

**GENERAL SCHEME**

of the

**MARITIME JURISDICTION BILL 2019**

AN ACT TO REVISE AND CONSOLIDATE THE MARITIME JURISDICTION LAW OF THE STATE AND IN PARTICULAR TO MAKE FURTHER PROVISION FOR THE RIGHTS OF THE STATE IN ITS MARITIME ZONES IN ACCORDANCE WITH THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA; AND TO PROVIDE FOR RELATED MATTERS.

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## **Part 1 - Preliminary and General**

### **Head 1 – Short title and commencement**

To provide that:

(1) This Act may be cited as the Maritime Jurisdiction Act 2019.

(2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Explanatory Note

This is a standard provision

## Head 2 - Definitions

To provide that

In this Act -

‘Act of 1968’ means the Continental Shelf Act 1968;

‘Act of 2006’ means the Sea Fisheries and Maritime Jurisdiction Act 2006;

‘continental margin’ comprises the submerged prolongation of the land mass of the State, and consists of the bed and subsoil of the shelf, the slope and the rise, but does not include the deep ocean floor with its oceanic ridges or the subsoil thereof;

‘continental shelf’ has the meaning given to it by or under Head 20;

‘Convention’ means the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982;

‘designated area’ means an area standing designated for the time being by order under Head 21;

‘energy product’ means electricity, natural gas, petroleum or any derivative of petroleum;

‘exclusive economic zone’ has the meaning given to it by or under Head 14;

‘exclusive fishery limits’ has the meaning given to it by Head 18;

‘foreign ship’ means a ship which is not an Irish ship (within the meaning of section 9 of the Mercantile Marine Act 1955 or, on and from the commencement of section 7 of the Merchant Shipping (Registration of Ships) Act 2014, section 33 of that Act);

‘high seas’ mean all parts of the sea that are not included in the exclusive economic zone, territorial sea or internal waters of any state;

‘installation’ includes—

(a) any floating structure or device maintained on a station by whatever means, and

(b) any vessel which is for the time being within the vicinity of an installation (including a structure or device aforesaid) and being used in connection with the operation of the installation;

‘internal waters’ has the meaning given to it by Head 7;

‘Irish ship’ is a ship within the meaning of section 9 of the Mercantile Marine Act 1955 or, on and from the commencement of section 7 of the Merchant Shipping (Registration of Ships) Act 2014, section 33 of that Act;

‘island’ means a naturally formed area of land surrounded by water which is above water at high water;

‘lateral limits’ of any maritime zone of the State are that part of the outer limits of the zone that form a boundary with a similar zone of another state;

‘low-tide elevation’ means a naturally formed area of land which is surrounded by and above water at low water but submerged at high water;

‘maritime zone’ means any of the internal waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf of the State;

‘Minister’ means the Minister for Foreign Affairs and Trade;

‘nautical mile’ means the length of one minute of an arc of a meridian of longitude;

‘pipeline’ means a pipeline used or intended to be used for the conveyance of gas (including natural gas), petroleum, oil, water, or any other mineral, liquid, or substance; and includes all fittings, pumps, tanks, appurtenances or appliances used in connection with a pipeline;

‘sedentary species’ means organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or its subsoil.

‘ship’ includes every description of vessel used in navigation whether on or under the surface of the water, howsoever propelled, and also includes a seaplane while it is in contact with the water;

‘submarine cable’ means a cable laid on the seabed;

‘submarine pipeline’ means a pipeline laid on the seabed;

‘territorial sea’ has the meaning given to it by Head 8;

‘wrong’ has the meaning assigned to it by the Civil Liability Act 1961.

#### Explanatory Note

This is a standard provision and defines terms used in the Scheme and re-enacts, with amendments, s. 81 of the 2006 Act.

### **Head 3 – Laying of Orders before Houses of Oireachtas**

To provide that:

Every order made by the Government under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and (except in the case of an order made under Head 30), if a resolution annulling the order is passed by either House within the next 21 days on which that House has sat after the order has been laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.

#### **Explanatory Note**

This Head is a standard provision with respect to Orders made by the Government. It re-enacts s. 94 of the 2006 Act.

