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*Number 11 of 2024*

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**Gas (Amendment) and Miscellaneous Provisions Act 2024**

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**GAS (AMENDMENT) AND MISCELLANEOUS PROVISIONS ACT 2024**

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*Number 11 of 2024*

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## **GAS (AMENDMENT) AND MISCELLANEOUS PROVISIONS ACT 2024**

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An Act to provide for the dissolution of Ervia and the transfer of functions, assets, liabilities, records and staff to Gas Networks Ireland and for those and other purposes to amend and extend the Gas Act 1976 and the Gas Regulation Act 2013; to amend the Freedom of Information Act 2014; to provide for the transfer of functions of the Minister for Housing, Local Government and Heritage by or under the Maritime Area Planning Act 2021 to the Minister for the Environment, Climate and Communications; to amend the Maritime Area Planning Act 2021 to provide for certain arrangements relating to the making of the marine planning policy statement and designated maritime area plans under that Act; and to provide for related matters. [1st May, 2024]

**Be it enacted by the Oireachtas as follows:**

### **PART 1**

#### **PRELIMINARY AND GENERAL**

##### **Short title, commencement, collective citation and construction**

1. (1) This Act may be cited as the Gas (Amendment) and Miscellaneous Provisions Act 2024.
- (2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
- (3) The Maritime Area Planning Acts 2021 to 2023 and *Part 4* may be cited together as the Maritime Area Planning Acts 2021 to 2024 and shall be construed together as one.

**Definitions****2.** In this Act—

“Act of 1976” means the Gas Act 1976;

“Act of 2013” means the Gas Regulation Act 2013;

“Act of 2014” means the Companies Act 2014;

“dissolved body” shall be construed in accordance with *section 6*;

“enactment” has the same meaning as it has in the Interpretation Act 2005;

“Gas Networks Ireland” means the designated activity company limited by shares (registered number 555744) formed and registered under Part 16 of the Act of 2014;

“majority-shareholding Minister” has the meaning given to it by *section 9*;

“Minister” means Minister for the Environment, Climate and Communications;

“transfer day” means the day appointed by order under *section 6* to be the transfer day for the purposes of this Act.

**Repeals****3.** (1) The following provisions of the Act of 1976 are repealed:

(a) sections 7A to 7G;

(b) subsections (4) and (5) of section 8;

(c) sections 13, 19 and 20;

(d) subsections (3), (4), (5) and (6) of section 21;

(e) the First Schedule.

(2) Section 17 of the Gas (Amendment) Act 2000 is repealed.

(3) Paragraph (c) of subsection (1) of section 21B (inserted by section 19 of the Energy (Miscellaneous Provisions) Act 2006) of the Gas (Interim) (Regulation) Act 2002 is repealed.

(4) The following provisions of the Act of 2013 are repealed:

(a) subsections (3) and (4) of section 5;

(b) section 7;

(c) subsection (5) of section 10;

(d) section 20;

(e) sections 41 and 42.

**Saver for certain business activity**

4. Notwithstanding the repeal of section 17 of the Gas (Amendment) Act 2000 by *subsection (2) of section 3*, Gas Networks Ireland may engage in a business activity in accordance with any approval given under the said section 17 in effect immediately before the commencement of *subsection (2) of section 3* insofar as the activity relates to telecommunications.

**Expenses**

5. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys provided by the Oireachtas.

**PART 2**

DISSOLUTION OF ERVIA, TRANSFER OF FUNCTIONS, ASSETS, LIABILITIES, RECORDS AND STAFF, ETC.

**Transfer day**

6. (1) The Minister shall by order appoint a day to be the transfer day for the purposes of this Act.
- (2) On and from the transfer day Ervia (in this Act referred to as the “dissolved body”) shall stand dissolved.

**Cancellation of shareholding**

7. (1) Notwithstanding any enactment or rule of law or any provision contained in the constitution (within the meaning of section 2 of the Act of 2014) of Gas Networks Ireland, on the transfer day the shares issued to the dissolved body by Gas Networks Ireland shall be cancelled.
- (2) No consideration shall be payable to the dissolved body in respect of the shares cancelled under *subsection (1)*.

