- F101** Inserted (1.05.1999) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999* (S.I. No. 93 of 1999), reg. 9(b), in effect as per reg. 2(1).
- F102** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 58, commenced as per s. 1(4).
- F103** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 59, commenced as per s. 1(4).
- F104** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 10, commenced as per s. 1(4).
- F105** Substituted (18.09.1998) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1998* (S.I. No. 351 of 1998), reg. 8(a).
- F106** Inserted (1.05.1999) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999* (S.I. No. 93 of 1999), reg. 9(d), in effect as per reg. 2(1).
- F107** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 60, commenced as per s. 1(4).
- F108** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 61, commenced as per s. 1(4).
- F109** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 62, commenced as per s. 1(4).
- F110** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 63, commenced as per s. 1(4).
- F111** Inserted (30.09.2009) by *European Communities (Foreshore) Regulations 2009* (S.I. No. 404 of 2009), reg. 3(b).

#### Editorial Notes:

- E24** Previous affecting provision: subs. (5) amended (23.07.2014) by *European Union (Access to Review of Decisions for Certain Bodies or Organisations promoting Environmental Protection) Regulations 2014* (S.I. No. 352 of 2014), reg. 6(b); substituted as per F-note above.
- E25** Previous affecting provision: subss. (1) and (2) amended (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 items 53 and 54, commenced as per s. 1(4); substituted as per F-note above.
- E26** Previous affecting provision: subs. (2B) amended (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 56, commenced as per s. 1(4); substituted as per F-note above.
- E27** Previous affecting provision: subs. (4)(a) and (b) substituted (30.09.2009) by *European Communities (Foreshore) Regulations 2009* (S.I. No. 404 of 2009), reg. 3(a); substituted as per F-note above.
- E28** Previous affecting provision: subs. (4)(a) substituted (1.05.1999) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999* (S.I. No. 93 of 1999), reg. 9(c), in effect as per reg. 2(1); substituted as per E-note above.
- E29** Previous affecting provision: subs. (4)(b) substituted (18.09.1998) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1998* (S.I. No. 351 of 1998), reg. 8(a); substituted as per E-note above.

**F112[13B. (1) When considering a relevant application in respect of a petroleum activity the appropriate Minister shall consult with the Minister for Communications, Energy and Natural Resources.**



(2) Notwithstanding section 13A, the appropriate Minister shall not be required to carry out a screening or assessment, in relation to a relevant application in respect of a petroleum activity where the appropriate Minister—

(a) confirms that the authorisation of the Minister for Communications, Energy and Natural Resources records that a screening or assessment has been carried out by that Minister, in respect of the underlying project to which the petroleum activity relates, for the purposes of—

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

(ii) section 40B of the Gas Act 1976 (inserted by Regulation 2 of the European Union (Environmental Impact Assessment) (Gas) Regulations 2012 (S.I. No. 403 of 2012),

(iii) section 13B of the Petroleum and Other Minerals Development Act 1960 (No. 7 of 1960) (inserted by the European Union (Environmental Impact Assessment) (Petroleum) Regulations 2012 (S.I. No. 404 of 2012)), or

(iv) Regulation 4 of the European Union (Environmental Impact Assessment) (Petroleum Exploration) Regulations 2013 (S.I. No. 134 of 2013),

or

(b) confirms with the Minister for Communications, Energy and Natural Resources that such screening or assessment will be so carried out by that Minister in respect of the underlying project to which the petroleum activity relates.

(3) Subject to subsection (2), the appropriate Minister shall proceed to carry out a screening or assessment in relation to a relevant application in respect of a petroleum activity in respect of which the Minister for Communications, Energy and Natural Resources has granted a petroleum authorisation if the petroleum activity is altered in a material way prior to the decision of the appropriate Minister in relation to a relevant application in respect of that petroleum activity.

(4) Subsections (1) to (3) do not apply to a relevant application to the appropriate Minister in respect of a petroleum activity where the application was made before 5th December 2014.

