



Institute of  
Archaeologists of  
Ireland

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10<sup>th</sup> February 2022

Re. Submission for the Revised General Scheme of the Monuments and Archaeological Heritage Bill on behalf of the Institute of Archaeologists of Ireland.

Dear Sir,

Please find attached a submission to the Joint Committee on Housing, Local Government and Heritage for the Revised General Scheme of the Monuments and Archaeological Heritage Bill on behalf of the Institute of Archaeologists of Ireland.

I place myself, the other Board members and the membership of our Institute at your disposal.

Kind regards,

A handwritten signature in cursive script that reads 'James Kyle'.

James Kyle Bsc HDip MIAI

Chairperson

The Institute of Archaeologists of Ireland (IAI) is the representative all-island organisation for professional archaeologists working in Ireland and Northern Ireland. The aim of the IAI, through the representation of our members, is to advance and strengthen the profession of archaeology in Ireland. Our vision is that we will have a vibrant and sustainable archaeological profession that actively contributes to the protection of our archaeological resource, which in turn contributes to the social and economic wellbeing of the entire island. The IAI represents the broad spectrum of our profession, in both the public and private sectors with over 400 members ranging from current students of the discipline to esteemed academics and seasoned professionals.

Our members are an all too often unseen aspect of our country's archaeological heritage, we are the excavators, interpreters, conservers and preservers of this invaluable resource. During the past 25 years our discipline has seen both boom and bust, with the latter coming at a huge cost, a cost which was perhaps unlike any other profession; Between 2008 and 2009 the number of professional archaeologists working in our sector fell by 90%. Many archaeologists left the discipline altogether, some returned, but sadly most did not. The net result? A colossal drain of our most important resource- our qualified, experienced and capable colleagues.

As an Institute and a key stakeholder we would like to offer the following submission on the proposed revised scheme of the Monuments and Archaeological Heritage Bill from the point-of-view of the archaeological professionals and practitioners who will ultimately work on a daily basis with the legislation as outlined. The practical implementation and detail of this Bill are therefore of central importance.

There are numerous advantages to the proposed Bill, such as the streamlining of Licensing of archaeological works (PART 7) and the recognition that Codes of Practice are critical to the implementation of an effective, responsible archaeological sector (PART 10 Head 81). The production of such specialised and crucially enforceable codes of practice is, we feel, essential for maintaining standards within the profession. Regarding licensing, we broadly welcome such changes and agree with the sentiments of the Heads 60-65, but as a representative organisation for archaeological professionals we will await the details of these sections. Furthermore, inclusion of sites that are on the Register of Monuments as a burden on the land in Land Registry folios (Head 21), and the acquisition of historic burial grounds by Local Authorities (Head 27), are rational and necessary measures.

As alluded to by Minister Noonan in previous hearings, there has been a lack of clarity in key definitions in previous National Monuments Acts. It is therefore important that such clarity is provided in the new Bill. The definition of archaeologically significant materials (Head 2) is

extremely broad and now includes 'any feature, deposit or layer, whether or not natural in origin and whether or not artificially altered, containing or providing information or evidence relating to the past environment'. While the recognition that natural deposits can have archaeological significance is welcome this is now arguably so broad as to encompass any groundworks anywhere within Ireland. Clarity would also be welcome on the status of samples of archaeologically significant layers. These have not previously been considered to be archaeological objects in their own right and while they are afforded a degree of protection prior to and during excavation, beyond this there is currently no provision for their retention or preservation, even where sites are deemed to be of international significance.

The term 'Monument' is not effectively defined, and while it is understood that the newly proposed 'Prescribed Monuments' are designed to be wide ranging (Head 8), the criterion for such classifications needs to be set out in this primary legislation. Similarly, the criteria for delisting or unregistering potential archaeological sites needs some acknowledgement. For instance, many archaeological sites represented on the current online Historic Environment Viewer are not scheduled for inclusion in any updated RMP (Record of Monuments and Places map). Are these sites now to be categorised as prescribed monuments? A recurring point of debate is how old something needs to be in order to be considered archaeological. Is it 100 years ago? Or from AD 1700 as in previous legislation? This information needs to be specified and explicit so that heritage professionals in the field can make informed decisions, backed by robust legislation.

The protection afforded monuments in the Bill appears substantial. However, if notice of works is given and acknowledged, the works can proceed after 90 days. It has been an aspect of licensing over recent years that while usually the applications can be processed within a 28 to 56-day period, delays have at times meant that it is much closer to 90 days. The proposed Bill does not account for unforeseen delays on behalf of the National Monuments Service and potentially leaves archaeological monuments vulnerable to damage or destruction as a result.

The National Monuments Service is not referred to, or defined, within the proposed Bill. This state organisation, under the Department of Housing, Local Government and Heritage, is central to the implementation of all Parts outlined in the Bill, and so the role and existence of the National Monuments Service needs to be specified. Related to this is the role of the National Museum of Ireland. It is somewhat concerning that the 'Board' (i.e. of the National Museum of Ireland) is referenced throughout the new Bill. This is a voluntary board, that currently may not have the capacity necessary to carry out the tasks assigned to it. For instance, there is only one archaeologist on the Board at this time. Perhaps the Director of

the National Museum should instead be accountable for these tasks and assign such duties to the relevant Museum staff (as in previous National Monuments Acts).

The reporting of finds (Head 35) is also welcome but may benefit from the additional statement that the National Museum of Ireland shall provide clear and direct means of reporting such discoveries from the general public.

