

An Roinn Cumarsáide,
Mara agus Acmhainní Náúrtha
Baile Átha Cliath 2.



186-1-167-1
Department of Communications,
Marine and Natural Resources
Dublin 2.

15 November 2004

E.P.A.
P.O.Box 3000
Johnstown Castle Estate
Co. Wexford

ENVIRONMENTAL PROTECTION
AGENCY
17 NOV 2004

**Notification in accordance with Section 42(2) of the Waste Management Acts,
1996-2003, of a proposed decision on a waste licence application,
in respect of a facility at Ringaskiddy**

Dear Sir / Madam

I refer to the EPA's notification (26 October 2004) regarding the proposed decision on a waste licence application in respect of a facility at Ringaskiddy.

I have no comment to make on the proposed decision except to bring to your attention Section 3 of the Dumping at Sea Act, 1996.

- 3.- (1) A person who causes or procures the incineration, that is to say, the deliberate combustion, of any substance or material in the maritime area for the purpose of thermal destruction shall be guilty of an offence.
- (2) *Subsection (1)* does not apply to the thermal destruction of substances or material derived from the normal operation of vessel, aircraft or offshore installation other than the thermal destruction of substances or material on a vessel, aircraft or offshore installation operating for the purpose of such destruction.

I enclose a copy of the Dumping at Sea Act, 1996 for your information.

Yours sincerely

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DUMPING AT SEA ACT, 1996**DUMPING AT SEA ACT, 1996**1 Interpretation.2 Restrictions on dumping at sea of vessels, aircraft, substances and material.3 Prohibition of incineration of substances or material in maritime area.4 Prohibition of disposal of offshore installations and certain substances or material.5 Permits in relation to dumping.6 Powers of authorised officers.7 Provisions in relation to offences.8 Indictment of bodies corporate.9 Collection and application of fines.10 Penalties.11 Prosecution of offences by Attorney General.12 Prosecution of offences under Sea Pollution Act, 1991, by Attorney General.13 Fees.14 Expenses.15 Repeal of Act of 1981.16 Short title, collective citation and collective construction.FIRST SCHEDULESECOND SCHEDULE

AN ACT TO MAKE FURTHER PROVISION TO CONTROL DUMPING AT SEA, TO GIVE EFFECT TO THE CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH-EAST ATLANTIC DONE AT PARIS ON THE 22ND DAY OF SEPTEMBER, 1992, AND FOR THOSE PURPOSES TO REPEAL AND RE-ENACT WITH AMENDMENTS THE DUMPING AT SEA ACT, 1981, AND TO PROVIDE FOR RELATED MATTERS.

[19th June, 1996]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—In this Act, save where the context otherwise requires—

"authorised officer" shall be construed in accordance with *section 6 (1)* of this Act;

"company" has the same meaning as in the Companies Acts, 1963 to 1990;

"dumping" means—

(a) any deliberate disposal in the maritime area (including side-cast dredging, plough dredging, water injection dredging and other such dredging techniques) of a substance or material from or in conjunction with a vessel or aircraft or offshore installation,

(b) any deliberate disposal in the maritime area of vessels,

aircraft or offshore installations,

but does not include—

(i) the disposal in accordance with the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, or other applicable international law to which Ireland is a party, of a substance or a material incidental to, or derived from, the normal operations of a vessel or aircraft or offshore installation (or its equipment) other than a substance or a material transported by or to a vessel or aircraft or offshore installation for the purpose of disposal of such substance or material or derived from the treatment of such substance or material on such a vessel or aircraft or installation;

(ii) the discharge, for the purpose of dispersing or otherwise altering the distribution or character of any mineral oil on the surface of the sea, of a substance or material designed or intended for use for the purpose aforesaid and cognate words shall be construed accordingly;

(iii) placement of a substance or material or vessel or aircraft in the maritime area for a purpose other than the mere disposal thereof, provided that, if the placement is for a purpose other than that for which the substance or material or vessel or aircraft was originally designed or constructed, it is in accordance with the provisions of *sections 2 and 5* of this Act;

(iv) the discarding of unprocessed fish or fish offal from fishing vessels;

"functions" includes powers and duties and a reference to the performance of a function includes a reference to the exercise of a power and the carrying out of a duty;

"harbour authority" means—

(a) in the case of a harbour to which the Harbours Act, 1946, applies, a harbour authority within the meaning of that Act,

