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NATIONAL MONUMENTS (AMENDMENT) ACT 2004

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SCHEDULE 2

[No. 22.] *National Monuments (Amendment)* [2004.]
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NATIONAL MONUMENTS (AMENDMENT) ACT 2004

AN ACT TO AMEND AND EXTEND THE NATIONAL MONUMENTS ACTS 1930 TO 1994 AND TO PROVIDE FOR RELATED MATTERS. [18th July, 2004]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act “Principal Act” means the National Monuments Act 1930. Interpretation.

2.—Section 2 of the Principal Act is amended:

Amendment of section 2 of Principal Act.

(a) by deleting the definition of “the Minister”, and

(b) by inserting the following after the definition of “national monument”:

“the word ‘works’ includes development works of national, regional or local importance;”.

3.—The Principal Act is amended by inserting the following section after section 2: Meaning assigned to “Minister” etc.

“Meaning assigned to ‘Minister’.

2A.—(1) In this Act, and in every other Act that is to be construed as one with this Act, unless the context otherwise requires ‘Minister’—

(a) except when paragraph (b) of this definition applies, means the Minister for the Environment, Heritage and Local Government, and

(b) in relation to the performance of any function involving the day-to-day operation of a property—

(i) which immediately before 16 December 2003, was in the guardianship or ownership, or

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under the management, of the Minister for the Environment, Heritage and Local Government by or under the National Monuments Acts 1930 to 1994, or

- (ii) on or after 16 December 2003, of which that Minister of the Government becomes the guardian or owner,

means the Minister for Finance.

(2) Nothing in subsection (1) of this section affects—

- (a) the functions vested in the Minister for Arts, Sport and Tourism by—

- (i) the Arts and Culture (Transfer of Departmental Administration and Ministerial Functions) Order 2002 (S.I. No. 302 of 2002), or

- (ii) the National Monuments (Transfer of Departmental Administration and Ministerial Functions) Order 2002 (S.I. No. 358 of 2002), or

- (b) the functions of the Minister for Finance under—

- (i) sections 3(4) and 15(3) of the Principal Act, or

- (ii) sections 3(10) and 24(3) of the National Monuments (Amendment) Act 1987.

(3) The functions vested in the Minister for Finance and the Minister for the Environment, Heritage and Local Government by virtue of subsection (1) of this section 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.

(4) Subsection (1)(b) of this section does not affect the granting of a consent under section 14 of this Act or of a consent to which section 14C of the Act relates.”.

Transfer of functions, etc. to Minister.

4.—(1) The functions vested in the Commissioners of Public Works in Ireland under the National Monuments Acts 1930 to 1994 which were not transferred to the Minister for Arts, Culture and the Gaeltacht by the Heritage (Transfer of Functions of Commissioners of Public Works) Order 1996 (S.I. No. 61 of 1996) and were not subsequently transferred, are transferred to the Minister, being the Minister as defined by section 2A (inserted by this Act) of the Principal Act.

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(2) (a) The administration and business in connection with the performance or exercise of any functions transferred by this section to the Minister for the Environment, Heritage and Local Government are transferred to the Department of the Environment, Heritage and Local Government. S.4

(b) The administration and business in connection with the performance or exercise of any functions transferred by this section to the Minister for Finance are transferred to the Department of Finance.

(3) In this section “functions” includes powers and duties, and references to the performance of functions include, as respects powers and duties, references to the exercise of powers and the carrying out of duties.

5.—The Principal Act is amended by substituting the following sections for section 14: Injury to national monuments, etc.

“Prohibition of injury to national monuments, etc.

14.—(1) In respect of a national monument of which the Minister or a local authority are the owners or the guardians or in respect of which a preservation order is in force, it shall not be lawful for any person to do any of the following things in relation to such national monument:

(a) to demolish or remove it wholly or in part or to disfigure, deface, alter, or in any manner injure or interfere with it, or

(b) to excavate, dig, plough or otherwise disturb the ground within, around, or in proximity to it, or

(c) to renovate or restore it, or

(d) to sell it or any part of it for exportation or to export it or any part of it,

without the consent referred to in subsection (2) of this section or otherwise than in accordance with such consent.

