

IRISH HERITAGE TRUST

Iontaobhas Oidhreachta na hÉireann

Jim Kelly
Secretary
Commission on Taxation
Le Pole House
Ship Street Great
Dublin 8

10th June 2009

Dear Mr. Kelly,

Please find enclosed a submission relating to Section 1003(a) of the 2006 Finance Act.

In summary;

The Trust was created by the Government, private and voluntary sectors to save major historic properties in Ireland and develop them for public benefit. These benefits include significant local economic activity and substantial tourism benefits in addition to the more intangible cultural gains. These properties if operated in a businesslike way generate direct and indirect revenue for the state forever.

The Irish Heritage Trust was launched in 2006 by the then Minister for the Environment, Heritage & Local Government, Dick Roche. This had not been attempted before in Ireland and the scale of the undertaking was fully appreciated. In recognition of this the government provided two essential tools; substantial financial support for the early years along with a dedicated tax credit S1003(a). Understandably in the current economic climate the financial support has been substantially reduced.

The Trust has now been operating for almost three years. We have successfully acquired and developed Fota House, Cork and carried out studies on many more properties. From these studies we have developed a more robust understanding of the issues around properties in Ireland and the effectiveness of the tax credit created to support the objectives of the Trust.

www.irishheritagetrust.ie

4 Castle Street
Dublin 2
Ireland

T +353 1 475 0085
F +353 1 475 0090
E info@irishheritagetrust.ie

Directors: Chairman - Sir David Davies (UK) Company Secretary - Camilla McAleese
Vourneen Collins, Desmond FitzGerald, Mark Griffin, John Hughes, Samantha Leslie, Tom McCarthy,
Seán Mulryan, Carmel Naughton, Anne O'Donoghue, Nobby O'Reilly, James Osborne, Primrose Wilson (UK)
Registered Charity No: CHY16848

This submission does not revisit the rationale behind the creation of the Trust and the support created by government. It presents;

- an analysis of the current situation
- illustrates the substantial social & economic benefits this type of initiative delivers in perpetuity
- provides constructive proposals to address the current financial situation by amending s1003(a) without increasing the cost to the state.

This particular subject, like so many under consideration by the Commission, is very complex as every property is different. We have attempted to keep the submission brief as the substantial economic and social benefits delivered by publicly accessible historic properties are already well documented.

We would be happy to provide more details on any aspect of our work and meet with the Commission if required.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Kevin Baird', written over a light blue horizontal line.

Kevin Baird
CEO

Submission to the Commission on Taxation in relation to the Finance Act section 1003a

10th June 2009

- 1) Establishment of the Irish Heritage Trust
- 2) The international context for this type of initiative
- 3) The case for an amendment to s1003a
- 4) Proposed Amendment

Appendix:

Additional information on the Irish Heritage Trust and the progress made since 2006:

- a) Irish Heritage Trust Objectives
- b) Delivering results
- c) Fota House, Arboretum & Gardens
- d) Private Investment
- e) Key Reference Documents

Submission to the Commission on Taxation in relation to the Finance Act section 1003a 10th June 2009

1) Establishment of the Irish Heritage Trust

The Irish Heritage Trust was created in 2006 as a direct result of a growing concern in government, the private and voluntary sectors that there was no national mechanism, outside of state agencies, to preserve major historic properties and open them up for public benefit.

The government recognised that;

- There were properties of national importance in terms of both heritage and tourism that were at increasing risk of loss
- An independent charity, similar to the UK National Trust, could bring public and private funds together
- These properties, if operated in a businesslike manner, were essential cultural assets that could deliver significant social and economic benefit in the longer term.

The former Taoiseach Bertie Ahern, TD, announced in September 2005 that the Government had approved the establishment of an independent Irish Heritage Trust with a mandate to acquire for public access major important heritage properties where the State does not wish to acquire them directly and where there is imminent risk to their heritage value through neglect or where an appropriate use cannot be brought forward through sale to a private sector investor. This object is was legally established as "*To acquire properties of significant heritage value where there is a risk to such value, so as to provide for their proper conservation, maintenance and presentation; their public enjoyment and appreciation; and public access to them in perpetuity.*"

The Trust was formally launched in July 2006 by Dick Roche, TD, then Minister for the Environment, Heritage & Local Government. There were three key reports produced that had led to this initiative; A Future for Irish Historic Houses, Dr Terry Dooley (September 2003), Examination of the Issue of Trust-type organisations to manage heritage properties in Ireland, Indecon (November 2004) and the Report of the Steering Group to the Minister (February 2006).

When the Trust was established it was on the basis that it would ultimately become self sustaining. There was a recognition however that this would take some time and if the Trust were to have any impact on the issues identified within a meaningful time period then there would have to be substantial support from Government over the early years.

This was provided in the form of a Tax Credit (S1003a) and the allocation of €35 million within the NDP 2007-2013.

NDP 2007-2013 text;

An independent Irish Heritage Trust has been established with Government support and has a mandate to acquire, for public access, major important heritage properties where the State does not wish to acquire them directly and where there is imminent risk to their heritage value through neglect, or where an appropriate use cannot be brought forward through sale to a private sector investor. As part of the Sub-Programme, it is estimated that capital funding of some €35 million will be provided for this purpose over this period.

