

MARINE INSTITUTE ACT 1991

LONG TITLE

An Act to make provision for the carrying out of marine research and development and related services, to secure the co-ordination of the resources of the state used for marine research and for these purposes to establish a body to be known as the Marine Institute, to define its functions and to provide for other matters connected with the matters aforesaid. [12th March, 1991]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1 Interpretation.

SECT 1.—In this Act— "the establishment day" means the day appointed by section 2 of this Act to be the establishment day; "functions" includes powers and duties; "the Institute" has the meaning assigned to it by section 3 of this Act; "the Minister" means the Minister for the Marine; "marine" means of, in, near, concerned with or belonging to the sea and tidal waters, inhabiting, found or got from the sea or from non-tidal waters; "research and development" includes research into all pure and applied sciences, including economics and social sciences, investigations, tests, experiments, analyses and other studies and the application of science and technology to innovation and development.

2 Establishment day.

SECT 2.—The Minister may by order appoint a day to be the establishment day for the purposes of this Act.

3 Establishment of Institute.

SECT 3.—(1) On the establishment day there shall stand established a body to be known as Foras na Mara and in the English language as the Marine Institute, and in this Act referred to as "the Institute", to perform the functions conferred on it by this Act. (2) The provisions of the Schedule shall have effect with respect to the Institute.

4 Functions of Institute.

SECT 4.—(1) The Institute shall have the following general functions, namely, to undertake, to co-ordinate, to promote and to assist in marine research and development and to provide such services related to marine research and development, that in the opinion of the Institute will promote economic development and create employment and protect the marine environment. (2) Without prejudice to the generality of subsection (1) of this section, it shall be the general duty of the Institute— (a) to advise the Minister on policy relating to marine research and development, (b) to carry out policy as may be specified by the Minister on marine research and development, (c) to undertake, develop, promote and market marine research and development services, (d) to promote and assist the improvement, development and application of technical and other processes for the exploitation and development of the marine resource, (e) to collect, maintain and disseminate information relating to marine matters, (f) to co-ordinate and control proposals for marine research and development requiring funding from the Exchequer or from any State owned or controlled body or such other body as the Minister may from time to time direct, (g) to evaluate for the Minister proposals for marine research and development requiring funding from the Exchequer or from any State owned or controlled body or such other body as the Minister may from time to time direct, and (h) to advise the Minister on proposals for marine research and development requiring funding from the Exchequer or from any State owned or controlled body or such other body as the Minister may from time to time direct. (3) The Institute may do any of the following— (a) at the request of the Minister, represent the State in European Community programmes of marine research and development, (b) commission from other persons work to be carried out under the direction of the Institute, (c) enter into joint-ventures so as to undertake or further the application of marine research and development, (d) promote and organise seminars, conferences, lectures or

demonstrations (whether in the State or elsewhere) relating to marine research and development, (e) engage (where appropriate after consultation with the Minister and the Minister for Foreign Affairs) in international activities in relation to marine research and development, including where appropriate representation of the State at conferences, meetings and seminars, and (f) engage in any other activities relating to marine research and development as may be approved of by the Minister. (4) The Minister may confer on the Institute by order such other additional functions as he may from time to time consider necessary which said order may be amended or revoked by order by the said Minister. (5) The Institute may, subject to compliance with such conditions as the Minister may from time to time direct, do all such other things as arise out of or are consequential on the functions assigned to the Institute under this Act. (6) An order made under subsection (4) of this section by the Minister shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next twenty-one days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything done thereunder.

5 Committees of Institute.

SECT 5.—(1) The Institute may establish committees to assist and advise it in relation to the performance of its functions. (2) A committee may include persons who are not members of the Institute. (3) The Institute may appoint a person to be chairman of a committee established under this section. (4) There may be paid out of the income of the Institute to members of a committee established under this section such allowances for expenses incurred by them as the Institute may, with the consent of the Minister and the Minister for Finance, determine.

6 Charges for service.

SECT 6.—(1) Subject to the provisions of this section, the Institute may make such charges as it considers appropriate in consideration of the provision by it of services (other than for the Minister). (2) The determination of the amounts of charges by the Institute shall be subject to the approval of the Minister and the Minister for Finance. (3) The Institute 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 (1) of this section.