(2) (a) In respect of a national monument to which subsection (1) relates and at the discretion of the Minister, the Minister may grant consent in writing to the doing to such monument of one or more of the matters specified in paragraphs (a) to (d) of subsection (1) of this section (in this subsection referred to as the ‘carrying out of works’).

(b) (i) The Minister shall consult in writing with the Director of the National Museum of Ireland before granting a consent under paragraph (a) of this subsection.

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(ii) The period for consultation under subparagraph (i) of this paragraph shall be not more than 14 days from the day the consultative process was commenced by the Minister or such other period as may, in any particular case, be agreed to between the Minister and the Director of the National Museum of Ireland.

(c) A consent granted under paragraph (a) of this subsection to the carrying out of works shall be subject to such conditions and restrictions as the Minister may determine and specify in the consent.

(d) The Minister in exercising discretion under paragraph (a) of this subsection is not restricted to archaeological considerations but is entitled to consider the public interest in allowing the carrying out of works notwithstanding that such works may involve—

(i) injury to or interference with the national monument concerned,
or

(ii) the destruction in whole or in part of the national monument concerned.

(3) Without prejudice to the generality of subsection (2) of this section, the Minister in exercising discretion under that subsection in respect of a national monument may have regard to the following to the extent that they appear to the Minister to be relevant in exercising discretion in any particular case:

(a) the preservation, protection or maintenance of the archaeological, architectural, historical or other cultural heritage or amenities of, or associated with, the national monument;

(b) the nature and extent of any injury or interference with the national monument;

(c) any environmental, cultural, social, recreational or economic benefit that would accrue to the State or area in which the national monument is situate as a result of the carrying out of works;

(d) any matter of policy of the Government, of the Minister or of any other Minister of the Government;

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(e) the need to collect or disseminate information on national monuments or in respect of heritage generally; S.5

(f) the cost implications (if any) that would, in the Minister's opinion, occur from either granting or not granting a consent under subsection (2)(a) of this section.

(4) Where the Minister has granted a consent to a person under this section, then—

(a) any further consent under any other provision of the *National Monuments Acts 1930 to 2004*, or

(b) a licence under any provision of the *National Monuments Acts 1930 to 2004*, other than a licence under section 25 (as amended by the *National Monuments (Amendment) Act 1994*) of this Act,

is not required to be held or obtained by such person or by any person acting as the first-mentioned person's employee, agent or servant in respect of any act or thing done in accordance with the consent and the conditions and requirements (if any) attached to the consent so granted.

(5) A person who contravenes subsection (1) of this section is guilty of an offence and is liable—

(a) on summary conviction, to a fine not exceeding €3,000 or, at the discretion of the Court, to imprisonment for a term not exceeding 6 months or to both, or

(b) on conviction on indictment, to a fine not exceeding €10,000,000 or, at the discretion of the Court, to imprisonment for a term not exceeding 5 years or to both.

(6) (a) Where a person is convicted of an offence under this section the Court by whom the person is so convicted may, at the time of such conviction and in addition to any penalty imposed under this section, order such person—

(i) to pay to the Minister, where—

(I) the Minister is the owner or the guardian of the national monument in respect of which the offence was committed, or

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(II) a preservation order is in force in respect of such monument,

or

(ii) to pay to a local authority, where the local authority are the owners or guardians of the national monument in respect of which the offence was committed,

such sum as the Court shall fix as the reasonable cost of repairing the damage done to such monument by the commission of the offence.

(b) The sum referred to in paragraph (a) of this subsection shall be recoverable by the Minister or such local authority (as the case may be) as if such sum were a civil debt and such order were a judgment of the Court for the payment of a civil debt, and every such sum when recovered by the Minister or such local authority shall be applied by the Minister or the local authority (as the case may be) in repairing the damage referred to in the said paragraph (a).

(7) Nothing in this section shall operate—

(a) to authorise the doing of any act in relation to a national monument not owned by the Minister or a local authority which, if this section had not been enacted, could not lawfully be done without the consent of the person or all the persons for the time being seised or possessed of such monument, or

(b) to deprive any person, who is so seised or possessed of such monument, of any legal remedy which, if this section had not been enacted, that person would have had in respect of the doing of such act without that person's consent.

