

Environmental Protection Agency Act, 1992



Number 7 of 1992

ENVIRONMENTAL PROTECTION AGENCY ACT, 1992

ARRANGEMENT OF SECTIONS

PART I

Preliminary and General

Section

1. [Short title.](#)
2. [Commencement.](#)
3. [Interpretation.](#)
4. [Environmental protection, environmental pollution and environmental medium.](#)
5. [Best available technology not entailing excessive costs.](#)
6. [Regulations.](#)
7. [Orders.](#)
8. [Offences.](#)
9. [Penalties.](#)
10. [Payment of certain fines to Agency.](#)
11. [Prosecution of offences.](#)
12. [Cost of prosecutions.](#)
13. [Powers of authorised person.](#)

- [14. Service of notices.](#)
- [15. Immunity of Agency.](#)
- [16. Indemnification of Director General, directors and other persons.](#)
- [17. Expenses of Minister.](#)
- [18. Amendment of Act of 1963 and Air Pollution Act, 1987.](#)

[PART II](#)

Environmental Protection Agency

- [19. Establishment of Environmental Protection Agency.](#)
- [20. Incorporation of Agency.](#)
- [21. Director General.](#)
- [22. Deputy Director General.](#)
- [23. General functions of Director General and Deputy Director General.](#)
- [24. Directors.](#)
- [25. Meetings and procedure of Agency.](#)
- [26. Agency's quorum, vacancies, etc.](#)
- [27. Advisory Committee.](#)
- [28. Functions of Advisory Committee.](#)
- [29. Staff of the Agency.](#)
- [30. Transfer of staff of public authorities.](#)
- [31. Conditions related to transfer of staff.](#)
- [32. Dissolution of An Foras Forbartha Teoranta.](#)
- [33. Superannuation of Director General and directors.](#)
- [34. Superannuation of staff of Agency.](#)

- [35. Membership of House of Oireachtas or European Parliament.](#)
- [36. Membership of a local authority.](#)
- [37. Declaration of interests.](#)
- [38. Disclosure of interests.](#)
- [39. Disclosure of confidential information.](#)
- [40. Prohibition of certain communications.](#)
- [41. Committees and consultative groups.](#)
- [42. Consultants and advisers.](#)
- [43. Establishment of regional environmental units.](#)
- [44. Provision of services to Agency.](#)
- [45. Agreements between Agency and other public authorities.](#)
- [46. Grants to Agency.](#)
- [47. Borrowing by Agency.](#)
- [48. Acceptance of gifts by Agency.](#)
- [49. Charges for services.](#)
- [50. Accounts and audits.](#)
- [51. Annual report and information to Minister.](#)

PART III

Functions of the Agency

- [52. Functions generally.](#)
- [53. Assignment of additional functions.](#)
- [54. Transfer of functions.](#)
- [55. Advisory functions in relation to Ministers of the Government.](#)
- [56. Advisory functions in relation to local authorities.](#)

- [57. Assistance to local authorities.](#)
- [58. Drinking water.](#)
- [59. Sewage or other effluents.](#)
- [60. Agency functions in relation to water or sewage treatment.](#)
- [61. Monitoring in relation to sanitary authorities' effluents.](#)
- [62. Landfill sites for waste disposal.](#)
- [63. Performance of statutory functions by local authorities.](#)
- [64. Hydrometric programme.](#)
- [65. Environmental monitoring programme.](#)
- [66. Establishment of an accreditation scheme.](#)
- [67. Access to monitoring results.](#)
- [68. Monitoring activities of public authorities.](#)
- [69. Environmental quality data storage system.](#)
- [70. State of the environment reports.](#)
- [71. Environmental research.](#)
- [72. Environmental impact assessment.](#)
- [73. Environmental approval.](#)
- [74. Environmental audit.](#)
- [75. Environmental quality objectives.](#)
- [76. Codes of practice.](#)
- [77. Evidence of code of practice.](#)
- [78. Labelling of products and services.](#)
- [79. General policy directives.](#)
- [80. Consultation by the Agency.](#)

81. Consultation with the Agency.

PART IV

Integrated Pollution Control

82. Licences.

83. Grant of licences.

84. Conditions attached to a licence.

85. Processing of applications for licences or reviews of licences.

86. Oral hearing and written report.

87. Regulations regarding licences.

88. Review of licences.

89. Register of licences.

90. Limit on duration of licence.

91. Change of ownership of activity.

92. Alterations of activity.

93. Charges in relation to emissions.

94. Fees.

95. Special cases.

96. Monitoring of environmental quality and emissions.

97. Discharges to sewers.

98. Application of other Acts.

99. Transitional arrangements.

PART V

General Pollution Control

- [100. Extension to Agency of certain powers under Local Government \(Water Pollution\) Act, 1977.](#)
- [101. Extension to Agency of certain powers under Air Pollution Act, 1987.](#)
- [102. Management plans.](#)
- [103. Emission limit values and quality standards.](#)
- [104. Special reports and investigations.](#)
- [105. Inquiries.](#)

PART VI

Miscellaneous

- [106. Regulations for control of noise.](#)
- [107. Power of local authority or Agency to require measures to be taken to prevent or limit noise.](#)
- [108. Noise as a nuisance.](#)
- [109. Safety, Health and Welfare at Work Act, 1989.](#)
- [110. Access to information on the environment.](#)
- [111. Genetically modified organisms.](#)
- [112. Register kept in computer or other non-legible form and evidence of entries.](#)
- [113. Increase of certain penalties.](#)

FIRST SCHEDULE

Activities to which *Part IV* applies

SECOND SCHEDULE

Enactments in respect of which Functions may be Transferred to the Agency

THIRD SCHEDULE

Amendment of Air Pollution Act, 1987

<u>Air Pollution Act, 1987</u>	1987, No. 6
<u>Civil Service Regulation Act, 1956</u>	1956, No. 46
<u>Criminal Procedure Act, 1967</u>	1967, No. 12
<u>European Assembly Elections Act, 1977</u>	1977, No. 30
<u>European Assembly Elections Act, 1984</u>	1984, No. 6
<u>European Communities Act, 1972</u>	1972, No. 27
<u>Fisheries (Consolidation) Act, 1959</u>	1959, No. 14
<u>Harbours Act, 1946</u>	1946, No. 9
<u>Health Act, 1970</u>	1970, No. 1
<u>Holidays (Employees) Act, 1973</u>	1973, No. 25
<u>Local Authorities (Works) Act, 1949</u>	1949, No. 17
<u>Local Government Act, 1941</u>	1941, No. 23
<u>Local Government (Planning and Development) Act, 1963</u>	1963, No. 28
<u>Local Government (Planning and Development) Act, 1982</u>	1982, No. 21
<u>Local Government (Roads and Motorways) Act, 1974</u>	1974, No. 6
<u>Local Government (Sanitary Services) Act, 1948</u>	1948, No. 3
<u>Local Government (Sanitary Services) Act, 1962</u>	1962, No. 26
<u>Local Government (Sanitary Services) Act, 1964</u>	1964, No. 29
<u>Local Government (Water Pollution) Act, 1977</u>	1977, No. 1
<u>Local Government (Water Pollution) (Amendment) Act, 1990</u>	1990, No. 21
<u>Petty Sessions (Ireland) Act, 1851</u>	1851, c. 93
<u>Public Health (Ireland) Act, 1878</u>	1878, c. 52
<u>Safety, Health and Welfare at Work Act, 1989</u>	1989, No. 7
The Dublin Corporation Waterworks Act, 1861	1861, c. 172
<u>Unfair Dismissals Act, 1977</u>	1977, No. 10

[Waterworks Clauses Act, 1847](#) 1847, c. 17

Waterworks Clauses Act, 1863 1863, c. 93

European Communities Regulations Referred to

[European Communities \(Asbestos Waste\) Regulations, 1990](#) S.I. No. 30 of 1990

[European Communities \(Control of Water Pollution by Asbestos\) Regulations, 1990](#) S.I. No. 31 of 1990

[European Communities \(Environmental Impact Assessment\) \(Motorways\) Regulations, 1988](#) S.I. No. 221 of 1988

[European Communities \(Environmental Impact Assessment\) Regulations, 1989](#) S.I. No. 349 of 1989

[European Communities \(Quality of Water Intended for Human Consumption\) Regulations, 1988](#) S.I. No. 81 of 1988

[European Communities \(Toxic and Dangerous Waste\) Regulations, 1982](#) S.I. No. 33 of 1982

[European Communities \(Transfrontier Shipment of Hazardous Waste\) Regulations, 1988](#) S.I. No. 248 of 1988

[European Communities \(Waste\) Regulations, 1979](#) S.I. No. 390 of 1979

[European Communities \(Waste\) Regulations, 1984](#) S.I. No. 108 of 1984



Number 7 of 1992

ENVIRONMENTAL PROTECTION AGENCY ACT, 1992

AN ACT TO MAKE FURTHER AND BETTER PROVISION FOR THE PROTECTION OF THE ENVIRONMENT AND THE CONTROL OF POLLUTION, TO ESTABLISH AN ENVIRONMENTAL PROTECTION AGENCY, FOR THESE AND OTHER PURPOSES TO INCREASE CERTAIN EXISTING MONETARY PENALTIES AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [23rd April, 1992]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary and General

Short title.

1.—This Act may be cited as the Environmental Protection Agency Act, 1992.

Commencement. 2.—(1) [Part I](#) (other than [section 18 \(1\)](#)), [Part II](#) (other than [section 43](#)), [Part III](#), [Part IV](#) (other than [section 93](#)) and [Part VI](#) will come into operation on the passing of this Act.

(2) The remaining provisions of this Act shall come into operation on such day or days as may be fixed therefor by any order or orders of the Minister, either generally or with reference to any particular purpose or provision or with reference to a particular area or areas, and different days may be so fixed for different purposes and different provisions of this Act and for different areas.