Finance Act 2006

Section 122 introduced a new section — section 1003A — into the Taxes Consolidation Act 1997 to provide for a new scheme of tax relief for heritage property donated to the Irish Heritage Trust. The relief applies to a person who makes a gift of heritage property to the Trust and takes the form of a payment on account of an amount equal to the value of the property against the person's tax liabilities. The taxes to which the measure applies are income tax, corporation tax, capital gains tax, gift tax and inheritance tax and may relate to past, current and future liabilities. To qualify for relief the heritage property has to be approved by the Minister for the Environment, Heritage and Local Government by reference to the criteria set out in the section. There will be a ceiling of €6 million on the aggregate value of the heritage properties that can be approved in any one year. The Revenue Commissioners will publish in their annual report each year descriptions and values of the heritage properties in respect of which relief is given under this section. The 100% relief was reduced in the 2009 Finance Bill to 80% of the value.

This undertaking and subsequent tax credit was established because of the government's recognition that these initiatives in other countries supported substantial economic activity and promoted direct and indirect employment.

The attached appendix indicates how this initiative, in a relatively short period at Fota House, Arboretum & Gardens, Cork, is already delivering substantial economic and social benefits in a cost effective way.

2) The international context for this type of initiative

Historic Houses and Gardens consistently deliver income for the state both in terms of local economic activity and through tourism generated revenue. Robust research evidence is available to support this claim. Fáilte Ireland estimates that Cultural Tourism, of which Houses & Gardens form a key part, delivers €5.1 billion in annual revenue. Investment in Houses & Gardens and the heritage visitor attractions are a key part of the 2007-2013 Fáilte Ireland development programme. 61% of tourists in 2007 said that a good range of historical/cultural attractions is very important in choosing Ireland as a holiday destination. 16% visited gardens against 4% choosing golf in the same year!

Every historic house that is open to the public delivers significant revenue to the government through income tax on wages, tax revenue generated through commercial activities, payment for goods & services and from the substantial secondary spend by visitors to the property who stay in the area.

The items below from around the world are all recent state supported initiatives:

Wales: The value of our Historic Environment

The Welsh Heritage Minister, Alun Ffred Jones has launched the Welsh Historic Environment Position Statement for 2008. Collated and published by Cadw, the Statement sets out the key facts and figures for the Historic Environment sector in Wales and is the third such report to be produced. The report highlights the economic and social impacts of the historic environment. Research undertaken by Cadw indicates that the 30 staffed sites in its care have a significant economic impact, generating visitor expenditure in Wales of some £41.8m.

Townscheme Partnership and Townscape Heritage Initiatives (THI) across Wales aim to promote job creation and regeneration of run down historic towns through conservation. These schemes were offered almost £800,000 by Cadw in 2007-08. This money helped to lever in other funding partners, resulting in a funding pot for Welsh schemes of £52 million. Cadw and its Historic Wales partners, the Royal Commission on the Ancient and Historical Monuments of Wales (RCAHMW) and the work of the Heritage Minister's advisory bodies on ancient monuments, historic buildings and the wider historic environment are reflected in this report.

Scotland's Historic Environment Vital to Economic Sustainability

Scotland's rich legacy of historic buildings, monuments and archaeology contributes more than £2.3 billion to the Scottish economy and is a key factor in ensuring sustained economic growth, according to research recently published. A new report from the Historic Environment Advisory Council for Scotland (HEACS) shows Scotland's historic environment has a vital role in supporting jobs and promoting tourism. The research found that the historic environment: supports more than 60,000 full time employees; contributes in excess of £2.3 billion to Scotland's GVA (gross value added); supports 20,000 employees in the construction industry and 37,000 in tourism and accounts for 2.5% of Scotland's total employment.

Vive la Crise: Heritage investment in France

In France, heritage has been specifically targeted by President Sarkozy in a €26 billion stimulus package. On 2 February, 252 heritage sites were earmarked for state largesse. The French government is allocating an extra €100 million up to 2012 for its monuments budget as part of the 1,000 project plan that includes roads and aid to the car industry. It comes on top of the culture ministry's annual budget for monuments of about €305 million.

French culture and heritage attract 82 million visitors annually. The culture sector represents 400,000 jobs, a tenth of which are craftsmen. State spending will 'help our craftsmen across all regions' said Christophe Eschlimann, President of the Historical Monuments Restoration Companies Association. The state had, he continued, delayed many projects since the beginning of the millennium 'making these workers an endangered species'. Henry Masson, Curator of Brittany's 3,000 monuments welcomed the investment which would help complete big projects that would otherwise have waited another few years.

Notre Dame Cathedral for example will receive €2 million to restore the 12th century spire, securing 18 months of work for roofers, scaffolders, engravers and craftsmen. 'Sorry to say it, but Vive la Crise' said Benjamin Mouton, the architect in charge, 'I can only applaud the state's decision to spend money right now on heritage and to get these craftsmen to work. It shows it has values, even in hard times'.