(5) In this section—

‘appropriate assessment’ has the meaning given to it by Regulation 2 of the European Communities (Birds and Natural Habitats) Regulations 2011;

‘petroleum activity’ has the meaning given to it by section 13A(2) (inserted by section 3 of the Petroleum (Exploration and Extraction) Safety Act 2010 (No. 4 of 2010)) of the Electricity Regulation Act 1999 (No. 23 of 1999);

‘petroleum authorisation’ has the meaning given to it by section 13A(1) (inserted by section 3 of the Petroleum (Exploration and Extraction) Safety Act 2010) of the Electricity Regulation Act 1999;

‘screening or assessment’ means—

(a) a screening for an environmental impact assessment or an environmental impact assessment, or

(b) a screening for an appropriate assessment or an appropriate assessment.]

**Annotations****Amendments:**

**F112** Inserted (5.12.2014) by *European Union (Environmental Impact Assessment and Appropriate Assessment) (Foreshore) Regulations 2014* (S.I. No. 455 of 2014), reg. 3, in effect as per reg. 1(2).

Prohibition of deposit of noxious articles.

**14.**—(1) No person shall throw, deposit, or leave on any tidal lands or throw into the sea adjacent to any such lands any glass, china, earthenware, metal, or other article (whether whole or broken) which would or might cause injury to a person bathing or wading on or from such lands or otherwise using such lands nor any material or substance (whether solid or liquid) which would or might be injurious or offensive to any such person.

(2) Every person who shall throw, deposit, or leave on any tidal lands, or throw into the sea any article, material, or substance in contravention of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds.

**F113**[(3) Whenever a person is convicted of an offence under subsection (2) of this section, the Court by whom such person is so convicted may, if appropriate in the circumstances and such Court so thinks proper, make an order requiring such person, within a specified time—

(a) to remove the article concerned from the place where it would or might cause injury to a person to whom subsection (1) of this section relates, or

(b) to remove such material or substance from a place where it would or might be injurious or offensive to a person to whom subsection (1) of this section relates.

(4) If any person in respect of whom an order has been made under subsection (3) of this section fails to comply with such order, such person shall be guilty of an offence under this subsection and shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500, or to imprisonment for a term not exceeding 12 months, or to both, or

(b) on conviction on indictment, to a fine not exceeding £100,000, or to imprisonment for a term not exceeding two years, or to both.]

**Annotations****Amendments:**

**F113** Inserted (23.12.1998) by *Fisheries and Foreshore (Amendment) Act 1998* (54/1998), s. 5(1)(b), commenced on enactment.

**Modifications (not altering text):**

**C22** Penalties for an offence under subs. (2) prescribed (23.12.1998) by *Fisheries and Foreshore (Amendment) Act 1998* (54/1998), s. 5(2), commenced on enactment.

**Amendment of Act of 1933.**

**5.**— ...

(2) A person who is guilty of an offence under subsection (2) or (4) of section 13, or subsection (2) of section 14 of the Act of 1933 shall, in lieu of the penalties provided under each of those subsections, be liable—

(a) on summary conviction, to a fine not exceeding £1,500, or to imprisonment for a term not exceeding 12 months, or to both, or

(b) on conviction on indictment, to a fine not exceeding £100,000, or to imprisonment for a term not exceeding two years, or to both.

Evidence of title to foreshore.

**15.—**(1) Where on the fixing of a judicial rent under the Land Law Acts a sum was added to or included in such rent for any foreshore or on account of any right or facility or alleged right or facility to or for taking material from any foreshore the order of the sub-commission or court fixing such rent shall not be evidence, as against the State, of the ownership of such foreshore or of the existence of a right to take such material.

(2) Neither the taking, during any period however long, from any foreshore of seaweed deposited or washed up thereon by the action of tides, winds and waves or any of them and not rooted or growing thereon, nor the letting or licensing to other persons, during any period however long, of an alleged right to take such seaweed from any foreshore shall, by itself and without more, constitute possession of or be proof of title to such foreshore.

Jurisdiction of the Circuit Court.

**16.—**(1) The Circuit Court shall have and may exercise jurisdiction in actions relating to foreshore or rights over or in respect of foreshore where there is no poor law valuation of such foreshore and the Court is satisfied that the fair annual value of such foreshore does not exceed sixty pounds.

