**Information Note**

**Enactment of *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* and the position pending its entry into force**

On 13th October 2023 Uachtarán na hÉireann (the President of Ireland) signed the Historic and Archaeological Heritage and Miscellaneous Provisions Bill in accordance with Article 25 of Bunreacht na hÉireann (the Constitution of Ireland), following its passage by both Houses of the Oireachtas (i.e. the Dáil and the Seanad). This means that the Bill has been enacted, and became on that date the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (“the Act”).

While the Act is now law, it is important to be aware that (as is standard with most Acts) most of its provisions will not enter into force until the Minister has made one or more of what are known as “Commencement Orders”. Please refer to subsections (7) to (13) of section 1 of the Act in that regard.

As of now, no Commencement Orders have been made and therefore none of the Act other than section 225 and a number of non-heritage related “miscellaneous” provisions in Part 13 of the Act have entered into force (section 225 and certain of the non-heritage provisions were not subject to a requirement for Ministerial commencement and therefore entered into force immediately on enactment – see section 16 of the *Interpretation Act 2005* for the general rules on entry into force of Acts).

Section 225 provides that the Minister will be required to report to the Oireachtas on the operation of the Act within three years of its enactment (i.e. three years after 13th October 2023) and at five year intervals thereafter.

As no other aspects of the Act have entered into force, this means that section 7 of the Act (which provides for the repeal of the *National Monuments Acts 1930 to 2014* and related legislation) has not entered into force. Accordingly, the National Monuments Acts 1930 to 2014 and other legislation which section 7 of the Act will, when it comes into force, repeal, remain fully in force as they stood on 13th October and continue to do so for the time being.

As set out in section 1 of the Act, Ministerial Commencement Orders can be made generally or in respect of one or more provisions of the Act. Given the wide scope of the Act and the need for a range of administrative procedures and secondary legislation (e.g. regulations made by the Minister) to be in place, or ready to be put in place, as soon as key aspects of the Act are commenced, it is anticipated that commencement will take place on a phased basis over the next two years, with a number of Commencement Orders being necessary. The National Monuments Service will be liaising closely in that regard with the other bodies having key functions under the Act, in particular the Department of Tourism, Culture, Arts, Sport, Gaeltacht and the Media, the National Museum of Ireland and the Office of Public Works. Consultation with other stakeholders and the public generally will also take place as appropriate, for example in regard to Prescribed Monuments Regulations which the Minister will make under section 12 of the Act.

It should also be noted that the Act contains transitional provisions which will, if necessary, enable certain aspects of the existing *National Monuments Acts 1930 to 2014* to continue in operation notwithstanding their repeal post-commencement of the Act while successor provisions are being brought fully into operation. An example of this would be provisions enabling the Record of Monuments and Places to continue to have effect pending the establishment of the new Register of Monuments (see section 48 of the Act). Further information on any such arrangements will be provided in due course where necessary.

A copy of the Act in both HTML format and PDF can be found on the Irish Statute book website, which is maintained by the Office of the Attorney General:

<https://www.irishstatutebook.ie/eli/2023/act/26/>

Commencement Orders made in respect of the Act will be able to be checked at this website and information on secondary legislation in the form of Ministerial Regulations made under the Act will also be provided here. A link is also available to the relevant webpage on the Houses of the Oireachtas website providing copies of the Bill as amended at each stage as it progressed through the Oireachtas.

Further guidance and information on the content of the Act will be made available by the National Monuments Service in the coming months.

**Key Points**

* The *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (“the Act”) was enacted on 13th October 2023 when it was signed by Uachtarán na hÉireann (the President of Ireland) following the passage of the Historic and Archaeological Heritage Bill 2023 by both Houses of the Oireachtas.
* With limited exceptions, the provisions of the Act are not yet in force.
* A series of Ministerial Orders (“Commencement Orders”) will be made to bring the Act into force. It is anticipated this will be done over a two year period.
* During this time, work will be ongoing to ensure that, as each provision of the Act is brought into force, the necessary administrative procedures and secondary legislation are in place to support it.
* Pending the commencement of the provisions of the Act which will repeal *the National Monuments Acts 1930 to 2014* and related legislation, those Acts and related legislation remain fully in force as they stood on 13th October 2023.
* Even when the *National Monuments Acts 1930 to 2014* have been repealed arising from the commencement of relevant provisions of the Act, certain aspects of them (e.g. the Record of Monuments and Places) may continue in force under transitional provisions of the Act pending certain things being done under the Act (e.g., in the case of the Record of Monuments and Places, the establishment of the new Register of Monuments).
* The National Monuments Service will be liaising closely with the other key bodies having functions under the Act in regard to commencement of the Act and will consult other stakeholders and the public as appropriate.
* An important provision of the Act which entered into force immediately on enactment is that the Minister will be required to report to the Oireachtas on the operation of the Act no later than three years after enactment.

Please note that the above is provided for information only and is not a legal interpretation.

**National Monuments Service**

**Department of Housing, Local Government and Heritage**

**November 2023**