Supplementary provisions to section 14 and road development.

14A.—(1) The consent of the Minister under section 14 of this Act and any further consent or licence under any other provision of the *National Monuments Acts 1930 to 2004* shall not be required where the works involved are connected with an approved road development.

(2) Any works of an archaeological nature that are carried out in respect of an approved road development shall be carried out in accordance with the directions of the Minister, which directions shall be issued following consultation

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by the Minister with the Director of the National S.5
Museum of Ireland.

(3) Subsection (4) applies where, in respect of a national monument—

(a) it is discovered during the carrying out of a road development to which subsection (1) of this section applies, and

(b) neither the approval under section 51 of the Roads Act 1993 nor the environmental impact statement to which the approval relates deal with it.

(4) Where a national monument has been discovered to which subsection (3) of this section relates, then—

(a) the road authority carrying out the road development shall report the discovery to the Minister,

(b) subject to subsection (7) of this section, and pending any directions by the Minister under paragraph (d) of this subsection, no works which would interfere with the monument shall be carried out, except works urgently required to secure its preservation carried out in accordance with such measures as may be specified by the Minister,

(c) the consent of the Minister under section 14 of this Act and—

(i) any further consent under any other provision of the *National Monuments Acts 1930 to 2004*, or

(ii) a licence under any provision of the *National Monuments Acts 1930 to 2004* other than a licence under section 25 (as amended by the National Monuments (Amendment) Act 1994),

is not required,

(d) the Minister may, at his discretion, issue directions to the road authority concerned for the doing to such monument of one or more of the following matters:

(i) preserve it;

(ii) renovate or restore it;

(iii) excavate, dig, plough or otherwise disturb the ground within, around, or in proximity to it;

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(iv) make a record of it;

(v) demolish or remove it wholly or in part or to disfigure, deface, alter, or in any manner injure or interfere with it,

and the road authority shall, except where section 14B(8)(a)(iii) of this Act applies, comply with such directions.

(5) (a) The Minister shall consult in writing with the Director of the National Museum of Ireland before issuing directions under subsection (4)(d) of this section.

(b) The period for consultation under paragraph (a) of this subsection shall not be more than 14 days from the day the consultative process was commenced by the Minister or such other period as may, in any particular case, be agreed to between the Minister and the Director of the National Museum of Ireland.

(6) In exercising discretion under subsection (4)(d) of this section—

(a) the Minister is not restricted to archaeological considerations but is entitled to consider the public interest notwithstanding that such exercise may involve—

(i) injury to or interference with the national monument concerned, or

(ii) the destruction in whole or in part of the national monument concerned,

(b) the Minister may have regard to the following to the extent that they appear to the Minister to be relevant in exercising discretion in any particular case:

(i) the preservation, protection or maintenance of the archaeological, architectural, historical or other cultural heritage or amenities of, or associated with the national monument;

(ii) the nature and extent of any injury or interference with the national monument;

(iii) any social or economic benefit that would accrue to the State or

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region or immediate area in S.5
which the national monument is
situate as a result of the carrying
out of the road development;

- (iv) any matter of policy of the Government, of the Minister or of any other Minister of the Government;
- (v) the need to collect or disseminate information on national monuments or in respect of heritage generally;
- (vi) the cost implications (if any) that would, in the Minister's opinion, occur from the issuing of a direction, or not issuing a direction, under subsection (4)(d) of this section.

(7) Where the Minister considers it expedient to do so in the interests of public health or safety the Minister may issue such directions without having regard to or having considered matters which, if it were not expedient to do so in the interests of public health or safety, the Minister would have regard to or have considered.

(8) In this section—

'approved road development' means a road development approved under either or both sections 49 and 51 of the Roads Act 1993;

'road development' has the same meaning as it has in the Roads Act 1993.

Ministerial
direction under
section 14A and
function of An
Bord Pleanála.

14B.—(1) Where the Minister has issued directions to a road authority under section 14A(4)(d) of this Act, the road authority shall inform An Bord Pleanála (in this section referred to as the 'Board') of those directions and of any change to the approved road development, which it is satisfied is necessitated by the Minister's directions.