(2) The jurisdiction conferred on the Circuit Court by this section shall be exercised by the Judge of the Circuit Court for the time being assigned to the Circuit in which such foreshore or the larger portion of such foreshore is situate.

#### Annotations

#### Modifications (not altering text):

**C23** Application of section restricted (20.07.1992) by *Foreshore (Amendment) Act 1992* (17/1992), s. 6(6) subject to transitional provisions in s. 9, commenced on enactment.

**Powers of courts, Minister, local authorities, etc., in relation to mitigating and remedying effects of contravention of certain orders and notices, etc.**

**6.—** ...

(6) The provisions of section 16 of the Principal Act shall not apply in respect of proceedings to which this section relates.

F114[Provisions with respect to certain court proceedings.

**16A.—**(1) Where, before the passing of Part 6 of the Act of 2005, a court made a finding as to whether an area is or is not foreshore, then that finding shall not be affected by reference to the definition of 'foreshore' (as amended by Part 6 of the Act of 2005) in section 1 of this Act or to section 1A of this Act.

(2) Where the validity of any lease, licence or consent to which section 3A(1) of this Act relates has been challenged in court proceedings instituted before 21 June 2005 by reference to the area in respect of which it was granted, then the said section 3A(1) shall not apply to that lease, licence or consent.]

#### Annotations

#### Amendments:

**F114** Inserted (29.06.2005) by *Maritime Safety Act 2005* (11/2005), s. 60(d), commenced on enactment.

Notice to Minister of certain sales, etc., of foreshore.

**17.—**(1) No sale or conveyance of or declaration of title to any foreshore or any right over or in respect of foreshore shall be made under the Landed Estates Court (Ireland) Act, 1858, as amended, extended, and applied by subsequent enactments, without previous notice to the F115[appropriate Minister].

(2) No vesting order, vesting fiat, or other document operating to vest or convey any foreshore or any right over or in respect of foreshore in or to any person shall be made under the Land Purchase Acts without previous notice to the F116[appropriate Minister].

(3) No order, consent, approval, licence, or loan shall be made or given nor shall any action be taken relating to or affecting any foreshore by any Minister, the Commissioners of Public Works in Ireland, F117[...] or any Court or tribunal without previous notice to the F118[appropriate Minister].

#### Annotations

##### Amendments:

**F115** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 64, commenced as per s. 1(4).

**F116** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 65, commenced as per s. 1(4).

**F117** Deleted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 11, commenced as per s. 1(4).

**F118** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 66, commenced as per s. 1(4).

Public inquiries.

**18.—**The following provisions shall have effect in relation to every public inquiry held by the F119[appropriate Minister] under this Act, that is to say:—

- (a) such inquiry shall be held by such person and at such time and place as the F120[appropriate Minister] shall appoint;
- (b) the F121[appropriate Minister] shall cause notice of the holding of such inquiry to be given in such manner as he thinks proper to the public and to such particular persons as he thinks proper;
- (c) the person holding such inquiry shall have power to take evidence on oath and for that purpose to administer oaths;
- (d) all expenses incurred by the F122[appropriate Minister] in holding a public inquiry on the question whether a lease, licence, order, or other document for which a particular person has applied should or should not be made or granted shall, F123[unless that Minister] with the sanction of the Minister for Finance otherwise directs, be paid by the said person who has so applied, and the amount of such expenses shall be fixed by the Minister for Finance, and when so fixed shall be F124[recoverable by the appropriate Minister] from the said person as a civil debt in any Court of competent jurisdiction;
- (e) whenever the expenses or any part of the expenses incurred by the F125[appropriate Minister] in holding a public inquiry are not payable by a particular person under the next preceding paragraph of this section, such expenses or such part of such expenses shall be defrayed out of moneys provided by the Oireachtas;
- (f) the person holding a public inquiry under this section may, if he thinks proper so to do, order the costs and expenses incurred by any person of appearing

or being represented and adducing evidence at such inquiry to be paid by any other person who appeared or was represented at such inquiry;

- (g) whenever the person holding a public inquiry under this section orders the costs and expenses incurred by one person to be paid by another person, such costs and expenses shall be taxed and ascertained by a taxing-master of the High Court on the requisition of either the person to whom or the person by whom such costs and expenses were so ordered to be paid, 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 by the person to whom and from the person by whom such costs and expenses were so ordered to be paid.

