

# **Examination of the Issue of Trust-type Organisations to Manage Heritage Properties in Ireland**

**Report**

**Prepared for**

**The Department of the Environment, Heritage  
and Local Government**

**By**

**Indecon International Consultants**

**INDECON**

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I came to a great house  
in the middle of the night,  
Its open lighted doorway and its  
windows all alight,  
All my friends were there and  
made me welcome too;  
But I woke in an old ruin  
that the winds howled through.

W. B. Yeats<sup>1</sup>

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<sup>1</sup> Quoted in Peter Somerville-Large, *The Irish Country House: A Social History* (London, 1995).

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# **Executive Summary**

## **Introduction and Terms of Reference**

This report was prepared for the Department of the Environment, Heritage and Local Government by Indecon International Economic Consultants. The report concerns an independent examination of the issue of trust-type or other approaches to the management of heritage (built and natural) properties in Ireland.

The background to this study is that, given the competing demands for State resources, it was decided by the Government following an important heritage report and representations from interested groups that trust-type legislation be considered which could assist in preserving heritage properties under threat in a cost efficient manner. This study takes place within this context.

The main objective of this study is to provide an analysis of the issue of trust-type or other arrangements for the ownership and management of heritage properties in Ireland. A number of specific tasks underlie the terms of reference for this study, which were set out by the Department of the Environment, Heritage and Local Government, as follows:

- ❑ To undertake an analysis of the costs and benefits to the economy in general, and to the State's overall heritage conservation and protection objectives in particular, of making provision for trust-type legislation or other legislation especially as it might apply to safeguarding heritage properties which are likely to be under threat in the future;
- ❑ To undertake an examination of relevant legislation and practice in Ireland and other jurisdictions, which relate to trust-type or similar organisations, including any tax incentives or any other economic instruments applied in support of the work of such organisations;
- ❑ In the light of (1) and (2) above, to put forward suitable models for the operational arrangement of trust-type or other organisations that would be feasible in the Irish context, including the manner in which legal ownership would operate; and,
- ❑ To quantify the impact on the Exchequer of any tax incentives or economic instruments.

It should be noted that the terms of reference set by the Government for the study are focused on particular issues and it is outside the scope of the study to consider in detail other aspects of protecting Ireland's heritage. This does not imply that other aspects are not important but this study is focused on one particular issue.

## **Review of Previous Research on the Value of Heritage**

Before considering the nature of the challenge involved in sustaining heritage properties in Ireland, it is important to understand the nature of heritage assets and the cultural and economic benefits that derive from these assets.

'Heritage' can encompass a wide range of assets, including built and natural heritage assets. One broad definition of built heritage properties is provided under Section 482 of the Tax Consolidation Act 1997, which provides tax relief in respect of buildings/gardens that are "intrinsically of significant horticultural, scientific, historical, architectural or aesthetic interest". The diverse nature of heritage assets in Ireland has important implications for the challenges involved in sustaining these assets.

More broadly and within the Irish context, it is instructive to restate the interpretation of heritage as set out in the introduction to the National Heritage Plan:

"While our heritage is inextricably intertwined with our sense of identity, it also affirms the historic, cultural and natural inheritance which is shared on the island of Ireland. For present and future generations who will live in Ireland that inheritance has the ability to enhance and enrich the context of everyday existence. It has the ability to vividly convey to visitors and those living in Ireland alike what it means to be Irish. In short, our heritage is a presence which physically expresses the essence and the heartbeat of our collective historical identity."<sup>2</sup>

There are inherent problems associated with the measurement of the value of heritage, as many of the benefits identified above are not directly expressible in monetary terms. A country's heritage may be described as a 'public good' in so far as individuals can derive satisfaction and benefit from heritage assets even if they do not directly pay for these assets. In the Irish policy context, a significant focus has traditionally been placed on the tourism benefits deriving from heritage properties.

In relation to heritage tourism benefits in other countries, 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; and
- ❑ 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.

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<sup>2</sup> *National Heritage Plan for Ireland*, Department of Arts, Heritage, Gaeltacht and the Islands, April 2002.

## **Review of State-owned Heritage Properties**

While the focus of this study, as per the terms of reference, is on private sector properties that are likely to be under threat in the future, as part of our assessment we also described the State's involvement in the ownership and management of heritage properties in Ireland. We firstly described the numbers and types of heritage properties. We then looked at the extent of visitor interest and revenues generated from members of the public. Finally we considered the annual management and capital costs associated with the operation of state-managed heritage properties. This provides some insights into the potential viability of national trusts.

The State, through various channels, has a major involvement in both the ownership and management of built and natural heritage properties in Ireland. Ownership and management ranges extensively across the built and natural heritage areas and includes houses, castles, demesnes and surrounding estates/gardens/parkland, national parks, forest parks, and national monuments and archaeological sites. State-owned heritage properties are managed by a variety of government departments, agencies and local authorities, including:

- ❑ Properties managed directly by Government Departments;
- ❑ Properties managed by the Office of Public Works;
- ❑ Properties managed by state agencies; and
- ❑ Properties owned and managed by local authorities.

To what extent do State-owned heritage properties contribute to tourism activity? We examined the recent tourism visitor numbers and revenue receipts from admission to publicly accessible State-owned heritage properties. The key findings were as follows:

- ❑ A total of 465,478 people visited the eleven OPW-managed historic properties examined as part of the study and for which visitors numbers were tracked in 2003. This was compared with 440,011 visitors in 2002, implying a 5.8% annual increase. These properties range from Kilkenny Castle, which had the largest number of visitors (almost 185,000) to houses such as Derrynane House & Gardens (16,991 visitors), Castletown House (10,935 visitors) and Emo Court (2,976 visitors in 2003);
- ❑ Total receipts across the eleven properties managed by the OPW which charge for admission to the public came to €1.14 million in 2003 and just over €1 million in 2002, implying a 13.7% increase over this period. It is notable, however, that of the eleven properties shown, four properties experienced significant declines in visitor receipts in 2003.

The current costs of the State's direct ownership involvement in heritage properties includes the following expenditure elements:

- ❑ Costs of policy and central administration;
- ❑ Capital costs of securing properties and providing for major refurbishments;
- ❑ Ongoing operational costs.

Based on an analysis of average expenditures across a sample of 10 State-owned heritage properties, over the period 2002-2003 total expenditure on pay, non-pay operational costs and minor capital items averaged €650,909, with pay costs averaging €361,883 (or 55.6% of the total), non-pay operational costs averaging €165,938 (22%) and minor capital items averaging €123,088 (22.4%). There is considerable variation around these averages, however, and expenditures on operational and ongoing minor capital costs will vary depending on a variety of factors including the size and purpose of each property, and the scale of operations, including the numbers of staff employed and the nature of public admissions and related activities. Ongoing minor capital costs will also be influenced by property-specific requirements for annual upkeep and maintenance.

### Review of Privately Owned Heritage Properties

In considering the applicability of trust-type or other management approaches, it is necessary to describe the nature and extent of privately owned heritage properties in Ireland. Our description of the nature of privately owned heritage properties in Ireland was based on the following sources:

- Review of recent research on heritage properties in private ownership;
- Updated Indecon research on heritage properties in private ownership;
- Details of heritage properties assisted under Section 482 tax scheme.

In relation to existing recent research on heritage properties, Dooley (2003) undertook a survey of 50 properties throughout the State, of which 25 properties were in the ownership of the original families, seven were owned by a variety of private organisations and institutions, and six were owned by new private owners other than the above. The remainder of the sample were in State ownership.

Of those properties in the ownership of original families, these properties are maintained typically through farm incomes or private incomes. However, in some cases a new life for the properties has been developed through commercial exploitation of demesnes and gardens, e.g. through tourism activities.

In relation to the condition of properties surveyed in Dooley (2003), it was noted that, architecturally, the surviving houses in Ireland are of national and European importance. However, the study highlights that the majority of properties “are faced with difficulties which threaten their existence in the future unless immediate steps are taken to avert these threats”. According to the research the key sources of threat to the survival of these properties are suggested to be conservation issues, income/funding constraints, a decline in tourism activity, the impact of historical taxation and suggested inflexibility in relation to current tax reliefs, and the high costs of insurance. **In Indecon’s view, many and possibly most of the privately owned properties will continue to be run by families either as houses or as a combined house/business and it is therefore important not to see national trusts as a solution to the challenges faced by all of these properties.** The focus of this study is, however, on one aspect of potential policy initiatives for properties that are likely to be under threat.

As part of the new research undertaken for this study by Indecon, detailed submissions were obtained from representative organisations and from a range of individuals. We also undertook a sample survey of private sector heritage property owners and received a total of 89 replies.

Existing government policy supports the preservation of heritage properties in Ireland through a number of significant initiatives including direct grants and the provision of tax incentives. According to the Indecon survey research, 31.7% of property owners responding to our survey had received a State grant. This included grants from local authorities or the Heritage Council. A total of 39.6% of respondents indicated that they had benefited from the Section 482 tax relief. Interestingly, 12.9% suggested that they had benefited from more than one of these government-funded supports or some other incentive. Finally, 11.9% of survey respondents had received none of the supports listed. Overall, the results suggest that most properties have received some form of assistance from the State.

### **Review of Heritage Policy and Heritage Bodies in Ireland**

As part of the study, we presented an overview of current heritage policy and the nature of different bodies operating in the heritage area in Ireland.

We began by recapping on the State's overall heritage conservation and protection objectives and, in particular, the Government's policy objectives as set out in the National Heritage Plan (2002). In relation to the protection of Ireland's heritage, the Heritage Plan notes that:

*"The vast majority of heritage sites are in private ownership. It is neither feasible nor desirable for the State to acquire all heritage sites. The conservation of heritage sites in private ownership or in the ownership of local authorities can be satisfactorily achieved through Local Heritage Plans with proper management and a good level of co-operation between the owners and Dúchas. There may also be opportunities in a limited number of cases for heritage properties to be protected and managed through partnership between the State and the owners. However, in certain circumstances State acquisition of heritage sites may represent the only viable option for their protection and it is necessary to ensure clear criteria for acquiring heritage sites are developed."*

The Heritage Fund, which was established under the Heritage Fund Act, 2001, comprises a fund with an overall limit of €12.697 million over a five-year period. The objective of the Heritage Fund is to accumulate financial resources for the purposes of acquirement, by the principal State collecting cultural institutions, of significant items for the national collections that are outstanding examples of their type and pre-eminent in their class.

An important contextual backdrop to Irish heritage policy concerns the Council of Europe Convention for the Protection of the Architectural Heritage of Europe (1985), known as the Granada Convention. The Convention emphasises the importance of inventories in underpinning conservation policies and, as such, the National Inventory of Architectural Heritage (NIAH) was established in 1990 to fulfil Ireland's obligations under the Convention. The Convention was formally ratified by Ireland in 1997 and the NIAH established under the Architectural Heritage (National Inventory) and Historic Monuments (Miscellaneous Provisions) Act, 1999.

We also reviewed the background and activities of a number of organisations/bodies involved in the built and natural heritage areas in Ireland. These include The Heritage Council; An Taisce; The Irish Georgian Society; The Irish Landmark Trust; The Dublin Civic Trust; The Fota Trust; The Alfred Beit Foundation; The Hidden Ireland; The Inland Waterways Association of Ireland; Birdwatch Ireland; and the Irish Peatland Conservation Council.

In its submission to the study, "An Taisce The National Trust for Ireland" noted in relation to the issue of acquisition of properties by a trust that:

"There is no list of desired properties as this would be counter-productive, largely due to the impacts of such actions on property prices. The preferred method is to identify categories of heritage properties: natural, built and cultural. Specific heritage category protection by a Trust has been shown, globally, to run the risk of not reaching economies of scale and have limited appeal to potential donors."

In relation to the potential costs and benefits of making provision for trust-type legislation, An Taisce the National Trust for Ireland suggested the following broad categories of potential benefits:

- ❑ Multiplier effects, including in relation to isolated or economically deprived areas;
- ❑ Enhanced ability to create endowment funds required for the ongoing upkeep of heritage properties;
- ❑ Impacts on surrounding property prices;
- ❑ Catalyst effects, in relation to heritage potentially acting as a draw card for other tourism attractions and facilities;
- ❑ Impacts on State education costs in the promotion of sustainable development;
- ❑ Impacts on State costs in providing heritage conservation.

In relation to the issue of 'inalienability' of properties under trust legislation, An Taisce the National Trust for Ireland notes:

"The declaration of inalienability will only be possible when sufficient funds have been secured to endow the property, so that its future and long-term management is secure. This can be calculated through the Chorley Formula, formulated by The National Trust [in the UK], and now widely used by the international national trust movement. In practise, the Department of Finance and the Trust will have to agree the level of endowment required. Only once this target has been achieved would then the status of inalienability become valid."

A number of views pertaining to the operation of trust-type arrangements were put forward by the Irish Georgian Society during consultations as part of this study, which can be summarised as follows:

- ❑ Any trust-type organisation should be completely separate and independent of government. However, there would be a need for initial government intervention to:
  - (i) 'prime the pot' i.e. provide financial resources until Trust becomes financially self supporting
  - (ii) give substantial tax benefits both for the initial donation of property and its subsequent maintenance
- ❑ Trust must have an outstanding chairman, an excellent board and dynamic management;
- ❑ Under the right leadership, membership of the trust could be established through a fresh structure, assisted by a commercial focus;
- ❑ The importance of seeking to retain interaction/involvement of families associated with heritage properties. This could be facilitated either through leasing or other arrangements;
- ❑ The importance of ensuring that the full integrity of properties, surrounding estates and property contents, including archives, is maintained;
- ❑ The importance of ensuring necessary balance between heritage values and commercial interests;

- ❑ Houses should remain a living organism, not museums. This could therefore involve leases to third parties and not just to associated families;
- ❑ Any legislation should not just be for the built heritage but should also cater for natural heritage properties;
- ❑ Legislation need not necessarily be limited to facilitating one trust, and should accommodate smaller individual trusts (e.g. Thirlestone trust in Scotland); and
- ❑ The principle of inalienability is vital to any legislature.

In its submission to the consultancy team, the Irish Landmark Trust highlighted a number of issues and suggestions in relation to the examination of trust-type arrangements to manage heritage properties in Ireland. The key suggestions highlighted by the Trust were as follows:

- ❑ In relation to country houses, “the essential integrity – in many cases - of buildings (including ancillary) collections parks and gardens;
- ❑ The unsuitability of the UK National Trust solution to the Republic, given the inadequacy of available ‘Chorley Formula’-type endowments, and the small population (and hence membership);
- ❑ The difficulties of sustainability with country houses, given the small number of visitors and the non-profitable nature of opening to the public;
- ❑ The desirability and cheapness of encouraging and assisting private ownership, with public access, by tax incentives and maintenance grants.”

One of the organisations involved in the development of historic houses for the purposes of tourism is The Hidden Ireland, which is an association of members owning some 36 smaller privately owned heritage properties throughout the State. In its submission, the association highlighted a number of issues, which are summarised below:

- ❑ “Most of our successful houses combine B&B with Self-Catering units and Section 482. It is crucially important to allow this combination and ways must be found to strengthen its effectiveness. Otherwise the future of some, currently self-sustainable, houses will be put in doubt;
- ❑ Our type of accommodation is best described as ‘Soft Tourism’ in that it does not usually involve very high visitor numbers so the detrimental effect on historic fabric is kept to a minimum;
- ❑ There is minimal interference with the fabric of the building and contents;
- ❑ Current grant aid is entirely geared towards buildings under threat, but there is no awareness of the need for future sustainability and, more importantly, no funding for internal decoration. A number of important houses are prevented from coming on-stream simply because they lack capital for the refurbishment necessary to bring them up to the required standard.”

In relation to the Section 482 tax relief, The Hidden Ireland, noted that:

“Section 482 is a considerable help to many owners though it is generally used for essential maintenance and insurance, as few owners have sufficient income to use this tax break for major restoration projects. We understand Revenue’s stipulation that no-one must benefit unfairly but there is a real need to extend the operation of S.482 to allow historic owners raise outside capital without selling land or contents, or increasing their mortgages.”

In relation to the examination of trust-type arrangements to manage heritage properties, The Hidden Ireland states:

“Clearly the most cost-effective way for the State to preserve our private heritage is to encourage existing owners to do this for them. This can easily be achieved without State or Trust ownership and private owners can be forced to repay grants, perhaps even with interest, if access is denied or if they subsequently decide to sell-up. Private owners must be encouraged to move towards achieving sustainability, though always in a way which does not compromise their houses’ heritage status and without further depleting their resources by selling contents, land or any remaining capital. This can only be achieved through funding but, unfortunately, the current funding levels are derisory, Section 482 does not always go far enough and there is no access to State guaranteed loans.”

### **Review of Tax and Grant Supports for Heritage**

We reviewed in detail the existing range and level of tax and grant supports available for heritage properties in Ireland. We summarise below the key findings from our review.

The State has to-date made available a range of tax-based and grant-based public supports for the heritage sector, which can be summarised as follows:

- ❑ Relief on Capital Acquisitions Tax viz. inheritance and gift taxes, including for arts objects. This includes relief under Section 39 of the Finance Act, 1978 and Section 55 of the CAP Act, 1976;
- ❑ Section 848A of Taxes Consolidation Act, 1997 – tax relief for donations to eligible charities and other approved bodies;
- ❑ Section 482 tax relief for properties of significant horticultural, scientific, historical, architectural or aesthetic interest in Ireland;
- ❑ Section 1003 tax relief for donation of heritage items;
- ❑ Heritage grants, administered by the Heritage Council;
- ❑ Department of the Environment, Heritage and Local Government housing grant funding for renewal or repair of thatched roofs; and
- ❑ Local authority conservation grants for protected structures.

One of the main forms of tax relief currently available is the Section 482 relief. A total of 445 properties were approved under the Section 482 scheme (previously Section 19 of the Finance Act 1982) since its commencement in 1982. However, this figure includes many properties which had been listed in previous years but which are not currently availing of the relief. Currently, there are 166 properties availing of the relief, which are advertised as being open to the public.

Detailed data specific to claims for relief under Section 482 are not ordinarily maintained by the Revenue Commissioners. However, based on a survey undertaken by the Revenue, the Section 482 scheme is estimated to have cost the Exchequer a total of €3.9 million in the 1999/2000 tax year, falling to €2.7 million in 2000/2001. We understand that more detailed information to ascertain the precise costs will be collected by the Revenue in the future. The earlier estimates quoted above suggest a very low level of average annual tax cost per property.

Under the Section 1003 tax relief, relief is available in the form of a tax credit equivalent to the value of the heritage item(s) donated to an approved body(ies), which may subsequently be set against the taxes covered by the scheme, namely income tax, corporation tax, capital gains tax, gift tax and inheritance tax. The value of agreed donations may be set against past, current or future tax liabilities, in that order.

There is an annual 'cap' in place, which limits the total annual level of tax that may be foregone to €6 million under the Section 1003 relief.

According to the latest estimates available from the Revenue Commissioners, the cost of the Section 1003 relief rose from €0.75 million in 1999 to €5.6 million in 2003. Relative to the annual budget/cap set for the relief, the annual cost has ranged between 70.8%-99.5% of the annual budget/cap over this period.

The Heritage Council provides a range of grant supports for heritage conservation and related activities. The fall under the headings of (i) Local heritage grants, (ii) Publications grants, (iii) Archaeology grants, (iv) Wildlife grants, (v) Buildings at risk grants, and (vi) Museums and archives grants. An analysis of the recent annual level of Heritage Council grants approved indicates that grant expenditure totalled €2.8 million 2002, down from €3.6 million in 2001.

The Department of the Environment, Heritage and Local Government also provides direct support in the heritage area in the form of housing grant funding for renewal or repair of thatched roofs. A grant of two thirds of the cost (up to a maximum of €3,809 is available towards the cost of renovating thatched roofs of owner occupied houses. A higher level of assistance of €5,713 is available for houses on specified offshore islands.

## **Review of Approaches to Heritage Management in Other Countries**

In assessing the potential costs and benefits associated with the application of trust and other approaches to the management of heritage properties in the Irish context it is important to examine the approaches pursued in other jurisdictions. As part of this study we reviewed in detail the international evidence in relation to alternative approaches to heritage property management. Our review of international approaches covered 13 jurisdictions and focused on the nature of relevant legislation and practice in each jurisdiction, including the nature of supporting tax-based and other economic incentives. We summarise below the key findings from our review, focussing on England, Scotland, Wales and Northern Ireland. We would, however, stress that no model can be simply transplanted between countries and it is necessary to take account of the specific characteristics of the Irish heritage challenge and environment.

### *The United Kingdom*

Within the U.K. there is considerable diversity both within and across constituent jurisdictions in terms of the different trust-type and other models applied in heritage ownership and organisation and the nature of tax and other incentives in place.

There are several forms of trust-type organisations in operation in the UK in the area of heritage property management. These broadly include:

- ❑ National trusts, including National Trust for England, Wales and Northern Ireland, and the National Trust for Scotland;
- ❑ Other private trusts and foundations, with charitable status, for example, the various wildlife trusts under the umbrella of the Wildlife Trusts partnership;
- ❑ Civic Trusts, for example, the Civic Trust for Wales;
- ❑ Building preservation trusts, for example, the Architectural Heritage Fund.

The National Trust for England, Wales and Northern Ireland was founded in 1895. It is a registered charity, having the registered title of the National Trust for Places of Historic or Natural Beauty.<sup>3</sup> It should also be noted that the National Trust is independent of government and does not receive direct state grant or subsidy for its general work (although it may apply for grants that are available generally to various organisations).

The objectives and purposes of the National Trust are as follows:

- ❑ “The National Trust’s vision is to inspire present and future generations with understanding and enjoyment of the historic environment through exemplary and innovative work in conservation, education and presentation”,
- ❑ “[The Trust’s] priorities are to show leadership in the regeneration of the countryside and, where possible, our towns; deepen our understanding of the meaning and value of heritage; [and] to expand the provision of education and lifelong learning.”

The National Trust cares for both built and natural heritage assets, including over 250,925 hectares (620,061 acres) of countryside in England, Wales and Northern Ireland, over 600 miles of coastline and over 900 buildings, gardens, parks and other assets of national interest and importance.

An important feature of the National Trust is its large membership. The Trust’s total membership reached 3.06 million members in 2003, which compares with 2.1 million members in 1993. The Trust also has significant overseas membership.

The National Trust has substantial volunteer support for its activities. In 2003, a total of over 34,000 volunteers contributed 2.1 million volunteer hours to the Trust’s activities.

One feature of the National Trust is its ability to declare its property ‘inalienable’ although it is important to note that not all properties accepted by the National Trust are given this entitlement. For example, a house with or without its contents, may be presented to the Trust along with a financial endowment to enable it to be to maintained in perpetuity. In return, the donor and the donor’s family may continue living in the house, subject to public access and measures to retain the essential character of the property. The statutory power of ‘inalienability’ essentially means that property or land cannot be voluntarily sold, mortgaged or compulsorily purchased against the Trust’s wishes, except through special parliamentary procedure. In other words, a parliamentary vote must take place before a property can be disposed.

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<sup>3</sup> Registered as a charity with the Charity Commission - No. 205846.

Not all the Trust's properties are held inalienable and properties may also be given to the Trust with an understanding on the donor's part that it may eventually be sold for the benefit of the Trust.

In considering potential properties for acquisition, an important assessment tool used by the Trust is the 'Chorley Formula'. Essentially what the Chorley Formula does is to provide a basis for estimating the capital endowment required to both produce an annual income to support the ongoing upkeep of a property and to ensure that the value of the fund is maintained. This formula sets a high hurdle rate and we understand that, in practice, the Trust generally is unlikely to consider properties unless sufficient income stream is available.

The National Trust benefits from a range of income sources. These include membership income (just under one quarter of total income in 2003), commercial income from its enterprises (22.6% in 2003), legacies/bequests (14.9%), direct property income (12%), and gifts, donations and income from fundraising.

In relation to specific tax incentives applying to trusts in the UK, according to the National Trust, in addition to the concept 'acceptance in lieu', the charitable status of the Trust also confers additional tax advantages, as follows:

- ❑ Gift Aid - the Government gives charities extra funds on top of donations and/or membership subscriptions (in the UK 28p for every £1 donated) if donors have paid income tax or capital gains tax equal to the tax deducted from their donations;
- ❑ Business rates - a remission of at least 80% on the Uniform Business Rate;
- ❑ Value Added Tax (VAT) - registered charities can reclaim the VAT they are charged although there are restrictions on the amount they can recover;
- ❑ Inheritance Tax - money left to a registered charity is free of inheritance tax. The gift is subtracted from the net value of the estate when the total liability has been decided. In the UK, inheritance tax is set at 40% in the UK, which means that a gift costs only 60% of its value as the remainder would otherwise been paid in inheritance tax to the tax authorities.

## Discussion of Policy Issues

Indecon would highlight the fact that other non-trust related policy initiatives will continue to be of critical importance for most properties. In line with our terms of reference we have, however, reviewed the specific proposals required to support the development of trust-type organisations in Ireland. We outlined the costs and benefits of these proposals, quantified the likely Exchequer costs associated with potential trust arrangements, and finally considered a number of operational aspects of trust proposals. We summarise below the key conclusions from our analysis.

### *Modelling potential Exchequer costs associated with trust arrangements*

In relation to the costs likely to face the Exchequer arising from trust-type arrangements, these include the costs of proposed tax reliefs measured in terms of tax revenue foregone; the costs of any seed capital provided by the Exchequer in supporting the establishment of trusts; the cost of any on-going annual Exchequer subvention provided to trusts; and the potential additional Exchequer exposure in the event that a trust experiences financial difficulties.

In relation to the number of heritage properties that are likely to be transferred into a trust, this is very uncertain but our research suggests that there could be between 1-6 private sector transfers each year, although the numbers are likely to be at the lower level of this range and indeed could be even lower.

We have formulated 5 scenarios for potential Exchequer costs, based on the following assumptions:

- ❑ Between 1-4 houses are transferred into a trust per annum;
- ❑ The average market value of properties donated to trust is €5 million under Scenarios 1-4 and €10 million under Scenario 5;
- ❑ We assume under each scenario that the endowment fund required per property is equivalent to 120% of the market value of each property transferred to the Trust;
- ❑ Each scenario assumes donation of a property or properties to the trust *in lieu* of historic and current tax liabilities, but with the total annual value of properties allowed against tax liabilities set at €6 million;
- ❑ In order to assist in the early years of the National Trust we support the suggestion of the Irish Georgian Society of providing some financial resources to 'prime the pot' and we model a scenario whereby the Exchequer contributes up to one-quarter of the endowment funding required to upkeep trust properties, with the balance provided by private sector contributions;
- ❑ The private sector contribution to the endowment funding is divided equally between individuals and corporations;
- ❑ The marginal tax rate for individuals is 42% and 12½% for corporations, with the full amount of the endowment contribution allowed against tax under scenarios 1-4, while under scenario 5 a cap of €3 million is placed on the total annual tax break allowed.

There is uncertainty regarding the number of properties that would be transferred to trust, which in turn would be based on the level of interest of property owners, the evaluation of the heritage importance of the house, the level of endowment funding required and, critically, the ability of the Trust to raise sufficient endowment funds.

There is also considerable uncertainty in relation to the value of the endowment fund required to upkeep/maintain heritage properties that may be transferred to trust. No two properties are equivalent in terms of type, size (including, for example, surrounding estates), comparative state of repair and existing ongoing sources of income. For these reasons, precise estimation of required endowment funding is outside the scope of this study and for the purposes of our scenarios for quantifying potential Exchequer costs, we have assumed for illustrative purposes that the endowment fund required per property is equivalent to 120% of the market value of each property transferred to the Trust. We believe, however, that precise calculation of required endowment funding should be based on international best practice methodologies such as the 'Chorley Formula'.

In the table we present the details of our 'base case' scenario. The estimated total cost to the Exchequer under this scenario, including the cost of tax reliefs on donation of the property and on donations to the required endowment fund, is equal to approximately €7.7 million. If the initial project is sold by the owner to the trust rather than donated and if the funds for the purchase are raised by other individuals or corporations, the exchequer implications will be the same as it is proposed that these contributions would also attract taxation benefits.

Quantification of Estimated Exchequer Costs – Base Case Scenario	
Assumptions	Estimates
<b>Property Donation Costs</b>	
Number of properties per annum	1
Average market value of properties - €	5,000,000
Value of property offset against existing/historic tax liabilities (note: total cost of tax break capped at €6,000,000 per annum) - €	5,000,000
<b>(A) Total Exchequer Cost re Donation of Property - €</b>	<b>5,000,000</b>
<b>Endowment Funding Costs</b>	
Total value of endowment required - € (assumed @ 120% of market value of each property)	6,000,000
Exchequer direct contribution @ 25 %	1,500,000
Private contribution @ 75 %	4,500,000
Assume full tax break on private contribution	
Corporate (50%) @ 12.5% tax rate - €	281,250
Private Individuals (50%) @ 42% tax rate - €	945,000
<b>Total cost of tax break on endowments - €</b>	<b>1,226,250</b>
Exchequer direct endowment contribution - €	1,500,000
<b>(B) Total Exchequer Endowment Funding Costs Per Annum - €</b>	<b>2,726,250</b>
<b>Total Exchequer Costs (A)+(B) - € per annum</b>	<b>7,726,250</b>
Source: Indecon analysis	

It is important to note that the costs under the above base case scenario (and under the remaining scenarios presented in the main report) may overestimate net Exchequer costs to the extent that there is any Exchequer savings arising from reduced demands for Section 482, or other savings. It also does not reflect the possibility that owners could currently transfer properties to other charitable heritage organisations, which can avail of existing tax reliefs. However, subject to these provisions, our base case scenario represents our best estimate of annual Exchequer costs. These costs should also be considered against the much higher cost that would arise if the State decided to acquire such properties.

#### *Risks surrounding scenarios*

There are a number of risks surrounding our scenarios on estimated Exchequer costs associated with the transfer of heritage properties into trust-type arrangements. These relate to the assumptions regarding required endowment funding, the proportion of such funding provided for directly by the Exchequer versus the private sector, and the proportion of private sector funding provided for by the personal versus corporate sector. In particular, while we believe that long term potential exists to raise significant funds from the corporate sector, a key issue concerns the ability of promoters to generate sufficient funds. While we believe that there is a possibility that such funds could be generated, there is no certainty on this issue. (The scale of funds required would however be small compared with the funding which has been successfully raised in other sectors in Ireland such as donations to the University sector.) We believe however that the state would need to be generous in the initial years of such a trust and we have accepted the judgement of the Irish Georgian Society of the need to what they call 'prime the pot'. We have therefore modelled a scenario whereby the exchequer provides up to 25% of the total endowment costs for a National Trust. The main risks to our estimates relate to the number of houses transferred per annum, the valuation of these properties, and the level of endowment funding required.

*Is there a case for a National Trust for Ireland?*

*Potential benefits of trust-type arrangements*

An important aspect of this study is to provide an independent view on whether or not there is a case for a National Trust for Ireland. We would point out that in our judgement based on our analysis there is a convincing case for a National Trust, although we would stress that such an initiative will not be relevant to most of the existing heritage houses which are in private ownership. On-going policy initiatives to support the maintenance of such properties in private ownership will be required and that a National Trust will be a complimentary rather than an alternative to existing heritage initiatives.

The key elements why we believe a National Trust would be justified are as follows:

- ❑ Potential savings in costs arising from the fact that the Trust would reduce pressure on the State to purchase properties and the potential lower cost of operation of the Trust arising from volunteer support.
- ❑ Heritage benefits due to more effective preservation and guarantee of public access to properties in the long-term;
- ❑ Tourism benefits; and
- ❑ Attraction of private sector investment;

The findings from our research indicate that property owners are positive towards legislative changes to facilitate the introduction of trust-type arrangements and believe that they could yield significant benefits although some are concerned that this would be an alternative to rather than a complementary policy initiative to support the maintenance of heritage properties in private sector ownership. A total of 50.7% of owners responding the survey indicated that they were 'very positive' while 26.1% were 'positive' in this regard. **It is however stressed that a National Trust would not be relevant to most heritage properties in private ownership.**

Potential aspects of the introduction of supporting legislation for trust-type arrangements seen by property owners as being important include provision of tax relief for property donors and for private endowments, and tax relief for running/maintenance costs of properties.

The key potential benefits of introducing trust-type legislation cited by private owners include that it would facilitate access to private finance, could facilitate better management of properties, could mean lower management costs than if under State care, and could ensure public access to properties in long term.

In relation to the relative importance of various factors in encouraging private owners to dispose of their properties into trust, the most important factors cited by respondents to our survey include maintenance costs, restoration costs and tax liabilities. Also considered important are that trusts could ensure better management and would provide a better guarantee re long term conservation of properties while also ensuring public access.

A number of operational aspects of trust proposals were examined. Key issues that require assessment in this regard include:

- ❑ Issues regarding the donation of properties and endowment funding;
- ❑ Issues regarding tax treatment of endowments;
- ❑ Issues regarding tax treatment of running costs;
- ❑ The structure of proposed trust(s);
- ❑ Equity considerations;
- ❑ Implications for current heritage policy.

### **Feasibility of Trust Proposals and Examination of Models**

An element of the terms of reference is to “put forward suitable models for the operational arrangement of trust-type or other organisations that would be feasible in the Irish context, including the manner in which legal ownership would operate”. Our analysis therefore addressed the following issues:

- ❑ The factors affecting the feasibility of trust arrangements in the Irish context;
- ❑ The principal policy options available for consideration and the advantages and disadvantages of each option;
- ❑ Conclusions re selected models for trust-type arrangements; and
- ❑ The appropriate features of trust-type arrangements.

We believe that the feasibility of trust-type legislation in Ireland will be dependent on a number of key issues, which are summarised below:

- ❑ The potential interest on the part of property owners in availing of trust-type legislation;
- ❑ The interest of organisations in establishing a trust-type body;
- ❑ The potential financial viability of a trust-type organisation;
- ❑ The policy and approach of trust-type organisations in relation to property acquisition;
- ❑ The capital required to establish trusts;
- ❑ The on-going costs of administration of trusts; and
- ❑ The on-going current and capital costs in maintaining and restoring properties.

We have considered in detail a range of policy options for the Government in relation to the ownership and management of heritage properties. We summarise these options in the table overleaf. Our conclusions in relation to each policy option are set out in the subsequent paragraphs.

**General Policy Options**

1. CONTINUE WITH CURRENT POLICY APPROACH
2. CONTINUE WITH CURRENT POLICY APPROACH BUT WITH BETTER TARGETING OF EXISTING GRANTS AND TAX RELIEFS
3. INTRODUCE TRUST LEGISLATION WITH VARIOUS TAX SUPPORTS AND NO CAP ON EXCHEQUER COSTS
4. INTRODUCE TRUST LEGISLATION WITH VARIOUS TAX SUPPORTS AND WITH CAP ON EXCHEQUER COSTS
5. REFORM CURRENT POLICY APPROACH AND INTRODUCE TRUST LEGISLATION WITH VARIOUS TAX SUPPORTS AND WITH CAP ON EXCHEQUER COSTS

Source: Indecon

**(1) Continue with Current Policy Approach**

We believe that while continuation with the status quo would be likely to involve no additional costs to the Exchequer and no requirement for new legislation, this approach would have a number of important weaknesses, including difficulty with attracting private sector finance, the likelihood of a potential loss of heritage properties that have fallen into disrepair, and the likelihood that it would not maximise the benefits of heritage conservation (including tourism benefits). Furthermore, we believe that continuation of the current policy approach would not be availing of all potential vehicles for preservation of heritage properties. We would, however, stress that all of the options we consider include continuation of the development of policy initiatives to support the maintenance of heritage properties in private ownership and the trust option represents a complementary approach rather than an alternative to other policies.

**(2) Continue with Current Policy Approach but with Better Targeting of Existing Grants and Tax Reliefs**

Another potential option facing the Government would be to continue with the current policy approach but to combine this with a better targeting of existing grants and tax reliefs. In addition to having no additional Exchequer costs and no requirement for new legislation, we believe that this option would be advantageous in improving the targeting of existing supports, an issue which has been highlighted in our research. Notwithstanding this potential additional benefit, we believe, however, that the same disadvantages would apply under this approach as would obtain under option 1 above.

**(3) Introduce Trust Legislation with Various Tax Supports and with no Cap On Exchequer Costs**

We would have concerns about a policy involving no cap on Exchequer costs but otherwise we would see a number of advantages associated with this approach, which would include a potential increase in the extent of private sector finance available, the potential to maximise the benefits of heritage properties, the ability to avail of additional potential vehicles for preservation of heritage assets and the potential to lower the running costs associated with properties that are transferred into trust. The disadvantages of this policy option could include that it would be likely to result in an increase in Exchequer costs. In addition, there would be the administrative costs of introducing new legislation.

**(4) Introduce Trust Legislation with Various Tax Supports and with Cap On Exchequer Costs**

We believe that a fourth policy option available to the Government would be to introduce legislation to facilitate the development of trust-type arrangements along with various tax supports but with a 'cap' placed on the annual level of tax supports available. This approach would have the advantages identified under option (3) but would also have the advantage that it would limit the exposure of the Exchequer. If it reduced the need for the state to purchase and run additional properties it could also result in a reduction of exchequer costs.

**(5) Reform Current Policy Approach and Introduce Trust Legislation with Various Tax Supports and with a Cap On Exchequer Costs**

A fifth policy option could involve introducing trust legislation with a cap placed on various tax supports but also introducing reforms to the current policy approach. This would entail combining option (4) with improving the targeting and mix of existing supports, including tax reliefs and grant supports. This approach would also have the advantage of capping the potential Exchequer exposure, while also improving the overall cost-benefit ratio implicit in current policy.

On basis of research and analysis undertaken in the preceding sections, we have identified a selected number of models for trust-type arrangements for consideration. We summarise these models, and our assessment in relation to their feasibility, in the table below.

Selected Models for Trust-Type Arrangements	
MODEL	ASSESSMENT
1. TRUST-TYPE ARRANGEMENTS WITHOUT TAX INCENTIVES/ EXCHEQUER GRANT SUPPORTS	NOT FEASIBLE
2. TRUST-TYPE ARRANGEMENTS WITH TAX INCENTIVES/ EXCHEQUER GRANT SUPPORTS	MERITS CONSIDERATION
Source: Indecon	

Based on our discussion of the feasibility of trust organisations, we believe that Trust-type arrangements without tax incentives would not succeed in the Irish context. In the absence of tax reliefs it would be very difficult to attract the necessary funding or the transfer of properties. We believe that the proposed tax reliefs are a pre-requisite for the successful development of trust organisations.

We also believe that some Exchequer funding as seed capital may be needed. This could be necessary to support the initial properties that would be taken in by the trust. Initial Exchequer support would also provide a demonstration signal to the private sector and we believe would enhance the potential success of the proposed organisation. We believe this support should be given to one National Trust organisation. We believe, however, that there should be a cap on the costs of any Exchequer tax incentives.

#### *Appropriate features of trust-type organisations*

Our research has identified a number of features considered appropriate in relation to the development of trust-type arrangements for ownership and management of heritage properties, which we summarise in the table overleaf.

<b>Appropriate Features of Trust-Type Arrangements</b>
<ul style="list-style-type: none"><li><input type="checkbox"/> STRONG COMMERCIAL AND FINANCIAL ETHOS TO ENSURE VIABILITY</li><li><input type="checkbox"/> FOCUS ON PROPERTIES OF NATIONAL IMPORTANCE</li><li><input type="checkbox"/> PROPERTY SHOULD IN GENERAL BE UNDER THREAT</li><li><input type="checkbox"/> OWNERSHIP BY TRUST SHOULD INCREASE NATIONAL BENEFIT</li><li><input type="checkbox"/> GUARANTEE RE PUBLIC ACCESS TO PROPERTIES</li><li><input type="checkbox"/> VOLUNTEER SUPPORT NECESSARY</li><li><input type="checkbox"/> PROPERTY SHOULD BE ACCEPTED ONLY WITH SUFFICIENT ENDOWMENT RAISED</li><li><input type="checkbox"/> 'INALIENABILITY' WOULD BE INVOKED IN CERTAIN CASES WHEN PROPERTY IS ACCEPTED BY TRUST ALTHOUGH FOR MANY PROPERTIES THIS MAY NOT BE RELEVANT</li><li><input type="checkbox"/> OPTION FOR FAMILIES TO REMAIN IN RESIDENCE</li><li><input type="checkbox"/> CONTENTS AND GARDENS AS WELL AS BUILDINGS TO BE COVERED</li><li><input type="checkbox"/> CAP ON ANNUAL EXCHEQUER COSTS IN TERMS OF GRANTS OR TAX FORGONE</li><li><input type="checkbox"/> IN EVENT OF TRUST FAILING, THERE SHOULD BE NO ASSUMPTION THAT THE STATE WILL TAKE OVER RESPONSIBILITIES</li></ul>

#### **Recommendations**

Based on our research and analysis, we have developed a number of recommendations for consideration by the Government and interested groups in relation to the application of trust-type arrangements for the management of heritage properties in Ireland. These recommendations are set out in the table overleaf.

<b>Main Recommendations</b>	
(1)	CONSIDERATION SHOULD BE GIVEN TO THE INTRODUCTION OF NEW SUPPORTING LEGISLATION TO FACILITATE THE ESTABLISHMENT OF TRUST-TYPE ORGANISATIONS FOR HERITAGE PROPERTIES IN IRELAND
(2)	WE RECOMMEND THE INITIAL PROMOTION AND ESTABLISHMENT OF A NATIONAL TRUST, WHICH WOULD BE ENTITLED TO SELECTIVE TAX INCENTIVES. THE OPTION SHOULD, HOWEVER, ALSO CONTINUE TO BE AVAILABLE UNDER THE NEW LEGISLATION FOR ADDITIONAL TRUSTS OR OTHER SUPPORTING ORGANISATIONS TO BE FORMED
(3)	WE RECOMMEND THAT THE PROPOSED TRUST(S) BE ESTABLISHED AS A CHARITABLE ORGANISATION AND BE AFFORDED SIMILAR ACCESS TO TAX RELIEFS AS EXISTING CHARITABLE ORGANISATIONS
(4)	WE RECOMMEND THAT CONSIDERATION BE GIVEN TO THE PLACING OF A 'CAP' ON THE ANNUAL LEVEL OF TAX RELIEF THAT MAY BE ALLOWED IN RELATION TO INCOME TAX AND CORPORATION TAX RELIEFS SUPPORTING THE PROPOSED TRUST
(5)	WE RECOMMEND THAT A LIMITED DIRECT CONTRIBUTION BE PROVIDED BY THE EXCHEQUER DURING THE INITIAL START-UP PERIOD TOWARDS THE ENDOWMENT FUNDING REQUIRED TO UPKEEP/MAINTAIN HERITAGE PROPERTIES THAT ARE TRANSFERRED TO TRUST
(6)	WE RECOMMEND THAT A STANDING COMMITTEE BE ESTABLISHED WITH THE FUNCTION OF ASCERTAINING THE SUITABILITY OF HERITAGE PROPERTIES BEFORE THE LATTER ARE ACQUIRED BY THE TRUST. APPROPRIATE CONDITIONS FOR ACCEPTANCE, AND DECLARATION OF 'INALIENABILITY', OF PROPERTIES SHOULD BE SET OUT IN THE PROPOSED LEGISLATION, WHICH SHOULD INCLUDE THAT PROPERTIES MUST DEMONSTRATE THAT THEY HAVE SIGNIFICANT CULTURAL VALUE, WHILE ALSO PERMITTING THE ASSESSMENT BODY TO SPECIFY THE LEVEL OF ENDOWMENT, IF ANY, TO BE PROVIDED ALONG WITH THE PROPERT(IES)
(7)	A REVIEW SHOULD BE UNDERTAKEN OF THE CURRENT POLICY OF GRANTS AND TAX RELIEFS IN THE HERITAGE AREA, WHICH, <i>INTER ALIA</i> , INVESTIGATES THE SCOPE FOR RE-TARGETING OF BENEFITS.
(8)	ON-GOING POLICY INITIATIVES TO SUPPORT THE MAINTENANCE OF HERITAGE PROPERTIES IN PRIVATE OWNERSHIPS ARE ALSO REQUIRED

### Conclusion

Our independent view is that there is a justifiable case for National Trust legislation and that in addition to the heritage and tourism benefits it could result in potential savings in exchequer costs arising from the fact that the Trust would reduce the need for the State to purchase and operate additional heritage properties. There are however likely to be a very limited number of significant heritage properties in private ownership which would over the medium term be potential candidates for ownership by a National Trust and that other on-gong policy will be required to support most heritage properties in private ownership.

# 1 Introduction and Background

- 1.1 This report was prepared for the Department of the Environment, Heritage and Local Government by Indecon International Economic Consultants. The report concerns an examination of the issue of trust-type or other approaches to the management of heritage (built and natural) properties in Ireland.