(2) As soon as practicable after the road authority has informed the Board of those directions the Board shall determine whether as a consequence of those directions there is a material alteration—

- (a) to the approved road development, or
- (b) any modification to which the approval under either or both sections 49 and 51 of the Roads Act 1993 is subject.

(3) Where the Board determines that as a consequence of the directions of the Minister—

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- (a) no material alteration arises to the approved road development, it shall so advise the road authority concerned,
- (b) a material alteration arises to the approved road development concerned, it shall—
 - (i) determine whether or not—
 - (I) to modify the approval concerned or any modification to which that approval is subject,
 - (II) to add any modification to the approval,for the purposes of permitting any changes to the route or design of the approved road development, and
 - (ii) determine whether or not the material alteration is likely to have significant adverse effects on the environment,

and in exercising its functions under this subsection the Board shall confine itself to considering the directions of the Minister and any proposed change to the approved road development. Nothing in this section shall be construed so as to put in question any part of the scheme duly approved under section 49 of the Roads Act 1993, or of the road development duly approved under section 51 of that Act, and to which the directions of the Minister do not relate.

(4) Where the Board, having regard to all legal requirements, makes a determination that the material alteration is not likely to have significant adverse effects on the environment, then the Board shall so advise the road authority concerned and the Board shall give its approval subject to the modifications and additions (if any) determined in accordance with subsection (3)(b)(i).

(5) (a) Where the Board makes a determination that a material alteration is likely to have significant adverse effects on the environment, then the Board shall require an environmental impact statement to be prepared by the road authority in relation to the change to the approved road development concerned.

(b) In making its determination under this subsection the Board shall have regard to the criteria set out in Schedule 7 to the Planning and

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Development Regulations 2001 (S.I. S.5 No. 600 of 2001), the text of which is for convenience of reference set out in *Schedule 1* to the *National Monuments (Amendment) Act 2004*.

(6) An environmental impact statement required under subsection (5)(a) of this section shall contain—

(a) the information specified in paragraph 1 of Schedule 6 to the Planning and Development Regulations 2001,

(b) the information specified in paragraph 2 to the said Schedule 6 to the extent that—

(i) such information is relevant to—

(I) the given stage of the consent procedure and to the specific characteristics of the development or type of development concerned, and

(II) the environmental features likely to be affected,

and

(ii) the person or persons preparing the statement may reasonably be required to compile it having regard to current knowledge and methods of assessment,

and

(c) a summary, in non-technical language, of the information required under paragraphs (a) and (b) of this subsection,

and, for convenience of reference, the text of the said Schedule 6 is set out in *Schedule 2* to the *National Monuments (Amendment) Act 2004*.

(7) When a road authority has prepared the environmental impact statement required under subsection (5)(a) of this section, it shall as soon as may be—

(a) submit a copy of the statement to the Board, together with either—

(i) a copy of the published notice referred to in paragraph (c) of this subsection, or

(ii) a copy of the notice proposed to be published in accordance with paragraph (c) of this subsection

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together with details of its proposed publication and date,

- (b) publish a notice, in the prescribed form, in one or more newspapers circulating in the area in which the proposed road development would be or is taking place—
 - (i) stating that the road authority has submitted an environmental impact statement to An Bord Pleanála of the proposed change to the approved road development,
 - (ii) indicating the times at which, the period (which shall not be less than one month) during which and the place where a copy of the environmental impact statement may be inspected,
 - (iii) stating that a copy of the environmental impact statement may be purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy), and
 - (iv) stating that submissions may be made in writing to An Bord Pleanála before a specified date (which date shall not be less than 28 days after the notice was first published) in relation to the likely effects on the environment of the proposed change to the approved road development,
- (c) send a copy of the environmental impact statement together with a notice in the prescribed form to any prescribed body or person stating that—
 - (i) the road authority has submitted the statement to An Bord Pleanála in relation to the likely effects on the environment of the proposed change to the approved road development,
 - (ii) before a specified date (which date shall be the same as provided or proposed to be provided for by the notice under paragraph (b) of this subsection) submissions may be made in writing to An Bord Pleanála in relation to the likely effects on the environment of the proposed change to the approved road development,

