These are the changes and additions to the Canals Act 1986 that were enacted as part of the Heritage Act 2018. The original statutes can be accessed as follows:

<http://www.irishstatutebook.ie/eli/1988/si/247/made/en/print> Canals Act 1986

<http://www.irishstatutebook.ie/eli/2005/act/11/enacted/en/html> Maritime Safety Act 2005

<http://www.irishstatutebook.ie/eli/2018/act/15/enacted/en/html> Heritage Act 2018

**General duty of Waterways Ireland and of Córas Iompar Éireann**

The following section is substituted for section 5 (Directions by Commissioners or Authorised Officers) of the Act of 1986

**General duty of Waterways Ireland and of Board**

5. (1) Subject to subsection (2)—

(a) it is the duty of Waterways Ireland to undertake the care, management and maintenance of the canals and other canal property as a public amenity for use by the public for—

(i) navigation in such parts of the canals as are open to navigation from time to time, or

(ii) fishing or otherwise for the enjoyment and recreation of the public, and

(b) Waterways Ireland may designate particular parts of the canals and other canal property for particular purposes including purposes incidental to such purposes as aforesaid.

(2) Waterways Ireland shall consult with the Minister for Communications, Energy and Natural

Resources in relation to any matters which affect or may affect fish, fish life, fish stocks or fishing in the canals.

(3) It is the duty of the Board and Waterways Ireland to undertake the care, management and

maintenance of common interest property while such property is under the control of the Board or of Waterways Ireland.”.

**Bye-laws and enforcement - canals**

4. The following sections are substituted for sections 7 and 7A (inserted by section 56 of

the Maritime Safety Act 2005) of the Act of 1986:

**“7. Power of Waterways Ireland to make bye-laws for canals**

(1) Waterways Ireland may in accordance with this section make bye-laws for the care,

management, maintenance and control and the regulation of the use of the canals and other canal property in relation to any one or more of the following matters:

(a) the regulation of the conditions (including conditions as to safety) under which boats may be used on the canals;

(b) the regulation of the type or class of boat (including its dimensions) which may be used on the canals;

(c) the closing to navigation of any part of the canals;

(d) the restriction or prohibition of navigation on the canals or any part of the canals at any time by any boat or type or class of boat;

(e) the issue of permits or licences to authorise and regulate the use of boats on the canals or other canal property;

(f) the prohibition of a boat using the canals which does not have a permit or licence issued in respect of it as required by canal byelaws;

(g) the opening to navigation of any part of the canals not open to navigation;

(h) the alteration of water levels of the canals;

(i) the regulation of bathing in the canals;

(j) the regulation of fishing in the canals (other than matters in respect of which the Minister for Communications, Energy and Natural Resources may make bye-laws under section 57 of the Inland Fisheries Act 2010);

(k) the regulation of berths and moorings and the placing of buoys on the canals or other canal property;

(l) the prevention of damage to the canals or other canal property;

(m) the prohibition or restriction of activities on the canals or other canal property;

(n) the obligations of persons using the canals or other canal property;

(o) the removal from the canals or other canal property of any boat or thing which is or may become a danger to life, navigation or fish stocks or would otherwise interfere with the proper use of the canals or other canal property and matters relating to the cost of such removal and disposal of such;

(p) the charging and fixing of fees, tolls and charges in respect of the use by boats of the canals (including the use of locks on the canals and mooring on the canals) and the taking of water from the canals;

(q) matters relating to the regulation and care of animals on the canals or other canal property;

(r) the requirement to have adequate cover of insurance in respect of any boat being used on the canals;

(s) the specification of the form of a fixed payment notice and such amount as may be specified for the purpose of section 7A(1)(b).

(2) (a) If Waterways Ireland proposes to make bye-laws under subsection (1), it shall publish a

notice of the proposal—

(i) on its website, and

(ii) in one or more newspapers circulating in the vicinity of the canal or other canal property to which the proposal relates.

(b) A notice under paragraph (a) shall contain a statement in general terms of the purposes for which the proposed bye-laws are to be made and state that—

(i) a copy of the draft bye-laws is available for public inspection—

(I) on its website, and

(II) at a place specified in the notice, during ordinary business hours, and

(ii) a person may submit to Waterways Ireland objections to the draft bye-laws at any time during the period of 21 days commencing on the day of the first publication of the notice.

(c) Waterways Ireland shall, during the period of 21 days, keep a copy of the draft bye-laws available for public inspection on its website and at the place specified in the notice.

(d) Any person who objects to the draft bye-laws may submit his or her objections to Waterways Ireland in writing at any time during the period of 21 days. Waterways Ireland shall consider the objections.

(e) On the expiration of the period of 21 days, Waterways Ireland shall, as it thinks proper, refrain from making the bye-laws or, with the consent of the Minister for Arts, Heritage and the Gaeltacht, make the bye-laws with or without modification.

(f) Waterways Ireland shall—

(i) make available to the public copies of canal bye-laws for the time being in force relating to a canal or other canal property—

(I) for inspection at the public offices of Waterways Ireland, during ordinary office hours, and

(II) for purchase for such fee (if any) as may be determined by it, and

(ii) publish canal bye-laws on its website.