## Background

- 1.2 Ireland has a rich natural and built cultural heritage. The Government supports this in a variety of ways through tax incentives or through various grants and financial supports. Occasionally, the Government makes purchases of properties that are deemed to be of significant cultural value and where it is deemed that the State has a role on preserving the asset and making it available to the people of Ireland. The owners of heritage properties inevitably incur significant costs of restoration and maintenance. In some cases, existing owners may not be in a position to meet these costs with implications for the integrity of the property. The issue arises as to the appropriate role for the State in ensuring that the integrity of the buildings are not compromised and that their heritage value is maintained. Given the competing demands for State resources, it was decided by the Government following an independent heritage report and representations from interested groups that trust-type legislation be considered which could assist in preserving this heritage in a cost efficient manner. This study takes place within this context.

## Terms of Reference

- 1.3 The main objective of this study is to provide an analysis of the issue of trust-type or other arrangements for the ownership and management of heritage properties in Ireland that are under threat. A number of specific tasks for this study were set out by the Department of the Environment, Heritage and Local Government, as follows:
- To undertake an analysis of the costs and benefits to the economy in general, and to the State's overall heritage conservation and protection objectives in particular, of making provision for trust-type legislation or other legislation especially as it might apply to safeguarding heritage properties which are likely to be under threat in the future;

- To undertake an examination of relevant legislation and practice in Ireland and other jurisdictions, which relate to trust-type or similar organisations, including any tax incentives or any other economic instruments applied in support of the work of such organisations;
- In the light of (1) and (2) above, to put forward suitable models for the operational arrangement of trust-type or other organisations that would be feasible in the Irish context, including the manner in which legal ownership would operate; and,
- To quantify the impact on the Exchequer of any tax incentives or economic instruments.

1.4 It should be noted that the terms of reference set by the Government for the study are focused on particular issues and it is outside the scope of the study to consider in detail other aspects of protecting Ireland's heritage.

## Structure of Report

1.5 This report is structured as follows: in Section 2 we review the existing Irish and overseas research on the value of heritage and heritage conservation, describing in particular the nature and benefits of heritage generally, types of heritage assets and approaches to valuing heritage assets and the heritage environment. In Section 3 we review the State's involvement in the ownership and management of heritage properties. Section 4 focuses on heritage properties in private ownership and describes the nature of privately owned properties and the conservation challenges facing owners. Section 5 presents a review of heritage policy and heritage bodies in Ireland. In Section 6 we review the existing nature and extent of tax and grant supports for heritage in Ireland. In Section 7 we undertake a detailed examination of the experience and approaches to heritage organisation and management in other countries internationally and examine the extent of application of trust-type and other approaches including the use of tax incentives and other economic instruments. The last three sections focus on identifying potential policy options and the feasibility issues associated with the application of trust-type arrangements. In Section 8 we present a detailed discussion of policy issues, including an assessment of the potential costs and benefits of trust proposals and the quantification of potential Exchequer costs. Section 9 examines the feasibility of trust proposals and presents our conclusions on selected potential models, in addition to the appropriate features of trust-type arrangements. Finally, in Section 10 we present our recommendations.

## Methodological Approach to Study

1.6 Our methodological approach to this study has entailed the following elements:

- Review of international experience and policy:
  - Examination of legislative approach in different jurisdictions;
  - Review of experience in different countries.
  
- Extensive consultation programme, involving:
  - Meetings with a wide range of representative organisations;
  - Meetings with key Government Department and agencies;
  - Meetings with selected owners of heritage properties.
  
- Review of submissions/reports from representative organisations, including:
  - An Taisce;
  - Irish Georgian Society;
  - The Heritage Council;
  - The Irish Landmark Trust;
  - The Dublin Civic Trust;
  - The Hidden Ireland.
  
- Detailed review of previous research on heritage ownership and management in Ireland, and detailed examination of experience internationally;
  
- Analysis of available statistics and empirical evidence on value and impact of heritage assets. Relevant data examined has included:
  - Data on Section 482 incentive, including nature of properties and take-up of incentive;
  - Data on level and type of heritage grants provided by the Heritage Council;
  - Data on other tax incentives, including relief for donation of heritage items, from the Revenue Commissioners;
  - Data on numbers and types of heritage properties supplied to the team by the Department and various heritage organisations including An Taisce, Irish Georgian Society, the Heritage Council, OPW, and the Dublin Civic Trust;
  - Data on visitor attractions from Failte Ireland;
  - Other relevant statistical and other data.

- Survey of owners of heritage properties and invitation to owners as part of survey to submit any comments or suggestions to the consultancy team:
  - We targeted to receive of the order of 15-20 sample responses from individual owners. In the event, we received responses from a total of 89 owners. A total of 425 surveys were distributed to significant individual privately owned heritage properties throughout the State, which included properties on the Section 482 database, properties surveyed in Dooley (2003) and additional properties highlighted by the Irish Georgian Society.
  
- Identification of key policy options and feasible trust models for Ireland;
- Identification of key costs and benefits associated with trust-type arrangements;
- Identification of advantages and disadvantages of identified potential policy options/approaches;
- Quantification of potential Exchequer costs.

## Acknowledgements and Disclaimer

- 1.7 The consultancy team would like to acknowledge the invaluable assistance given to the team by Mary Moylan, Liam O'Connell, Freddie O'Dwyer and Paul McNally at the Department of the Environment, Heritage and Local Government. We also wish to thank the Department of Arts, Sport and Tourism, the Revenue Commissioners, the Office of Public Works, An Taisce, the Heritage Council, the Irish Georgian Society, The Hidden Ireland, the Irish Landmark Trust, the Dublin Civic Trust, Failte Ireland, Fota House Trust, and the Alfred Beit Foundation. We would also like to thank a number of heritage organisations internationally including, in particular, the National Trust for England, Wales and Northern Ireland, the Australian Council of National Trusts, and the National Trust for Western Australia. In addition, we would like to thank a large number of individuals for their inputs, including Dr Terence Dooley, David Davies, Desmond Fitzgerald, Henry Mount Charles, Susan Kellett, Mary Bryan, George Gossip, and Professor Patrick Boylan. Finally, we would particularly like to express our sincere thanks to the large number of owners and individuals associated with heritage properties throughout Ireland for their ongoing cooperation and assistance with this study.
- 1.8 The usual disclaimer applies, however, and the independent views and analyses in this report are the sole responsibility of Indecon.

## 2 Review of Previous Research on Value of Heritage

- 2.1 Before considering the nature of the challenge involved in sustaining heritage properties in Ireland, it is important to understand the nature of heritage assets and the cultural and economic benefits that derive from these assets.

### Nature and Benefits of Heritage

- 2.2 While various interpretations are possible, one useful definition of 'heritage' which fits within the present context is as follows:

“the evidence of the past, such as historical sites, buildings and the natural environment, considered collectively as the inheritance of present-day society.”<sup>4</sup>

- 2.3 More broadly and within the Irish context, it is instructive to restate the interpretation of heritage as set out in the introduction to the National Heritage Plan:

“While our heritage is inextricably intertwined with our sense of identity, it also affirms the historic, cultural and natural inheritance which is shared on the island of Ireland. For present and future generations who will live in Ireland that inheritance has the ability to enhance and enrich the context of everyday existence. It has the capacity to vividly convey to visitors and those living in Ireland alike what it means to be Irish. In short, our heritage is a presence which physically expresses the essence and the heartbeat of our collective historical identity.”<sup>5</sup>

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<sup>4</sup> Collins Dictionary of the English Language, 2<sup>nd</sup> Edition

<sup>5</sup> *National Heritage Plan for Ireland*, Department of Arts, Heritage, Gaeltacht and the Islands, April 2002.

2.4 What are the benefits associated with heritage, both built and natural, and how can these benefits be valued? What is clear from the definitions presented above is that our heritage embodies significance and worth in a wide variety of ways, many of which are not directly amenable to monetary or economic valuation. Previous research has identified a number of ways in which heritage and the historic environment in particular may be valued by society. According to English Heritage (2003)<sup>6</sup>, these benefits include:

- ❑ Individuals and communities derive identity and meaning for the historic environment;
- ❑ The benefits of historic buildings in terms of providing places to live and work;
- ❑ The satisfaction gained from visiting or viewing historic places, sites and green spaces;
- ❑ The 'option value' derived from historic places, in that people can benefit from the fact that they exist and might be visited in the future;
- ❑ Historic places have 'existence value' in that people appreciate their existence even though they may never plan to visit them;
- ❑ The preservation of heritage assets creates employment and training opportunities, including from tourism activity and through restoration and maintenance work;
- ❑ The satisfaction and skills derived from participating in the historic environment, for instance as a volunteer;
- ❑ Preserving the historic environment now has benefits for future generations;
- ❑ Heritage and the historic environment have widespread educational value and can be a useful learning tool for school children.

2.5 Also of relevance is the issue of educational and other benefits as highlighted in the recently published report from the Attingham Trust.<sup>7</sup>

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<sup>6</sup> See, for example, *Heritage Counts 2003: The State of the Historic Environment* – report published by English Heritage, 2003, Chapter 2. (<http://www.english-heritage.org.uk/heritagecounts/>).

<sup>7</sup> See 'Opening Doors: Learning in the Historic Environment,' Published by the Attingham Trust ([www.attinghamtrust.org](http://www.attinghamtrust.org)).

2.6 In relation to the particular benefits of heritage and the historic environment in the area of education and learning, it is instructive to also note some of the key findings of a recent study completed in 2004 by The Attingham Trust for the Study of Country Houses and Collections.<sup>8</sup> The study examines what is being achieved in the area of learning from the historic environment, both in the UK and the Republic of Ireland. Among the main findings of this study were the following:

- “The historic environment has the potential to stimulate people of all ages, from all socio-cultural groups, to develop their creative, rational and imaginative powers, to participate more fully in society as citizens and as equal partners, and to deepen their understanding of their local, natural, regional, national and global environments;
- Leisure and recreation play a significant role in enhancing our quality of life and opening the door to new interests and activities which deliver learning, especially for new audiences;
- While public, voluntary and private bodies spend many millions each year in conserving the historic environment, proportionately small sums are dedicated to helping people enjoy and understand these buildings and sites”.

2.7 The Attingham Trust study included an analysis of 40 historic properties in the Irish Republic, carried out between 2001 and 2003, with the objective of completing a more comprehensive view of learning across the country. A summary of the findings from this research is presented in the table overleaf. In summary, while the research notes that case studies of good practice provide specific examples of educational excellence in the Republic, with the exception of those sites that have made a determined effort to develop education, “the idea of using a historic property as a learning resource is largely absent in the Irish heritage sector”.<sup>9</sup> According to the author, “this is borne out by the limited number of posts for education staff and the scant annual funding for resources or salaries. Education is not seen as a unique and valuable service.”

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<sup>8</sup> Waterfield, Giles (Ed.), *Opening Doors: Learning in the Historic Environment – An Attingham Trust Report*, The Attingham Trust for the Study of Country Houses and Collections, June 2004.

<sup>9</sup> Ibid. Page 139.

<b>Table 2.1: The Attingham Trust (2004) – Survey of 40 Historic Properties in the Republic of Ireland – Involvement in Education &amp; Learning</b>	
<b>Education/Learning Involvement</b>	<b>% of Properties/Sites</b>
Cater for extensive education*	22
Employ staff with specific responsibility for education	17
Cater for Outreach activities	12
Invest less than £1,000 annually in educational resources	85
Invest less than £5,000 annually in educational resources	15
Source: The Attingham Trust (2004)	
* Defined by providing three or more activities	

The author also highlights a number of issues in relation to guided tours of historic properties/sites in Ireland, namely that:

- ❑ “Training provision for guides was weak, a fact that was evident from presentations;
- ❑ Information was selective, i.e. guides had three or four points to offer but lacked an all-round approach. This became obvious when the public requested information on other areas of the site and collections;
- ❑ Information was rarely, if ever, adequately addressed to the level of the group.”

## Types of Heritage Assets

- 2.8 What types of assets fall under the definition of heritage? One approach is to classify heritage assets as relating to either the built or natural environment. Each of these areas may encompass a wide variety of assets. A broad definition of built heritage properties is provided under Section 482 of the Tax Consolidation Act 1997 (described further in Section 5), which provides tax relief in respect of buildings/gardens that are “intrinsically of significant horticultural, scientific, historical, architectural or aesthetic interest”.
- 2.9 A description of some of the main types of heritage assets in Ireland that fall within the built environment is provided in Figure 2.1. While a broad spectrum of built assets could be considered as having heritage value, notable examples include houses and castles, religious buildings, forts and fortresses, monuments, industrial buildings and social/political buildings of historic and other interest.

Figure 2.1: Types of 'Built' Heritage Assets	
Heritage Assets - 'Built' Environment	Description
Houses, stately homes and manors, demesnes, cottages and other dwellings	Includes single historic and modern era houses and estates with surrounding land or 'curtilage'.
Castles	As above
Churches, Abbeys, Friaries, Burial Sites, Monastic Sites	Religious buildings
Forts and fortresses	Mainly non-religious archaeological and pre-historic built sites
Monuments	May include archaeological and other monuments of note
Industrial buildings	Includes, for example, mills, distilleries and textile factories.
Social/Political/Cultural buildings	Museums, gaols, historical political buildings and visitor centres
Other built heritage	Other built assets of cultural, historic or other interest, for example, wrecks
Source: Indecon	

- 2.10 As in the case of built heritage, a broad definition of natural heritage could encompass a wide variety of assets. However, a range of the most commonly cited natural heritage assets is shown in Figure 2.2.

<b>Figure 2.2: Types of 'Natural' Heritage Assets</b>	
<b>Heritage Assets - 'Natural' Environment</b>	<b>Description</b>
Landscapes	Includes gardens/parklands, and National Parks
Flora and fauna	Plants and wildlife
Wildlife habitats and nature reserves	Specific habitats, e.g. bird sanctuaries
Peatlands and marshes	Wetlands with cultural and historic interest
Rivers, lakes and inland waterways	As above
Marine habitats and other marine heritage	Includes seascapes, marine wildlife habitats and other marine heritage
Geological heritage	Includes caves and other natural geological sites and artefacts
Other natural heritage	Other natural assets of cultural, historic or other interest
Source: Indecon	

2.11 The diverse nature of heritage assets in Ireland has important implications for the challenges involved in sustaining these assets. In Section 4 and 5 of this study we investigate the scale of the heritage challenge by reviewing those heritage properties that are privately owned and those that are owned by the State. We also review the available research on the costs of restoration and upkeep of such properties.

## Valuing the Heritage Environment

### International Research on Measuring the Value of Heritage

- 2.12 There are inherent problems associated with the measurement of the value of heritage, as many of the benefits identified above are not directly expressible in monetary terms. A country's heritage may be described as a 'public good' in so far as individuals can derive satisfaction and benefit from heritage assets even if they do not directly pay for these assets.
- 2.13 Notwithstanding the limitations on valuing heritage, the fact that heritage assets command widespread public benefits and, in particular, raise considerable concerns in relation to neglect of these assets, highlights the need to value this important resource if it is to be conserved for future generations.
- 2.14 Economists have developed a number of approaches to placing a monetary value on heritage resources. Of those investigated, the following three approaches have been most commonly applied (see Allison (1996), namely<sup>10</sup>:
- The 'hedonic' property pricing approach, which assesses the impact of different property attributes on price;
  - The 'travel cost' approach, which utilises data on the costs of travel by visitors to heritage sites as a proxy to estimate the value placed by visitors on such sites;
  - The 'contingent valuation' approach, which utilises survey techniques to ascertain from visitors to heritage sites a monetary value on their 'willingness-to-pay' to enter a site.
- 2.15 In the Irish policy context, a significant focus has traditionally been placed on the tourism benefits deriving from heritage properties.

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<sup>10</sup> See Allison G., Ball S., Cheshire P., Evans A. and Stabler M., *The Value of Conservation*, Department of National Heritage, English Heritage and the Royal Institution of Chartered Surveyors, 1996.

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**Research on the Socio-economic Contribution of Heritage**

- 2.16 A number of research studies have been completed in the UK, which examine the socio-economic and tourism value of preserving heritage assets. It is instructive to note the key findings of this research, which are presented below.
- 2.17 According to the National Trust for England, Wales and Northern Ireland, the significance of the natural and historic built environment to the wider economy lies in its capacity to generate income through four areas including: tourism and day visitor spend, people engaged in farming, forestry and fisheries, environmental goods and services, and quality of life.<sup>11</sup>
- 2.18 The cumulative effects of falling farm incomes, BSE, Foot and Mouth Disease, and the associated short-term collapse in visits to our countryside have, according to the Trust, served to emphasise how much the future of our countryside and its communities are vulnerable to events in one sector.<sup>12</sup>
- 2.19 The National Trust for England, Wales and Northern Ireland has undertaken extensive research on the economic value of the environment and the regional economic impact of the National Trust. A national summary document was published by the Trust in 2001.<sup>13</sup> It is instructive to note the key findings from this research, as follows:
- ❑ 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%;
  - ❑ In Wales and Cumbria, tourism day visits generated between STG£344 million in 2000 and STG£893 million in 1998 respectively, while holiday stay accounted for STG£468 million in 2000 and STG£895 million in 1999 respectively;
  - ❑ Between the North East, Wales, the South West and Cumbria, it is estimated that the National Trust employed a total of 1966 Full Time Equivalent jobs directly on administration/properties/estate management. Depending on the size of its operations in each region, it is estimated that the National Trust generates between 5 and 9 additional Full Time Equivalent jobs for each job for which it is directly responsible in these regions.

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<sup>11</sup> The National Trust – *An Overseas Perspective on the National Trust for England, Wales and Northern Ireland* – document provided to the consultancy team by the National Trust.

<sup>12</sup> Ibid.

<sup>13</sup> The National Trust for England, Wales and Northern Ireland, *Valuing our Environment*, published in 2001. See <http://www.nationaltrust.org.uk/main/policy/valuingenvironment.html>.

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- 2.20 The studies also challenge the accepted wisdom, reflected in most tourism strategies, that holiday staying visits are always more economically beneficial than day visits. Evidence from Wales and Cumbria indicates that day visit expenditure, especially in rural areas, can be as economically powerful as staying visits. This trend is confirmed in the latest (1998) official data for 'tourism day visits' in Britain that shows a shift in the relative importance of 'day' and 'stay' visits in the 1990s. Indeed, because tourism day visits are year round, they suggest that this can be more valuable locally than seasonal holiday visits. Indeed, however, see a particular importance in holiday stays, including the benefits generated from foreign exchange revenues.
- 2.21 In April 2004, the Northern Ireland office of the National Trust produced research on the socio-economic contribution of the National Trust.<sup>14</sup> It is instructive to note the key findings from this study in relation to the main economic impacts of the National Trust in Northern Ireland. According to the report on the study:
- "The Trust had a turnover of just under £7.4m [just under €11m<sup>15</sup>] in 2002, which is equivalent to the size of a medium business (around 1.5% of all VAT registered businesses in Northern Ireland had a turnover greater than £5m [€7.4m]);
  - Over 60% of the Trust's income (just over £4.5m [€6.7m]) is drawn in from outside Northern Ireland, mainly from the Trust centrally and as such represents a net benefit to the local economy;
  - It is estimated that the National Trust spend around £4.5m [€6.7m] on the acquisition of properties and the purchase of goods and services within Northern Ireland in 2002;
  - After including multiplier effects, total local spending amounts to between £4.9m [€7.3m] and £6.3m [€9.3m] annually;
  - The Trust spends around £3m [€4.4m] on salaries and wages employing directly over 400 individuals in Northern Ireland;
  - In addition to the jobs directly supported by the Trust a further 230 jobs are supported through tenant businesses and the Trust provides opportunities for volunteers who worked for over 50,000 hours in 2003;

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<sup>14</sup> The National Trust and PricewaterhouseCoopers, *Valuing Our Environment: The Economic Impact of the National Trust in Northern Ireland*, March 2004.

<sup>15</sup> At exchange rates prevailing in May 2004.

- Total employment generated by the Trust including both direct and indirect employment is therefore estimated to be almost 650;
- This employment is distributed throughout Northern Ireland and provides important employment opportunities in a number of disadvantaged areas;
- 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; and
- Visitors to National Trust properties contributed towards around £58 million [€85.9 million] in tourist spend, helping to support between 1,400 and 2,500 jobs in the industry."

2.22 According to the study, a total of 53 properties were in the care of the National Trust for Northern Ireland in 2002, of which 32 properties record visitor numbers. Among the latter properties, known visitor numbers totalled 967,700 in 2002.

## Summary of Findings

- 2.23 In this section we reviewed previous research on the value of heritage and heritage conservation internationally. We summarise below the key findings from our research.
- 2.24 'Heritage' can encompass a wide range of assets, including built and natural heritage assets. One broad definition of built heritage properties is provided under Section 482 of the Tax Consolidation Act 1997, which provides tax relief in respect of buildings/gardens that are "intrinsically of significant horticultural, scientific, historical, architectural or aesthetic interest". The diverse nature of heritage assets in Ireland has important implications for the challenges involved in sustaining these assets.
- 2.25 There are inherent problems associated with the measurement of the value of heritage, as many of the benefits identified above are not directly expressible in monetary terms. A country's heritage may be described as a 'public good' in so far as individuals can derive satisfaction and benefit from heritage assets even if they do not directly pay for these assets. In the Irish policy context, a significant focus has traditionally been placed on the tourism benefits deriving from heritage properties.
- 2.26 According to research undertaken by English Heritage (2003), there are a number of ways in which heritage and the historic environment in particular may be valued by society benefits, as follows:
- ❑ Individuals and communities derive identity and meaning for the historic environment;
  - ❑ The benefits of historic buildings in terms of providing places to live and work;
  - ❑ The satisfaction gained from visiting or viewing historic places, sites and green spaces;
  - ❑ The 'option value' derived from historic places, in that people can benefit from the fact that they exist and might be visited in the future;
  - ❑ Historic places have 'existence value' in that people appreciate their existence even though they may never plan to visit them;
  - ❑ The preservation of heritage assets creates employment and training opportunities, including from tourism activity and through restoration and maintenance work;
  - ❑ The satisfaction and skills derived from participating in the historic environment, for instance as a volunteer;
  - ❑ Preserving the historic environment now has benefits for future generations;

- ❑ Heritage and the historic environment have widespread educational value and can be a useful learning tool for school children.

2.27 In relation to heritage tourism benefits in other countries, research published the National Trust for England, Wales and Northern Ireland 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%;
- ❑ In Wales and Cumbria, tourism day visits generated between STG£344 million in 2000 and STG£893 million in 1998 respectively, while holiday stay accounted for STG£468 million in 2000 and STG£895 million in 1999 respectively;
- ❑ 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; and
- ❑ Visitors to National Trust properties in Northern Ireland contributed towards around £58 million [€85.9 million] in tourist spend, helping to support between 1,400 and 2,500 jobs in the industry.

### 3 Review of State-owned Heritage Properties

- 3.1 While the focus of this study, as per the terms of reference, is on private sector properties that are likely to be under threat in the future, as part of our assessment, we also described the State's involvement in the ownership and management of heritage properties in Ireland. In this section we describe the State's involvement in the ownership and management of heritage properties in Ireland. We firstly describe the numbers and types of heritage properties. We then look at the extent of visitor interest and revenues generated from members of the public. Finally we consider the annual management and capital costs associated with the operation of state-managed heritage properties.

#### Background and Nature of State Involvement

- 3.2 The State, through various channels, has a major involvement in both the ownership and management of built and natural heritage properties in Ireland. In this section we describe the nature of State ownership and management of heritage properties and review the level of activity associated with these properties, including tourism and other activities.
- 3.3 State-owned heritage properties in Ireland are managed by a variety of government departments, agencies and local authorities, including:
- ❑ Properties managed directly by Government Departments;
  - ❑ Properties managed by the Office of Public Works;
  - ❑ Properties managed by state agencies; and
  - ❑ Properties owned and managed local authorities.
- 3.4 It should be noted that the state's involvement in the ownership and management of heritage assets ranges extensively across the built and natural heritage areas and includes houses/castles/demesnes and surrounding estates/gardens/parkland, national parks, forest parks, and national monuments and archaeological sites. A full description of all state-managed heritage assets is beyond the scope of this study. However, in Annex 3 we present a listing of heritage properties currently in state care that are open to the public.
- 3.5 In the remainder of this section we identify key built and natural heritage properties and describe the recent levels of tourism activity associated with those properties that are open to the public. We also consider the annual current and capital costs associated with the operation of state-owned heritage properties.

### Properties Owned/Managed by Government Departments

- 3.6 A number of built and natural heritage properties owned by the State are managed directly by government departments. Some of the key properties are listed in the table below and include properties in the care of the Department of Justice, Equality and Law Reform, the Department of Education and Science and the Department of the Environment, Heritage and Local Government. The list is not meant to be comprehensive and other key heritage properties owned by the State and used for other purposes include Dublin Castle, Áras an Uachtaraín, Royal Hospital, Farmleigh, Government Buildings etc.

<b>Table 3.1: Heritage Properties in State Ownership/Management: Selected Built and Natural Heritage Properties Owned and Managed Directly by Government Departments</b>		
<b>Property</b>	<b>Location</b>	<b>Owned and Managed By:</b>
Shelton Abbey	Wicklow	Department of Justice, Equality and Law Reform
Tyrone House	Dublin	Department of Education and Science
Muckross House and Gardens	Kerry	Department of the Environment, Heritage and Local Government (DoEHL)
Glenveagh Castle and National Park	Donegal	DoEHL National Parks and Wildlife Division
Connemara National Park	Galway	DoEHL National Parks and Wildlife Division
Owenduff	Mayo	DoEHL National Parks and Wildlife Division
The Burren	Clare	DoEHL National Parks and Wildlife Division
Killarney National Park	Kerry	DoEHL National Parks and Wildlife Division
Wicklow Mountains National Park	Wicklow	DoEHL National Parks and Wildlife Division
Doneraile	Cork	DoEHL National Parks and Wildlife Division
Source: Department of the Environment, Heritage and Local Government and Dooley (2003) <sup>16</sup> .		

<sup>16</sup> Dooley, Terence. *A Future for Irish Historic Houses? A Study of Fifty Houses*, study sponsored by the Irish Georgian Society and the Department of the Environment, Heritage and Local Government. September 2003.

### Properties Managed by the Office of Public Works

- 3.7 In Table 3.2 below we list properties currently managed by the Office of Public Works. These include some 20 high profile properties currently in state ownership or in the process of being transferred to the state. Additional properties in State care are listed in Annex 3.

<b>Table 3.2: Details re State-owned Heritage Properties - Duchas/OPW Historic Properties Service-managed Properties - As at 2004</b>	
<b>Property</b>	<b>Location - County</b>
Altamont Gardens*	Carlow
Garinish Island	Cork
Fota Arboretum	Cork
Glebe Gallery	Donegal
Phoenix Park (including Farmleigh House)	Dublin
National Botanic Gardens	Dublin
St. Stephen's Green	Dublin
War Memorial Park	Dublin
Iveagh Gardens	Dublin
The Garden of Remembrance	Dublin
St. Enda's Museum Park	Dublin
Rathfarnham Castle	Dublin
Derrynane House & Garden	Kerry
Great Blasket Centre	Kerry
Castletown House	Kildare
Kilkenny Castle	Kilkenny
Emo Court	Laois
Heywood Gardens	Laois
Kilmacurragh Arboretum	Wicklow
John F. Kennedy Arboretum	Wexford
Source: Office of Public Works, Historic Properties Service.	
Note: * Altamont Gardens are in the process of formal transfer to the State	
** Fota Arboretum is owned by the Fota Trust	

### Properties Owned/Managed by State Agencies

3.8 A number of state-owned heritage properties are also managed by state agencies. Selected key properties managed by state agencies are shown in Table 3.5. These include properties managed by Coillte, the Irish forestry board, and Teagasc, the agricultural research, advisory and training agency.

**Table 3.3: Heritage Properties in State Ownership/Management: Selected Built and Natural Heritage Properties Managed Directly by State Agencies**

Property	Location	Owned and Managed By:
Avondale House and Forest Park	Wicklow	Coillte
Ards Forest Park	Donegal	Coillte
Curragh Chase Forest Park	Limerick	Coillte
Donadea Forest Park	Kildare	Coillte
Dun An Ri Forest Park	Cavan	Coillte
Farran Forest Park	Cork	Coillte
Guagan Barra Forest Park	Cork	Coillte
Killykeen Forest Park	Cavan	Coillte
Lough Key Forest Park	Roscommon	Coillte
Portumna Forest Park	Galway	Coillte
Rossmore Forest Park	Monaghan	Coillte
Ballyhaise House	Cavan	Teagasc
Bessborough House	Kilkenny	Teagasc
Johnstown Castle	Wexford	Teagasc
Source: Coillte and Teagasc		

### Properties Owned/Managed by Local Authorities

- 3.9 Local authorities are also extensively involved in the ownership and management of various heritage properties throughout the state. Selected examples of major properties owned and managed by Fingal County Council, Dublin City Council, Westmeath County Council and Roscommon County Council are shown in Table 3.6.

<b>Table 3.4: Heritage Properties in State Ownership/Management: Selected Examples of Built and Natural Heritage Properties Owned and Managed by Local Authorities</b>		
<b>Property</b>	<b>Location</b>	<b>Owned and Managed By:</b>
Ardgillan Castle	Dublin	Fingal County Council
Malahide Castle	Dublin	Fingal County Council
Newbridge House	Dublin	Fingal County Council
Charlemont House/Hugh Lane Municipal Gallery	Dublin	Dublin City Council
Belvedere House	Westmeath	Westmeath County Council
King House	Roscommon	Roscommon County Council
Source: Fingal County Council, Dublin City Council, Westmeath County Council and Roscommon County Council.		

- 3.10 The above properties constitute the key built and natural heritage properties owned by the State and managed by Government Departments, state agencies (including the OPW) and local authorities. The vast majority of these properties are open to the public. However, it should be noted that the above description does not reflect the entire totality of historic or heritage properties owned and managed by the State. The analysis, however, highlights the multiplicity of organisations involved in the ownership and management of state-owned heritage properties.

## Tourism Activity at State-Owned Heritage Properties

- 3.11 As noted in Section 2, an important aspect of the overall socio-economic impacts deriving from conservation of heritage property concerns the impacts in relation to tourism activity. To what extent do State-owned heritage properties contribute to tourism activity? In this sub-section we examine recent tourism visitor numbers and revenue receipts from admission to publicly accessible heritage properties.
- 3.12 In the table below we describe the numbers of visitors in 2002 and 2003 attending those historic properties managed directly by the Office of Public Works for which visitor numbers are tracked. Overall, a total of 465,478 people visited the eleven OPW-managed historic properties for which visitors numbers are tracked during 2003. This compared with 440,011 visitors in 2002, implying a 5.8% annual increase. The most important site when measured by visitor numbers was Kilkenny Castle, which attracted 184,904 visitors in 2003. The low level of attendance at some of these properties is, however, of significance in considering the issue of the feasibility of developing self-sustaining trusts in the Irish context.

**Table 3.5: Details re State-owned Heritage Properties - Office of Public Works-managed Historic Properties - Visitor Numbers for Properties Tracking Visitors - 2002/2003**

Property	Visitor Numbers			
	2003	2002	Average 2002/2003	% change - 2003/2002
Kilkenny Castle	184,904	182,698	183,801	1.2
John F. Kennedy Arboretum	89,381	79,440	84,411	12.5
Garinish Island	69,493	64,361	66,927	8
Great Blasket Centre	47,363	39,319	43,341	20.5
Phoenix Park Visitor Centre	14,841	18,580	16,711	-20.1
Derrynane House & Garden	16,991	15,970	16,481	6.4
Altamont Gardens*	15,239	12,123	13,681	25.7
Castletown House	10,935	11,588	11,262	-5.6
Glebe Gallery	9,586	9,005	9,296	6.5
Rathfarnham Castle	3,769	3,818	3,794	-1.3
Emo Court	2,976	3,109	3,043	-4.3
<b>Total of Above Properties</b>	<b>465,478</b>	<b>440,011</b>	<b>452,745</b>	<b>5.8</b>

Source: Office of Public Works, Historic Properties Service.  
 Note: \* Altamont Gardens are in the process of formal transfer to the State  
 \*\* Fota Arboretum is owned by the Fota Trust  
 "N/a" - visitor numbers not tracked

- 3.13 It is also important to note that most of the heritage sites in state care which are listed as Annex 3 have visitor records and in Annex 3 the total visitor numbers recorded at this wider range of sites are outlined. The figures show that visitor numbers at these sites in 2003 were over 2.4 million. Among the sites attracting the highest number of visitors were (i) Rock of Cashel, (ii) Bru na Boinne, and (iii) Muckcross.
- 3.14 In Table 3.6 we profile the receipts generated from public visits to OPW-managed historic properties charging for admission during 2002 and 2003. Total receipts across the eleven properties managed by the OPW and which charged for admission to the public came to €1.14 million in 2003 and just over €1 million in 2002, implying a 13.7% increase over this period. During the 2003 season, total visitor receipts across these properties varied between €3,941 in the case of Rathfarnham Castle in Dublin and a maximum of €628,939 in the case of Kilkenny Castle. It is notable that of the eleven properties shown, four properties experienced significant declines in visitor receipts in 2003. The variability in receipts and annual growth in receipts is, however, likely to be heavily influenced by location of properties.

**Table 3.6: Details re State-owned Heritage Properties - Office of Public Works-managed Historic Properties - Visitor Receipts for Properties Charging for Admission - 2002/2003 - €**

Property	Visitor Receipts - €			
	2003	2002	Average 2002/2003	% change - 2003/2002
Kilkenny Castle	628,939	564,406	596,672	11.4
Garinish Island	178,713	151,177	164,945	18.2
John F. Kennedy Arboretum	119,441	101,396	110,418	17.8
Great Blasket Centre	99,679	76,723	88,201	29.9
Derrynane House & Garden	35,420	29,676	32,548	19.4
Castletown House	25,165	28,715	26,940	-12.4
Altamont Gardens*	22,737	18,349	20,543	23.9
Phoenix Park Visitor Centre	11,814	12,727	12,271	-7.2
Glebe Gallery	11,655	12,791	12,223	-8.9
Emo Court	4,898	5,126	5,012	-4.5
Rathfarnham Castle	3,941	3,893	3,917	1.2
<b>Total of Above Properties</b>	<b>1,142,400</b>	<b>1,004,980</b>	<b>1,073,690</b>	<b>13.7</b>

Source: Office of Public Works, Historic Properties Service.  
 Note: \* Altamont Gardens are in the process of formal transfer to the State

- 3.15 In the table below we present an analysis of the average level of receipts per visitor to selected OPW managed heritage properties in 2002 and 2003. The figures for OPW managed properties charging for admission during 2002 and 2003 indicate a significant variance in the average level of visitor receipts generated, which is strongly correlated with the level of admission charges at each property. During the 2003 season, the average level of visitor receipts among the 11 properties shown varied between a low of €0.80 and a high of €3.40 per visitor, or an average of €1.82 per visitor across all properties. This compares with a range of €0.69-€3.09 or an average of €1.75 in 2002, implying an average increase of 3.7% between 2002 and 2003.

<b>Table 3.7: Details re State-owned Heritage Properties - Office of Public Works-managed Historic Properties - Average Receipts per Visitor - 2002/2003</b>				
Property	Average Receipts per Visitor - €			
	2003	2002	Average 2002/2003	% change - 2003/2002
Altamont Gardens*	1.49	1.51	1.50	-1.4
Garinish Island	2.57	2.35	2.46	9.5
Glebe Gallery	1.22	1.42	1.32	-14.4
Phoenix Park Visitor Centre	0.80	0.69	0.74	16.2
Rathfarnham Castle	1.05	1.02	1.03	2.5
Derrynane House & Garden	2.08	1.86	1.97	12.2
Great Blasket Centre	2.10	1.95	2.03	7.9
Castletown House	2.30	2.48	2.39	-7.1
Kilkenny Castle	3.40	3.09	3.25	10.1
Emo Court	1.65	1.65	1.65	-0.2
John F. Kennedy Arboretum	1.34	1.28	1.31	4.7
Average of above average receipts	1.82	1.75	1.79	3.7
Standard deviation of above average receipts	0.76	0.69	0.72	
Source: Office of Public Works, Historic Properties Service.				
Note: * Altamont Gardens are in the process of formal transfer to the State				

- 3.16 It is important to note that the above tourism activity figures associated with State-owned heritage properties should be placed in the context of a long-term decline in visiting activity to many heritage properties in the State, a feature that has been highlighted in the existing research.<sup>17</sup>

<sup>17</sup> See, for example, Dooley (2003), which points out that “visiting historic houses in Ireland probably reached its peak in the 1980s. Since then, owners claim to have noticed a considerable decline in numbers”, Page 29.

## Expenditures Associated with State-owned Heritage Properties

3.17 The costs of the State's involvement in heritage properties includes the following elements:

- ❑ Costs of policy and central administration;
- ❑ Capital costs of securing properties and providing for major refurbishments;
- ❑ Ongoing operational costs.

3.18 It is instructive to consider the nature of operational costs in some detail. In the table below we present an indication of the typical annual costs associated with the operation of a sample of ten state-owned heritage properties, based on anonymised data supplied by the Office for Public Works.

Table 3.8: Annual Current and Capital Expenditures Associated with Operation of State-Owned Heritage Properties - Selected Properties - Average 2002/2003 Expenditures - €							
Site	2002-2003 - Average Expenditures						
	Pay	% of Total	Non Pay	% of Total	Minor Capital	% of Total	Total
Mean <sup>18</sup>	361,883	55.6	165,938	22.0	123,088	22.4	650,909
Standard deviation <sup>19</sup>	677,806		311,424		237,562		1,214,241
Minimum expenditure	0		0		0		76,999
Maximum expenditure	2,268,210		1,025,011		788,834		4,082,054

Source: Indecon analysis of data provided by the Office of Public Works

<sup>18</sup> The mean of a sample of value is the arithmetic average, i.e. the sum of the data divided by the sample size

<sup>19</sup> A measure of the variation around the central class of a distribution; mathematically, it is the square root of the average squared deviation of the observations from their mean value.

- 3.19 Based on average expenditures over the period 2002-2003 across a sample of ten properties, total expenditure on pay, non-pay operational costs and minor capital items averaged €650,909, with pay costs averaging €361,883 (or 55.6% of the total), non-pay operational costs averaging €165,938 (22%) and minor capital items averaging €123,088 (22.4%). There is considerable variation around these averages, however, as evidenced by the figures relating to standard deviations and the minimum and maximum levels of expenditure within the sample. Expenditures on operational and ongoing minor capital costs will vary depending on a variety of factors including the size and purpose of each property, and the scale of operations, including the numbers of staff employed and the nature of public admissions and related activities. Ongoing minor capital costs will be influenced by property-specific requirements for annual upkeep and maintenance.
- 3.20 It should also be noted that these properties do not include state-owned heritage properties used by the State for its own needs, including, for example, Farmleigh, Government Buildings and Áras an Uachtaráin. Nor does it include the national cultural institutions such as the National Museum, National Library and National Gallery, or state-funded educational/university buildings, many of which are of key importance in terms of heritage.
- 3.21 Notwithstanding the above observations, the analysis of a sample of state-owned properties shown above is useful in considering the nature of annual operational and capital costs associated with heritage properties.

## Summary of Findings

- 3.22 In this section we described the State's involvement in the ownership and management of heritage properties in Ireland. We firstly described the numbers and types of heritage properties. We then looked at the extent of visitor interest and revenues generated from members of the public. Finally we considered the annual management and capital costs associated with the operation of state-managed heritage properties. This provides some insights into the potential viability of national trusts. We summarise the key findings from our review below.
- 3.23 The State, through various channels, has a major involvement in both the ownership and management of built and natural heritage properties in Ireland. Ownership and management ranges extensively across the built and natural heritage areas and includes houses, castles, demesnes and surrounding estates/gardens/parkland, national parks, forest parks, and national monuments and archaeological sites. State-owned heritage properties are managed by a variety of government departments, agencies and local authorities, including:
- ❑ Properties managed directly by Government Departments;
  - ❑ Properties managed by the Office of Public Works;
  - ❑ Properties managed by state agencies; and
  - ❑ Properties owned and managed local authorities.
- 3.24 To what extent do State-owned heritage properties contribute to tourism activity? We also examined the recent tourism visitor numbers and revenue receipts from admission to publicly accessible State-owned heritage properties. The key findings were as follows:
- ❑ A total of 465,478 people visited the eleven OPW-managed historic properties examined as part of this study and which visitors numbers are tracked) in 2003, up from 440,011 visitors in 2002, implying a 5.8% annual increase. These properties range from Kilkenny Castle, which had the largest number of visitors (almost 185,000) to houses such as Derrynane House & Gardens (16,991 visitors), Castletown House (10,935 visitors) and Emo Court (2,976 visitors in 2003);
  - ❑ Total receipts across the eleven properties managed by the OPW which charge for admission to the public came to €1.14 million in 2003 and just over €1 million in 2002, implying a 13.7% increase over this period. It is notable, however, that of the eleven properties shown, four properties experienced significant declines in visitor receipts in 2003.

- The low level of attendance at some of these properties is, however, of significance in considering the issue of the feasibility of developing self-sustaining trusts in the Irish context.
  
- 3.25 The costs of the State's involvement in heritage properties includes the following expenditure elements:
  - Costs of policy and central administration;
  - Capital costs of securing properties and providing for major refurbishments;
  - Ongoing operational costs.
  
- 3.26 Based on an analysis of average expenditures across a sample of 10 State-owned heritage properties, over the period 2002-2003 total expenditure on pay, non-pay operational costs and minor capital items averaged €650,909, with pay costs averaging €361,883 (or 55.6% of the total), non-pay operational costs averaging €165,938 (22%) and minor capital items averaging €123,088 (22.4%). There is considerable variation around these averages, however, and expenditures on operational and ongoing minor capital costs will vary depending on a variety of factors including the size and purpose of each property, and the scale of operations, including the numbers of staff employed and the nature of public admissions and related activities. Ongoing minor capital costs will be influenced by property-specific requirements for annual upkeep and maintenance.

## 4 Review of Privately Owned Heritage Properties

4.1 In considering the applicability of trust-type or other management approaches, it is necessary to describe the nature and extent of privately owned heritage properties in Ireland. In this section we draw from a number of sources in identifying the nature and extent of heritage properties in private ownership, namely:

- Review the recent research on heritage properties in private ownership;
- Indecon updated research on heritage properties in private ownership;
- Details of heritage properties assisted under Section 482 tax scheme.

### Review of Previous Research on Heritage Properties

4.2 Extensive research has been undertaken in relation to both built and natural heritage properties in Ireland. Among the key research studies recently completed are the following:

- Dooley (2003)<sup>20</sup>;
- Ashmore (2003)<sup>21</sup>
- Maguire (2004)<sup>22</sup>

4.3 In this section we review the findings from the above studies.

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<sup>20</sup> Dooley (2003), Op. Cit.

<sup>21</sup> Ashmore, David, *An Investigation into the Irish Country House to Determine Provincial Dispersal, Inhabitability and Present Usage, through Specific Analysis of a Select Sample*, Study prepared by Hamilton Osbourne King Country for the Dublin Institute of Technology (Faculty of Built Environment) in partnership with the Irish Auctioneers and Valuers Institute, October 2003.

<sup>22</sup> Dr. Hugh Maguire, *An End to the Open House?* - Heritage Outlook, Summer 2004, Pages 28-29.

**Dooley (2003)**

4.4 One of the most important recent analyses of the built heritage environment in Ireland was completed by Dr Terence Dooley in 2003. According to the report on this study:

“This study set out to underscore the importance to Ireland’s heritage of the surviving historic houses in this country, to ascertain their current status, identify the potential threats to their future and make recommendations to safeguard their future.”<sup>23</sup>

4.5 A sample of 50 houses were selected for this study, with the sample classified according to four categories of houses, as follows:

- ❑ Properties owned by the original families;
- ❑ Properties in new private ownership;
- ❑ Properties owned by private institutions and organisations; and
- ❑ Properties owned by the State;

4.6 In this sub-section we draw on the findings from Dooley’s research in relation to the first three categories above. The findings from his research on State owned properties have been reviewed separately in Section 3.

4.7 It is instructive to identify the properties surveyed by Dooley (2003). In Table 4.1 we identify those properties surveyed that are in the ownership of the original families. The research examined a total of 25 houses in original ownership throughout the State. Of this total, according to Dooley, thirteen operate solely as private residences for the families concerned. These properties are maintained typically through farm incomes or private incomes, in addition, in some cases, to incomes derived from the commercial exploitation of demesnes and gardens, e.g. through tourism activities. According to the study:

“It was found that those [properties] owned by the original families are of particular importance because most of them retain at least some of their original contents, something that adds immeasurably to their historical integrity.”<sup>24</sup>

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<sup>23</sup> Dooley (2003), Op. Cit

<sup>24</sup> Ibid. Page 4.