(d) send a copy of the environmental impact statement, together with a notice in the prescribed form, to any other state to which subsection (8)(c)(ii) of this section relates where, in the road authority's opinion the proposed change to the approved road development is likely to have significant effect on the environment in that state, together with a notice (in the prescribed form, if any) stating that—

(i) the road authority has submitted the statement to An Bord Pleanála in relation to the likely effects on the environment of the proposed change to the approved road development,

(ii) before a specified date (which date shall be the same as provided or proposed to be provided for by the notice under paragraph (b) of this subsection) submissions may be made in writing to An Bord Pleanála in relation to the likely effects on the environment in that state of the proposed change to the approved road development,

and the Board may, at its discretion and from time to time, extend any time limits provided for by this subsection.

(8) (a) Where an environmental impact statement has been submitted under subsection (7)(a) of this section, the Board may—

(i) confirm the approved road development concerned, as affected by the Minister's directions,

(ii) approve, with or without modifications, the change to the approved road development, or

(iii) refuse to confirm the approved road development concerned, as affected by the Minister's directions.

(b) In exercising its functions under this subsection the Board shall confine itself to considering the proposed change to the approved road development. Nothing in this section shall be construed so as to put in question any part of the scheme duly approved under section 49 of the

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Roads Act 1993, or of the road development duly approved under section 51 of that Act, and to which the directions of the Minister do not relate.

- (c) In exercising its functions under paragraph (a) of this subsection, the Board shall to the extent that they appear to the Board to be relevant, have regard to the following:
- (i) the environmental impact statement submitted pursuant to subsection (7)(a) of this section, any information furnished pursuant to subsection (9)(b) of this section and any submissions made in relation to the likely effects on the environment of any proposed change to the approved road development,
 - (ii) where any change is likely to have significant adverse effects on the environment in—
 - (I) another Member State of the European Communities, or
 - (II) a state which is a party to the United Nations Economic Commission for Europe Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo (Finland) on 25 February 1991,

the views of such Member State or party,
 - (iii) the development plan or plans, made under section 9 of the Planning and Development Act 2000, for the area in which the approved road development is taking place,
 - (iv) any social or economic benefit that would accrue to the State or region or immediate area in which the national monument is situate as a result of the carrying out of the approved road development,
 - (v) any matter of policy of the Government, of the Minister, or of any other Minister of the Government,

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(vi) the cost implications (if any) that would, in the Board's opinion, occur from issuing or not issuing the directions under section 14A(4)(d) of this Act, S.5

(vii) commitments entered into and the stage at which the approved road development has progressed under the original approval.

(d) The Board shall not exercise its functions under paragraph (a) of this subsection until at least 28 days have elapsed since the notice required to be published under subsection (7)(b) of this section was first published.

(9) Where—

(a) the Board has been informed by a road authority of directions under subsection (1) of this section, or

(b) an environmental impact statement has been submitted to the Board by a road authority under subsection (7)(a) of this section,

then the Board may require the road authority to furnish it with specified additional information that it considers it necessary to have for the purposes of exercising its functions under subsection (3) or (5)(a) of this section, as the case may be, and the road authority shall comply with any such requirement.

(10) Where the Board has made a decision to which subsection (8)(a) relates it shall—

(a) publish in one or more newspapers circulating in the area in which the proposed change to the approved road development would take place notice of its decision,

(b) inform any state to which an environmental impact statement was sent under subsection (7)(d) of this section of its decision,

including, where appropriate, particulars of any modifications by it to the proposed change to the approved road development.

(11) (a) The Minister may make regulations for prescribing any matter referred to in this section as prescribed or to be prescribed.

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(b) Regulations under this section may contain such incidental, supplemental and consequential provisions as appear to the Minister to be necessary or expedient.

(c) Every regulation 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 regulation is passed by either such House within the next 21 days on which the House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(12) In this section—

‘approved road development’ means a road development approved under either or both sections 49 and 51 of the Roads Act 1993;

‘Board’ has the meaning assigned by subsection (1) of this section;

‘road development’ has the same meaning as it has in the Roads Act 1993.