A position on historic burial grounds is provided for in Head 27. The treatment of human remains is only briefly mentioned in Head 2 under the definition of 'chattel' and again with respect to the duties of Coroners (Head 43). The latter asks that the coroner determine whether such human remains are an 'archaeological object', with no recommended procedure of how this might be achieved other than through consultation with the Board of the National Museum. We would respectfully suggest that where such remains are deemed archaeological objects, the coroner would comply with this legislation in providing all recorded information relating to the remains (i.e. provenance, stratigraphy, taphonomy, photography, drawings, specialist notes and the methods and results of any scientific analysis undertaken). This would mitigate the loss of information generated in circumventing the necessary licences outlined in PART 7 and assist the restoration of the archaeological record.

The Institute welcomes the inclusion of Head 66 giving a clear statutory basis to the Archaeological Survey of Ireland and the creation and maintenance of Inventories. We would respectfully suggest that the addition of a 'monuments at risk' protocol also be provided to quantify and assess the rates and reasons of monument damage and loss at a national scale. This is important as a means of identifying activities or events that have a negative impact on the survival of archaeological heritage as a resource. The current inventories of archaeological sites and monuments, while excellent, are linked to potentially flawed point data. The representation of archaeological sites by single points, sometimes misplaced, is problematic and fails to recognise the richness of the archaeological record. There is a pressing need for a new national inventory, identified already within the Department's 'Built & Archaeological Heritage Climate Change Sectoral Adaptation on Plan', and potentially a national mapping programme to include the enormous amount of digital data accumulated by the archaeological profession in the last few decades.

The statutory requirement for public and local authorities to have regard to historic heritage is encouraging (PART 9 Head 70). Hopefully this will increase the number of archaeological personnel within Local Authorities and the IAI would echo the recommendations of the Local Authority Archaeological Network (LAAN) in that provision should be made for designated Archaeologists within every Local Authority.

The proposed Bill will enhance the protections currently available to archaeological monuments. However, over reliance on the Board of the National Museum should perhaps be alleviated through the restoration of the Monuments Advisory Council, particularly to carry out functions specified in Heads 76 and 77. Any such Advisory Council should ideally have an all-island remit and help to advance research and understanding of our archaeological heritage on an all-island basis (as per Head 68).

In summary, we welcome the proposed Bill and fully appreciate that further details will be included in time and ask that the Joint Oireachtas Committee consider the following issues:

- Further details on archaeological licensing procedures are needed (Heads 60-65)
- The term 'Monument' requires further definition (Head 2), as do 'Prescribed Monuments' and 'Registered Monument' (Head 8 and 9). It is also an opportunity to state a general date-range that can be applied to mean 'archaeological'.
- The protection afforded monuments in terms of notice of works needs to be robust so that it cannot be undermined by a technicality or delay (Head 12)
- The role and responsibilities of the National Monuments Service needs to be specified.
- The Board of the National Museum of Ireland may not currently have the capacity to carry out the tasks assigned to it, if it is meant that the Director of the National Museum conduct these tasks then the legislation should indicate this.
- A clear and user-friendly process of reporting the discovery of archaeological objects to the National Museum of Ireland must be provided (Head 35)
- The legislative treatment of human remains as archaeological objects needs further consideration, to define such as a 'chattel' is not adequate. Furthermore, Head 43 does not request that the coroner respect any archaeological object as protected in this Bill when carrying out their duties.
- The addition of a 'monuments at risk' assessment aligned to the creation of Inventories (Head 66) would be highly prudent.
- Under Part 7, clarification on the criteria of application; the assessment of competence and eligibility will obviously be vital to our members and the detail pertaining to the system of licensing of excavations will be integral. In particular the issue of the competence of the prospective archaeological licence holder needs definition but so too the competence and qualification of the other members of an archaeological excavation team for commercial purposes. With reference to the commercial archaeology sector a definition of what constitutes an archaeologist is required and for that definition to be enshrined in law. In a space where the Bill defines an 'Archaeological Excavation', 'Archaeological Monitoring' and what constitutes an 'Archaeological Object' a definition

of what constitutes an 'Archaeologist' is suggested to be required and for that definition to be placed on a statutory footing. If explicit role definition is not deemed to be within the remit of the Bill then at the very least the following is suggested as a basic statement- "all individuals undertaking archaeological work for commercial purposes should be suitably qualified".

- By extension the issue of who is competent to assess what constitutes an 'archaeological monument' and other such definitions should be addressed by the legislation.
- The requirement for public and local authorities to have regard to historic heritage (Head 70) could include the additional information on the obligations of those authorities to directly employ archaeological personnel.
- We would like to join the call for the restoration of the Monuments Advisory Council to act as independent arbitrator in any disputes concerning monuments at a national-level and also to aid the development of research themes and awareness of our archaeological heritage on an all-island basis.
- We welcome the introduction of the notion of Vicarious Liability (Head 79) as it will afford our members greater protection from sole responsibility, where individual archaeological licence holders are often at the direction of their direct employers, the archaeological consultancies, who in turn may be instructed by their clients, who may be entities making decisions based solely on commercial considerations.
- Codes of Practice are critical to the implementation of an effective, responsible archaeological sector (Head 81), we welcome this and await further details on how these may be compiled and enforced as regulations.

As Chairperson of the IAI, I would like to broadly welcome the new National Monuments Bill on behalf of our members and the profession. Although the Institute has not been involved thus far in the process I offer the qualifications, depth of knowledge and practical experience of our organisation and our membership from this point onwards in the process; The Institute and our members stand ready to assist the committee in any way it can in progressing this vital bill. In that respect, many of the following observations are made on the heads of the Bill with a view to highlighting areas which we would appreciate further clarification and involvement in.

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James Kyle BSc HDip MIAI

Chairperson of the Institute of Archaeologists of Ireland