Interpretation. 3.—(1) In this Act, unless the context otherwise requires—

“*activity*” means any process, development or operation specified in the [First Schedule](#) ;

“*the Act of 1963*” means the [Local Government \(Planning and Development\) Act, 1963](#) ;

“*authorised person*” means a person who is—

(a) appointed in writing by a Minister, a local authority or the Agency or by such other person or body as may be prescribed, as the case may be, to be an authorised person for the purposes of this Act or any Part or section thereof, or

(b) appointed in writing to be an authorised person pursuant to regulations under this Act by a person specified in those regulations;

“*development*” has the meaning assigned to it by section 3 of the Act of 1963;

“*disposal*”, in relation to waste, includes the collection, sorting, carriage, treatment, storage and tipping above or under ground, and the transformation operations necessary for its recovery, reuse or recycling;

“*emission*” means—

(a) an emission into the atmosphere of a pollutant within the meaning of the [Air Pollution Act, 1987](#) ,

(b) a discharge of polluting matter, sewage effluent or trade effluent within the meaning of the [Local Government \(Water Pollution\) Act, 1977](#) , to waters or sewers within the meaning of that Act,

(c) the disposal of waste, or

(d) noise;

“*employee of the Agency*” does not include the Director General or other director of the Agency;

“*enactment*” includes any instrument made under an enactment;

“*environmental medium*”, “*environmental pollution*” and “*environmental protection*” have the meanings respectively assigned to them by [section 4](#) ;

“*established activity*” means an activity—

- (a) in respect of which a permission under Part IV of the Act of 1963 is granted prior to such day (in this paragraph and in *paragraph (b)* referred to as “*the relevant day*”) as may be prescribed by the Minister and which on the relevant day has not ceased to have effect, in accordance with the provisions of [sections 2 and 4](#) of the [Local Government \(Planning and Development\) Act, 1982](#) , or
- (b) which is, on the day immediately prior to the relevant day, or was, at any time during the period of twelve months ending on the day immediately prior to the relevant day, carried on, other than an activity which involves or is associated with an unauthorised structure or an unauthorised use within the meaning of the Act of 1963;

“*functions*” includes powers and duties;

“*local authority*” means—

- (a) in the case of the administrative county of Dublin, other than the borough of Dún Laoghaire, the council of the county of Dublin,
- (b) in the case of the borough of Dún Laoghaire, the corporation of the borough,
- (c) in the case of a county borough, the corporation of the county borough, and
- (d) in the case of any other administrative county, the council of the county,

and references to the functional area of a local authority shall be construed accordingly;

“*the Minister*” means the Minister for the Environment;

“*monitoring*” includes the inspection, measurement, sampling or analysis for the purposes of this Act of any emission, or of any environmental medium in any locality, whether periodically or continuously;

“*noise*” includes vibration;

“*occupier*”, in relation to any premises, includes the owner, a lessee, any person entitled to occupy the premises and any other person having, for the time being, control of the premises;

“*person in charge*” includes an occupier of a premises or a manager, supervisor or operator of an activity;

“*planning authority*” has the meaning assigned to it by the Act of 1963;

“*plant*” includes any equipment, appliance, apparatus, machinery, works, building or other structure or any land or any part of any land which is used for the purposes of, or incidental to, any activity specified in the [First Schedule](#) ;

“*premises*” includes any messuage, building, vessel, structure or land (whether or not there are

structures on the land or whether or not the land is covered with water) or any hereditament of any tenure, together with any out-buildings and curtilage;

“*prescribed*” means prescribed by regulations made by the Minister;

“*public authority*” means—

- (a) a Minister of the Government,
- (b) the Commissioners of Public Works in Ireland,
- (c) a local authority for the purposes of the [Local Government Act, 1941](#) ,
- (d) a harbour authority within the meaning of the [Harbours Act, 1946](#) ,
- (e) a health board established under the [Health Act, 1970](#) ,
- (f) a board or other body established by or under statute,
- (g) a company in which all the shares are held by, or on behalf of, or by directors appointed by, a Minister of the Government, or
- (h) a company in which all the shares are held by a board, company, or other body referred to in *paragraph (f)* or *(g)* of this definition;

“*public place*” includes any place to which the public have access, whether by right or by permission, or whether subject to, or free of charge;

“*sanitary authority*” means a sanitary authority for the purposes of the Local Government (Sanitary Services) Acts, 1878 to 1964;

“*statutory undertaker*” has the meaning assigned to it by the Act of 1963;

“*vessel*” means a waterborne craft of any type, whether self propelled or not, and includes an air cushion craft and any structure in or on water;

“*waste management plan*” means a waste plan prepared under Article 4 (2) of the European Communities (Waste) Regulations, 1979, or a special waste plan within the meaning assigned to it under the [European Communities \(Toxic and Dangerous Waste\) Regulations, 1982](#) ;

“*works*”, in relation to [sections 90](#) , [106](#) and [107](#) , has the meaning assigned to it by the Act of 1963.

(2) In this Act a reference to a section, Part or Schedule, is a reference to a section, Part or Schedule of this Act, unless there is an indication that a reference to any other enactment is intended.

(3) In this Act a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless there is an indication that a reference to some other provision is intended.

(4) In this Act a reference to any enactment shall be construed as a reference to that enactment as amended or adapted by or under any subsequent enactment.

(5) This Act applies, *inter alia*, to activities operated by or in the charge of the State.

Environmental protection, environmental pollution and environmental medium.

4.—(1) In this Act “*environmental protection*” includes—

(a) the prevention, limitation, elimination, abatement or reduction of environmental pollution, and

(b) the preservation of the quality of the environment.

(2) In this Act “*environmental pollution*” means—

(a) “air pollution” for the purposes of the [Air Pollution Act, 1987](#) ,

(b) the condition of waters after the entry of polluting matter within the meaning of the [Local Government \(Water Pollution\) Act, 1977](#) ,

(c) the disposal of waste in a manner which would endanger human health or harm the environment and, in particular—

(i) create a risk to waters, the atmosphere, land, soil, plants or animals,

(ii) cause a nuisance through noise or odours, or

(iii) adversely affect the countryside or places of special interest,

or

(d) noise which is a nuisance, or would endanger human health or damage property or harm the environment.

(3) In this Act—

“*environmental medium*” includes the atmosphere, land, soil and waters;

“*waters*” has the meaning assigned to it by the [Local Government \(Water Pollution\) Act, 1977](#) .

Best available technology not entailing excessive costs.

5.—(1) Subject to *subsection (3)*, a reference in this Act to the use of the best available technology not entailing excessive costs to prevent or eliminate, or where that is not practicable, to limit, abate or reduce an emission from an activity, shall be construed as meaning the provision and proper maintenance, use, operation and supervision of facilities which, having regard to all the circumstances, are the most suitable for the purposes.

(2) For the purposes of *subsection (1)*, regard shall be had to—

(a) in the case of an activity other than an established activity—

- (i) the current state of technical knowledge,
- (ii) the requirements of environmental protection, and
- (iii) the application of measures for these purposes, which do not entail excessive costs, having regard to the risk of significant environmental pollution which, in the opinion of the Agency, or any other licensing authority in relation to [section 111](#), exists;

(b) in any other case, in addition to the matters specified in *paragraph (a)*—

- (i) the nature, extent and effect of the emission concerned,
- (ii) the nature and age of the existing facilities connected with the activity and the period during which the facilities are likely to be used or to continue in operation, and
- (iii) the costs which would be incurred in improving or replacing the facilities referred to in *subparagraph (ii)* in relation to the economic situation of activities of the class concerned.

(3) (a) The Agency may, from time to time as occasion demands, specify the best available technology not entailing excessive costs for preventing, limiting, eliminating, abating or reducing such emissions as may be specified either from an activity or activities of a particular class or description and regard shall be had, in the administration of this Act, to any such specifications.

(b) Where the Agency specifies the best available technology not entailing excessive costs in relation to an emission from an activity as provided for in *paragraph (a)*, a direction issued under [section 5](#) (3) of the [Air Pollution Act, 1987](#), related to such emission shall cease to have effect in relation to such emission.

(4) Whenever the Agency issues a specification under *subsection (3)*, it shall cause, as soon as may be—

(a) a copy of such specification to be sent to the Minister, each local authority, An Bord Pleanála and such other bodies, if any, as may be prescribed,

(b) notice of the issue of the specification to be published in *Iris Oifigiúil* and

(c) a copy of the specification to be made available to every person who makes application for such a copy on payment of such fee (if any) as the Agency shall fix not exceeding the reasonable cost of making the copy.

(5) [Section 5](#) of the [Air Pollution Act, 1987](#), is hereby amended by the insertion of the following subsection after subsection (4):

“(4A) Directions under subsection (3) shall not be issued in relation to an activity for the

purposes of the *Environmental Protection Agency Act, 1992*, or in relation to any process, development or operation as regards which an order has been made, and remains in force, under [section 95](#) of the said Act.”.

(6) In this section—

“*facilities*” includes plant and premises;

“*an emission from an activity*” includes a release of a genetically modified organism as defined in [section 111](#) ;

“*activity*” includes any process or action involving a genetically modified organism.

Regulations.

6.—(1) The Minister may make regulations prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed or in relation to any matter referred to in this Act as the subject of regulations or for the purpose of giving full effect to this Act.

(2) Regulations made under this Act may make different provisions in relation to different areas, different circumstances and different classes of cases.

(3) Every regulation made under this Act 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 twenty-one days on which that 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.

Orders.

7.—(1) The Minister may, by order, revoke or amend any order made by him under this Act, other than an order under [section 2](#) , [19](#) (2) or [32](#) (1).

(2) The Minister may, by order, after consultation with the Agency, revoke or amend the [First Schedule](#) or the [Second Schedule](#) .

(3) Where it is proposed to make an order under *subsection (2)* or under [section 21](#) (6) (a), [100](#) , [101](#) or [102](#) 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.

(4) Every order made under this Act, other than an order made under *subsection (2)* or (3), shall be laid before each House of the Oireachtas as soon as may be after it is made.

Offences.

8.—(1) Any person who contravenes any provision of this Act or of any regulation made under this Act or of any order made under this Act or of any notice served under this Act shall be guilty of an offence.

(2) Where an offence under this Act is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been facilitated by any neglect on the part of any director, manager, secretary or any other officer of such body, such person shall also be guilty of an offence.

(3) In this section, a reference to the contravention of a provision includes, where appropriate, a reference to a refusal, or a failure, to comply with that provision.

Penalties.

9.—(1) A person guilty of an offence under this Act shall be liable—

(a) on summary conviction, to a fine not exceeding £1,000, or to imprisonment for any term not exceeding twelve months or, at the discretion of the court, to both such fine and such imprisonment, or

(b) on conviction on indictment, to a fine not exceeding £10,000,000 or to imprisonment for a term not exceeding ten years or, at the discretion of the court, to both such fine and such imprisonment.

(2) In imposing any penalty under *subsection (1)* the court shall, in particular, have regard to the risk or extent of damage to the environment arising from the act or omission constituting the offence.