<b>Table 4.1: Privately-owned Heritage Properties in Ireland - Selected Houses in Ownership of Original Families - 2003</b>			
Property/House	Location - County	Primary Function	
		Family Residence	Family Residence plus Other Functions
Ballinlough	Westmeath		✓
Bantry	Cork		✓
Barmeath	Louth	✓	
Beaulieu	Louth	✓	
Birr Castle	Offaly	✓	
Borris	Carlow	✓	
Castle Leslie	Monaghan		✓
Clonalis	Roscommon		✓
Curraghmore	Waterford	✓	
Dunsany	Meath	✓	
Enniscoe	Mayo		✓
Glin Castle	Limerick		✓
Hamwood	Meath	✓	
Hilton Park	Monaghan		✓
Killadoon	Kildare	✓	
Kilruddery	Wicklow	✓	
Lambay Castle	Dublin	✓	
Lissadell	Sligo	✓	
Lismore	Waterford		✓
Mount Ievers	Clare	✓	
Slane Castle	Meath		✓
Stradbally Hall	Laois	✓	
Temple House	Sligo		✓
Tullynally	Westmeath		✓
Westport	Mayo		✓
Source: Dooley (2003)			

- 4.8 The remaining twelve houses in original family ownership shown above have varying functions, due to the fact that limited farming or other traditional income has forced families to seek alternative means of support for their properties. These properties have had to combine their role of family accommodation with additional functions, most commonly as country house accommodation. According to Dooley, other houses have had their outhouses developed into accommodation centres, some properties have been part let to tenants, while others have branched into various tourism activities.

- 4.9 In addition to houses in original family ownership, Dooley (2003) also examined seven properties owned by a variety of private organisations and institutions. These properties are listed in Table 4.2 and have a variety of functions. It is notable that two of these properties are owned by private foundations or trusts, namely Headfort School and Russborough House. We understand that Aldborough House is currently for sale and that Bellinter has been sold.

<b>Table 4.2: Privately-owned Heritage Properties in Ireland - Selected Properties Owned by Private Institutions and Other Organisations - 2003</b>			
<b>Property/House</b>	<b>Location - County</b>	<b>Owner</b>	<b>Function</b>
Aldborough House	Dublin	Irish Music Rights Organisation	Headquarters
Bellinter	Meath	Sisters of Sion	Convent, and conference/retr eat center
Ely House	Dublin	Knights of Columbanus	Headquarters
Headfort	Meath	Board of Trustees	School
Kylemore Abbey	Galway	Benedictine Nuns	Boarding school and tourist center
Russborough House	Wicklow	Alfred Beit Foundation	Private house and tourism center
Townley Hall	Louth	School of Philosophy and Economic Science	School and retreat center
Source: Dooley (2003)			

- 4.10 A number of private heritage properties surveyed by Dooley (2003) are owned by new private owners. These properties are identified in Table 4.3 overleaf and include houses that have, according to Dooley, "been bought by members of the wealthy business classes with the intention of using them as private residences or converting them for a variety of commercial uses".<sup>25</sup>

<sup>25</sup> Dooley (2003), Op. Cit, Page 13.

Table 4.3: Privately-owned Heritage Properties in Ireland - Selected Properties Owned by Private Owners Other than Original Families - 2003	
Property/House	Location - County
Abbeyleix House	Laois
Ballyfin	Laois
Bellamont Forest	Cavan
Ledwithstown	Longford
Luggala	Wicklow
Strokestown Park	Roscommon
Source: Dooley (2003)	

- 4.11 In relation to the condition of those properties surveyed in Dooley (2003), the study notes that, architecturally, the surviving houses in Ireland are of national and European importance. However, the study highlights that:

“[T]he houses, with very few exceptions, are faced with difficulties which threaten their existence in the future unless immediate steps are taken to avert these threats”.<sup>26</sup>

*Sources of threat to properties*

- 4.12 Dooley (2003) points out a number of sources of threat to many Irish country houses and their estates. These include:
- ❑ Conservation issues;
  - ❑ Income/funding constraints;
  - ❑ Decline in tourism;
  - ❑ Taxation; and
  - ❑ Insurance.

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<sup>26</sup> Ibid. Page 5.

- 4.13 In relation to conservation, Dooley (2003) notes that due to the financial pressures faced by original families during the twentieth century, there have been dramatic conservational consequences for historic houses. According to the study “with very few exceptions, large areas of most of these houses have been allowed to fall into disrepair. This is at least partly because most are over 200 years old but there are other factors involved”. These factors include:
- ❑ A decline in family fortunes combine with a punitive tax regime before the 1980s, which has meant that owners have been unable to afford restoration and conservation costs;
  - ❑ A changing social, political and economic climate;
  - ❑ Decline due to houses becoming much too large for the needs of their owners.
- 4.14 Dooley (2003) also presents an indication of the extent of restoration and conservation problems facing the majority of historic houses in private ownership. According to his survey, “the most common and most expensive restoration problems facing owners relate to roofs. There are owners who have been faced with bills of up to €650,000 for the repair of their roofs”.<sup>27</sup> The research also highlights problems in relation to windows, and general problems with leaks, dampness, and deteriorating plasterwork, ceilings, wallpaper and contents.
- 4.15 In relation to income, Dooley’s research points out that the diminution of estates and farms over the years has meant that twelve out of the 25 historic houses in the ownership of original families have had to seek alternative sources of income to upkeep their properties. This has included opening up properties to the general public and as guesthouses and through other tourism activities, operation as conference centres, weddings and even concerts.
- 4.16 However, in relation to tourism, a decline in visitor numbers to heritage properties from a probable peak during the 1980s has left owners in a more vulnerable financial position in recent years. Moreover, the research observes that even in those cases where visitor numbers appear to be high (for example, in the cases of Muckcross House or Kilkenny Castle), absolute numbers are very small when compared with those visiting the great houses in Britain. This is important in considering the feasibility of a national trust for Ireland.
- 4.17 The relatively small scale of tourism visits to Irish historic properties may have important implications for the long-term scope for generating revenues required to support the ongoing upkeep of heritage properties and we examine this issue further in Section 9.
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<sup>27</sup> Ibid. Page 21.

- 4.18 In addition to the impact of the taxation regime up until the 1980s, the research carried out by Dooley (2003) also highlights the difficulties faced by owners of heritage properties caused by rapidly rising insurance costs over the last five years or so. The research suggests that “for a relatively small country house an annual insurance premium would cost in the region of €18,000”.<sup>28</sup>

#### **Ashmore (2003)**

- 4.19 In this study, an analysis was undertaken with the objective of assessing the current status of the Irish country house in terms of provincial dispersal, inhabitability and present usage. The study was based on a survey sample of country house properties throughout the State. The key conclusions from this research were as follows<sup>29</sup>:
- Within the survey sample, approximately one-third of country house properties were recoded as ruinous, derelict or demolished with the counties surrounding the greater Dublin area, but excluding Dublin, accounting for the least losses. Counties located in Connaught showed indicated significantly higher rates of ruinous, derelict or demolished houses;
  - A high proportion of habitable properties (64%) were found to be for private use only, while a small though significant proportion (9%) of private houses engaging in commercial activity. An average of 26% of houses surveyed were engaged in commercial, institutional or state use;
  - The study identifies the key factors leading to the demise of the Irish country house as being the revolutionary period from 1917 to 1923; the post-war worldwide depression; the introduction of Free State land legislation from 1923; high taxation; and general apathy regarding the fate of such houses in the intervening years up until the 1980s. A recent change in attitudes has coincided with the introduction of a more advantageous fiscal regime, the efforts of voluntary and public bodies and the implementation of protective legislation.

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<sup>28</sup> Ibid. Page 33.

<sup>29</sup> Ashmore (2003), Op. Cit., Page 6.

**Maguire (2004)**

- 4.20 A recent paper by Dr Hugh Maguire published by the Heritage Council in its journal, *Heritage Outlook*, discusses the issue of the decline in visitors to historic houses in Ireland. It is instructive to note some of the main points highlighted in this paper, as follows:
- “Historic house museums form a distinctive component in our cultural landscape”;
  - “In the United States, there are over 6,000 houses open to the public! And yet the numbers visiting continue to decline, if not dramatically, then incrementally .... Elsewhere, house museums are at their full capacity – notably the Georgian House, Bath, which with around 40,000 visitors per annum cannot accommodate any more”;
  - “In the Republic of Ireland, slack visitor numbers are compounded by the demands of astounding insurance premiums...”;
  - Maguire (2003) points to a variety of reasons for the decline in visitor interest in historic houses internationally. These include the sameness of experience; the quality of visitor experience and expectation, which has changed since the 1950s and 1960s; shifts in social perception; the failure, or inability, of houses to engage with contemporary museum practice. f
- 4.21 Indecon would, however, stress that in our opinion a number of heritage properties in the private, voluntary and state sectors provide innovative and high quality visitor attractions.

**Indecon Research on Heritage Properties**

- 4.22 As mentioned at the start of this report, in order to give all heritage property owners an opportunity to input to our research, in addition to consultations with representative organisations and selected individuals, we also sent a letter and a survey to individual owners of heritage properties in Ireland. This survey also invited those associated with heritage properties to make submissions to the consultancy team or to forward additional comments. A copy of the survey questionnaire is included as Annex 2 to this report.
- 4.23 A small number of individuals complained to us that they felt the survey was not appropriate however most of these expressed their views in a courteous and constructive manner. Some owners felt the terms of reference set by the Government for this study were inappropriate and should have considered wider issues concerning how to support heritage properties in private ownership. Indecon fully accepts the importance of maintaining heritage properties in private ownership and believes that a National Trust would not be relevant to many such properties. This is however a matter outside the scope of this study.

- 4.24 As we were aware that many owners might not wish to respond while others might not find a structured questionnaire to be the best vehicle to input, and would prefer to have their inputs made through representative organisations, we had targeted to receive of the order of 15-20 sample responses from individual owners. In the event, we received responses from a total of 89 owners. A total of 425 surveys were distributed to significant individual privately owned heritage properties throughout the State, which included properties on the Section 482 database, properties surveyed in Dooley (2003) and additional properties highlighted by the Irish Georgian Society.
- 4.25 A number of issues were examined in the Indecon survey, as follows:
- ❑ Background details in heritage properties, including type of heritage property and ownership structure;
  - ❑ Use of tax reliefs and other supports;
  - ❑ Views on potential support for more supportive legislation to facilitate development of trust-type organisations for management of heritage properties in private ownership;
  - ❑ Views on importance attached to various potential benefits of introducing more supportive trust-type legislation;
  - ❑ Views on likely number of properties that would be placed into trust if more supportive legislation were introduced;
  - ❑ Views on whether owner would place his/her property into trust, if more supportive legislation were introduced.
  - ❑ General views on the role that a more supportive trust-type legislative regime in Ireland would have in conserving landmark heritage properties in private ownership.
- 4.26 In this section we present the findings from our survey research in relation to the types and ownership structure of properties, and the usage of tax reliefs and other supports.

### **Ownership Structure**

- 4.27 An important issue for policy is the ownership structure of properties that could be interested in availing of trust status. This is crucial because if financial considerations constitute the main reason for placing a property in a trust then one could expect greater interest amongst original families than new private owners that may have access to more financial resources. The work by Dooley (2003)<sup>30</sup> suggests that this may be the case. In this section we describe the ownership structure and types of privately owned heritage properties in Ireland.

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<sup>30</sup> Dooley (2003), Op. Cit.

- 4.28 For the purposes of this study, it is possible to describe privately owned heritage properties under the following headings concerning ownership structure:
- Properties owned by original families;
  - Properties owned by other private individuals;
  - Properties owned by limited companies; and
  - Properties owned by private institutions and trusts.
- 4.29 In relation to the first two headings above, we differentiate properties that remain in the ownership of the original families from those that have recently been acquired by new private owners.
- 4.30 In Table 4.4 we indicate the ownership structure of properties that responded to our survey.

<b>Table 4.4: Indecon Survey of Heritage Properties in Ireland - Ownership Structure of Principal Heritage Property with which Respondent is Currently Associated - % of Responses</b>	
<b>Ownership structure</b>	<b>% of Responses</b>
Owned by original family	35.8
Owned by other private owner	49.4
Owned by a Trust	4.9
Other private ownership structure (e.g. limited company)	9.9
<b>Total Responses</b>	<b>100</b>
Source: Indecon survey of built and natural heritage properties in Ireland	

- 4.31 According to the survey findings, in 35.8% of cases the original family owned the properties while 49.4% of properties were owned by private owners. Other ownership structures accounted for a small percentage of respondents: 4.9% were owned by a trust with 9.9% controlled by other ownership structures.

### Types of Heritage Property

- 4.32 A number of different types of properties fall within the scope of this study. This would include both built and natural heritage. Table 4.5 shows the types of properties owned by respondents to the Survey. According to the survey findings, 28.1% of properties are castles while houses account for 44.8% of the total. By a significant margin these are the most important categories. In addition, however, a significant proportion of respondents to our survey owned or were associated with various types of natural heritage properties, including gardens/parkland (5.2% of properties) and other types of natural heritage properties (2%).

**Table 4.5: Indecon Survey of Heritage Properties in Ireland - Types of Heritage Properties with which Respondents are Currently Associated - % of Responses**

Types of heritage property	% of Responses
Castle (including surrounding estate)	28.1
House (including surrounding estate)	44.8
Monument	2.1
Garden/Parkland	5.2
Other natural heritage properties, incl. Rivers, lakes, hills, boglands, marshes, etc.	2.0
More than one of above	8.3
Other Built or Natural Heritage Property*	9.4
<b>Total Responses</b>	<b>100</b>
Source: Indecon survey of built and natural heritage properties in Ireland	
* Other includes industrial, educational, religious and cultural heritage properties	

### Use of Tax Reliefs and Other Supports

- 4.33 Existing government policy supports the preservation of heritage properties in Ireland through a number of significant initiatives including direct grants and the provision of tax incentives. Table 4.6 presents the findings from Indecon's survey of heritage properties in relation to the extent to which property owners have availed of various tax incentives and other supports.

**Table 4.6: Indecon Survey of Heritage Properties in Ireland - Extent to which Respondents have Benefited from Various Incentives - % of Responses**

Incentives	% of Responses
Grants by the State (including Local Authority and Heritage Council)	31.7
Section 482 tax relief	39.6
Other incentive	4.0
More than one of above	12.9
None	11.9
<b>Total Responses</b>	<b>100</b>

Source: Indecon survey of built and natural heritage properties in Ireland

- 4.34 The figures indicate that 31.7% of survey respondents had received a state grant. This included grants from local authorities or the Heritage Council. A total of 39.6% of respondents indicated that they had benefited from the Section 482 tax relief. Interestingly, 12.9% suggested that they had benefited from more than one of these government-funded supports or some other incentive. Finally, 11.9% of survey respondents received none of the supports listed. Overall, the results suggest that most properties have received some form of assistance from Government.

## Section 482 Properties

- 4.35 Another perspective on the nature of privately owned heritage properties in Ireland can be had by considering those properties that have applied and been approved for support under the Section 482 tax relief scheme. This scheme, which we describe in detail in Section 6, provides tax relief to the owner/occupier of approved building (including surrounding garden) or garden existing independently, in respect of expenditures incurred on the repair, maintenance or restoration of such approved buildings or gardens.
- 4.36 A detailed listing of the identities and location of properties approved under Section 482 as at May 2004, including details of charges for public admission, is presented in Annex 4 to this report. In Table 4.7 and Table 4.8 below we present summary statistics in relation to the number and location of properties and the level of visitor charges.

4.37 Table 4.7 presents summary details of the number and county of location of properties approved under the Section 482 scheme as at May 2004. In May 2004 a total of 166 properties were approved under the scheme. In relation to location, the largest proportion of properties (26 or 15.7%) were located in Dublin, followed by Cork (10.8%), Wicklow (7.8%), Kildare (7.2%), Limerick and Meath (both 6% of the total).

<b>Table 4.7: Section 482 Relief for Properties of Significant Horticultural, Scientific, Historical, Architectural or Aesthetic Interest in Ireland - Details re Current Listing of Properties Approved under the Scheme - Number of Properties by County of Location</b>		
Location - County	Number of Properties Approved as at May 2004	% of Total
Dublin	26	15.7
Cork	18	10.8
Wicklow	13	7.8
Kildare	12	7.2
Limerick	10	6.0
Meath	10	6.0
Tipperary	8	4.8
Kilkenny	7	4.2
Offaly	7	4.2
Galway	6	3.6
Kerry	5	3.0
Louth	5	3.0
Roscommon	5	3.0
Sligo	5	3.0
Westmeath	5	3.0
Clare	4	2.4
Donegal	4	2.4
Mayo	4	2.4
Waterford	4	2.4
Wexford	4	2.4
Carlow	2	1.2
Laois	1	0.6
Longford	1	0.6
<b>Total</b>	<b>166</b>	<b>100</b>

Source: Revenue Commissioners and Fáilte Ireland

- 4.38 Table 4.8 presents summary statistics in relation to the number of heritage properties approved under Section 482 as at May 2004 and details in relation to properties charging for public admission. Of the total of 166 properties approved under the scheme in May 2004, 114 (68.%) levied charges for public admission. Other properties do not have mandatory charges though some accept donations. Of those that charge for admission, the average full rate fee as at May 2004 was €4. However, there is a substantial variation around this average and many properties also apply concessionary charges.

**Table 4.8: Section 482 Relief for Properties of Significant Horticultural, Scientific, Historical, Architectural or Aesthetic Interest in Ireland - Summary Statistics re Current Listing of Properties Approved under the Scheme - May 2004**

<b>Statistics</b>	
Total Number of Properties Approved as at May 2004 - No.	166
No of properties charging for admission - No.	114
Average fee charged (Full Rate Fee) - €	4.0
Standard Deviation of (full rate) admission charges - €	2.8
Source: Revenue Commissioners and Fáilte Ireland	

## Summary of Findings

- 4.39 In this section we described the nature of privately owned heritage properties in Ireland. Our analysis was based on the following sources:
- Review the recent research on heritage properties in private ownership;
  - Indecon updated research on heritage properties in private ownership;
  - Details of heritage properties assisted under Section 482 tax scheme.
- 4.40 In relation to existing recent research on heritage properties, Dooley (2003) undertook a survey of 50 properties throughout the State, of which 25 properties were in the ownership of the original families, seven were owned by a variety of private organisations and institutions, and six were owned by new private owners other than the above. The remainder of the sample were in State ownership.
- 4.41 Of those properties in the ownership of original families, these properties are maintained typically through farm incomes or private incomes. However, in some cases a new life for the properties has been developed through commercial exploitation of demesnes and gardens, e.g. through tourism activities.
- 4.42 In relation to the condition of properties surveyed in Dooley (2003), it was noted that, architecturally, the surviving houses in Ireland are of national and European importance. However, the study highlights that the majority of properties “are faced with difficulties which threaten their existence in the future unless immediate steps are taken to avert these threats”. According to the research the key sources of threat to the survival of these properties are suggested to be conservation issues, income/funding constraints, a decline in tourism activity, the impact of historical taxation and suggested inflexibility in relation to current tax reliefs, and the high costs of insurance. The Dooley Report would appear to support the need for a range of initiatives to address these threats.
- 4.43 Many, and possibly most, of the privately owned properties will continue to be run by families either as houses or as a combined house/business and national trusts are not a solution to the challenges faced by all of these properties. The focus of this study is, however, on one aspect of potential policy initiatives for properties that are likely to be under threat.

- 4.44 A high proportion of habitable properties (64%) surveyed by Ashmore (2003) were found to be for private use only, while a small though significant proportion (9%) of private houses engaging in commercial activity.
- 4.45 A recent study by Maguire (2003) highlights the long-term decline in visitor numbers to historic properties in Ireland and internationally. It was noted, in particular, that “in the Republic of Ireland, slack visitor numbers are compounded by the demands of astounding insurance premiums”. The study suggests a variety of reasons for the decline in visitor interest in historic houses internationally. These include the sameness of experience and the quality of visitor experience and expectation, which has changed since the 1950s and 1960s; shifts in social perception. Indecon would, however, stress that a number of heritage properties in the private, voluntary and state sectors provide innovative and high quality visitor attractions.
- 4.46 As part of the new research undertaken for this study by Indecon, detailed submissions were obtained from representative organisations and from a range of individuals. We also undertook a sample survey of private sector property owners and received a total of 89 replies.
- 4.47 According to this sample survey, 35.8% of respondents stated that the properties were in the ownership of the original families, while 49.4% noted that properties were owned by private individuals. Other ownership structures accounted for a small percentage of respondents: 4.9% were owned by a trust with 9.9% controlled by other ownership structures, including limited companies.
- 4.48 Existing government policy supports the preservation of heritage properties in Ireland through a number of significant initiatives including direct grants and the provision of tax incentives. According to the Indecon survey research, 31.7% of property owners responding to our survey had received a state grant. This included grants from local authorities or the Heritage Council. A total of 39.6% of respondents indicated that they had benefited from the Section 482 tax relief. Interestingly, 12.9% suggested that they had benefited from more than one of these government-funded supports or some other incentive. Finally, 11.9% of survey respondents received none of the supports listed. Overall, the results suggest that most properties have received some form of assistance from Government.
- 4.49 In May 2004 a total of 166 heritage properties in private ownership were approved under the Section 482 tax relief scheme. These properties are required to provide access to the public according to the rules set out under the scheme. A total of 114 (68.%) of approved properties in May 2004 levied charges for public admission.

## 5 Review of Heritage Policy and Heritage Bodies in Ireland

- 5.1 In this section we present an overview of current heritage policy and the nature of different bodies operating in the heritage area in Ireland. We begin by recapping on the State's overall heritage conservation and protection objectives and, in particular, the Government's policy objectives as set out in the National Heritage Plan (2002). Secondly, we review the nature and operation of existing trust and other heritage organisations in Ireland.

### Overview of Heritage Policy in Ireland

#### The National Heritage Plan, 2002

- 5.2 The most recently developed strategy and framework supporting the protection of heritage in Ireland was the National Heritage Plan.<sup>31</sup> Published by the Government in April 2002, the purpose of the Plan is to "set out a clear and coherent strategy and framework for the protection and enhancement of our heritage over the next five years".
- 5.3 The Plan recognises that the protection of our heritage has an intrinsic value in addition to an economic dimension. In relation to the latter, it recognises the importance of heritage to Ireland's tourism industry and notes that based on survey research undertaken in 2000, over 50% of overseas tourists to Ireland had engaged in cultural or heritage activities during their holidays. The Plan also notes the economic contribution of Ireland's physical heritage environment through, *inter alia*, the attraction of Ireland as a location for international investment in the Irish film industry.
- 5.4 The National Heritage Plan sets out a number of priorities for action over the subsequent five-year period. Some of these priority actions are summarised below:
- Development of Local Heritage Plans;
  - Provision of increased levels of assistance for the protection of the archaeological and architectural heritage;
  - Implementation of the National Biodiversity Plan and addressing the conservation of habitats, species, genetic diversity and the natural heritage;
  - Initiation of a heritage inventory programme and establishment of a central heritage archive and library;
  - The provision of total additional financial allocations of €123.16 million on a phased basis over the life of the Plan; and
  - The deployment of a total of 102 additional staff to enhance existing heritage programmes and to operate the new structures proposed in the Plan.

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<sup>31</sup> National Heritage Plan for Ireland, Op. Cit.

- 5.5 In relation to the protection of Ireland's heritage, the Heritage Plan notes that:

"The vast majority of heritage sites are in private ownership. It is neither feasible nor desirable for the State to acquire all heritage sites. The conservation of heritage sites in private ownership or in the ownership of local authorities can be satisfactorily achieved through Local Heritage Plans with proper management and a good level of co-operation between the owners and Dúchas. There may also be opportunities in a limited number of cases for heritage properties to be protected and managed through partnership between the State and the owners. However, in certain circumstances State acquisition of heritage sites may represent the only viable option for their protection and it is necessary to ensure clear criteria for acquiring heritage sites are developed."<sup>32</sup>

- 5.6 The Department of the Environment, Heritage and Local Government also plays an important role relating to the protection of the architectural heritage. This is outlined in detail in the 'Draft' Architectural Heritage Protection Guidelines for Planning Authorities' November 2004. This highlights the fact that the protection of the architectural heritage is administered at both local and national level. At local level, responsibility for protection under the 2000 Act rests with the planning authorities while, at national level, the Minister for Environment, Heritage and Local Government has an involvement in the formulation and implementation of policy. Other bodies such as An Bord Pleanála and the relevant prescribed bodies also have roles to play.

#### **The Heritage Fund**

- 5.7 The Heritage Fund, which was established under the Heritage Fund Act, 2001, comprises a fund with an overall limit of €12.697 million over a five-year period. The objective of the Heritage Fund is to accumulate financial resources for the purposes of acquirement, by the principal State collecting cultural institutions, of significant items for the national collections that are outstanding examples of their type and pre-eminent in their class. The Fund is designed the support the acquirement of items where failure to acquire these items would result in a major loss to Ireland's heritage and cultural collection. These artefacts include such items that may not have been otherwise purchased and include archaeological objects, manuscripts, books and works of art that are both rare, expensive and of national importance. In view of this, the Act only allows for the acquisition of such artefacts above a valuation of €317,435.

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<sup>32</sup> *National Heritage Plan for Ireland*, Op. Cit., page 19.

- 5.8 The Act also allows for the Council of National Cultural Institutions, to make recommendations to the Minister for Arts, Sport and Tourism on proposed acquisitions using the Heritage Fund in respect of five eligible institutions. The five eligible institutions that will benefit from the Heritage Fund are the National Archives, the National Gallery of Ireland, the National Library of Ireland, the National Museum of Ireland, and the Irish Museum of Modern Art.

#### **The Granada Convention and the National Inventory of Architectural Heritage**

- 5.9 An important contextual backdrop to Irish heritage policy concerns the Council of Europe Convention for the Protection of the Architectural Heritage of Europe (1985), known as the Granada Convention. The Convention emphasises the importance of inventories in underpinning conservation policies and, as such, the National Inventory of Architectural Heritage (NIAH) was established in 1990 to fulfil Ireland's obligations under the Convention. The Convention was formally ratified by Ireland in 1997 and the NIAH established under the Architectural Heritage (National Inventory) and Historic Monuments (Miscellaneous Provisions) Act, 1999.
- 5.10 The NIAH identifies and records the architectural heritage of Ireland in a systematic and consistent manner so that:
- ❑ a source of guidance is provided for the selection of structures for protection
  - ❑ data is supplied to Local Authorities which allows them to make informed judgements on the significance of building stock in their functional area
  - ❑ greater knowledge and appreciation of Ireland's architectural heritage is fostered.

## Review of Trust-type and Other Heritage Bodies in Ireland

5.11 It is instructive to review the role of organisations and bodies involved in the heritage area in Ireland. In this section we describe the nature and role of a range of state agencies, trust-type and other bodies involved in the heritage area. The general existing heritage trust type organisations are established under existing legislation as limited companies and can access taxation treatment of charities under existing Tax Consolidation Act 1997: These include:

- ❑ The Heritage Council;
- ❑ An Taisce;
- ❑ The Irish Georgian Society;
- ❑ The Irish Landmark Trust;
- ❑ The Dublin Civic Trust;
- ❑ The Fota Trust;
- ❑ The Alfred Beit Foundation;
- ❑ The Hidden Ireland;
- ❑ The Inland Waterways Association of Ireland;
- ❑ Birdwatch Ireland; and
- ❑ The Irish Peatland Conservation Council.

### The Heritage Council

5.12 The Heritage Council was established under the Heritage Act 1995 as a statutory independent body and is funded by the Department of the Environment, Heritage and Local Government. The role of the Council is to propose policies and priorities for the identification, protection, preservation and enhancement of the national heritage. National Heritage is defined as including monuments, archaeological objects, heritage objects such as art and industrial works, documents and genealogical records, architectural heritage, flora, fauna, wildlife habitats, landscapes, seascapes, wrecks, geology, heritage gardens, parks and inland waterways. The Council has a particular responsibility to promote interest, education, knowledge and pride in the national heritage. The current Council will serve until July 2005.

5.13 The Heritage Council operates a series of grant schemes under the following headings:

- ❑ Local heritage grants;
- ❑ Publications grants;
- ❑ Archaeology grants;
- ❑ Wildlife grants;
- ❑ Buildings at risk grants;
- ❑ Museums and archives grants.

5.14 In Section 6 we profile the Council's recent grant expenditure.

#### **An Taisce**

5.15 "An Taisce The National Trust for Ireland" was established in 1948 and is one of the main environmental bodies in Ireland.<sup>33</sup> It was recognised by statute in the 1963 Planning Act but is independent of the State. An Taisce The National Trust for Ireland has a professional staff of 17 people and a membership of over 5,000 spread among 20 local associations around the country. Internationally, the association is a founder member of international national trust networks, including the International National Trust Organisation, ENNHO, the WWF (now WWFN), IUCN, Europa Nostra, EEB, FEE and CNTF.

5.16 The main objective of An Taisce is, according to the body, to seek to:

"educate, inform and lead public opinion on the environment; and to advocate and influence policy at European, national and local levels. This remit is an interconnected approach to promoting environmental issues and sustainable development that revolves around three core actions; education, advocacy and heritage ownership."

5.17 In achieving its remit, An Taisce's strategies include:

- ❑ Publishing and promoting coherent environmental policies to guide and encourage public dialogue and key decision makers.
- ❑ Coordinating International, European, and National environmental education projects, including Blue Flag, Green-Schools, White Flag, Green Coast Award, National Spring Clean and Young Reporters for the Environment, which provide a strong incentive to excellence in environmental performance in Ireland.

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<sup>33</sup> An Taisce, submission to the consultancy team, May 2004.

- ❑ Monitoring planning applications and taking action where appropriate to ensure responsible development.
- ❑ Providing planning advice on local, national and strategic development plans.
- ❑ Publishing reports on a wide range of environmental concerns.
- ❑ Holding and managing sixteen heritage properties on behalf of the people of Ireland.
- ❑ Organising lectures, conferences and seminars on environmental issues.
- ❑ Providing environmental representation on a number of State panels and boards.

5.18 In its submission to the consultancy team, An Taisce highlights its “consistent stance on the need for National Trust legislation” and also notes that:

“The position now reached is one of potential opportunity and partnership that should lead to greater collaboration between the State and NGOs to fulfil the vital task of protecting our common heritage, built, natural and cultural, on behalf of the people of Ireland”.<sup>34</sup>

5.19 In its submission, An Taisce sets out a range of issues that it believes requires consideration within the context of development of potential legislation for trust-type arrangements in Ireland. It is instructive to restate some of the key points raised by An Taisce, which we summarise below.

5.20 In relation to acquisition of heritage properties within a trust structure, An Taisce notes that:

“There is no list of desired properties as this would be counter-productive, largely due to the impacts of such actions on property prices. The preferred method is to identify categories of heritage properties: natural, built and cultural. Specific heritage category protection by a Trust has been shown, globally, to run the risk of not reaching economies of scale and have limited appeal to potential donors.”

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<sup>34</sup> Ibid.

5.21 An Taisce goes on to state that:

“Any property is assessed to determine whether its category is threatened by lack of protection, provides a good example of a category, and has the capacity to educate. Assessment of a property’s heritage value, management requirements, long-term endowment needs and public access opportunities are also prerequisites, as is the long-term financial feasibility of Trust ownership, before acquisition is considered.”

5.22 In relation to the potential costs and benefits of making provision for trust-type legislation, An Taisce suggested the following broad categories of potential benefits:

- ❑ Multiplier effects, including in relation to isolated or economically deprived areas;
- ❑ Enhanced ability to create endowment funds required for the ongoing upkeep of heritage properties;
- ❑ Impacts on surrounding property prices;
- ❑ Catalyst effects, in relation to heritage potentially acting as a draw card for other tourism attractions and facilities;
- ❑ Impacts on State education costs in the promotion of sustainable development;
- ❑ Impacts on State costs in providing heritage conservation.

5.23 In relation to potential costs, An Taisce states:

“An Taisce has outlined, based on information gathered from other National Trusts and heritage organisations, that the costs to the State of such [trust] legislation will be at worst fiscally neutral and at best will be a contributor. The tax breaks given on donations to the Trust would more than repay the Exchequer through the activities taking place on the properties, provided international best practice is followed in selecting properties for acquisition.”<sup>35</sup>

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<sup>35</sup> An Taisce, submission to the consultancy team, May 2004. See also, *Heritage at Risk*, An Taisce Report, 1977.

5.24 In relation to the issue of 'inalienability' of properties under trust legislation, An Taisce notes:

"The declaration of inalienability will only be possible when sufficient funds have been secured to endow the property, so that its future and long-term management is secure. This can be calculated through the Chorley Formula, formulated by The National Trust [in the UK], and now widely used by the international national trust movement. In practise, the Department of Finance and the Trust will have to agree the level of endowment required. Only once this target has been achieved would then the status of inalienability become valid."<sup>36</sup>

### **The Irish Georgian Society**

5.25 Founded in 1958, the Irish Georgian Society is Ireland's Architectural Heritage Society. The aims of the Society are "to encourage an interest in and to promote the conservation of distinguished examples of architecture and the allied arts of all periods in Ireland".

5.26 The above aims of the society are achieved through the following activities:

- ❑ Membership;
- ❑ Fundraising;
- ❑ Education
- ❑ Grants and donations;
- ❑ Planning participation

5.27 In relation to membership, the Society has a membership of approximately 3,000 worldwide, and has its main headquarters in Dublin and an office in New York.

5.28 The Society has been involved extensively in the preservation and conservation of a number of important heritage properties throughout the State, including Castletown House, Co. Kildare; Damer House, Co. Tipperary; Doneraile Court, Co. Cork; Roundwood, Co. Laois; Tailors Hall, Dublin, and 13 Henrietta Street, Dublin.

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<sup>36</sup> Ibid.

5.29 A number of views pertaining to the operation of trust-type arrangements were put forward by the Society during consultations as part of this study. It is instructive to summarise some of the key points highlighted by the IGS, as follows:

- Any trust-type organisation should be completely separate and independent of government. However, there would be a need for initial government intervention to:
  - (iii) 'prime the pot' i.e. provide financial resources until Trust becomes financially self supporting
  - (iv) give substantial tax benefits both for the initial donation of property and its subsequent maintenance
  
- Trust must have an outstanding chairman, an excellent board and dynamic management;
- Under the right leadership, membership of the trust could be established through a fresh structure, assisted by a commercial focus;
- The importance of seeking to retain interaction/involvement of families associated with heritage properties. This could be facilitated either through leasing or other arrangements;
- The importance of ensuring that the full integrity of properties, surrounding estates and property contents, including archives, is maintained;
- The importance of ensuring necessary balance between heritage values and commercial interests;
- Houses should remain a living organism, not museums. This could therefore involve leases to third parties and not just to associated families;
- Any legislation should not just be for the built heritage but should also cater for natural heritage properties;
- Legislation need not necessarily be limited to facilitating one trust, and should accommodate smaller individual trusts (e.g. Thirlestone trust in Scotland);
- The principle of inalienability is vital to any legislature.

### The Irish Landmark Trust

- 5.30 The Irish Landmark Trust was founded in 1992 with the objective of “acquiring (by peppercorn lease) and restoring small vernacular properties of architectural merit, and then managing and marketing these unique properties for visitor letting which would generate funds for their ongoing maintenance”. The mission of the Trust is “to save heritage properties at risk of being lost through neglect or inappropriate intervention”.<sup>37</sup>
- 5.31 The Trust is incorporated as a non-profit charitable trust and operates on an all-Ireland basis. The founding group brought together a range of expertise and in-depth experience in architectural Irish heritage conservation, fundraising, project management and trusteeship.
- 5.32 The Landmark Trust achieves its mission through restoring selected properties and by giving these properties “a useful and viable function as self-catering holiday accommodation, thus securing their long-term future”. According to the Trust:
- “Income provides for their future maintenance;
  - Holiday letting promotes wider public appreciation and experience of our built heritage.”<sup>38</sup>
- 5.33 Essentially the model of the Irish Landmark Trust is to acquire properties at risk; to raise the initial capital required for their restoration; when restored, to make these properties available for tourism/holiday use; and with the revenue raised from rentals, to sustain each property and support local employment.
- 5.34 The benefits of this approach, according to the Trust, are as follows:
- “Local communities/owners of interesting properties see the value of restoration and conservation instead of demolition and replacement with new;
  - Training/retraining of craftsmen in traditional skills;
  - Guest spending in the local area.”<sup>39</sup>

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<sup>37</sup> Irish Landmark Trust, submission to the consultancy team, April 2004. See also <http://www.irishlandmark.com/background.asp>.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

5.35 In its submission to the consultancy team, the Irish Landmark Trust highlighted a number of issues and suggestions in relation to the examination of trust-type arrangements to manage heritage properties in Ireland. It is useful to summarise some of the key suggestions points highlighted by the Trust, as follows:

- ❑ In relation to country houses, “the essential integrity – in many cases – of buildings (including ancillary) collections parks and gardens;
- ❑ The unsuitability of the UK National Trust solution to the Republic, given the inadequacy of available ‘Chorley Formula’-type endowments, and the small population (and hence membership);
- ❑ The difficulties of sustainability with country houses, given the small number of visitors and the non-profitable nature of opening to the public;
- ❑ The desirability and cheapness of encouraging and assisting private ownership, with public access, by tax incentives and maintenance grants.”<sup>40</sup>

5.36 In relation to other built heritage properties, the Trust highlights the success of the Irish Landmark Trust model in terms of “sustainability, after conservation”. The Trust, in its submission, notes that the following initiatives would be of assistance in developing its model:

- ❑ “Reform of the VAT position;
- ❑ Access to one-off grants for conservation of properties which are then permanently sustainable;
- ❑ Legislative acknowledgement of a special status in property law – i.e. increased ease in the taking out of long leases;
- ❑ Need for tax incentives to attract donors;
- ❑ Need for tax incentives for property owners who ‘give’ properties – often particularly at time of return of the fully restored property to the owner;
- ❑ Need for tax incentives for running (maintenance) costs;
- ❑ The need for ‘flexibility’. *Inalienability* is often believed important in much trust thinking, but ILT [Irish Landmark Trust] properties are alienable – i.e. they return to the owner at the end of a lease period. (Different heritage properties may need different trust arrangements).”<sup>41</sup>

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<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

### The Dublin Civic Trust

- 5.37 The Dublin Civic Trust was established in 1992. It is a limited company and an educational trust with charitable status. The objective of the Trust is the “recognition and protection of the City’s architectural heritage”. According to the Trust, “it further seeks to:
- ❑ Lead by example through the establishment of a Revolving Fund to purchase, repair and resale of endangered buildings in the city;
  - ❑ Identify buildings in the city with potential for new uses;
  - ❑ Establish and promote partnership with Government, Local Authorities, and civil society and act as a general co-ordinating body for projects associated with the built environment;
  - ❑ Promote the principle of best practice for the repair and maintenance of historic buildings and the development of employment skills in traditional building crafts and repaid work;
  - ❑ Carry out street and building inventories and train graduates in recording historic buildings;
  - ❑ Contribute to conservation policy which will help safeguard our historic heritage;
  - ❑ Educate through the medium of seminars, lectures and projects. Provide a permanent centre for exhibitions and seminars. Publications include a Conservation Guidance Manual for the care and repaid of period houses.”<sup>42</sup>
- 5.38 The Dublin Civic Trust is a notable example of the application of the ‘revolving trust fund’ model. According to the trust:
- “The revolving building fund system works on the principal of establishing a capital sum to acquire, restore and re-sell endangered buildings. This mechanism has achieved considerable success in promoting the renewal of historic buildings in many other cities such as Seville and Charleston. The benefits are significant since the initial capital investment put into the first project is recovered on re-sale, and the funds accordingly remain intact. These funds are then used to fund the purchase and refurbishment of other buildings.”<sup>43</sup>
- 5.39 Among the projects undertaken by the Dublin Civic Trust on the basis of the revolving trust fund model are Nos 10 & 11 South Frederick Street, No. 21 Aungier Street, and No. 4 Castle Street (also the headquarters of the Trust) in Dublin.
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<sup>42</sup> The Dublin Civic Trust, submission to the consultancy team, April 2004.

<sup>43</sup> Ibid.

**Fota Trust**

- 5.40 An example of one of several existing private heritage property trusts in Ireland is the Fota Trust. The Fota Trust is a limited company and a registered charity. The Trust manages Fota House in County Cork. The Trust funds its activities through donations and sponsorship funding, in addition to revenues from admissions to Fota House. The Fota Trust is managed by a Board and a Fundraising Committee.

**The Alfred Beit Foundation**

- 5.41 An example of the management of a heritage property through a private foundation is Alfred Beit Foundation. Sir Alfred Beit purchased Russborough House in 1952 as a home for the Beit Collection. In 1976 he established the Alfred Beit Foundation and in 1978 the house was opened to the public. The Foundation was established as a company limited by guarantee.
- 5.42 An endowment fund was established by Sir Alfred Beit for the purposes of financing the Foundation. However, according to Dooley (2003), "this fund has gradually been diminished as a result of capital expenditure on restoration and conservation work, as well as annual maintenance".<sup>44</sup>
- 5.43 Russborough House is open to the public. However, there has been a decline in visitor numbers in recent years and this has resulted in a parallel decline in visitor revenues. A conservation plan for prepared for Russborough with the assistance of the Heritage Council in 2001. In addition, the trustees of the Foundation are in the process of developing a business plan, one of the objectives of which will be to attract a greater number of visitors to Russborough.

**The Hidden Ireland**

- 5.44 As noted in Section 4, in the case of privately owned properties having varying functions, many now operate as country house accommodation providers, including bed and breakfast-type accommodation. One of the organisations involved in the development of historic houses for the purposes of tourism is The Hidden Ireland, which is an association of members owning some 36 smaller privately owned heritage properties throughout the State. In its submission to this study, The Hidden Ireland, set out a number of issues, and we highlighted the main points below.

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<sup>44</sup> Dooley (2003), Op. Cit., Page 131.

5.45 According to its submission to this study:

“The Hidden Ireland was originally founded by concerned owners who wished to find a way to make their historic houses self-supporting. At the time – in the early 1980s – these buildings had little value but still required a high level of commitment and upkeep. The usual solution was to enlarge buildings and convert them into hotels but our founding members did not want to make such drastic alterations and wished to retain their houses as family homes. Instead they developed a highly personalised type of visitor accommodation with, insofar as was compatible with modern requirements, the original rooms and their contents unaltered.”<sup>45</sup>

5.46 According to The Hidden Ireland Association, their day-to-day operations and financial activities are run through a limited company.

5.47 In its submission, the association highlighted a number of “important facts about The Hidden Ireland houses”. It is instructive to note some of the key points made, as follows:

- “Most of our successful houses combine B&B with Self-Catering units and Section 482. It is crucially important to allow this combination and ways must be found to strengthen its effectiveness. Otherwise the future of some, currently self-sustainable, houses will be put in doubt;
- Our type of accommodation is best described as ‘Soft Tourism’ in that it does not usually involve very high visitor numbers so the detrimental effect on historic fabric is kept to a minimum;
- There is minimal interference with the fabric of the building and contents;
- Current grant aid is entirely geared towards buildings under threat, but there is no awareness of the need for future sustainability and, more importantly, no funding for internal decoration. A number of important houses are prevented from coming on-stream simply because they lack capital for the refurbishment necessary to bring them up to the required standard.”<sup>46</sup>

5.48 In relation to the Section 482 tax relief, The Hidden Ireland, in its submission to the study, noted that:

“Section 482 is a considerable help to many owners though it is generally used for essential maintenance and insurance, as few owners have sufficient income to use this tax break for major restoration

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<sup>45</sup> The Hidden Ireland, submission to the study, June 2004.

<sup>46</sup> Ibid.

projects. We understand Revenue's stipulation that no-one must benefit unfairly but there is a real need to extend the operation of S.482 to allow historic owners raise outside capital without selling land or contents, or increasing their mortgages."<sup>47</sup>

- 5.49 In relation to the examination of trust-type arrangements to manage heritage properties, The Hidden Ireland states:

"Clearly the most cost-effective way for the State to preserve our private heritage is to encourage existing owners to do this for them. This can easily be achieved without State or Trust ownership and private owners can be forced to repay grants, perhaps even with interest, if access is denied or if they subsequently decide to sell-up. Private owners must be encouraged to move towards achieving sustainability, though always in a way which does not compromise their houses' heritage status and without further depleting their resources by selling contents, land or any remaining capital. This can only be achieved through funding but, unfortunately, the current funding levels are derisory, Section 482 does not always go far enough and there is no access to State guaranteed loans."<sup>48</sup>

#### **The Inland Waterways Association of Ireland**

- 5.50 One important organisation involved in the natural heritage area is the Inland Waterways Association of Ireland (IWAI). The IWAI is a voluntary body of waterways enthusiasts, founded in 1954. The Association was formed to promote the development, use and maintenance of Ireland's navigable rivers and canals. The Association is a limited company and, according to its Memorandum of Association, has the following objectives:

- ❑ To promote the use, maintenance and development of the inland waterways of Ireland, and in particular, to advocate and promote the restoration to good order, and maintenance in good order of every navigable waterway and the fullest use of every navigable waterway by both commercial and pleasure traffic, provided such is not injurious to the environmental health of the waterways and surrounding areas.
- ❑ To support any proposal which may be calculated to maintain or improve Irish waterways and also to improve navigation, lay moorings and carry out other works of improvement on and adjacent to the waterways.