#### **Head 4 - Repeals**

To provide that:

Part 3 of the Act of 2006, sections 2, 3, 8 and 9 of the Act of 1968 and the Submarine Telegraph Act 1885 are repealed.

#### **Explanatory Note**

This Head repeals the existing maritime jurisdiction legislation.

## **Head 5 – Expenses**

To provide that:

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.

Explanatory Note

This is a standard provision

## Part 2 – Baselines, internal waters and the territorial sea

### Head 6 – Baselines

To provide that:

(1) Save as otherwise provided, the baseline is

- (a) the low-water mark on the coast of the mainland or of any island,
- (b) the low-water mark on any low-tide elevation situated wholly or partly at a distance not exceeding 12 nautical miles from the mainland or an island, or
- (c) where a river flows directly into the sea, a straight line across the mouth of the river between the most seaward point at the low water mark on each of its banks.

(2) In accordance with Section 2 of Part II of the Convention, the Government may by order (which they may by order revoke or amend) prescribe straight baselines in relation to any part of the State and the closing line of any bay, and any line so prescribed shall be taken as the baseline.

(3) The Maritime Jurisdiction (Straight Baselines) Order 2016 (S.I. No. 22 of 2016), if in operation on the passing of this Act, continues in force as if made under this Head.

(4) The Maritime Jurisdiction (Bay Closing Lines) Order 2019 (S.I. No. 155 of 2019), if in operation on the passing of this Act, continues in force as if made under this Head.

#### Explanatory Note

This Head re-enacts, with updates, s. 85 of the 2006 Act and gives effect to Articles 5, 7 and 9 of UNCLOS.

## **Head 7 – Internal Waters**

To provide that:

The internal or inland waters of the State extend to all sea areas which lie on the landward side of the baseline of the territorial sea and all such sea areas shall be subject to the jurisdiction of the State to the same extent in all respects as its ports and harbours, lakes and rivers, subject to any right of innocent passage for foreign ships in those sea areas which previously had been considered as part of the territorial sea.

### **Explanatory Note**

This Head re-enacts with amendments s. 86 of the 2006 Act.

## **Head 8 - The Territorial Sea**

To provide that:

1. The territorial sea of the State is that portion of the sea which lies between the baseline and the outer limit of the territorial sea subject to the specific legal regime established by Sections 1 to 3 of Part II of the Convention, the text of which is set out for convenience of reference in the English language in Schedule 1.

2. The sovereignty of the State extends to its territorial sea, the bed and subsoil of the territorial sea and to the airspace above it.

3. (a) Subject to paragraph (b), the outer limits of the territorial sea are the line every point of which is at a distance of 12 nautical miles from the nearest point of the baseline.

(b) The lateral limits of the territorial sea shall be established in accordance with Article 15 of the Convention and the Government may by order (which it may by order amend or revoke) prescribe the lateral limits of a part of the territorial sea and any limits so prescribed shall be taken as the outer limits for that part.

### **Explanatory Note**

This provision replaces s. 82 of the 2006 Act, implementing Articles 2, 3 and 4 of UNCLOS and provides a means of establishing boundaries in the territorial sea in accordance with Article 15 of UNCLOS.

## **Head 9 – Jurisdiction in case of offence**

To provide that:

(1) Every offence committed within the territorial sea or internal waters is an offence within the jurisdiction of the State and may be dealt with by a court of competent jurisdiction although committed on board or by means of a foreign ship and, in accordance with Article 27 of the Convention, a person who commits such an offence may be arrested, tried and punished accordingly.

(2) For the purpose of arresting any person charged with an offence declared by this section to be within the jurisdiction of the State, the territorial sea and internal waters shall be deemed to be within the jurisdiction of any court or judge having power within the State to issue warrants for the arrest of persons charged with offences committed within the jurisdiction of such court or judge.

### **Explanatory Note**

This Head re-enacts s. 89 of the 2006 Act, amended to reflect Article 27 of the Convention.