(3) Where a person, after conviction of an offence under this Act, continues to contravene the provision, he shall be guilty of an offence on every day on which the contravention continues and for each such offence he shall be liable to a fine, on summary conviction, not exceeding £200 or, on conviction on indictment, not exceeding £100,000.

Payment of certain fines to Agency.

10.—Where a court imposes a fine or affirms or varies a fine imposed by another court for an offence under this Act, prosecuted by the Agency, it shall, on the application of the Agency (made before the time of such imposition, affirmation or variation), provide by order for the payment of the amount of the fine to the Agency and such payment may be enforced by the Agency, as if it were due to it on foot of a decree or order made by the court in civil proceedings.

Prosecution of offences.

11.—(1) An offence under this Act may be prosecuted summarily by the Agency.

(2) Notwithstanding *subsection (1)*, the Minister may, by regulations, provide that an offence under this Act, specified in the regulations, may be prosecuted summarily by such person (including the Minister) as may be so specified.

(3) Notwithstanding the provisions of [section 10 \(4\) of the Petty Sessions \(Ireland\) Act, 1851](#) , summary proceedings for an offence under this Act may be commenced—

(a) at any time within twelve months from the date on which the offence was committed, or

(b) at any time within six months from the date on which evidence sufficient, in the opinion of the person by whom the proceedings are initiated, to justify the proceedings, comes to such person's knowledge,

whichever is the later: provided that no such proceedings shall be initiated later than five years from the date on which the offence concerned was committed.

(4) For the purposes of this section, a certificate signed by or on behalf of the person initiating the proceedings as to the date on which evidence relating to the offence came to his knowledge shall be *prima facie* evidence thereof and in any legal proceedings a document purporting to be a certificate issued for the purposes of this subsection and to be so signed shall be deemed to be so signed and shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate, unless the contrary is shown.

Cost of
prosecutions.

12.—Where a person is convicted of an offence under this Act committed after the commencement of this section, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Agency the costs and expenses, measured by the court, incurred by the Agency in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of directors, employees, consultants and advisers.

Powers of
authorised
person.

13.—(1) An authorised person shall, for any purpose connected with this Act, be entitled, at all reasonable times, to enter any premises and to bring therein such other persons (including members of the Garda Síochána) or equipment as he may consider necessary for the purpose.

(2) Subject to *subsection (6)*, an authorised person shall not, other than with the consent of the occupier, enter into a private dwelling unless he has given to the occupier of the dwelling not less than 24 hours notice in writing of his intended entry.

(3) Every authorised person shall be furnished with a certificate of his appointment and, when exercising any power conferred on him by or under this Act, the authorised person shall, if requested by any person affected, produce the certificate to that person.

(4) Whenever an authorised person enters any premises pursuant to this section, he may therein—

(a) make such plans, take such photographs and carry out such inspections,

(b) make such tests and take such samples,

(c) require from the occupier of the premises or any person employed on the premises or from any other person on the premises such information, or

(d) inspect such plant, vehicles, records and documents,

as he, having regard to all the circumstances, considers necessary for the purposes of, and exercising any power conferred on him by or under, this Act.

(5) Any person who—

(a) refuses to allow an authorised person to enter any premises or to take any person or equipment with him in the exercise of his powers under this section,

(b) obstructs or impedes an authorised person in the exercise of any of the powers conferred on him by this section,

(c) gives, either to an authorised person or to the Agency, information which is false or misleading in a material respect, or

(d) fails or refuses to comply with any requirement of this section,

shall be guilty of an offence.

(6) Where an authorised person in the exercise of his powers under this section is prevented from

entering any premises, or where he has reason to believe that evidence related to a suspected offence under this Act may be removed or destroyed, the authorised person or the person by whom he was appointed may apply to the District Court for a warrant authorising such entry.

(7) The Minister may make regulations for the purposes of this section.

(8) Without prejudice to the generality of *subsection (7)*, regulations under this section may provide for all or any of the following matters—

(a) the taking of samples and the carrying out of tests, examinations and analyses,

(b) the specification of the classes of persons to be responsible for taking such samples and for the carrying out of such tests, examinations and analyses, or

(c) the specification of the certificate or other evidence to be given of the result of any such test, examination or analysis and the class or classes of person by whom such certificate or evidence is to be given.

(9) Any certificate or other evidence given or to be given in respect of any prescribed test, examination or analysis of any sample shall in relation to that sample be evidence, without further proof, of the result of the test, examination or analysis unless the contrary is shown.

Service of notices.

14.—(1) Any notice required to be served or given by or under this Act shall be addressed to the person concerned and served or given in one of the following ways—

(a) by addressing it to him by name and delivering it to him,

(b) by leaving it at the address at which he ordinarily resides,

(c) by sending it by post in a prepaid registered letter addressed to him at the address at which he ordinarily resides,

(d) if an address for the service of notices has been furnished by him, by leaving it at, or sending it by prepaid registered post addressed to him to, that address, or

(e) where the address at which he ordinarily resides cannot be ascertained by reasonable inquiry and notice is required to be served on, or given to, him in respect of any premises, process, works or development, by delivering it to a person over the age of 16 years employed thereon or resident in the premises, or by affixing it in a conspicuous position on or near the premises, process, works or development.

(2) Where the name of the person concerned cannot be ascertained by reasonable inquiry, a notice under this Act may be addressed to “*the occupier*”, “*the owner*” or “*the person in charge*”, as the case may be.

(3) For the purposes of this section, a company registered under the Companies Acts, 1963 to 1990, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(4) A person shall not at any time during the period of three months after a notice is affixed

under *subsection (1) (e)* remove, damage or deface the notice without lawful authority.

Immunity of Agency.

15.—No action or other proceedings shall lie or be maintainable against the Agency or any body referred to in [section 44](#) or [45](#) for the recovery of damages in respect of any injury to persons, damage to property or other loss alleged to have been caused or contributed to by a failure to perform or to comply with any of the functions conferred on the said Agency or body.

Indemnification of Director General, directors and other persons.

16.—Where the Agency is satisfied that the Director General or other director or authorised person appointed by the Agency, or any other employee of the Agency has discharged his duties in relation to the enforcement of the relevant statutory provisions in a *bona fide* manner, it shall indemnify the Director General or other director or authorised person of the Agency or any other employee of the Agency, against all actions or claims howsoever arising in respect of the discharge by him of his duties.

Expenses of Minister.

17.—The expenses incurred by the Minister 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.

Amendment of Act of 1963 and Air Pollution Act, 1987.

18.—(1) Section 51 of the Act of 1963 is hereby repealed.

(2) The [Air Pollution Act, 1987](#) , is hereby amended as provided for in the [Third Schedule](#) .

PART II

Environmental Protection Agency

Establishment of Environmental Protection Agency.

19.—(1) There shall be a body to be known as An Ghníomhaireacht um Chaomhnú Comhshaoil or, in the English language, the Environmental Protection Agency (in this Act referred to as the Agency) to perform the functions assigned to it by or under this Act.

(2) The Agency shall stand established on such day as the Minister by order appoints.

(3) The Agency shall consist of a Director General and four other directors.

Incorporation of Agency.

20.—(1) The Agency shall be a body corporate with perpetual succession and a seal and power to sue and be sued in its corporate name and to acquire, hold and dispose of land.

(2) The Agency shall provide itself with a seal.

(3) The seal of the Agency shall be authenticated by the signature of the Director General or of some other director or of a person, being an employee of the Agency or a person whose services are availed of by, or supplied to, the Agency under [section 44](#) , authorised by the Agency to act in that behalf.

(4) Judicial notice shall be taken of the seal of the Agency and every document purporting to be an instrument made by the Agency and to be sealed with the seal (purporting to be authenticated in accordance with *subsection (3)*) of the Agency shall be received in evidence and be deemed to be such instrument without proof, unless the contrary is shown.

21.—(1) The Director General shall be appointed by the Government.

(2) A committee shall be established consisting of—

- (a) the Secretary to the Government,
- (b) the Secretary of the Department of the Environment,
- (c) the Chairperson of the Council of An Taisce—the National Trust for Ireland,
- (d) the Managing Director of the Industrial Development Authority,
- (e) the General Secretary of the Irish Congress of Trade Unions, and
- (f) the Chief Executive of the Council for the Status of Women.

(3) Where the Minister makes a request under *subsection (7), (9) or (10)* or [section 24](#) and—

- (a) any of the persons aforesaid signifies at any time his unwillingness or inability to act for any period as a member of the committee, or
- (b) any of the persons aforesaid is through ill-health or otherwise unable so to act for any period,

the Minister may appoint in the case of—

- (i) the Secretary of the Government, some other officer of the Taoiseach who is an established civil servant for the purposes of the [Civil Service Regulation Act, 1956](#) ,
- (ii) the Secretary of the Department of the Environment, some other officer of the Minister for the Environment, who is an established civil servant for the purposes of the [Civil Service Regulation Act, 1956](#) ,
- (iii) in any other case, some other person from the organisation or body referred to in *subsection (2)* to which the person referred to at *paragraph (a) or (b)* belongs,

to be a member of the committee in his place and such person shall remain a member of the committee until such time as the selection by the committee pursuant to the request is made.

(4) Where the Minister makes a request under *subsection (7), (9) or (10)* or [section 24](#) and at the time of making the request any of the offices specified in *subsection (2)* is vacant, the Minister may appoint a person to be a member of the committee and such person shall remain a member of the committee until such time as the selection by the committee pursuant to the request is made.

(5) Where pursuant to *subsection (3) or (4)*, the Minister appoints a person to be a member of the committee, he shall, as soon as may be, cause a notice of the appointment to be published in *Iris Oifigiúil*.

(6) (a) The Minister may, by order, amend *subsection (2)*.

(b) Where an order under this subsection is for the time being in force, *subsection (2)* shall be construed and have effect subject to the terms of the order.

(7) (a) The committee shall, whenever so requested by the Minister, select three candidates, or if in the opinion of the committee there is not a sufficient number of suitable applicants, such lesser number of candidates as the committee shall determine, for appointment to be the Director General and shall inform the Minister of the names of the candidates, or, as may be appropriate, the name of the candidate, selected.

(b) In selecting candidates the committee shall have regard to the special knowledge and experience and other qualifications, including any qualifications which the Minister may by order specify, or personal qualities which the committee consider appropriate to enable a person effectively to perform the functions of the Director General.