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<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

- In furtherance exclusively of the above main objects the Company shall have the following ancillary objects:
  - To oppose by appropriate action the abandonment or neglect of Irish canals or river navigations, the pollution of waterways, the obstructions of navigations by fixed bridges, aqueducts, overhead cables, or otherwise, the obstruction of towing paths, or any other action calculated to injure or destroy the navigation or amenities of the waterways of Ireland;
  - To prepare, either alone or in collaboration with any other body, guide books, charts, maps and other literature suitable for use by persons using the Irish navigations for any purpose, and to foster public interest in and knowledge of the Irish waterways by disseminating information on the subject to members and to the general public;
  - To organise visits to objects and places of interest on the waterways including water-borne journeys;
  - To do all such acts as shall further the active and corporate life of the Association and to cooperate with any other body having similar or sympathetic aims;
  - To represent the interests of boat owners in all matters pertaining to the above objects;
  - To organise, engage in, and sponsor boat rallies, exhibitions, displays, festivals, carnivals, sports, hobbies and entertainments.

5.51 It should be noted that the IWAI is not responsible for navigation, for registering boats, for harbours or similar facilities. The authority that is responsible for the Shannon, Suck, Erne, Barrow, Lower Bann, Grand Canal, Royal Canal and Shannon-Erne Waterway is Waterways Ireland.

### **Birdwatch Ireland**

5.52 Another important natural heritage organisation is Birdwatch Ireland, which is a voluntary conservation organisation devoted to the conservation and protection of Ireland's birds and their habitats. Birdwatch Ireland is the trading name of the Irish Wildbird Conservancy (IWC), which was formed in 1968 from the merger of three ornithological bodies - the Irish Society for the Protection of Birds (ISPB), the Irish Ornithologists' Club and the Irish Wildfowl Conservancy (IWC).

5.53 Birdwatch Ireland is a registered charity (No. 5703) with more than 10,000 members and supporters and with 20 branches nationwide. The organisation is funded through annual membership subscriptions, donations, grants and sponsorship.

5.54 The key aims of the organisation are to:

- Maintain and, where possible, improve the conservation status of all Irish bird specie;

- ❑ Prevent the extinction of any Irish bird species in the wild;
- ❑ Conserve, and where appropriate, improve and enlarge sites and habitats important for birds;
- ❑ Help through birds, to conserve biodiversity (other wildlife) and thereby improve the quality of people's lives;
- ❑ Integrate nature conservation with sustainable development;
- ❑ Educate and promote awareness of our birdlife and habitats.

#### **The Irish Peatland Conservation Council**

5.55 A further body involved in the natural heritage area is the Irish Peatland Conservation Council (IPCC). The IPCC was established in 1982 to campaign for the conservation of a representative sample of living intact Irish bogs and peatlands as part of Ireland's heritage. The Council is an independent registered conservation charity.

5.56 The conservation work of the IPCC includes:

- ❑ Purchasing bogland nature reserves;
- ❑ Providing resources and training for teachers and education groups;
- ❑ Repairing and restoring damaged bogs;
- ❑ Fostering a positive attitude towards bogs; and
- ❑ Encouraging lifestyles in harmony with the environment.

## Summary of Findings

5.57 In this section we presented an overview of current heritage policy and the nature of different bodies operating in the heritage area in Ireland. It is useful to summarise the key findings from our review, as follows:

- We begin by recapping on the State's overall heritage conservation and protection objectives and, in particular, the Government's policy objectives as set out in the National Heritage Plan (2002). The Heritage Plan sets out a number of priorities for action over the subsequent five-year period, including:
  - Development of Local Heritage Plans;
  - Provision of increased levels of assistance for the protection of the archaeological and architectural heritage;
  - Implementation of the National Biodiversity Plan and addressing the conservation of habitats, species, genetic diversity and the natural heritage;
  - Initiation of a heritage inventory programme and establishment of a central heritage archive and library;
  - Establishment of new structures in Dúchas, the Heritage Service of the [former] Department of Arts, Heritage, Gaeltacht and the Islands, to provide a more efficient, integrated and regionalised service;
  - The provision of total additional financial allocations of €123.16 million on a phased basis over the life of the Plan; and
  - The deployment of a total of 102 additional staff to enhance existing heritage programmes and to operate the new structures proposed in the Plan.
  
- In relation to the protection of Ireland's heritage, the Heritage Plan notes that:

"The vast majority of heritage sites are in private ownership. It is neither feasible nor desirable for the State to acquire all heritage sites. The conservation of heritage sites in private ownership or in the ownership of local authorities can be satisfactorily achieved through Local Heritage Plans with proper management and a good level of co-operation between the owners and Dúchas. There may also be opportunities in a limited number of cases for heritage properties to be protected and managed through partnership between the State and the owners. However, in certain circumstances State acquisition of heritage sites may represent the only viable option for their protection and it is necessary to ensure clear criteria for acquiring heritage sites are developed."

- 5.58 The Heritage Fund, which was established under the Heritage Fund Act, 2001, comprises a fund with an overall limit of €12.697 million over a five-year period. The objective of the Heritage Fund is to accumulate financial resources for the purposes of acquirement, by the principal State collecting cultural institutions, of significant items for the national collections that are outstanding examples of their type and pre-eminent in their class. The Fund is designed the support the acquirement of items where failure to acquire these items would result in a major loss to Ireland's heritage and cultural collection.
- 5.59 An important contextual backdrop to Irish heritage policy concerns the Council of Europe Convention for the Protection of the Architectural Heritage of Europe (1985), known as the Granada Convention. The Convention emphasises the importance of inventories in underpinning conservation policies and, as such, the National Inventory of Architectural Heritage (NIAH) was established in 1990 to fulfil Ireland's obligations under the Convention. The Convention was formally ratified by Ireland in 1997 and the NIAH established under the Architectural Heritage (National Inventory) and Historic Monuments (Miscellaneous Provisions) Act, 1999.
- 5.60 In this section we reviewed the background and activities of a number of organisations/bodies involved in the built and natural heritage areas in Ireland. These include The Heritage Council; An Taisce; The Irish Georgian Society; The Irish Landmark Trust; The Dublin Civic Trust; The Fota Trust; The Alfred Beit Foundation; The Hidden Ireland; The Inland Waterways Association of Ireland; Birdwatch Ireland; and the Irish Peatland Conservation Council.
- 5.61 In its submission to the study, "An Taisce The National Trust for Ireland" noted in relation to the issue of acquisition of properties by a trust that:
- "There is no list of desired properties as this would be counter-productive, largely due to the impacts of such actions on property prices. The preferred method is to identify categories of heritage properties: natural, built and cultural. Specific heritage category protection by a Trust has been shown, globally, to run the risk of not reaching economies of scale and have limited appeal to potential donors."
- 5.62 In relation to the potential costs and benefits of making provision for trust-type legislation, An Taisce The National Trust for Ireland suggested the following broad categories of potential benefits:
- ❑ Multiplier effects, including in relation to isolated or economically deprived areas;
  - ❑ Enhanced ability to create endowment funds required for the ongoing upkeep of heritage properties;
  - ❑ Impacts on surrounding property prices;
  - ❑ Catalyst effects, in relation to heritage potentially acting as a draw card for other tourism attractions and facilities;

- ❑ Impacts on State education costs in the promotion of sustainable development;
- ❑ Impacts on State costs in providing heritage conservation.

5.63 In relation to the issue of 'inalienability' of properties under trust legislation, An Taisce notes:

"The declaration of inalienability will only be possible when sufficient funds have been secured to endow the property, so that its future and long-term management is secure. This can be calculated through the Chorley Formula, formulated by The National Trust [in the UK], and now widely used by the international national trust movement. In practise, the Department of Finance and the Trust will have to agree the level of endowment required. Only once this target has been achieved would then the status of inalienability become valid."

5.64 A number of views pertaining to the operation of trust-type arrangement were put forward by the Irish Georgian Society during consultations as part of this study, which can be summarised as follows:

- ❑ Any trust-type organisation should be completely separate and independent of government. However, there would be a need for initial government intervention to:
    - (v) 'prime the pot' i.e. provide financial resources until Trust becomes financially self supporting
    - (vi) give substantial tax benefits both for the initial donation of property and its subsequent maintenance
  - ❑ Trust must have an outstanding chairman, an excellent board and dynamic management;
  - ❑ Under the right leadership, membership of the trust could be established through a fresh structure, assisted by a commercial focus;
  - ❑ The importance of seeking to retain interaction/involvement of families associated with heritage properties. This could be facilitated either through leasing or other arrangements;
  - ❑ The importance of ensuring that the full integrity of properties, surrounding estates and property contents, including archives, is maintained;
  - ❑ The importance of ensuring necessary balance between heritage values and commercial interests;
  - ❑ Houses should remain a living organism, not museums. This could therefore involve leases to third parties and not just to associated families;
  - ❑ Any legislation should not just be for the built heritage but should also cater for natural heritage properties;
  - ❑ Legislation need not necessarily be limited to facilitating one trust, and should accommodate smaller individual trusts (e.g. Thirlestone trust in Scotland); and
  - ❑ The principle of inalienability is vital to any legislature.
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5.65 In its submission to the consultancy team, the Irish Landmark Trust highlighted a number of issues and suggestions in relation to the examination of trust-type arrangements to manage heritage properties in Ireland. The key suggestions highlighted by the Trust were as follows:

- ❑ In relation to country houses, “the essential integrity – in many cases - of buildings (including ancillary) collections parks and gardens;
- ❑ The unsuitability of the UK National Trust solution to the Republic, given the inadequacy of available ‘Chorley Formula’-type endowments, and the small population (and hence membership);
- ❑ The difficulties of sustainability with country houses, given the small number of visitors and the non-profitable nature of opening to the public;
- ❑ The desirability and cheapness of encouraging and assisting private ownership, with public access, by tax incentives and maintenance grants.”

5.66 One of the organisations involved in the development of historic houses for the purposes of tourism is The Hidden Ireland, which is an association of members owning some 36 smaller privately owned heritage properties throughout the State. In its submission, the association highlighted a number of “important facts about The Hidden Ireland houses”. It is instructive to note some of the key points made, as follows:

- ❑ “Most of our successful houses combine B&B with Self-Catering units and Section 482. It is crucially important to allow this combination and ways must be found to strengthen its effectiveness. Otherwise the future of some, currently self-sustainable, houses will be put in doubt;
- ❑ Our type of accommodation is best described as ‘Soft Tourism’ in that it does not usually involve very high visitor numbers so the detrimental effect on historic fabric is kept to a minimum;
- ❑ There is minimal interference with the fabric of the building and contents;
- ❑ Current grant aid is entirely geared towards buildings under threat, but there is no awareness of the need for future sustainability and, more importantly, no funding for internal decoration. A number of important houses are prevented from coming on-stream simply because they lack capital for the refurbishment necessary to bring them up to the required standard.”

- 5.67 In relation to the Section 482 tax relief, The Hidden Ireland, in its submission to the study, noted that:

“Section 482 is a considerable help to many owners though it is generally used for essential maintenance and insurance, as few owners have sufficient income to use this tax break for major restoration projects. We understand Revenue’s stipulation that no-one must benefit unfairly but there is a real need to extend the operation of S.482 to allow historic owners raise outside capital without selling land or contents, or increasing their mortgages.”

- 5.68 In relation to the examination of trust-type arrangements to manage heritage properties, The Hidden Ireland states:

“Clearly the most cost-effective way for the State to preserve our private heritage is to encourage existing owners to do this for them. This can easily be achieved without State or Trust ownership and private owners can be forced to repay grants, perhaps even with interest, if access is denied or if they subsequently decide to sell-up. Private owners must be encouraged to move towards achieving sustainability, though always in a way which does not compromise their houses’ heritage status and without further depleting their resources by selling contents, land or any remaining capital. This can only be achieved through funding but, unfortunately, the current funding levels are derisory, Section 482 does not always go far enough and there is no access to State guaranteed loans.”

## 6 Review of Tax and Grant Supports for Heritage

- 6.1 In this section we describe and review the nature of State supports currently provided for heritage. These include a variety of tax reliefs and grant supports. We also review the existing research and present our conclusions on the strengths and weaknesses of the existing supports for heritage.

### Background

- 6.2 Up until the 1980s the prevailing fiscal regime in Ireland was seen to exacerbate the worsening financial difficulties faced by many landowners and owners of historic properties. The previous research on historic houses and other heritage assets in Ireland suggested that the taxation regime after the 1920s as playing an important role in hastening the decline of historic properties. According to Dooley (2003):

“There is no doubt but that the sale, abandonment, demolition or fall into disrepair of the majority of houses in the past had much to do with a high tax regime. For decades after the 1920s, the consistently high levels of succession and death duties, income (super) tax and rates had crippling effects on country houses. The Wealth Tax of the early 1970s was for the Irish country house perhaps the most damaging fiscal exaction introduced in independent Ireland”<sup>49</sup>

- 6.3 Since the 1980s, however, taxation has been reduced and a number of new exemptions and other supports for heritage conservation have been introduced. These include specific tax reliefs and grant supports, which are reviewed in detail below.

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<sup>49</sup> Dooley (2003), Op. Cit.

## Description of Current Tax Reliefs and Grant Supports

- 6.4 The State has to-date made available a range of tax-based and grant-based public supports for the heritage sector. These are described further below and include:
- ❑ Relief on Capital Acquisitions Tax viz. inheritance and gift taxes, including for arts objects. This includes relief under Section 39 of the Finance Act, 1978 and Section 55 of the CAP Act, 1976;
  - ❑ Section 848A of Taxes Consolidation Act, 1997 – tax relief for donations to eligible charities and other approved bodies;
  - ❑ Section 482 tax relief for properties of significant horticultural, scientific, historical, architectural or aesthetic interest in Ireland;
  - ❑ Section 1003 tax relief for donation of heritage items;
  - ❑ Heritage grants, administered by the Heritage Council;
  - ❑ Department of the Environment, Heritage and Local Government housing grant funding for renewal or repair of thatched roofs;
  - ❑ Local Authority Conservation Grants Scheme and the Urban and Village Renewal Grants Scheme.
- 6.5 We describe the above existing supports in detail below.

### Relief on Capital Acquisitions Taxes

- 6.6 The details in relation to the Capital Acquisitions Tax regime are described in Cooney, Martyn and Reck (2002).<sup>50</sup> The Capital Acquisitions Tax Act 1976 introduced a gift tax in respect of every taxable gift taken on or after the 24<sup>th</sup> February 1974, in addition to an inheritance tax in respect of every taxable inheritance taken on or after the 1<sup>st</sup> April 1975. Since 1<sup>st</sup> December 2000 a single rate of 20% applies to both gifts and inheritances.

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<sup>50</sup> Martyn, J., Reck, P. and Terry Cooney (Ed.), *Taxation Summary – Finance Act 2002*, 26<sup>th</sup> Edition, The Institute of Taxation in Ireland, 2002.

- 6.7 There are two forms of relief available for heritage assets in relation to capital acquisitions taxes, which are described below, namely:
- ❑ Capital Acquisitions Tax exemption for stately homes and gardens; and
  - ❑ Capital Acquisitions Tax exemption for objects of national interest.

*Capital Acquisitions Tax exemption for stately homes and gardens*

- 6.8 The exemption in respect of stately homes and gardens that are open to the public is set out under Section 39 of the Finance Act 1978, which provides that Revenue may, on foot of a claim being made, exempt from either gift tax or inheritance tax a house or garden situated in the state which is of national, scientific, historic or artistic interest provided that it is not held for the purposes of trading. The following conditions apply in relation to the CAT exemption for stately homes and gardens:

- ❑ Reasonable facilities for viewing were allowed to members of the public from 5 July, 1978 to the date of the gift or inheritance or during the three years immediately preceding the gift or inheritance, and
  - ❑ reasonable facilities for viewing are allowed to members of the public on a continuing basis.
- 6.9 It should be noted that the exemption will be lost if there is a breach of the public access condition above by the donee or successor or if the house/garden is sold within six years of the date of the gift/inheritance other than to any one of the following bodies:
- ❑ The National Gallery of Ireland
  - ❑ The National Museum of Science and Art
  - ❑ Any other similar national institution
  - ❑ A local authority
  - ❑ The friends of the National Collection of Ireland.

- 6.10 An addition to CAT legislation under Section 166 of the Finance Act 1995 provides a relief for shares in companies owning heritage property. The legislation provides that where a gift or inheritance consists, in whole or in part at the date of the gift or at the date of the inheritance and at the valuation date, of shares in a private company owning relevant heritage property the shares are entitled to exemption from gift or inheritance tax to the extent that their value is derived from such heritage property.

*Capital Acquisitions Tax exemption for objects of national interest*

- 6.11 Under Section 55 of the Capital Acquisition Tax Act 1976 the Revenue Commissioners may, on a claim being made to them, exempt from either gift or inheritance tax such pictures, prints, books, manuscripts, works of art, jewellery, scientific collections or other things not held for the purposes of trading which appear to be of national, scientific, historic or artistic interest, subject to the following conditions:
- (i) that they are kept permanently in the State except for approved temporary absences abroad;
  - (ii) that reasonable facilities for viewing them are allowed to members of the public or to recognised bodies or associations of persons.

*Recent amendments*

- 6.12 Specific amendments have recently been introduced in relation to the exemptions available under the Capital Acquisitions Tax legislation pertaining to heritage properties and items, which concerns the sale, gift or inheritance of heritage property. Under Section 77 of the Capital Acquisitions Tax Consolidation Act 2003 it is stated that:

“The exemption [in respect of CT for heritage houses and gardens and for certain objects of national, scientific, historic or artistic interest which are kept in the State] will cease to apply in the event of a sale (other than to certain specified bodies) by the donee or successor within 6 years of the valuation date. The exemption will also cease to apply if there is a breach of any conditions on which the exemption was given”.<sup>51</sup>

- 6.13 Section 78 of the Capital Acquisitions Tax Consolidation Act 2003 ensures that gifts and inheritances which consist of shares in a company holding heritage property will be exempt from tax to the extent that those shares derive their value from heritage property. However, the amending legislation states that in order to qualify for the relief, the heritage property must have been owned by the company on or before 12 April 1995.<sup>52</sup>

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<sup>51</sup> Capital Acquisitions Tax Consolidation Act 2003, Pages 79-81. See [http://www.revenue.ie/pdf/cat\\_act2003.pdf](http://www.revenue.ie/pdf/cat_act2003.pdf).

<sup>52</sup> Ibid. (Section 78 of the Act)

### **Relief for Donations to Eligible Charities and Other Approved Bodies**

- 6.14 Section 848A of the Taxes Consolidation Act 1997 contains a scheme of income tax-based relief for donations to eligible charities and other approved bodies in respect of donations received on or after 6<sup>th</sup> April 2001. An “eligible charity” constitutes any charity in the State which is authorised in writing by the Revenue Commissioners for the purposes of this scheme. It should be noted that an authorisation will not be issued unless the applicant charity<sup>53</sup>:
- ❑ is a body of persons or a trust established for charitable purposes only, and
  - ❑ applies its income for charitable purposes only, and
  - ❑ has been granted exemption from tax (i.e. assigned a CHY number) by the Revenue Commissioners for a period of not less than 3 years prior to the date of application.
- 6.15 Authorisations issued under the Scheme are valid for periods ranging up to 5 years and upon expiry may be renewed on the basis of making a fresh application.
- 6.16 It should be noted in relation to donations to eligible charities and approved bodies that a minimum donation in any year of €250 to any one eligible charity or approved body. Where there is an association between the donor and the charity(s)/approved body(ies) at the time the donation is made, e.g. where the donor is an employee or member of the charity/approved body, then the relief is restricted to 10% of the total income of that individual for the relevant year of assessment.
- 6.17 According to the Revenue Commissioners, a donation must also satisfy the following conditions, which may have implications for the acquisition of heritage property, namely:
- ❑ “It must be in the form of money;
  - ❑ It must not be repayable;
  - ❑ It must not confer any benefit on the donor or any person connected with the donor;
  - ❑ It must not be conditional on, or associated with, any arrangement involving the acquisition of property by the charity of the approved body.”

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<sup>53</sup> Scheme of Tax Relief for Donations to Eligible Charities and Other Approved Bodies, Under Section 848A, Taxes Consolidation Act 1997 - CHY 2 Form, Revenue Commissioners, May 2003. See [www.revenue.ie/pdf/chy1.pdf](http://www.revenue.ie/pdf/chy1.pdf) and [www.revenue.ie/pdf/chy2.pdf](http://www.revenue.ie/pdf/chy2.pdf). The Revenue also provides a listing of all “approved bodies” under the Scheme.

## **Section 482 Tax Relief for Expenditures on Significant Buildings and Gardens**

### *Background*

- 6.18 The Section 482 tax relief (under the Taxes Consolidation Act, 1997) for buildings and gardens which are intrinsically of significant scientific, historical, architectural or aesthetic interest was originally conceived in 1982 under the Section 19 of the Finance Act 1982.

### *Nature of relief available*

- 6.19 Section 482 provides a tax relief from income tax and corporation tax to the owner/occupier of:
- ❑ an approved building (including surrounding garden)
  - ❑ an approved garden existing independently, and
  - ❑ approved buildings in use as guesthouses subject to certain conditions (see below).
- 6.20 Additional relief, up to an aggregate of €6,350, is provided in respect of the following items:
- ❑ the repair, maintenance or restoration of the approved objects in an approved building/garden provided the objects are on display for a period of at least two years from the year in which the expenditure is claimed;
  - ❑ the installation, maintenance or replacement of a security alarm system in the approved house/garden, and
  - ❑ the provision of public liability insurance for the approved house/garden.
- 6.21 For a building or garden to be approved under Section 482, it must satisfy the following requirements:
- ❑ The building must have been determined by the Minister for Arts, Heritage, Gaeltacht and the Islands to be a building which is intrinsically of significant historical, architectural or aesthetic interest. In relation to a garden, it must be a garden which is intrinsically of significant horticultural, scientific, historical architectural or aesthetic interest; and
  - ❑ The Revenue Commissioners must determine that reasonable access is provided to the building or garden for members of the public or in the case of a guesthouse that it is in use as a guesthouse for at least six months of the year.

- 6.22 In making their determination in relation to reasonable access the Revenue Commissioners must be satisfied that the following conditions are satisfied:
- ❑ access to the whole or a substantial part of the building/garden must be available at the same time,
  - ❑ access is afforded for a period of at least 60 days in any one year including not less than 40 days during the period 1 May - 30 September inclusive,
  - ❑ the daily viewing times must be at least four hours, and
  - ❑ the admission price, if any, must be reasonable.
- 6.23 In relation to qualifying expenditure incurred in a chargeable period, claimants for relief must also, by 1<sup>st</sup> November, advise Fáilte Ireland regarding:
- ❑ The name, if any, and address of the approved building, garden or guesthouse,
  - ❑ The days and times during the year when access is afforded to the public,
  - ❑ In the case of guesthouses, such guesthouses must be in use as a guesthouse for at least six months of the calendar year, of which four months must be in the period 1<sup>st</sup> May-30 September inclusive,
  - ❑ In the case of guesthouses, the building must be registered or listed with Fáilte Ireland as a guesthouse and Fáilte Ireland must be notified regarding the opening times of the guesthouse.
- 6.24 This information is given to Fáilte Ireland on the understanding that it may be published by Fáilte Ireland or by another tourism promoting body.
- 6.25 It should also be noted that there is provision for either the Revenue or the Minister to revoke a determination made where the conditions for granting such a determination no longer exist. In such circumstances, any relief granted in the five-year period immediately before revoking can be clawed back by the Revenue.
- 6.26 There is a restriction on the Section 482 relief in respect of individuals who acquire ownership of the building through participating in a passive investment scheme. In such cases the amount of relief allowable is restricted to €31,750 in any year commencing 1<sup>st</sup> January 2002 where such expenditure was incurred on or after 5<sup>th</sup> December 2001.

*Properties Qualifying under Section 482*

- 6.27 A listing of all properties which have received determinations from the Commissioners of Public Works/Minister for the Environment, Heritage and Local Government is updated on a regular basis and is published annually by Fáilte Ireland. The full listing of all properties for which determinations have been provided since the scheme commenced in 1982 is shown in Annex 4. In the table below we present a summary of the total number of properties that have been approved since the commencement of the scheme, the total number of properties currently advertised by Failte Ireland and the nature of admission fees, if any, charged for viewing these properties.

<b>Table 6.1: Section 482 Relief – Summary Statistics re Number of Properties Approved Since Commencement of Scheme, Number of Properties Currently Listed and Admission Charges</b>	
<b>Statistics</b>	<b>Section 482</b>
Total number of properties determined/approved since 1982	445
Total number of properties currently listed as at May 2004	166
No. of properties charging for admission	114
<i>% of total properties currently listed</i>	68.7%
Mean of full-rate admission fees charged	€4.0
Standard deviation of full-rate admission fees charged	€2.8
Source: Department of the Environment, Heritage and Local Government and Fáilte Ireland.	

- 6.28 A total of 445 properties were approved under the scheme since its commencement in 1982. However, this figure includes many properties which had been listed in previous years but which are not currently availing of the relief. Currently, according to the Failte Ireland listing, there are 166 properties availing of the relief which are advertised as being open to the public. Of these properties, it is notable that 114 properties (68.7% of the total number listed) currently charge an admission fee. The average admission fee is €4, although there is a noticeable variation around this average, as indicated by the standard deviation of €2.8.

*Cost of Section 482 to the Exchequer*

- 6.29 Detailed data specific to claims for relief under Section 482 are not ordinarily maintained by the Revenue Commissioners. However, based on a survey undertaken by the Revenue relating to the period 2000/2001, estimates are available for the cost of the Section 482 relief for the 1999/2000 and 2000/01 tax years, which are shown in Table 6.2 below. According to the Revenue Commissioners' figures, the Section 482 scheme is estimated to have cost the Exchequer a total of €3.9 million in the 1999/2000 tax year, falling to €2.7 million in 2000/2001. We understand that more detailed information to ascertain the precise costs will be collected by the Revenue in the future. The earlier estimates quoted above suggest a very low level of average annual tax cost per property.

<b>Table 6.2: Estimated Cost of Section 482 Tax Relief - 1999/00</b>		
<b>Relief</b>	<b>Estimated Cost for:</b>	
	<b>1999/2000 - €</b>	<b>2000/2001- €</b>
Section 482 relief for expenditure on significant buildings and gardens	3.9	2.7
Source: The Revenue Commissioners, Statistical Report 2002		

**Section 1003 Tax Relief for Donation of Heritage Items***Background*

- 6.30 A separate relief concerns the tax relief available on the donation of heritage items, which was originally introduced under Section 176 of the Finance 1995 and which now falls under Section 1003 of the Taxes Consolidation Act 1997.

*Nature of relief available*

- 6.31 Relief is available in the form of a tax credit equivalent to the value of the heritage item(s) donated to an approved body(ies), which may subsequently be set against the taxes covered by the scheme, namely income tax, corporation tax, capital gains tax, gift tax and inheritance tax. The tax credit must first be set against any arrears outstanding in respect of any of these taxes. Only when any such arrears are cleared can the tax credit be set against current or future tax liabilities.

- 6.32 In order to obtain the tax credit, the heritage item(s) must be donated for no consideration, other than the tax credit itself. It should also be noted that the donor is not entitled to any other tax relief in respect of the donation.
- 6.33 The approved bodies for donation under the scheme are as follows:
- ❑ The National Archives;
  - ❑ The National Gallery of Ireland;
  - ❑ The National Museum of Ireland
  - ❑ The National Library of Ireland
  - ❑ The Irish Museum of Modern Art.
- 6.34 For the purposes of the relief, a heritage item constitutes any kind of cultural item including:
- ❑ Any archaeological item, archive, book, estate record, manuscript and painting, and
  - ❑ Any collection of cultural items and any collection of same in their setting which are considered appropriate for donation to the national collections.
- 6.35 A Selection Committee is appointed, which, on application by the potential donor considers items for donation. To qualify for relief, an item must be considered “an outstanding example of the type of item involved, pre-eminent in its class, whose export from the State would constitute a diminution of Ireland’s accumulated cultural heritage or whose import into the State would constitute a significant enhancement of the accumulated cultural heritage of Ireland”.
- 6.36 It is important to note that annual limits are also placed on the value of heritage items for donation under the Section 1003 relief. In particular, the open market value of the heritage item or collection of heritage items must be at least €100,000, while the aggregate open market value of all items donated under Section 1003 is capped at a level of €6 million in any one calendar year.

*Recent amendments to legislation*

- 6.37 Two significant changes to Section 1003 have been introduced in recent legislation. The first concerns the composition of the Selection Committee. Under the Finance Act 2002, Section 1003 was amended to include “an officer of the Minister for Art, Sport and Tourism who shall act as Chairperson to the committee”.

- 6.38 Under the Finance Act 2004, provision was also made for the following amendments to Section 1003:
- ❑ The minimum value of an item/collection subject to determination has been increased from €100,000 to €150,000 with the added requirement that in the case of a collection, at least one item in the collection must have a minimum value of €50,000;
  - ❑ The member of the selection committee representing an approved body to which the donation is intended to be made may not participate in the decision on the application/determination, although he/she may participate in the discussion of the application by the committee in advance of the decision being made;
  - ❑ In considering an application from a potential donor, the selection committee will be required to seek the opinion in writing of the approved body concerned and the Heritage Council, the Arts Council or such other person or body as it deems appropriate. It does not, however, have to accept the opinions of these bodies/persons.

*Example of heritage items donated to-date*

- 6.39 Examples of heritage items donated to date under Section 1003 include the personal papers and archive relating to Hugh Leonard (value approx. €127,000) and the collection of architectural drawings known as the Guinness Collection (value approx. €178,000), both in 1996. In 1997 donations included a collection of 5 modern paintings by Jack B. Yeats, William John Leech and James Humbert Craig, having a value of around €159,000.

*Exchequer Cost of Section 1003 Relief*

- 6.40 The cost to the Exchequer of the Section 1003 tax relief has been estimated by the Revenue Commissioners. According to the estimates, the cost of the relief rose from €0.75 million in 1999 to €5.6 million in 2003. Relative to the annual budget/cap set for the relief, the annual cost has ranged between 70.8%-99.5% of the annual budget/cap over this period.

<b>Table 6.3: Estimated Exchequer Cost of Section 1003 Tax Relief for Donation of Heritage Items - 1999-2003</b>			
<b>Year</b>	<b>Annual Budget/Cap - € Million</b>	<b>Amount Used - € Million</b>	<b>Amount Used as % of Budget/Cap</b>
1999	0.75	0.75	99.5%
2000	3.0	2.7	90%
2001	3.0	2.1	71.2%
2002	6.0	4.2	70.8%
2003	6.0	5.6	92.8%
Source: The Revenue Commissioners, Statistical Report 2002			

### Heritage Grants Administered by the Heritage Council

6.41 The Heritage Council operates a series of grant schemes under the following headings:

- ❑ Local heritage grants;
- ❑ Publications grants;
- ❑ Archaeology grants;
- ❑ Wildlife grants;
- ❑ Buildings at risk grants;
- ❑ Museums and archives grants.

6.42 An analysis of the recent annual level of Heritage Council grants approved by grant scheme between 1997 and 2002 is shown in Table 6.4 overleaf. Grant expenditure totalled €2.8 million 2002 across the above grant schemes, down from €3.6 million in 2001. The largest component of grant expenditure is in respect of the Buildings at Risk grant scheme, which accounted for €1.86 million in grants in 2002 and €2.7 million in 2001. The aim of this particular grant scheme is, according to the Council, "to enable the Council to identify the scale and extent of risk to the architectural heritage and to assist to in proposing policies and priorities to address the issue".<sup>54</sup>

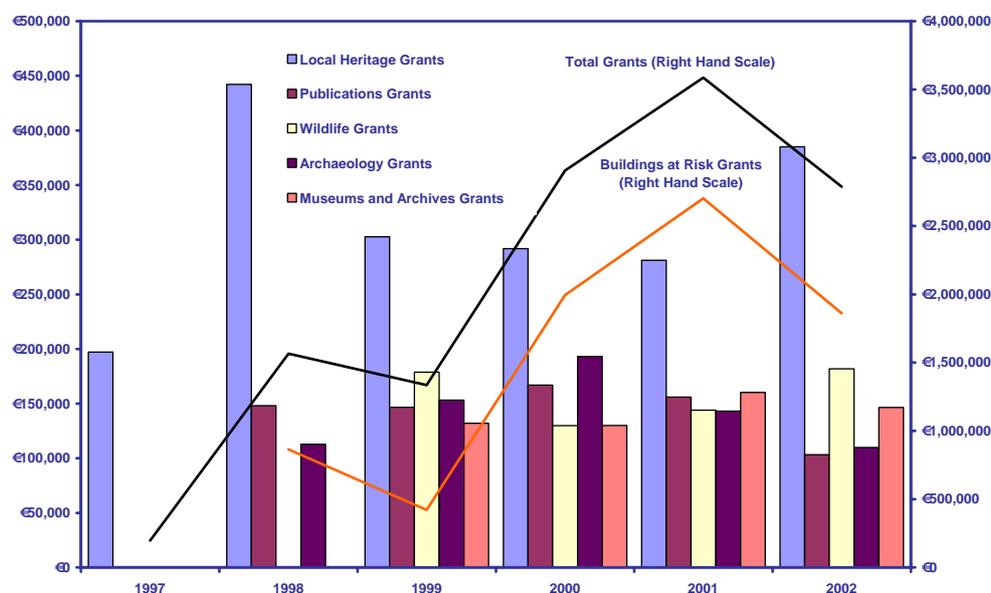
<sup>54</sup> The Heritage Council, Annual Report 2002, P.26.

<b>Table 6.4: Breakdown of Heritage Council Grants Approved by Grant Scheme - 1997-2002 - €</b>						
Grant Scheme	Grants Awarded - €					
	1997	1998	1999	2000	2001	2002
Local Heritage Grants	€197,197	€442,193	€302,578	€291,786	€281,209	€385,000
Publications Grants	-	€147,976	€146,705	€166,970	€155,956	€103,207
Wildlife Grants	-	-	€178,847	€129,807	€143,929	€181,817
Buildings at Risk Grants	-	€863,422	€421,553	€1,994,124	€2,702,955	€1,861,852
Archaeology Grants	-	€112,632	€153,194	€193,133	€143,176	€109,781
Museums and Archives Grants	-	-	€132,059	€129,862	€160,227	€146,491
<b>Total Grants</b>	<b>€197,197</b>	<b>€1,566,223</b>	<b>€1,334,936</b>	<b>€2,905,682</b>	<b>€3,587,452</b>	<b>€2,788,148</b>

Source: The Heritage Council

- 6.43 In addition to the Buildings at Risk grants scheme, the Heritage Council also provides grants for local heritage projects, the objective of which is to recognise projects' contribution to 'promoting pride in Ireland's heritage'. Grants approved for local heritage projects totalled €385,000 in 2002.
- 6.44 The Council also provides grants to assist the production of high quality publications on Ireland's heritage (valued at €103,207 in 2002), grants for the Wildlife Scheme, which contributes to the collection of data on flora, fauna and wildlife habitats, landscapes and seascapes (valued at €181,817 in 2002), archaeology projects (€109,781) and grant assistance for museums and archives (€146,491 in 2002).
- 6.45 A graphical illustration of the recent annual movement in Heritage Council grants by grant scheme is presented in Figure 6.1 overleaf.

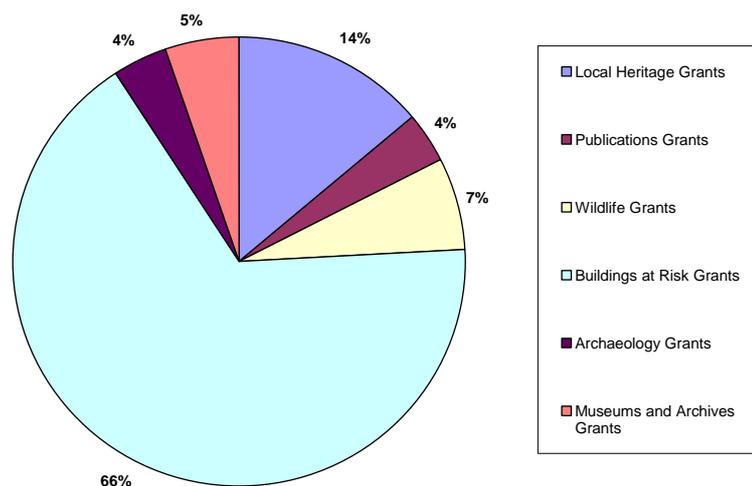
Figure 6.1: Heritage Council Grants by Grant Scheme - 1997-2002 - €



Source: *The Heritage Council, Annual Report 2002*

6.46 In Figure 6.2 overleaf we present a pictorial representation of the percentage breakdown of Heritage Council grants by grant scheme in 2002. This highlights the relative scale of grants provided to the Buildings at Risk scheme, which accounted for two-thirds of all Council grants awarded in 2002. The next largest element of funding relates to local heritage projects, which accounted for 14% of total grant funding in 2002.

**Figure 6.2: Breakdown of Heritage Council Grants by Grant Scheme - 2002 - % of Total Grants Awarded**



Source: *The Heritage Council, Annual Report 2002*

### Department of the Environment, Heritage and Local Government Housing Grants

6.47 The Department of the Environment, Heritage and Local Government also provides direct support in the heritage area in the form of housing grant funding for renewal or repair of thatched roofs. A grant of two thirds of the cost (up to a maximum of €3,809 is available towards the cost of renovating thatched roofs of owner occupied houses. A higher level of assistance of €5,713 is available for houses on specified offshore islands. In 1999, the Department introduced a new measure which to assist lower income households, where householders with a medical card may be eligible for thatching grants up to a maximum of €6,348, or €8,253 in the case of houses on the offshore islands. In such cases the grant may cover up to 80% of the approved cost of works subject to the maximum grant.

**Local Authority Grants and the Urban and Village Renewal Grants Scheme**

- 6.48 There are also local authority conservation grants for protected structures as well as the Urban and Village Renewal Grants Scheme. Funding is available under the Urban and Village Renewal measure of the Regional Operational Programmes, in respect of the upgrade of buildings of significant architectural and heritage merit which are in public ownership or open to the public generally. Applications for funding under this scheme are invited from local authorities, civic trust and other not-for-profit bodies, and funding is allocated to specific projects following their evaluation by an advisory panel. The figures for expenditure in 2002 and 2003 under the scheme were as follows: 2002 : €878,506.11, 2003 : €1,259,113.27.

## Summary of Findings

- 6.49 In this section we reviewed the existing range and level of tax and grant supports available for heritage properties in Ireland. We summarise below the key findings from our review.
- 6.50 The State has to-date made available a range of tax-based and grant-based public supports for the heritage sector, which can be summarised as follows:
- Relief on Capital Acquisitions Tax viz. inheritance and gift taxes, including for arts objects. This includes relief under Section 39 of the Finance Act, 1978 and Section 55 of the CAP Act, 1976;
  - Section 848A of Taxes Consolidation Act, 1997 – tax relief for donations to eligible charities and other approved bodies;
  - Section 482 tax relief for properties of significant horticultural, scientific, historical, architectural or aesthetic interest in Ireland;
  - Section 1003 tax relief for donation of heritage items;
  - Heritage grants, administered by the Heritage Council;
  - Department of the Environment, Heritage and Local Government housing grant funding for renewal or repair of thatched roofs; and
  - Local authority conservation grants for protected structures.
- 6.51 One of the main forms of tax relief currently available is the Section 482 relief. A total of 445 properties were approved under the Section 482 scheme (previously Section 19 of the Finance Act 1982) since its commencement in 1982. However, this figure includes many properties which had been listed in previous years but which are not currently availing of the relief. Currently, there are 166 properties availing of the relief which are advertised as being open to the public.
- 6.52 Detailed data specific to claims for relief under Section 482 are not ordinarily maintained by the Revenue Commissioners. However, based on a survey undertaken by the Revenue, the Section 482 scheme is estimated to have cost the Exchequer a total of €3.9 million in the 1999/2000 tax year, falling to €2.7 million in 2000/2001. We understand that more detailed information to ascertain the precise costs will be collected by the Revenue in the future. The earlier estimates quoted above suggest a very low level of average annual tax cost per property.

- 6.53 Under the Section 1003 tax relief, relief is available in the form of a tax credit equivalent to the value of the heritage item(s) donated to an approved body(ies), which may subsequently be set against the taxes covered by the scheme, namely income tax, corporation tax, capital gains tax, gift tax and inheritance tax. The value of agreed donations may be set against past, current or future tax liabilities, in that order.
- 6.54 There is an annual 'cap' in place which limits the total annual level of tax that may be foregone to €6 million under the Section 1003 relief.
- 6.55 According to the latest estimates available from the Revenue Commissioners, the cost of the Section 1003 relief rose from €0.75 million in 1999 to €5.6 million in 2003. Relative to the annual budget/cap set for the relief, the annual cost has ranged between 70.8%-99.5% of the annual budget/cap over this period.
- 6.56 The Heritage Council provides a range of grant supports for heritage conservation and related activities. The fall under the headings of (i) Local heritage grants, (ii) Publications grants, (iii) Archaeology grants, (iv) Wildlife grants, (v) Buildings at risk grants, and (vi) Museums and archives grants. An analysis of the recent annual level of Heritage Council grants approved indicates that grant expenditure totalled €2.8 million 2002, down from €3.6 million in 2001.
- 6.57 The Department of the Environment, Heritage and Local Government also provides direct support in the heritage area in the form of housing grant funding for renewal or repair of thatched roofs. A grant of two thirds of the cost (up to a maximum of €3,809 is available towards the cost of renovating thatched roofs of owner occupied houses. A higher level of assistance of €5,713 is available for houses on specified offshore islands.

## **7 Review of Approaches to Heritage Management in Other Countries**

- 7.1 In assessing the potential costs and benefits associated with the application of trust and other approaches to the management of heritage properties in the Irish context it is useful to examine the approaches pursued in other jurisdictions. In this section we present a review of some of the international evidence in relation to alternative approaches to heritage property management but this is not meant to represent a comprehensive review of all international approaches. Our review of international approaches focuses particularly on the nature of relevant legislation and practice in each jurisdiction, including the nature of supporting tax-based and other economic incentives. We would, however, stress that no model can be simply transplanted between countries and it is necessary to take account of the specific characteristics of the Irish heritage challenge and environment.

### **Geographic Scope and Approach to Review**

- 7.2 In relation to geographic scope, we believe that the most fruitful approach to this review is one that provides sufficient variation in terms of a diverse range of management and legislative models for consideration. Within this context, one important feature differentiating the legislative approaches applied in different jurisdictions concerns the types of legal systems prevailing in each country. In particular, the legislative systems applying in the Republic of Ireland, the United Kingdom (with the exception of Scotland), the US (with the exception of Louisiana and Puerto Rico), the Commonwealth countries and a number of other countries are based on the English common law system. By contrast, the prevailing system in Continental Europe is the civil law system. Scotland has unique system, which embodies elements of both systems. This variation in legal systems in different jurisdictions may have important implications in particular for the scope for application within the Irish context of aspects of overseas approaches to heritage ownership and management.
- 7.3 It is also important to state that in ensuring sufficient diversity in the consideration and application of different models, over-reliance is not placed on the approaches to heritage ownership and management in the UK. For a variety of reasons, discussed further in this section, direct translation of all aspects of the U.K. approaches may not be feasible within the Irish context.

- 7.4 Reflecting the above considerations, in reviewing practice and legislation internationally, the jurisdictions examined in detail in this study are identified in the figure below.

<b>Figure 7.1: Jurisdictions Examined under International Review</b>	
<input type="checkbox"/>	England;
<input type="checkbox"/>	Wales;
<input type="checkbox"/>	Scotland; and,
<input type="checkbox"/>	Northern Ireland;
<input type="checkbox"/>	United States
<input type="checkbox"/>	Australia
<input type="checkbox"/>	New Zealand
	<b>Other</b>
<input type="checkbox"/>	The Netherlands;
<input type="checkbox"/>	Belgium;
<input type="checkbox"/>	France;
<input type="checkbox"/>	Germany;
<input type="checkbox"/>	Malta
<input type="checkbox"/>	Canada
Source: Indecon	

- 7.5 Within each jurisdiction, our review of approaches to heritage ownership and management focuses on the following key aspects:
- Historic context and background to heritage management;
  - Application of trust-type and other organisational approaches; and,
  - Nature of tax and other economic instruments supporting above approaches.

In this section we examine the approaches used in England, Wales, Scotland, Northern Ireland and in the United States, Australia and New Zealand. These countries have also utilised National Trusts. In Annex 7 we review heritage management in the Netherlands, Belgium, France, Germany, Malta and Canada.

## England, Wales, Scotland and Northern Ireland

- 7.6 Within the U.K. there is considerable diversity both within and across constituent jurisdictions in terms of the different trust-type and other models applied in heritage ownership and organisation and the nature of tax and other incentives in place. We firstly describe the general historical and policy background in the UK. We then examine the legal nature and operation of the National Trust for England, Wales and Northern Ireland, the National Trust for Scotland and other trust models in the UK.

### Historic Context and Background to Heritage Management

#### *Historic context*

- 7.7 The introduction of death duties<sup>55</sup> in 1896 had caused an acceleration in the dispersal of Britain's great private art collections. To lessen this effect, conditional exemption was introduced in 1898. Twelve years later, in 1910, the legislative framework for Acceptance in Lieu<sup>56</sup> was established.
- 7.8 The scheme languished almost completely unused for a further 37 years. The Inland Revenue insisted that someone – another part of Government, if necessary – should make payment to them in pounds, shillings and pence and not in artistic currency.