7 Chief Executive.

SECT 7.—(1) There shall be a chief officer of the Institute who shall be known, and is referred to in this Act, as the Chief Executive Officer. (2) The Chief Executive Officer shall carry on and manage and control generally the administration and business of the Institute and perform such other functions as may be determined by the Institute. (3) The Chief Executive Officer shall hold office under a contract of service in writing, containing such terms and conditions (including terms and conditions relating to remuneration), as may be approved of by the Minister with the consent of the Minister for Finance. (4) The Chief Executive Officer shall be paid by the Institute out of moneys at its disposal such remuneration and allowances for expenses incurred by him in the performance of his functions as may be determined by the Minister, with the consent of the Minister for Finance. (5) The Chief Executive Officer shall be appointed by the Institute with the approval of the Minister, and may be removed from office at any time, by the Institute with the consent of the Minister. (6) The Chief Executive Officer shall devote the whole of his time to his duties as Chief Executive Officer and shall not hold any other office or position without the consent of the Institute. (7) The Chief Executive Officer may make proposals to the Institute on any matter relating to its activities. (8) The Chief Executive Officer shall not be a member of the Institute.

8 Staff of Institute.

SECT 8.—(1) The Institute shall accept into its employment with effect from the establishment day in accordance with the terms of this Act every person who is a member of the staff of the Department of the Marine immediately before the establishment day or becomes a member of the said staff after the establishment day and is designated, whether before or after the establishment day, by the Minister for

employment by the Institute. (2) The Institute may appoint such number of persons to be members of the staff of the Institute as it may determine with the consent of the Minister and the Minister for Finance. (3) (a) A member of the staff of the Institute (other than the Chief Executive Officer) shall be paid, out of the moneys at the disposal of the Institute, such remuneration and allowances for expenses incurred by him as the Institute may, with the consent of the Minister and the Minister for Finance, determine. (b) A member of the staff of the Institute referred to in paragraph (a) of this subsection shall hold his office or employment on such other terms and conditions as the Institute may, with the consent of the Minister and the Minister for Finance, determine. (4) The Institute may at any time for stated reasons remove any member of the staff of the Institute from being a member of its staff. (5) The grades of the staff of the Institute and the numbers of staff in each grade shall be determined by the Institute with the consent of the Minister and the Minister for Finance. (6) The terms and conditions relating to tenure of office which are granted by the Institute in relation to any one who has been transferred by the Minister to the Institute shall not, while he is in the service of the Institute, be less favourable to him than those prevailing for the time being in the civil service; any alteration in regard to tenure of office of any such member shall not be less favourable than the prevailing conditions in the civil service at the time of such alteration save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned and if a dispute arises between the Institute and any such member as to conditions prevailing in the civil service, the matter shall be determined by the Minister for Finance after consultations with the Minister. (7) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a member of the staff of the Department of the Marine who has been transferred by the Minister to the staff of the Institute shall not, while in the service of the Institute, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service than the scale of pay to which he was entitled and the terms and conditions of service to which he was subject immediately before the establishment day. (8) Until such time as the scales of pay and the terms and conditions of service of staff transferred (by the Minister to the Institute) are varied by the Institute, following consultation with recognised trade unions and staff associations concerned, the scales of pay to which they were entitled and the terms and conditions of service, restrictions, requirements and obligations to which they were subject immediately before their transfer shall continue to apply to them and may be exercised or imposed by the Institute or the Chief Executive Officer, as the case may be, while they are in the service of the Institute. No such variation shall operate to worsen the scales of pay or the terms or conditions of service aforesaid applicable to a member of such staff immediately before the establishment day, save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned. (9) In relation to any staff transferred by the Minister to the Institute previous service in the civil service shall be reckonable for the purposes of, but subject to any other exceptions or exclusions in the Redundancy Payments Acts, 1967 to 1984, the Holidays (Employees) Act, 1973, the Minimum Notice and Terms of Employment Acts, 1973 and 1984 and the Unfair Dismissals Act, 1977. (10) The Institute may perform any of its functions through or by the Chief Executive Officer or any other member of its staff duly authorised by the Institute in that behalf.