(8) Except in the case of a reappointment under *subsection (13)*, the Government shall not appoint a person to be the Director General unless the person was among those or, as may be appropriate, was the candidate selected by the committee, pursuant to a request under *subsection (7)* in relation to that appointment.

(9) Notwithstanding *subsection (7)* or (8), if the Government decide not to appoint to be the Director General any of the candidates or, as the case may be, the candidate selected by the committee pursuant to a particular request—

(a) the Government shall appoint a person to be the Director General who was among those or, as the case may be, was the candidate, selected by the committee pursuant to a previous request (if any) in relation to that appointment, or

(b) the Minister shall make a further such request to the committee and the Government shall appoint to be the Director General a person who was among the candidates or, as the case may be, was the candidate selected by the committee pursuant to that request or pursuant to another such request made in relation to that appointment.

(10) Notwithstanding *subsection (7)* or (8), if the committee is unable to select any suitable candidate pursuant to a particular request—

(a) the Government shall appoint a person to be the Director General who was among those or, as the case may be, was the candidate, selected by the committee pursuant to a previous request (if any) in relation to that appointment, or

(b) the Minister shall make a further such request to the committee and the Government shall appoint to be the Director General a person who was among the candidates or, as the case may be, was the candidate selected by the committee pursuant to that request or pursuant to another such request made in relation to that appointment.

(11) The Minister may make regulations as regards—

(a) the publication of notice that a request has been received by the committee under *subsection (7), (9) or (10)*,

(b) applications for selection,

(c) any other matter which the Minister considers expedient for the purposes of this section.

(12) The Director General shall be appointed in a wholetime capacity and shall not at any time during his term of office hold any other office or employment in respect of which emoluments are payable.

(13) Subject to the provisions of this section—

(a) the term of office of the Director General shall be seven years,

(b) the Director General may be reappointed by the Government for a second or subsequent term of office of seven years or less if, at the time of his reappointment, he is the outgoing Director General.

(14) (a) The Director General may resign his office by letter addressed to the Minister.

(b) The Director General shall vacate the office of Director General on attaining the age of sixty-five years.

(15) (a) The Director General shall be paid, out of moneys at the disposal of the Agency, such remuneration as the Minister, with the consent of the Minister for Finance, may determine.

(b) Subject to the provisions of this section, the Director General shall hold office on such terms and conditions (including terms relating to allowances for expenses) as the Minister, with the consent of the Minister for Finance, may determine.

(16) The Director General may be removed from office by the Government if, in their opinion, he has become incapable through ill-health of effectively performing his duties, or for stated misbehaviour, or if his removal appears to the Government to be necessary or desirable for the effective performance by the Agency of its functions and, in case the Director General is removed from office under this subsection, the Government shall cause to be laid before each House of the Oireachtas a statement in writing of the reasons for the removal.

Deputy Director
General.

22.—(1) The Agency shall appoint from among the directors a person to be Deputy Director General of the Agency and such appointment shall be for such period, not exceeding the current term of his office of director, as shall be specified in the appointment.

(2) If at any time the Deputy Director General ceases to be a director, he shall also cease to be Deputy Director General.

(3) The Deputy Director General may, in addition to his remuneration as a director, be paid such additional remuneration (if any) as the Minister, with the consent of the Minister for Finance, may determine.

(4) The Deputy Director General may resign his office by letter addressed to the Agency.

General
functions of
Director General
and Deputy

23.—It shall be the function of the Director General or, where he is not available or where the office of Director General is vacant, of the Deputy Director General—

(a) to ensure the efficient discharge of the business of the Agency, and

(b) to arrange the distribution of the business of the Agency among its directors.

Directors.

24.—(1) The directors of the Agency shall be appointed by the Government.

(2) The Minister may, after consultation with the Director General (where a Director General is in office) or the Deputy Director General (where a Deputy Director General is in office) if there is no Director General in office, by order specify qualifications for all posts, or any particular post, of director.

(3) (a) Where a director is to be appointed pursuant to *subsection (1)*, the committee provided for in [section 21](#) shall, whenever so requested by the Minister, select three candidates, or if in the opinion of the committee there is not a sufficient number of suitable applicants, such lesser number of candidates as the committee shall determine, for appointment to be the director and shall inform the Minister of the names of the candidates, or, as may be appropriate, the name of the candidate, selected.

(b) In selecting candidates the committee shall have regard to the special knowledge and experience, including relevant experience in environmental matters, and other qualifications, including any qualifications which the Minister may by order specify, or personal qualities which the committee consider appropriate to enable a person effectively to perform the functions of the director.

(4) Except in the case of a reappointment under *subsection (9)*, the Government shall not appoint a person to be a director unless the person was among those or, as may be appropriate, was the candidate selected by the committee, pursuant to a request under *subsection (3)* in relation to that appointment.

(5) Notwithstanding *subsection (3)* or *(4)*, if the Government decide not to appoint to be a director any of the candidates or, as the case may be, the candidate selected by the committee pursuant to a particular request—

(a) the Government shall appoint a person to be a director who was among those, or as the case may be, was the candidate, selected by the committee pursuant to a previous request (if any) in relation to that appointment, or

(b) the Minister shall make a further such request to the committee and the Government shall appoint to be a director a person who was among the candidates or, as the case may be, was the candidate selected by the committee pursuant to that request or pursuant to another such request made in relation to that appointment.

(6) Notwithstanding *subsection (3)* or *(4)*, if the Committee is unable to select any suitable candidate pursuant to a particular request—

(a) the Government shall appoint a person to be a director who was among those, or as the case may be, was the candidate, selected by the committee pursuant to a previous request (if any) in relation to that appointment, or

(b) the Minister shall make a further such request to the committee and the Government shall appoint to be a director a person who was among the candidates or, as the case may be, was the candidate selected by the committee pursuant to that request or pursuant to another such request made in relation to that appointment.

(7) The Minister may make regulations as regards—

(a) the publication of notice that a request has been received by the committee under *subsection (3) or (5)*,

(b) applications for selection,

(c) any other matter which the Minister considers expedient for the purposes of this section.

(8) Each director shall be appointed in a whole-time capacity and shall not at any time during his term of office hold any other office or employment in respect of which emoluments are payable.

(9) Subject to the provisions of this section—

(a) a director shall hold office for such term (not exceeding five years) as shall be specified by the Government when appointing him,

(b) a director may be reappointed by the Government for a second or subsequent term of office for five years or less if at the time of his reappointment he is an outgoing director.

(10) (a) A director may resign his office by letter addressed to the Minister.

(b) A director shall vacate his office of director on attaining the age of sixty-five years.

(11) (a) A director shall be paid, out of moneys at the disposal of the Agency, such remuneration as the Minister, with the consent of the Minister for Finance, may determine.

(b) Subject to the provisions of this section, each director shall hold office on such terms and conditions (including terms relating to allowances for expenses) as the Minister, with the consent of the Minister for Finance, may determine.

(12) A director may be removed from office by the Government if, in their opinion, he has become incapable through ill-health of effectively performing his duties, or for stated misbehaviour, or if his removal appears to the Government to be necessary or desirable for the effective performance by the Agency of its functions, and in case a director is removed from office under this subsection, the Government shall cause to be laid before each House of the Oireachtas a statement in writing of the reasons for the removal.

Meetings and
procedure of
Agency.

25.—(1) The Agency shall hold such and so many meetings as may be necessary for the performance of its functions.

(2) The Director General and each director shall have one vote at a meeting of the Agency.

(3) At a meeting of the Agency—

(a) the Director General shall, if present, chair the meeting,

(b) if and for so long as the Director General is not present, or if the office of Director General is vacant, the Deputy Director General shall, if present, chair the meeting,

(c) in any other case, the directors who are present shall choose one of their number to chair the meeting.

(4) Every question at a meeting of the Agency shall be determined by a majority of votes of the directors present and, in the event that voting is equally divided and there are more than two directors present, the person chairing the meeting shall have a casting vote.

(5) Subject to the requirements of this Act and any regulations made thereunder the Agency shall regulate its own procedure and business.

(6) (a) Subject to *paragraph (b)*, the Agency may perform or exercise any of its functions through or by any director of the Agency or other person or body who, in either case, has been duly authorised by the Agency in that behalf.

(b) *Paragraph (a)* shall not be construed as enabling the Agency to authorise a person who is not a director of the Agency finally to determine a decision on the granting, whether with or without conditions, or a refusal, of a licence or revised licence or on any prescribed matter.

Agency's
quorum,
vacancies, etc.

26.—(1) The quorum for a meeting of the Agency shall be not less than two.

(2) Subject to *subsection (1)*, the Agency may act notwithstanding a vacancy or vacancies in the office of Director General or among the directors.

(3) Where a vacancy occurs in the office of Director General, or among the directors, the Minister shall, as soon as may be, take steps to fill the vacancy.

(4) (a) Where, owing to the illness of the Director General or of a director, or for any other reason, a sufficient number of directors of the Agency is not available to enable the Agency effectively to perform its functions, the Minister may, as an interim measure, appoint from among the officers of the Minister who are established civil servants for the purposes of the [Civil Service Regulation Act, 1956](#), one or more persons to be a director and, where necessary, one to be Deputy Director General.

(b) A person shall not be appointed to be a director or Deputy Director General under this subsection for a term in excess of six months and may not be reappointed on more than three occasions.

Advisory
Committee.

27.—(1) There shall be a committee (hereinafter called the Advisory Committee) to perform the functions assigned to it by or under this Act.

(2) The number of members of the Advisory Committee shall, subject to *subsection (11)*, be twelve.

(3) (a) The Director General, or the Deputy Director General if and for so long as the Director

General is not present or if the office of the Director General is vacant, shall, *ex officio*, be a member and shall chair the meetings of the Advisory Committee.

(b) In the event of the offices of Director General and Deputy Director General being vacant the Minister shall designate one of the other directors of the Agency to be a member of the Advisory Committee and to chair its meetings until either the Director General or the Deputy Director General is appointed.

(4) The directors other than the Director General shall be entitled to attend and be heard at meetings of the Advisory Committee but shall not be eligible to vote.

(5) The Minister may prescribe for the purposes of *subsection (6)*—

(a) organisations which in his opinion are representative of persons whose professions or occupations relate to environmental protection,

(b) organisations which in his opinion are concerned with environmental protection,

(c) organisations which in his opinion are concerned with the promotion of economic or other development,

(d) organisations which in his opinion are concerned with the promotion in relation to the community of social, economic or general interests,

(e) organisations which in his opinion are representative of persons concerned with environmental education or research.