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<sup>55</sup> Death Duties is a generic term used to cover the various taxes that have been in place since 1896 which taxes assets (including land and chattels) passing to another ownership on death. Inheritance Tax has been in place since 1986, Capital Transfer Tax was introduced in 1975 and before that there was Estate Duty.

<sup>56</sup> Acceptance in Lieu is essentially a way of paying tax, in particular death duties. Instead of paying by cash or cheque the tax is paid for by an object. The taxpayer and the Government agree a price for the object which is fair to both sides and tax at a reduced rate is deducted from the agreed value of the object.

- 7.9 In 1946, the National Land Fund was set up as a memorial to the dead of the Second World War using £50 million in proceeds from the sale of surplus war goods. Under the 1946 Finance Act, the National Land Fund could make payments to the Inland Revenue equal to the death duties forgone on real property accepted in lieu of death duties. The National Trust acquired several properties as a result. National Land Fund monies were used for the acquisition of outstanding buildings, associated objects and land and grants to local authorities and the National Trust. The scope of National Land Fund activities was progressively broadened in various Finance Acts. From 1953 the Revenue was allowed to accept in lieu of Estate Duty objects kept in buildings also accepted in lieu.
- 7.10 The 1956 Finance Act extended the scope to works of art of pre-eminent aesthetic or historical value, irrespective of any association with a particular building. In the 1973 Finance Act, provisions were extended to include any item of pre-eminent national, scientific or historic interest.
- 7.11 The National Land Fund was abolished in the late 1970's, and the National Heritage Memorial Fund, which functioned under a board of independent trustees, was set up instead, and Government's involvement with cultural heritage was reorganised.<sup>57</sup>

*Background to heritage management*

- 7.12 The management of heritage in the United Kingdom is the responsibility of a large number of bodies, including those that operate at national, regional and local level. At national level, the Department for Culture, Media and Sport (DCMS) oversees the UK's obligations under the World Heritage Convention and is also responsible, within England, for heritage legislation and the statutory protection of 'scheduled' monuments and 'listed' buildings.<sup>58</sup>
- 7.13 DCMS also provides public funding for English Heritage, which is a non-departmental statutory advisory body charged with the protection of the historic environment through its role in statutory processes and with the promotion of public understanding and enjoyment of the heritage throughout England.
- 7.14 Within the other devolved 'home countries' of the UK (Scotland, Wales and Northern Ireland) the executive role is fulfilled respectively by Historic Scotland, Welsh Historic Monuments, and the Environment and Heritage Service in Northern Ireland. In Scotland

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<sup>57</sup> The National Heritage Memorial Fund was established in 1980 by Parliament as a successor body to the National Land Fund. Its Trustees, in 1995 took over responsibility through the Heritage Lottery Fund for the distribution of the National Lottery funds for the Heritage: approximately £300m per annum.

<sup>58</sup> See Department of Culture, Media and Sport - [http://www.culture.gov.uk/historic\\_environment/default.htm](http://www.culture.gov.uk/historic_environment/default.htm).

and Wales the survey and record of ancient and historical monuments, including those at risk, is also carried out by Royal Commissions on Historical Monuments, who also have responsibility for their respective National Monuments Records. The Royal Commission on the Historical Monuments of England was operationally merged with EH in 1999.

- 7.15 In England, the approximately 40 government-funded cultural and heritage organisations have had very different origins, and still to some extent have significant differences in constitutional structure. Some are statutory bodies legally constituted by Act of Parliament or under a special Royal Charter (which has much the same effect) such as the British Museum, the National and Tate Galleries, and the Natural History Museum, while others have been incorporated as companies with charitable status under general Company Law, such as the National Museums Liverpool and the Horniman and Geffrye Museums in London, while a few remain constitutionally an integral part of a government department, as with several of the major Ministry of Defence museums.
- 7.16 From at least the time of the far-reaching Northcote-Trevelyan reforms of British government and the public service in the mid-19th century through to the mid-1980s the staffing, funding and premises of all national institutions and services of this kind were in effect all integral parts of the public service. Regardless of their actual legal status, whether as nominally independent trustee or similar bodies, or as an integral part of a Government Department, staff were recruited and regulated by the national Civil Service department and, subject to satisfactory conduct and performance, had established permanent positions as part of the Home Civil Service.
- 7.17 In the same way, all of a cultural institution's necessary financial services, including the payment of accounts, payroll management and accountancy and audit services were provided by special units of the Treasury (Ministry of Finance). Similarly, the buildings, sites and other premises required by the cultural and heritage institutions and organisations were built or purchased, and then maintained, by central government, originally through the ancient Office of Works which passed through several identities, latterly as the Property Services Agency of the Department of the Environment.
- 7.18 However, regardless of their actual legal status and structure, over the past decade or so there has been a marked convergence in their day-to-day organisation and management. All of the central Department of Culture, Media and Sport (originally Office of Arts and Libraries) institutions that were not already independent public foundations, but were integral parts of the public service, run by civil servants, were turned into what are termed "Non-Departmental Public Bodies" (NDPBs) by the late 1980s. The most significant examples were the Victoria and Albert Museum (London), and National Museum of

Science and Industry (London, York, Bradford and Swindon), both originally part of the Department of Education and what are now the Royal Museums of Scotland, which were originally part of the Scottish Education Department, and the Historic Buildings and Monuments Commission (HBMC - which markets itself very effectively as "English Heritage") which was based on the original Office of Public Works English Heritage ones within and independent legal status coming under new government arrangements and rules for Non-Departmental Public Bodies (NDPBs) - sometimes referred to as "quangos" (quasi-national governmental organisations).

- 7.19 Also, the very few that remain legally part of government have been designated as "Agencies", and now mainly operate under very similar procedures and rules to those for NDPBs, as in fact they did when some were integral parts of governmental departments while others had independent legal structures and status (such as the British Museum, National Gallery or the Arts Council), therefore the following notes on recent changes apply equally to both categories of cultural and heritage organisation and agency.
- 7.20 Transferring such important functions from specialised central government agencies such as the Property Services Administration to the many national institutions and services has also had a profound effect on their staffing requirements. Today, all have had to greatly increase the number, range and - not least - professional expertise of their workforce, either through the creation of new specialist and administrative positions, or through engaging consultants and contractors to undertake all or part of this work.
- 7.21 In the case of cultural and heritage sector, institutions and organisations have clearly had to create considerable numbers of positions for premises services management specialists (e.g. surveyors, engineers, designers), finance and marketing staff (accountants, auditors, fund-raisers, public relations and press specialists) together with both strategic and operational level human resources managers, training officers and pensions scheme managers, whether directly employed or on a consultancy basis.

- 7.22 Today such institutions and organisations, regardless of their actual constitutional structure, now have full control over, and responsibility for, their resources and management. From the late 1980s the ownership of their buildings and other premises were progressively transferred from the Government's central Property Services Agency to the organisations themselves, along with all aspects of their management and future development, including the design, construction and project management of new buildings.
- 7.23 Then, following some limited experiments with allowing certain institutions to retain the income from trading and charges (rather than have to pay all this over to the Treasury), the funding principle was in effect completely reversed. In place of the long-standing system under which government paid all the expenditure of these bodies, including premises and employee costs, but received all earned income and donations, the institutions were instead allocated an annual cash-limited net grant. (Annual grants have now been replaced by formal three year funding agreements built around guaranteed cash levels of funding subject to the achievement of defined performance targets.). Institutions began to be strongly encouraged to supplement both annual and capital grants with earned income from commercial activities, and private funding such as memberships, patronage and business sponsorship. (The introduction of the National Lottery as a further boost to such fund-raising, since the Lottery grants for capital development projects were normally restricted to one-third, or at the most one-half of the cost of the project, leaving often very large sums to be raised by patronage, sponsorship and other fund-raising.
- 7.24 In relation to staffing, it was quickly recognised that with employee costs represented a very major part of the costs of many of the bodies, their government trustees or council, together with the director or other chief executive officer, should take over not only the payment salaries and other employee costs, but must also have adequate control over these costs, and hence the staff themselves. All new appointments were therefore made by the institution itself, and by 1995 all existing staff had been compulsorily transferred out of the Civil Service into the direct employment of the institutions themselves.
- 7.25 This was in line with a national policy that was very aggressively pursued: it has been estimated that between 1979 and 1997 at least a million general government employees were transferred from the public service into direct employment contracts with either NDPBs, privatised businesses or from internal self-governing "agencies" within government departments themselves.

- 7.26 Overall, on a practical day to day basis the exact organisational structure adopted has proved to be not very significant, except that services and activities which remain part of the civil service structure of direct government provision have greater financial and other protection since the government and Parliament are, in effect, obliged to meet all their liabilities. In contrast with this, all “trustee” structures - whether incorporation by Act of Parliament, Royal Charter or as a company - create a new collective “legal person” which owns and manages property in its own right and is ultimately responsible for its own assets and liabilities. As a matter of law if such bodies become financially insolvent there is no obligation on government or parliament to meet the debts and pay the creditors.
- 7.27 The majority of public sector museums and heritage service in the UK are, however, the responsibility of local authorities not central or regional government. With the exception of a limited range of responsibilities in relation to the treatment of historic buildings within the town and country planning process, local authorities have no mandatory duties in relation to the culture or heritage, though they have adoptive legal powers that permit a local authority to provide, or give financial assistance to, such services if they wish to do so. There are no provisions in local government law concerning the internal organisation or management of the cultural heritage assets and services of a local authority.
- 7.28 In the late 1960s and early 1970s most major local government arts services, such as municipal theatres, arts centre and orchestras, were transferred out of the direct control of the local authority and reconstituted as legally independent charitable companies or trusts, though typically the authority continued with some regular financial support, and in return typically retained some or all of the seats on the company’s board of directors or trustees. These changes were partly because there were tax advantages for such structures at that time, but mainly in response to pressure from the Arts Council where these arts services were jointly funded with the Arts Council, which at that time had become concerned about the low status, and practical issues relating to organisation, management and staffing of such facilities within local government administrative and political structures. Many other areas of local government have also been taken partly or completely out of direct local authority control in recent years, including colleges and schools, for example.

7.29 Now a number of major local authority museum and heritage services, for example the long-established and highly important city services of Sheffield and York, have been transferred to independent trust/charitable company status, following the earlier precedent of their arts organisations, and for very much the same reasons. There is currently much interest in this model among both local authorities and the professions, and following the apparent considerable success of some of the pioneer museum and heritage trusts it is expected that there will be many other such transfers in the relatively near future.

#### **Application of Trust-type and Other Organisational Approaches**

7.30 There are several forms of trust-type organisations in operation in the UK in the area of heritage property management. These broadly include:

- ❑ National trusts, including National Trust for England, Wales and Northern Ireland, and the National Trust for Scotland;
- ❑ Other private trusts and foundations, with charitable status, for example, the various wildlife trusts under the umbrella of the Wildlife Trusts partnership;
- ❑ Civic Trusts, for example, the Civic Trust for Wales
- ❑ Building preservation trusts, for example, the Architectural Heritage Fund.

7.31 According to the Association of Charitable Foundations, which exists to promote good practice among trusts and foundations, “grant-making trusts and foundations are regulated under the same laws as other UK charities. In England and Wales, they must be registered with the Charity Commission, a semi-independent government body”.<sup>59</sup>

7.32 In the following paragraphs we present a description and examination of the background and operation of the national trusts and a selection of other trust-type organisations in England, Wales, Scotland and Northern Ireland.

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<sup>59</sup> See Association of Charitable Foundations, [http://www.acf.org.uk/trusts\\_facts.htm#1](http://www.acf.org.uk/trusts_facts.htm#1).

### The National Trust (England, Wales and Northern Ireland)

#### *Background and Objectives*

- 7.33 The National Trust for England, Wales and Northern Ireland was founded in 1895 by three Victorian philanthropists - Miss Octavia Hill, Sir Robert Hunter and Canon Hardwicke Rawnsley. In 1907 the Trust was incorporated by an Act of Parliament, which granted the Trust the unique power to declare its property inalienable. The Trust, which operates in England, Wales and Northern Ireland, expanded steadily in its early days and in 1937 a further Act of Parliament enabled the Trust to hold country houses and their contents as well as land and ancient buildings.<sup>60</sup>
- 7.34 The National Trust is a registered charity, having the registered title of the National Trust for Places of Historic or Natural Beauty.<sup>61</sup> It should also be noted that the National Trust is fully independent of government and does not receive direct state grant or subsidy for its general work (although it may apply for grants that are available generally to various organisations).
- 7.35 According to its Annual report of 2002/2003, the objectives and purposes of the National Trust are as follows<sup>62</sup>:
- “The National Trust’s vision is to inspire present and future generations with understanding and enjoyment of the historic environment through exemplary and innovative work in conservation, education and presentation”,
  - “[The Trust’s] priorities are to show leadership in the regeneration of the countryside and, where possible, our towns; deepen our understanding of the meaning and value of heritage; [and] to expand the provision of education and lifelong learning.”
- 7.36 The National Trust cares for both built and natural heritage assets, including over 250,925 hectares (620,061 acres) of countryside in England, Wales and Northern Ireland, over 600 miles of coastline and over 900 buildings, gardens, parks and other assets of national interest and importance. An indicative breakdown of the numbers and types of properties held is presented in the table overleaf. The majority of these properties are held in perpetuity by the Trust, with the objective of ensuring that their future protection is secure.

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<sup>60</sup> The incorporation of the National Trust, and the powers conferred on it, are set out in the National Trust Acts 1907, 1919, 1937, 1939, 1953 and 1971.

<sup>61</sup> Registered as a charity with the Charity Commission - No. 205846.

<sup>62</sup> The National Trust, Annual Report and Accounts, 2002/2003. See [http://www.nationaltrust.org.uk/main/nationaltrust/agm/2003/report\\_accounts.html](http://www.nationaltrust.org.uk/main/nationaltrust/agm/2003/report_accounts.html).

<b>Table 7.1: The National Trust - Indicative Breakdown of Number and Types of Built and Natural Heritage Properties Held</b>	
<b>Type of Properties</b>	<b>No. of Properties</b>
Buildings containing fine decorations or collections	101
Castles and fortified buildings	28
Buildings associated with famous people	49
Abbeys, Priors, Churches and chapels	47
Gardens	131
Landscape Parks	71
Country Parks	17
Dovecotes	22
Deer Parks	15
Villages (wholly or mostly owned by the Trust)	56
Industrial Monuments (excluding wind and watermills)	26
Inns and public houses (some are managed by the Trust and some are tenanted)	37
Windmills and Watermills	29
Nature Reserves	111
Medieval Gatehouses	9
Medieval Guildhalls	2
Medieval Barns	12
Roman Antiquities	13
Prehistoric sites	119
<b>Estimated Total</b>	<b>895</b>
Source: The National Trust	

*Public access to properties*

- 7.37 One of the main features of the National Trust is that the vast majority of properties in its care are open to public visit. According to the Trust:

“Land is held for the ‘benefit of the nation’ and one of the main ways of providing benefit is by allowing recreational access ... Around 50 million visits are made annually to Trust countryside; its coast, woodlands, parks, heaths, rivers, moor and mountains - throughout England, Wales and Northern Ireland.”

*Membership and membership income*

- 7.38 Another important feature of the National Trust is that it is a membership organisation. The Trust's total membership reached 3.06 million members in 2003, which compares with 2.1 million members in 1993.
- 7.39 In return for an annual subscription, members can enjoy the following benefits:
- ❑ Free entry to over 300 houses and gardens;
  - ❑ Receipt of the National trust magazine three times a year;
  - ❑ Local newsletters;
  - ❑ Trust Tracks supplements for children and families; and,
  - ❑ A handbook each year, detailing all sites in National Trust care.
- 7.40 The membership population of the Trust impacts particularly in relation to annual income generation potential (discussed further below). A ten-year profile of the total income generated by the National Trust's membership base is provided in the table overleaf. According to the figures, total membership income rose from STG£37 million in 1993 to STG£76 million by 2003. It income received through membership is a function of both the number of membership subscriptions and the prices charged for different levels of membership. These charges currently (2004 season) vary between STG£16.50 (€24.42) and STG£60 (€88.79)<sup>63</sup>, depending on whether membership is individual, joint, family or for a child or young person.<sup>64</sup>

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<sup>63</sup> Discounts are available if payment is made by direct debit.

<sup>64</sup> Based on current STG/Euro exchange rates.

**Table 7.2: The National Trust for England, Wales and Northern Ireland - Ten-Year Profile of Annual Membership Income - 1993-2003 - STG£ Million**

Year	Membership Income - STG£ Million
1993	37
1995	41
1997	49
1999	56
2001	63
2003	76

Source: The National Trust, Annual Report and Accounts, 2002/2003.

- 7.41 It is also notable that the National Trust has significant overseas membership. For example, over 20,000 Americans are members of the Royal Oak Foundation, the Trust's US membership affiliate. A not-for-profit organisation, the Royal Oak helps the Trust through the generous tax-deductible support of members and friends by making grants towards its work. Member benefits include the National Trust Handbook, three editions of the National Trust Magazine, the quarterly Royal Oak Newsletter and free admission to properties of the National Trust and National Trust for Scotland.

#### *Volunteer support*

- 7.42 In addition to its large membership, another important aspect of the operation of the National Trust is the extent of volunteer contribution to its day-to-day activities. According to the Trust:

"The voluntary principle on which the National Trust was founded is one of its greatest strengths. Volunteers are an established and integral part of the Trust. Without their active participation, the organisation would be unable to prosper."<sup>65</sup>

- 7.43 An indication of the extent of volunteer support provided to the National Trust can be had by considering the number of volunteers and volunteer hours on an annual basis. In 2003, a total of over 34,000 volunteers contributed 2.1 million volunteer hours to the Trust's activities.<sup>66</sup>

<sup>65</sup> The National Trust - *An Overseas Perspective on the National Trust for England, Wales and Northern Ireland* - document provided to the consultancy team by the National Trust.

<sup>66</sup> The National Trust, Annual Report and Accounts, 2002/2003.

*Acquisition policies*

- 7.44 The National Trust operates a number of 'acquisition principles' in relation to property that it considers acquiring. There are as follows:
- ❑ a property must be of national importance;
  - ❑ ownership by the Trust should increase benefit to the nation;
  - ❑ the property should normally be under threat;
  - ❑ the property should be financially self-supporting.

*Inalienability powers*

- 7.45 One feature of the National Trust is its ability to declare its property 'inalienable', although it is important to note that not all properties accepted by the National Trust are given this entitlement. For example, a house with or without its contents, may be presented to the Trust along with a financial endowment to enable it to be maintained in perpetuity. In return, the donor and the donor's family may continue living in the house, subject to public access and measures to retain the essential character of the property. According to the Trust:

"The Acquisition of Land Act of 1946 gave the trust the ultimate right (granted to no other private landowner) of appeal to a joint committee of both Houses of Parliament if a public authority proposed to take its inalienable land by use of compulsory power."<sup>67</sup>

- 7.46 The statutory power of 'inalienability' essentially means that property or land cannot be voluntarily sold, mortgaged or compulsorily purchased against the Trust's wishes, except through special parliamentary procedure. In other words, a parliamentary vote must take place before a property can be disposed.

- 7.47 A number of conditions must be satisfied before a property is declared inalienable. According to the Trust:

"Before property is declared inalienable, the Trust's Executive Committee must satisfy itself that the property is of sufficient historic interest or natural beauty to merit being held permanently by the National Trust for the benefit of the nation. The assessment process, which lies behind such a declaration, is a rigorous one, involving a series of expert appraisals of the merits of the property, the threats which it faces and the public benefits which it offers. Only property judged to be of national significance is declared inalienable."

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<sup>67</sup> Ibid.

- 7.48 It is, however, important to note that not all the Trust's properties are held inalienably. Properties may also be given to the Trust with an understanding on the donor's part that it may eventually be sold for the benefit of the Trust. As such the property is held 'alienably' for the purpose of disposal.
- 7.49 According to the Trust, the concept of inalienability encourages gifts to the Trust by ensuring benefactors (and taxpayers) that such gifts are not misused.

*Other legal devices available to the National Trust*

- 7.50 There are a number of other property management tools available to the National trust that drive from its special legal status. One such tool concerns the use of 'restrictive covenants'. According to the Trust:

"Restrictive covenants are in effect a form of private planning control: they are restrictions on the development or use of land/property, enforceable by one landowner against another. Subject to various rules - in particular, they must be negative or "restrictive" in their effect - they will be passed on, so that they apply to later owners of the two pieces of land/property."<sup>68</sup>

- 7.51 According to the Trust, although it primarily protects property through ownership, it may also accept what are termed 'conservation covenants'. Such devices may be provided by property owners to the Trust or may be purchased by the Trust. In the case of buildings, alterations to the exterior may only be made with the Trust's consent. These covenants continue despite changes of ownership. However, the property cannot benefit from the protection against compulsory acquisition that is enjoyed by inalienable property. In addition, it should be noted that there are no rights of admission to covenanted land or buildings, unless they are opened by their owners independently of the Trust, or are accessible via public rights of way.
- 7.52 Leasing is another legal option open to the National Trust. On occasion the trust may lease its properties to individuals and/or organisations that are deemed better able to operate such sites. An example is where the Trust has leased property to the Royal Society for the Protection of Birds. It is also the case that the National Trust estate is farmed by around 2000 tenants. In addition, the Trust may protect sites by accepting properties on long leases.

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<sup>68</sup> Ibid.

*Management and governance structures*

- 7.53 The National Trust Act 1971 provides that the National Trust be governed by a Council. 26 members are elected by the membership and 26 are appointed from kindred bodies. These bodies are laid down in the Act of Parliament and are reviewed by the membership every six years. The Council delegates many responsibilities to the Executive Committee, a majority of whose members are also required to be Council members.
- 7.54 An important feature of the Trust is the concept of trusteeship. Members of the Council are the trustees of the charity. Trusteeship carries legal responsibilities and duties. The members of the Council have ultimate responsibility for ensuring that the Trust carries out its statutory purposes. As Trustees they must act only in the best interests of the Trust. Trustees cannot directly or indirectly benefit personally from the Charity and National Trust employees and tenants are therefore not eligible to serve as a trustee.
- 7.55 The formal powers reserved to the Council are set out in The National Trust Act 1971 are as follows:
1. The general policy of the National Trust including:
    - a) the principles on which properties should be acquired;
    - b) the principles governing access to properties by the public;
    - c) the standard of the amenities to be provided at properties;
    - d) the standards of restoration, modernisation and upkeep of properties.
  2. The appointment of members of the Executive Committee.
  3. The remuneration of any office holders.
  4. Regional boundaries.
  5. The delegation of powers to Regional Committees.
  6. The appointment of chairmen of Regional Committees.
  7. Proposals for the alteration of The National Trust Acts and By-laws.
  8. The periodic review of the bodies and persons entitled to appoint members of the Council in accordance with Section 8 of the Act.
  9. Approval of the annual budget of the National Trust.
  10. Approval of the annual accounts of the National Trust.
  11. The form and content of the Annual Report.
  12. Arrangements for the general meetings of the National Trust.
  13. Examination of the quarterly reports of the Executive Committee.
- 7.56 The Council also decides on the rate of Membership Subscriptions and considers requests for the use of inalienable land for public purposes in certain circumstances.

- 7.57 In addition, the Council has accepted the wider responsibilities in the new Charity Commission standard, which will apply to the 2002 accounts. This requires the Trustees to make a statement "confirming that the major risks to which the charity is exposed, as identified by the Trustees, have been reviewed and systems established to mitigate these risks".
- 7.58 The Council appoints an Executive Committee. A majority of the members must be members of Council and all regional committee chairmen are ex-officio members of the Executive Committee. The Committee is entrusted with all the powers not reserved to the Council. The Executive Committee, in turn, appoints the Properties Committee, the Finance Committee and Regional Committees.
- 7.59 The Finance Committee supervises all financial matters affecting the Trust and makes recommendations to the Executive Committee on them. The Properties Committee keeps under review the policies and practices on the maintenance, conservation and presentation of Trust properties and makes recommendations to the Executive Committee on these matters, on resolutions of inalienability and for new acquisitions. Various expert panels give specialist advice to the Properties and Finance Committees.
- 7.60 The staff at properties and in regional offices are supported by 11 Regional/Country Committees. Regional/Country Committee Chairmen sit on the Executive Committee and submit a regular report to that Committee. The overall role of Regional Committees is to bring to the work of the Trust an awareness of the need for local emphasis in applying national policies and a feeling of regional diversity.
- 7.61 The Audit Committee reports to the Council twice a year on the work being undertaken by the Trust's management to fulfil these requirements. The Audit Committee reviews the internal financial controls and ensures that the financial information provided in the Annual Report and Accounts is complete and accurate and presents a balanced assessment of the Trust's position. The remuneration of senior staff is set by a Remuneration Committee.
- 7.62 The Appointments Panel makes recommendations to the Executive Committee for the appointment of the Chairmen and Members of all Committees and Panels.
- 7.63 In addition to the above, the Management Board, chaired by the Director-General meets once a month.

*Staffing*

- 7.64 In relation to staffing, the National Trust's Annual Report and Accounts for 2002/2003 indicate that the Trust had a total headcount of 4,527 in 2003, up from 4,423 in 2002. This includes part-time employees and employees on fixed-term contracts working in the areas of charitable activities, in the National Trust Enterprises company, in marketing, communications and fundraising, and in general support.

*Sources of income*

- 7.65 A breakdown of the National Trust's annual income in 2002 and 2003 is shown in the table below.

<b>Table 7.3: The National Trust - Breakdown of Income Stream - 2002 and 2003 - STG£'000</b>				
<b>Income Source</b>	<b>2003</b>	<b>% of Total</b>	<b>2002</b>	<b>% of Total</b>
Donations, legacies and similar resources:				
Appeals and gifts	15,966	5.3	7,444	3.0
Legacies	45,084	14.9	39,026	15.5
Revenue grants and contributions	6,426	2.1	7,682	3.1
Membership income	75,594	24.9	66,823	26.6
Capital grants and contributions	29,919	9.9	11,868	4.7
Direct property income	36,513	12.0	33,736	13.4
National Trust Enterprises Ltd income	68,711	22.6	57,210	22.8
Investment income	22,083	7.3	25,874	10.3
Net gain on disposal of freeholds and leaseholds	3,284	1.1	1,609	0.6
<b>Total Incoming Resources</b>	<b>303,580</b>	<b>100</b>	<b>251,272</b>	<b>100</b>

Source: The National Trust, Annual Report and Accounts, 2002/2003.

- 7.66 According to the figures, the Trust generated a total income of STG£303.6 million in 2003, up from STG£251.3 million in 2002. Membership income accounts for the largest proportion of total income (STG£75.6 million or just under one quarter of the total in 2003). The next largest source of income for the Trust (STG£68.7 million or 22.6% in 2003) is the net contribution from National Trust Enterprises Ltd company, which is responsible for activities of a commercial nature, including retailing, catering, and the operation of holiday cottages and camp sites at properties and which do not enjoy exemption from income tax.<sup>69</sup>
- 7.67 In addition to membership income and contributions from National Trust Enterprises Ltd, other important sources of income for the National Trust include legacies (i.e. annual bequests to the Trust from various estates, which totalled STG£45.1 million in 2003 or 14.9% of total income), and direct property income (including rents, admission fees where charged and other property income), which accounted for STG£36.5 million or 12% of total income in 2003. Other significant sources of income for the National Trust include appeals and gifts (which include major gifts, donations and corporate promotional income, accounting for 5.3% of total income in 2003), and capital grants and contributions (including, *inter alia*, grant income from the National Heritage Memorial Fund and the Heritage Lottery Fund, accounting for STG£29.9 million or 9.9% in 2003). The Trust also generates significant investment income and revenue grants and contributions.
- 7.68 In relation to investment income, the investment powers of the National Trust are set out in various Charity Commission Schemes. The Trust operates on the basis of pursuing the maximisation of total (i.e. income and capital growth) return on investments, which include investments in UK and overseas government stocks and other fixed and variable rate stocks, equities, property units, deposits and cash, and investment properties.
- 7.69 What is notable about the National Trust's income stream is the range of sources of income available to the trust, which vary from membership income and commercial revenues at one end of the scale to incomes from appeals and gifts and from capital and revenue grant and contributions at the other. In other words, funding to purchase and endow properties can emanate from a variety of sources.

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<sup>69</sup> It should be noted, however, that arrangements are in place which allow for the donation by tax efficient Gift Aid of the entire surplus income (if any) in each year of the company to the Trust.

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*Breakdown of Expenditure*

7.70 It is also instructive to note the breakdown and pattern of expenditures undertaken by the National Trust. In the table below we describe the breakdown of expenditures by the Trust in 2003. The main items of annual expenditure for the Trust are routine property running costs, enterprises (i.e. commercial activities) and capital projects (which includes expenditures on renovation and upkeep of historic buildings, coast and countryside, and gardens), which, in 2003, accounted for 32.2%, 19% and 17.2% of total expenditure respectively. Other important annual outgoings include property acquisitions (10.4% of total expenditure), membership recruitment and publicity (9.2%), and general support costs (8.1%).

**Table 7.4: The National Trust - Breakdown of Expenditures - 2002 and 2003 - STG£ Million**

Expenditures	2003	% of Total	2002	% of Total
Routine property running costs	97.1	32.2	93.3	37.2
Enterprises	57.3	19.0	48.4	19.3
Capital projects	51.9	17.2	55.7	22.2
Acquisitions	31.4	10.4	6.3	2.5
Membership, recruitment and publicity	27.8	9.2	22.9	9.1
Support costs	24.3	8.1	13.8	5.5
Conservation and advisory services	6.4	2.1	5.1	2.0
Fundraising	2.6	0.9	2.5	1.0
Charity administration	1.6	0.5	1.6	0.6
Investment management fees	1.1	0.4	1	0.4
<b>Total Expenditure</b>	<b>301.5</b>	<b>100</b>	<b>250.6</b>	<b>100</b>

Source: The National Trust, Annual Report and Accounts, 2002/2003.

7.71 In 2003, the National Trust produced an operating surplus within its general fund - which is the Trust's untied fund for use at the discretion of its Trustees - of STG£5.2 million.

*National Trust's Balance Sheet*

7.72 The balance sheet of the National Trusts indicates the financial resources of the Trust and how they are committed. In the table below we summarise the Trust's balance sheet as end-February 2003. The Trust has total assets and liabilities of STG£586.1 million at end-February 2003. On the liabilities side, tied funds are those that are *tied by donors* to specific properties, in addition to funds tied for new acquisitions or for other specific purposes. Designated funds are those that are *tied by the Trust* to specific properties, funds for new acquisitions or for other specific purposes. The General Fund provides for the running costs of all the Trust's properties that are not fully endowed.

<b>Table 7.5: The National Trust - Summary Balance Sheet as at end-February 2003 - STG£ Million</b>			
<b>Assets</b>	<b>STG£ Million</b>	<b>Liabilities</b>	<b>STG£ Million</b>
Investments	556.4	Tied Funds	439.0
Fixed assets	22.3	Designated Funds	137.4
Other assets	7.4	The General Fund	9.7
<b>Total</b>	<b>586.1</b>	<b>Total</b>	<b>586.1</b>
Source: The National Trust, Annual Report and Accounts, 2002/2003.			

7.73 An important issue concerning National Trust properties is the question of endowment funding. A detailed discretion of this and the utilisation of 'the Chorley' formula is presented as Annex 6.

## The National Trust for Scotland

### *Background and objectives*

- 7.74 The National Trust for Scotland (NTS) was established in 1931 and operates under The National Trust for Scotland Order Confirmation Acts 1935 to 1973. The NTS is the conservation charity that protects and promotes Scotland's natural and cultural heritage for present and future generations. The NTS has over 250,000 members it is the largest conservation charity in Scotland. The Trust depends for its support on donations, legacies, grants and membership subscriptions. The NTS is a fully registered Scottish charity and given its charitable status is not liable for taxation on any of its income.<sup>70</sup>
- 7.75 The NTS's key objectives fall under four headings are as follows:
- ❑ Conservation – namely to improve the conservation work at its properties and to develop the principles that underpin this work;
  - ❑ Enjoyment and Education – namely to increase visitors' enjoyment of Trust properties and to generate income for conservation work by developing its visitor facilities and education programme;
  - ❑ Influence and Persuasion – namely to raise support for conservation and to increase its membership by promoting wider awareness of the Trust and greater understanding of its work;
  - ❑ Organisation and Resources – namely to become an increasingly well-managed organisation through training and development, effective use of funds and additional income generation.
- 7.76 In relation to property acquisition, the NTS operates a similar approach to that of the National Trust for England, Wales and Northern Ireland, in that it utilises a Chorley Formula approach to calculating the endowments required before a property can be considered for acquisition.

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<sup>70</sup> Registered Scottish Charity Number SCO 07410

*Little Houses Improvement Scheme*

7.77 The Little Houses Improvement Scheme (LHIS) is a small but influential part of the National Trust for Scotland (NTS)'s activities. It aims to put redundant buildings back on their feet and re-launch them as viable commodities in the property market. The process is as follows:

- Acquire a worthy historic building which faces terminal decline;
- Repair and rehabilitate into new use while preserving its essential character;
- Pass on ownership to a third party (usually by market sale) and protect by a Conservation Agreement (Restrictive Covenant); and,
- Reinvest the sale proceeds in the next project.

7.78 Financially, LHIS funds are separate from NTS mainstream funds, and from an initial capital balance of £20,000, now has £1,350,000 available as working capital for new projects. Each project aims to break even using the following formula:

$$\text{Cost of acquisition} + \text{repair} + \text{conservation} = \text{external grant aid} + \text{sales income}$$

7.79 LHIS aims to ensure the long-term future of these buildings once they have left NTS ownership. The imposition of Conservation Agreements provides a measure of control over future development; the long-term maintenance and well-being of the buildings depend upon securing an economically viable niche in the property market.

7.80 LHIS stands or falls on its ability to adapt and develop its buildings without compromising their essential character within greater financial constraints than many mainstream NTS projects. The fundamental problem is one of balance, of weighing conservation ethics with economic viability within each project and for the scheme as a whole.

7.81 Of the 230 completed LHIS projects, the majority are 18th-century vernacular houses in small town settings. These have mostly been restored as single houses or flats; all are A or B listed with a townscape importance. Recently much larger non-vernacular buildings have been sub-divided and adapted to provide sheltered housing. Housing continues to be the main end-use for LHIS projects: partly this is historical accident as it is where our expertise lies, but partly because conversion to another specialist use often requires frequent upgrades or refits.

7.82 Philosophically, LHis is governed by NTS Building Conservation Policy and adheres to Burra Charter principles, which are being formalised in an ongoing pilot project where one particularly complex scheme is being undertaken following the Semple Kerr Conservation Plan formula. The process of recording and documenting buildings through archaeological analysis and historical research is a relatively new discipline for LHis, and one which is fundamental to a full understanding of the site. The requirement to understand and define the significance of a building and its constituent parts and to assign relative values to these through a Statement of Significance is an extremely logical and useful aid in keeping the project on the correct conservation lines and allocating resources appropriately.

### **Nature of Tax and Other Economic Instruments**

#### *Tax reliefs*

7.83 In the UK, almost all independently constituted heritage bodies, whether incorporated under an Act of Parliament, Royal Charter or company law, have charitable status and are entitled to exemption from corporation or income tax and from VAT on their charitable activities, though commercial activities may be taxable in respect of both VAT and trading profits.

7.84 In relation to specific tax incentives applying to trusts, according to the National Trust, in addition to the concept of 'acceptance in lieu' (discussed earlier), the charitable status of the Trust also confers additional tax advantages. The three key advantages have been summarised by the Trust as follows:<sup>71</sup>

- Gift Aid – the Government gives charities extra funds on top of donations and/or membership subscriptions (in the UK 28p for every £1 donated) if donors have paid income tax or capital gains tax equal to the tax deducted from their donations;
- Business rates – a remission of at least 80% on the Uniform Business Rate;
- Value Added Tax (VAT) – registered charities can reclaim the VAT they are charged although there are restrictions on the amount they can recover;

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<sup>71</sup> Ibid.

- Inheritance Tax – money left to a registered charity is free of inheritance tax. The gift is subtracted from the net value of the estate when the total liability has been decided. In the UK, inheritance tax is set at 40% in the UK, which means that a gift costs only 60% of its value as the remainder would otherwise be paid in inheritance tax to the tax authorities.
- 7.85 The Gift Aid system is essentially a simplified successor to the old charitable Deeds of Covenant system and the tax paid by the commercial subsidiary can then be recovered in full from the tax authorities by the charity. The amount of tax recoverable can be very substantial: in 2002-3 English Heritage recovered more than £2.5 million of trading profits tax paid by its English Heritage Enterprises Ltd. Trading company.
- 7.86 In addition charitable status guarantees a remission of at least 80% of the Uniform Business Rate (the annual property tax for local government purposes) on the buildings etc. occupied by the trust or foundation, and the local authority may allow an even greater percentage reduction - up to 100%. As the business rates on a large heritage property in the centre of a major city could easily run into some hundreds of thousands of pounds a year or more, this can be a very substantial financial benefit, and an incentive for public bodies to transfer properties and services from direct control to some form of charitable trust or similar structure.

#### *Public funding*

- 7.87 In relation to public funding, in marked contrast with countries such as France, Italy or Spain, with traditions of Royal or State patronage and funding of cultural facilities stretching back several centuries, in Britain public support for culture and the heritage is largely a relatively recent phenomenon. Instead, initiatives in these areas traditionally relied to a large extent on either the commercial sector, in the case of the arts, or on private patrons and individual subscribing members of learned societies and academies for example, in relation to museums and the heritage.
- 7.88 There were of course exceptions, in that government accepted responsibility for the continuing running costs of some national institutions after their initial endowment by early 19th century private donors and patrons, in the case of the National Gallery, the British Museum which was originally funded by an 18th century lottery, or out of the profits of the 1851 Great Exhibition (the first World Fair) in the case of the South Kensington Museum (now split into the Science Museum and the Victoria and Albert Museum).

- 7.89 By the late 19th century city and borough councils were also becoming increasingly important players in the sector, establishing (often with the assistance of either wealthy benefactors or a local learned society) museums and public art galleries, and accepting gifts of historic buildings and other properties for preservation and opening to the public.
- 7.90 It was not until the end of the Second World War that central government began to play a more significant role in the heritage and arts sectors. By this time the long tradition of personal patronage and benefaction seemed to be in serious decline due to a combination of factors, including the cumulative effects of high levels of both personal and capital taxes, and the extensive disruption of the inheritance structure of the aristocracy and wealthier upper middle class families due to premature deaths in the two wars, so the cultural sector became even more dependent on public rather than private funding.
- 7.91 Following a marked rise in business sponsorship of both commercial and amateur sport through the 1960s and early 1970s, both the arts sector and the 1974-79 Labour government began to explore ways in which such private funding could be attracted to arts and heritage organisations and projects to supplement public funding in the difficult macro-economic circumstances of the time, particularly the world recession which followed the 1973 oil crisis.

*Private and corporate donations*

- 7.92 A voluntary Association for Business Sponsorship of the Arts (ABSA) was established in 1976 with a very small secretariat based in the provincial city of Bath, and with support from several leading national and international businesses. ABSA set about assisting both arts organisations looking for funding assistance and companies willing to consider sponsoring such organisations and activities, and the government started giving ABSA and donor companies much encouragement and some limited assistance.
- 7.93 In particular, it was soon agreed that within certain limits and conditions corporate expenditure in sponsoring an arts or heritage organisation or project could be treated as legitimate marketing expenditure for the donor company, and hence tax-deductible (providing the company was in profit overall within the financial year concerned). However, Corporation Tax deductions for sponsorship deals were based on the principle that these had to represent good, and measurable, value for money in relation to comparable advertising or promotional expenditure. In other words, despite much publicity there was in reality no tax incentive for sponsorship here: the normal rules relating to relevant business expenditure were applied.

- 7.94 Following much pressure relating to corporate giving generally, companies and other businesses trading at a profit in any one fiscal year began to be allowed to offset against corporation tax a limited amount of charitable donations each year, including arts and heritage patronage not linked directly to a sponsored event or activity. Now there is no limit to the level of tax deductible charitable giving or sponsorship, and the principle of tax deductibility has been extended to the cost or value of donations and patronage "in kind" - such as the loan or secondment of expert staff to assist cultural organisations, for example in relation to management issues or special marketing campaigns. Art and Business, the new name for ABSA, now devotes a considerable amount of its efforts and expertise to the promotion of this kind of business assistance and sponsorship.
- 7.95 In relation to individual patronage and giving, traditionally the only concessions were deductions for capital taxes ("death duties", now inheritance tax, and capital gains tax) in respect of bequests and donations of important heritage property, including works of art and other chattels, given to public museums, galleries or certain named heritage charities such as The National Trust or the National Art-Collections Fund. Various additional fiscal devices were gradually introduced through the late 1980s and early 1990s, such as membership schemes with tax incentives for the organisation concerned (though not benefiting the taxpayer directly, in contrast with the United States incentives). In practice, these were generally complicated and bureaucratic, requiring a binding long-term commitment to make donations for a minimum of four years, and had only a limited impact.
- 7.96 However, since 1997 the present Labour government has progressively simplified and greatly extended these concessions, consolidating most of them into a single "Gift Aid" scheme open to both personal and corporate taxpayers and covering both regular and one-off payments. Gift Aid is. The taxpayer now makes a quite informal one-off declaration, and the non-profit organisation can then make annual claims for the refund at the standard rate of tax that the donor will have paid in earning the sum donated at the standard tax rate (currently 22%) during the previous year. In addition, the 5% or so of taxpayers paying the UK's (single) higher rate of income tax of 40% receive a modest personal tax deduction of around 18% as a personal incentive.

- 7.97 Over the 27 year period since the establishment of ABSA, the annual value of corporate support for the arts and heritage (sponsorship and charitable giving combined) has risen from just £0.6 million in 1976 to £120 million in 2002-2003, while tax-effective personal giving has risen over the same period from a few millions (mainly from long-term covenants on National Trust and similar membership subscriptions) to £256 million in 2002-2003. Arts organisations and projects receive the majority of the business support, while heritage and museums received around three-quarters of the private giving. Compared with total public sector spending of £958 million in the same year, the charitable giving and sponsorship total of £376 million now represents an essential part of the operating and development budgets of the sector.
- 7.98 The other major change in the financing of central and local government arts, museum and heritage organisations and institutions over the past fifteen years or so has been removal of most of the former restrictions on earning income through trading, consultancy and other commercial activities. Increased trading and commercial activities has produced a very marked increase in the level of external income of almost all major heritage and museum organisations in both absolute terms and as a proportion of total annual expenditure across the sector over the past decade, so that today many major national museum and heritage bodies raise up to 25% of their total annual expenditure, compared with a typical level of less than 5% prior to the regulatory changes permitting such public bodies to retain their self-generated income rather than hand it over to the Treasury, while the Historic Royal Palaces Agency now covers not only 100% of annual expenditure, but also produces a significant surplus that is devoted to major restoration projects and other developments of the facilities.

## Other Heritage Organisations in the UK

### *English Heritage*

- 7.99 English Heritage is the British Government's statutory adviser on the historic environment in England. Officially known as the Historic Buildings and Monuments Commission for England, English Heritage it is an Executive Non-departmental Public Body sponsored by the Department for Culture, Media and Sport (DCMS), which is the Department with overall responsibility for heritage policy in England. Its powers and responsibilities are set out in the National Heritage Act (1983, amended 2002) and today it reports to Parliament through the Secretary of State for Culture, Media and Sport.
- 7.100 English Heritage also works closely with the Office of the Deputy Prime Minister, which is responsible for planning, housing, transport and the constitutional framework within which most decisions affecting the historic environment are made, and the Department for Environment, Food and Rural Affairs on rural issues.
- 7.101 English Heritage is funded in part by the Government and in part from revenue earned from its historic properties and other services. In 2002/03 its public funding was worth £115.2m, and income from other sources was £38.4m. The work of English Heritage is overseen by a board of up to 16 Commissioners selected by the Government for the breadth of their national and regional expertise. The Commission is, in turn, advised by 13 expert advisory committees and panels.
- 7.102 English Heritage works in partnership with the central government departments, local authorities, voluntary bodies and the private sector to:
- ❑ Conserve and enhance the historic environment
  - ❑ Broaden public access to the heritage
  - ❑ Increase people's understanding of the past
- 7.103 English Heritage meets those responsibilities by:
- ❑ acting as a national and international champion for the heritage
  - ❑ giving grants for the conservation of historic buildings, monuments and landscapes
  - ❑ maintaining registers of England's most significant historic buildings, monuments and landscapes
  - ❑ advising on the preservation of the historic environment
  - ❑ encouraging broader public involvement with the heritage
  - ❑ promoting education and research
-

- ❑ caring for Stonehenge and over 400 other historic properties on behalf of the nation
- ❑ maintaining the National Monuments Record as the public archive of the heritage
- ❑ generating income for the benefit of the historic environment

7.104 English Heritage is probably best known for the historic sites in its care which are open to the public. Less well known is its role in looking after the historic environment as a whole, including historic buildings, monuments and areas, and archaeological remains. Its aim is not only to ensure the preservation of historic surroundings for the future, but also to encourage people to appreciate and enjoy this heritage today.