## **Head 10 - Prosecution of non-national for offence on foreign ship**

(1) Proceedings (other than the taking of depositions) for the prosecution of a non-national for an offence alleged to have been committed in the territorial sea on board or by means of a foreign ship shall not be instituted without the certificate of the Minister that the institution of the proceedings is in his or her opinion expedient.

(2) This section does not apply to an offence under—

- (a) the Dumping at Sea Acts 1996 to 2009,
- (b) the Maritime Security Act 2004,
- (c) the Sea-Fisheries Acts 2003 to 2019, and
- (d) the Sea Pollution Acts 1991 to 1999.

### Explanatory Note

This Head re-enacts and updates s. 90 of the 2006 Act.

## **Head 11 – State Ownership**

To provide that:

1. For the avoidance of doubt, the seabed and subsoil of the territorial sea and of the sea areas of the internal waters belong to the State.
2. The mineral and other non-living resources located in or under the seabed of the territorial sea and of the sea areas of the internal waters, and all forms of potential energy on, in, under and above the territorial sea and the sea areas of the internal waters, also belong to the State.

### **Explanatory Note**

This provision clarifies that in addition to the State's sovereignty over the territorial sea, property in the territorial seabed and in the natural resources of the territorial sea are vested in the State.

## **Part 3 – the Contiguous Zone**

### **Head 12 – the Contiguous Zone**

To provide that:

(1) The contiguous zone of the State is that portion of the sea within the exclusive economic zone which lies between the outer limits of the territorial sea and the outer limits of the contiguous zone, subject to the specific legal regime established by Section 4 of Part II and paragraph 2 of Article 303 of the Convention, the texts of which are set out for convenience of reference in the English language in Schedule 2.

(2) The outer limits of the contiguous zone are the line every point of which is at a distance of 24 nautical miles from the nearest point of the baseline.

#### **Explanatory Note**

This Head amends s. 84 of the 2006 Act by providing a specific reference to Section 4 of Part II of UNCLOS.

### **Head 13 – Exercise of Enforcement Powers**

To provide that:

Where there is reasonable suspicion that a person on board a vessel within the contiguous zone has committed, or intends to commit, within the State, its territorial sea or internal waters an offence under the customs, fiscal, immigration or sanitary laws of the State, every power of arrest, entry, search and seizure, and any other power, that may be exercised in the territorial sea or the internal waters of the State in respect of any such offence may also be exercised within the contiguous zone in respect of that offence.

#### **Explanatory Note**

This Head extends enforcement powers exercisable within the territorial sea and internal waters in respect of to the contiguous zone will make statutory provision for the exercise of enforcement powers in respect of customs, fiscal, immigration or sanitary laws to the contiguous zone in respect of the same offences.

The term ‘customs, fiscal, immigration or sanitary laws’ is not defined by the Convention and may need to be defined in the Act.

## **Part 4 – Exclusive Economic Zone**

### **Head 14 - Definition**

To provide that:

The exclusive economic zone of the State is the area beyond and adjacent to the territorial sea subject to the specific legal regime established in Part V of the Convention, the text of which is set out for convenience of reference in the English language in Schedule 3.

### **Explanatory Note**

This Head re-enacts with technical amendments s. 87(1) of the 2006 Act

## **Head 15 – Outer Limits**

To provide that:

- (1) Subject to subsection (2), the outer limits of the exclusive economic zone are the line every point of which lies at a distance of 200 nautical miles from the nearest point of the baseline.
  
- (2) Where because of the proximity of a similar maritime zone of another state the lateral limits of the exclusive economic zone specified in subsection (2) cannot be applied, the lateral limits of the exclusive economic zone are the equitable equidistant line between the State and that other state. The Government may by order (which they may by order revoke or amend) prescribe the co-ordinates of latitude and longitude of the appropriate equitable equidistant line or lines.
  
- (3) The Maritime Jurisdiction (Boundaries of Exclusive Economic Zone) Order 2014 (S.I. No. 86 of 2014), if in operation on the passing of this Act, continues in force as if made under this Head.

### **Explanatory Note**

This Head re-enacts with technical amendments s. 87(2) and (3) of the 2006 Act and preserves the 2014 Order made under s. 87(3).