**Power to issue shares**

8. (1) On the transfer day Gas Networks Ireland shall issue 100 shares in the following proportions:
- (a) 5 per cent of the shares to the Minister;
  - (b) 5 per cent of the shares to the Minister for Public Expenditure, National Development Plan Delivery and Reform;
  - (c) 90 per cent of the shares to the majority-shareholding Minister.

- (2) No consideration shall be payable by the Minister, the Minister for Public Expenditure, National Development Plan Delivery and Reform or the majority-shareholding Minister in respect of the shares issued under *subsection (1)*.
- (3) Gas Networks Ireland may, from time to time, with the prior consent of the majority-shareholding Minister, issue to the Minister, the Minister for Public Expenditure, National Development Plan Delivery and Reform and the majority-shareholding Minister, in the same proportion, respectively, referred to in *paragraphs (a), (b) and (c) of subsection (1)*, such number of shares as may be agreed upon, and are subscribed for, by each such Minister.
- (4) The whole of the issued share capital of Gas Networks Ireland shall be held by the Minister, the Minister for Public Expenditure, National Development Plan Delivery and Reform and the majority-shareholding Minister.

### **Appointment of majority-shareholding Minister**

9. (1) A Minister of the Government (other than the Minister or the Minister for Public Expenditure, National Development Plan Delivery and Reform) shall, for the purpose of implementing Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009<sup>1</sup>, hold 90 per cent of the shares in Gas Networks Ireland (in this Act referred to as the “majority-shareholding Minister”) being—
- (a) for the time being, the Minister for Housing, Local Government and Heritage, or
  - (b) such Minister of the Government as may stand appointed by order of the Government under *subsection (2)*.
- (2) The Government may by order appoint a Minister of the Government (other than the Minister, the Minister for Housing, Local Government and Heritage or the Minister for Public Expenditure, National Development Plan Delivery and Reform) to be the majority-shareholding Minister.
- (3) (a) The first order made under *subsection (2)* shall transfer the shareholding of the Minister for Housing, Local Government and Heritage as majority-shareholding Minister in Gas Networks Ireland to the Minister of the Government appointed as majority-shareholding Minister under that order.
- (b) A second or subsequent order made under *subsection (2)* shall transfer the shareholding of the majority-shareholding Minister in Gas Networks Ireland to the majority-shareholding Minister appointed under such order on and from the date of his or her appointment.
- (4) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.

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<sup>1</sup> OJ No. L211, 14.8.2009, p. 94

**Exercise of powers by Ministers of the Government in respect of shares**

10. (1) Subject to *subsections (2) and (3)*, the majority-shareholding Minister, the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform may, in respect of the shares in Gas Networks Ireland for the time being held by each of them, exercise all or any of the rights and powers from time to time exercisable by the holder of such shares.
- (2) The majority-shareholding Minister, the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform shall not sell, exchange, transfer, surrender, alienate or otherwise dispose of all or any of the shares held by each such Minister without the prior consent of the Government.
- (3) The Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, in respect of the shares held by each of them, shall not directly or indirectly exercise control over Gas Networks Ireland in carrying out its functions and in particular shall not be entitled to appoint a member of the board of directors of Gas Networks Ireland or to exercise voting rights in respect of Gas Networks Ireland.

**Transfer of functions**

11. (1) On the transfer day, all functions that, immediately before the transfer day, were vested in the dissolved body shall stand vested in Gas Networks Ireland.
- (2) References in any enactment (other than this Act) or other document to the dissolved body, to the extent that such references relate to functions, assets, rights or liabilities that are vested in, or transferred to, Gas Networks Ireland by this Act shall, on and from the transfer day, be construed as references to Gas Networks Ireland.
- (3) The administration and business in connection with the performance of the functions vested in Gas Networks Ireland by virtue of *subsection (1)* are on the transfer day transferred to Gas Networks Ireland.
- (4) References in any enactment (other than this Act) to the dissolved body, to the extent that such references relate to the administration and business transferred by *subsection (3)* shall, on and from the transfer day, be construed as references to Gas Networks Ireland.