*The Hearth Housing Association*

7.105 Another well known trust-type organisation in the UK is the Hearth Housing Association, which was originally conceived as a vehicle for the restoration, for housing purposes, of modest dwellings of architectural significance in Northern Ireland. The initiative was a joint one on the part of the Northern Ireland Committee of the National Trust, and the Ulster Architectural Heritage Society, both of which continue actively to sponsor, support and manage it. There are now two sister bodies, sharing the same committee members, staff and offices: the *Hearth Housing Association*, which is mainly financed from public housing funds to restore and manage buildings for letting to those on the public authority waiting lists; and the *Hearth Revolving Fund*, which is mainly privately financed and restores listed buildings for resale, usually as dwellings. In most cases the houses have been at risk of demolition, and often in very poor condition, before Hearth acquired them.

7.106 The Association, formed in 1978, was registered under the Housing (NI) Order 1976. It is non-profit-making, has charitable status and is registered under the Industrial and Provident Societies Act (NI) 1969. It is a member of the Northern Ireland Federation of Housing Associations, and provides a wide range of housing units for general family accommodation. Houses and flats are allocated to applicants in accordance with their entitlement to points under the Housing Selection Scheme approved by the Department of the Environment. Properties under management are maintained by the Association, and rents are set each year broadly in line with public sector rents.

- 7.107 The Hearth Revolving Fund (originally formed in 1972 as the Historic Environmental and Architectural Rehabilitation Trust) purchases and restores dwellings for resale. Like the Housing Association, the Trust is non-profit-making, has charitable status, and is registered under the Industrial and Provident Societies Act. Its scope was greatly enhanced when, in 1989, the DoE(NI) provided capital for work in conservation areas through an associated Conservation Area Revolving Fund. The principle of a revolving fund is that a relatively small amount of capital can be used over and over again to buy, restore and sell successive buildings; and any profits made on one scheme will finance a more ambitious project the next time round. The Fund concentrates on schemes, which, for one reason or another might be considered financially unattractive by a private developer. It aims to restore buildings of importance that would otherwise be lost, rather than to make profits from its operations.
- 7.108 Between 1978 and 1999, Hearth Housing Association has restored or built 88 dwellings at a total cost approaching £4.5 million; and Hearth Revolving Fund has restored 33 dwellings at a total cost of around £2.8 million; making a total to date of 121 (thirty of them assisted by the Conservation Area Revolving Fund) . In addition, Hearth has, in conjunction with restoring owners and purchasers, rehabilitated some twenty additional dwellings, bringing its total for buildings rescued to date to around 150. Thus a small voluntary body has over a period of twenty-one years, and often in difficult circumstances, carried out successful conservation work to a value of some £7.5 million pounds from a very modest capital base, whilst at the same time providing comfortable homes for some 140 individuals or families.

#### *The Vivat Trust*

- 7.109 The Vivat Trust is a UK charity dedicated to rescuing important neglected and dilapidated listed buildings of architectural, industrial and historical interest. Founded by a group of architects and surveyors who recognized that many historic buildings were falling into disrepair under owners who could not or would not sell their freeholds, the trust was established in 1981. Vivat was the first trust to be allowed to acquire leasehold properties by The Charity Commissioners. As a result, Vivat is able to repair and improve buildings, which have been passed over by larger organizations, whose owners cannot or do not wish to grant freehold.

- 7.110 Vivat has no endowment, so each building is independently funded. Repair and renovation funds are raised on a project basis from funding bodies such as The Architectural Heritage Fund, English Heritage, The Heritage Lottery Fund, and Historic Scotland. The Trust uses traditional techniques and materials and whenever possible local craftsmen, from stonemasons to joiners. Furnishings are provided in part by sponsors – from fabric and wallpaper designers to electrical manufacturers, kitchen and furniture makers – who make donations of their products. Once the buildings have been repaired and improved they must be self-financing which is why all of Vivat's retained properties are currently let out as high-quality holiday accommodations. Currently there are 10 properties available for holiday rental in England and the UK.
- 7.111 Letting out the buildings as holiday accommodations guarantees income for their maintenance and also allows them to be more sensitively repaired as the structural changes may not need to be as radical as for houses. Each project is thought through in an imaginative and flexible manner, with the help of Vivat's voluntary Council of Management whose varied skills and breadth of experience provide The Trust with a foundation of knowledge and expertise.
- 7.112 It is the belief of The Trust that by staying at a Vivat property, visitors help guarantee that the historic buildings will be preserved for posterity. Interest by the public also helps to fulfil one of the charity's aims, which is to heighten people's awareness of Britain's rich architectural heritage.

#### *The Landmark Trust*

- 7.113 The Landmark Trust is an independent UK building preservation charity founded in 1965 to rescue worthwhile historic buildings from neglect, and then to restore and let them for holidays. The income from letting contributes to their upkeep. There are now more than 160 Landmarks spread across Britain, four in Italy, and one in Vermont, USA. They include follies, forts, manor houses, mills, cottages, castles, gatehouses and towers. You can stay in any of these buildings.
- 7.114 The purpose of the Landmark Appeal is to raise £10 million to rescue significant historic buildings in distress. Once saved from neglect or misuse, the buildings are secure, as the holiday rental income pays for their upkeep and gives them a future. However, the money for every new Landmark has to be found somewhere and, as a charity, the Landmark Trust relies on voluntary sources of income.

*Hampshire Buildings Preservation Trust*

- 7.115 The formation of the Hampshire Buildings Preservation Trust was sponsored by the Hampshire County Council as its contribution to the European Architectural Heritage Year 1975. The Trust exists to help save historic buildings; to secure their repair and continued life; and to encourage the active interest and support of the people of Hampshire in their historic built heritage.
- 7.116 The Trust is a charity and a company limited by guarantee, which adopted a constitution recommended by the Civic Trust. It has a membership limited to 50, comprising representatives of all the local authorities in the county and a number of local amenity societies. In addition, associate membership was open to all on payment of a modest subscription. The day-to-day activities of the Trust are organized by a board of management, with members drawn from local government (county councils, district councils) and amenity societies of Hampshire.
- 7.117 The county council provided officers to give help and advice and also provided an initial working capital of 100,000 which was to be used as a revolving fund to purchase, restore, and sell historic buildings in need of renovation in the county. Since its formation, the Trust received further infusions of working capital from the Hampshire County Council (HCC) and the district councils and has had the benefit of grant assistance on number of its projects. As of 2000, the Trust's working capital stands at 225,000.
- 7.118 Over the last 25 years, the Trust has assisted with the conservation of a wide range of historic buildings, not only by purchase and renovation but also in partnership with others, or by acting as agents for the owner. Fundamental to all these projects has been the support of public and the local authorities. The first works were undertaken as revolving fund projects and were mainly domestic buildings. Soon after the Trust realized that not all problems involving historic buildings could be resolved using this approach as there were large numbers which were better suited to commercial conversion and others suitable for the purpose for which they were originally constructed, namely industrial and agricultural buildings for which a major part of their importance is their historic use and equipment. In these cases the Trust became involved in a group of buildings for which they either undertook the repair as an agent for the owner or acquired the property for the benefit of the public.

- 7.119 The Trust relies heavily on local people to “be its eyes and ears” and has worked closely with amenity groups and other local building preservation trusts. It has plays a role as a safety net for buildings at risk and provides support to local authorities when they serve preservation notices. Since 1975, more than 500 potential projects have been investigated in depth and the Trust has been able to encourage others to take responsibility for conserving historic buildings and giving them new life.
- 7.120 The Trust only takes on projects itself as a last resort. In a number of cases, projects have served as an illustration of what can be done and of the knock on effect for the locality as a catalyst for regeneration.

## United States

### National Trust for Historic Preservation

- 7.121 In the late 1940s, leaders of the growing American preservation movement recognized a need for a national organization to support and encourage grassroots efforts. A group of interested citizens began working to establish a National Trust for Historic Preservation, and their efforts came to fruition when President Truman signed legislation creating the National Trust on October 26, 1949.
- 7.122 The founders envisioned an organization whose primary purpose would be the acquisition and administration of historic sites. In 1951 the Trust assumed responsibility for its first museum property, Woodlawn Plantation in northern Virginia. Nineteen other historic sites, ranging from the 18th-century Drayton Hall in South Carolina to three houses designed by famed architect Frank Lloyd Wright, have subsequently become part of the National Trust.
- 7.123 Over time, the Trust has expanded its mission to include public outreach. The Preservation Services Fund was created in 1969 to provide financial assistance to local preservation projects. To give timely hands-on assistance to local preservationists, the Trust opened its first field office in San Francisco in 1971. Demonstration projects soon followed: the National Main Street Center, which emphasizes preservation as a tool for revitalizing traditional business districts, was established in 1980; Community Partners, which employs a similar approach in historic residential neighbourhoods, began in 1994. Other special programs have been created to focus on rural preservation (1979), heritage tourism (1989) and statewide organization development (1994).

- 7.124 Education has always been at the core of the Trust's work. Publication of Historic Preservation magazine (now Preservation) began in 1952. The first Preservation Honor Awards, recognizing individuals, organizations and projects that represent the best in preservation, were presented in 1971. The Trust has sponsored the annual nationwide celebration of Preservation Week since 1973. The yearly list of *America's 11 Most Endangered Historic Places*, first issued in 1988, has become a highly effective means of spotlighting treasures in trouble and rallying efforts to save them.
- 7.125 The National Trust funds its work through its members and the contributions of individuals, corporations, and foundations. Though the National Historic Preservation Act of 1966 provided federal funding for the Trust's work, this appropriation was terminated by mutual agreement in 1998. Since then the Trust has relied on private-sector contributions.
- 7.126 A half-century after its founding, the National Trust has a staff of more than 300, an annual budget of \$40 million, a nationwide network of regional offices, a collection of 21 historic sites, a dedicated membership of more than 250,000, and a range of programs, projects, and services to help communities protect their irreplaceable heritage. Most important, it has become what its founders envisioned: the vigorous leader of an expansive movement that is changing the face of America.

## Australia and New Zealand

### Heritage Trust Organisations in Australia

- 7.127 As a Commonwealth country, Australia has many similarities to the UK in terms of the application of trust-type and other organisations in the ownership and management of heritage properties, and in relation to the use of tax and other incentives in support of heritage conservation. In this section we present an overview of the nature and role of trust-type and other organisations, and the application of tax and other incentives in the heritage area in Australia.

#### *National Trust Organisations*

- 7.128 In relation to national trusts, each state & territory within Australia has its own fully autonomous National Trust. These Trusts have been established over time: the first in New South Wales in 1945, and the last two in the Australian Capital Territory (ACT) and the Northern Territory (NT) in 1976. All eight national trusts preceded government legislation in their respective jurisdictions. The Australian Council of National Trusts was established in 1965 to represent the Members (the state and territory Trusts) interests at the federal level.

7.129 There are eight National Trusts in operation in Australia, as follows:

- ❑ National Trust of Australia – ACT;
- ❑ New South Wales;
- ❑ Northern Territory;
- ❑ Queensland;
- ❑ South Australia;
- ❑ Tasmania;
- ❑ Victoria, and
- ❑ Western Australia.

7.130 Of the nine (including the ACNT) Trust entities three of them (Victoria, ACT & the ACNT) are companies limited by guarantee and operate under Australian corporations law. The others operate under statute promulgated by the state or territory government. Although somewhat different, in essence the legislation gives credence/credibility to their role, provides some governance rules, allows them to set out their objects and in some cases stipulates membership of the Council/Board. The annual reports are required to be tabled in Parliament.

7.131 The operations of the various Trust are similar to that of the English or Scottish Trusts - the governing Council/Board meet monthly, there are a number of specialist committees that feed in information/recommendations into the Council/ Board. In addition there are either branches and or property committees that have delegated authority and feed in issues to the Council/Board. The state/territory Council/Boards generally meet monthly although there is now a tendency for a lesser number of meetings.

7.132 Trust funding is provided from a number of sources, including membership fees, sponsorship/business support, entry to properties, Government operational grants, bequests (occasional but they can be substantial), revenue from investments are the main sources. The percentage amount received from a source varies substantially. Generally membership, entry fees, income revenue from investments and sponsorship are more significant in the bigger Trusts. The smaller ones are much more reliant on government support.

- 7.133 Support provided to the National Trusts by federal and state/territory government can be summarised as follows:
- ❑ Federal Government - \$750,000+ in total annually. About A\$250,000 goes to the ACNT and each state/territory Trust gets about A\$70,000.
  - ❑ State/territory Government - varies from nil dollars to about A\$250,000. In some cases this money is tied for particular purposes. For example the Victorian Trust must use the money on Victorian government owned properties that they manage.

*Properties Managed by National Trusts in Australia*

- 7.134 Collectively the Australian National Trusts own or manage (on behalf of state/territory governments) about 270 heritage properties nationally as well as a very substantial collection of furniture, paintings, documents, clothes etc. Of the 270 properties about 170 are open to the public.
- 7.135 The property collection encompasses a variety of housing types from modest miners cottages to grand mansions and includes for example disused railway stations, gaols, large parcels and remnant bushland, farms etc. The collections are equally varied.

**Case Study: National Trust of Queensland**

- 7.136 While a detailed description of each of the eight National Trusts in Australia is beyond the scope of this study, given the similar structures of each Trust it is instructive to undertake a case study of one of these Trusts. For the purposes of this exercise we focus on the National Trust of Queensland.

*Background and Establishment*

- 7.137 The National Trust of Queensland is a community organisation which works to conserve Queensland's Cultural, Natural and Built heritage. The Trust was legally established by an Act of Parliament, namely the National Trust of Queensland Act, 1963. This, inter alia, establishes the Trust as a body corporate, defines its objects, powers and duties, and provides for the preservation and maintenance of chattels, lands and buildings of beauty or of national, historic, artistic, architectural or scientific interest. The Act also provides for members – people and bodies corporate – rules and by-laws, budgets, funds, reporting, and regulations.

*Properties*

- 7.138 The National Trust of Queensland has 14 historic properties. It also owns Currumbin Wildlife Sanctuary but this operates under separate legislation and the attached figures do not include the sanctuary. Of the 14 properties 7 are actively open to the public. Two are 'passive' in the sense that people can visit them but they are not open as such. Other properties are leased, both domestic and commercial. Two properties are vacant land.
- 7.139 Of those properties open to the public, seven are spread from Cooktown to Toowoomba, a distance of some 3,000 kilometres. With the attached figures, two of our properties are located in the tropical north and figures are skewed with low visitation in the wet season. The annual income from admissions is expected to be in the range of \$230,000 this year. A majority of property income comes from one property - last financial year of a total of \$217,000 income, \$143,000 came from the James Cook Museum in Cooktown. This property has a major tourism market, and also tells a story of national interest - James Cook 1770 trip up the Australian coast. House museums are performing poorest - a pattern that is common across Australia.
- 7.140 According to the Trust, overall it has had to reduce its portfolio of properties in recent years and has sold two properties, and transferred another to a local government. Accumulated losses on properties during the 1990s totalled approximately A\$450,000 and all reserves were used up. These sales have been used to create a foundation and investment fund.

*Breakdown of Sources of Income*

- 7.141 A breakdown of the annual income of the National Trust of Queensland is provided in Table 7.6 overleaf. The analysis indicates that in 2003 the key sources of income for the Trust included admissions & tours (13.2%), membership income (12.2%), and commercial activities including merchandise sales, commercial rentals, conservation services and accommodation rentals (totalling 13.7%).
- 7.142 On the expenditure side, according to the Trust, in relation to maintenance costs, the costs identified in the Trust's accounts only go towards basic necessities (e.g. blocked pipes, electrical faults, broken windows and some basic cyclical maintenance such as gutter cleaning). The Trust states that all conservation and interpretation has been carried out with the assistance of various grants over the years. In this respect, according to the Trust, a major issue in Queensland is the drying up of Government grants, which has contributed to a growing liability in relation to major repairs and maintenance.

<b>Table 7.6: National Trust of Queensland - Breakdown of Income from Ordinary Activities - 2003 - A\$</b>		
<b>Revenue Items</b>	<b>2003 - A\$</b>	<b>% of Total</b>
Gain on sale of assets	653,567	39.7
Admissions and tours	217,437	13.2
Membership income	201,616	12.2
Untied grants	119,597	7.3
Merchandise sales	78,113	4.7
Commercial rentals	75,291	4.6
Contributed assets	51,051	3.1
Conservation services	61,282	3.7
Interest income	41,651	2.5
Administration fees	31,946	1.9
Sponsorships	22,027	1.3
Events & functions	20,015	1.2
Heritage week	19,101	1.2
Untied donations	13,913	0.8
Accommodation rentals	11,177	0.7
Other revenue	30,491	1.8
<b>Total Revenue</b>	<b>1,648,275</b>	<b>100</b>
Source: National Trust for Queensland, Annual Report and Accounts, 2003		

### Other Heritage Organisations in Australia

- 7.143 There are a number of trust-type organisations which have a charter managing the natural environment. Two major examples are the Trust for Nature, based in Victoria, and the Australian Bush Heritage Trust.
- 7.144 The former was initially funded by government the latter through public subscription. Similar trust-type organisations exist for historic properties.
- 7.145 As noted earlier, it is difficult to comprehensively identify all private heritage trust-type organisations operating in Australia. According to the Australian Council of National Trusts (ACNT), however, the overall number of such trusts is not likely to exceed 100. Furthermore, it understands that, in recent years, trust-type organisations that have developed have had a natural environment focus.
- 7.146 According to the ACNT, the number of natural environment areas that have been added to trust-type organisations is significant. Apart from the fact that there is a greater public interest in the natural environment, the Federal government has recently introduced a range of taxation incentives that encourage conservation (described further below).

*Covenanting Initiatives*

- 7.147 Under a covenanting initiative, many farmers/pastoralists, for example, are 'donating' parts of their holdings for conservation purposes. A protective covenant is placed on the land to ensure its protection in perpetuity. This has also generated a very active 'conservation land market' with people selling pristine areas with covenants to ensure their protection.

**Tax and Other Incentives for Heritage Properties**

- 7.148 In Australia, donations to environmental organisations of property valued at \$5,000+ are tax-deductible. Any taxpayer can claim a donation (e.g. an individual, trust or company). Deductions may be apportioned over five years so that tax benefits are not lost when a donor's income in a single year is less than the value of the gift.
- 7.149 Donations must be to an eligible organisation that appears in the Register of Environmental Organisations. There were approximately 300 organisations in the Register in June 2003, comprising body corporate bodies, cooperative societies, trusts and unincorporated bodies established for a public purpose by a Commonwealth, State or Territory. Statutory authorities are not eligible if their enabling legislation provides that its property 'be given or transferred to the Crown as the body's beneficiary or controller'.
- 7.150 In addition, amendments to the tax law in October 2001 allow an owner to claim an income tax deduction for any *decrease in land value* as a result of entering into a conservation covenant.
- 7.151 In relation to the effectiveness of tax policy, research carried out by the Heritage Council of western Australia, tax deductions for donations to historic heritage conservation in Britain and the United States have proven effective in increasing the flow of resources (in cash or property) to heritage organisations, and to the projects that they undertake. For instance, the National Trust of England received donations totalling over £3,300 million in 2002/03, and English Heritage received donations totalling £654 million in the preceding year. The same is true of more recent tax reforms for nature conservation in Australia, as evidenced by the success of the revolving funds for nature in the last five years.
- 7.152 A divergence of view exists in Australia on the issue of donations to government heritage funds. The view of the states and territories is that donations to government funds should be given tax deductible status, on the grounds that (a) specific projects are capable of attracting projects; (b) suitable funds already exist in most states (or if separate funds are required that could readily be achieved); and (c) various other government activities and entities already enjoy tax deductible status, such as museums, libraries, art galleries, and public hospitals.

- 7.153 The Commonwealth is not supportive of donations to government funds being given tax-deductible status, 'on efficiency and effectiveness grounds'. Environment Australia contends that "providing deductible gift recipient status to government funds would require a number of actions, including changes to the Tax Act, the establishment and administration of separate gift funds in each jurisdiction (as required under the Tax Act), and potentially some legislative change within States and Territories to establish these gift funds. It is unlikely that the public will make significant (if any) donations to government funds, thus calling into question the cost effectiveness of making the relevant legislative changes and establishing and administering the gift funds. Furthermore, where donations are made to government funds, it may be at the expense of donations that would otherwise have been made to non-government organisations'.
- 7.154 Apart from the reforms outlined above, other relevant parts of Australian tax law include the following:
- The tax deductibility of donations to organisations in the Register of Cultural Organisations, which covers arts, literature, performing arts, crafts and movable cultural heritage, specifically excludes historic heritage.
  - The tax deductibility of donations to the National Trusts in each State and Territory, under section 30-55 of the Tax Act, does not rely on the Trust being included in the Registers of environmental or cultural organisations. A practice has developed in some states for the National Trust to conduct conservation appeals on behalf of other organisations for heritage-listed churches, cemeteries and community buildings.
- 7.155 The Report of the Inquiry into Charitable and Related Organisations was released in June 2001, recommending among other things that 'charitable purposes' should include 'the advancement of culture, which ... includes the promotion and fostering of culture and the care, preservation and protection of the Australian heritage'. In the Commonwealth Government's Response to the Inquiry, the Government announced that it would enact a legislative definition of 'charity'. Within that definition, charitable purposes would embrace 'the advancement of culture' which includes the historic heritage.
- 7.156 For a short period during the mid 1990s, a taxation program operated for private owners of heritage. This incentive provided a 20% rebate for approved repair/renovation works to properties. There was an annual \$2m 'cap' (value of the rebate) placed on the program. It has since been converted into a tax scheme.

## New Zealand

### *The New Zealand Historic Places Trust*

- 7.157 The New Zealand Historic Places Trust Pouhere Taonga is a charitable trust established by an Act of Parliament in 1954. It is currently governed by a Board of Trustees and a Maori Heritage Council. The mission of the Trust is to promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand.
- 7.158 An important tool used by the Trust are heritage covenants. Heritage covenants attach to a land title and place conditions or restrictions on its use. They are considered by the Trust as a very important mechanism for long-term heritage protection. A covenant involves an agreement between the Trust and a property owner and once signed is permanently attached to a property's title. It therefore binds all subsequent owners and any breach of this covenant is an offence under the Historic Places Act. To date the Trust has entered into over 60 heritage covenants with property owners. About a third apply to residential properties, where the owners have worked to restore their historic homes and want their work to be protected if they later decide to sell the property.
- 7.159 In relation to heritage funding in New Zealand, the Government's 2003 Budget announced the creation of a national heritage preservation incentive fund to be administered by the New Zealand Historic Places Trust. The purpose of the fund is to provide financial incentives to encourage the conservation of nationally significant heritage places in private ownership, as opposed to those in the ownership of the public sector and agencies eligible for funding from the Lottery Grants Board.
- 7.160 The annual appropriation approved by Parliament for the fund is \$563,000 (GST inclusive). The New Zealand Historic Places Trust is in the process of developing policy and procedures for the administration and allocation of the National Heritage Preservation Incentive Fund.

## Summary of Findings

7.161 In assessing the potential costs and benefits associated with the application of trust and other approaches to the management of heritage properties in the Irish context it is important to examine the approaches pursued in other jurisdictions. As part of this study we reviewed in detail the international evidence in relation to alternative approaches to heritage property management. Our review of international approaches covered 13 jurisdictions and focused on the nature of relevant legislation and practice in each jurisdiction, including the nature of supporting tax-based and other economic incentives. We summarise below the key findings from our review, focussing the UK, the Netherlands and Australia. We would, however, stress that no model can be simply transplanted between countries and it is necessary to take account of the specific characteristics of the Irish heritage challenge and environment.

### *The United Kingdom*

- 7.162 Within the U.K. there is considerable diversity both within and across constituent jurisdictions in terms of the different trust-type and other models applied in heritage ownership and organisation and the nature of tax and other incentives in place.
- 7.163 At national level, the Department for Culture, Media and Sport (DCMS) oversees the UK's obligations under the World Heritage Convention and is also responsible, within England, for heritage legislation and the statutory protection of 'scheduled' monuments and 'listed' buildings.
- 7.164 There are several forms of trust-type organisations in operation in the UK in the area of heritage property management. These broadly include:
- National trusts, including National Trust for England, Wales and Northern Ireland, and the National Trust for Scotland;
  - Other private trusts and foundations, with charitable status, for example, the various wildlife trusts under the umbrella of the Wildlife Trusts partnership;
  - Civic Trusts, for example, the Civic Trust for Wales;
  - Building preservation trusts, for example, the Architectural Heritage Fund.

- 7.165 The National Trust for England, Wales and Northern Ireland was founded in 1895. It is a registered charity, having the registered title of the National Trust for Places of Historic or Natural Beauty. It should also be noted that the National Trust is independent of government and does not receive direct state grant or subsidy for its general work (although it may apply for grants that are available generally to various organisations).
- 7.166 The objectives and purposes of the National Trust are as follows:
- “The National Trust’s vision is to inspire present and future generations with understanding and enjoyment of the historic environment through exemplary and innovative work in conservation, education and presentation”,
  - “[The Trust’s] priorities are to show leadership in the regeneration of the countryside and, where possible, our towns; deepen our understanding of the meaning and value of heritage; [and] to expand the provision of education and lifelong learning.”
- 7.167 The National Trust cares for both built and natural heritage assets, including over 250,925 hectares (620,061 acres) of countryside in England, Wales and Northern Ireland, over 600 miles of coastline and over 900 buildings, gardens, parks and other assets of national interest and importance.
- 7.168 An important feature of the National Trust is its large membership. The Trust’s total membership reached 3.06 million members in 2003, which compares with 2.1 million members in 1993. The Trust also has significant overseas membership.
- 7.169 The National Trust has substantial volunteer support for its activities. In 2003, a total of over 34,000 volunteers contributed 2.1 million volunteer hours to the Trust’s activities.
- 7.170 One feature of the National Trust is its ability to declare its property ‘inalienable’, although it is important to note that not all properties accepted by the National Trust are given this entitlement. For example, a house with or without its contents, may be presented to the Trust along with a financial endowment to enable it to be maintained in perpetuity. In return, the donor and the donor's family may continue living in the house, subject to public access and measures to retain the essential character of the property. The statutory power of ‘inalienability’ essentially means that property or land cannot be voluntarily sold, mortgaged or compulsorily purchased against the Trust’s wishes, except through special parliamentary procedure. In other words, a parliamentary vote must take place before a property can be disposed.

7.171 A number of conditions must be satisfied before a property is declared inalienable. According to the Trust:

“Before property is declared inalienable, the Trust’s Executive Committee must satisfy itself that the property is of sufficient historic interest or natural beauty to merit being held permanently by the National Trust for the benefit of the nation. The assessment process, which lies behind such a declaration, is a rigorous one, involving a series of expert appraisals of the merits of the property, the threats which it faces and the public benefits which it offers. Only property judged to be of national significance is declared inalienable.”

7.172 Not all the Trust’s properties are held inalienable and properties may also be given to the Trust with an understanding on the donor’s part that it may eventually be sold for the benefit of the Trust.

7.173 In considering potential properties for acquisition, an important assessment tool used by the Trust is the ‘Chorley Formula’. Essentially what the Chorley Formula does is to provide a basis for estimating the capital endowment required to both produce an annual income to support the ongoing upkeep of a property and to ensure that the value of the fund is maintained. This formula sets a high hurdle rate and we understand that, in practice, the Trust generally is unlikely to consider properties unless sufficient income stream is available.

7.174 The National Trust benefits from a range of income sources. These include membership income (just under one quarter of total income in 2003), commercial income from its enterprises (22.6% in 2003), legacies/bequests (14.9%), direct property income (12%), and gifts, donations and income from fundraising.

7.175 In relation to specific tax incentives applying to trusts in the UK, according to the National Trust, in addition to the concept ‘acceptance in lieu’, the charitable status of the Trust also confers additional tax advantages, as follows:

- Gift Aid – the Government gives charities extra funds on top of donations and/or membership subscriptions (in the UK 28p for every £1 donated) if donors have paid income tax or capital gains tax equal to the tax deducted from their donations;
- Business rates – a remission of at least 80% on the Uniform Business Rate;
- Value Added Tax (VAT) – registered charities can reclaim the VAT they are charged although there are restrictions on the amount they can recover;
- Inheritance Tax – money left to a registered charity is free of inheritance tax. The gift is subtracted from the net value of the estate when the total liability has been decided. In the UK, inheritance tax is set at 40% in the UK, which means that a gift costs only 60% of its value as the remainder would otherwise be paid in inheritance tax to the tax authorities.

*The Netherlands*

- 7.176 One of the main heritage bodies in the Netherlands is the Kinderdijk World Heritage Foundation. The Foundation, which is a non-profit heritage foundation, was established with government encouragement in 2001 to support and promote the heritage hydraulic works network at Kinderdijk-Elshout, Zuid-Holland Province. Constitutionally it has a five-year lifespan.
- 7.177 This Foundation coordinates fund-raising and the management, interpretation and promotion of all the heritage properties and cultural landscape within what is now called the World Heritage Zone. The various owners and managing bodies pool part of their own funds to contribute to the cost of maintenance of those historic properties and structures that are no longer in operational use. In addition to this, and to its co-ordination and marketing roles, the Foundation also seeks to raise additional public and private funds for its work, and towards the backlog of repair and maintenance, and is currently seeking funds totalling 10 million Euros.
- 7.178 A key aim of the new structure was to develop private funding and sponsorship to enhance the funding from the public authority partners in the foundation. However, so far at least the majority of the listed “sponsorship” of the Stichting is in fact from other public bodies, in particular the State Water Ministry and the Ministry of Education, Culture and Science. Non-profit sponsors include the Nederland Wandelsport Bond [Netherlands Ramblers Association], the ANWB [Netherlands Automobile Association] and the Prins Bernhard Culturfonds [Prince Bernard Cultural Foundation].

*Australia*

- 7.179 As a Commonwealth country, Australia has many similarities to the UK in terms of the application of trust-type and other organisations in the ownership and management of heritage properties, and in relation to the use of tax and other incentives in support of heritage conservation.
- 7.180 In relation to national trusts, each state & territory within Australia has its own fully autonomous National Trust. These Trusts have been established over time: the first in New South Wales in 1945, and the last two in the Australian Capital Territory (ACT) and the Northern Territory (NT) in 1976. All eight national trusts preceded government legislation in their respective jurisdictions. The Australian Council of National Trusts was established in 1965 to represent the Members (the state and territory Trusts) interests at the federal level.

- 7.181 Of the nine Trust entities, three - Victoria, ACT & the ACNT - are companies limited by guarantee and operate under Australian corporations law. The others operate under statute promulgated by the state or territory government.
- 7.182 Trust funding is provided from a number of sources, including membership fees, sponsorship/business support, entry to properties, Government operational grants, bequests (occasional but they can be substantial), revenue from investments are the main sources. The percentage amount received from a source varies substantially across each Trust, however.
- 7.183 Collectively the Australian National Trusts own or manage (on behalf of state/territory governments) about 270 heritage properties nationally as well as a very substantial collection of furniture, paintings, documents, clothes etc. Of the 270 properties about 170 are open to the public.

## 8 Discussion of Policy Issues

### Introduction

- 8.1 The objective of this study is to assess the feasibility and costs and benefits of legislative proposals to establish trust organisations for the preservation of heritage prosperities. Ireland is one of the few European countries without such legislation and it is argued by some (e.g. An Taisce and the Irish Georgian Society) that this would assist in the preservation of properties of cultural value and would be a more effective addition to current policy.
- 8.2 There are a number of elements of existing policy. Government provides both direct grant support and tax relief to certain properties that are deemed to be of cultural value. Grant aid is administered through the local authorities and is targeted based on an assessment of need. Also of importance are grants provided by the Heritage Council. The Section 482 tax relief is available to assist property owners with the cost of restoration and maintenance. Approved expenditures for approved properties are allowed against taxable income at the marginal relief. This relief assists the cost of restoration for those owners with a taxable income.
- 8.3 Finally, the Government, through the OPW, manages a portfolio of properties on behalf of the people of Ireland. On a regular basis, there are calls for the Government to add to this portfolio through purchase of properties that become available.
- 8.4 In this section, we propose to:
- outline the costs and benefits of these proposals;
  - quantify the likely Exchequer costs based on a reasonable set of assumptions; and
  - consider the operational aspects of the trust proposals;

## Assessment of Costs of Trust Proposals

- 8.5 An issue for policymakers concerns the costs and benefits associated with potential trust(s) proposals. These include wider socio-economic and societal costs and benefits, and specific costs that may be borne by the Exchequer. In Table 8.1 we summarise the likely Exchequer costs related of the provision of potential trust-type initiatives. Each of these is discussed in more detail below.

**Table 8.1: Summary of Main Exchequer Costs of Provision of Trust-Type Initiatives**

**MAIN POTENTIAL COSTS FOR GOVERNMENT**

1. COSTS OF PROPOSED TAX RELIEFS MEASURED IN TERMS OF TAX FOREGONE
2. ANY SEED CAPITAL PROVIDED BY THE EXCHEQUER IN SUPPORTING THE ESTABLISHMENT OF TRUSTS
3. ANY ON-GOING ANNUAL SUBVENTION PROVIDED TO TRUSTS
4. POTENTIAL ADDITIONAL EXCHEQUER EXPOSURE IN EVENT TRUST EXPERIENCES FINANCIAL DIFFICULTIES

### 1. Costs of Proposed Tax Reliefs Measured in Terms of Tax Foregone

- 8.6 One of the potential costs for the Exchequer is the cost tax foregone arising from the proposed tax reliefs. The size of these costs would depend on:
- (A) The specific tax incentives/allowances, which would be included in any legislation.
  - (B) The number of properties involved.

#### (A) *Specific Tax Allowances*

- 8.7 There are a range of possible tax options with different potential exchequer costs. Regarding tax relief on the donation of property, the key issues are as follows:
- Should the cost or value of these properties be capped?
  - Should it apply to a subset of taxes?
  - Should it relate to past, current and future tax liabilities?
  - What would be the terms of any transfer of property?
  - Should relief be provided on the same basis as the Section 1007 relief on heritage items?

- 8.8 Regarding tax relief on the donation of property, the key issues are:
- ❑ Should tax relief be available for donations to trusts;
  - ❑ Should this be available at the marginal rate or a lower rate;
  - ❑ Should the trust be prescribed as a charitable organisation for the purposes of this provision?
  - ❑ Should the Government support such endowments and should there be a cap on this contribution?
- 8.9 For trust legislation to be effective we believe that certain tax reliefs are required. We will discuss these below when quantifying exchequer costs in more detail.

*(B) The Number of Properties Involved*

- 8.10 Secondly, Exchequer costs would be influenced by the likely number of privately owned property owners who would be interested in transferring their properties to such a trust. This is difficult to estimate in advance of any experience of such legislation in Ireland. However, some insights to a judgement on the likely numbers can be obtained by considering the experience in other countries and also from the views of property owners in Ireland.
- 8.11 In terms of the experience internationally, it is useful to present some details in relation to property acquisition among heritage trusts in other countries. In Table 8.2 below we present details in relation to the number of heritage properties acquired by the National Trust for England, Wales and Northern Ireland.

<b>Table 8.2: Historic Properties Owned and Managed by the National Trust for England, Wales and Northern Ireland - Annual Number of Properties Acquired - 1999-2002</b>	
<b>Year</b>	<b>No. of Properties Acquired</b>
1999	54
2000	52
2001	40
2002	33
Source: The National Trust for England, Wales and Northern Ireland, Annual Report and Accounts for years 1999-2002	

- 8.12 According to the figures, the annual number of properties acquired by the Trust in recent years has varied in the range 33-54 properties between 1999 and 2002. It should be noted that this equates to a rate of 3.7-6% of the total number of properties (895) held by the Trust, as indicated by the figures shown previously in Table 7.1. The difference in scale compared with the UK the ability to generate sufficient endowments, and the long history of such activities suggests to us that the numbers in the UK are likely to be between 10-40 times greater than would apply to an emerging National Trust in Ireland.
- 8.13 We also considered the views of private property owners in Ireland concerning their judgement on the annual number of likely properties that would be transferred to trusts. While there is inevitable uncertainty on the likely number of properties that would be transferred to trusts on an annual basis, the views of owners of heritage properties on this issue is of interest. As well as the interest among owners in transferring properties to any trust, account needs to be taken of the fact that some properties may not be accepted in any year, as this would depend on the cultural value of the property and the level of endowment relative to likely future costs.
- 8.14 Details of the views of owners of heritage properties are presented in Table 8.3 and indicate that most respondents believe that there would be between 1-6 transfers each year. However, from our consultations, we believe that the numbers are likely to be at the lower level of this range and indeed could be even lower.

**Table 8.3: Indecon Survey of Heritage Properties in Ireland - Views of Respondents on Whether they Believe there would be a Significant Number of Transfers of Privately Owned Heritage Properties in Ireland into Trust-type Arrangements, Should a More Supportive Legislative Regime be Established - % of Responses**

Estimated No. of Additional Transfers of Heritage Properties into Trust	% of Responses
Zero	1.5
1-2 per annum	13.4
3-6 per annum	16.4
7-10 per annum	9.0
11-20 per annum	1.5
Over 20 per annum	4.5
Don't Know	53.7
<b>Total Responses</b>	<b>100</b>

Source: Indecon survey of built and natural heritage properties in Ireland

- 8.15 It is useful to also establish the likely demand for trust status amongst the owners of properties. Accordingly, we asked respondents whether they would be interested, now or in the future in transferring the property with which they are currently associated into a trust. Table 8.4 indicates that a total of 37.3% of respondents were either 'very interested' or 'interested'. This compares with 38.8% of respondents who indicated that they were 'not interested'.

**Table 8.4: Indecon Survey of Heritage Properties in Ireland - Views of Respondents on Whether they Would be Interested, Now or in the Future, in Transferring the Property with which they are Currently Associated into a Trust, if a More Supportive Legislative Regime was Established - % of Responses**

Level of Interest	% of Responses
Very interested	10.4
Interested	26.9
Not interested	38.8
No Views	23.9
<b>Total Responses</b>	<b>100</b>
Source: Indecon survey of built and natural heritage properties in Ireland	

## **2. Any Seed Capital Provided by Exchequer in Supporting Establishment of Trusts**

- 8.16 In the UK the National Trust is primarily self-sufficient and does not depend on significant government subsidies. Some interested parties have, however, suggested to us that some level of seed capital may be needed from the Exchequer to facilitate the establishment of a national trust or trusts in Ireland. This issue needs to be considered prior to any final decision on trust legislation.

## **3. Any On-going Annual Subvention Provided to Trusts**

- 8.17 In the UK there has not been a need for any on-going direct Exchequer subvention to the National Trust. This reflects the history of the trust and its reputation, as reflected in incomes raised through membership, legacies/donation and admission fees. Circumstances are obviously different, as we would be considering a start-up situation in Ireland with a smaller market. This issue also needs to be considered prior to any formal decision on trust legislation but the supporters of legislation believe that an annual ongoing subvention would not be required once the Trust is successfully established although it is believed that initial funding would be needed.

#### **4. Potential Additional Exchequer Exposure in Event Trust Experiences Financial Difficulties**

- 8.18 In the event that a new trust organisation experienced financial difficulties it is important to recognise that pressures might also be placed on the Exchequer to meet any shortfall. A clear policy on this in advance would be needed and we would not favour a role for the Exchequer in supporting trust organisations that were experiencing financial difficulties. A clear commercial focus within any trust organisation at both board and executive level would therefore be essential for their success.

### **Quantification of Exchequer Costs**

- 8.19 An element of the terms of reference concerns the assessment of the likely costs and benefits facing the exchequer arising out of proposals for trust-type arrangements. In this section we develop a range of scenarios in relation to exchequer costs.
- 8.20 There are two elements to the potential Exchequer costs associated with the transfer of properties to trust, as follows:
- Exchequer costs relating to tax reliefs on the donation of heritage properties to trust;
  - Exchequer costs relating to tax reliefs provided on donations to property endowment funds.
- 8.21 The distinction between the above two elements is that the first element concerns the donation of a particular property or properties to trust and the costs to the Exchequer of related tax reliefs. The second element, by contrast, relates to the cost of tax reliefs provided in respect of donations made to the endowment funds required to upkeep/maintain properties once they are transferred to trust.

#### **Exchequer Costs re Donation of Heritage Properties to Trust**

- 8.22 In relation to the issue of the potential Exchequer costs arising from tax reliefs provided on the donation of properties to a trust, such tax reliefs could take the form of an allowance against tax liabilities equivalent to the value of a property or properties donated to a trust. This would be similar in principle to the tax relief available under Section 1003 of the 1997 Taxes Consolidation Act relating to the donation of heritage items.

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- 8.23 A number of issues must be considered, however, in relation to modelling of potential Exchequer costs associate with the donation of properties to trust. These main issues are as follows:
- ❑ The value of this tax break and whether 100% of the value of the property could be written off;
  - ❑ Whether the annual total value of properties that may be allowed against tax liabilities is capped at a pre-specified level;
  - ❑ Whether tax reliefs are available on all areas of taxation (e.g. income tax, corporation tax, capital gains tax, gift tax and inheritance tax) or a restricted subset of these;
  - ❑ Whether the value of property donations may be offset against past, current and future tax liabilities.
- 8.24 In relation to the first issue above, under the existing Section 1003 rules, the total value of items that can be received in any year is currently €6 million. We would recommend a similar approach for heritage properties in order to place a cap on the exchequer cost of the tax foregone on this element. In our scenarios presented below we assume that an annual cap of €6 million is placed on the value of properties that may be donated against tax liabilities.
- 8.25 While we would have concern in relation to proposals suggesting that full write-off should be allowed against all taxes, including past, current and future tax liabilities. However, for the purposes of our scenarios and for consistency with existing legislation, we assume that the same rules would apply as in the case of the donation of heritage items.

#### **Exchequer Costs re Donations to Trust Endowment Funds**

- 8.26 The second element of potential Exchequer costs arising from the provision of tax reliefs for trust properties concerns the cost of tax reliefs provided on donations to trust property endowment funds. For the purposes of this exercise, it is proposed that this would be funded by a combination of a direct Exchequer contribution and the availability of tax relief on private sector donations to the trust fund.
- 8.27 In order to assess the likely cost to the Exchequer on this basis, a number of issues must be considered, as follows:
- ❑ The number of properties that are likely to be transferred into a trust per annum;
  - ❑ The value of the endowment fund required to upkeep/maintain each property;
  - ❑ The direct contribution provided by the Exchequer and the private sector to the total endowment required across all properties;
  - ❑ The contribution by corporate or private individuals to raising the private element of the endowment;
  - ❑ The proportion of the private sector contribution to be allowed against taxation liabilities.

- 8.28 It is important to note that there is uncertainty regarding the number of properties that would be transferred to trust, which in turn would be based on the level of interest of property owners, the evaluation of the heritage importance, the level of endowment funding required and the ability of the trust to raise sufficient funds.
- 8.29 There is also considerable uncertainty in relation to the value of the endowment fund required to upkeep/maintain heritage properties that may be transferred to trust. No two properties are equivalent in terms of type, size (including, for example, surrounding estates), the existing state of repair of properties, and ongoing sources of income. For the purposes of our scenarios presented below, we have assumed that the endowment funding required is equal to 120% of the value of each property transferred to the Trust. However, actual required funding may differ significantly depending on the factors described above and we believe that more precise calculation of required endowments should be based on international best practice methodologies such as the 'Chorley Formula', described in the appendices.

#### Scenarios for the Quantification of Potential Exchequer Costs

- 8.30 In this sub-section we present 5 scenarios for the quantification of potential Exchequer costs associated with the operation of a heritage trust. We base these scenarios on the following assumptions:
- ❑ Between 1-4 houses are transferred into a trust per annum;
  - ❑ The average market value of properties donated to trust is €5 million under Scenarios 1-4 and €10 million under Scenario 5;
  - ❑ We assume under each scenario that the endowment fund required per property is equivalent to 120% of the market value of each property transferred to the Trust;
  - ❑ Each scenario assumes donation of a property or properties to the trust *in lieu* of historic and current tax liabilities, but with the total annual value of properties allowed against tax liabilities set at €6 million;
  - ❑ In order to assist in the early years of a National Trust we support the suggestion of the Irish Georgian Society of providing some financial resources to 'prime the pot' and we model a scenario whereby the Exchequer contributes up to one-quarter of the endowment funding required to upkeep trust properties, with the balance provided by private sector contributions;
  - ❑ The private sector contribution to the endowment funding is divided equally between individuals and corporations;
  - ❑ The marginal tax rate for individuals is 42% and 12½% for corporations, with the full amount of the endowment contribution allowed against tax under scenarios 1-4, while under scenario 5 a cap of €3 million is placed on the total annual tax break allowed.