## Head 16 – Rights of the State in the exclusive economic zone

To provide that:

In the exclusive economic zone the State has—

- (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the continental shelf, and with regard to other activities for the economic exploitation and exploration of the zone, including the production of energy from the water, currents and winds, the storage of natural gas and other energy products, the recovery of geothermal energy and the sequestration of carbon;
  - (b) jurisdiction as provided for in the relevant provisions of the Convention with regard to—
    - (i) the establishment and use of artificial islands, installations and structures,
    - (ii) marine scientific research, and
    - (iii) the protection and preservation of the marine environment;
- and
- (c) other rights and duties provided for in international law.

### Explanatory Note

This Head re-enacts s. 87(4) of the 2006 Act, amended specifically to list as a right of the State the right to use geological structures in the seabed of the EEZ for the storage of natural gas as well as for carbon sequestration. While these structures are located on the continental shelf, their exploitation for storage purposes is regarded as a right under the regime of the EEZ as the continental shelf regime regulates exploitation of natural resources located there rather than the economic exploitation of the shelf itself. The UK treats storage of gas (which it defines) in the seabed as a Part V (EEZ) right, i.e. economic exploitation of the zone, under its 2008 Energy Act.

## Head 17 – State Ownership

To provide that:

For the avoidance of doubt all forms of potential energy and geothermal energy on, in, under and above the exclusive economic zone belong to the State.

### Explanatory Note

This Head clarifies that in addition to the State’s sovereign rights over all forms of potential energy, property rights in all those forms are also vested in the State. Ownership of the living resources (i.e. fish) *per se* is not possible as they are generally highly migratory and move from the jurisdiction of one coastal state to another. What is – or may be - owned by the State is the right to catch them within the State’s waters although, for EU member states, fish stocks are now a common resource managed under the CFP.

## **Head 18 – Exclusive Fishery Limits of the State**

To provide that:

For the purposes of Part 2 of the Act of 2006, the exclusive fishery limits of the State comprise all seas that lie inside the outer limit of the exclusive economic zone.

Explanatory Note

This Head replaces s. 88 of the 2006 Act.

**Head 19 – Civil and criminal jurisdiction of the State on artificial islands and installations in the exclusive economic zone**

To provide that:

(1) Any act which—

- (a) is done on an artificial island or installation in the exclusive economic zone, and
- (b) would, if done in the State, constitute an offence under the law of the State,

shall be deemed, for all the purposes relating to the offence, to be done in the State.

(2) Any act which—

- (a) Is done in the exclusive economic zone and—
  - (i) is done in connection with the economic exploitation and exploration of the zone, or
  - (ii) is done in connection with the operation of a pipeline or cable for the transport or transmission of an energy product derived from the said water, currents and winds or for the transport or transmission of an energy product to or from the State, or
  - (iii) interferes with, or could interfere with, such exploitation and exploration, or the operation of such a pipeline or cable,

and

- (b) would, if done in the State, constitute an offence under the law of the State,

shall be deemed, for all the purposes relating to the offence, to be done in the State.

(3) (a) Any act which—

- (i) is done on an artificial island or installation in the exclusive economic zone, and
- (ii) would, if done in the State, constitute a wrong under the law of the State,

shall be deemed, for all the purposes relating to the wrong, to be done in the State.

(b) Any act which—

- (i) is done in the exclusive economic zone and—
  - (l) is done in connection with the economic exploitation and exploration of the zone, or

(II) is done in connection with the operation of a pipeline or cable for the transport or transmission of an energy product derived from the said water, currents and winds or for the transport or transmission of an energy product to or from the State, or

(III) interferes with, or could interfere with, such exploitation and exploration or the operation of such a pipeline or cable,

and

(ii) would, if done in the State, constitute a wrong under the law of the State, shall be deemed, for all the purposes relating to the wrong, to be done in the State.

(4) References in this Head to an act include references to an omission and references to the doing of an act include references to the making of an omission.

(5) Any jurisdiction conferred on any court under subsections 1, 2 and 3 shall be without prejudice to any jurisdiction exercisable apart from those subsections by that or any other court.