Heritage tourism benefits in the UK

- Research published in 2001 suggested that some 40% of employment in tourism depends directly on a high quality environment. In a rural context, this dependency rises to between 60% and 70%.
- Research carried out by the National Trust in Northern Ireland indicated that the most significant contribution of the Trust to the local economy is to the tourist industry, with an estimated 1.5 million visitors to Trust properties every year, of which 425,000 are visitors to the Giant's Causeway.
- It is estimated that approximately 15% of all visitors in 2002 (or 143,000) to Trust properties are out-of-state visitors.
- Visitors to National Trust properties in Northern Ireland contributed towards approximately £58 million in tourist spend, helping to support between 1,400 and 2,500 jobs in the industry.

Recent research from the UK National Trust has determined that it generates between 5-9 full-time equivalent jobs for each job the Trust is directly responsible for in three regions studied - Wales, Northern Ireland and the North East of England. The same research also indicated that wider tangible economic benefit is provided through investment in the environment as a land and

property owner. It also identified the investment the Trust makes in the economy as an employer, as a catalyst for local initiatives, a partner in business and through expenditure on goods and services. The research also shows that National Trust sites are a primary motivation for additional tourism expenditure in the wider economy.

3) The case for an amendment to s1003a

The Trust, to deliver the objectives agreed with Government in a meaningful timeframe, receives assistance from Government. In other words if we are to successfully save important properties for the benefit of the nation, before they are lost, we need help because the country has started this initiative very late by comparison with other large national property owning trusts. For example the UK National Trust was launched 125 years ago. The energy and success that has been brought to Fota House demonstrates what can be achieved in a relatively short period in a very cost effective way through this partnership.

There were two tools made available by government for this initiative in 2006, the tax credit and substantial financial support. Realistically there will be significantly reduced financial support available from government for the foreseeable future and the Tax Credit, based on the last two years practical application, is not fit for purpose.

This is because the Tax Credit is for the value of the donated property. In most cases the individuals donating the property will not be able to make effective use of this scale of credit as they do not have significant levels of income. It is however very useful when dealing with the liabilities arising from death duties or the dismantling of estate companies.

The first few years of the Trust's operation have helped to identify more robustly the recurring issues we as a Trust are likely to encounter. Some were already identified in the Steering Group Report submitted to the Minister in February 2006. There is already a waiting list of properties of national significance that could be acquired by the Trust. Unsurprisingly the key issue is for the Trust to be able to afford to accept the donation.

While the ownership profile of every property is different there are three key property types that are already recurring;

The private owner – in this case the family usually have come to a point where the occupiers are the last generation likely to be able to keep the property operating. The properties are usually in decline and in many cases have limited contents remaining as these have been sold to service running costs or loans. Many have exhausted their financial resources and are therefore unlikely to be able to utilise the Section 1003a tax credit to any great extent. In all the cases

we have explored the property is the principal private residence and therefore little or no CGT is involved on disposal. They also clearly lack the capacity to create an endowment for the future preservation of the property. e.g. Bantry House & Annes Grove – both of international importance.

The state owned property – there are many of these around Ireland. They are usually owned by a public body who acquired the property as part of a larger land transfer. As these bodies come under increased budget pressure a large historic property is not seen as part of their core business. These are all generally in decline with increasing maintenance costs required each year combined with increasing public pressure to create greater public benefit from the asset. e.g. Johnstown Castle, Wexford.

A charitable property – there are several properties that are looked after by charities who are no longer financially viable. e.g. Fota House, Cork.

All of these potential donors are similar in that they do not have the capital to provide for refurbishment or development of the properties or the income to utilise the Section 1003(a) credit. If they had either they would probably apply them to the property and would not be in negotiation with the Trust.

The Trust was created to be the safety net of last resort for all these properties to ensure that their continuing use created public benefit for Ireland.

If the donor of the heritage property has limited use for the S1003(a) credit then who does? As the legislation is currently drafted the Trust must find a benefactor who will purchase a heritage property from its original owner for below market value, refurbish it in accordance with best international conservation practice, donate it to the Trust and hope that the Revenue Commissioners valuation for the purposes of S1003(a) reflects their largess. Notwithstanding the likely scarcity of such individuals there are several contractual issues in such a chain of events with associated risks that no rational benefactor (however predisposed to the project) would become involved.

The need to make these projects financially viable should not be understated. Financial viability and long term sustainable tourism development are the cornerstones of each project. These will drive the net gain to the exchequer in terms of self-sufficiency and regional tourism spend. Prior to the recent economic boom in Ireland tourism was a key component of economic policy. It has a high margin, with a unique selling point and huge employment potential. Policy makers are keenly aware of the corollary of the benefits of having a high quality built heritage and natural environment; the image Ireland projects of itself ripples into financial markets, export markets and ultimately contributes to national income.

By simply passing ownership of these (mostly) dilapidated properties to the Irish Heritage Trust the burden has simply been passed indirectly to the State. The Trust would not be able to prudently accept the donation and therefore fail to fulfil the purpose for which it was established. In addition S1003(a) as it is currently formed not only unburdens the donor of the responsibility for the property it also rewards them with a valuable tax concession. The legislation simply passes on the problem and leaves the solution outside the gate.

From an analysis of these properties already offered to the Trust, there are some major issues that are not addressed by the current Section 1003a TCA 1997 tax provisions.