8.31 It should be noted that the scenarios presented below may overestimate net Exchequer costs to the extent that there are any savings arising from reduced demands for Section 482, or other savings. There is, however, the possibility that costs would be greater if the scale and value of the property was larger or if conservation and refurbishment costs were greater than assumed. Our scenarios also do not reflect the possibility that owners may currently transfer properties to other charitable heritage organisations, which can avail of existing tax reliefs. However, subject to these provisions, our base case scenario represents our best estimate of annual Exchequer costs. These costs should also be considered against the much higher costs that would arise if the State decided to acquire such properties. There would inevitably be exchequer savings if the State no longer need to acquire heritage properties.

*Exchequer Cost Scenario 1*

8.32 The details of Scenario 1 estimates of potential Exchequer costs are presented in Table 8.5 below.

Table 8.5: Quantification of Estimated Exchequer Costs – Scenario 1	
Assumptions	Estimates
<b>Property Donation Costs</b>	
Number of properties per annum	1
Average market value of properties - €	5,000,000
Value of property offset against existing/historic tax liabilities (note: total cost of tax break capped at €6,000,000 per annum) - €	5,000,000
<b>(A) Total Exchequer Cost re Donation of Property - €</b>	<b>5,000,000</b>
<b>Endowment Funding Costs</b>	
Total value of endowment required - € (assumed @ 120% of market value of each property)	6,000,000
Exchequer direct contribution @ 25 %	1,500,000
Private contribution @75 %	4,500,000
Assume full tax break on private contribution	
Corporate (50%) @12.5% tax rate - €	281,250
Private Individuals (50%) @42% tax rate - €	945,000
<b>Total cost of tax break on endowments - €</b>	<b>1,226,250</b>
Exchequer direct endowment contribution - €	1,500,000
<b>(B) Total Exchequer Endowment Funding Costs Per Annum - €</b>	<b>2,726,250</b>
<b>Total Exchequer Costs (A)+(B) - € per annum</b>	<b>7,726,250</b>
Source: Indecon analysis	

- 8.33 Under our base case scenario 1, we assume that one property per annum is transferred into trust, with a market of €5 million and a required endowment fund for ongoing upkeep of €6 million (i.e. 120% of the market value of the property). The Exchequer cost in relation to tax reliefs provided on donation of the property is €5 million. It is also assumed that the Exchequer provides a direct contribution of 25% or €1.5 million to the required property endowment fund, while the private sector contributes the balance or €4.5 million. Assuming that a full tax break is provided at the marginal rates of personal and corporation tax and with the personal and corporate sectors each providing half of the total private sector contribution, this would imply a foregone tax cost to the Exchequer of €945,500 for personal individuals and €281,250 for corporations. Adding the total tax costs (including the tax cost on the donation of the property) to the cost of the direct Exchequer contribution implies a total Exchequer cost under this scenario of €7,726,250, which is equivalent to 70.2% of the combined value of the property donation and the required endowment fund.

*Exchequer Cost Scenario 2*

- 8.34 In the table overleaf we present the workings underlying scenario 2 for the quantification of exchequer costs. Under this scenario, we again assume that one property per annum is donated to trust, with a market value of €5 million and a required endowment fund of €6 million. Full-write off of tax liabilities is allowed on donation of the property, implying an Exchequer cost on this element of €5 million. In relation to the endowment funding cost, however, in this case the Exchequer provides no direct contribution, with the private sector providing the entire funding required. Assuming that the personal and corporate sectors each provide 50% of the total private sector contribution, this would imply a cost of tax foregone to the exchequer of €1.26 million in the case of individuals and €375,000 in respect of corporations. Adding these elements to the Exchequer cost in relation to the donation of the property implies a total cost to the Exchequer under this scenario of €6,635,000, or 60.3% of the combined value of the property donation and the endowment funding required.

Table 8.6: Quantification of Estimated Exchequer Costs – Scenario 2	
Assumptions	Estimates
<b>Property Donation Costs</b>	
Number of properties donated per annum	1
Average market value of properties - €	5,000,000
Value of property offset against existing/historic tax liabilities - €	5,000,000
<b>(A) Total Exchequer cost re donation of property (note: total cost of tax break capped at €6,000,000 per annum) - €</b>	<b>5,000,000</b>
<b>Endowment Funding Costs</b>	
Total value of endowment required - € (assumed @ 120% of market value of each property)	6,000,000
Exchequer contribution – Zero	0
Private contribution @100%	6,000,000
Assume full tax break on private contribution	
Corporate (50%) @12.5% tax rate - €	375,000
Private Individuals (50%) @42% tax rate - €	1,260,000
<b>Total cost of tax break on endowment funding - €</b>	<b>1,635,000</b>
Exchequer direct endowment contribution - €	0
<b>(B) Total Exchequer Endowment Funding Costs Per Annum - €</b>	<b>1,635,000</b>
<b>Total Exchequer Costs (A)+(B) - € per annum</b>	<b>6,635,000</b>
Source: Indecon analysis	

### Exchequer Cost Scenario 3

- 8.35 The workings for scenario 3 are presented in the table overleaf. Under this scenario we assume that four properties are transferred into trust per annum, each with an average market value of €5 million. However, while the total market value of properties donated to trust is €20 million, the total Exchequer cost of tax relief allowed in relation to the donation of these properties to the trust is capped at €6 million per annum.

Table 8.7: Quantification of Estimated Exchequer Costs – Scenario 3	
Assumptions	Estimates
<b>Property Donation Costs</b>	
Number of properties donated per annum	4
Average market value of properties - €	5,000,000
Total value of property donated to trust - €	20,000,000
<i>(A) Total Exchequer cost re donation of property (note: total cost of tax break capped at €6,000,000 per annum) - €</i>	<i>6,000,000</i>
<b>Endowment Funding Costs</b>	
Total value of endowment required - € (assumed @ 120% of market value of each property)	24,000,000
Exchequer Contribution @ 25 %	6,000,000
Private Contribution @75 %	18,000,000
Assume Full Tax Break on Private Contribution	
Corporate (50%) @12.5% tax rate - €	1,125,000
Private Individuals (50%) @42% tax rate - €	3,780,000
<i>Total cost of tax break on endowment funding - €</i>	<i>4,905,000</i>
Exchequer direct endowment contribution - €	6,000,000
<i>(B) Total Exchequer Endowment Funding Costs Per Annum - €</i>	<i>10,905,000</i>
<b>Total Exchequer Costs (A)+(B) - € per annum</b>	<b>16,905,000</b>
Source: Indecon analysis	

8.36 Under Scenario 3, on the basis of our assumption that the endowment funding required is equal to 120% of the market value of each property, this implies a total endowment requirement of €24 million. We assume that the Exchequer directly funds 25% (or €6 million) of this requirement and the private sector 75% (or €18 million). In relation to the private sector contribution we again assume that the personal and corporate sectors each provide 50% of this total and that each sector can avail of a full tax break at the marginal rates of personal and corporation tax. On this basis, this would imply a foregone tax cost to the exchequer of €3.78 million in the case of the personal sector and €1.125 million for the corporate sector. Adding the direct Exchequer contribution to these tax costs implies a total cost to the Exchequer in relation to the endowment funding element of €10.9 million, while adding the cost of tax relief on the donation of the properties (capped at €6 million) implies a total Exchequer cost of €16.9 million, or 38.4% of the combined value of the property donation and the endowment funding required.

*Exchequer Cost Scenario 4*

8.37 The analysis of Exchequer costs under scenario 4 is presented in the table below. In this case we again assume 4 properties are transferred, each with an average market value of €5 million, implying, under our assumptions, a required endowment fund of €24 million. As under Scenario 3, the Exchequer cost relating to the donation of these properties to trust is capped at €6 million per annum. In relation to the endowment funding element, however, we assume that the Exchequer does not contribute directly to raising the required endowment, with the private sector generating the entire fund. Again assuming a 50:50 contribution between the personal and corporate sector and a full tax break allowed at the marginal rates of personal and corporation tax, this would imply a total tax cost to the Exchequer in relation to contributions to the endowment funding of €6.54 million. Adding the cost of tax relief on the donation of the properties (€6 million) to this total implies an estimated total Exchequer cost of €12.54 million, which is equivalent to 28.5% of the combined value of the properties donated and the endowment funding required.

Table 8.8: Quantification of Estimated Exchequer Costs – Scenario 4	
Assumptions	Estimates
<b>Property Donation Costs</b>	
Number of properties donated per annum	4
Average market value of properties - €	5,000,000
Total value of property donated to trust - €	20,000,000
<i>(A) Total Exchequer cost re donation of property (note: total cost of tax break capped at €6,000,000 per annum) - €</i>	<i>6,000,000</i>
<b>Endowment Funding Costs</b>	
Total value of endowment required - € (assumed @ 120% of market value of each property)	24,000,000
Exchequer contribution – Zero	0
Private sector contribution @100%	24,000,000
Assume full tax break on private sector contribution	
Corporate (50%) @12.5% tax rate - €	1,500,000
Private individuals (50%) @42% tax rate - €	5,040,000
<i>Total cost of tax break on endowment funding - €</i>	<i>6,540,000</i>
Exchequer direct endowment contribution - €	0
<i>(B) Total Exchequer Endowment Funding Costs Per Annum - €</i>	<i>6,540,000</i>
<b>Total Exchequer Costs (A)+(B) - € per annum</b>	<b>12,540,000</b>
Source: Indecon survey of built and natural heritage properties in Ireland	

*Exchequer Cost Scenario 5*

- 8.38 Under Scenario 5 (presented in Table 8.9 below) we again assume that a total of four properties per annum are transferred into trust. However, in this case we assume that the average market value of each property is higher at €10 million. Based on our assumptions, this would imply a total endowment funding requirement of €48 million across the four properties transferred to the Trust. The total cost to the Exchequer arising from the tax relief on the donation of properties is again capped at €6 million per annum.

Table 8.9: Quantification of Estimated Exchequer Costs – Scenario 5	
Assumptions	Estimates
<b>Property Donation Costs</b>	
Number of properties donated per annum	4
Average market value of properties - €	10,000,000
Total value of property donated to trust - €	40,000,000
<i>(A) Total Exchequer cost re donation of property (note: total cost of tax break capped at €6,000,000 per annum) - €</i>	<i>6,000,000</i>
<b>Endowment Funding Costs</b>	
Total value of endowment required - € (assumed @ 120% of market value of each property)	48,000,000
Exchequer Contribution @ 25 %	12,000,000
Private Contribution @75 %	36,000,000
<b>Hypothetical Tax Breaks on Private Contributions</b>	
Corporate (50%) @12.5% tax rate - €	2,250,000
Private Individuals (50%) @42% tax rate - €	7,560,000
<i>Assume Total Cost of Tax Break capped at €3,000,000 per annum - €</i>	<i>3,000,000</i>
Exchequer direct endowment contribution - €	12,000,000
<i>(B) Total Exchequer Endowment Funding Costs Per Annum - €</i>	<i>15,000,000</i>
<b>Total Exchequer Costs (A)+(B) - € per annum</b>	<b>21,000,000</b>
Source: Indecon survey of built and natural heritage properties in Ireland	

- 8.39 In relation to the endowment funding requirement under Scenario 5, based on the assumption that the Exchequer contributes 25% of this requirement, this would imply an Exchequer contribution of €12 million and a private sector contribution to the fund of €36 million. If a full tax break were provided to both the personal and corporate sectors and both contributed 50% of the total private sector contribution, this would imply a total tax cost of €9.81 million. However, under this scenario we assume that the Exchequer places a cap on the annual level of the tax break available of €3 million. Assuming a full take up to the level of the cap and a direct Exchequer contribution to the endowment fund of €12 million, this would imply a total Exchequer cost in relation to the endowment funding component of €15 million. If one adds in the cost of the tax relief allowed on the donation of the properties (capped at €6 million), this would imply a total Exchequer cost of €21 million per annum, or 23.9% of the combined value of the properties donated and the required endowment funding.

#### **Risks Surrounding Scenarios for Exchequer Costs**

- 8.40 It is important to note that significant risks surround our assumptions set out above regarding the potential costs faced by the Exchequer in the provision of tax and other direct supports for heritage properties transferred in trust-type arrangements. We discuss these risks below.
- 8.41 Firstly, in relation to the level of required endowment funding for properties transferred to trust, and the relationship between this funding and the value of properties, as noted earlier, there is considerable uncertainty in relation to the estimation of this funding. Actual required funding may differ significantly depending on a variety of factors and this will in turn impact on the value of tax breaks provided.
- 8.42 Secondly, in relation to the direct Exchequer contribution to raising the required endowment fund for the ongoing upkeep of properties, we have assumed that the Exchequer provides direct support up to a maximum of 25% of the total endowment required. There is considerable uncertainty in relation to the extent to which the Exchequer may contribute directly to the endowment, although we would see some merit in the provision of some form of direct contribution so as to support the initial development of a trust, particularly given our view that substantial private sector funding would be very difficult to achieve at least in the early stages of operation of a trust in Ireland.

- 8.43 We have also implicitly assumed that the Exchequer direct contribution would take place during the first year after a property is transferred to trust. It may be feasible, for example, for the Exchequer, where a direct contribution is provided, to stagger this contribution over time, thereby lowering the annual cost of direct support.
- 8.44 There are also risks surrounding the assumption that the private sector contribution to the endowment fund would be divided equally between individuals and corporations. While we believe that long term potential exists to raise significant funds from the corporate sector, a key issue concerns the ability of promoters to generate sufficient funds. We believe that there is a possibility that such funds could be generated, there is no certainty on this issue. The main risks, however, relate to the number of houses transferred per annum, the valuation of these properties, and the level of endowment funding required.

#### **Operational Costs Associated with Trust-type Organisations**

- 8.45 In considering the feasibility of trust-type arrangements, an important issue concerns the costs attending the operation of such trusts. We identify the main costs associated with trust operation in Table 8.10 below. We discuss each of these issues in detail when we examine the feasibility of trust-type arrangements in Section 9.

**Table 8.10: Summary of Main Costs of Provision of Trust-Type Arrangements**

1. CAPITAL REQUIRED TO ESTABLISH TRUSTS
2. ON-GOING COSTS OF ADMINISTRATION
3. ON-GOING CURRENT AND CAPITAL COSTS IN MAINTAINING AND RESTORING PROPERTIES

## Assessment of Potential Benefits of Trust-type Organisations

8.46 We now turn to assess the potential benefits of trust-type arrangements for heritage properties. In the table below we outline some of the main benefits of trust-type initiatives. Each of these potential benefits is then discussed below.

**Table 8.11: Summary of Main Benefits of Trust-Type Initiatives**

- ❑ HERITAGE BENEFITS DUE TO MORE EFFECTIVE PRESERVATION AND GUARANTEE OF PUBLIC ACCESS TO PROPERTIES IN THE LONG-TERM
- ❑ TOURISM BENEFITS
- ❑ ATTRACTION OF PRIVATE SECTOR INVESTMENT
- ❑ POTENTIAL SAVINGS IN EXISTING TAX COSTS
- ❑ POTENTIAL SAVINGS IN COSTS ARISING FROM THE FACT THAT THE TRUST WOULD REDUCE PRESSURE ON THE STATE TO PURCHASE PROPERTIES AND THE POTENTIAL LOWER COST OF OPERATION OF THE TRUST ARISING FROM VOLUNTEER SUPPORT

### **(1) Heritage Benefits due to More Effective Preservation and Guarantee of Public Access to Properties in the Long-Term**

8.47 One of the main potential benefits of trust-type arrangements would be that they would provide a vehicle for attracting private sector funding that could help to secure heritage properties. In other words, a trust or trusts could be in a position to save properties in decline or, through their operation, lead to a form of ownership that would allow greater public access to these properties. The resulting potential societal benefits are difficult to assess but could be represented by the increased likelihood of improved preservation of such heritage properties and a guarantee of provision of wider public access to these properties.

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## (2) Tourism Benefits

8.48 Another potentially important tangible benefit of improved preservation resulting from trust-type arrangements concerns the support provided by heritage properties to the tourism sector. In Sections 2 and 3 we presented a range of findings from our international research and research on Irish State-owned heritage properties in relation to the tourism benefits arising from heritage properties. It is useful to restate some of the main findings from this research. In relation to heritage tourism benefits in other countries, research published the National Trust for England, Wales and Northern Ireland in 2001 indicated that<sup>72</sup>:

- ❑ 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%;
- ❑ In Wales and Cumbria, tourism day visits generated between STG£344 million in 2000 and STG£893 million in 1998 respectively, while holiday stay accounted for STG£468 million in 2000 and STG£895 million in 1999 respectively;
- ❑ Research carried out by the National Trust in Northern Ireland<sup>73</sup> 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 400,000 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; and
- ❑ Visitors to National Trust properties in Northern Ireland contributed towards around £58 million [€85.9 million] in tourist spend, helping to support between 1,400 and 2,500 jobs in the industry.

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<sup>72</sup> The National Trust for England, Wales and Northern Ireland, *Valuing our Environment*, 2001, Op. Cit.

<sup>73</sup> The National Trust and PricewaterhouseCoopers, *Valuing Our Environment: The Economic Impact of the National Trust in Northern Ireland*, March 2004, Op. Cit.

- 8.49 In relation to the tourism benefits arising from heritage properties in the Irish Republic, our research on state-owned heritage properties in Section 3 revealed the following key findings:
- A total of 465,478 people visited the eleven OPW-managed historic properties (for which visitors numbers are tracked) in 2003, up from 440,011 visitors in 2002, implying a 5.8% annual increase. These properties range from Kilkenny Castle, which had the largest number of visitors (almost 185,000) to houses such as Derrynane House & Gardens (16,991 visitors), Castletown House (10,935 visitors) and Emo Court (2,976 visitors in 2003);
  - Total receipts across the eleven properties managed by the OPW which charge for admission to the public came to €1.14 million in 2003 and just over €1 million in 2002, implying a 13.7% increase over this period. It is notable, however, that of the eleven properties shown, four properties experienced significant declines in visitor receipts in 2003.
- 8.50 The above research findings point to the potential contribution of the tourism sector to sustaining heritage properties. However, the low level of attendance at some state-owned heritage properties and the existing research evidence<sup>74</sup> pointing to a long term decline in visits to private historic houses are of significance in considering the issue of the feasibility of developing self-sustaining trusts in the Irish context.

### 3. Attraction of Private Sector Investment

- 8.51 A third key potential benefit of a trust or trusts relates to their capacity to attract private sector investment. The trust could represent value for money for the State if the alternative were a direct purchase of the property by the State. The net gain to the State relates to the additional private sector investment attracted or the value of the property less the cost of any tax relief allowed.

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<sup>74</sup> See, for example, Dooley (2003), Op. Cit., Pages 29-30; and Dr. Hugh Maguire, *An End to the Open House?* - Heritage Outlook, Summer 2004, Pages 28-29.

#### 4. Potential Savings in Existing Tax Costs

- 8.52 Another potential benefit of trust-type arrangements could arise where a property that transfers to a trust would otherwise have remained in private sector ownership and would therefore have secured a different range of tax reliefs. This may yield potential Exchequer savings in the form of tax reliefs. In particular, the estimated potential Exchequer costs under our scenarios discussed earlier may overestimate net Exchequer costs to the extent that there is any Exchequer savings arising from reduced demands for Section 482, or other savings.

#### 5. Other Potential Savings

- 8.53 One option for models for trusts is that the State may decide over time to transfer some existing non-strategic State properties to the Trust, or the State may use such a Trust as an alternative to purchasing additional properties that may be at risk. It is argued by supporters of a trust approach that this approach would lead to lower costs and better property management when compared with State ownership and control.

#### *Assessment of Potential Benefits among Property Owners*

- 8.54 It is instructive to examine the evidence in relation the views of property owners in Ireland on the potential benefits of trust-type arrangements. One of issues examine din Indecon's survey o heritage property owners in Ireland concerned the extent of support among owners for the concept of introducing more supportive trust type legislation in Ireland. The findings from our research are shown in Table 8.12 overleaf and indicate that property owners are positive towards legislative changes to facilitate the introduction of trust-type arrangements and believe that they could yield significant benefits, although some are concerned that this would be an alternative to rather than a complementary policy initiative to support the maintenance of heritage properties in private sector ownership. A total of 50.7% of owners responding the survey indicated that they were 'very positive' while 26.1% were 'positive' in this regard.

**Table 8.12: Indecon Survey of Heritage Properties in Ireland - Views of Property Owners re Whether the Introduction of More Supportive Trust-type Legislative Regime for Heritage Properties in Private Ownership would be a Positive Development in Ireland - % of Responses**

<b>Views</b>	<b>% of Responses</b>
Very positive	50.7
Positive	26.1
Negative	2.9
Very Negative	4.3
Don't Know/No Views	15.9
<b>Total Responses</b>	<b>100</b>

Source: Indecon survey of built and natural heritage properties in Ireland

- 8.55 The Indecon survey also sought the views of heritage property owners in relation to the various features different elements that would be included in legislative proposals. There are a number of different elements including for example, tax relief for heritage property donors and tax relief for private endowments. The results as set out in the table overleaf indicate that there was general support among property owners for these elements. 87.9 % of respondents indicated that tax relief for property donors was either 'very important' or 'important'. A similarly high percentage of respondents (80%) supported tax relief for private endowments, while 92.4% of respondents were of the view that provision of relief on the costs of maintaining such properties was either 'very important' or 'important'. The concept of inalienability, while a complex issue, was nevertheless seen by 41.7% of respondents as being either an 'important' or 'very important' feature of potential trust-type legislation.

**Table 8.13: Views of Property Owners on Relative Importance of Potential Aspects of the Introduction of a More Supportive Trust-type Legislation for Heritage Properties in Private Ownership - % of Responses**

Potential Aspects	% of Responses				
	Very Important	Important	Not Important	Don't Know/No Views	Total Responses
Tax Relief for Heritage Property Donors	72.7	15.2	1.5	10.6	100
Tax Relief for Private Endowments	56.9	23.1	0.0	20.0	100
Concept of 'Inalienability'*	20.0	21.7	26.7	31.7	100
Tax Relief for trusts re running/maintenance costs of properties	72.7	19.7	0.0	7.6	100

Source: Indecon survey of built and natural heritage properties in Ireland

\* 'Inalienability' is a legal feature where a property is held in perpetuity and cannot be misused or disposed of except through a decision by the legislature

8.56 A number of benefits of trust type arrangements were identified based on our review of international experience in this area. These included:

- Would facilitate access to private finance;
- Would facilitate better management of heritage properties;
- Would have lower management costs than if properties were taken into state care;
- Would ensure public access to properties in the long-term.

8.57 In the table overleaf we set out the views of property owners responding to the Indecon survey in relation to the importance of these potential benefits of trust-type arrangements. According to the figures, 36.9% of respondents indicated that facilitating access to private finance was a 'very important' potential benefit, while 29.2% indicated that it was important. Other potential benefits that were considered either 'very important' or 'important' by respondents were that trusts would facilitate better management of heritage properties (65.6%), that trusts would have lower management costs than if properties were taken into state care (67.7%), and that trusts would ensure public access to properties in the long term (70.3%).

<b>Table 8.14: Views of Property Owners on Relative Importance of Potential Main Benefits of Introducing More Supportive Trust-type Legislation for Heritage Properties in Private Ownership in Ireland - % of Responses</b>					
<b>Potential Main Benefits</b>	<b>% of Responses</b>				
	<b>Very Important</b>	<b>Important</b>	<b>Not Important</b>	<b>Don't Know/No Views</b>	<b>Total Responses</b>
Would facilitate access to private finance	36.9	29.2	12.3	21.5	100
Trusts could facilitate better management of heritage properties	32.8	32.8	12.5	21.9	100
Trusts could have lower management costs than if properties were taken into state care	46.2	21.5	12.3	20.0	100
Could ensure public access to properties in the long-term	34.4	35.9	12.5	17.2	100

Source: Indecon survey of built and natural heritage properties in Ireland

- 8.58 We also asked heritage property owners to state their views in relation to various factors that might encourage owners to transfer their properties to a trust. The findings of the Indecon survey, presented in Table 8.15 overleaf, indicate that a substantial percentage of owners considered maintenance costs and restoration costs as being either 'very important' or 'important' factors. Surprisingly, given the current exemption on Capital Acquisition Tax for heritage properties, taxation was also considered to be an important factor. This was important in forcing owners in the UK to transfer their properties but it is assumed that it is less important in an Irish context given the tax exemption.

**Table 8.15: Views of Property Owners on the Relative Importance of Factors in Encouraging Owners of Heritage Properties to Dispose of their Properties into Trust-type Arrangements - % of Responses**

Factors	% of Responses				
	Very Important	Important	Not Important	Don't Know/No Views	Total Responses
Maintenance Costs	52.4	33.3	1.6	12.7	100
Restoration Costs	59.4	26.6	1.6	12.5	100
Tax Liabilities	50.0	25.8	4.8	19.4	100
Time Commitments in Managing Properties	14.5	50.0	14.5	21.0	100

Source: Indecon survey of built and natural heritage properties in Ireland

8.59 Next we asked property owners to state their views in relation to the potential benefits of transferring a property to a trust as compared to selling this property to a private owner or to the State. The findings from our survey are shown in Table 8.16 overleaf. According to the findings, 54% of respondents indicated that a 'very important' potential benefit of trusts is that they could facilitate owners remaining in their houses, while 28.6% indicated this potential benefit as being 'important'. This is clearly an important potential benefit of trusts, as it enables families to access private finance to help with maintenance and restoration costs while remaining in their property. A total of 67.2% of respondents were of the view that a 'very important' or 'important' potential benefit is that trusts would ensure better management of heritage properties. This indicates confidence in trusts as potentially better managers of properties than other options. Related to this, a large percentage (78.7%) of respondents were of the view that continued ownership by a trust is a better guarantee for the long-term conservation of the property.

**Table 8.16: Views of Property Owners on the Main Attractions of Trusts for Property Owners Compared to the Sale of a Property to Private Owners or to the State - % of Responses**

Potential Main Attractions of Trusts	% of Responses				Total Responses
	Very Important	Important	Not Important	Don't Know/No Views	
Could facilitate owners remaining in their property	54.0	28.6	3.2	14.3	100
Trusts could ensure better management of properties	26.2	41.0	11.5	21.3	100
Continued ownership by a trust is a better guarantee for the long-term conservation of the property	41.0	37.7	4.9	16.4	100
Could ensure public access to properties in the long-term	26.7	45.0	11.7	16.7	100

Source: Indecon survey of built and natural heritage properties in Ireland

- 8.60 Finally, we asked whether an attraction of a trusts compared to private or state ownership was that they would ensure public access to properties in the long-term. 26.7% indicated this factor as being a potentially 'very important' factor, while 45% indicated this as being 'important'.

### Additional Views of Property Owners re Costs and Benefits of Trust-type Arrangements

- 8.61 In considering the merits of different potential approaches, it is also important to reflect the diverse views of current private owners of heritage properties in Ireland. As part of Indecon's survey of heritage properties, we sought the views of owners in relation to the costs and benefits of trust-type arrangements. In the table below we restate a selection of additional views expressed by individual owners.

Table 8.17: Selected Additional Views of Respondents to Indecon Survey
<p>"Any help through tax breaks etc., which benefit the ownership of listed buildings, is to be welcomed. But any conditions attached to a trust preventing their disposal would put us in a worse position than at present. For those who have an ambition to restore the past they must be in a position that their asset has a marketable value and for this to be the case, it must be saleable. The more public access to heritage buildings, the more tourism will benefit. To that end the more restoration the better. In the restoration and upkeep of commercial heritage buildings, the present cost of compliance compared to that of someone in a modern building is uncompetitive and without sizeable incentive, there will be no commercial appetite to operate out of listed buildings."</p>
<p>"I suggest that some type of affiliation to a trust type body, whereby expertise/ guide lines/ grants/ loans/ tax relief etc. could be accessed might be the most attractive option. This could be for a set number of years. This approach might work best where houses and lands are concerned. Where monuments were concerned, it would be desirable to have management plans drawn up to prevent degradation. Encouragement to provide public access should be facilitated by government."</p>
<p>"Such a regime was due decades ago. Many heritage homes and sites have been destroyed in that time. Present status would only be improved by proposed legislation. Our own property, a small 15th c. castle, of the tower house kind, is envisaged to remain a family property. A more careful attention to location and impingement on heritage properties should be paid by planners when considering adjacent developments. A more accessible and generous grant aid for maintenance / refurbishment should be made available by government to local authorities."</p>
<p>"Heritage buildings need long-term planning for maintenance, restoration and public access. To transfer from private ownership to trust there would need to be a financial incentive above the actual value of the heritage property, otherwise no one/ very little numbers will transfer into a trust or even sell. If heritage buildings are recognised as an asset for the whole community then any proposals for trusts or otherwise must reflect this."</p>
<p>"It is very important that Section 482 Tax Relief continues. I would only consider putting the estate in trust if it involved some outside funding for upkeep etc."</p>
<p>Source: Indecon survey of built and natural heritage properties in Ireland</p>

## Operational Model for Trust Proposals

- 8.62 A range of issues must also be assessed in relation to the operational model for trust proposals. These aspects are summarised below and are discussed subsequently:
- ❑ Issues regarding the donation of properties and endowment funding;
  - ❑ Issues regarding tax treatment of endowments;
  - ❑ Issues regarding tax treatment of running costs;
  - ❑ The structure of proposed trust(s);
  - ❑ Equity considerations;
  - ❑ Implications for current heritage policy.

### Basic Concept of Trust-type Arrangements

- 8.63 Before considering the various elements of proposals for trust legislation set out in the Irish context, it is useful to firstly consider the basic concept of a trust or trusts from the perspective of heritage property. A trust is basically a legal device in which an individual or individuals give control of a property or properties to a person or institution (the trustee) for the benefit of beneficiaries. Trusts exist in a variety of forms, depending on their application. In the area of heritage property management, trust arrangements are widely used on a private basis and one of the principle features of such arrangements in many jurisdictions is that they have particular features including that of charitable status.

#### *National Trusts*

- 8.64 A 'National Trust' is a particular form of trust which has a number of specific features, including:
- ❑ The Trust is backed by specific legislation, which enables it to manage properties on behalf of the citizens of a country and gives it the unique power to declare its property 'inalienable', i.e. legislation ensures that properties cannot be disposed of without an act of parliament;
  - ❑ The Trust will typically have charitable status, with associated tax benefits in relation to donations to the trust; and
  - ❑ The Trust will ordinarily be independent of government and the State, although the State could be involved in deciding what properties the Trust would acquire if tax reliefs are to apply, or if inalienability were required.

- 8.65 Another feature of national trusts concerns the approach to acquisition of heritage properties. In some countries (for example, the UK), prior to a property being accepted a trust, it must be demonstrated that there is sufficient funds to meet likely future maintenance and restoration costs associated with the property.
- 8.66 A range of proposals have been developed by various bodies in Ireland, including An Taisce, in relation to the introduction of legislation to establish a national trust or trusts. In terms of these detailed proposals, however, there are a number of issues that must be considered. We discuss these issues in detail below.

#### **Issues Regarding Donation of Properties**

- 8.67 The first issue is the actual donation of the property by the owners. The trust would need to decide that the property was of sufficient cultural value for it to be accepted as a trust property. It would subsequently need to establish that there was a sufficient endowment for on-going restoration and maintenance costs. Funds could be raised from a variety of sources. However, in our judgement, in most cases Irish owners of properties would not be in a position to provide such funding.
- 8.68 The question of adequate endowments is a key issue as the trust needs to demonstrate its financial capacity to manage each property. The Chorley formula, which is used in the UK, is a useful guide to establishing this capacity.
- 8.69 In most countries, a trust council or board attached to a Government agency would need to certify that a potential trust property is of sufficient cultural value. This is essential if there is preferential tax treatment and if the principle of inalienability is to apply. In the Irish context, under the operation of Section 1003 of the 1997 Tax Consolidation Act, which is concerned with the donation of certain cultural items, there is a committee established for this purpose.
- 8.70 In donating a property various rights could be bestowed on the family. One option is for the current generation to be allowed to remain in part of the house. This may be extended to future generations and we understand that this has been a feature of some trust properties in the UK. There is also the question of public access. For wider economic benefits to be maximised, it is essential that public access be guaranteed. Under the terms section of 482 there are rules in respect of access and we assume that a similar provision would apply in the case of trusts.

- 8.71 The proposed tax treatment of property donations to trusts needs to be considered. A useful starting point is the tax relief available on the donation of certain heritage items under section 1003 of the 1997 Consolidated tax Acts. Under this provision, the donors to a number of prescribed bodies can claim the value of the donated item against tax liabilities. This liability could include past, present and future tax liabilities. It is also available against any tax liability including capital acquisition tax, capital gains tax or income tax. There is an annual cap on the value of these properties, which limits the cost of Exchequer tax forgone.
- 8.72 A further relevant provision of current tax law is the exemption from capital acquisition tax of heritage properties. In other words, the taxes due on transfers are already exempt in respect of heritage properties. Thus, proposals from An Taisce would extend to this provision to additional tax heads.
- 8.73 Accordingly, a key policy is whether it is desirable for the State to provide these tax reliefs and the exact form that they should take. There are a number of key questions arising from this:
- What tax relief should be available on transfer of a property?
  - Should the cost or value of these properties be capped?
  - Should it apply to a subset of taxes?
  - Should it relate to past, current and future tax liabilities?
  - What would be the terms of any transfer of property?

#### **Issues Regarding Tax Treatment of Endowments**

- 8.74 One of the often-argued reasons for trusts is that they are vehicles for attracting private investment. An important element of trust proposals is that they would be endowed with sufficient funds to meet future costs as highlighted above. In other jurisdictions, as indicated by our review, it is common for corporations or private individuals to make donations to trusts and to avail of tax relief on these donations. Accordingly, a key policy question is whether tax relief on donations trusts should be made available.
- 8.75 Under current tax legislations, donations to charitable entities attract a tax relief at the marginal rate. A large number of bodies fall under this status. Under the Act, charitable bodies are organisations established for the relief of the poor, for advancement of education or for the achievement of public good objectives. In essence, property trusts would need to be prescribed in a similar manner as a charitable organisation. This could involve a trust being registered as a charity under existing legislation.

- 8.76 A related issue is the extent to which there would or would not be any Exchequer contributions to support endowments required to maintain and upkeep heritage properties. The review of the international position would suggest that, in selected countries, governments have provided a contribution as a top-up on existing funds. If the Irish Government was in a position to provide such supports, a case could be made for the Exchequer to provide a percentage of private funds raised in the initial period.
- 8.77 Accordingly, a number of key issues arise, as follows:
- ❑ Should tax relief be available for donations to trusts?
  - ❑ Should this be available at the marginal rate or a lower rate?
  - ❑ Should the trust bodies be prescribed as charitable organisations for the purposes of this provision?
  - ❑ Should the Government support such endowments directly as well as through tax treatment and should there be a cap on this contribution?

#### **Issues Regarding Tax Treatment of Running Costs**

- 8.78 The next issue relates to tax exemption for the running costs of trusts. Under current provision, charities are exempt from taxation on the costs of running the charity. One of the issues is whether this would apply to trusts. There is also the question of differential rates of VAT on the costs of restoration and maintenance. We understand that in the context EU Directives on Indirect Taxation that this would not be permitted.

#### **Trust(s) Structure**

- 8.79 To-date we have examined the taxation issues which represent most of likely Exchequer cost. The proposed structure also needs to be considered.
- 8.80 One option would be for the Government to establish one organisation that would benefit exclusively from the proposed legislation. This would have potential benefits in the form of economies of scale, and would also enable the trust to build a profile, which is important in attracting endowments and also in marketing properties. However, the ability of other specialised trusts to raise funds would be an important issue.

- 8.81 Related to this issue is the future of selected non-strategic properties owned by the State, or other such properties that may be acquired by the State in the future. There may be benefits over time in transferring existing properties to the proposed trust entity so that they can be managed on behalf of the State. There are also legal questions concerning the trust. It could be possible to establish the trust within the existing company act legislation. However, in order to enshrine the principle of inalienability separate legislation may be required, as outlined in the proposals from An Taisce.

#### **Equity Considerations**

- 8.82 In considering the use of scarce Exchequer resources it is also essential to consider the equity implications of specific proposals.
- 8.83 Policy in this area is motivated by a concern that properties of significant value may be lost or damaged because existing owners are unable to meet the costs of restoration or maintenance. This leads to calls for Government support in the form of tax relief or direct grants in order to preserve their heritage value.
- 8.84 An equity issues arises where the Government is using finite resources to provide supports to, in some cases, individuals with significant capital assets. This is important in considering policy changes and in assessing the effectiveness and efficiency of current policy. To some extent, this would depend on visitor numbers and other economic or heritage benefits and it could be argued that the benefits to the state may be reduced where visitor numbers are low.
- 8.85 Similar considerations apply in examining the extension of further Government supports to the sector. Further supports to owners of properties with significant capital assets needs to be assessed, and it needs to be demonstrated that there is a significant public good benefit for the State to intervene. We, however, believe that a national trust should have access to the full range of tax incentives available to other charities.

#### **Implications for Current Policy**

- 8.86 In examining the issue of trusts we also believe that it is important to consider the implications this may have for current heritage policy.
- 8.87 Regarding Section 482, a large number of properties are in receipt of this relief. In Indecon's judgement we believe it is unlikely that all of these properties obtaining the relief need this support or are of significant heritage value and/or attract a large number of visitors. For example, some primarily commercial premises benefit from the relief, which may not be aligned with the original intention of the legislation. A more selective approach to properties that could avail of this relief might save resources that could be targeted elsewhere to support properties under threat.

- 8.88 We accept, however, that in order to obtain relief under Section 482 a determination has to be made by the Minister that the building is of architectural, historical, scientific or aesthetic significance and satisfy the Revenue Commissioners as to satisfying public access. We understand that the main perceived quid pro quo to avail of tax relief is to allow public albeit limited access.
- 8.89 We accept that the Section 482 relief have supported the maintenance of important heritage buildings but in our judgement in some cases the owners may have been in an excellent position to maintain/restore the building without such incentives raising the issue of deadweight impacts and in other cases the number of visitors to particular properties has been very limited.
- 8.90 On balance, there could be scope to establish an oversight group, which would provide advice to the relevant Government Departments on the operation of the Section 482 relief. Possible reform could include:
- ❑ To improve the scheme's targeting by limiting it to properties of significant heritage/cultural value;
  - ❑ To address issues such as the difficulties with visitor access for elderly owners;
  - ❑ To consider the allowability of capital gains.

## Summary and Conclusions

- 8.91 Indecon would highlight the fact that other non-trust related policy initiatives will continue to be of critical importance for most properties. In line with our terms of reference, in this section we have, however, reviewed the specific proposals required to support the development of trust organisations in Ireland. We outlined the costs and benefits of these proposals; quantified the likely Exchequer costs associated with potential trust arrangements, and finally considered a number of operational aspects of the trust proposals. We summarise below the key conclusions from our analysis.
- 8.92 In relation to the costs likely to face the Exchequer arising from trust-type arrangement, these include the costs of proposed tax reliefs measured in terms of tax foregone; the costs of any seed capital provided by the Exchequer in supporting the establishment of Trusts; any on-going annual subvention provided to Trusts; and the potential additional Exchequer exposure in the event that a trust experiences financial difficulties.
- 8.93 The potential costs to the Exchequer of incentivising trust-type arrangements will be influenced by the following main factors:
- ❑ The number of heritage properties that are likely to be transferred into a trust per annum;
  - ❑ The value of the endowment associated with each house;
  - ❑ The exchequer and private contribution to this endowment;
  - ❑ The contribution by corporate or private individuals to raising the private element of the endowment; and
  - ❑ The proportion of this contribution to be allowed against taxation liabilities.
- 8.94 In relation to the number of heritage properties that are likely to be transferred into a trust, this is very uncertain but our research suggests that there could be between 1-6 private sector transfers each year, although the numbers are likely to be at the lower level of this range and indeed could be even lower.

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- 8.95 We have presented six scenarios that set out the potential Exchequer costs arising from the transfer of heritage properties into trust. The overall Exchequer cost is dependent upon the assumptions applied in relation to:
- ❑ the number of properties transferred to trust per annum;
  - ❑ the average market value of properties donated to the trust;
  - ❑ the level of endowment funding required;
  - ❑ the direct contribution provided by the Exchequer and the private sector to the total endowment required;
  - ❑ the proportion of private sector contributions funded by the personal and corporate sectors;
  - ❑ the annual level of tax relief allowed to the private sector.
- 8.96 Based on varying assumptions regarding the above factors, the annual total cost – including direct Exchequer contribution and the cost of tax foregone – varies between 24% and 70% of the combined market value of the properties donated to the Trust and the value of the endowment funding required across these properties.
- 8.97 There are significant risks surrounding our scenarios on estimated Exchequer costs associated with the transfer of heritage properties into trust-type arrangements. These relate to the assumptions regarding the level of endowment funding required, the proportion of such funding provided for directly by the Exchequer versus the private sector, and the proportion of private sector funding provided for by the personal versus corporate sector. In particular, while we believe that potential exists to raise significant funds from the corporate sector, a key issue concerns the ability of promoters to generate sufficient funds. We believe that there is a possibility, but no certainty on this issue. The experience of other sectors would suggest there is significant medium term potential. The main risks, however, relate to the number of houses transferred per annum, the valuation of these properties, and the level of endowment funding required.
- 8.98 In relation to the potential benefits arising from the development of trust-type arrangements, these include:
- ❑ Potential savings in costs in event of transfer of existing state properties to trust;
  - ❑ Heritage benefits due to more effective preservation and guarantee of public access to properties in the long-term;
  - ❑ Tourism benefits;
  - ❑ Attraction of private sector investment and potential reduction in demands on State to purchase heritage properties.

- 8.99 The findings from our research indicate that property owners are positive towards legislative changes to facilitate the introduction of trust-type arrangements and believe that they could yield significant benefits although some are concerned that this would be an alternative to rather than a complementary policy initiative to support the maintenance of heritage properties in private sector ownership. A total of 50.7% of owners responding the survey indicated that they were 'very positive' while 26.1% were 'positive' in this regard.
- 8.100 Potential aspects of the introduction of supporting legislation for trust-type arrangements seen by property owners as being important include provision of tax relief for property donors and for private endowments, and tax relief for running/maintenance costs of properties.
- 8.101 The key potential benefits of introducing trust-type legislation cited by private owners include that it would facilitate access to private finance, could facilitate better management of properties, could mean lower management costs than if under State care, and could ensure public access to properties in long term.
- 8.102 In relation to the relative importance of various factors in encouraging private owners to dispose of their properties into trust, the most important factors cited by respondents to our survey include maintenance costs, restoration costs and tax liabilities.
- 8.103 The survey findings also indicate that owners consider trusts as potentially important in facilitating owners to remain in their property. Also considered important are that trusts could ensure better management and would provide a better guarantee re long term conservation of properties while also ensuring public access.
- 8.104 A number of operational aspects of trust proposals were examined. Key issues that require assessment in this regard include:
- ❑ Issues regarding the donation of properties and endowment funding;
  - ❑ Issues regarding tax treatment of endowments;
  - ❑ Issues regarding tax treatment of running costs;
  - ❑ The structure of proposed trust(s);
  - ❑ Equity considerations;
  - ❑ Implications for current heritage policy.

## 9 Feasibility of Trust Proposals and Examination of Models

### Introduction

- 9.1 An element of the terms of reference is to “put forward suitable models for the operational arrangement of trust-type or other organisations that would be feasible in the Irish context, including the manner in which legal ownership would operate”. In this section we therefore address the following issues:
- ❑ The factors affecting the feasibility of trust arrangements in the Irish context;
  - ❑ The principal policy options available for consideration and the advantages and disadvantages of each option;
  - ❑ Conclusions re selected models for trust-type arrangements;
  - ❑ The appropriate features of trust-type arrangements

### Feasibility of Trust-type Arrangements

- 9.2 We believe that the feasibility of trust-type legislation in Ireland will be dependent on a number of key issues, which are identified in the table below. We examine each of these issues in the subsequent paragraphs.

**Table 9.1: Summary of Key Issues in Assessing Feasibility of Trust Organisations**

1. THE POTENTIAL INTEREST ON THE PART OF PROPERTY OWNERS IN AVAILING OF TRUST-TYPE LEGISLATION
2. THE INTEREST OF ORGANISATIONS IN ESTABLISHING A TRUST-TYPE BODY
3. THE POTENTIAL FINANCIAL VIABILITY OF A TRUST-TYPE ORGANISATION
4. THE POLICY AND APPROACH OF TRUST-TYPE ORGANISATIONS IN RELATION TO PROPERTY ACQUISITION
5. THE CAPITAL REQUIRED TO ESTABLISH TRUSTS
6. THE ON-GOING COSTS OF ADMINISTRATION OF TRUSTS
7. THE ON-GOING CURRENT AND CAPITAL COSTS IN MAINTAINING AND RESTORING PROPERTIES

**(1) The Potential Interest on the Part of Property Owners**

- 9.3 We believe an issue affecting the feasibility of trust-type arrangements for heritage property in the Irish context concerns the potential level of interest on the part of property owner. Although this would depend on the terms of specific legislation and individual circumstances, our research, however, indicates that the number of properties in private ownership that would transfer on an annual basis to a trust, is likely to be relatively limited and is probably between 1-6 properties per annum, and could be much lower.