#### Explanatory Note

This Head establishes the State's civil and criminal jurisdiction over artificial islands and installations within the EEZ and adapts s. 3 of the 1968 Act as amended.

## **Part 5 – Continental Shelf**

### **Head 20 - Definition**

To provide that:

The continental shelf of the State is the seabed and subsoil of the submarine areas, including those beneath the exclusive economic zone, that extend beyond the territorial sea throughout the natural prolongation of the land territory of the State, subject to the specific legal regime established in Part VI of the Convention, the text of which, in the English language, is set out in Schedule 4 for convenience of reference.

### **Explanatory Note**

This Head defines the continental shelf in accordance with Article 76 of the Convention.

## Head 21 – Outer Limits

To provide that:

- (1) Subject to subsection (2) of this section, the outer limits of the continental shelf of the State are:
  - (a) the outer edge of the continental margin determined in accordance with Article 76 of the Convention; or
  - (b) the line every point of which lies at a distance of 200 nautical miles from the nearest point on the baseline where the continental margin does not extend to that distance.
- (2) Where because of the proximity of the continental shelf of another state the outer limits of the continental shelf specified in subsection (1) cannot be applied, the lateral limits of the continental shelf in the area concerned are the equitable equidistant line between the State and that other state.
- (3) The Government may by order (which they may by order revoke or amend) designate any submarine area within the outer limits described in subsections (1) and (2) as an area within which the rights referred to in Head 23 are exercisable.
- (4) The Continental Shelf (Designated Areas) Order 1993 (S.I. No. 92 of 1993), the Continental Shelf (Designated Areas) Order 2009 (S.I. No. 163 of 2009) and the Continental Shelf (Designated Areas) Order 2014 (S.I. No. 87 of 2014), if in operation on the passing of this Act, continue in force as if made under this Head.

### Explanatory Note

This Head replaces s. 2(3) and (4) of the 1968 Act and sets out the method laid down by Article 76 of UNCLOS for the determination of the outer limits of the continental shelf. It also preserves three Orders currently in operation which designate the extent of the State's continental shelf.

## **Head 22 – Amendment of Section 1 of the Continental Shelf Act 1968**

To provide that:

Section 1 of the Continental Shelf Act 1968 is amended by substituting the following definition for the definition of ‘designated area’:

“‘designated area’ means an area standing designated for the time being by order under Head 21 of the Maritime Jurisdiction Act 2019”.

### **Explanatory Note**

This is a technical amendment of the 1968 Act necessary if the remainder of that Act is retained.

## Head 23 – Rights of the State on the Continental Shelf

To provide that:

On the continental shelf the State has:

- (a) sovereign rights for the purpose of exploring it and exploiting the mineral and other non-living resources of the seabed and subsoil, together with any living organisms belonging to sedentary species;
- (b) the exclusive right to construct and to authorise and regulate the construction, operation and use of,
  - (i) artificial islands;
  - (ii) any installation or structure for use in the exploration of the continental shelf and exploitation of its non-living resources;
  - (iii) any installation or structures that may interfere with the exercise of the rights of the State on the continental shelf;
- (c) exclusive jurisdiction over artificial islands, installations and structures referred to in paragraph (b), including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations;
- (d) the exclusive right to authorise and regulate drilling (and tunnelling) on the continental shelf for any purpose;
- (e) with regard to the laying of a submarine pipeline by any other state across any part of the continental shelf of the State, the rights enumerated in Article 79 of the Convention;
- (f) the right to regulate, authorise and conduct marine scientific research; and
- (g) other rights and duties provided for in international law.

### Explanatory Note

This Head partly replaces (with amendments) s. 2(1) of the 1968 Act and sets out the rights of the State on the continental shelf in accordance with Articles 77, 80, 81 and 85 of UNCLOS.

## **Head 24 – State Ownership**

To provide that:

For the avoidance of doubt, the mineral and other non-living resources located on, in or under the continental shelf belong to the State.

### **Explanatory Note**

This Head clarifies that in addition to the State’s sovereign rights over the mineral and other non-living resources of the continental shelf, property rights in those resources are also vested in the State.