**Transfer of land and other property**

12. (1) All lands that, immediately before the transfer day, were vested in the dissolved body and all rights, powers and privileges relating to or connected with such lands shall, on that day, without any conveyance or assignment, stand vested in Gas Networks Ireland for all the estate or interest therein that, immediately before that day, was vested in the dissolved body, but subject to all trusts and equities affecting the lands continuing to subsist and being capable of being performed.
- (2) All property (other than land), including choses-in-action, that immediately before the transfer day, was vested in the dissolved body shall, on that day, stand vested in Gas Networks Ireland without any assignment.

- (3) Every chose-in-action vested in Gas Networks Ireland by virtue of *subsection (2)* may, on and after the transfer day, be sued on, recovered or enforced by Gas Networks Ireland in its own name, and it shall not be necessary for Gas Networks Ireland or the dissolved body to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

**Transfer of rights and liabilities and continuation of leases, licences and permissions granted by dissolved body**

13. (1) All rights, liabilities and obligations of the dissolved body arising by virtue of any contract or commitment (expressed or implied) entered into by it before the transfer day shall, on that day, stand transferred to Gas Networks Ireland.
- (2) Every right, liability and obligation transferred by *subsection (1)* to Gas Networks Ireland may, on and after the transfer day, be sued on, recovered or enforced by or against Gas Networks Ireland in its own name, and it shall not be necessary for Gas Networks Ireland or the dissolved body to give notice to any person of the transfer of any such right, liability or obligation.
- (3) Every lease, licence, wayleave or permission granted by the dissolved body in relation to land or other property vested in Gas Networks Ireland and in force immediately before the transfer day, shall continue in force as if granted by Gas Networks Ireland.
- (4) Every contract, agreement or arrangement (including any wayleave) made between the dissolved body or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the transfer day, shall continue in force and shall be construed and have effect as if the name Gas Networks Ireland were substituted therein for that of the dissolved body or, as may be appropriate, its trustee or agent, and shall be enforceable by or against Gas Networks Ireland.
- (5) A reference to a contract, agreement or arrangement in *subsection (4)* includes any commitments of the dissolved body derived from any competition or process for the procurement of services by the dissolved body which was commenced before the transfer day.

**Liability for loss occurring before transfer day**

14. (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the transfer day of any of the functions of the dissolved body transferred to Gas Networks Ireland by this Act shall, on and after that day, lie against Gas Networks Ireland and not against the dissolved body.
- (2) Any legal proceedings pending immediately before the transfer day to which the dissolved body is a party, that relate to a function of the dissolved body transferred to Gas Networks Ireland by this Act, shall be continued with the substitution in the proceedings of Gas Networks Ireland for the dissolved body and the proceedings shall not abate by reason of such substitution.
- (3) Where, before the transfer day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates and the terms of the

agreement have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable by or against the dissolved body, be enforceable by or against Gas Networks Ireland and not the dissolved body.

- (4) Any claim made or proper to be made by the dissolved body in respect of any loss or injury arising from the act or default of any person before the transfer day shall, where the claim relates to functions transferred to Gas Networks Ireland by this Act, on and after the transfer day be regarded as having been made by or proper to be made by Gas Networks Ireland and may be pursued and sued for by Gas Networks Ireland as if the loss or injury had been suffered by Gas Networks Ireland.

### **Provisions consequent upon transfer of functions, assets and liabilities**

15. (1) Anything commenced but not completed before the transfer day by or under the authority of the dissolved body may, in so far as it relates to a function transferred to Gas Networks Ireland by this Act, be carried on or completed on or after the transfer day by Gas Networks Ireland.
- (2) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred to Gas Networks Ireland under this Act, by the dissolved body shall, if and in so far as it was operative immediately before the transfer day, have effect on or after that day as if it had been granted or made by Gas Networks Ireland.
- (3) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in Gas Networks Ireland under this Act shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

### **Transfer of records**

16. Subject to section 26 of the Water Services (Amendment) Act 2022 and any regulations made under subsection (4) of that section, each record held by the dissolved body immediately before the transfer day, shall, on that day, stand transferred to Gas Networks Ireland and shall, on and from that day, be the property of Gas Networks Ireland and be regarded as being held by Gas Networks Ireland.