#### Annotations

##### Amendments:

- F119** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 67, commenced as per s. 1(4).
- F120** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 68, commenced as per s. 1(4).
- F121** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 69, commenced as per s. 1(4).
- F122** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 70, commenced as per s. 1(4).
- F123** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 71, commenced as per s. 1(4).
- F124** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 72, commenced as per s. 1(4).
- F125** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 73, commenced as per s. 1(4).

##### Modifications (not altering text):

- C24** Functions transferred and references to “Department of Finance” and “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts 2, 3(a), 5 and sch. 1 part 2, in effect as per art. 1(2).
2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.
- (2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.
3. The functions conferred on the Minister for Finance by or under the provisions of –
- (a) the enactments specified in Schedule 1, and
- ...
- are transferred to the Minister for Public Expenditure and Reform.
- ...
5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

## Schedule 1

## Enactments

...

## Part 2

## 1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...
No. 12 of 1933	Foreshore Act 1933	Sections 2, 3, 5, 18 and 22(2)
...	...	...

**F126**[Regulations relating to the submission of observations by certain bodies.

**18A.—** (1) The Minister for the Environment, Heritage and Local Government may, following consultation with the Minister for Agriculture, Fisheries and Food, by regulations under this section, prescribe—

(a) bodies for the purposes of submitting observations to the Minister for the Environment, Heritage and Local Government or the Minister for Agriculture, Fisheries and Food or to both in respect of an application—

(i) for a lease under section 2,

(ii) for a licence under section 3,

(iii) for an order under section 9,

(iv) for an approval under section 10,

(v) for a consent under section 13, or

(vi) to which sections 13A and 19A relate,

and different bodies may be prescribed in respect of applications under subparagraph (i), (ii), (iii), (iv), (v) or (vi), and

(b) periods within which a body specified in regulations under this Act—

(i) where the body is a public authority, is required (in respect of one or more classes of application as provided for by paragraph (a) of this subsection) to submit observations,

(ii) where the body is a public authority not so required or is any other body, may (in respect of one or more classes of application as so provided) submit observations,

and different periods may be prescribed in respect of different classes of application as so provided.

(2) Regulations under this section may provide for such ancillary, supplementary or consequential measures as appear to the Minister to be necessary.

(3) Regulations to which sections 13A and 19A relate may be amended or revoked under this section.

(4) In this section ‘public authority’ means—

(a) a local authority for the purposes of the Local Government Act 2001,

- (b) the Environmental Protection Agency,
- (c) the Commissioners of Public Works in Ireland,
- (d) a harbour authority within the meaning of the Harbours Acts 1946 to 2005,
- (e) a harbour company under the Harbours Acts 1996 to 2009,
- (f) a company under the Companies Acts, in which all the shares are held by or on behalf of or jointly with one or more than one body to which this subsection relates.]

#### Annotations

#### Amendments:

**F126** Inserted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 12, commenced as per s. 1(4).

#### Editorial Notes:

**E30** Power pursuant to subs. (1) exercised (25.08.2011) by *Foreshore Regulations 2011* (S.I. No. 353 of 2011), in effect as per reg. 1(b).

Notice of proposal or application for order, lease or licence.

**19.**— Whenever the F127[appropriate Minister] proposes to make an order under this Act or an application is made to F128[that Minister] for the making of a lease or an order or the granting of a licence under this Act, F128[that Minister] may, if he so thinks fit, cause notice of such proposal or application to be published at such times and in such manner as he thinks proper, and may by such notice give to all persons interested an opportunity of making to F128[that Minister] objections and representations in respect of such order, lease, or licence (as the case may be) and may include in such notice directions as to the time, manner, and place in and at which such objections and representations may be made.