(b) in the case of Dún Laoghaire Harbour or a fishery harbour centre to which the Fishery Harbour Centres Act, 1968, applies or any other harbour under the control of the Minister, the said Minister,

(c) in the case of a harbour under the control of a local authority, the local authority concerned,

(d) in the case of a harbour under the management of Iarnród Éireann-Irish Rail, that company;

"Irish aircraft" means an aircraft registered in the State;

"Irish vessel" means a ship which is an Irish ship within the meaning of the Mercantile Marine Act, 1955, or a vessel which is owned by, leased or chartered to, an individual resident in the State or an Irish company, and is not registered under the law of another country;

"the London Convention" means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter done at London on the 29th day of December, 1972, as amended by the Consultative Meeting of Contracting Parties to the Convention on the 12th day of October, 1978;

"the maritime area" comprises—

(a) the territorial seas of the State, and the seabed and subsoil beneath those seas,

(b) any area for the time being standing designated by order under section 2 of the Continental Shelf Act, 1968, for the purposes of that Act and the waters above it, and

(c) any area which lies within a line, every point of which is at a distance of 200 nautical miles from the baselines for the purposes of the Maritime Jurisdiction Acts, 1959 to 1988, and the waters above it, provided that this subparagraph shall not be interpreted as constituting a claim by the State to any area which is under the jurisdiction of any other state and which the State otherwise recognises as being under such jurisdiction;

"master", in relation to a vessel, means the person having the command or charge of the vessel for the time being;

"the Minister" means the Minister for the Marine;

"offshore activities" means activities carried out in the sea for the purpose of the exploration, appraisal or exploitation of liquid and gaseous hydrocarbons;

"offshore installation" means any man-made structure, plant or vessel or parts thereof, whether floating or fixed to the seabed, placed in the sea for the purpose of offshore activities;

"substance or material" includes thing;

"territorial seas of the State" means the territorial seas of the State for the purpose of the Maritime Jurisdiction Acts, 1959 to 1988, and the internal waters of the State for the purposes of those Acts;

"vessel" includes an aircraft which is capable of landing on or taking off from water.

Restrictions on dumping at sea of 2.—(1) If any vessel or aircraft, substance or material—
vessels, aircraft, substances and
material.

(a) is dumped in the maritime area,

(*b*) is dumped anywhere in the sea outside the maritime area and the dumping is from an Irish vessel, or an Irish aircraft, or

(*c*) is loaded on to a vessel or aircraft in the State or in the maritime area for dumping,

the master and the owner of the vessel, or the pilot in command and the owner of the aircraft, as the case may be, and any other person who causes or permits the dumping or loading shall be guilty of an offence.

(2) It shall be a defence for a person ("the defendant") charged with an offence under this section to prove—

(*a*) that the commission of the offence was due to a mistake or to the act or default of another person or to an accident or some other cause beyond the defendant's control and that the defendant took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by the defendant or any person under the defendant's control, or

(*b*) that the dumping or loading concerned took place under and in accordance with a permit under *section 5* of this Act, or, in the case of dumping to which *subsection (1) (b)* of this section relates, under and in accordance with a permit granted by another state that is party to the Convention for the Protection of the Marine Environment of the North-East Atlantic done at Paris on the 22nd day of September, 1992 or the London Convention.

(3) (*a*) Paragraphs (*a*) and (*b*) of *subsection (1)* of this section shall not apply in relation to dumping, if it is reasonably necessary for the purpose of securing the safety of a vessel or aircraft or of saving life.

(*b*) Dumping for a purpose specified in *paragraph (a)* of this subsection shall be reported to the Minister by the master of the vessel or pilot in command of the aircraft, as the case may be, as soon as may be, but not later than 7 days after it takes place.

(*c*) A person who contravenes *paragraph (b)* of this subsection shall be guilty of an offence.

Prohibition of incineration of substances or material in maritime area.

3.—(1) A person who causes or procures the incineration, that is to say, the deliberate combustion, of any substance or material in the maritime area for the purpose of thermal destruction shall be guilty of an offence.

(2) *Subsection (1)* does not apply to the thermal destruction of substances or material derived from the normal operation of a vessel, aircraft or offshore installation other than the thermal

destruction of substances or material on a vessel, aircraft or offshore installation operating for the purpose of such destruction.

Prohibition of disposal of offshore installations and certain substances or material.