### **Transfer of staff**

17. (1) Every person who, immediately before the transfer day, was a member of staff of the dissolved body shall, on the transfer day, cease to be a member of staff of the dissolved body and become and be a member of staff of Gas Networks Ireland.
- (2) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a relevant employee shall be subject to such terms and conditions of service, including terms and conditions relating to remuneration and superannuation, as are not less favourable than the terms and conditions of service, including terms and conditions relating to remuneration and

superannuation, to which such relevant employee was subject immediately before the transfer day.

- (3) In relation to a relevant employee, previous service with the dissolved body shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following:
- (a) the Redundancy Payments Acts 1967 to 2022;
  - (b) the Protection of Employees (Part-Time Work) Act 2001;
  - (c) the Protection of Employees (Fixed-Term Work) Act 2003;
  - (d) the Organisation of Working Time Act 1997;
  - (e) the Terms of Employment (Information) Acts 1994 to 2014;
  - (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
  - (g) the Unfair Dismissals Acts 1977 to 2015;
  - (h) the Maternity Protection Acts 1994 to 2022;
  - (i) the Parental Leave Acts 1998 to 2023;
  - (j) the Adoptive Leave Acts 1995 and 2005;
  - (k) the Carer's Leave Act 2001;
  - (l) the Paternity Leave and Benefit Act 2016;
  - (m) the Parent's Leave and Benefit Act 2019.
- (4) In this section, "relevant employee" means, as the case may be—
- (a) a member of staff referred to in *subsection (1)*, or
  - (b) a member of staff of Gas Networks Ireland who, before the transfer day, was a member of staff of the dissolved body designated by the chief executive officer of the dissolved body for employment by Gas Networks Ireland.

### **Final accounts and final annual report of dissolved body**

- 18.** (1) Where the transfer day is—
- (a) on 1 January 2024, Gas Networks Ireland shall, in respect of the period ending on 31 December 2023, prepare the final accounts and final annual report of the dissolved body in accordance with this section, or
  - (b) after 1 January 2024, Gas Networks Ireland shall, in respect of the period specified in *subsection (3)*, prepare the final accounts and final annual report of the dissolved body in accordance with this section.
- (2) Gas Networks Ireland shall, not later than 2 months after the transfer day, submit the final accounts of the dissolved body to the auditor appointed by the dissolved body

for that purpose and shall, immediately after the audit, present a copy of the accounts and auditor's report to the majority-shareholding Minister.

- (3) For the purposes of *subsection (1)(b)*, the majority-shareholding Minister may specify a period that is shorter than a financial year of the dissolved body.
- (4) Gas Networks Ireland shall, not later than 6 months after the transfer day, prepare and submit to the majority-shareholding Minister the final annual report of the dissolved body, and the majority-shareholding Minister shall, as soon as practicable thereafter, cause a copy of the final annual report, final accounts and auditor's report to be laid before each House of the Oireachtas.

### PART 3

#### AMENDMENT OF OTHER ENACTMENTS

#### **Amendment of Act of 1976**

**19.** The Act of 1976 is amended—

(a) in section 2—

(i) by the substitution of the following definition for the definition of “majority-shareholding Minister”:

“ ‘majority-shareholding Minister’ has the same meaning as it has in the *Gas (Amendment) and Miscellaneous Provisions Act 2024*,”

and

(ii) by the insertion of the following definition:

“ ‘Act of 2014’ means the Companies Act 2014;”,

(b) in section 8—

(i) in subsection (2), by the substitution of “the Natural Gas Market Directive” for “Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009<sup>2</sup>”, and

(ii) in subsection (3)—

(I) in paragraph (b), by the insertion of “store, transport,” after “prepare,”

(II) in paragraph (e)—

(A) by the deletion of “or provide, operate and maintain,” and

(B) by the insertion of “compressor stations,” after “pressure-reducing stations,”

(III) by the insertion of the following paragraph after paragraph (f):

<sup>2</sup> OJ No. L211, 14.8.2009, p. 94

“(fa) take such measures as are appropriate to enhance or protect security of supply of natural gas, or”,

and

(IV) by the deletion of paragraphs (g), (h) and (i),

(c) by the insertion of the following section after section 8A:

**“Conferring of functions in relation to telecommunications infrastructure on Board**

**8B.** (1) Subject to subsection (2), the majority-shareholding Minister may, by order, confer on the Board such function of developing, maintaining and operating telecommunications infrastructure as the majority-shareholding Minister thinks proper and specifies in the order, and any such order may provide for the performance of the function subject to conditions specified in the order and may contain such incidental and supplementary provisions as the majority-shareholding Minister thinks necessary or expedient for giving full effect to the order.