(3) Canal bye-laws may contain all such incidental, subsidiary and ancillary provisions as

Waterways Ireland considers necessary or expedient for the purposes of the bye-laws.

(4) A person who contravenes or fails to comply with a provision of a byelaw made under

subsection (1) which is stated in canal bye-laws to be a penal provision commits an offence and is liable on summary conviction to a class D fine.

(5) Where an offence under subsection (4) is committed by a body corporate and is proved to

have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person being a director, manager or secretary or other officer of such body, or a person who was purporting to act in such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against as if he or she were guilty of the first-mentioned offence.

(6) Every bye-law 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 is passed by either House of the Oireachtas within the next 21 days on which such House has sat after the bye-law is laid before it annulling such bye-law, such bye-law shall be annulled accordingly, but without prejudice to the validity of anything previously done under such byelaw.

(7) Waterways Ireland may recover as a simple contract debt in any court of competent

jurisdiction from any person by whom it is payable any amount due and owing under bye-laws made under subsection (1) for the purposes of paragraph (p) of that subsection.

**7A. Fixed payment notice**

(1) Where an authorised officer of Waterways Ireland has reasonable grounds for believing that

a person is committing or has committed an offence under section 7, he or she may serve the person with a notice, in the form specified by Waterways Ireland in canal bye-laws stating that—

(a) the person is alleged to have committed the offence specified in the notice,

(b) the person may, during the period of 21 days beginning on the date of the notice, make to Waterways Ireland, at the address specified in the notice, a payment of the specified amount, accompanied by the notice, duly completed, and

(c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if a payment specified in the notice, accompanied by the notice, duly completed, is made during that period, no prosecution in respect of that alleged offence will be instituted.

(2) Where notice is given under subsection (1)—

(a) a person to whom the notice applies may, during the period specified in the notice, make to Waterways Ireland at the address specified in the notice, the payment specified in the notice, accompanied by the notice, duly completed,

(b) Waterways Ireland may receive the payment, issue a receipt for it and retain the money paid, and any payment received shall not be recoverable in any circumstances by the person who made it, and

(c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment specified in the notice is made, accompanied by the notice, duly completed, during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) The specified amount for the purposes of subsection (1)(b) is €150 or such lesser amount as

may be specified in canal bye-laws for a contravention of a provision of canal bye-laws.

(4) In a prosecution for an offence under section 7 the onus of proving that a payment pursuant

to a notice under this section has been made lies on the defendant.

**7B. Authorised officers**

(1) Waterways Ireland may appoint such or so many of its officers or classes of its officers as it

considers appropriate to be authorised officers for the purposes of ensuring the control and regulation of the canals and other canal property and enforcing this Act and canal byelaws.

(2) A person appointed as an authorised officer under this section shall be furnished with a

warrant of his or her appointment and shall, when exercising any power conferred on him or her by or under this Act or canal bye-laws, if requested by a person affected, produce the warrant of appointment or a copy of it to that person for inspection.

(3) An appointment under this section as an authorised officer shall cease—

(a) if Waterways Ireland revokes the appointment,

(b) if the appointment is for a fixed period, on the expiry of that period, or

(c) if he or she ceases to be an officer of Waterways Ireland.

(4) An authorised officer appointed by Waterways Ireland may exercise the functions of an

authorised officer under this Act and canal byelaws in or on the canals or other canal property.

(5) An authorised officer may for the purposes of—

(a) enforcing the conditions under which boats may be used in the canals in compliance with canal bye-laws,

(b) ensuring that a boat on the canals is authorised in accordance with canal bye-laws to use the canals, or

(c) ensuring that persons on the canals or other canal property are complying with canal bye-laws, do all or any of the following:

(i) board and inspect a boat (other than such part of it as constitutes a dwelling) on the canals or other canal property and may, for the purpose of boarding it, stop a boat that is under way;

(ii) request any person in charge of the boat to give to him or her for inspection any permit or licence issued under canal bye-laws or certificate of insurance required under canal bye-laws, relating to the boat;

(iii) request a person on the canals (whether or not in a boat) or other canal property to give to him or her such information within the knowledge of the person as the officer may reasonably require for the purposes of ensuring compliance with canal bye-laws;

(iv) give to a person on the canals (whether or not in a boat) or other canal property such directions, orally or in writing, as he or she considers reasonable for the purpose of ensuring compliance with canal bye-laws or the safety of persons or the care, management and maintenance of property on the canals or other canal property;

(v) direct a person whom he or she believes to be contravening or failing to comply with canal bye-laws to—

(I) give to the officer his or her name and address and (if the officer considers it necessary) evidence of his or her identity, or

(II) leave the canals or other canal property, or both.

(6) An authorised officer may give to the owner of a boat such directions, orally or in writing, as

he or she considers reasonable for the purpose of his or her functions under this Act or canal bye-laws.

(7) A person to whom a direction is given, or a request is made, under this section shall comply

with the direction or request.