1. Firstly, most of the properties are seriously in decay and fall far short of the standards that would be required to safely allow members of the public to visit and enjoy them. Relief for repair and renovation work is not covered by S1003a.
2. By their nature, these properties are hugely expensive to manage, develop and maintain and it would not be financially prudent of the Trust to assume responsibility for the properties without a clear plan for the future preservation and public access to these properties. Section 1003a does not provide a mechanism for the provision of these funds.

The Trust has actively explored the potential to use other tax relief such as Section 848a (relief for charitable donations) and Section 482 (relief for repair or refurbishment on significant heritage buildings), however, these are unlikely to fulfil the two additional funding requirements as outlined above.

The existing S1003a Finance Bill allows a Tax Credit to be received to the agreed value of the heritage property donated.

In addition to this cost the Trust is going to have to fundraise on every project for:

- Major capital investment on acquisition (most properties need immediate intervention to halt decay)
- Development projects to generate other revenue streams
- Other property initiatives – education programmes or projects involving less privileged sections of our society
- Contents – acquisition or care of existing artefacts and archives
- Endowments – to secure the property in perpetuity

In the opinion of the Irish Heritage Trust, the solution lies in a modification of the terms of Section 1003a to cover raising capital for this work at no additional cost to government.

For this public-private initiative to be successful we need s1003a to broaden the criteria for eligibility. The general definition could be more in line with the objectives of the Trust agreed with Government;

'provide for the donation, proper conservation, maintenance and presentation of significant heritage properties; their public enjoyment and appreciation; and public access to them in perpetuity.'

A relatively simple solution focus the S1003(a) relief to;

- target approved expenditure on the rescue of the property making it suitable for active use by the public,
- target approved expenditure on sensitive commercialisation to ensure long term financial viability,
- target approved expenditure to create sustainable employment

In asking Government to broaden the existing definition the Trust is not asking for more money or any reduction in the governments controls already in place. The €6m tax credit has already been agreed to and the cost taken into account by the Department of Finance.

This situation is unique, based on the figures identified by the Trust, and INDECEN on behalf of the Department of Environment, Heritage & Local Government previously, because the investment required for each property is on such a scale that the tax relief associated with 'normal' charitable donations is too small to realistically achieve the objective of Government and the Trust.

The mechanism for approval would remain the same; the Trust will have to justify the purpose of the donation to the Department of the Environment, Heritage and Local Government. This would then have to be approved by the Minister in partnership with the Department of Finance and the Revenue Commissioners prior to accepting any donation and issuing a tax credit.

The Appendix to this document outlines the objectives of the Trust and also what we are capable of delivering quickly and in a very cost effective way. A robust, workable, financial solution through s1003a will allow us to develop in a more structured and stable way to continue with this initiative without having to keep coming back to government. The current financial rollercoaster, while making it very difficult for government to operate, is even more debilitating for a new charity.

The core operating grant from the Department of the Environment, Heritage & Local Government is critical for the Trust in the early years. The more properties the Trust acquires the sooner it will become self funding. The rate of acquisition

has slowed down because of the economic downturn however the objective to become self sustaining remains a priority. Until that point the Trust depends on core support from Government.

The proposed donation of Annes Grove, Cork provides a useful illustration of how this proposal could be applied. This is a complete estate with gardens of international importance. The offer presented to us by the family is unlikely to be bettered at any property; the donation of the House, gardens and associated buildings and lands along with the funds (€3m+) required to restore it for public access. The public contribution was to be a tax credit for less than the market value of the estate (the family had no need for the full credit value) and an Endowment Grant of €5 million.

It failed late in 2008 because the government funds already allocated in the 2008 Budget for the endowment were withdrawn due to the economic crisis. If, for example, S1003a included raising this type of fund to secure the asset for the long term then it is possible that we could now be moving forward with this acquisition. Instead the property remains at risk, is generating limited revenue or social benefit and will probably start to go into decline as the owners energy diminishes.

Equally with this type of more effective incentive we could to create campaigns to save properties like the National Trust do in the UK. This could run for a period of time to build up a fund allowing the Trust to present the Minister with a sustainable acquisition plan that has all the money in place.

Our work over the last three years has identified six properties of national or international significance that are at immediate risk. We have carried out full feasibility studies and business plans for them all.

The current economic crisis has however created more need for the Trust to address. Glin Castle and Bantry House are both experiencing difficulties. Glin has closed down the hotel, made the staff redundant and sold substantial contents to stay afloat for the next three years. Bantry House is in a more critical state as there are few contents left to sell and the property is in debt that cannot be serviced. Cork County Council is leading the rescue initiative because they recognise the value an asset like Bantry House brings to the region. These are vital to the architectural and cultural heritage of Ireland in addition to providing iconic tourism product. Finding long term sustainable solutions for these places is exactly why the Trust was established and the need is covered at length in the Dooley Report (2003). It is however unlikely that Government or local councils will be able to support any rescue packages in the form of cash in the foreseeable future and consequently we must explore other ways that government can help without additional cost.

Revising the S1003a definition will make a fundamental difference to the effectiveness of the Trust in acquiring heritage properties and opening them up for public enjoyment. In turn, the economic and social benefits which properties like this deliver locally and nationally will be realised sooner.

