

Sure Partners Limited

ARKLOW BANK WIND PARK  
PHASE 2

**ONSHORE GRID  
INFRASTRUCTURE**

**VOLUME III**

**Chapter 15 APPENDICES**

**Appendix 15.3** Legislation Protecting the  
Archaeological Resource

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Renewables

## **Appendix 15.3**

### **Legislation Protecting the Archaeological Resource**

## A.15.3 Legislation Protecting the Archaeological Resource

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### Protection of Cultural Heritage

The cultural heritage in Ireland is safeguarded through national and international policy designed to secure the protection of the cultural heritage resource to the fullest possible extent (Department of Arts, Heritage, Gaeltacht and the Islands 1999, 35). This is undertaken in accordance with the provisions of the *European Convention on the Protection of the Archaeological Heritage* (Valletta Convention), ratified by Ireland in 1997.

### The Archaeological Resource

The *National Monuments Act 1930 to 2014* and relevant provisions of the *National Cultural Institutions Act 1997* are the primary means of ensuring the satisfactory protection of archaeological remains, which includes all man-made structures of whatever form or date except buildings habitually used for ecclesiastical purposes. A National Monument is described as ‘a monument or the remains of a monument the preservation of which is a matter of national importance by reason of the historical, architectural, traditional, artistic or archaeological interest attaching thereto’ (National Monuments Act 1930 Section 2). A number of mechanisms under the National Monuments Act are applied to secure the protection of archaeological monuments. These include the Register of Historic Monuments, the Record of Monuments and Places, and the placing of Preservation Orders and Temporary Preservation Orders on endangered sites.

### Ownership and Guardianship of National Monuments

The Minister may acquire national monuments by agreement or by compulsory order. The state or local authority may assume guardianship of any national monument (other than dwellings). The owners of national monuments (other than dwellings) may also appoint the Minister or the local authority as guardian of that monument if the state or local authority agrees. Once the site is in ownership or guardianship of the state, it may not be interfered with without the written consent of the Minister.

### Register of Historic Monuments

Section 5 of the 1987 amendment to the National Monuments Act requires the Minister to establish and maintain a Register of Historic Monuments. Historic monuments and archaeological areas present on the register are afforded statutory protection under the 1987 Act. Any interference with sites recorded on the register is illegal without the permission of the Minister. Two months’ notice in writing is required prior to any work being undertaken on or in the vicinity of a registered monument. The register also includes sites under Preservation Orders and Temporary Preservation Orders. All registered monuments are included in the Record of Monuments and Places.

## Preservation Orders and Temporary Preservation Orders

Sites deemed to be in danger of injury or destruction can be allocated Preservation Orders under the 1930 Act. Preservation Orders make any interference with the site illegal. Temporary Preservation Orders can be attached under the 1954 amendment to the National Monuments Act. These perform the same function as a Preservation Order but have a time limit of six months, after which the situation must be reviewed. Work may only be undertaken on or in the vicinity of sites under Preservation Orders with the written consent, and at the discretion, of the Minister.

## Record of Monuments and Places

Section 12(1) of the 1994 amendment to the National Monuments Act requires the Minister for Arts, Heritage, Gaeltacht and the Islands (now the Minister for the Department of Culture, Heritage and the Gaeltacht) to establish and maintain a record of monuments and places where the Minister believes that such monuments exist. The record comprises a list of monuments and relevant places and a map/s showing each monument and relevant place in respect of each county in the state. All sites recorded on the Record of Monuments and Places receive statutory protection under the National Monuments Act 1994. All recorded monuments on the proposed development site are represented on the accompanying maps.

Section 12(3) of the 1994 Act provides that ‘where the owner or occupier (other than the Minister for Arts, Heritage, Gaeltacht and the Islands) of a monument or place included in the Record, or any other person, proposes to carry out, or to cause or permit the carrying out of, any work at or in relation to such a monument or place, he or she shall give notice in writing to the Minister of Arts, Heritage, Gaeltacht and the Islands to carry out work and shall not, except in case of urgent necessity and with the consent of the Minister, commence the work until two months after giving of notice’.