4.—(1) Subject to *section 5* of this Act, a person who deliberately disposes of, or permits the disposal of, in the maritime area, an offshore installation or any substance or material from any such installation, and the person in charge of, and the owner of, the offshore installation concerned, shall be guilty of an offence.

(2) A person who deliberately disposes of, or permits the disposal of, in the maritime area—

(a) low, intermediate and high level radioactive substances or material, or

(b) toxic, harmful or noxious substances,

and the master and the owner of the vessel, or the pilot in command and the owner of the aircraft or the person in charge of and the owner of the offshore installation concerned, as the case may be, shall be guilty of an offence.

(3) *Subsection (2) (a)* of this section shall not apply to any radioactive substances or material below low level as prescribed by the Minister in consultation with the Radiological Protection Institute of Ireland.

Permits in relation to dumping.

5.—(1) (a) The Minister may, after consultation with the Minister for the Environment, the Minister for Enterprise and Employment, the Minister for Transport, Energy and Communications and such other Minister of the Government as the Minister considers appropriate, grant, or refuse to grant, a permit to a person who applies to the Minister for a permit authorising the dumping of a specified vessel, aircraft or offshore installation, or a specified quantity of a specified substance or material in a specified place within a specified period of time or the loading onto the vessel or aircraft, of a specified quantity of a specified substance or material at a specified place within a specified period of time, which is intended to be dumped from the vessel or aircraft concerned.

(b) In deciding whether to grant or refuse a permit under this subsection, the Minister shall consider—

(i) the provisions establishing criteria governing the grant of a permit for dumping which are set out in the *First Schedule* to this Act; and

(ii) (I) the exceptions to the prohibition on dumping as contained in the extracts from Annex II to the Convention for the Protection of the Marine Environment of the North-East Atlantic done at Paris on the 22nd day of September, 1992, which are set out in *Part 1* of the *Second Schedule* to this Act, or

(II) the exceptions to the prohibition on dumping set out in *Part 2* of the said Schedule and permitted under Annex III to the said Convention,

as may be appropriate.

(2) A person who applies to the Minister for a permit under this section shall furnish to the Minister such information as the Minister may consider necessary for the purpose of the exercise of functions under this section, including, where so requested by the Minister, information that will satisfy the Minister that there is no suitable alternative means of disposal of the vessel, aircraft, offshore installation, substance or material concerned.

(3) A permit under this section shall contain such conditions as the Minister thinks appropriate. Without prejudice to the generality of the foregoing, a permit under this section shall include a condition that the person to whom it is granted shall indemnify the Minister against all reasonable costs incurred by him arising out of a breach of a condition of the said permit.

(4) The Minister may, after consultation with the Minister for the Environment, the Minister for Enterprise and Employment, the Minister for Transport, Energy and Communications and such other Minister of the Government as the Minister considers appropriate, revoke or amend a permit under this section, whenever the Minister deems it appropriate.

(5) The Minister may, with the consent of the Minister for Finance, charge, in respect of an application for a permit under this section, a fee of such amount as, in the opinion of the Minister, is appropriate having regard to the cost of any tests and investigations to be carried out for the purpose of enabling the Minister to decide whether to grant or refuse the application.

(6) The Minister may, with the consent of the Minister for Finance, in a case where the Minister proposes to grant a permit to a person under this section, charge the person (in addition to any fee paid by the person under *subsection (5)* of this section) a fee of such amount as, in the opinion of the Minister, is appropriate having regard to the cost of any monitoring, surveys and examinations carried out or to be carried out for the purposes of enabling the Minister—

(a) to determine where dumping may take place,

(b) to assess the effects of the dumping to which the permit relates on the marine environment and the living resources which it supports, and

(c) to ensure that the dumping to which the permit relates is carried out in accordance with that permit.

(7) A person who, in relation to an application for a permit under this section, makes a statement to the Minister that is false or misleading in a material respect shall be guilty of an offence

unless it is shown that the person concerned did not, and could not reasonably have been expected to, know that the statement was false or misleading in a material respect.

(8) (a) Permits may, subject to *paragraph (b)* of this subsection, be granted, revoked or amended by a person authorised for that purpose by the Minister and references to the Minister in *subsections (1) to (7)* of this section shall be construed as including references to such person.

(b) Where a person is authorised in accordance with *paragraph (a)* of this subsection to grant, revoke or amend a permit the person shall, in the discharge of such functions, have regard to such considerations of the policy as the Minister may direct.

(9) (a) The Minister shall cause to be established and kept a register and shall cause to be entered in the register particulars of all permits granted under this section.