9 Superannuation of staff of Institute.

SECT 9.—(1) The Institute 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 persons (including the Chief Executive Officer) appointed or transferred under section 8 of this Act, to whole-time positions on the staff of the Institute. (2) A scheme under subsection (1) of this section shall fix the times and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme or schemes, and different times and conditions may be fixed in respect of different classes of persons. (3) Subject to subsection (4) of this section, the Institute 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) A scheme or amending scheme, or revoking scheme submitted to the Minister under this section shall, if approved of by the Minister with the consent of the Minister for Finance, be carried out by the Institute in accordance with its terms. (5) Disbursement of superannuation benefit which may be granted to or in respect of persons who were members of the staff of the Department of the Marine before being transferred to the Institute shall not be on less favourable conditions than would apply immediately before their transfer to the Institute. (6) 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. (7) No superannuation benefit shall be granted by the Institute on the resignation, retirement or death of a member of the staff of the Institute, including the Chief Executive Officer, otherwise than in accordance with a scheme or schemes under this section. (8) 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 done thereunder. (9) A scheme or schemes under subsection (1) of this section shall, as respects a person transferred by the Minister to a whole-time position on the staff of the Institute under section 8 of this Act 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 in the Department of the Marine immediately before his transfer to the Institute in relation to the grant of such benefits. (10) Where superannuation benefits fall due for payment to or in respect of a person to whom subsection (9) of this section applies in the period beginning on the establishment day and ending immediately before the coming into operation of a scheme under this section, the superannuation benefits shall be calculated and paid by the Institute in accordance with the Superannuation Acts, 1834 to 1963, as applied to such person immediately before the establishment day and, for that purpose, his pensionable service with the Institute shall be aggregated with his previous pensionable service. (11) The Minister for Finance shall make such contribution as may, with his consent, be specified in a scheme or schemes under this section towards the superannuation benefits related to reckonable service given before the establishment day which may be granted to or in respect of persons who, immediately before that day, were members of the staff of the Department of the Marine and such scheme or schemes shall, with the like consent, fix the manner and times of the payment of such contribution. (12) Moneys required to be paid by the Minister for Finance under this section shall be advanced out of the Central Fund or the growing produce thereof. (13) In this section and in sections 10 and 11 "superannuation benefits" means pensions, gratuities and other allowances payable on resignation, retirement or death.

10 Membership of either House of Oireachtas or of European Parliament by members or staff of Institute.

SECT 10.—(1) Where a member of the Institute is— (a) nominated as a member of Seanad Éireann, or (b) elected as a member of either House of the Oireachtas or of the European Parliament, or (c) 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 a member of the Institute. (2) Where a person who is a member of the staff of the Institute is— (a) nominated as a member of Seanad Éireann, or (b) elected as a member of either House of the Oireachtas or of the European Parliament, or (c) 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 Institute and shall not be paid by, or be entitled to receive from, the Institute any remuneration or allowances in respect of the period commencing on such nomination or election or when he is so regarded as having been elected, as the case may be, and ending when he 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 a member of the Institute or the staff of the Institute. (4) Without prejudice to the generality of subsection (2) of this section, that subsection shall be construed as prohibiting, inter alia, the reckoning of a period mentioned in that subsection as service with the Institute for the purposes of any superannuation benefits.

11 Advances by Minister to Institute.

SECT 11.—The Minister may from time to time, with the consent of the Minister for Finance, advance to the Institute out of moneys provided by the Oireachtas, such sums as the Minister may determine for the purposes of expenditure by the Institute in the performance of its functions.

12 Accounts and audit of Institute.

SECT 12.—(1) The Institute shall keep in such form as may be approved of by the Minister with the concurrence of the Minister for Finance all proper and usual accounts of all moneys received or expended by the Institute, including an income and expenditure account and balance sheet and, in particular, shall keep all such special accounts as the Minister may from time to time direct. (2) Accounts kept in pursuance of this section shall be submitted as soon as may be after the end of the financial year of the Institute to which they relate to the Comptroller and Auditor General for audit and a copy of the income and expenditure account and of the balance sheet and of such other (if any) of its accounts as the Minister may direct and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister as soon as may be and the Minister shall cause copies of each of the documents aforesaid to be laid before each House of the Oireachtas.

13 Gifts.

SECT 13.—(1) The Institute 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 Institute shall not accept a gift if the trusts or conditions attached to it would be inconsistent with its functions.

14 Borrowing by Institute.

SECT 14.—The Institute may, for the purpose of providing for current or capital expenditure, from time to time borrow money (whether on the security of the assets of the Institute or otherwise), including money in a currency other than the currency of the State, but shall not do so without the consent of the Minister and the Minister for Finance.

15 Disclosure of information.

SECT 15.—(1) A person shall not, without the consent of the Institute, disclose any information obtained by him while performing (or as a result of having performed) duties as a member, or member of the staff of, or an adviser or consultant to the Institute or a member of a committee established pursuant to section 5 of this Act. (2) A person who contravenes subsection (1) of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000. (3) Nothing in subsection (1) of this section shall prevent the disclosure of information in a report made to the Institute or by or on behalf of the Institute to the Minister.