#### Annotations

#### Amendments:

**F127** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 74, commenced as per s. 1(4).

**F128** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 75, commenced as per s. 1(4).

**F129**[Procedure in regard to certain relevant applications.

**19A.**— (1) Notwithstanding section 19 of this Act, a person who has submitted an environmental impact statement in accordance with a requirement of or under section 13A of this Act shall, as soon as may be, publish in one or more newspapers circulating in the district in which is situated the foreshore to which the relevant application relates a notice—

- (a) stating that the person has made the application and indicating the location and nature of the proposal to which the application relates,
- (b) stating that an environmental impact statement has been prepared in respect of the proposal,
- (c) stating that the appropriate Minister is responsible for making a decision on the application and that that Minister may either grant, approve or consent

to the application with or without covenants, conditions or agreements, where applicable, or refuse the application,

- (d) stating whether section 19C of this Act applies to the proposal,
- (e) stating that submissions, comments or questions in relation to the effects on the environment of the proposal may be made in writing to the appropriate Minister within 8 weeks from the publication of the notice, and
- (f) specifying the times at which and the place where, within 8 weeks from the publication of the notice, a copy of the application, the environmental impact statement and any other relevant report or information (including copies of any submissions, comments or questions received by the appropriate Minister) may be inspected free of charge or purchased at a price to be determined by that Minister (which shall not be more than the reasonable cost of making the copy or copies concerned).

(2) The appropriate Minister shall ensure that the following information is available for inspection or for purchase by members of the public on the terms specified in the notice published in accordance with subsection (1):

- (a) a copy of the application,
- (b) the environmental impact statement prepared pursuant to section 13A of this Act,
- (c) the views, if any, furnished by a Member State of the European Communities pursuant to section 19C of this Act,
- (d) any submissions, comments or questions received by the appropriate Minister (including those received from the bodies specified in subsection (3) of this section), and
- (e) any report or other information relevant to the decision.

(3) A person who has submitted an environmental impact statement in accordance with a requirement of or under section 13A of this Act shall, as soon as may be, send a copy of the relevant application and environmental impact statement to—

- (a) the local authority in whose functional area the proposed development is to be located in whole or in part,
- (b) where the proposed development is to be located in any area contiguous to the functional area of a local authority, to each such local authority,
- (c) the National Tourism Development Authority (Fáilte Ireland),
- (d) An Taisce — The National Trust for Ireland if the development is to take place on an area of special amenity value or special interest,
- (e) where not the appropriate Minister for the purposes of section 13A, the Minister for the Environment, Heritage and Local Government if the development is to take place on an area of archaeological, water quality, scientific or ecological interest (or any combination of such areas), and
- (f) any other Minister of Government where the appropriate Minister considers that the proposal relates to a function of that other Minister,

with a statement that the body may make objections or representations in relation to the effects on the environment of the proposal in writing to the appropriate Minister within 8 weeks from the date a copy of the environmental impact statement is sent to that body.



(4) A reference, in this section, section 19B or section 21A of this Act to an environmental impact statement includes a reference to an alternative form of assessment referred to in section 13A(4)(b) of this Act.]

#### Annotations

#### Amendments:

**F129** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 13, commenced as per s. 1(4).

#### Editorial Notes:

**E31** Previous affecting provision: section substituted (30.09.2009) by *European Communities (Foreshore) Regulations 2009* (S.I. No. 404 of 2009), reg. 4; substituted as per F-note above.

**E32** Previous affecting provision: power pursuant to section exercised (24.08.1990) by *Foreshore (Environmental Impact Assessment) Regulations 1990* (S.I. No. 220 of 1990); revoked (30.09.2009) by *European Communities (Foreshore) Regulations 2009* (S.I. No. 404 of 2009), reg. 7.

**E33** Previous affecting provision: section inserted (1.02.1990) by *European Communities (Environmental Impact Assessment) Regulations 1989* (S.I. No. 349 of 1989), reg. 13(d), in effect as per reg. 2(1); substituted as per E-note above.