(6) The members of the Advisory Committee shall be appointed by the Minister as follows—

(a) not less than one shall be so appointed from among persons selected by the organisations which for the time being stand prescribed under a particular paragraph of *subsection (5)*, subject to seven persons being appointed in all,

(b) four other members shall be appointed by the Minister.

(7) The organisations prescribed under a particular paragraph of *subsection (5)* shall, whenever so requested by the Minister, select such number (not being less than four) of candidates as the Minister may specify for appointment and shall inform the Minister of the names of the candidates selected.

(8) Except in the case of an appointment pursuant to *subsection (6) (b)* and subject to *subsection (10)*, the Minister shall not appoint a person to be a member of the Advisory Committee unless the person was among those selected pursuant to a request under *subsection (7)* in relation to that appointment.

(9) Notwithstanding *subsection (7)* or *(8)*—

(a) if the appropriate organisations prescribed under a particular paragraph of *subsection (5)* refuse or fail to select any candidate pursuant to a particular request under *subsection (7)*,
or

(b) if the Minister decides not to appoint as a member any of the candidates selected by such organisations pursuant to the request,

then either—

(i) the Minister shall appoint as a member a person who was among those selected by such organisations pursuant to a previous request (if any) under that subsection in relation to that appointment, or

(ii) the Minister shall make a further such request and he shall appoint as a member a person who was among those selected pursuant to that request or pursuant to another such request made in relation to that appointment.

(10) Where a request is made pursuant to *subsection (7)*, failure or refusal by any or all of the organisations of whom the request is made to select the number of candidates specified in the request shall not preclude the appointment as a member of a person who was selected in relation to that appointment either by any of the aforesaid organisations or by any other organisation.

(11) The Advisory Committee may act notwithstanding vacancies in its membership.

(12) A member of the Advisory Committee shall be appointed for such term (not exceeding three years) as shall be specified by the Minister when appointing him (on such terms and conditions as the Minister, with the consent of the Minister for Finance, determines) and a member whose term of office expires by the effluxion of time shall be eligible for reappointment.

(13) A member of the Advisory Committee shall be paid, out of moneys at the disposal of the Agency, such allowances for expenses as the Minister, with the consent of the Minister for Finance, determines.

(14) The Advisory Committee may regulate, by standing orders or otherwise, its procedure or business.

(15) The Minister may fix the date, time and place of the first meeting of the Advisory Committee.

(16) The Minister may make regulations as regards—

(a) the period within which the Minister is to be informed in accordance with *subsection (7)*,

(b) any other matter which the Minister considers expedient for the purposes of this section.

(17) (a) A member of the Advisory Committee may resign from office by letter addressed to the Minister.

(b) The Minister may remove from office a member of the Advisory Committee if in the opinion of the Minister he has become incapable through ill-health of effectively performing his duties or for stated misbehaviour or his removal appears to the Minister to be necessary or desirable for the effective performance by the Advisory Committee of its functions.

Committee.

Agency or to the Minister relating to the functions of the Agency.

(b) The Agency or the Minister, as may be appropriate, shall have regard to any recommendations made by the Advisory Committee.

(2) Without prejudice to the generality of *subsection (1)*, the Advisory Committee may make recommendations—

(a) to the Agency in relation to—

- (i) general staff requirements of the Agency but excluding decisions in relation to particular posts, individual employees, pay, grading and conditions,
- (ii) the provision of services, including laboratory facilities, required by the Agency,
- (iii) the provision of services, including laboratory facilities, by the Agency,
- (iv) standards, guidelines and codes of practice in relation to environmental protection,
- (v) the research programme of the Agency, its financing and priorities,
- (vi) the annual work programme of the Agency and priorities for different elements of the work programme,
- (vii) the organisation and promotion of training conferences and related matters for the purposes of environmental protection,
- (viii) any other matters related to the functions of the Agency,

(b) to the Minister in relation to—

- (i) the assignment of specific functions to the Agency,
- (ii) the financing of the Agency,
- (iii) the activities or classes of activities for which the Agency should have licensing functions under [Part IV](#) ,
- (iv) the assignment to the Agency of responsibility for specific environmental matters,
- (v) any other matter which, in the opinion of the Advisory Committee, is relevant to the effective performance by the Agency of its functions.

(3) The Minister may consult the Advisory Committee on any matter arising in relation to his functions with respect to environmental protection.

(4) The Advisory Committee shall be entitled to be informed at its meetings by the Director General, or a person appointed by him for the purpose, about the work of the Agency but (subject to [section 110](#)) not in relation to the detail of particular cases, and provided always that disclosure of

such information shall not be in breach of [section 39](#) .

(5) Subject to [section 110](#) , the Advisory Committee shall not as of right be entitled—

(a) to receive specific information in relation to the processing of an application for, or the review of, an individual licence or revised licence under [Part IV](#) , or

(b) to have any recommendations regarding such a licence taken into account.

Staff of the Agency.

29.—(1) The Agency may appoint such persons to be employees of the Agency as it may determine subject to the consent of the Minister and the Minister for Finance as to numbers and grading.

(2) (a) An employee of the Agency shall be paid, out of moneys at the disposal of the Agency, such remuneration and allowances for expenses as the Agency, with the consent of the Minister and the Minister for Finance, may determine.

(b) An employee of the Agency referred to in *paragraph (a)* shall hold his employment on such other terms (including terms specifying the duration of such employment) and conditions as the Agency, with the consent of the Minister and the Minister for Finance, may determine.

Transfer of staff of public authorities.

30.—(1) The Minister may, from time to time, following consultation with the Agency and any other Minister of the Government who in the opinion of the Minister is concerned, request a public authority to designate for employment by the Agency employees of that authority whose principal duties relate to a function assigned or transferred to the Agency under this Act, or to be so assigned or transferred to the Agency, and the authority shall comply with such request.

(2) A public authority may, with the consent of the Minister who shall consult with the Agency on the matter, designate for employment by the Agency any person employed by the public authority.

(3) A public authority shall not designate an employee under *subsection (1)* or *(2)*, without having notified in writing the employee and any recognised trade unions or staff associations concerned, of its intention to do so and considered any representations made by him, or by them or by any of them, in relation to the matter within such time as may be specified in the notification.

(4) The Agency shall, with the consent of the Minister who shall consult with the Agency on the matter, accept into its employment a person designated under *subsection (1)* or *(2)* for employment by the Agency.

(5) Acceptance into the employment of the Agency of a person designated under this section shall have effect on such day as may be specified by the Minister after consultation with the Agency and any other Minister of the Government who in the opinion of the Minister is concerned.

Conditions related to transfer of staff.

31.—(1) The terms and conditions relating to tenure which are granted by the Agency in relation to a person accepted into its employment under [section 30](#) or [32](#) shall not, while the person is in the employment of the Agency, be less favourable to him than those prevailing immediately before his acceptance into such employment save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned; and if a dispute arises between the Agency and any such person as to terms and conditions prevailing immediately before his acceptance into the employment of the Agency, the matter shall be determined by the Minister for Finance,

after consultation with the Minister.

(2) Save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned, a person referred to in *subsection (1)* shall not, while in the employment of the Agency, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service (other than those relating to tenure) than the scale of pay to which he was entitled and the terms and conditions of service (other than those relating to tenure) to which he was subject immediately before the day on which he was so accepted.

(3) Until such time as the scale of pay and the terms and conditions of service (other than those relating to tenure) of a person referred to in *subsection (1)* are varied by the Agency, following consultation with any recognised trade unions and staff associations concerned, the scales of pay to which such a person was entitled and the terms and conditions of service (other than those relating to tenure), restrictions, requirements and obligations to which the person was subject immediately before such acceptance shall continue to apply and may be applied or imposed by the Agency, while the person is in the employment of the Agency; no such variation shall operate to worsen the scale of pay or the terms or conditions of service aforesaid applicable to an employee immediately before he was accepted into the employment of the Agency, save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned.

(4) Previous service of any person in a public authority from which he was accepted into the employment of the Agency under [section 30](#) or [32](#) shall be reckonable for the purposes of, but subject to any other exceptions or exclusions in, the Redundancy Payments Acts, 1967 to 1991, the Holidays (Employees) Acts, 1973 and 1991, the Minimum Notice and Terms of Employment Acts, 1973 to 1991, and the Unfair Dismissals Acts, 1977 and 1991.

Dissolution of
An Foras
Forbartha
Teoranta.

32.—(1) The National Institute for Physical Planning and Construction Research Limited (An Foras Forbartha Teoranta) shall, on such date as may be specified by order of the Minister, made with the consent of the Minister for Finance, be dissolved by virtue of this section.

(2) An order under *subsection (1)* may provide for any consequential or ancillary matter or any other matter which the Minister considers necessary or expedient including, in particular—

(a) the transfer of staff of An Foras Forbartha Teoranta to the Agency,

(b) the transfer or distribution of property, rights and liabilities to the Agency, the Environmental Research Unit established under the Environmental Research Unit (Establishment) Order, 1988, the Minister, or any other public authority specified in the order,

(c) the preservation of continuing contracts related to environmental protection made by An Foras Forbartha Teoranta,

(d) the continuance of pending legal proceedings,

(e) the superannuation of former staff of An Foras Forbartha Teoranta.

(3) The Minister shall not make an order under *subsection (2) (a)* without having notified in writing any recognised trade unions or staff associations concerned of his intention to do so and considered any representations made by them or by any of them in relation to the matter within such time as may be specified in the notification.

(4) The Agency shall accept into its employment in accordance with the terms of this Act a person who is transferred under *subsection (2) (a)*.

Superannuation of Director General and directors.

33.—(1) The Minister may, with the consent of the Minister for Finance, make a scheme or schemes for the granting of pensions, gratuities or other allowances to or in respect of the Director General and other directors ceasing to hold office.

(2) A scheme under this section may provide that the termination of the appointment of the Director General or of a director during that person's term of office shall not preclude the award to him under the scheme of a pension, gratuity or other allowance.

(3) The Minister may, with the consent of the Minister for Finance, make a scheme amending or revoking a scheme under this section, including a scheme under this subsection.

(4) If any dispute arises as to the claim of any person to, or the amount of, any pension, gratuity, or allowance payable in pursuance of a scheme under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance whose decision shall be final.

(5) A scheme under this section shall be carried out by the Agency in accordance with its terms.