16 Investment of moneys, and disposal of proceeds of sales of land or interest in land, by Institute.

SECT 16.—(1) The Institute may, with the consent of the Minister and the Minister for Finance, invest funds of the Institute in such manner as it thinks fit. (2) The proceeds of the disposal of land or an interest in land by the Institute shall be disposed of in such manner as the Minister may, with the consent of the Minister for Finance, direct.

17 Scholarships and grants.

SECT 17.—The Institute, with the approval of the Minister, may provide scholarships and other awards for the education and training of persons in marine research and development.

18 Reports and information to the Minister.

SECT 18.—(1) The Institute shall provide the Minister, not later than six months after the end of each financial year of the Institute, with a report in writing, of its activities during that year and the Minister shall within two months of the receipt of such report cause copies of the report to be laid before each House of the Oireachtas. (2) Each report referred to in subsection (1) of this section shall include information in such form and regarding such matters as the Minister may direct. (3) The Institute shall, whenever requested by the Minister, furnish to him information in relation to such matters as he may specify, other than information on day-to-day activities, of the Institute. (4) The Institute shall furnish to the Minister at five yearly intervals comprehensive reviews of the programmes and achievements of the Institute.

19 Annual estimates.

SECT 19.—(1) Not less than three months before the end of each financial year of the Institute, it shall furnish to the Minister a report in writing drawn up in consultation with relevant Ministers— (a) outlining its proposed activities (other than day-to-day activities) in the financial year immediately following, (b) giving estimates of its expenditure in the last mentioned year in relation to each of these activities, and (c) giving estimates of its income in the last said mentioned year, and it shall not carry out any of these activities or incur any such expenditure until the report has been approved by the Minister and the Minister for Finance. (2) The Institute shall not during any financial year— (a) carry on any activity (other than day-to-day activities) not specified in the report under subsection (1) of this section in relation to that year, or (b) incur any expenditure in relation to any activity in excess of the estimates of the expenditure given in that report, without the prior approval of the Minister and the Minister for Finance.

20 Transfer of property.

SECT 20.—(1) On the establishment day all land which, immediately before that day, was vested in the Minister for Finance and was used in connection with marine research and all rights, powers and privileges relating to or concerned with such land shall, without any conveyance or assignment, stand vested in the Institute for all the estate or interest for which immediately before the establishment day it was vested in the Minister but subject to all trusts and equities affecting the land subsisting and capable of being performed. (2) On the establishment day all property other than land, which immediately before that day was the property of the Minister for Finance and was used in connection with marine research shall stand vested in the Institute without any assignment. (3) The Minister may on his own initiative and shall on the application of the Institute issue a certificate in respect of specified land certifying as he thinks proper, that the land vested in the Institute or did not so vest and the certificate shall be conclusive evidence of the facts so certified. (4) Section 12 of the Finance Act, 1895, shall not apply to the vesting in the Institute of any property or rights transferred by this Act.

21 Publications.

SECT 21.—The Institute may publish in the name of the Institute information arising from the activities of the Institute.

22 Discoveries and inventions.

SECT 22.—(1) Every discovery and invention resulting from researches or investigations undertaken by or on behalf of the Institute except those discoveries or inventions referred to in subsection (2) shall be the property of the Minister. (2) A discovery or invention directly resulting from researches or investigations undertaken by or on behalf of the Institute for any person (other than the Minister) shall, unless otherwise agreed between the Institute and that person, become the exclusive property of that person. (3) Any discovery or invention or any part of any discovery or invention which does not become the property of the person for whom such research or investigation as aforesaid is undertaken, shall become the property of the Minister. (4) The Institute may, subject to the approval of and at the discretion of, the Minister and

the Minister for Finance develop a scheme for the payment of bonuses or royalties, out of moneys at the disposal of the Institute, to members of the staff of the Institute who have made important discoveries or inventions, or have materially assisted in making such discoveries or inventions.

23 Expenditure by Institute.

SECT 23.—The funds of the Institute may be used for the payment of expenses incurred by it in the performance of its functions.

24 Expenses.

SECT 24.—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.

25 Short title.

SECT 25.—This Act may be cited as the Marine Institute Act, 1991.

Section 3.

SCHEDULE

THE MARINE INSTITUTE 1.