**F130**[Minister to have regard to certain matters in considering certain relevant applications.

**19B.— (1)** F131[...]

**(2)** F131[...]

**F132**[(3) The appropriate Minister shall, where he considers that further information furnished in accordance with a requirement under section 13A(1)(f) contains significant additional data in relation to the effects on the environment of the proposal, require the applicant to—

(a) publish in one or more newspapers circulating in the district in which is situated the foreshore to which the relevant application relates a notice stating that significant further information in relation to the said effects has been furnished to the appropriate Minister, that the further information will be available, for inspection free of charge or for purchase at a fee not exceeding the reasonable cost of making a copy of same, at a specified place and at specified times during a specified period, and that submissions or observations in relation to the further information may be made in writing to the appropriate Minister before the expiry of the said period, and

(b) send notice of the furnishing to the appropriate Minister of significant further information, and a copy of the further information, to a body specified in section 19A(3), and to indicate to those bodies that submissions or observations in relation to the further information may be made in writing to the appropriate Minister before a specified date.

(4) The appropriate Minister shall make available, in a manner determined by that Minister from time to time, any additional material including objections or representations made under section 19A, upon which he determines a relevant application.]

#### Annotations

#### Amendments:

**F130** Inserted (1.02.1990) by *European Communities (Environmental Impact Assessment) Regulations 1989* (S.I. No. 349 of 1989), reg. 13(d), in effect as per reg. 2(1).

**F131** Deleted (31.10.2012) by *European Union (Environmental Impact Assessment) (Foreshore) Regulations 2012* (S.I. No. 433 of 2012), reg. 3(d)(i).

**F132** Substituted (31.10.2012) by *European Union (Environmental Impact Assessment) (Foreshore) Regulations 2012* (S.I. No. 433 of 2012), reg. 3(d)(ii).

**Editorial Notes:**

**E34** Previous affecting provisions: subss. (1) and (2) amended (1.05.1999) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999* (S.I. No. 93 of 1999), reg. 9(e), in effect as per reg. 2(1); (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 items 76-78, commenced as per s. 1(4); (30.09.2009) by *European Communities (Foreshore) Regulations 2009* (S.I. No. 404 of 2009), reg. 5(a); substituted as per F-note above.

**E35** Previous affecting provisions: subss. (3) and (4) inserted and amended (18.09.1998) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1998* (S.I. No. 351 of 1998), reg. 8(b); (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 items 79-83, commenced as per s. 1(4); (30.09.2009) by *European Communities (Foreshore) Regulations 2009* (S.I. No. 404 of 2009), reg. 5(c); (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 14, commenced as per s. 1(4); substituted as per F-note above.

**F133**[Consultation with other Member States of European Communities.

**F134**[**19C.** (1) Where the **F135**[appropriate Minister] considers that proposed development, which is the subject of an environmental impact statement in accordance with a requirement of or under section 13A of this Act, would be likely to have significant effects on the environment in another Member State of the European Communities, or where another Member State of the European Communities considers that the said development would be likely to have the said effects and so requests, he shall, as soon as possible, send to that other Member State—

(a) a description of the proposed development and any available information on its possible effects on the environment in that Member State, and

(b) information on the nature of the decision which may be taken,

and shall give to that Member State a reasonable time to indicate whether it wishes to furnish views on the said effects.

(2) Where a Member State of the European Communities which has received information pursuant to subsection (1) of this section indicates that it wishes to furnish views on the likely effects on the environment of the proposed development, the **F136**[appropriate Minister] shall, if he has not already done so, send to that Member State—

(a) a copy of the environmental impact statement, and

(b) relevant information about the procedure for making a decision on the relevant application concerned.

(3) The **F137**[appropriate Minister] shall enter into consultations with a Member State of the European Communities to which information was sent pursuant to subsection (2) of this section regarding the potential effects of the proposed development on the environment in that Member State and the measures envisaged to reduce or eliminate such effects.

(4) The **F138**[appropriate Minister] shall notify a Member State of the European Communities to which information was sent pursuant to subsection (2) of this section of his decision on the relevant application concerned.]]

**Annotations****Amendments:**

- F133** Inserted (1.02.1990) by *European Communities (Environmental Impact Assessment) Regulations 1989* (S.I. No. 349 of 1989), reg. 13(d), in effect as per reg. 2(1).
- F134** Substituted (1.05.1999) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999* (S.I. No. 93 of 1999), reg. 9(f), in effect as per reg. 2(1).
- F135** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 84, commenced as per s. 1(4).
- F136** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 85, commenced as per s. 1(4).
- F137** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 86, commenced as per s. 1(4).
- F138** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 87, commenced as per s. 1(4).