(2) An order made under subsection (1) shall be made subject to—

(a) the consent of the Minister for Finance, where the majority-shareholding Minister is not the Minister for Finance,

(b) the consultation of the Minister,

(c) the consultation of the Minister for Public Expenditure, National Development Plan Delivery and Reform, and

(d) the consultation of any other Minister of the Government (other than the Minister for Finance where the consent of that Minister is required in accordance with paragraph (a)), who in the opinion of the majority-shareholding Minister having regard to the functions of that other Minister ought to be consulted.

(3) When an order under this section is proposed to be made by the majority-shareholding Minister, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving the draft has been passed by each such House.

(4) In this section, ‘telecommunications infrastructure’ means infrastructure and equipment which permit the conveyance of signals for telecommunications and electronic communications.”,

(d) by the substitution of the following section for section 14:

**“Annual report**

**14.** (1) The Board shall prepare a report (in this section referred to as the ‘annual report’) on the performance by it of its functions under this

Act, the Gas Regulation Act 2013 and the *Gas (Amendment) and Miscellaneous Provisions Act 2024*.

- (2) The annual report shall include such particulars as the Board considers appropriate or as may be directed by the majority-shareholding Minister.
- (3) The first annual report prepared under this section shall be in respect of the financial year commencing on 1 January 2024 and subsequent annual reports shall be prepared in respect of each subsequent financial year.”,

(e) by the substitution of the following section for section 15:

**“Appointment of statutory auditor or firm**

- 15.** (1) The board of directors of the Board shall, with the approval of the majority-shareholding Minister, appoint a statutory auditor or statutory audit firm to be a statutory auditor of the Board, for the purposes of, and in accordance with, the Act of 2014.
- (2) Where a statutory auditor or statutory audit firm is appointed under subsection (1), the first statutory auditor’s report prepared in accordance with section 336 of the Act of 2014 shall be in respect of the financial year commencing on 1 January 2024, and subsequent reports shall be prepared in respect of each subsequent financial year.
- (3) The Board shall pay out of moneys at its disposal the fees of a statutory auditor appointed under this section.
- (4) In this section—
- ‘statutory audit firm’ has the same meaning as it has in Part 27 of the Act of 2014;
- ‘statutory auditor’ has the same meaning as it has in the Act of 2014.”,

and

(f) by the insertion of the following section after section 15 (as amended by *paragraph (e)*):

**“Presentation of financial statements and reports**

- 15A.** (1) The Board shall, not later than 30 June in each year, commencing in the year 2025, present to the majority-shareholding Minister a copy of—
- (a) the statutory financial statements prepared in accordance with the Act of 2014,
  - (b) the annual report prepared under section 14, and
  - (c) the statutory auditor’s report referred to in section 15(2).

- (2) The majority-shareholding Minister shall cause a copy of the statutory financial statements and the reports presented to him or her under subsection (1) to be laid before each House of the Oireachtas as soon as practicable following their presentation.”.

**Amendment of Act of 2013****20.** The Act of 2013 is amended—

## (a) in section 2—

- (i) by the substitution of the following definition for the definition of “majority-shareholding Minister”:

“ ‘majority-shareholding Minister’ has the same meaning as it has in the *Gas (Amendment) and Miscellaneous Provisions Act 2024*;”,

and

- (ii) by the insertion of the following definitions:

“ ‘board of directors’ means the board of directors of the network company appointed under section 7A;

‘chief executive officer’ means, subject to section 7B(6), the person appointed to be the chief executive officer of the network company under that section;

‘director’ means, other than in subsection (1) of section 7A, a person appointed to the board of directors under that section or the chief executive officer;”,

- (b) by the substitution of the following section for section 6:

“**6.** (1) The constitution of the network company shall be in such form, consistent with the Companies Act 2014, this Act, the Gas Act 1976, the *Gas (Amendment) and Miscellaneous Provisions Act 2024*, and the Natural Gas Directive, as may be approved by the majority-shareholding Minister with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.