(8) A person shall not—

(a) obstruct, impede or otherwise interfere with an authorised officer in the performance of his or her functions under this Act or canal byelaws, or

(b) give to an authorised officer, when requested by the officer, information that is to the knowledge of the person false or misleading or a false name or address.

(9) A person who contravenes or fails to comply with subsection (7) or (8) commits an offence

and is liable on summary conviction to a class D fine.

(10) An authorised officer shall not board, except with the consent of the occupier, that part of a

boat that constitutes a private dwelling unless he or she has obtained a search warrant under section 7C.

(11) Where, in the course of exercising a power under this Act, an authorised officer finds or

comes into possession of anything that the officer has reasonable grounds for believing to be evidence of an offence or suspected offence under this Act, the officer may seize and retain it for use in evidence in proceedings for an offence under this Act.

(12) A statement or admission made by a person pursuant to a requirement to give information

under subsection (5)(iii) shall not be admissible as evidence in proceedings against the person for an offence (other than an offence under subsection (9)).

**7C. Search warrant**

(1) If a judge of the District Court is satisfied on the sworn information of an authorised officer

that there are reasonable grounds for believing that—

(a) evidence of or relating to the commission or intended commission of an offence under section 7 is or may be found on a boat on the canals or on other canal property, or

(b) a record relating to such an offence is or may be on a boat on the canals or other canal property, then the judge may issue a search warrant.

(2) A search warrant under this section shall be expressed and operate to authorise a named

authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production, if so requested, of the warrant, to enter the boat named in the warrant and to exercise all or any of the functions conferred on an authorised officer by or under this Act.

**7D. Service of directions, etc.**

(1) A direction or requirement given in writing under section 7B shall be addressed to the

person concerned by name and may be served on or given to the person—

(a) by giving a copy to the person concerned, his or her employee, servant or agent, or in the case of a partnership, by delivery of a copy to any of the partners,

(b) by leaving a copy at the address at which the person ordinarily resides, where he or she carries on business, or, where an address for service of directions or requirements has been furnished by the person to Waterways Ireland, at that address,

(c) by sending a copy by post in a prepaid registered envelope to the address at which the person ordinarily resides or carries on business,

(d) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the direction or requirement relates to land, premises or a boat, by delivering a copy to the land, premises or boat, or by affixing a copy in a conspicuous position on or near the land, premises or boat, or

(e) by sending a copy by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the person ordinarily resides or carries on business or, if an electronic address or facsimile number address for the service of a direction or requirement has been furnished by the person to Waterways Ireland, that electronic address or facsimile machine, but only if—

(i) the recipient’s facility for the reception of electronic mail generates a message confirming the successful receipt of the electronic mail, or

(ii) the sender’s facsimile machine generates a message confirming the successful transmission of the total number of pages of the direction or requirement.

(2) Where the name of the person cannot be ascertained by reasonable enquiry it may be

addressed to the person using the words ‘the owner’ or ‘the occupier’.

**7E. Prosecutions**

(a) Proceedings for an offence under this Act may be prosecuted summarily by Waterways Ireland.

(b) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act may be instituted within 12 months from the date of the offence.”.

**Miscellaneous amendments of Act of 1986**

**5.** Each provision of the Act of 1986 referred to in column (1) of the Schedule is amended as specified in column (2) of the Schedule opposite the mention of the provision in column (1).

**Repeal**

**6.** Section 56 of the Maritime Safety Act 2005 is repealed.

AMENDMENT OF ACT OF 1986

Section 1(1) Delete the definition of “the Commissioners”. Insert the following definitions:

“ ‘authorised officer’ means a person appointed as an authorised officer under section 7B;

‘canal bye-laws’ means bye-laws made under section 7;”.

Substitute for definition of “the Minister” the following: “ ‘Minister’ means Minister for the Arts, Heritage and the Gaeltacht;”.

Section 6 Substitute “Waterways Ireland” for “The Commissioners”.

Section 6(c) Substitute “(other than a public road within the meaning of the Roads Act 1993)” for “(other than a public road within the meaning of the Local Government (Roads and Motorways) Act

1974)”.

Section 8 Substitute “Waterways Ireland” for “the Commissioners” in each place it occurs.

Section 9(1), (3) and (4) Substitute “Waterways Ireland” for “the Commissioners” in each place it occurs.

Section 9(2) Substitute “Waterways Ireland” for “The Commissioners”.

Section 10 Substitute “Waterways Ireland” for “The Commissioners”, and “Waterways Ireland” for “the Commissioners”.

Section 11 Substitute “Waterways Ireland” for “the Commissioners” in each place it occurs.

Section 12(1) Substitute “Waterways Ireland” for “the Commissioners”.

Section 12(2) Substitute “Waterways Ireland” for “The Commissioners”.

Section 13 Delete the section.

Section 15 Delete the section.

Section 16(1) Substitute “Waterways Ireland and the road authority (within the meaning of section 56 (inserted by section 2 of the Roads Act 2007) of the Roads Act 1993)” for “The Commissioners and the road authority”.

Section 17 Substitute “Waterways Ireland” for “the Commissioners”.

Section 19 Substitute “Waterways Ireland” for “the Commissioners”.