Laying of annual statement before the Oireachtas.

**20.—** The F139[appropriate Minister] shall, in every financial year, lay before each House of the Oireachtas a statement setting forth the following matters, that is to say:—

- (a) particulars of all leases made and licences granted under this Act during the next preceding financial year, and
- (b) the total amount of all rents and other periodical payments collected by the F140[appropriate Minister] under or by virtue of any lease or licence of foreshore (whether made or granted under this Act or before the passing of this Act) during the said next preceding financial year, and
- (c) any other matter relating to foreshore which the F141[appropriate Minister] thinks proper to include in such statement.

**Annotations****Amendments:**

- F139** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 88, commenced as per s. 1(4).
- F140** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 89, commenced as per s. 1(4).
- F141** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 90, commenced as per s. 1(4).

Publication of orders under this Act.

**21.—**(1) Every order made by the F142[appropriate Minister] under this Act shall be published in the *Irish Oifigiúil* as soon as conveniently may be after it is made.

(2) Whenever the F143[appropriate Minister] has made an order under this Act F144[that Minister] may, if and whenever he thinks it expedient so to do, cause the said order or notice of the making thereof to be published at or in the neighbourhood of the foreshore, tidal lands, seashore, or other area to which such order relates and may cause such publication to be effected in all or any of the following ways, that is to say, by advertisement in one or more newspapers circulating in the district in which

such area is situated, by the erection of warning notices at or in the neighbourhood of such area, or by any other means.

#### Annotations

##### Amendments:

- F142** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 91, commenced as per s. 1(4).
- F143** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 92, commenced as per s. 1(4).
- F144** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 93, commenced as per s. 1(4).

**F145**[Publication of notice of Minister's decision in relation to certain relevant applications.

**F146**[**21A.**— When the appropriate Minister determines a relevant application, that Minister shall—

(a) publish a notice, in *Iris Oifigiúil* and in one or more newspapers circulating in the area where the foreshore subject to the determination is situate, of the determination and specifying the means by which any material received by that Minister upon which that Minister determined the application may be inspected free of charge or purchased at a price to be determined by that Minister (which shall not be more than the reasonable cost of making the copy or copies concerned),

**F147**[(b) ensure that arrangements to comply with paragraph (c) are available for inspection or for purchase by members of the public on the terms specified in the notice published in accordance with paragraph (a),]

(c) inform a Member State to which section 19C of this Act applies in respect of the relevant application of the determination and matters specified in paragraph (a) of this section, and

(d) arrange to make the environmental impact statement relating to the relevant application and other material upon which the determination was based available for inspection for such period as that Minister considers appropriate.]]

#### Annotations

##### Amendments:

- F145** Inserted (1.02.1990) by *European Communities (Environmental Impact Assessment) Regulations 1989* (S.I. No. 349 of 1989), reg. 13(e), in effect as per reg. 2(1).
- F146** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 15, commenced as per s. 1(4).
- F147** Substituted (31.10.2012) by *European Union (Environmental Impact Assessment) (Foreshore) Regulations 2012* (S.I. No. 433 of 2012, reg. 3(e).

##### Editorial Notes:

- E36** Previous affecting provision: section substituted (30.09.2009) by *European Communities (Foreshore) Regulations 2009* (S.I. No. 404 of 2009), reg. 6; substituted as per F-note above.

**E37** Previous affecting provision: section substituted (1.05.1999) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999* (S.I. No. 93 of 1999), reg. 9(g), in effect as per reg. 2(1); substituted as per E-note above.

**F148[21B.** (a) A notice published under section 21A shall state that a person may question the validity of any such determination by the Minister by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).

(b) The notice shall identify where practical information on the review mechanism can be found.]

**F149[(c)** A person shall not question the validity of a decision made or act done or purported to be done by the Minister in relation to a relevant application otherwise than by way of an application for judicial review under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).