Grant of consent in interests of public health or safety.

14C.—(1) Where the Minister considers it expedient to do so in the interests of public health or safety and upon being requested to grant consent under section 14 of this Act, the Minister may grant consent under subsection (2)(a) of that section without having regard to or considered matters which, if it were not expedient to so do in the interests of public health or safety, the Minister would have had regard to or considered. Any consent to the carrying out of works to which this section relates shall be subject to such conditions and restrictions as the Minister may determine and specify under section 14(2)(c) of this Act.

(2) Where the Minister has granted a consent to a person to whom this section relates, then—

(a) any further consent under any other provision of the *National Monuments Acts 1930 to 2004*, or

(b) a licence under any provision of the *National Monuments Acts 1930 to 2004*, other than a licence under section 25 (as amended by the *National Monuments (Amendment) Act 1994*) of this Act,

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is not required to be held or obtained by such person or by any person acting as the first-mentioned person's employee, agent or servant in respect of any act or thing done in accordance with the consent and the conditions and requirements (if any) attached to the consent so granted.”.

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6.—Section 23 of the Principal Act (as amended by section 19 of the National Monuments (Amendment) Act 1994) is amended by substituting the following for subsection (9):

Amendment of section 23 (report of discovery of archaeological objects) of Principal Act.

“(9) This section shall not apply—

(a) to any person who discovers an archaeological object under and in pursuance of—

(i) a consent granted under section 14 of this Act, including any consent to which directions under section 14A of this Act relate,

(ii) a direction under section 14B,

(iii) a consent granted under section 14C,

(iv) a licence issued under section 26 of this Act, or

(v) an approved road development under either or both sections 49 and 51 of the Roads Act 1993,

or

(b) to a person exempt from having such a licence.”.

7.—Section 24 of the National Monuments (Amendment) Act 1987 is amended by substituting the following for subsection (1):

Amendment of section 24 (fees) of National Monuments (Amendment) Act 1987.

“(1) The Minister for the Environment, Heritage and Local Government may, with the consent of the Minister for Finance by regulations prescribe fees for the purposes of sections 2 and 3 of this Act and section 26 of the Principal Act.”.

8.—(1) The consent of the Minister under section 14 and any further consent or licence under any other provision of the *National Monuments Acts 1930 to 2004* shall not be required in relation to the carrying out of works affecting any national monument in connection with the completion of the South Eastern Route (as described in the Third Schedule of the Roads Act 1993 (declaration of National Roads) Order 1994 (S.I. No. 209 of 1994)) by Dun Laoghaire-Rathdown County Council but any such works shall be carried out on the directions of the Minister.

South Eastern Route and *National Monuments Acts 1930 to 2004*.

(2) In considering to issue directions under *subsection (1)* of this section—

(a) the Minister is not restricted to archaeological considerations but is entitled to consider the public interest notwithstanding that such exercise may involve—

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- (i) injury to or interference with a national monument, or
 - (ii) the destruction in whole or in part of a national monument,
- (b) the Minister may have regard to the following to the extent that they appear to the Minister to be relevant in exercising discretion to issue directions in respect of a national monument:
- (i) the preservation, protection or maintenance of the archaeological, architectural, historical or other cultural heritage or amenities of, or associated with the national monument,
 - (ii) the nature and extent of any injury or interference with the national monument,
 - (iii) any social or economic benefit that would accrue to the State or region or immediate area in which the national monument is situated as a result of the carrying out of the road development,
 - (iv) any matter of policy of the Government, of the Minister or of any other Minister of the Government,
 - (v) the need to collect or disseminate information on national monuments or in respect of heritage generally,
 - (vi) the cost implications (if any) that would, in the Minister's opinion, occur from the issuing of a direction, or not issuing a direction, under *subsection (1)* of this section.

(3) Where an archaeological object is found as a consequence of work undertaken by Dun Laoghaire-Rathdown County Council relating to work on the South Eastern Route, then section 8 of the National Monuments (Amendment) Act 1994 shall not apply to the land or any premises under which or in the vicinity of which the archaeological object has been found.