4) Proposed Amendment

We propose that an amended S1003a tax credit could:

'provide for the proper conservation, maintenance and presentation of significant heritage properties; their public enjoyment and appreciation; and public access to them in perpetuity.'

This is essentially what the Trust was established to do and the credit could be used to attract funds for this purpose provided the exact objectives for each property fund were agreed in advance with the Minister for the Environment, Heritage & Local Government and only approved by the Minister after a full assessment of the Business Case.

Finance Act 2006

Section addressing the Irish Heritage Trust

Proposed amendments are indicated in red and underlined;

122.—(1) The Principal Act is amended in Chapter 5 of Part 42 by inserting the following after section 1003:

"1003A.—(1) In this section—

'the Acts' means— (a) the Tax Acts (other than Chapter 8 of Part 6, Chapter 2 of Part 18 and Chapter 4 of this Part), (b) the Capital Gains Tax Acts, and (c) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act, and any instruments made thereunder;

'arrears of tax' means tax due and payable in accordance with any provision of the Acts (including any interest and penalties payable under any provision of the Acts in relation to such tax)—

(a) in the case of income tax, corporation tax or capital gains tax, in respect of the relevant period, or

(b) in the case of gift tax or inheritance tax, before the commencement of the calendar year in which the relevant gift is made, which has not been paid at the time a relevant gift is made;

'contents of the building' means furnishings historically associated with the building and in respect of which the Minister is satisfied that they are important

to establishing the historic or aesthetic context of the building; it may also apply to appropriate items, approved by the Minister, required to present the property to the public.

'current liability' means—

(a) in the case of income tax or capital gains tax, any liability to such tax arising in the year of assessment in which the relevant gift is made,

(b) in the case of corporation tax, any liability to such tax arising in the accounting period in which the relevant gift is made,

(c) in the case of gift tax or inheritance tax, any liability to such tax which becomes due and payable in the calendar year in which the relevant gift is made;

'heritage property and approved costs' has the meaning assigned to it by subsection (2)(a);

'market value' has the meaning assigned to it by subsection (3);

'Minister' means the Minister for the Environment, Heritage and Local Government;

'relevant gift' means a gift of heritage property or a contribution towards approved costs to the Trust in respect of which no consideration whatever (other than relief 211 under this section) is received by the person making the gift, either directly or indirectly, from the Trust or otherwise;

'relevant period' means—

(a) in the case of income tax and capital gains tax, any year of assessment preceding the year in which the relevant gift is made, and

(b) in the case of corporation tax, any accounting period preceding the accounting period in which the relevant gift is made;

'tax' means income tax, corporation tax, capital gains tax, gift tax or inheritance tax, as the case may be, payable in accordance with any provision of the Acts;

'Trust' means the company designated for the purposes of this section by the order referred to in *section 122(2)* of the *Finance Act 2006*;

'valuation date' means the date on which an application is made to the Minister for a determination under subsection (2)(a).

(2)

(a) In this section **'heritage property and approved costs'** means a building or a garden which, on application to the Minister in writing in that behalf by a person who owns the building or the garden is, subject to the provisions of paragraph (b), determined by the Minister to be a building or a garden which is—

(i) an outstanding example of the type of building or garden involved,

(ii) pre-eminent in its class,

(iii) intrinsically of significant scientific, historical, horticultural, national, architectural or aesthetic interest, and

(iv) suitable for acquisition by the Trust, and, for the purposes of this section, a reference to 'building' includes—

(I) any associated outbuilding, yard or land where the land is occupied or enjoyed with the building as part of its garden or designed landscape and contributes to the appreciation of the building in its setting, and

(II) the contents of the building or other appropriate contents
(III) the identified costs in the Business Plan submitted to the Minister as part of the acquisition proposal

(b) In considering an application under paragraph (a), the Minister shall consider such evidence as the person making the application submits to the Minister.

(c) On receipt of an application for a determination under paragraph (a), the Minister shall request the Revenue Commissioners in writing to value the heritage property in accordance with subsection (3).

~~(d) If the market value associated with the heritage property and approved costs exceeds the annual €6,000,000 allocation the Minister may agree to allocate or spread the full value over an appropriate number of years allocation. (note this has been done previously under s1003)~~

~~The Minister shall not make a determination under paragraph (a) where the market value of the property, as determined by the Revenue Commissioners in accordance with subsection (3), at the valuation date exceeds an amount determined by the formula—~~

~~€6,000,000—M~~

~~where M is an amount (which may be nil) equal to the market value at the valuation date of the heritage property (if any) or the aggregate of the market values at the respective valuation dates of all the heritage properties (if any), as the case may be, in respect of which a determination or determinations, as the case may be, under this subsection has been made by the Minister in any one calendar year and not revoked in that year.~~

(e) (i) A property shall cease to be a heritage property for the purposes of this section if—

(I) the property is sold or otherwise disposed of to a person other than the Trust,

(II) the owner of the property notifies the Trust in writing that it is not intended to make a gift of the property to the Trust, or

(III) the gift of the property is not made to the Trust within the calendar year following the year in which the determination is made under paragraph (a) or within a timeframe approved by the Minister.