This Head replaces s. 2(1) and (2) of the 1968 Act.

## Head 25 – Civil and criminal jurisdiction of the State on artificial islands and installations on the continental shelf

To provide that:

(1) (a) Any act which—

- (i) is done on an artificial island or installation in a designated area, and
- (ii) would, if done in the State, constitute an offence under the law of the State,

shall be deemed, for all the purposes relating to the offence, to be done in the State.

(b) Any act which—

- (i) is done on any waters in a designated area or under or above any waters or artificial island or installation in a designated area and—
  - (I) is done in connection with the exploration of the continental shelf or the exploitation of its natural resources, or
  - (II) is done in connection with the operation of a pipeline or cable for the transport or transmission of an energy product derived from the said natural resources or for the transport or transmission of an energy product to or from the State, or
  - (III) interferes with, or could interfere with, such exploration or exploitation or the operation of such a pipeline or cable,

and

- (ii) would, if done in the State, constitute an offence under the law of the State,

shall be deemed, for all the purposes relating to the offence, to be done in the State.

(2) (a) Any act which—

- (i) is done on an artificial island or installation in a designated area, and
- (ii) would, if done in the State, constitute a wrong,

shall be deemed, for all the purposes relating to the wrong, to be done in the State.

(b) Any act which—

- (i) is done on any waters in a designated area or under or above any waters or artificial island or installation in a designated area and—
  - (I) is done in connection with the exploration of the continental shelf or the exploitation of its natural resources, or
  - (II) is done in connection with the operation of a pipeline or cable for the transport or transmission of an energy product derived from the said natural

resources or for the transport or transmission of an energy product to or from the State, or

(III) interferes with, or could interfere with, such exploration or exploitation or the operation of such a pipeline or cable,

and

(ii) would, if done in the State, constitute a wrong,

shall be deemed, for all the purposes relating to the wrong, to be done in the State.

(3) References in this Head to an act include references to an omission and references to the doing of an act include references to the making of an omission.

(4) Any jurisdiction conferred on any court under this Head shall be without prejudice to any jurisdiction exercisable apart from this Head by that or any other court.

#### Explanatory Note

This Head replaces s. 3 of the 1968 Act as amended and extends general criminal and tort law jurisdiction to artificial islands and installations on the continental shelf. Criminal offences related to specific activities for which separate statutory provision is made are left to the statutes concerned (for instance under the Petroleum Acts etc.)

## Part 6 – Miscellaneous

### Head 26 - Submarine cables and pipe-lines.

To provide that:

- (1) This section applies to an act or omission committed:
  - (a) by a person within the territorial sea or the internal waters of the State;
  - (b) by a person on board or by means of an Irish ship in the exclusive economic zone of any state, including of the State, or on the high seas;
  - (c) by an Irish citizen or a person ordinarily resident in the State on board or by means of a ship, other than an Irish ship, in the exclusive economic zone of any state, including of the State, or on the high seas.
  
- (2) A person commits an offence if he or she:
  - (a) wilfully or negligently either damages, or causes or permits a ship, or equipment belonging to a ship, to damage, a submarine cable or submarine pipeline, or
  - (b) is the owner or master of a ship that is used wilfully or negligently either to damage, or to cause or permit a ship or equipment belonging to a ship to damage, a submarine cable or submarine pipeline.
  
- (3) It shall be a defence in proceedings for an offence under subsection (2) for the person charged with the offence to prove that the damage which is alleged to constitute the offence was caused by persons acting with the sole purpose of saving life or a ship having taken all reasonable precautions to avoid the damage concerned.
  
- (4) Proceedings for an offence under subsection (2) may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place.
  
- (5) Where a person is charged with an offence under subsection (2) no further proceedings in the matter (other than a remand in custody or on bail) may be taken except by, or with the consent of, the Director of Public Prosecutions.
  
- (6) A person guilty of an offence under subsection (2) shall be liable—
  - (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 2 years or both.

(7) A person who, in the course of laying or repairing a submarine cable or submarine pipeline of which the person is the owner, damages another submarine cable or submarine pipeline, commits a wrong under the law of the State which shall be deemed, for all the purposes relating to the wrong, to be done in the State, and that person shall be liable for the cost of repairing that damage.