Under the National Monuments (Amendment) Act 2004, anyone who demolishes or in any way interferes with a recorded site is liable to a fine not exceeding €3,000 or imprisonment for up to 6 months. On summary conviction and on conviction of indictment, a fine not exceeding €10,000 or imprisonment for up to 5 years is the penalty. In addition, they are liable for costs for the repair of the damage caused.

In addition to this, under the *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018*, Environmental Impact Assessment Reports (EIARs) are required for various classes and sizes of development project to assess the impact the proposed development will have on the existing environment, which includes the cultural, archaeological and built heritage resources. These document’s recommendations are typically incorporated into the conditions under which the proposed development must proceed, and thus offer an additional layer of protection for monuments which have not been listed on the RMP.

## The Planning and Development Act 2000 (as amended)

Under planning legislation, each local authority is obliged to draw up a Development Plan setting out their aims and policies with regard to the growth of the area over a five-year period. They cover a range of issues including archaeology and built heritage, setting out their policies and objectives with regard to the protection and enhancement of both. These policies can vary from county to county. The Planning and Development Act 2000 (as amended) recognises that proper planning and sustainable development includes the protection of the archaeological heritage. Conditions relating to archaeology may be attached to individual planning permissions.

## Wicklow County Development Plan, 2016-2022

### *Policies*

Our archaeological heritage includes structures, constructions, groups of buildings, developed sites, underwater sites, moveable objects and monuments of other kinds, as well as their context, whether situated on land or under water. In this respect, Wicklow has a significant archaeological heritage, which provides a valuable cultural, educational and tourism resource. The Baltinglass hillfort complex in west Wicklow and Rathgall hillfort in south Wicklow are notable monuments of national importance, while Glendalough Monastic Settlement has been proposed for the tentative list as a UNESCO World Heritage Site due to its international significance. Wicklow County Council recognises the importance of preserving, protecting and fostering a greater public appreciation of the County's archaeological heritage.

### *Objectives*

**BH1.** No development in the vicinity of a feature included in the Record of Monuments & Places (RMP) will be permitted which seriously detracts from the setting of the feature or which is seriously injurious to its cultural or educational value.

**BH2.** Any development that may, due to its size, location or nature, have implications for archaeological heritage (including both sites and areas of archaeological potential/significance as identified in Schedule 10.01 & 10.02 and Map 10.01 & 10.02 of this plan) shall be subject to an archaeological assessment. When dealing with proposals for development that would impact upon archaeological sites and/or features, there will be presumption in favour of the 'preservation in situ' of archaeological remains and settings, in accordance with Government policy. Where permission for such proposals is granted, the Planning Authority will require the developer to have the site works supervised by a competent archaeologist.

**BH3.** To protect previously unknown archaeological sites and features, including underwater sites, where they are discovered during development works.

**BH4.** To facilitate public access to National Monuments in State or Local Authority care, as identified in Schedule 10.02 and Map 10.02 of this plan.

## Arklow and Environs Local Area Plan, 2018-2024

### *Policies*

To recognise, protect and strengthen the unique character, built heritage, seaside location, maritime history and natural environment of the area, ensuring that this heritage can continue to contribute positively to the overall quality of life, biodiversity, recreation and tourism role of the settlement.

The historic core of Arklow is designated as an ‘Area of Archaeological Potential or Significance’ and is on the list of Recorded Monuments (WI040-029). There are numerous other recorded monuments throughout the settlement. Despite growth over the years, the town centre has generally retained its compact form and essential architectural qualities, while the main street still retains its medieval layout.

### *Objectives*

**HT3.** Protect and enhance the character, setting and environmental quality of natural, architectural and archaeological heritage, and in particular those features of the natural landscape and built structures that contribute to its special interest. The natural, architectural and archaeological heritage of the area shall be protected in accordance with the objectives set out in the Wicklow County Development Plan.