- (2) The principal objects of the network company stated in its constitution shall include the ownership and operation of the transmission system and the distribution system in a manner consistent with this Act, the Gas Act 1976, the *Gas (Amendment) and Miscellaneous Provisions Act 2024*, and the Natural Gas Directive.

- (3) Notwithstanding anything contained in the Companies Act 2014, no alteration of the constitution of the network company shall be valid or effectual unless made with the prior approval of the majority-shareholding Minister given with the consent of the Minister

for Public Expenditure, National Development Plan Delivery and Reform.”,

(c) by the insertion of the following sections before section 8:

**“Appointment of board of directors of network company**

- 7A.** (1) Subject to section 7B(6), each director of the network company standing appointed pursuant to section 7 immediately before the transfer day shall cease to be a director of the network company on the transfer day.
- (2) The network company shall have a board (in this Act referred to as the ‘board of directors’) which shall consist of at least 5 and not more than 9 directors (including its chairperson and the chief executive officer), each of whom shall be appointed by the majority-shareholding Minister, having consulted with the Minister for Public Expenditure, National Development Plan Delivery and Reform.
- (3) The majority-shareholding Minister, having consulted with the Minister for Public Expenditure, National Development Plan Delivery and Reform, shall appoint one of the directors (other than the chief executive officer) to be its chairperson.
- (4) The board of directors may act notwithstanding one or more vacancies among its directors subject to having a quorum of 3.
- (5) There may be paid to the directors, out of moneys at the disposal of the network company, such allowances for expenses incurred by them as the majority-shareholding Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, may determine.
- (6) The majority-shareholding Minister shall, in so far as is practicable, endeavour to ensure that among the directors there is an equitable balance between men and women.
- (7) A director (other than the chief executive officer) shall hold office for such period, not exceeding 5 years from the date of his or her appointment, as the majority-shareholding Minister shall determine.
- (8) A director (other than the chief executive officer) whose term of office expires by effluxion of time shall be eligible for reappointment to the board of directors provided he or she does not hold office for more than 2 terms of office, whether the terms are served consecutively or otherwise.
- (9) An appointment to the board of directors and the appointment of the company secretary of that board of directors shall each be subject to such terms and conditions as are set out in the constitution of the network company.

- (10) A person shall not be appointed or act as a director if he or she is a director or an officer of a company or other body corporate which engages, within or outside the State, in—
- (a) the supply of natural gas,
  - (b) the shipping of natural gas,
  - (c) the production of natural gas,
  - (d) the supply of electricity, or
  - (e) the generation of electricity.
- (11) (a) The majority-shareholding Minister may, at any time, remove a director (other than the chief executive officer) from office if the majority-shareholding Minister is of the opinion that—
- (i) the director has become incapable through ill-health of performing the functions of such director,
  - (ii) the director has committed stated misbehaviour,
  - (iii) the director has contravened subsection (10) or section 10(1), or
  - (iv) the removal of the director appears to the majority-shareholding Minister to be necessary for the effective performance by the network company of its functions.
- (b) Where a person is removed from office pursuant to paragraph (a), he or she shall cease to be qualified, and cease, to be a director.
- (12) A director may resign from office by giving notice in writing to the majority-shareholding Minister of his or her resignation and the resignation shall take effect on the day on which the majority-shareholding Minister receives the notice.
- (13) In this section and section 7B, ‘transfer day’ has the same meaning as it has in the *Gas (Amendment) and Miscellaneous Provisions Act 2024*.

**Chief executive officer**

- 7B.** (1) Subject to subsection (6), the board of directors shall, with the consent of the majority-shareholding Minister, appoint the chief executive officer of the network company.
- (2) The chief executive officer shall—
- (a) carry on, manage and control generally, the administration of the network company, and
  - (b) advise the directors of the network company in relation to the performance by the network company of its functions.

