

Information Note

Commencement of Certain Provisions of the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* regarding criminal law provisions relating to the protection of underwater cultural heritage

Introduction and summary

On 24 March 2025, further provisions of the [*Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*](#) (the Act of 2023) came into operation.

In summary, these newly commenced provisions, for the most part, give effect to criminal law provisions relating to the protection of underwater cultural heritage (UCH), including historic shipwrecks, in areas beyond Ireland's Territorial Seas and Contiguous Zone (24 nautical mile limit). A number of other provisions relating to enforcement of the Act are also dealt with.

The substantive provisions of the Act in relation to such protection (in particular Chapter 2 of Part 5) were commenced by way of a previous Commencement Order ([SI No. 663 of 2024](#)) in December of 2024.

Overview of recently commenced provisions

Key aspects of the provisions of the Act of 2023, which have now come into operation, include the following:

- **Section 173**

This section prohibits knowingly supplying equipment or other items for use in committing an offence under the Act.

- **Subsections (1) and (2) of section 175 insofar as they apply to Section 138(2)**

Section 138(2) was commenced previously, and requires Irish nationals and those in control of Irish vessels to have a licence when engaging in activities directed at underwater cultural heritage in international waters.

The provisions of section 175 now commenced will make contravention of section 138(2) a criminal offence and impose penalties in regard to it.

- **Subsections (3) and (4) of section 175 insofar as they apply to Section 147 and 173**

Section 147 was commenced previously, and imposes a licensing requirement on import of underwater cultural heritage (thus allowing the State to ensure that only

UCH recovered in accordance with the 2001 Convention will be legally able to enter the State).

The provisions of section 175 now commenced will make contravention of sections 147 and 173 criminal offences and impose penalties in regard to them.

- **Subsections (5) and (6) of section 175 insofar as they apply to sections 139(1), (2) and (3), 142(1) and (2) and 204(2)(b), (3)(b) and (4)(b)**

Sections 139, 142 and 204 were commenced previously. They deal with reporting requirements in relation to finds of underwater cultural heritage made by Irish nationals and related persons in areas beyond the 24 nautical mile limit and in relation to proposals by such persons in such areas to engage in activities directed at underwater cultural heritage, and (in the case of section 204) obstruction of Gardaí and other law enforcement officers acting under the Act.

The provisions of section 175 now commenced will make contravention of the above mentioned provisions criminal offences and impose penalties in regard to them.

- **Subsections (7) and (8) of section 175 insofar as they apply to section 217(2)**

Section 217 was commenced previously, and empowers the Minister to require provision of information on title to land when needed for the exercise of functions under the Act.

The provisions of section 175 now commenced will make contravention of section 217 a criminal offence and impose penalties in regard to it.

- **Sections 183 and 184**

These sections specify defences that may be put forward by a person (s) charged with offences under the Act and the conditions which must be met for such a defence to be available. The circumstances in question relate to when acts are undertaken to protect heritage features or when a person was acting as an agent for a person who held a licence under the Act.

- **Section 205**

This section deals with burdens of proof and evidential inferences regarding certain matters arising in prosecutions taken under the Act. In particular, persons claiming to

have been issued a licence under the Act will carry the burden of proof in that regard and the State will be able to use as evidence registers of licences issued or notices received.

- **Section 208;**

This section ensures that prosecutions of offences under the Act where committed at sea can nevertheless be proceeded with in District Court districts or Circuit Court circuits.

- **Schedule 7;**

This Schedule contains the text of the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage.

The full list of provisions contained in the Commencement Order (S.I. No. 88 of 2025), can be found [here](#).

The above is provided for information only, and is not a legal interpretation.

National Monuments Service

Department of Housing, Local Government and Heritage

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