(8) If, after all reasonable precautions, an anchor, a net or any other fishing equipment belonging to a ship is sacrificed in order to avoid damaging a submarine cable or submarine pipeline, the owner of the ship shall be entitled to be indemnified for his or her loss by the owner of the cable or pipeline where the latter is an Irish citizen or a person ordinarily resident in the State or a company incorporated under the laws of the State.

#### Explanatory Note

This Head Implements Articles 113-115 of the United Nations Convention on the Law of the Sea, the texts of which are set out below. It replaces section 8 of the 1968 Act which gave the force of law to provisions of the 1884 Submarine Telegraph Convention (<http://www.legislation.gov.uk/ukpga/Vict/48-49/49/contents>). The 1982 Convention extends the scope of the 1884 Convention beyond telegraph cables to all types of cable (including fibre optic and those used for the transmission of electricity) as well as pipelines. See NZ Submarine Cables and Pipelines Protection Act 1996 - <http://legislation.govt.nz/act/public/1996/0022/latest/whole.html#DLM375854>

#### Article 113

##### *Breaking or injury of a submarine cable or pipeline*

Every State shall adopt the laws and regulations necessary to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable, shall be a punishable offence. This provision shall apply also to conduct calculated or likely to result in such breaking or injury. However, it shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

#### Article 114

##### *Breaking or injury by owners of a submarine cable or pipeline of another submarine cable or pipeline*

Every State shall adopt the laws and regulations necessary to provide that, if persons subject to its jurisdiction who are the owners of a submarine cable or pipeline beneath the high seas, in laying or

repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

#### Article 115

##### *Indemnity for loss incurred in avoiding injury to a submarine cable or pipeline*

Every State shall adopt the laws and regulations necessary to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

## **Head 27 - Wireless Telegraphy**

To provide that:

Any installation in a designated area and any waters within five hundred metres of such an installation shall be deemed, for the purposes of the Wireless Telegraphy Acts 1926 to 2009, and any regulations made thereunder (subject, in the case of regulations made after the passing of this Act, to any contrary intention in the regulations), to be situated in the State.

### **Explanatory Note**

To replace s. 9 of the 1968 Act.

S. 180 of the Broadcasting Act 2009 - (1) The Wireless Telegraphy Acts 1926 to 1988 and sections 181 (1) to (7) and (9) and section 182 may be cited together as the Wireless Telegraphy Acts 1926 to 2009.

## Head 28 – Prosecutions

To provide that:

- (1) Proceedings for an offence under this Act may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the State.
  
- (2) Where a body corporate or an unincorporated body of persons is guilty of such an offence and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body or any person who was purporting to act in any such capacity he, as well as the body, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
  
- (3) A member of the Garda Síochána shall in a designated area have all the powers, protection and privileges which he has in the State.

### Explanatory Note

This Head re-enacts s. 13 of the Continental Shelf Act. It applies to offences created by ss.3, 5, 6, 7 and 12 of the Continental Shelf Act – of these only s. 3 will be repealed and re-enacted in the new Bill (Head 25) although a provision similar to s.3 will now apply in respect of the EEZ also (Head 18). This Head will also apply in respect of Heads 13, 26 and 27.

## **Head 29 - Saving as to jurisdiction**

To provide that:

Nothing in this Act shall be read to be in derogation of any jurisdiction enjoyed by the State under international law or conferred on it by Union law, or to affect or prejudice such jurisdiction or any jurisdiction conferred upon it by any other enactment or now by law existing.

### **Explanatory Note**

This Head re-enacts s. 91 of the 2006 Act (previously s. 12 of the 1959 Act).

**Head 30 - Evidence as to extent of internal waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf.**

To provide that

(1) United Kingdom Hydrographic Office charts may be used for the purpose of establishing low-water mark, or the existence and position of any low-tide elevation, or any other matter in reference to the internal waters, the territorial sea, the exclusive economic zone, or the continental shelf, and any chart purporting to be a copy of such a chart shall, unless the contrary is proved, be received in evidence as being such a chart without further proof.