(b) The register kept under this section shall be open to inspection by the public free of charge at all reasonable times.

(c) The Minister shall, as soon as may be after the end of each year, cause to be published in *Iris Oifigiúil*, particulars of all permits granted under this section, in that year.

(10) A permit granted under the Dumping at Sea Act, 1981, and in force immediately before the commencement of this section shall continue in force as if granted under this Act.

(11) The Minister may by order modify or amend any provision of the *First* or *Second Schedule* to this Act in conformity with any alteration which may from time to time be made to either or both the Convention for the Protection of the Marine Environment of the North-East Atlantic done at Paris on the 22nd day of September, 1992 and the London Convention.

(12) This section shall not come into operation as respects offshore installations until such day as the Government may by order appoint.

(13) Whenever an order is proposed to be made under this section 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 of the draft has been passed by each such House.

Powers of authorised officers.

6.—(1) (a) The Minister may appoint an officer of the Minister or of the Marine Institute established by the Marine Institute Act, 1991, to be an authorised officer:

(b) The Minister may, in relation to the fisheries regions created under section 10 of the Fisheries Act, 1980, appoint an officer of the Central Fisheries Board established by the said Act, to be an authorised officer.

(c) The Minister may, in relation to a fisheries region created under the said section 10, appoint an officer of a regional fisheries board (within the meaning of that section) established in respect of that fisheries region, to be an authorised officer.

(d) An authorised officer appointed under *paragraph (a), (b) or (c)* of this subsection shall, in the discharge of his functions under this section, have regard to such considerations of policy as the Minister may direct.

(e) Every member of the Garda Síochána shall be an authorised officer for the purposes of this Act.

(f) Every member of the Defence Forces (not below the rank of sergeant or petty officer, as the case may be) for the time being serving on board any vessel belonging to or in the service of the State shall be an authorised officer for the purposes of this Act.

(g) The Minister for Transport, Energy and Communications may appoint an officer of that Minister or of the Radiological Protection Institute of Ireland to be an authorised officer.

(h) A harbour authority may appoint an officer of the authority to be an authorised officer and an authorised officer appointed under this paragraph may exercise the powers under this Act of an authorised officer in, but only in, the harbour of the authority.

(2) An authorised officer may, for the purposes of this Act—

(a) at any reasonable time enter any vehicle, place or premises, and board any vessel, aircraft or offshore installation and carry out any inspection and examination which the officer reasonably considers necessary for the purposes aforesaid,

(b) require the person in charge to be present during the inspection and examination and to furnish such information as the officer may reasonably require for the purposes aforesaid,

(c) open any container at the place or in the premises, vehicle, vessel, aircraft or installation,

(d) examine and take samples of any material or substance at the place or in the premises, vehicle, vessel, aircraft or installation,

(e) require any person at the place or in the premises, vehicle, vessel, aircraft or offshore installation to produce any document in the power or control of that person which

the officer desires to see for the purposes aforesaid,

(f) inspect, examine and take copies of, or extracts from, any such document as aforesaid and require the person by whom any such document is kept or who produced the document to certify a copy thereof as a true copy, and

(g) monitor the effects of any dumping.

(3) For the purpose of entering a vehicle, place or premises or boarding a vessel, aircraft or offshore installation, an authorised officer may require the person in charge to do anything that will facilitate entry or boarding and the power conferred by this subsection includes power, in the case of a vehicle, vessel or installation, to require the person in charge to stop it.

(4) An authorised officer may, for the purposes of this Act, require the attendance of the master of a vessel, the pilot in command of an aircraft or the person in charge of an offshore installation and may, for the purposes aforesaid, make of such master, pilot or person any inquiry which appears to the officer to be necessary.

(5) Where an authorised officer reasonably suspects that, in relation to a vessel, aircraft or offshore installation, in the maritime area or in a harbour, airport or other place in the State, a contravention of this Act is taking, or has taken, place, he may detain the vessel, aircraft or offshore installation at any place in the maritime area or at any convenient harbour, airport or other place in the State until the happening of one of the following—

(a) in the case of dumping or loading, that is suspected to be in contravention of this Act, the production to the officer of a permit under this Act authorising the dumping or loading,

(b) the officer's becoming satisfied that a contravention of this Act has not taken place in relation to the vessel, aircraft or installation,