- (3) Subject to section 7A(2), the chief executive officer shall be an *ex officio* director but he or she shall not be the chairperson.
- (4) The chief executive officer shall not hold any other office or occupy any other position in respect of which emoluments are payable or carry on any business without the consent of the board of directors of the network company.
- (5) Subject to subsection (6), the chief executive officer shall hold office under a written contract of service for such term, and subject to such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as are specified in the contract, as may be determined by the board of directors with the approval of the majority-shareholding Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.
- (6) The person who stands appointed as chief executive officer of the network company immediately before the transfer day shall, for the remainder of his or her term of office, continue to—
  - (a) hold that office upon and subject to the same terms and conditions as applied to his or her appointment immediately before the transfer day, and
  - (b) be an *ex officio* director.
- (7) The chief executive officer may, with the consent of the majority-shareholding Minister, be removed from office by the board of directors for stated reasons.”,

and

(d) in section 12—

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

- “(2) Subsection (1) shall not operate to prohibit the disclosure of confidential information by a person referred to in that subsection where—
- (a) the board of directors of the network company authorises the disclosure,
  - (b) the disclosure is made to the board of directors of the network company, the chief executive officer or a member of the staff of the network company,
  - (c) the disclosure is made in the performance of functions of the network company,
  - (d) the disclosure is made by or on behalf of the network company to the Minister, the majority-shareholding Minister, the Minister for

Public Expenditure, National Development Plan Delivery and Reform or the Minister for Finance,

- (e) the disclosure is made in compliance with a requirement of this Act or the Gas Act 1976 or is otherwise required by law,
- (f) the disclosure is made by a person in the circumstances referred to in section 35(2) of the Ethics in Public Office Act 1995,
- (g) the disclosure is a protected disclosure (within the meaning of the Protected Disclosures Act 2014), or
- (h) the disclosure is made to a member of the Garda Síochána and, in the opinion of the person making the disclosure, the information may relate to the commission of an offence (whether an offence under this Act or not).”,

and

- (ii) by the insertion of the following subsection after subsection (3):

“(4) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a class D fine.”.

#### **Amendment of Freedom of Information Act 2014**

- 21. The Freedom of Information Act 2014 is amended, in Part 2 of Schedule 1, by the deletion of “Ervia”.

## PART 4

### MARITIME AREA PLANNING ACT 2021

#### CHAPTER 1

#### *Transfer of functions under Maritime Area Planning Act 2021*

#### **Definitions (Part 4)**

- 22. In this Part—

“Act of 2021” means the Maritime Area Planning Act 2021;

“vesting day” means the day appointed under *section 23* to be the vesting day.

#### **Vesting day**

- 23. The Minister shall by order appoint a day to be the vesting day for the purposes of this Chapter as soon as practicable after the coming into operation of this section and a reference in this Chapter to the “vesting day” shall be construed as a reference to the day so appointed.

**Transfer of functions to Minister**

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

**Transfer of administration and business**

25. (1) The administration and business in connection with the performance of the functions transferred by *section 24* are, on the vesting day, transferred to the Department of the Environment, Climate and Communications.
- (2) References to the Department of Housing, Local Government and Heritage contained in any enactment (other than this Act) in so far as they relate to the administration and business transferred by *subsection (1)* shall, from the vesting day, be construed as references to the Department of the Environment, Climate and Communications.

**Pending legal proceedings**

26. Where, immediately before the vesting day, any legal proceedings are pending to which the Minister for Housing, Local Government and Heritage is a party and the proceedings have reference to the functions transferred by *section 24* the name of the Minister shall, to the extent that they have such reference, be substituted for the Minister for Housing, Local Government and Heritage in those proceedings or added in the proceedings, as may be appropriate, and the proceedings shall not abate by reason of such substitution.

**Completion of certain matters commenced**

27. (1) Anything commenced but not completed before the vesting day by or under the authority of the Minister for Housing, Local Government and Heritage may, in so far as it relates to a function transferred by *section 24*, be carried on and completed by the Minister.
- (2) On and from the vesting day—
- (a) any draft DMAP in preparation on the vesting day by the Minister in his or her capacity as a competent authority (D), shall be continued by the Minister in his or her capacity as the competent authority (M), and
- (b) in relation to a draft DMAP referred to in *paragraph (a)*, any action taken by the Minister in his or her capacity as a competent authority (D) prior to the vesting day shall be deemed to have been taken by the Minister in his or her capacity as the competent authority (M) for the purposes of section 29 of the Act of 2021.
- (3) In this section—
- “competent authority (D)” has the same meaning as it has in Part 2 of the Act of 2021;
- “competent authority (M)” has the same meaning as it has in Part 2 of the Act of 2021;
- “DMAP” has the same meaning as it has in the Act of 2021.