(4) Section 50(1)(b) of the Roads Act 1993 shall not apply in respect of the South Eastern Route.

Short title,
construction and
collective citation.

9.—(1) This Act may be cited as the National Monuments (Amendment) Act 2004.

(2) The National Monuments Acts 1930 to 1994, and this Act, shall be construed together as one Act.

(3) The National Monuments Acts 1930 to 1994 and this Act may be cited together as the National Monuments Acts 1930 to 2004.

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SCHEDULE 1

Section 5.

Text of Schedule 7 to the Planning and Development Regulations
2001

CRITERIA FOR DETERMINING WHETHER A
DEVELOPMENT WOULD OR WOULD NOT BE LIKELY TO
HAVE SIGNIFICANT EFFECTS ON THE ENVIRONMENT

Articles 103, 109 and 120

1. Characteristics of proposed development

The characteristics of proposed development, in particular:

- the size of the proposed development,
- the cumulation with other proposed development,
- the use of natural resources,
- the production of waste,
- pollution and nuisances,
- the risk of accidents, having regard to substances or technologies used.

2. Location of proposed development

The environmental sensitivity of geographical areas likely to be affected by proposed development, having regard in particular to:

- the existing land use,
- the relative abundance, quality and regenerative capacity or natural resources in the area,
- the absorption capacity of the natural environment, paying particular attention to the following areas:
 - (a) wetlands,
 - (b) coastal zones,
 - (c) mountain and forest areas,
 - (d) nature reserves and parks,
 - (e) areas classified or protected under legislation, including special protection areas designated pursuant to Council Directive 79/409/EEC of 2 April 1979 and Council Directive 92/43/EEC of 21 May 1992,
 - (f) areas in which the environmental quality standards laid down in legislation of the European Communities have already been exceeded,
 - (g) densely populated areas,
 - (h) landscapes of historical, cultural or archaeological significance.

[No. 22.] *National Monuments (Amendment)* [2004.]
Act 2004.

SCH.1

3. *Characteristics of potential impacts*

The potential significant effects of proposed development in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to:

- the extent of the impact (geographical area and size of the affected population),
- the transfrontier nature of the impact,
- the magnitude and complexity of the impact,
- the probability of the impact,
- the duration, frequency and reversibility of the impact.

[2004.] *National Monuments (Amendment) Act 2004.* [No. 22.]

SCHEDULE 2

Section 5.

Text of Schedule 6 to the Planning and Development Regulations 2001

INFORMATION TO BE CONTAINED IN AN EIS

Article 94

1. (a) A description of the proposed development comprising information on the site, design and size of the proposed development.
 - (b) A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.
 - (c) The date required to identify and assess the main effects which the proposed development is likely to have on the environment.
 - (d) An outline of the main alternatives studied by the developer and an indication of the main reasons for his or her choice, taking into account the effects on the environment.
2. Further information, by way of explanation or amplification of the information referred to in paragraph 1, on the following matters:
 - (a) (i) a description of the physical characteristics of the whole proposed development and the land-use requirements during the construction and operational phases;
 - (ii) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
 - (iii) an estimate, by type and quantity, of expected residues and emissions (including water, air and soil pollution, noise, vibration, light, heat and radiation) resulting from the operation of the proposed development;
 - (b) a description of the aspects of the environment likely to be significantly affected by the proposed development, including in particular:
 - human beings, fauna and flora,
 - soil, water, air, climatic factors and the landscape,
 - material assets, including the architectural and archaeological heritage, and the cultural heritage,
 - the inter-relationship between the above factors;
 - (c) a description of the likely significant effects (including direct, indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative) of the proposed development on the environment resulting from:
 - the existence of the proposed development,
 - the use of natural resources,

[No. 22.] *National Monuments (Amendment)* [2004.]
Act 2004.

SCH.2

— the emission of pollutants, the creation of nuisances
and the elimination of waste,

and a description of the forecasting methods used to assess
the effects on the environment;

(d) an indication of any difficulties (technical deficiencies or
lack of know-how) encountered by the developer in com-
piling the required information.