(c) the final determination of any court proceedings (including any appeal, re-trial or other proceedings) in respect of such a contravention as aforesaid and the payment of any fine imposed in the proceedings,

(d) the giving of security which, in the opinion of a judge of the District Court, is satisfactory for payment, in the event of a conviction of an offence in relation to the said contravention or in the event of a failure by a defendant in any proceedings in relation to such a contravention to attend before any court when such attendance is required for the purposes of the proceedings, of a sum that in the opinion of the judge is sufficient to provide for—

(i) payment of the maximum fine or fines ordered, or

which may be ordered to be paid in respect of the offence or offences, and

(ii) the estimated amount of the costs (if any) of any trials, appeals or other proceedings in relation to the offence or offences concerned awarded, or which may be awarded, against the defendant concerned,

or require the said vessel, aircraft or offshore installation to be removed from such maritime area, harbour, airport or other place.

(6) The security provided for in *subsection (5)* of this section is in addition to and not in substitution for any other bond or recognisance which the defendant concerned may be required to enter into by the judge of the District Court concerned in relation to any trials, appeals or other proceedings in relation to the offence or offences.

(7) Where an authorised officer has detained a vessel or offshore installation under this section—

(a) any authorised officer may, if the vessel or offshore installation, as the case may be, is not in a harbour, take it to the nearest or most convenient harbour or place in the maritime area, or

(b) any authorised officer may, if the vessel or offshore installation, as the case may be, is in a harbour detain it at that harbour or take it to a more convenient harbour or place in the maritime area,

and there detain it until the happening of one of the events described in *paragraphs (a) to (d)* of *section 6 (5)*.

(8) Where an authorised officer has, in the exercise of the powers conferred on him by this section, detained a vessel, aircraft or offshore installation, any authorised officer who suspects that in relation to the vessel, aircraft or offshore installation, as the case may be, a contravention of this Act is taking or has taken place shall, as soon as may be, apply to a judge of the District Court for an order authorising the continued detention of all persons on board the vessel, aircraft or offshore installation, as the case may be, and the said judge may, if he is satisfied that the authorised officer applying for the order so suspects, make an order authorising the detention of those persons for a period of 48 hours from the time of the making of the order.

(9) A person who obstructs, or interferes with, an authorised officer in the course of the officer's performance of functions under this section or fails or refuses to comply with a requirement of an authorised officer under this section shall be guilty of an offence.

(10) A person who, immediately before the commencement of this section, was an authorised officer under the Dumping at Sea Act, 1981, shall be an authorised officer for the purposes of this Act.

(11) An authorised officer (other than a member of the Defence Forces or a member of the Garda Síochána) shall be furnished with a certificate of his appointment and, when performing any function under this section, the officer shall, if requested by any person affected, produce the certificate to that person.

(12) No action or other legal proceedings, whether civil or criminal, shall be instituted in any court in respect of the doing of anything authorised to be done by an authorised officer under this section, whether such thing is done personally by an authorised officer or by a person acting on the orders or instructions of an authorised officer.

Provisions in relation to offences. 7.—(1) Summary proceedings in respect of an offence under this Act may be brought and prosecuted by the Minister.

(2) Summary proceedings in respect of an offence committed in the harbour of a harbour authority may be brought by the Minister or the authority.

(3) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted—

(a) in every case, within two years from the date of the offence, and

(b) if at the expiration of that period, the person to be charged is outside the State, within six months of the date on which he enters the State.

(4) Proceedings for an offence under this Act committed in the maritime area may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the State.

(5) Where an offence under this Act is committed by a body corporate and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person being a director, manager, secretary or other similar officer of the body or being a person who was purporting to act in any such capacity, that person, as well as the body, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(6) Without prejudice to any other jurisdiction, proceedings in relation to an offence under this Act may be brought against a person at any place where that person may, for the time being, be.

Indictment of bodies corporate. 8.—(1) A body corporate may be sent forward for trial on indictment for an offence under this Act with or without recognisances.

(2) On arraignment before the Central Criminal Court or the Circuit Court, the body corporate may enter in writing by its representative a plea of guilty or not guilty and, if it does not

appear by a representative appointed by it for the purpose, or, though it does so appear, fails to enter any plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the body corporate had duly entered that plea.

(3) A statement in writing purporting to be signed by the secretary of the body corporate to the effect that the person named in the statement has been appointed as the representative of the body for the purpose of this section shall be admissible without further proof as evidence that that person has been so appointed.