(ii) Where the Minister becomes aware, at any time within the calendar year in which a determination under paragraph (a) is made in respect of a property, that clause (I) or (II) of subparagraph (i) applies to the property, the Minister may revoke the determination with effect from that time.

(3)

(a) For the purposes of this section, the market value of any property shall be estimated to be the lesser of—

(i) the price which, in the opinion of the Revenue Commissioners, the property would fetch if sold in the open market on the valuation date in such manner and

subject to such conditions as might reasonably be calculated to obtain for the vendor the best price for the property, and

(ii) (I) the price which, in the opinion of the person making the gift of the property, the property would fetch on the valuation date if sold in the manner referred to in subparagraph (i), or (II) at the election of that person, the amount paid for the property by that person.

(b) The market value of the property shall be ascertained by the Revenue Commissioners in such manner and by such means as they think fit, and they may authorise a person to inspect the property and report to them the value of the property for the purposes of this section, and the person having custody or possession of the property shall permit the person so authorised to inspect the property at such reasonable times as the Revenue Commissioners consider necessary.

(c) Where the Revenue Commissioners require a valuation to be made by a person authorised by them, the cost of such valuation shall be defrayed by the Revenue Commissioners.

(d) The question of whether an amount proposed to be the subject of a relevant gift is approved costs shall be proposed by the Trust in consultation with the Department of the Environment, Heritage & Local Government and shall be subject to the approval of the Minister.

(4) Where a relevant gift is made to the Trust—

(a) the Trust shall give a certificate to the person who made the relevant gift, in such form as the Revenue Commissioners may prescribe, certifying the receipt of that gift and the transfer of the ownership of the heritage property the subject of that gift to the Trust, and

(b) the Trust shall transmit a duplicate of the certificate to the Revenue Commissioners.

(5) Subject to this section, where a person has made a relevant gift the person shall, on submission to the Revenue Commissioners of the certificate given to the person in accordance with subsection (4), be treated as having made on the date of such submission a payment on account of tax of an amount equal to the market value of the relevant gift on the valuation date.

(6) A payment on account of tax which is treated as having been made in accordance with subsection (5) shall be set in so far as possible against any liability to tax of the person who is treated as having made such a payment in the following order—

(a) firstly, against any arrears of tax due for payment by that person and against an arrear of tax for an earlier period in priority to a later period, and for this purpose the date on which an arrear of tax became due for payment shall determine whether it is for an earlier or later period, and

(b) only then, against any current liability of the person which the person nominates for that purpose, and such set-off shall accordingly discharge a corresponding amount of that liability.

(7) To the extent that a payment on account of tax has not been set off in accordance with subsection (6), the balance remaining shall be set off against any future liability to tax of the person who is treated as having made the payment which that person nominates for that purpose.

(8) Where a person has power to sell any heritage property in order to raise money for the payment of gift tax or inheritance tax, such person shall have power to make a relevant gift of that heritage property in or towards satisfaction of that tax and, except as regards the nature of the consideration and its receipt and application, any such relevant gift shall be subject to the same provisions and shall be treated for all purposes as a sale made in exercise of that power, and any conveyances or transfers made or purporting to be made to give effect to such a relevant gift shall apply accordingly.

(9) A person shall not be entitled to any refund of tax in respect of any payment on account of tax made in accordance with this section.

(10) Interest shall not be payable in respect of any overpayment of tax for any period which arises directly or indirectly by reason of the set-off against any liability for that period of a payment on account of tax made in accordance with this section.

(11) Where a person makes a relevant gift and in respect of that gift is treated as having made a payment on account of tax, the person concerned shall not be allowed relief under any other provision of the Acts in respect of that gift.

(12)

(a) The Revenue Commissioners shall as respects each year compile a list of the titles (if any), descriptions and values of the heritage properties (if any) in respect of which relief under this section has been given.

(b) Notwithstanding any obligation as to secrecy imposed on them by the Acts or the Official Secrets Act 1963, the Revenue Commissioners shall include in their annual report to the Minister for Finance the list (if any) referred to in paragraph (a) for the year in respect of which the report is made."

(2) The Minister for Finance shall designate by order the company (being a company incorporated under the Companies Acts) which is to be the Trust for the purposes of section 1003A of the Principal Act (inserted by *subsection (1)*).

(3) *Subsection (1)* comes into operation on such day as the Minister for Finance may appoint by order.

Finance (No.2) Act 2008 reduced the relief to 80% of the agreed market value.

Kevin Baird
10th June 2009

Appendix 1

Additional information on the Irish Heritage Trust and the progress made since 2006.

a) Irish Heritage Trust Objectives

The following key objectives were agreed with Government;

The main object for which the Irish Heritage Trust is established is:

To acquire properties of significant heritage value where there is a risk to such value, so as to provide for their proper conservation, maintenance and presentation; their public enjoyment and appreciation; and public access to them in perpetuity.

The following objects are exclusively subsidiary and ancillary to the main object. These objects are to be used only for the attainment of that main object and any income generated is to be applied for the main object only.