(6) No pension, gratuity or other allowance shall be granted by the Agency to or in respect of any person referred to in *subsection (1)* ceasing to hold office otherwise than in accordance with a scheme under this section.

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

Superannuation of staff of Agency.

34.—(1) The Agency may, with the consent of the Minister and the Minister for Finance, make a scheme or schemes for the granting of superannuation benefits to or in respect of such persons appointed under [section 29](#) to, or accepted under [section 30](#) or [32](#) into, wholtime employment of the Agency.

(2) A scheme under *subsection (1)* shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(3) The Agency may, with the consent of the Minister and the Minister for Finance, make a scheme amending or revoking a scheme under this section including a scheme under this subsection.

(4) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme or schemes under this section, such dispute shall be submitted to the Minister, who shall refer it to the Minister for Finance, whose decision shall be final.

(5) No superannuation benefit shall be granted by the Agency on the resignation, retirement or death of an employee of the Agency otherwise than in accordance with a scheme under this section.

(6) A scheme 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 scheme is passed by either such House within the next twenty-one days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(7) A scheme or schemes under *subsection (1)* shall, as respects a person accepted into wholetime employment of the Agency under [section 30](#) or [32](#) , provide for the granting to or in respect of him of superannuation benefits upon and subject to terms and conditions that are not less favourable to him than the terms and conditions applied to him immediately before the day on which he was so accepted into the employment of the Agency in relation to the grant of such benefits.

(8) Where, during the period between the establishment day and the coming into operation of a scheme under this section, superannuation benefits would have been granted to or in respect of a person accepted into wholetime employment of the Agency under [section 30](#) or [32](#) , in respect of his employment with the public authority concerned, the superannuation benefits shall be granted and paid to or in respect of the person by the Agency and, for that purpose, his pensionable service with the Agency shall be aggregated with his previous pensionable service.

(9) In this section and in [sections 35](#) and [36](#) “*superannuation benefits*” means pensions, gratuities and other allowances payable on resignation, retirement or death.

Membership of
House of
Oireachtas or
European
Parliament.

35.—(1) Where the Director General or other director of the Agency—

(a) accepts nomination as a member of Seanad Éireann,

(b) is nominated as a candidate for election to either House of the Oireachtas or to the European Parliament, or

(c) is regarded pursuant to [section 15](#) (inserted by the [European Assembly Elections Act, 1984](#)) of the [European Assembly Elections Act, 1977](#) , as having been elected to such Parliament to fill a vacancy,

he shall thereupon cease to be the Director General or a director of the Agency, as the case may be.

(2) Where a person who is an employee of the Agency—

(a) accepts nomination as a member of Seanad Éireann,

(b) is nominated as a candidate for election to either House of the Oireachtas or to the European Parliament, or

(c) is regarded pursuant to [section 15](#) (inserted by the [European Assembly Elections Act, 1984](#)) of the [European Assembly Elections Act, 1977](#) , as having been elected to such Parliament to fill a vacancy,

he shall thereupon stand seconded from employment by the Agency and shall not be paid by, or be entitled to receive from, the Agency any remuneration or allowances in respect of the period commencing on such acceptance, nomination or election, as the case may be, and ending when he

fails to be elected to, withdraws his candidature for, or ceases to be a member of, either such House or such Parliament.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or is a member of the European Parliament shall, while he is so entitled or is such a member, be disqualified from becoming the Director General or a director of the Agency or an employee of the Agency.

(4) Without prejudice to the generality of *subsection (2)*, that subsection shall be construed as prohibiting, *inter alia*, the reckoning of a period mentioned in that subsection as service with the Agency for the purposes of any superannuation benefits.

Membership of a local authority. **36.**—(1) Where the Director General or other director of the Agency becomes a member of a local authority he shall thereupon cease to be the Director General or a director of the Agency, as the case may be.

(2) Subject to *subsection (4)*, where a person who is an employee of the Agency becomes a member of a local authority, he shall be released on special leave and shall not be paid by, or be entitled to receive from, the Agency any remuneration or allowances in respect of the period of his membership of the local authority.

(3) A person who is for the time being a member of a local authority shall be disqualified from becoming the Director General or a director of the Agency or an employee of the Agency.

(4) The Minister may by order designate a class, description or grade of employment to which the provisions of *subsection (2)* or *(3)* shall not apply while such order is in force.

(5) Without prejudice to the generality of *subsection (2)*, that subsection shall be construed as prohibiting, *inter alia*, the reckoning of a period mentioned in that subsection as service with the Agency for the purposes of any superannuation benefits.

(6) In this section “*local authority*” has the meaning assigned to it by the [Local Government Act, 1941](#) .

Declaration of interests. **37.**—(1) It shall be the duty of a person to whom this section applies to give to the Agency a declaration in the prescribed form, signed by him and containing particulars of every interest of his which is an interest to which this section applies and for so long as he continues to be a person to whom this section applies it shall be his duty where there is a change regarding any such interest or where he acquires any other interest to which this section applies, to give to the Agency a new declaration in the prescribed form.

(2) (a) This section applies to—

(i) the Director General or other director, and

(ii) an employee of the Agency or any other person whose services are availed of by the Agency and who is of a class, description or grade prescribed for the purposes of this section.

(b) This section applies to the following interests—

(i) any estate or interest which a person to whom this section applies has in any land or

in any activity,

- (ii) any business of dealing in or developing land, or any activity, in which such a person is engaged or employed and any such business carried on by a company or other body of which he, or any nominee of his, is a member,
- (iii) any profession, business or occupation in which such a person is engaged, whether on his own behalf or otherwise, and which relates to dealing in or developing land or to an activity.

(3) A person to whom this section applies and who has an interest to which this section applies shall be regarded as complying with the requirements of *subsection (1)* if, and only if, he gives to the Agency a declaration mentioned in that subsection within the period of twenty-eight days beginning—

- (a) in case the person is such a person on the commencement of this section, on such commencement,
- (b) in case the person becomes such a person after the commencement of this section, on the day on which he becomes such a person,
- (c) in case there is a change regarding an interest particulars of which are contained in a declaration already given by the person or where the person acquires any other interest to which this section applies, on the day on which the change occurs or the other such interest is acquired.

(4) For the purposes of this section, a person shall be regarded as having an estate or interest in land or an activity if he, or any nominee of his, is a member of a company or other body which has an estate or interest in the land or the activity.

(5) For the purposes of this section, a person shall not be regarded as having an interest to which this section applies if the interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering or discussing, or in voting on, any question with respect to any matter arising or coming before the Agency or in performing any function in relation to any such matter.

(6) Where a person to whom this section applies has an interest to which this section applies by reason only of the beneficial ownership of shares in a company or other body by him or by his nominee and the total nominal value of those shares does not exceed the lesser of—

- (a) one thousand pounds, or
- (b) one-hundredth part of the total nominal value of either the issued share capital of the company or body, or where that capital is issued in shares of more than one class, the issued share capital of the class or classes of shares in which he has an interest,

subsection (1) of this section shall not have effect in relation to that interest.

(7) The Agency shall for the purposes of this section keep a register (which register is in this section referred to as the register of interests) and shall enter therein the particulars contained in declarations given to the Agency pursuant to this section.

(8) The register of interests shall be available for inspection by any person at the Agency's headquarters during office hours and a copy of the register or any entry in the register may be obtained by any person on the payment to the Agency of such fee (if any) as the Agency shall fix not exceeding the reasonable cost of making the copy.

(9) Where a person ceases to be a person to whom this section applies, any particulars entered in the register of interests as a result of a declaration being given by the person to the Agency pursuant to this section shall be removed, as soon as may be after the expiration of the period of five years beginning on the day on which the person ceases to be such a person, from the said register by the Agency.

(10) Subject to *subsection (11)*, a person who fails to comply with *subsection (1)* or who, when purporting to comply with the requirements of the said *subsection (1)*, gives particulars which are false or which to his knowledge are misleading in a material respect, shall be guilty of an offence.

(11) In any proceedings for an offence under this section it shall be a defence for the defendant to prove that at the relevant time he believed, in good faith and upon reasonable grounds, that—

(a) the relevant particulars were true,

(b) there was no matter as regards which he was then required to make a declaration under *subsection (1)*, or

(c) that the matter in relation to which the offence is alleged was not one as regards which he was so required to make such declaration.

(12) In this section “*land*” includes land covered by water.

Disclosure of interests.

38.—(1) Where the Director General, other director, an employee of the Agency, a member of the Advisory Committee or of a committee or consultative group established by the Agency, a consultant, adviser or other person engaged by the Agency or a person whose services are availed of by, or supplied to, the Agency under [section 44](#) or who exercises or performs any function on behalf of the Agency under an agreement under [section 45](#), has a pecuniary or other beneficial interest in, or material to, any matter which falls to be considered by the Agency, committee or consultative group or the person concerned, he shall comply with the following requirements—

(a) he shall disclose to the Agency, committee or consultative group, as the case may be, the nature of his interest in advance of any consideration of the matter,

(b) he shall neither influence nor seek to influence a decision in relation to the matter,

(c) he shall take no part in any consideration of the matter,

(d) if he is a director of the Agency, or a member of a committee or consultative group he shall withdraw from the meeting for so long as the matter is being discussed or considered by the Agency, committee or consultative group and shall not vote or otherwise act as such director or member in relation to the matter.

(2) For the purposes of this section, but without prejudice to the generality of *subsection (1)*, a person shall be regarded as having a beneficial interest if—

- (a) he or any member of his household, or any nominee of his or of any member of his household, is a member of a company or any other body which has a beneficial interest in, or material to, a matter referred to in that subsection,
- (b) he or any member of his household is in partnership with or is in the employment of a person who has a beneficial interest in, or material to, such a matter,
- (c) he or any member of his household is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such a matter relates,
- (d) any member of his household has a beneficial interest in, or material to, such a matter.

(3) For the purposes of this section a person shall not be regarded as having a beneficial interest in, or material to, any matter by reason only of an interest of his or of any company or of any other body or person mentioned in *subsection (2)* which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering, discussing or in voting on, any question with respect to the matter, or in performing any function in relation to that matter.

(4) Where a question arises as to whether or not a course of conduct, if pursued by a person, would be a failure by him to comply with the requirements of *subsection (1)*, the question shall be determined by the Agency and particulars of the determination shall be recorded in the minutes of the meeting concerned.

(5) Where a disclosure is made to the Agency, a committee or consultative group pursuant to *subsection (1)*, particulars of the disclosure shall be recorded in the minutes of the meeting concerned.