(d) The High Court shall not grant leave for judicial review under this section unless it is satisfied that—

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

(ii) the applicant—

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

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

(e) A sufficient interest for the purposes of subparagraph (i) of paragraph (d) is not limited to an interest in land or other financial interest.

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

(g) In paragraph (d), “State authority, a public authority or governmental body or agency” means—

(i) a Minister of the Government;

(ii) the Commissioners of Public Works in Ireland;

(iii) a harbour authority within the meaning of the Harbours Act 1946;

(iv) a local authority within the meaning of the Local Government Act 2001;

(v) the Health Service Executive;

(vi) a person established—

(I) by or under any enactment (other than the Companies Acts),

(II) by any scheme administered by the Government, or

(III) under the Companies Acts, in pursuance of powers conferred by or under another enactment, and financed wholly or partly, whether directly or indirectly, by means of moneys provided, or loans made or

guaranteed, by a Minister of the Government or by subscription for shares held by or on behalf of a Minister of the Government;

(viii) a company (within the meaning of the Companies Acts), a majority of the shares in which are held by or on behalf of a Minister of the Government.]

#### Annotations

#### Amendments:

**F148** Inserted (13.07.2010) by *European Communities (Public Participation) Regulations 2010* (S.I. No. 352 of 2010), reg. 7, in effect as per reg. 2.

**F149** Inserted (23.07.2014) by *European Union (Access to Review of Decisions for Certain Bodies or Organisations promoting Environmental Protection) Regulations 2014* (S.I. No. 352 of 2014), reg. 6(b).

Financial provisions.

**22.**—(1) Save as is otherwise provided by this Act, all expenses incurred by the F150[appropriate Minister] in the execution of this Act shall, to such extent as shall be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

(2) All rents, fines, royalties, and other moneys paid to the F151[appropriate Minister] under or in respect of any lease, licence, or other document made or granted under this Act shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance shall direct.

#### Annotations

#### Amendments:

**F150** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 94, commenced as per s. 1(4).

**F151** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 95, commenced as per s. 1(4).

#### Modifications (not altering text):

**C25** Functions transferred and references to “Department of Finance” and “Minister for Finance” in relation to subs. (2) construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts 2, 3(a), 5 and sch. 1 part 2, in effect as per art. 1(2).

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of –

(a) the enactments specified in Schedule 1, and

...

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

#### Schedule 1

#### Enactments

...

#### Part 2

#### 1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...
No. 12 of 1933	Foreshore Act 1933	Sections 2, 3, 5, 18 and 22(2)
...	...	...

Recovery of expenses of making orders.

**23.—**(1) Whenever the F152[appropriate Minister] makes an order under this Act on the application or at the request of any person, F153[that Minister] may, if he thinks proper so to do, recover from such person as a civil debt the expenses incurred by F153[that Minister] in making and publishing such order.

(2) In any proceedings to recover any expenses made recoverable by this section, a certificate under the official seal of the F154[appropriate Minister] certifying that a specified order under this Act was made on the application or at the request of a specified person and certifying the amount of the expenses incurred by F155[that Minister] in making and publishing such order shall be conclusive evidence of the matters so certified.

#### Annotations

#### Amendments:

**F152** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 96, commenced as per s. 1(4).

**F153** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 97, commenced as per s. 1(4).

**F154** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 98, commenced as per s. 1(4).

**F155** Substituted (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 6(2)(a) and sch. 1 part 1 item 99, commenced as per s. 1(4).

Exclusion of application of certain Acts.

**24.—**On the passing of this Act, the State Lands Act, 1924 (No. 45 of 1924), shall cease to apply to foreshore or rights over or in respect of foreshore and the Mines and Minerals Act, 1931 (No. 54 of 1931), shall cease to apply to mines and minerals in or under the foreshore and not more than thirty feet below the surface thereof.

Repeals.

**25.—**The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of the said Schedule.

Short Title.

**26.**—This Act may be cited as the Foreshore Act, 1933.



## SCHEDULE.

Session and Chapter	Short Title	Extent of Repeal.
46 Geo. III., c. 153.	The Public Harbours Act, 1806.	The whole Act.
54 Geo. III., c. 159.	The Harbours Act, 1814.	Section 14.