- 1) To evaluate heritage properties in a broad sense for consideration for acquisition, conservation, maintenance, presentation and public access, including but not limited to landscape; coastline; historic house, gardens demesnes parks and estates attached thereto, also associated artworks, furniture and archives,; industrial heritage; vernacular properties; and all real and personal property with significant heritage value.
- 2) To enter into agreements with owners of heritage properties, where the Trust is satisfied that some or all of such properties should be held in perpetuity, to hold such properties or part of properties in an inalienable manner as it thinks proper, including provisions not to dispose of such properties or part of properties without prior public notice, nor without the unanimous approval of the entire Board of Directors of the Company.
- 3) To enter into agreements with owners of heritage properties that the Company will manage, maintain or otherwise care for such properties, and to enter into such subsidiary elements of such agreements of a financial or other nature that the Company considers necessary.
- 4) To assist other persons, bodies or State agencies in the proper conservation, maintenance, management and public presentation of properties of significant heritage value, where these are properties that the Company would otherwise be concerned with and to assist in providing public access to these properties.
- 5) To develop and implement commercial strategies to maximise income from properties and assets in the ownership, care and maintenance of the Company in

- order to supplement fundraising and income generation from other sources; these strategies to be implemented in a manner that does not compromise or undermine the heritage value of the properties concerned.
- 6) To secure endowments and other income to conserve, maintain, manage, provide facilities at and present for public enjoyment and appreciation of properties of significant heritage value, and to provide public access in perpetuity to these properties.
 - 7) To provide public access through a range of mechanism, including but not limited to public entry to a property generally for a few and through commercial activities in or on the property that a group of persons may attend and in this regard, to provide for public access for different groups of persons at different times.
 - 8) To achieve world-class standards in terms of the conservation, maintenance and management and public presentation of properties of significant heritage value and also in terms of their permanent accessibility for public enjoyment and appreciation.
 - 9) To develop a strong popular membership in Ireland and internationally.
 - 10) To encourage members and other persons, including local communities concerned with properties in the ownership, care of maintenance of the Company, to donate their time and skills voluntarily to the Company.
 - 11) To foster and encourage through education, advocacy and volunteerism, the widest possible public appreciation and enjoyment of Ireland's heritage properties and respect for their significance in understanding the diversity of Ireland's history and its cultural and artistic inheritance.
 - 12) To work closely with heritage and other bodies, in Ireland and internationally, concerned in any way with heritage, including but not limited to non-governmental organisation, tourism organisations, development authorities and State and local government authorities in order to promote the importance of heritage properties for the Irish economy in terms of tourism, regional development and job creation.

b) Delivering results

The primary focus of the Trust is to acquire important properties for public benefit however in reality it takes considerable time to build reputation, trust and viable solutions for properties. The Trust has produced tangible results against all the objectives outlined above ranging from building reputation and partnerships to producing real solutions for properties at risk.

In the 33 months since its launch the Trust has evaluated the potential of acquiring 15 properties. From this work 9 feasibility studies and Business Plans have been developed resulting in 6 potential acquisitions:

- Fota House, Arboretum & Gardens, Cork.
- Annes Grove, Cork.
- No.14 Henrietta Street, Dublin.
- No. 11 Parnell Square, Dublin.
- Hazelwood House, Sligo.
- Johnstown Castle, Wexford.

With the exception of Fota House all remain at risk.

Other properties such as Bantry House and Glin Castle have recently become 'at risk' and the Trust is working actively to try to find solutions for them.

c) Fota House, Arboretum & Gardens

The Trust has been responsible for Fota House for 18 months. In that short period of time we have started to demonstrate what we are capable of delivering in a very efficient way.

An Taoiseach Brian Cowen re-opened Fota House on 17th April 2009 and said:

"The Irish Heritage Trust is a highly professional organisation. They are committed to innovative marketing. They understand the importance of involving the local and wider community and they enjoy a great deal of local support and goodwill. And they are on a mission to ensure that the public can access and enjoy heritage buildings like Fota House. Based on all of this, I have every confidence that they will succeed and, in the process, bring much needed business and employment opportunities into this area. And plenty of great opportunities for volunteering and personal development."

When we acquired the property it was operating at a very significant loss and was unsustainable in the longer term. As a property the visitor experience was poor from the point of arrival to the offer within the house. There were no significant contents, the upper floor was derelict and inaccessible and the café was poor. The visitor numbers were low and limited to a particular type of customer. The overall impact of this was that the property contributed little to the economy in terms of direct and indirect revenue generated and also required a substantial grant from government each year to meet costs incurred.

From the point of acquisition on 20th December 2007 the Trust has:

1. Improved and restructured the café to provide a significantly better service in a way the Trust can financially sustain.
2. Saved the Wood Collection from certain loss in partnership with a private benefactor. This is not an exaggeration. We commenced negotiations for the Collection at the same time we initiated the feasibility study for the acquisition. At two points along the way the collection was within 24 hours of financial institutions instructing auction houses in London to take possession and sell. This collection is a national asset and would not have been saved without s1003a
3. Secured the purchase by two benefactors of many original Smith Barry Family portraits, prints and a uniform belonging to Hugh Smith-Barry at auction in London in February 2008.
4. Returned the first seven paintings of the Wood Collection to the House in March 2008.
5. Launched the 'Family Fun at Fota' programme to complement the existing range of events & activities and communicate our ideas for the future to attract new audiences to the property. This was a success in that over 1200 children attended these events in 2008 and more importantly it changed perceptions in relation to what the property could offer to visitors.
6. Secured a grant of €1.7m from the Department of the Environment, Heritage & Local Government. Announced by Minister Gormley when he visited the property in April 2008. This work at a total coat of €1.9m was delivered on time and budget within the financial year.
7. Created the role of Property Manager to bring more leadership and staff resources to the House
8. Returned the furniture from the Wood Collection to the House in July 2008.
9. Delivered a successful events programme over the season with extra events organised due to public demand.
10. Achieved in December 2008 a €1.7m Fáilte Ireland Grant in principle to address the car parking and access issues, the glasshouses and the overall presentation & interpretation of the property.
11. Secured a small 'Local Agenda 21' Grant towards a pilot project to explore ways of opening up the productive garden experience through volunteering.
12. Returned the remainder of the Wood Collection to the House in December 2008. This will, according to experts, make Fota one of the top three art collections on public display in Ireland outside of the National Institutions.
13. Initiated the process of recruiting and supporting volunteers at Fota. We already have offers from over 30 individuals to volunteer in the House and Gardens.

14. Secured final approval of the €1.7m Fáilte Ireland grant. This is a major achievement as only two projects out of the six announced in December are going ahead at this stage.

We have also enjoyed comprehensive and very positive media coverage over 2008/9 for all our activities.

One less publicised issue is that we will finish this financial year with an operating loss significantly less than that of previous years. This will continue to improve over the next three years.

What has been delivered at Fota on so many different fronts in this timeframe is unequalled. In economic terms the turnover has increased significantly and as a more effective attraction is contributing to the wider economy through increased visitors.

The benefactors who have lent items (many of these are original to the house) to the Trust for display have expressed a desire to donate them if they were eligible for a tax credit under s1003a. These original contents are not currently covered within s1003a eligibility.

d) Private Investment

The level of private support for a property is sometimes more difficult to quantify and appreciate. Private support does not generally come in the form of a single amount of grant money. Fota is a good example of the private support the Trust can generate around a property on an ongoing basis;

Donations in kind:

- a) Provision of HR Manager to assist the recruitment process for the Property Manager - Pfizer
- b) Professional analysis of weather data - SWS Natural Resources
- c) Three years worth of wind data - Jansen Pharmaceutical Ltd
- d) Cost of donating the Wood Collection – €800,000+ - McCarthy Family
- e) McCarthy Family – purchase & loan of original Smith Barry items €70,000 approx. - McCarthy Family
- f) Shane McCarthy, Skibbereen – purchase & loan of original Fota furniture €15,000 approx.
- g) Professional House Photographs - Kiwi Photography
- h) Donation of the Inheritance Collection of 350 drawings & biographies of significant Cork people (To be unveiled in 2010) - Progressive News & Media Ltd (Kevin Sanquest, Michael Mulcahy), the Inheritance Partnership.
- i) Loan of approx 12 Framed Watercolour prints (were in flower room) - Daphne Huggard.
- j) Repairs to curtain sheers, 4-poster bed drapes - Mary Malone
- k) House cleaning before 2009 opening - 1 Volunteer

- l) Big Picnic planning committee – 3 volunteers
- m) Volunteer Garden steering committee –11 volunteers
- n) Grass cutting in field prior to events - Philip Cremin, Farmer
- o) Formal House Photography, research of postcards, etc. for retail - Lukas Becker
- p) St. Aloysious College Girls (8) - Assistance at Easter Egg Trail 2009
- q) Wind ensemble played in cafe during the Magic of Santa Claus - Cork School of Music (4)
- r) Volunteer Tour Guide - Rose Cassidy
- s) Donation of 12 Christmas trees and decorations - Cork Childrens Hospital Club
- t) Set up of Christmas trees - John O'Brien
- u) Analysis and identification of ancient timbers in courtyard - 1 volunteer
- v) Donation of "The Stag" – anon.
- w) Loan of (3) oil paintings - Chris Callaghan
- x) Loan of Jan Snyders "The Battle of the Birds" - Crawford Art Gallery
- y) Paper for wrapping Santa presents - The Examiner
- z) Operation of the land train to commence in June - Fota Wildlife Park
- aa) Donation of €500 - Floor Sanding Contractor

There is monetary value in all of the above however it is also significant for the incredible breadth of support we have received since taking over.

Annes Grove, Cork is another example of the type of private contribution the Trust can produce with the donation of the property below market value along with €3m cash to make it safe and accessible for the public. The total value of private contribution would be approximately €6-10m.

e) Key Reference Documents

A Future for Irish Historic Houses, Dr Terry Dooley – September 2003

This report highlighted the significance of this type of property to Ireland along with compelling evidence illustrating why the risk to these properties was increasing.

Examination of the Issue of Trust-type organisations to manage heritage properties in Ireland, Indecon - November 2004

The government commissioned INDECON to examine the international context for this type of initiative, the type of incentives used and the financial implications for government.

Report of the Steering Group to the Minister – February 2006

This articulated the need for an independent trust and outlined the scale of the undertaking.

Kevin Baird

10th June 2009