Disclosure of confidential information.

39.—(1) A person shall not disclose confidential information obtained by him in his capacity as Director General, other director, an employee of the Agency, a member of the Advisory Committee or of a committee or consultative group established by the Agency, a consultant, adviser or other person engaged by the Agency, or a person whose services are availed of by, or supplied to, the Agency under [section 44](#) or who exercises or performs any function on behalf of the Agency under an agreement under [section 45](#), unless he is duly authorised to do so.

(2) In this section—

“*confidential information*”, without prejudice to the provisions of [section 110](#), includes information that is expressed by the Agency to be confidential either as regards particular information or as regards information of a particular class or description;

“*duly authorised*” means authorised by the Agency or by some person authorised in that behalf by the Agency for the purposes of this section.

Prohibition of certain communications.

40.—(1) A person shall not communicate with the Director General, other director, an employee of the Agency, a member of the Advisory Committee or of a committee or consultative group established by the Agency, a consultant, adviser or other person engaged by the Agency, or a person whose services are availed of by, or supplied to, the Agency under [section 44](#) or who exercises or performs any function on behalf of the Agency under an agreement under [section 45](#), for the purpose of influencing improperly his consideration of any matter which falls to be considered or decided by the Agency, committee or consultative group.

(2) If any person referred to in *subsection (1)* to whom a communication is made becomes of

opinion that the communication is in contravention of that subsection, it shall be his duty not to entertain the communication further and he shall inform forthwith the Agency in writing of the substance of such communication and the Agency shall acknowledge in writing the receipt of such information.

Committees and
consultative
groups.

41.—(1) The Agency may from time to time appoint such and so many committees and consultative groups for such period and subject to such terms of reference as it thinks proper.

(2) The Agency may, subject to [section 25 \(6\)](#), delegate to a committee appointed under this section any of its functions which, in its opinion, can be better or more conveniently performed by a committee.

(3) The Agency shall appoint a person to chair the meetings of a committee or consultative group under this section and a person to act in the absence of the person so appointed.

(4) The Agency may at any time dissolve a committee or consultative group appointed under this section or remove a member of a committee or consultative group from such membership.

(5) Each member of a committee or consultative group appointed under this section shall be paid, out of moneys at the disposal of the Agency, such allowances for expenses as the Minister, with the consent of the Minister for Finance, determines.

(6) A committee or consultative group appointed under this section may regulate, by standing orders or otherwise, its procedure or business.

Consultants and
advisers.

42.—(1) The Agency may from time to time engage such consultants or advisers as it may consider necessary for the discharge of its functions and any fees due to a consultant or adviser engaged pursuant to this section shall be paid by the Agency out of moneys at its disposal.

(2) Any person may notify the Agency in writing of his willingness to be engaged by the Agency as a consultant or adviser pursuant to this section and such person when so notifying the Agency shall give to the Agency particulars of his qualifications and experience.

(3) The Agency shall maintain a list of the persons who duly give to the Agency a notification pursuant to *subsection (2)*.

(4) The Agency shall, in engaging a consultant or adviser under this section, have regard to the list maintained under *subsection (3)*, but nothing in this subsection shall be construed as precluding the Agency from engaging as a consultant or adviser a person whose name is not on the said list.

(5) The Agency shall include in its annual report a statement of the names of the persons (if any) engaged pursuant to this section during the year to which the report relates.

Establishment of
regional
environmental
units.

43.—(1) The Agency shall establish such number of units (in this Act referred to as regional environmental units) as may be approved of by the Minister and shall, as far as is practicable, arrange for the performance of its functions, or particular functions, through such units.

(2) Each regional environmental unit shall comprise such number and types of employees and such facilities for the performance of its functions as the Agency considers necessary.

Provision of services to Agency.

44.—(1) For the purposes of enabling the Agency to perform its functions on and from the appropriate day, the Minister may, as an interim measure, supply to the Agency any services, including services of staff, required by the Agency and the Agency may avail of such services for which arrangements are made under this section.

(2) A local authority or any other public authority may supply to the Agency any services required by the Agency, including services of staff, for the performance of any of its functions under this Act on such terms and conditions as may be agreed.

Agreements between Agency and other public authorities.

45.—(1) Subject to [section 25](#) (6), where—

(a) the Agency is of the opinion that any function or any service which may be exercised or performed by it should be exercised or performed on its behalf, whether generally or in a particular case, by a public authority, and

(b) the public authority is able and willing so to exercise or perform the function or service,

the Agency and the public authority may enter into an agreement that the function or service shall be so exercised or performed on behalf of the Agency by the public authority, and it shall thereupon become so exercisable or performable by the public authority.

(2) Where—

(a) consequent upon an agreement under *subsection (1)* a function or service becomes exercisable or performable by a public authority, and

(b) the Agency would, if it exercised or performed the function or service, be authorised by law to do any act or thing in relation to such exercise or performance,

the public authority shall be authorised to do that act or thing in relation to the exercise or performance by it of the function or service as if it were the Agency.

(3) The Agency shall furnish the Minister with a copy of an agreement to which this section applies.

(4) Any agreement under this section may contain such terms and conditions (including terms as to payment or otherwise) as may be decided between the parties to the agreement.

(5) Entry into an agreement under this section by a local authority shall be a reserved function.

(6) In this section—

“*local authority*” has the meaning assigned to it by the [Local Government Act, 1941](#) ;

“*reserved function*” means—

(a) with respect to the council of a county (or an elective body for the purposes of the County

Management Acts, 1940 to 1991) a reserved function for the purposes of the County Management Acts, 1940 to 1991,

(b) with respect to the corporation of a county borough, a reserved function for the purposes of the Acts relating to the management of the county borough.

Grants to Agency.

46.—The Minister may in each financial year, after consultation with the Agency in relation to its proposed work programme and expenditure for that year, make grants of such amounts as may be sanctioned by the Minister for Finance out of moneys provided by the Oireachtas towards the expenditure incurred by the Agency in the performance of its functions.

Borrowing by Agency.

47.—The Agency may, for the purposes of the performance of its functions, borrow money, but shall not do so without the consent of the Minister and the Minister for Finance.

Acceptance of gifts by Agency.

48.—(1) The Agency may accept gifts of money, land or other property upon such trusts or conditions (if any) as may be specified by the donor.

(2) The Agency shall not accept a gift if the trusts or conditions attached to it would be inconsistent with, or prejudice, the effective performance of its functions.

(3) The Agency shall publish in its annual report details of all gifts accepted by it during the period of the report.

Charges for services.

49.—(1) The Agency may determine charges or scales of charges in relation to the provision by it of services.

(2) The Agency may make such charges as it considers appropriate in accordance with the scales of charges provided for under *subsection (1)* in consideration of the provision by it of services.

(3) The Agency may recover, as a simple contract debt in any court of competent jurisdiction, from the person by whom it is payable any amount due and owing to it under *subsection (2)*.

Accounts and audits.

50.—(1) The Agency shall keep, in such form as may be approved of by the Minister with the consent of the Minister for Finance, all proper and usual accounts of all moneys received or expended by it.

(2) Accounts kept in pursuance of this section shall be submitted annually to the Comptroller and Auditor General for audit at such times as the Minister, with the consent of the Minister for Finance, directs and those accounts when so audited, shall (together with the report of the Comptroller and Auditor General thereon), be presented to the Minister, who shall cause copies of the audited accounts and the report to be laid before each House of the Oireachtas.

Annual report and information to Minister.

51.—(1) As soon as may be after the end of each financial year, but not later than six months thereafter, the Agency shall cause a report on the performance of its functions during that year to be laid before each House of the Oireachtas.

(2) The Agency shall supply the Minister with such information relating to the performance of its functions as he shall from time to time request.

PART III

Functions of the Agency

Functions generally.

52.—(1) The functions of the Agency shall, subject to the provisions of this Act, include—

- (a) the licensing, regulation and control of activities for the purposes of environmental protection,
- (b) the monitoring of the quality of the environment, including the establishment and maintenance of data bases of information related to the environment and making arrangements for the dissemination of such information and for public access thereto,
- (c) the provision of support and advisory services for the purposes of environmental protection to local authorities and other public authorities in relation to the performance of any function of those authorities,
- (d) the promotion and co-ordination of environmental research, the provision of assistance and advice in relation to such research and the carrying out, causing to be carried out, or arranging for, such research,
- (e) liaison with the European Environment Agency provided for under Council Regulation 1210/90/EEC¹,
- (f) such other functions in relation to environmental protection as may be assigned or transferred to it by the Minister under [section 53](#) or [54](#) including functions arising from any obligations under any treaty governing the European Communities or an act adopted by the institutions of those Communities or other international convention or agreement to which the State is, or becomes, a party.

(2) In carrying out its functions, the Agency shall—

- (a) keep itself informed of the policies and objectives of public authorities whose functions have, or may have, a bearing on matters with which the Agency is concerned,
- (b) have regard to the need for a high standard of environmental protection and the need to promote sustainable and environmentally sound development, processes or operations,
- (c) have regard to the need for precaution in relation to the potentially harmful effect of emissions, where there are, in the opinion of the Agency, reasonable grounds for believing that such emissions could cause significant environmental pollution,
- (d) have regard to the need to give effect, insofar as it is feasible, to the “polluter pays” principle, as set out in Council Recommendation 75/436/EURATOM, ECSC, EEC of 3 March, 1975¹, regarding cost allocation and action by public authorities on environmental matters,
- (e) ensure, in so far as is practicable, that a proper balance is achieved between the need to protect the environment (and the cost of such protection) and the need for infrastructural, economic and social progress and development.

Assignment of

53.—(1) The Minister may, following consultation with the Agency and any other Minister of the

additional functions.

Government who in the opinion of the Minister is concerned, by regulations assign to the Agency such additional functions and, consequentially, modify any existing function in relation to environmental protection as from time to time he considers appropriate.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may assign to the Agency any function which relates to environmental protection and which arises from, or is necessary for, the implementation of any provision of the treaties governing the European Communities or any act adopted by the institutions of those Communities or other international convention or agreement to which the State is, or becomes, a party.

(3) Any regulations made pursuant to this section may provide for the assignment to the Agency of such ancillary, incidental and supplementary functions as, in the opinion of the Minister, are necessary for, or in connection with, the implementation of any provision of the treaties governing the European Communities or any act adopted by the institutions of those Communities or other international convention or agreement to which the State is, or becomes, a party.