(4) Any summons or other document required to be served for the purpose or in the course of proceedings under this section on a body corporate may be served by leaving it at or sending it by registered post to the registered office of that body or, if there be no such office in the State, by leaving it at, or sending it by registered post to, the body at any place in the State at which it conducts its business.

Collection and application of fines.

9.—(1) Subject to *subsection (3)*, all fines in respect of offences under this Act shall be paid into the Exchequer in accordance with such directions as may, from time to time, be given by the Minister for Finance.

(2) Where a fine imposed on a person under this Act is not duly paid, the court may, without prejudice to any other powers for enforcing payment, direct the amount remaining unpaid to be levied by distress and sale of the vessel, aircraft or offshore installation concerned and its tackle, fixtures, fittings and equipment.

(3) Where it appears to a court imposing a fine that any person has incurred or will incur expense in removing any vessel, aircraft, offshore installation, substance or material which has been dumped or unlawfully disposed of or in making good any damage attributable to the offence, the court may order the whole or part of the fine to be paid to that person for or towards defraying the expense.

Penalties.

10.—(1) A person guilty of an offence under this Act shall be liable, on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding 5 years or to both the fine and the imprisonment.

(2) A judge of the District Court shall have jurisdiction to try summarily an offence under this Act if—

(a) the judge is of the opinion that the facts proved or alleged against a defendant charged with such an offence constitute a minor offence fit to be tried summarily,

(b) the Attorney General consents, and

(c) the defendant (on being informed by the judge of the right to be tried by a jury) does not object to being tried

summarily,

and upon conviction under this subsection, the said defendant shall be liable to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both the fine and the imprisonment.

(3) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence under this Act as if, in lieu of the penalties specified in subsection (3) of the said section 13, there were specified therein the penalty provided for by *subsection (2)* of this section, and the reference in subsection (2) (a) of the said section 13 to the penalties provided for in the said subsection (3) shall be construed and have effect accordingly.

(4) A person guilty of an offence under this Act shall be liable, on summary conviction, to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both the fine and the imprisonment.

(5) Where a judge of the District Court proposes to make an order for the release on bail of a defendant before him charged with an offence under this Act who is ordinarily resident outside the State, he shall (unless he is satisfied that all documents including an indictment required by law to be served on the defendant in connection with or for the purpose of the charge or of any proceedings arising out of or connected with the charge can be duly served on the defendant in the State) direct that those documents may, in lieu of being served on the defendant, be served on a person who is ordinarily resident in the State.

(6) Where a judge of the District Court who has given a direction under this section or another judge of the District Court acting in his place is satisfied that, owing to the death or absence from the State of a person specified in the direction or for any other reason, a document referred to in *subsection (5)* cannot be served on that person, the judge shall direct that the document may be served on another person who is ordinarily resident in the State.

(7) Service of a document referred to in this section on a person specified in a direction under this section shall be deemed for all purposes to be service on the defendant concerned.

Prosecution of offences by
Attorney General.

11.—(1) Section 3 of the Prosecution of Offences Act, 1974, shall not apply to the prosecution of an offence under this Act or to any functions in relation to that matter to which, but for this subsection, it would apply.

(2) References in Part II of the Criminal Procedure Act, 1967, and section 62 of the Courts of Justice Act, 1936, to the Director of Public Prosecutions shall, in so far as that Part and those sections apply in relation to an offence referred to in *subsection (1)* of this section or to any functions referred to in that subsection, be construed as references to the Attorney General.

Prosecution of offences under
Sea Pollution Act, 1991, by

12.—(1) Section 3 of the Prosecution of Offences Act, 1974, shall

Attorney General.

not apply to the prosecution of an offence under the Sea Pollution Act, 1991, or to any functions in relation to that matter to which, but for this subsection, it would apply.

(2) References in Part II of the Criminal Procedure Act, 1967, and section 62 of the Courts of Justice Act, 1936, to the Director of Public Prosecutions shall, in so far as that Part and those sections apply in relation to an offence referred to in *subsection (1)* of this section or to any functions referred to in that subsection, be construed as references to the Attorney General.

Fees.

13.—(1) Fees under this Act shall be taken and collected in such manner as the Minister for Finance may from time to time direct and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

(2) The Public Offices Fees Act, 1879, shall not apply in respect of such fees.

Expenses.

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

Repeal of Act of 1981.

15.—The Dumping at Sea Act, 1981, is hereby repealed.

Short title, collective citation and collective construction.