(2) The Government may by order (which they may by order revoke or amend) prescribe other charts for purposes described in subsection (1) and any such chart shall be received in evidence as if it were a chart referred to in that subsection.

Explanatory Note

This Head re-enacts with amendments s. 92 of the 2006 Act.

### **Head 31 - Adaptation of enactments.**

To provide that -

(1) References in any enactment to the territorial seas shall be construed as a reference to the territorial sea.

(2) References in any enactment to sea areas and waters within 3 miles, 3 nautical miles, or one league of the coast or shore and cognate expressions shall be construed as references to sea areas and waters lying within the outer limits of the territorial sea.

(3) For the purposes of any other enactment the territorial sea shall be taken to comprise the sea area to which Head 8 applies.

(4) The definition of the 'exclusive fishery limits of the State' in Section 6 of the 2006 Act is amended by substituting in 'Head 18 of the Maritime Jurisdiction Act 2019' for 'Section 88';

(5) Section 2 of the Wildlife Act 1976 is amended by substituting for the definition of "the territorial seas of the State" the following:

“ 'territorial sea of the State' means the portion of the sea which is defined by Head 8 of the Maritime Jurisdiction Act 2019 as the territorial sea of the State;”.

(6) Section 3 of the Oil Pollution of the Sea (Civil Liability and Compensation) Act 1988, as amended by section 3(b) of the Oil Pollution of the Sea (Civil Liability and Compensation) (Amendment) Act 1998, is amended by substituting for subsection (2) the following:

“(2) A reference in this Act to the State includes a reference to—

- (a) the internal waters of the State,
- (b) the territorial sea of the State, and the seabed and subsoil beneath that sea, and
- (c) the exclusive economic zone of the State (within the meaning of Head 14 of the Maritime Jurisdiction Act 2019).”.

(7) Section 3 of the Sea Pollution Act 1991 is amended by substituting for subsection (2A) (inserted by section 13 of the Sea Pollution (Amendment) Act 1999) the following:

“(2A) A reference in this Act to the State includes a reference to—

- (a) the internal waters of the State,

- (b) the territorial sea of the State, and the seabed and subsoil beneath that sea, and
- (c) the exclusive economic zone of the State (within the meaning of Head 14 of the Maritime Jurisdiction Act 2019).”.

(8) Section 117 of the Patents Act 1992 is amended by substituting “Head 7 of the Maritime Jurisdiction Act 2019” for “section 5 of the Maritime Jurisdiction Act 1959”.

(9) Section 36(4) of the Criminal Justice Act 1994 is amended by substituting “Head 10 of the Maritime Jurisdiction Act 2019” for “Section 90 of the Sea-Fisheries and Maritime Jurisdiction Act 2006”.

(10) Section 1 of the Sea Pollution (Amendment) Act 1999 is amended by substituting for subsection (2) the following:

- “(2) A reference in this Act to the State includes a reference to—
  - (a) the internal waters of the State,
  - (b) the territorial sea of the State, and the seabed and subsoil beneath that sea, and
  - (c) the exclusive economic zone of the State (within the meaning of Head 14 of the Maritime Jurisdiction Act 2019).”.

(11) Sections 185 and 290 of the Copyright and Related Rights Act 2000 are each amended, in paragraph (a)(ii), by substituting “Head 7 of the Maritime Jurisdiction Act 2019” for “section 5 of the Maritime Jurisdiction Act 1959”.

(12) Section 2 of the Sea Pollution (Hazardous Substances) (Compensation) Act 2005 is amended by substituting for subsection (2) the following:

- “(2) A reference in this Act to the State includes a reference to—
  - (a) the internal waters of the State,
  - (b) the territorial sea of the State, and the seabed and subsoil beneath that sea, and
  - (c) the exclusive economic zone of the State (within the meaning of Head 14 of the Maritime Jurisdiction Act 2019).”.

#### Explanatory Note

This is a provision necessary to adapt existing legislation in light of changes to be made by this Scheme. It re-enacts and updates s. 93 of the 2006 Act.