The Institute shall be a body corporate with perpetual succession and an official seal and power to sue and be sued in its corporate name and, with the consent of the Minister, to acquire, hold and dispose of land or any rights in, over or under land or water and to acquire, hold and dispose of any other property. 2. The Institute shall consist of a chairman, and eight ordinary members, who shall be appointed to be members of the Institute by the Minister by virtue of their experience in fields of expertise relevant to the functions of the Institute. 3. The chairman of the Institute may at any time resign his office by letter addressed to the Minister. 4. The Minister may at any time remove the chairman of the Institute from office. 5. Subject to the provisions of this Schedule, the chairman of the Institute shall hold office on such terms and conditions as the Minister may with the consent of the Minister for Finance determine. 6. The chairman of the Institute shall be paid, out of moneys at the disposal of the Institute, such remuneration and allowances for expenses incurred by him as the Minister may, with the consent of the Minister for Finance, determine. 7. Subject to the provisions of this Schedule, each ordinary member of the Institute shall hold office on such terms and conditions as the Minister may, with the consent of the Minister for Finance, determine. 8. (1) The term of office of the chairman of the Institute shall be five years. (2) (a) Subject to the provisions of this paragraph, the term of office of an ordinary member of the Institute shall be five years. (b) The term of office of three (determined by the Minister by lot) of the first eight persons appointed to be ordinary members of the Institute shall be three years. (c) The term of office of three (determined by the Minister by lot) of the first eight persons appointed to be ordinary members of the Institute shall be four years. 9. (1) If a member of the Institute dies, resigns, becomes disqualified or is removed from office, the Minister may appoint a person to be a member of the Institute to fill the casual vacancy so occasioned and the person so appointed shall be appointed in the same manner as the member of the Institute who occasioned the casual vacancy. (2) A person appointed to be a member of the Institute by virtue of this paragraph shall hold office for the remainder of the term of office of the member who occasioned the casual vacancy he is appointed to fill and shall be eligible for re-appointment as a member of the Institute. 10. A member of the Institute whose term of office expires by effluxion of time shall be eligible for re-appointment as a member of the Institute. 11. The Minister may at any time remove an ordinary member of the Institute from office if he has committed stated misbehaviour or if his removal appears necessary for the effective performance by the Institute of its functions. 12. A vacancy of the Institute shall be filled within sixty days. 13. An ordinary member of the Institute may resign his office as a member by letter addressed to the Minister and the resignation shall take effect from the date of receipt of the letter by the Minister. 14. A member of the Institute shall be disqualified from holding and shall cease to hold office if he is adjudged bankrupt or makes a composition or arrangement with creditors or is

convicted on indictment by a court of competent jurisdiction or ceases to be ordinarily resident in the State. 15. Each ordinary member of the Institute shall be paid, out of moneys at the disposal of the Institute, such remuneration (if any) and allowances for expenses incurred by him (if any) as the Minister may, with the consent of the Minister for Finance, sanction. 16. The Institute shall hold such and so many meetings as may be necessary for the performance of its functions. 17. The Minister may fix the date, time and place of the first meeting of the Institute. 18. The quorum for a meeting of the Institute shall be four. 19. At a meeting of the Institute— (a) the chairman of the Institute shall, if present, be the chairman of the meeting, and (b) if and so long as the chairman of the Institute is not present or if the office of chairman is vacant, the members of the Institute who are present shall choose one of their number to be chairman of the meeting. 20. The chairman of the Institute, and each ordinary member of the Institute, present at a meeting thereof shall have a vote. 21. Every question at a meeting of the Institute shall be determined by a majority of the votes of the members present and voting on the question and, in the case of an equal division of votes, the chairman of the meeting shall have a second or casting vote. 22. The Institute may act notwithstanding one or more than one vacancy among its members: provided there is a quorum. 23. Subject to the provisions of this Schedule, the Institute shall regulate, by standing orders, the procedure and business of the Institute. 24. The Institute shall, as soon as may be after its establishment, provide itself with a seal. 25. The seal of the Institute shall be authenticated by the signature of the chairman of the Institute or of some other member thereof authorised by the Institute to act in that behalf and the signature of an officer of the Institute authorised by the Institute to act in that behalf. 26. Judicial notice shall be taken of the seal of the Institute and every document purporting to be an instrument made by the Institute and to be sealed with the seal (purporting to be authenticated in accordance with paragraph 25 of this Schedule) of the Institute shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown. 27. Any member of the Institute who has— (a) any material or financial interest in any area of operation of the Institute, or (b) any material or financial interest in any contract which the Institute makes or proposes to make, shall disclose to the Institute the fact of the interest and the nature thereof, and shall take no part in any deliberation or decision of the Institute relating to the area of operation or contract, and the disclosure shall be recorded in the minutes of the Institute.