16.—(1) This Act may be cited as the Dumping at Sea Act, 1996.

(2) The Sea Pollution Act, 1991, and section 12 of this Act may be cited together as the Sea Pollution Acts, 1991 and 1996, and shall be construed together as one Act.

Section 5.

CRITERIA AS TO THE GRANT OF PERMITS FOR DUMPING

A—Characteristics and composition of the substance or material

1. Amount and composition.
2. Form, e.g. solid, sludge, liquid.
3. Properties: physical (especially solubility, specific gravity and density), chemical and biochemical (e.g. oxygen demand, nutrients) and biological (e.g. presence of viruses, bacteria, yeasts, parasites, etc.).
4. Toxicity.
5. Persistence: physical, chemical and biological.
6. Accumulation and biotransformation in biological materials or sediments.
7. Chemical and physical changes of waste after release, including possible formation of new compounds.
8. Probability of production of taints or other changes reducing marketability of resources (fish, shellfish, etc.).

B—Characteristics of dumping site and method of deposit

1. Location (e.g. co-ordinates of the dumping area, depth and distance from the coast), location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas and exploitable resources).
2. Rate of disposal per specific period (e.g. quantity per day, per week, per month).
3. Methods of packaging and containment, if any.
4. Initial dilution achieved by proposed method of release.
5. Dispersal, horizontal transport and vertical mixing characteristics.
6. Water characteristics (e.g. temperature, pH, salinity, oxygen indices of pollution-dissolved oxygen (DO), nitrate, nitrite, ammonia, phosphate and suspended matter).
7. Bottom characteristics (e.g. topography, geochemical and geological characteristics and benthic macro-fauna).
8. Existence and effects of current and previous discharges and dumping in the area (including accumulative effects).

C—General considerations and conditions

1. Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate use of the sea.
2. In applying these provisions the practical availability of alternative land-based methods of treatment, disposal or elimination, or of treatment to render the substance or material less harmful for dumping at sea, will be taken into consideration.

Section 5.

PART 1

THE EXCEPTIONS TO THE PROHIBITION ON DUMPING AS CONTAINED IN ANNEX II TO THE CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH-EAST ATLANTIC DONE AT PARIS ON THE 22ND DAY OF SEPTEMBER, 1992

Article 3

- (a) dredged material;
- (b) inert materials of natural origin, that is solid, chemically unprocessed geological material the chemical constituents of which are unlikely to be released into the marine environment;
- (c) sewage sludge until 31st December, 1998;
- (d) fish waste from industrial fish processing operations;
- (e) vessels or aircraft until, at the latest, 31st December, 2004.

PART 2

THE EXCEPTIONS TO THE PROHIBITION ON DUMPING PERMITTED IN ACCORDANCE WITH ANNEX III TO THE CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH-EAST ATLANTIC DONE AT PARIS ON THE 22ND DAY OF SEPTEMBER, 1992

Disused offshore installations dumped in accordance with a

permit issued by the competent authority of the relevant Contracting Party on a case-by-case basis:

Provided that the Contracting Parties shall—

(a) ensure that their authorities, when granting permits, implement the relevant applicable decisions, recommendations and all other agreements adopted under the Convention, and

(b) refuse to issue a permit if the disused offshore installation contains substances which result, or are likely to result, in hazards to human health, harm to living resources and marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

ACTS REFERRED TO

| | |
|--|--------------|
| Companies Acts, 1963 to 1990 | |
| Continental Shelf Act, 1968 | 1968, No. 14 |
| Courts of Justice Act, 1936 | 1936, No. 48 |
| Criminal Procedure Act, 1967 | 1967, No. 12 |
| Dumping at Sea Act, 1981 | 1981, No. 8 |
| Fisheries Act, 1980 | 1980, No. 1 |
| Fishery Harbour Centres Act, 1968 | 1968, No. 18 |
| Harbours Act, 1946 | 1946, No. 9 |
| Marine Institute Act, 1991 | 1991, No. 2 |
| Maritime Jurisdiction Acts, 1959 to 1988 | |
| Mercantile Marine Act, 1955 | 1955, No. 29 |
| Petty Sessions (Ireland) Act, 1851 | 1851, c. 93 |
| Prosecution of Offences Act, 1974 | 1974, No. 22 |
| Public Offices Fees Act, 1879 | 1879, c. 58 |
| Sea Pollution Act, 1991 | 1991, No. 27 |

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