**Operation of certain instruments**

28. (1) Every instrument (including any certificate or licence) granted or made in the performance of a function transferred by *section 24* shall, if and in so far as it was operative immediately before the vesting day, continue to have effect from the vesting day as if it had been granted or made by the Minister.
- (2) Notwithstanding *subsection (1)*, a designation made by the Minister for Housing, Local Government and Heritage under section 20 of the Act of 2021 prior to the vesting day shall cease to have effect on and from the vesting day.

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

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

**Transfer of property, etc., to Minister**

30. (1) All property, rights and liabilities held, enjoyed or incurred before the vesting day by the Minister for Housing, Local Government and Heritage in connection with any function transferred by *section 24* are, on the vesting day, transferred to the Minister and, accordingly, without any further conveyance, transfer or assignment—
- (a) the said property, real and personal, shall, from the vesting day, vest in the Minister,
- (b) the said rights shall, from the vesting day, be enjoyed by the Minister, and
- (c) the said liabilities shall, from the vesting day, be the liabilities of the Minister.
- (2) All moneys, stocks, shares and securities transferred to the Minister by this section that, immediately before the vesting day, stand in the name of the Minister for Housing, Local Government and Heritage shall, upon the request of the Minister, be transferred into his or her name.

## CHAPTER 2

*Amendment of Maritime Area Planning Act 2021***Amendment of section 6 of Act of 2021**

31. (1) Section 6 of the Act of 2021 is amended—
- (a) in subsection (4), by the substitution of “twelve months” for “six months”,
- (b) in subsection (8), by the substitution of “marine planning” for “maritime planning”, and

- (c) in subsection (9), by the substitution of “marine planning” for “maritime planning”.
- (2) This section shall come into operation on the commencement of section 6 of the Act of 2021.

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

32. (1) The Act of 2021 is amended by the insertion of the following section after section 6:

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

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

(2) For the avoidance of doubt—

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

(3) In this section—

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

- (a) to be consistent with,
- (b) not to cause any significant inconsistency with,
- (c) to ascertain whether there is any inconsistency with, or
- (d) to have regard to,
- the marine planning policy statement;

‘specified Act’ means—

- (a) this Act, or

(b) the Act of 2000.”.

(2) This section shall come into operation on the commencement of section 6 of the Act of 2021.

**Amendment of section 10 of Act of 2021**

33. Section 10(3) of the Act of 2021 is amended by the insertion of “, 20” after “section 5(2)”.

**Amendment of section 20 of Act of 2021**

34. Section 20 of the Act of 2021 is amended—

- (a) in subsection (1) by the insertion of “by order,” after “the Minister may,”,
- (b) in subsection (3)—
  - (i) by the substitution of “proposes to designate by order a public body” for “proposes to designate a public body”, and
  - (ii) by the substitution of “shall not make the order” for “shall not so designate the public body”,
- (c) in subsection (4)—
  - (i) by the substitution of “designate, by order, a” for “designate a”, and
  - (ii) by the substitution of “before making the order” for “before so designating it”,
- (d) by the substitution of the following subsection for subsection (5):
  - “(5) An order amending or revoking an order designating a public body as a competent authority (D) may provide for any matters ancillary or consequential to such amendment or revocation.”,
- (e) by the deletion of subsection (6), and
- (f) in subsection (7)—
  - (i) by the insertion of “by order” after “designate”, and
  - (ii) by the substitution of “such order being made” for “such designation”.

**Amendment of section 29 of Act of 2021**

35. Section 29(4) of the Act of 2021 is amended—

- (a) by the substitution of the following paragraph for paragraph (i):
    - “(i) section 24(1) shall be treated as if the words ‘and submit the draft to the Minister’ were deleted;”,
- and

(b) by the insertion of the following paragraph after paragraph (i):

“(ia) section 24(3) to (4) shall be treated as being deleted;”.