(4) (a) A charge may be made by the Agency, subject to regulations under this section, in connection with, incidental to, or for the purposes of, the effective performance of any function assigned to it under this section.

(b) The Agency may recover, as a simple contract debt in any court of competent jurisdiction, from any such person any amount due and owing to it under *paragraph (a)*.

Transfer of functions.

54.—(1) The Minister may, following consultation with the Agency, make regulations providing that any function relating to environmental protection conferred on a public authority under any enactment specified in the [Second Schedule](#) shall, where the Minister is satisfied that the function could be more effectively performed by the Agency, in addition to or in lieu of being performed by that authority, be performed by the Agency with effect from a date specified in the regulations.

(2) Regulations under *subsection (1)* shall not be made save with the agreement of any other Minister of the Government directly responsible for the function concerned or under whose aegis the public authority responsible for the function operates.

(3) Whenever regulations under this section are in force in relation to a particular function, a reference in any enactment to the public authority concerned shall be construed as including a reference to the Agency and the function to which the regulations relate shall be a function of the Agency.

(4) Regulations under this section may contain such incidental, supplementary, consequential and transitional provisions (including provisions modifying any provision of this Act or of any other enactment) as appear to the Minister to be necessary for the purposes or in consequence of, or to give full effect to, the regulations.

Advisory functions in relation to Ministers of the Government.

55.—(1) The Agency may, of its own volition, and shall when requested by a Minister of the Government, give information or advice or make recommendations for the purposes of environmental protection to any such Minister on any matter relating to his functions or responsibilities and that Minister shall have regard to any such information or advice given or recommendations made.

(2) Without prejudice to the generality of *subsection (1)*, the Agency—

(a) may, and shall when requested by a Minister of the Government—

- (i) prepare and submit to the Minister concerned an assessment of any proposal for, or any proposal for the amendment or the implementation of, any treaty governing the European Communities or any act of the institutions of those Communities or other international convention or agreement to which the State is, or may become, a party having a bearing on environmental protection,
- (ii) advise the Minister concerned in relation to any proposals for legislative change, or on any other policy matters, concerning environmental protection and related matters,
- (iii) submit to the Minister concerned any proposals it may consider appropriate for amendment of any enactment, or for new enactments, concerning environmental protection,
- (iv) prepare and submit information to, or advise, the Minister concerned in relation to guidelines, standards and other matters including management of coastal areas in relation to environmental protection,
- (v) report on and make recommendations to the Minister concerned on particular environmental issues or problems,

(b) may, and shall when requested by the Minister, make recommendations to the Minister in relation to any modification or extension of the functions of the Agency which it considers appropriate.

(3) The Minister may, by order made after consultation with any other Minister of the Government concerned, provide that a function performable by the Agency under *subsection (1)* or *subsection (2) (a)* shall be performable also in relation to any other public authority for which that other Minister is responsible.

(4) The Agency may, for any Minister of the Government or any public authority designated by order under *subsection (3)* or for any other person or body, organise and promote, or assist in organising and promoting, conferences, seminars, lectures, demonstrations, training courses or publications for persons involved in environmental protection.

Advisory
functions in
relation to local
authorities.

56.—(1) The Agency may, and shall when requested by the Minister, give information or advice or make recommendations for the purposes of environmental protection, to a local authority or to local authorities generally in relation to the performance of any of its or their functions and the authority or authorities shall have regard to any such information or advice given or recommendations made.

(2) Without prejudice to the generality of *subsection (1)*, information, advice or recommendations under this section may relate to—

- (a) the provision of laboratory facilities and equipment, and related services,
- (b) the preparation of legal proceedings in respect of any contravention of an enactment relating to environmental protection,
- (c) the standards, conditions or criteria to be applied, or the guidelines, codes of practice or procedures to be followed, for the purposes of environmental protection in relation to any development, process or practice either generally or of a particular class,

(d) the management of coastal areas for the purposes of environmental protection,

(e) the monitoring of emissions and environmental quality,

(f) methods of sampling, measuring and analysis, and the equipment to be used for such sampling, measurement and analysis.

(3) The Agency may organise and promote, or assist in organising and promoting, conferences, seminars, lectures, demonstrations, training courses or publications for staff of local authorities involved in environmental protection or for members of local authorities.

(4) In this section “*local authority*” has the meaning assigned to it by the [Local Government Act, 1941](#).

Assistance to local authorities.

57.—(1) The Agency shall provide such general support and assistance for the purposes of environmental protection to local authorities in relation to the performance of any of their functions as it considers necessary and feasible.

(2) The Agency may, for the purposes of *subsection (1)*, make arrangements with a local authority, on such terms and conditions as may be agreed, for the provision of services, including services relating to staffing and equipment, to that local authority.

(3) In this section “*local authority*” has the meaning assigned to it by the [Local Government Act, 1941](#).

Drinking water.

58.—(1) (a) The Agency may require a sanitary authority to submit to it in such manner and at such times as it may direct, such information as the Agency may specify about the monitoring of the quality of water intended for human consumption pursuant to the European Communities (Quality of Water Intended for Human Consumption) Regulations, 1988, or any enactment amending or replacing those regulations or any other enactment relating to drinking water as may be prescribed.

(b) The Agency shall carry out, cause to be carried out, or arrange for, such monitoring as it considers necessary to verify information (including monitoring results) transmitted to it under *paragraph (a)*.

(2) The Agency shall, in relation to each year, prepare and submit to the Minister a report on the monitoring, and an assessment of the results, referred to in *subsection (1)*, and shall include in the report such recommendations as seem to it to be appropriate.

(3) Each report under *subsection (2)* shall be laid by the Minister before each House of the Oireachtas and shall be published by the Agency.

Sewage or other effluents.

59.—(1) The Minister may, for the purposes of environmental protection and, in particular, for the purpose of giving full effect to Council Directive 91/271/EEC¹, make regulations for the collection, treatment, discharge or disposal of sewage or other effluents to waters from—

(a) any plant or drainage pipe vested in or controlled or used by a sanitary authority for the treatment of drinking water, or

(b) any plant, sewer or drainage pipe vested in or controlled or used by a sanitary authority for

the treatment and disposal of sewage or other effluents.

(2) Without prejudice to the generality of *subsection (1)*, regulations may provide for all or any of the following—

- (a) the time within which specified systems or classes of systems for the collection and treatment of sewage effluents shall be provided,
- (b) the design, construction and maintenance of collection and treatment systems,
- (c) standards or other requirements for effluents specified in *subsection (1)*,
- (d) criteria for the designation of areas or classes of areas or waters or classes of waters by such person as may be specified and the times within which such designations shall be made or reviewed for the purposes of *subsection (3)*,
- (e) monitoring of sewage or other effluents and of waters to which sewage or other effluents are discharged,
- (f) re-use and disposal of effluents.

(3) Standards or other requirements prescribed under *subsection (2)* may relate to—

- (a) all, or specified classes of, or specified volumes of, effluents,
- (b) effluents in designated areas or classes of areas or specified plant, sewers or drainage pipes, or specified classes of plant, sewers or drainage pipes, or
- (c) effluents discharged to designated waters or classes of waters,

and different standards or other requirements may be prescribed in relation to different effluents or classes of effluents, different areas or classes of areas, different waters or classes of waters or different plant, sewers or drainage pipes or classes of plant, sewers or drainage pipes.

(4) In prescribing standards or other requirements under *subsection (2)* the Minister shall have regard to any criteria specified and published by the Agency under [section 60](#) .

(5) The Minister may make regulations providing for the grant of an authorisation to a sanitary authority by the Agency in respect of the discharge of:

- (a) all, or specified classes of, or specified volumes of, effluents,
- (b) effluents in designated areas or classes of areas or specified plant, sewers or drainage pipes, or specified classes of plant, sewers or drainage pipes, or
- (c) effluents discharged to designated waters or classes of waters,

requiring compliance by such sanitary authority with such standards or other requirements as have been specified under *subsection (2) (c)*.

(6) Where a standard or other requirement is prescribed under *subsection (2)*, the sanitary authority shall, where necessary, take steps as soon as is practicable, or within such period as may be prescribed for compliance with such standard or other requirement, to ensure that the said effluent complies with the standard or other requirement.

(7) It shall be a good defence to a prosecution for an offence under any enactment other than this Act that the act constituting the alleged offence was in compliance with a standard or other requirement specified under *subsection (2) (c)* or an authorisation granted under this section.

(8) [Section 26](#) of the [Local Government \(Water Pollution\) Act, 1977](#) , is hereby amended by the insertion of the following subsection after subsection (1):

“(1 A) Regulations under this section shall not relate to sewage or other effluents from any works, apparatus, treatment plant, sewer or drainage pipe vested in, or controlled or used by, a sanitary authority for the disposal of sewage or other effluents to any waters.”.

Agency functions in relation to water or sewage treatment.

60.—(1) The Agency may, and shall if so directed by the Minister, specify and publish criteria and procedures, which in the opinion of the Agency are reasonable and desirable for the purposes of environmental protection, in relation to the management, maintenance, supervision, operation or use of all or specified classes of plant, sewers or drainage pipes vested in or controlled or used by a sanitary authority for the treatment of drinking water or for the treatment or disposal of any sewage or other effluent to any waters and a sanitary authority shall, in the performance of its functions, have regard to such criteria and procedures.

(2) Without prejudice to *subsection (1)*, specified criteria and procedures may relate to—

(a) site selection,

(b) the location of effluent discharges, the periods during which discharges may be made or may not be made and the design and construction of outlets for discharges,

(c) the provision and maintenance of meters, gauges, other apparatus, manholes and inspection chambers.

Monitoring in relation to sanitary authorities' effluents.

61.—(1) (a) A sanitary authority in which is vested or which has control over, or the use of, any plant, sewer or drainage pipe from which effluent is discharged to waters and in respect of which standards or other requirements have been prescribed or an authorisation issued under [section 59](#) , or criteria and procedures have been specified under [section 60](#) , shall carry out, cause to be carried out, or arrange for, such monitoring of the effluent or of the waters concerned or in connection with the management or operation of the plant, sewer or drainage pipe—

(i) as may be necessary or prescribed under [section 59 \(2\) \(e\)](#) to assess compliance with standards or other requirements prescribed, or authorisation issued, under [section 59](#) , or

(ii) as the Agency shall direct in relation to criteria and procedures specified under [section 60](#) , and shall transmit the results of such monitoring to the Agency in such manner and at such times as the Agency shall direct.

(b)