**(2) The Interest of Organisations in Establishing a Trust-type Body**

- 9.4 A second factor influencing the feasibility of trust-type arrangements concerns the level of interest of organisations in establishing a trust-type body in Ireland. We understand that there are a number of significant voluntary heritage bodies in Ireland who have expressed an interest in establishing a trust-type body. The level of commitment and talent of the individuals involved suggests, however, that this aspect of feasibility is unlikely to be a constraint. It would, however, be essential that the interest of organisations is confirmed by such organisations, taking account of our assessment of financial viability noted in this report, prior to introducing any new legislation.

**(3) The Financial Viability of a Trust-type Organisation**

- 9.5 Our analysis suggests that the costs of the operation of most heritage properties are significant and that significant independent funding, in addition to income generated from the property such as the revenue derived from visitor numbers, would be required. It is clear that trust-type organisations would need to raise significant funds in order to be financially viable.
- 9.6 International experience suggests that a range of potential sources of revenue are available, including:
- ❑ Corporate endowments and sponsorships from domestic and international sources;
  - ❑ Individual endowments and sponsorships from domestic and international sources;
  - ❑ Legacies;
  - ❑ Endowments associated with specific properties;
  - ❑ Membership incomes and other fundraising activities;
  - ❑ Commercial revenues;
  - ❑ Visitor charges.

- 9.7 In relation to revenue generation from membership, our review of heritage management in other countries has also shown that significant incomes may be generated through overseas membership. For example, it was noted that the National Trust in the UK has significant overseas membership, although this may be a special case. For example, over 20,000 Americans are members of the Royal Oak Foundation, the National Trust's US membership affiliate. A not-for-profit organisation, the Royal Oak helps the Trust through the generous tax-deductible support of members and friends by making grants towards its work. While the potential for developing overseas membership support is likely to be more limited in the short term in the Irish context, this revenue source may have greater potential in the longer term.
- 9.8 These are issues for consideration by an individual organisation or group of organisations concerning establishment of a trust in the event of trust-type legislation being introduced. However, based on the available information, it is our assessment that such an organisation in Ireland is unlikely to be viable unless it secures significant sources of funding in the form of private endowments. Under the Chorley Formula (see Section 7), these endowments would have to be sufficiently large to generate an income stream sufficient to support on-going maintenance and restoration costs.
- 9.9 We also believe that attracting the required funding will only be possible with a favourable tax environment and some initial direct Exchequer funding, and even in such circumstances this will be a significant challenge for the Trust organisation. With a commercially focused board there should be no reason why over a medium term horizon the Trust should not be able to raise private funding.

#### **(4) The Policy and Approach of Trust-type Organisations in Relation to Property Acquisition**

- 9.10 Our review of the experience in other jurisdictions has indicated that a key issue in relation to trust management and feasibility concerns the approach to property acquisition. Typically, there is a range of criteria, or tests, that are applied in ascertaining whether a particular property is suitable for acquisition. These factors would include:
- ❑ The cultural and heritage value of the property;
  - ❑ The property's condition and the extent of risk of deterioration facing the property;
  - ❑ Public access issues and tourism issues;
  - ❑ Management requirements; and
  - ❑ Long-term endowment needs.

- 9.11 In relation to the important issue of endowment funding, in the UK, for example, a complex formula, known as the Chorley Formula, is used by the National Trust organisations to estimate the endowment required for ongoing upkeep and maintenance of a property. This formula sets a high hurdle on the endowment levels required. Moreover, we understand that the National Trust has typically not accepted properties unless a prior income stream is evident. Depending on the precise approach applied in the Irish context, this may have important implications for the feasibility of managing properties within a trust-type arrangement in the longer term.

**(5) The Capital Required to Establish a Trust**

- 9.12 Significant fundraising or existing resources are required by any organisation seeking to establish a trust. This includes endowment funding required to upkeep properties acquired by the Trust, and initial working capital required for administration and operations.

**(6) The On-going Costs of Administration**

- 9.13 It is argued that trusts have lower maintenance costs due to the expertise that can be established over a period and the support provided by voluntary support. Nevertheless, there will be on-going costs of administration.

**(7) The On-going Current and Capital Costs in Maintaining and restoring Properties**

- 9.14 The analysis in this report highlights the significant costs of maintaining properties in the state owned sector. The significant and recurring costs incurred by the national trusts in the UK highlights the need to ensure that systems are in place to support the work of the trust. This would require significant fund raising and financing from a number of sources including endowments and membership income.

## Principal Policy Options

- 9.15 The terms of reference ask us to examine the feasible trust models in an Irish context. It is clear from the discussion that there are a number of different policy options that are worth exploring.
- 9.16 To recap, existing policy towards heritage properties includes:
- CAT exemption for heritage properties,
  - the Section 482 tax relief
  - direct grants provision.
- 9.17 The policy question is whether the establishment of trusts would lead to potential improvements to this policy mix. It is apparent that financial constraints make it difficult on the part of the State to purchase houses that become available and there is an increasing trend towards private ownership. This could reduce public access and the attendant benefits of these properties to the public.
- 9.18 Also, there is evidence from Dooley (2003) that there is on-going degradation of some properties. This occurs where families no longer have the resources to undertake essential repairs and maintenance and where unwillingness to sale may lead to a heritage loss to the State. This could also occur where objects are sold leading to an overall decline in the heritage value of the property. Accordingly, the main benefit of a trust is that they provide a vehicle for attracting private funding that could help to secure heritage properties.
- 9.19 We have considered in detail a range of policy options for the Government in relation to the ownership and management of heritage properties. In the table overleaf we set out a number of general policy options. We discuss in detail the advantages and disadvantages associated with each option in the subsequent paragraphs.
- 9.20 One issue that may also merit consideration over time is the transfer over time to the proposed Trust of some non-strategic State heritage properties, or future acquisitions by the State of selected properties, where it is judged that the Trust could operate selective properties at a lower cost. A detailed consideration of this is, however, outside the scope of this review, which is focused on privately owned properties that are likely to be under threat.

<b>Table 9.2: General Policy Options</b>	
1.	CONTINUE WITH CURRENT POLICY APPROACH
2.	CONTINUE WITH CURRENT POLICY APPROACH BUT WITH BETTER TARGETING OF EXISTING GRANTS AND TAX RELIEFS
3.	INTRODUCE TRUST LEGISLATION WITH VARIOUS TAX SUPPORTS AND NO CAP ON EXCHEQUER COSTS
4.	INTRODUCE TRUST LEGISLATION WITH VARIOUS TAX SUPPORTS AND WITH CAP ON EXCHEQUER COSTS
5.	REFORM CURRENT POLICY APPROACH AND INTRODUCE TRUST LEGISLATION WITH VARIOUS TAX SUPPORTS AND WITH CAP ON EXCHEQUER COSTS
Source: Indecon	

### **(1) Continue with Current Policy Approach**

- 9.21 One policy option available to the Government would be to continue with the current approach. In Table 9.3 below we set out our conclusions in relation to the likely advantages and disadvantages of this policy option.

<b>Table 9.3: Analysis of General Policy Options - (1) Continue Current Policy Approach - Advantages and Disadvantages</b>	
ADVANTAGES	
<input type="checkbox"/>	NO ADDITIONAL COSTS
<input type="checkbox"/>	NO NEED FOR NEW LEGISLATION
DISADVANTAGES	
<input type="checkbox"/>	LACK OF PRIVATE SECTOR FINANCE
<input type="checkbox"/>	POTENTIAL LOSS OF HERITAGE PROPERTIES
<input type="checkbox"/>	MAY NOT MAXIMISE BENEFITS OF HERITAGE
<input type="checkbox"/>	NOT AVAILING OF ALL POTENTIAL VEHICLES FOR PRESERVATION
Source: Indecon	

- 9.22 We believe that while continuation with the status quo would be likely to involve no additional costs to the Exchequer and no requirement for new legislation, this approach would have a number of important weaknesses, including difficulty with attracting private sector finance, the likelihood of a potential loss of heritage properties that have fallen into disrepair, and the likelihood that it would not maximise the benefits of heritage conservation (including tourism benefits). Furthermore, we believe that continuation of the current policy approach would not be availing of all potential vehicles for preservation of heritage properties. We would, however, stress that all of the options we consider include continuation of the development of policy initiatives to support the maintenance of heritage properties in private ownership and the trust option represents a complementary rather than an alternative to other policies.

**(2) Continue with Current Policy Approach but with Better Targeting of Existing Grants and Tax Reliefs**

- 9.23 Another potential option facing the Government would be to continue with the current policy approach but to combine this with a better targeting of existing grants and tax reliefs. In addition to having no additional Exchequer costs and no requirement for new legislation, we believe that this option would be advantageous in improving the targeting of existing supports, an issue which has been highlighted in our research (see table below). Notwithstanding this potential additional benefit, we believe, however, that the same disadvantages would apply under this approach as would obtain under option 1 above.

**Table 9.4: Analysis of General Policy Options - (2) Continue with Current Policy Approach with Better Targeting of Existing Grants and Tax Reliefs - Advantages and Disadvantages**

ADVANTAGES

- NO ADDITIONAL COSTS
- NO NEED FOR NEW LEGISLATION
- IMPROVE TARGETING OF EXISTING SUPPORTS

DISADVANTAGES

- LACK OF PRIVATE SECTOR FINANCE
- POTENTIAL LOSS OF HERITAGE PROPERTIES
- MAY NOT MAXIMISE BENEFITS OF HERITAGE
- NOT AVAILING OF ALL POTENTIAL VEHICLES FOR PRESERVATION

Source: Indecon

### (3) Introduce Trust Legislation with Various Tax Supports and with no Cap On Exchequer Costs

- 9.24 A third option available to the Government would be to introduce new legislation to facilitate the development of trust-type arrangements along with various tax supports and without any cap being placed on potential Exchequer costs attending these supports. We would have concerns about a policy involving no cap on Exchequer costs but otherwise we would see a number of advantages associated with this approach, which would include a potential increase in the extent of private sector finance available, the potential to maximise the benefits of heritage properties, the ability to avail of additional potential vehicles for preservation of heritage assets and the potential to lower the running costs associated with properties that are transferred into trust. The disadvantages of this policy option would include that it would be likely to result in an increase in Exchequer costs. In addition, there would be the administrative costs of introducing new legislation.

**Table 9.5: Analysis of General Policy Options - (3) Introduce Trust Legislation with Various Tax Supports and with no Cap On Exchequer Costs - Advantages and Disadvantages**

ADVANTAGES

- INCREASE PRIVATE SECTOR FINANCE
- POTENTIAL TO MAXIMISE BENEFITS OF HERITAGE
- AVAILING OF ADDITIONAL POTENTIAL VEHICLES FOR PRESERVATION
- POTENTIAL FOR LOWER RUNNING COSTS

DISADVANTAGES

- INCREASE IN EXCHEQUER COSTS
- UNCERTAIN EXPOSURE TO EXCHEQUER
- NEED FOR NEW LEGISLATION

Source: Indecon

#### **(4) Introduce Trust Legislation with Various Tax Supports and with Cap On Exchequer Costs**

- 9.25 We believe that a fourth policy option available to the Government would be to introduce legislation to facilitate the development of trust-type arrangements along with various tax supports but with a 'cap' placed on the annual level of tax supports available. This approach would have the advantages identified under option (3) but would also have the advantage that it would limit the exposure of the Exchequer.

**Table 9.6: Analysis of General Policy Options - (4) Introduce Trust Legislation with Various Tax Supports and with Cap On Exchequer Costs - Advantages and Disadvantages**

ADVANTAGES

- INCREASE PRIVATE SECTOR FINANCE
- POTENTIAL TO MAXIMISE BENEFITS OF HERITAGE
- AVAILING OF ADDITIONAL POTENTIAL VEHICLES FOR PRESERVATION
- POTENTIAL FOR LOWER RUNNING COSTS
- EXCHEQUER COSTS CAPPED

DISADVANTAGES

- INCREASE IN EXCHEQUER COSTS
- NEED FOR NEW LEGISLATION

Source: Indecon

**(5) Reform Current Policy Approach and Introduce Trust Legislation with Various Tax Supports and with a Cap On Exchequer Costs**

- 9.26 A fifth policy option could involve introducing trust legislation with a cap placed on various tax supports but also introducing reforms to the current policy approach. This would entail combining option (4) with improving the targeting and mix of existing supports, including tax reliefs and grant supports. This approach would also have the advantage of capping the potential Exchequer exposure, while also improving the overall cost-benefit ratio implicit in current policy.

**Table 9.7: Analysis of General Policy Options - (5) Reform Current Policy Approach and Introduce Trust Legislation with Various Tax Supports and with Cap On Exchequer Costs - Advantages and Disadvantages**

ADVANTAGES

- INCREASE PRIVATE SECTOR FINANCE
- POTENTIAL TO MAXIMISE BENEFITS OF HERITAGE
- AVAILING OF ADDITIONAL POTENTIAL VEHICLES FOR PRESERVATION
- POTENTIAL FOR LOWER RUNNING COSTS

EXCHEQUER COSTS CAPPED

- POTENTIAL IMPROVEMENT IN BENEFIT/COSTS RATIO OF EXISTING POLICY

DISADVANTAGES

- INCREASE IN COSTS
- NEED FOR NEW LEGISLATION

Source: Indecon

## Conclusions re Selected Models

9.27 On basis of research and analysis undertaken in the preceding sections, we have identified a selected number of models for trust-type arrangements for consideration. We summarise these models, and our assessment in relation to their feasibility, in the table below. Each model is discussed further in the subsequent paragraphs.

<b>Table 9.8: Selected Models for Trust-Type Arrangements</b>	
<b>MODEL</b>	<b>ASSESSMENT</b>
1. TRUST-TYPE ARRANGEMENTS WITHOUT TAX INCENTIVES/ EXCHEQUER GRANT SUPPORTS	NOT FEASIBLE
2. TRUST-TYPE ARRANGEMENTS WITH TAX INCENTIVES/ EXCHEQUER GRANT SUPPORTS	MERITS CONSIDERATION
Source: Indecon	

9.28 Based on our discussion of the feasibility of trust organisations, we believe that Trust-type arrangements without tax incentives would not succeed in the Irish context. In the absence of tax reliefs it would be very difficult to attract the necessary funding or the transfer of properties. We believe that the proposed tax reliefs are a pre-requisite for the successful development of trust organisations.

9.29 We also believe that some limited Exchequer funding as seed capital may be needed. This could be necessary to support the initial properties that would be taken in by the trust. Initial Exchequer support would also provide a demonstration signal to the private sector and we believe would enhance the potential success of the proposed organisation. We believe, however, that there should be a cap on the costs of any Exchequer tax incentives.

## Appropriate Features of Trust-type Arrangements

- 9.30 In this sub-section we identify a number of issues in relation to the features of trust-type arrangements that we consider would be required if this approach was to be pursued by the Irish Government. These include legal and other features concerning the establishment and operation of a trust or trusts.
- 9.31 Our research has identified a number of features considered appropriate in relation to the development of trust-type arrangements for ownership and management of heritage properties, which we summarise below.

**Table 9.9: Appropriate Features of Trust-Type Arrangements**

- ❑ STRONG COMMERCIAL AND FINANCIAL ETHOS TO ENSURE VIABILITY
- ❑ FOCUS ON PROPERTIES OF NATIONAL IMPORTANCE
- ❑ PROPERTY SHOULD IN GENERAL BE UNDER THREAT
- ❑ OWNERSHIP BY TRUST SHOULD INCREASE NATIONAL BENEFIT
- ❑ GUARANTEE RE PUBLIC ACCESS TO PROPERTIES
- ❑ VOLUNTEER SUPPORT NECESSARY
- ❑ PROPERTY SHOULD BE ACCEPTED ONLY WITH SUFFICIENT ENDOWMENT RAISED
- ❑ 'INALIENABILITY' WOULD BE INVOKED, IN CERTAIN CASES, WHEN A PROPERTY IS ACCEPTED BY THE TRUST
- ❑ OPTION FOR FAMILIES TO REMAIN IN RESIDENCE
- ❑ CONTENTS AND GARDENS AS WELL AS BUILDINGS TO BE COVERED
- ❑ CAP ON ANNUAL EXCHEQUER COSTS IN TERMS OF GRANTS OR TAX FORGONE
- ❑ IN EVENT OF TRUST FAILING, THERE SHOULD BE NO ASSUMPTION THAT THE STATE WILL TAKE OVER RESPONSIBILITIES

## 10 Recommendations

- 10.1 In this section we set out our recommendations for consideration by the Department of the Environment, Heritage and Local Government in relation to the future management of heritage properties and, in particular, application of trust-type arrangements.
- 10.2 Based on our research and analysis, we have developed a number of recommendations for consideration by the Government and interested groups in relation to the application of trust-type arrangements for the management of heritage properties in Ireland. These are set out below in the table below and are discussed in the subsequent paragraphs.

Table 10.1: Main Recommendations	
(1)	CONSIDERATION SHOULD BE GIVEN TO THE INTRODUCTION OF NEW SUPPORTING LEGISLATION TO FACILITATE THE ESTABLISHMENT OF TRUST-TYPE ORGANISATIONS FOR HERITAGE PROPERTIES IN IRELAND
(2)	WE RECOMMEND THE INITIAL PROMOTION AND ESTABLISHMENT OF A NATIONAL TRUST, WHICH WOULD BE ENTITLED TO SELECTIVE TAX INCENTIVES. THE OPTION SHOULD, HOWEVER, ALSO BE AVAILABLE FOR ADDITIONAL TRUSTS OR OTHER SUPPORTING ORGANISATIONS TO BE FORMED
(3)	WE RECOMMEND THAT THE PROPOSED TRUST(S) BE ESTABLISHED AS A CHARITABLE ORGANISATION AND BE AFFORDED SIMILAR ACCESS TO TAX RELIEFS AS EXISTING CHARITABLE ORGANISATIONS
(4)	WE RECOMMEND THAT CONSIDERATION BE GIVEN TO THE PLACING OF A 'CAP' ON THE ANNUAL LEVEL OF TAX RELIEF THAT MAY BE ALLOWED IN RELATION TO INCOME TAX AND CORPORATION TAX RELIEFS SUPPORTING THE PROPOSED TRUST
(5)	WE RECOMMEND THAT A LIMITED DIRECT CONTRIBUTION BE PROVIDED BY THE EXCHEQUER DURING THE INITIAL START-UP PERIOD TOWARDS THE ENDOWMENT FUNDING REQUIRED TO UPKEEP/MAINTAIN HERITAGE PROPERTIES THAT ARE TRANSFERRED TO TRUST
(6)	WE RECOMMEND THAT A STATUTORY ASSESSMENT BODY BE ESTABLISHED WITH THE FUNCTION OF ASCERTAINING THE SUITABILITY OF HERITAGE PROPERTIES BEFORE THE LATTER ARE ACQUIRED BY THE TRUST. APPROPRIATE CONDITIONS FOR ACCEPTANCE, AND DECLARATION OF 'INALIENABILITY', OF PROPERTIES SHOULD BE SET OUT IN THE PROPOSED LEGISLATION, WHICH SHOULD INCLUDE THAT PROPERTIES MUST DEMONSTRATE THAT THEY HAVE SIGNIFICANT CULTURAL VALUE, WHILE ALSO PERMITTING THE ASSESSMENT BODY TO SPECIFY THE LEVEL OF ENDOWMENT, IF ANY, TO BE PROVIDED ALONG WITH THE PROPERT(IES)
(7)	A REVIEW SHOULD BE UNDERTAKEN OF THE CURRENT POLICY OF GRANTS AND TAX RELIEFS IN THE HERITAGE AREA, WHICH, <i>INTER ALIA</i> , INVESTIGATES THE SCOPE FOR RE-TARGETING OF BENEFITS.
(8)	ON-GOING POLICY INITIATIVES TO SUPPORT THE MAINTENANCE OF HERITAGE PROPERTIES IN PRIVATE OWNERSHIPS ARE ALSO REQUIRED

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(1) CONSIDERATION SHOULD BE GIVEN TO THE INTRODUCTION OF NEW SUPPORTING LEGISLATION TO FACILITATE THE ESTABLISHMENT OF TRUST-TYPE ORGANISATIONS FOR HERITAGE PROPERTIES IN IRELAND

10.3 We would recommend that consideration should be given to the introduction of new supporting legislation that would facilitate the establishment of trust-type organisations for heritage properties in Ireland. From our research and analysis undertaken, we believe that the development of a national trust or similar organisation could have a number of advantages over the current approach. The key advantages of trust-type arrangements could include:

- ❑ Potential savings in exchequer costs arising from the fact that the Trust would reduce the need for the State to purchase and operate additional heritage properties.
- ❑ The likelihood of increased ability to access to private sector finance for properties transferred to trust;
- ❑ The potential to maximise the benefits of heritage, including more effective preservation and guarantee of public access to properties in the long-term;
- ❑ Could create significant additional tourism benefits;
- ❑ Would provide the necessary legal framework to permit the declaration of 'inalienability', if required in specific circumstances;
- ❑ The availability of a trust option for properties currently in private ownership would provide an additional potential vehicle for preservation;
- ❑ A trust approach could have the potential to lower the running costs associated with heritage properties and lead to a potential reduction in demands on State to purchase heritage properties;
- ❑ There may be potential savings in existing tax costs;
- ❑ The potential for a trust to avail of economies of scale and expertise built up over a long period.

10.4 If a national trust is to be established on a statutory basis some new legislation may be needed. However, the tax aspects of support for donations to a National Trust could in our view be dealt with via existing tax legislation and no new tax legislation should be necessary. The main legislative issue would relate to governance issues and to the question of inalienability which would only apply in limited cases. An indication of the nature of type of legislation which could be considered can be seen by reviewing relevant sections on governance as outlined in the UK National Trust Act 1971 and in relation to the issue of inalienability it may be useful to consider the UK Acquisition of Land Act 1946.

10.5 The legislation could provide for the ability of the trust to declare property 'inalienable'. This could follow the approach taken in other jurisdictions, where the statutory power of 'inalienability' means that a property or land cannot be voluntarily sold, mortgaged or compulsorily purchased against the trust's wishes, except through special parliamentary procedure. In other words, in the Irish context, a special vote of the Oireachtas would be required before a property could be disposed. In many cases, however, this may not be necessary as many owners may be willing to sell or donate the property to the Trust without a condition on inalienability. Such a condition should only be involved where the property is of national/international significance and where the owners require this condition.

**(2) WE RECOMMEND THE INITIAL PROMOTION AND ESTABLISHMENT OF A NATIONAL TRUST, WHICH WOULD BE ENTITLED TO SELECTIVE TAX INCENTIVES. THE OPTION SHOULD, HOWEVER, ALSO CONTINUE TO BE AVAILABLE FOR ADDITIONAL TRUSTS OR OTHER SUPPORTING ORGANISATIONS TO BE FORMED**

10.6 In establishing trust-type organisations for heritage properties in Ireland, we would recommend that initially one National Trust be established. Our research and consultations have shown that while the development of trust-type arrangements could have significant benefits, the feasibility of trust-type organisations in the Irish context is likely to be determined by a variety of factors, including:

- The potential interest on the part of property owners in availing of trust type legislation;
- The interest of organisations in establishing a trust-type body;
- The potential financial viability of a trust-type organisation;
- The policy and approach of trust-type organisations in relation to property acquisition;
- The capital required to establish trusts;
- The on-going costs of administration of Trusts; and
- The on-going current and capital costs in maintaining and restoring properties.

10.7 These factors point to the merits of initially promoting the development of one National Trust, which would have the scope to consider all categories of heritage (i.e. including built and natural heritage). We believe that this approach would be most likely to facilitate the capture of economies of scale and maximise effectiveness.

10.8 Notwithstanding the above, we believe that existing charitable tax incentives should continue to be available for existing and additional trusts or other supporting organisations to be formed.

10.9 We would, however, recommend that the power to declare a property inalienable be dependent on the satisfaction of agreed specified criteria (see Recommendation 7) and that the option be left open to retain 'alienability' of properties, if deemed appropriate.

**(3) WE RECOMMEND THAT THE PROPOSED TRUST(S) BE ESTABLISHED AS A CHARITABLE ORGANISATION AND BE AFFORDED SIMILAR ACCESS TO TAX RELIEFS AS EXISTING CHARITABLE ORGANISATIONS**

- 10.10 In developing supporting legislation for the establishment of a national trust (or trusts), we recommend that the proposed trust(s) be established as charitable organisations and be granted similar access to tax reliefs as existing charitable organisations. This legislation represents the existing arrangements in place for trusts in Ireland, which are discussed below.
- 10.11 Section 848A of the Taxes Consolidation Act 1997 contains a scheme of income tax-based relief for donations to eligible charities and other approved bodies in respect of donations received. An “eligible charity” constitutes any charity in the State, which is authorised in writing by the Revenue Commissioners for the purposes of this scheme. We believe that, under proposed new trust legislation, such trust(s) should be included in the list of organisations classified as charities.
- 10.12 This recommendation would assist the proposed trust(s) in accessing funding through private individual and corporate donations, which can currently qualify for tax relief if given to existing registered charities. In doing so, this would have the benefit of reducing the proposed trust’s requirement for properties to be acquired along with prior endowment, which we believe would be unlikely in Irish circumstances.

**(4) WE RECOMMEND THAT CONSIDERATION BE GIVEN TO THE PLACING OF A ‘CAP’ ON THE ANNUAL LEVEL OF TAX RELIEF THAT MAY BE ALLOWED IN RELATION TO INCOME TAX AND CORPORATION TAX RELIEFS SUPPORTING THE PROPOSED TRUST**

- 10.13 In Section 8 we examined the issue of the potential Exchequer costs associated with the development of trust-type arrangements for heritage property in Ireland. We indicated that the likely cost to the Exchequer of tax reliefs and grants associated with the transfer of heritage properties to trust would be dependent on the following factors:
- ❑ The number of houses that are likely to be transferred into a trust per annum;
  - ❑ The value of the endowment associated with each house;
  - ❑ The Exchequer and private contribution to this endowment;
  - ❑ The contribution by corporate or private individuals to raising the private element of the endowment;
  - ❑ The proportion of this contribution to be allowed against taxation liabilities.

10.14 Based on our research in relation to the number of heritage properties that are likely to be transferred into trust on an annual basis, we have modelled a number of scenarios in relation to potential Exchequer costs. These included two scenarios where we have assumed that a 'cap' is placed on the annual level of tax reliefs allowed both in respect of donations of properties *in lieu* of existing tax liabilities and in relation to donations to endowment funds required to upkeep properties transferred to trust.

10.15 We would recommend that consideration be given to the placing of a 'cap' on the annual level of tax relief that may be allowed in relation to income tax and corporation tax reliefs supporting the proposed trust. This could be similar in approach to the current cap operating in respect to the Section 1003 relief for the donation of heritage items, whereby the aggregate open market value of all items donated under the scheme is capped at a level of €6 million in any one calendar year.

**(5) WE RECOMMEND THAT A LIMITED DIRECT CONTRIBUTION BE PROVIDED BY THE EXCHEQUER DURING THE INITIAL START-UP PERIOD TOWARDS THE ENDOWMENT FUNDING REQUIRED TO UPKEEP/MAINTAIN HERITAGE PROPERTIES THAT ARE TRANSFERRED TO TRUST**

10.16 From our extensive consultations and research as part of this study, including with property owners and with heritage organisations, we understand that the funding environment in Ireland, in terms of the likely scope for trust-type organisations to raise sufficient capital from private sources to ensure ongoing viability, is likely to be significantly constrained.

10.17 The prospective funding environment for trust-type organisations in Ireland contrasts with that in the UK, for example, where, in the case of the National Trust, the history of the Trust and its reputation enables it to raise funding from a variety of private sources, including legacies/bequests, personal and corporate donations and commercial activities.

10.18 From our research on the Irish context, we believe that the extent to which a national trust-type body in Ireland could generate all of the initial income required to successfully establish a viable operation is likely to be limited by a number of factors, including in particular:

- ❑ The difficulties inherent in attracting private sector donations for the purposes of endowment funding for heritage properties, until the Trust is developed;
- ❑ The low density of population in Ireland, thereby constraining potential membership income although international membership may also be feasible;
- ❑ The long-term decline in tourism activity associated with historic properties, constraining potential revenues from this area; and
- ❑ The difficulties inherent in generating and sustaining an ongoing 'volunteer' contribution.

- 10.19 We, however, recognise that there is an increasing interest and awareness of the importance of heritage in Ireland and that there is potential sponsorship both within Ireland and internationally for a National Trust initiative. We accept also that Government support in terms of providing financial resources to 'prime the pot' would also assist in generating external resources. In recent years as income and wealth in Ireland has grown dramatically the potential sources of funding has also increased. The success of other sectors in Ireland which have raised very significant funding for charitable ventures indicate the potential which exists. The example of privately generated funding for the University sector is a case in point. It would, however, require a strong commercially focused board to manage this process.
- 10.20 Given these constraints, we believe that to support the establishment of the proposed national trust via a limited direct contribution would be required by the Exchequer during the initial start-up period to the endowment fund to upkeep/maintain heritage properties that are transferred to the proposed trust. Over time, however, a self-financing objective is in our view appropriate. Despite the significant potential which we believe exists we accept the suggestion of the Irish Georgian Society of the need for the Government in the early years to provide such funding.

**(6) WE RECOMMEND THAT A STANDING COMMITTEE BE ESTABLISHED WITH THE FUNCTION OF ASCERTAINING THE SUITABILITY OF HERITAGE PROPERTIES BEFORE THE LATTER ARE ACQUIRED BY THE TRUST.**

APPROPRIATE CONDITIONS FOR ACCEPTANCE, AND DECLARATION OF 'INALIENABILITY', OF PROPERTIES SHOULD BE SET OUT IN THE PROPOSED LEGISLATION, WHICH SHOULD INCLUDE THAT PROPERTIES MUST DEMONSTRATE THAT THEY HAVE SIGNIFICANT CULTURAL VALUE, WHILE ALSO PERMITTING THE ASSESSMENT BODY TO SPECIFY THE LEVEL OF ENDOWMENT, IF ANY, TO BE PROVIDED ALONG WITH THE PROPERT(IES)

- 10.21 Our review of the experience in other jurisdictions has indicated that a key issue in relation to trust management and feasibility concerns the approach to property acquisition. Typically, there is a range of criteria, or tests, that are applied in ascertaining whether a particular property is suitable for acquisition. These factors would include:
- The cultural and heritage value of the property;
  - The property's condition and the extent of risk of deterioration facing the property;
  - Public access issues and tourism issues;
  - Management requirements; and
  - Long-term endowment needs.

- 10.22 In relation to the important issue of endowment funding, in the UK, for example, a complex formula, known as the Chorley Formula, is used by the National Trust organisations to estimate the endowment required for ongoing upkeep and maintenance of a property. This formula sets a high hurdle on the endowment levels required. Moreover, we understand that the National Trust has typically not accepted properties unless a prior income stream is evident.
- 10.23 To address the important issue of property acquisition, we would recommend that a standing committee be established with the function of ascertaining the suitability of heritage properties before the latter are acquired by the trust.

**(7) A REVIEW SHOULD BE UNDERTAKEN OF THE CURRENT POLICY OF GRANTS AND TAX RELIEFS IN THE HERITAGE AREA, WHICH, *INTER ALIA*, INVESTIGATES THE SCOPE FOR RE-TARGETING OF BENEFITS.**

- 10.24 We also believe that a review should be undertaken in relation to the current policy of grants and tax reliefs in the heritage area. This, *inter alia*, should investigate the scope for re-targeting of existing incentives, while also examining potential new policy initiatives to support the maintenance of heritage properties in private ownership.

**(8) ON-GOING POLICY INITIATIVES TO SUPPORT THE MAINTENANCE OF HERITAGE PROPERTIES IN PRIVATE OWNERSHIPS ARE ALSO REQUIRED**

- 10.25 In view of the fact that a national trust will not be relevant to most heritage properties in Ireland on-going policy initiatives will also be required.

#### CONCLUSION

- 10.26 Our independent view is that there is a justifiable case for National Trust legislation and that in addition to the heritage and tourism benefits it could result in savings in exchequer costs arising from the fact that the Trust would reduce the need for the State to purchase and operate additional heritage properties. There are however likely to be a very limited number of significant heritage properties in private ownership which would over a medium term be potential candidates for ownership by a National Trust and that other on-gong policy will be required to support most heritage properties in private ownership.

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## Annex 2 Copy of Survey Questionnaire

### CONFIDENTIAL SURVEY OF BUILT AND NATURAL HERITAGE PROPERTIES IN IRELAND

We would be very grateful if you could complete this Confidential Questionnaire and return in the pre-addressed envelope provided to Robert Watt, Indecon House, Wellington Quay, Dublin 2, Ireland, or by fax to +353-1-6777417. This survey will be treated as Strictly Confidential and the responses to all completed questionnaires received will be used in anonymised form only. Thank you for your assistance with this important study for the Department of Environment, Heritage and Local Government.

#### Background Details

1. Please state the name of the principal landmark heritage property with which you are currently associated (Optional):

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2. Please state the type of heritage property with which you are currently associated. Please ✓ below.

Castle (including surrounding estate)  House (including surrounding estate)  Monument   
 Garden/Parkland  River or Lake (including fishing rights)  Hills, Boglands, Marshes   
 Other Built or Natural Heritage Property  - please specify \_\_\_\_\_

3. Please state the ownership structure of the principal landmark heritage property with which you are currently associated. Please ✓ below.

Owned by Original Family  Other Private Owner  Owned by a Trust   
 Other Private Ownership Structure  - please specify \_\_\_\_\_

4. Please indicate whether you have benefited from any of the following incentives. Please ✓ below.

Grants by State (e.g. Local Authority, heritage Council)  Section 482 Tax Relief   
 Other incentive , please describe \_\_\_\_\_

#### Views on Additional Legislation

5. Please provide your views on whether you feel the introduction of a more supportive trust-type legislative regime for the conservation of landmark heritage properties in private ownership would be a positive development in Ireland. Please ✓

Very Positive	Positive	Negative	Very Negative	Don't Know/ No View
<input type="checkbox"/>				

6. Please indicate your views on the relative importance of each of the following in this context. Please ✓

	Very Important	Important	Not Important	Don't Know/No View
Tax Relief for Heritage Property Donors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tax Relief for Private Endowments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Concept of 'Inalienability'	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tax Relief for trusts re running/maintenance costs of properties	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
* 'Inalienability' is a legal feature where a property is held in perpetuity and cannot be misused or disposed of except under exceptional circumstances.				

7. Please indicate your views on the relative importance attached to the following potential main benefits of introducing more supportive trust-type legislation for the conservation of landmark heritage properties in private ownership in Ireland. Please ✓

	Very Important	Important	Not Important	Don't Know/No View
Would facilitate access to private finance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trusts would facilitate better management of heritage properties	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trusts would have lower management costs than if properties were taken into state care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Would ensure public access to properties in the long-term	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. Please indicate your views on the relative importance attached to the following factors in encouraging owners of landmark heritage properties to dispose of their properties into trust-type arrangements. Please ✓

Factors	Very Important	Important	Not Important	Don't Know/No Views
Maintenance Costs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Restoration Costs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tax Liabilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Time Commitments in Managing Properties	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9. Please indicate your views on the main attractions of trusts for property owners compared to the sale of a property to private owners or to the State. Please ✓

Main Attractions of Trusts	Very Important	Important	Not Important	Don't Know/No Views
Could facilitate owners remaining in their house	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trusts would ensure better management of properties	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Continued ownership by a trust is a better guarantee for the long-term conservation of the property	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Would ensure public access to properties in the long-term	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

10. Please indicate whether you believe there would be a significant number of transfers of privately owned landmark heritage properties in Ireland into trust-type arrangements, should a more supportive legislative regime be established. Please provide below your best estimate of the likely number of additional transfers of heritage property that might apply on an annual basis.

	Zero	1-2 per annum	3-6 per annum	7-10 per annum	11-20 per annum	Over 20 per annum	Don't Know
Estimated number of additional transfers of landmark properties into trust	<input type="checkbox"/>						

11. Please indicate whether you would be interested, now or in the future, in transferring the property with which you are currently associated into a trust, if a more supportive legislative regime was established. Please ✓ below.

	Very Interested	Interested	Not Interested	No Views
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



## Annex 3 List of Heritage Properties in State Care

**Table A3.1: Description and Location of Major Heritage Properties in State Care Which are Open to the Public**

No.	Name of Property	Location - County
1	Altamont Gardens	Carlow
2	Dromore Wood	Clare
3	Ennis Friary	Clare
4	Scattery Island Centre	Clare
5	Barryscourt Castle	Cork
6	Charles Fort	Cork
7	Desmond Castle	Cork
8	Doneraile Wildlife Park	Cork
9	Fota Arboretum and Gardens	Cork
10	Garinish Island	Cork
11	Donegal Castle	Donegal
12	Glebe House and Gallery	Donegal
13	Glenveagh National Park	Donegal
14	Newmills Corn and Flax Mills	Donegal
15	Casino Marino Cemetery	Dublin
16	Garden of Remembrance	Dublin
17	Irish Museum of Modern Art	Dublin
18	Kilmainham Gaol	Dublin
19	Lusk Heritage Centre	Dublin
20	National Botanic Gardens	Dublin
21	National Concert Hall	Dublin
22	National Gallery of Ireland	Dublin
23	National Library of Ireland	Dublin
24	National Museum of Ireland, Kildare Street	Dublin
25	National Museum of Ireland, Collins Barracks	Dublin
26	National Museum of Ireland, Natural History, Merrion Street	Dublin
27	Pearse Museum, St. Endas Park	Dublin
28	Phoenix Park Visitor Centre	Dublin
29	Rathfarnham Castle	Dublin
30	St. Audeon's Church	Dublin
31	St. Mary's Abbey	Dublin
32	St. Stephen's Green	Dublin
33	Chester Beatty Library	Dublin
34	Iveagh Gardens	Dublin
35	War Memorial Gardens	Dublin
36	Athenry Castle	Galway
37	Aughnanure Castle	Galway
38	Conemara National Park	Galway



## Annex 4 Details re Section 482 Properties

**Table A4.1: Section 482 Relief for Properties of Significant Horticultural, Scientific, Historical, Architectural or Aesthetic Interest in Ireland - Details re Current Listing of Properties Approved under the Scheme - May 2004**

Location - County	Property	Fee Charged (€)/Free
Carlow	Dunleckney Manor, Bagnalstown	5
Carlow	Huntington Castle (Clonegal Castle)	6
Clare	Gregans Castle, Ballyvaughan	4
Clare	Toureen House, Toureen, Spencilhill, Ennis	5
Clare	Carnelly House, Clarecastle	
Clare	Loughnanes, Main St, Feakle	0
Cork	Assolas County House, Kanturk	
Cork	Bantry House	6
Cork	Blarney Castle & Mansion	7
Cork	Burton Park, Churchtown, Mallow	0
Cork	Carker House, Doneraile	0
Cork	Carrigbarre House, Bishop Street, Cork	12
Cork	Creagh House, Doneraile	
Cork	Drishane Castle, Millstreet	5
Cork	Dunashed Castle, Baltimore	4
Cork	Garrettstown House, Kinsale	1
Cork	Kilcasan Castle, Ballineen	0
Cork	Kilshannig House, Rathcormac	8
Cork	Riverstown House	5
Cork	Sea Court, Butterstown	2
Cork	Sheares Street, 4	4
Cork	Sheares Street, 5	2
Cork	St. Fachtna's Cathedral, Rosscarberry	
Cork	Woodford Bourne Warehouse, Sheares St., Cork.	0
Donegal	Arndamona Garden, Lough Eske	5
Donegal	Ballydaheen Gardens, Portsalon, Letterkenny	5
Donegal	Cavancar House	7
Donegal	Portnason House, Portnason, Ballyshannon	
Dublin	3 College Green, Dublin 2	0
Dublin	4 Harry St., Dublin 2	0
Dublin	78,79 Grafton Street, 2, 3, 4, Johnsons Court	0
Dublin	81 North King St., Smithfield	0
Dublin	Aungier Street, 21	
Dublin	Brown's Barn, Citywest Business Campus, Dublin 24	0
Dublin	Colganstown House, Newcastle	0
Dublin	Davenport Hotel, Merrion Square, Dublin 2	0
Dublin	Deepwell, Rock Road, Blackrock	5
Dublin	Doheny & Nesbitt, 5 Lower Baggot St.	0

**Table A4.1: Section 482 Relief for Properties of Significant Horticultural, Scientific, Historical, Architectural or Aesthetic Interest in Ireland - Details re Current Listing of Properties Approved under the Scheme - May 2004**

Location - County	Property	Fee Charged (€)/Free
Dublin	Geragh, Sandycove Point, Sandycove	3
Dublin	Harcourt Street, 3 & 4	0
Dublin	Harcourt Street, 57	0
Dublin	Henrietta Street, 12	2.5
Dublin	Knocknagin House, Delvin Bridge, Balbriggan	5
Dublin	Malting Tower, Grand Canal Quay	0
Dublin	Merrion Square, 11 & 12	1
Dublin	Old Glebe, Newcastle	4
Dublin	Powerscourt Townhouse, 59 South William Street	0
Dublin	Primrose Hill, Lucan	4
Dublin	St. Catherine's Church, Thomas Street	0
Dublin	St. Georges, St. George's Avenue, Killiney	5
Dublin	St. Mary's Church, Mary St.	0
Dublin	Sth. Frederick St., 10	0
Dublin	Upper Ormond Quay, 6	3
Dublin	Wyanstown House Yard, Oldtown	4
Galway	Bridge Mills, O' Brien's Bridge	0
Galway	Castle Ellen House & Castle, Athenry	0
Galway	Lisdonagh House, Courtyard, Buildings and gardens, lisdonagh, Caherlistrane	
Galway	Oranmore Castle	6
Galway	Radford House, Athenry	5
Galway	St. Joseph's Convent, St. Bridgid's Avenue, Portumna	5
Kerry	Arabella House, Ballymacelligott	5
Kerry	Cablemaster's Residence, Knightstown, Valentia	0
Kerry	Derreen Gardens, Lauragh, Killarney	5
Kerry	Dromore Castle, Killarney	3
Kerry	Tarbert House	4
Kildare	Carnalway Glebe, Kilcullen	0
Kildare	Celbridge Lodge	6
Kildare	Coolcarrigan House	8
Kildare	Farmersvale House, Badgerhill, Kill	6
Kildare	Furness, Naas	5
Kildare	Griesmount, Ballitore	
Kildare	Harristown House	6
Kildare	Kildraught House, Celbridge	6
Kildare	Leixlip Castle	7
Kildare	Lodge Park, Straffan	7.5
Kildare	Lyons Demesne, Celbridge	10
Kildare	Mooneabbey House & Tower, Moone	4
Kilkenny	Aylwardstown House, Glenmore	0
Kilkenny	Ballybur Castle, Cuffesgrange	2.5
Kilkenny	Ballysallagh House, Johnswell	5
Kilkenny	Kilfane Glen and Waterfall, Kilfane, Thomastown	5.5
Kilkenny	Kilkenny Design Centre, Castleyard	0
Kilkenny	Ryans, "The Tannery", Thomastown	0

**Table A4.1: Section 482 Relief for Properties of Significant Horticultural, Scientific, Historical, Architectural or Aesthetic Interest in Ireland - Details re Current Listing of Properties Approved under the Scheme - May 2004**

Location - County	Property	Fee Charged (€)/Free
Kilkenny	Tybroughney Castle, Piltown	4
Laois	Ballaghmore Castle, Borris-in-Ossory	5
Limerick	Ash Hill, Kilmallock	
Limerick	Attyflin Park House, Attyflin, Patrickswell	8
Limerick	Baringtons Hospital, Georges Quay	0
Limerick	Castle Matrix, Rathkeale	0
Limerick	Croom Mills	0
Limerick	Fanningstown Castle, Patrickswell	6
Limerick	Glin Castle	
Limerick	Islanmore House, Croom	7
Limerick	Kilpeacon House, Crecora	7
Limerick	Old Rectory The, Ballywilliam, Rathkeale	8
Longford	Carriglas Manor	10
Louth	Barmeath Castle, Drogheda	5
Louth	Bealieu, Drogheda	10
Louth	Killineer House, Drogheda	4
Louth	Killineer Garden, Drogheda	5
Louth	Knock Abbey, Ardee	6
Mayo	Brookhill House, Claremorris	4
Mayo	Partry House	5
Mayo	Enniscoie House, Castlehall	6
Mayo	Coastguard Station, Rosmoney, Westport	3
Meath	Ardraccan House, Navan	5
Meath	Balrath House, Balrath, Navan	6
Meath	Balrath Windmill and Windmill Cottage, Balrath	6
Meath	Beau Park House, Navan	7
Meath	Dardistown Castle, Julianstown	4
Meath	Hamwood House, Dunboyne	5
Meath	Mountainstown House, Navan	5
Meath	Slane Castle	7
Meath	Somerville House, Balrath	3.5
Meath	St. Mary's Abbey, Trim	4
Offaly	Ballindoolin House, Edenderry	6
Offaly	Ballybrittan Castle, Ballybrittan, Edenderry	3
Offaly	Corolanty, Shinrone, Birr	0
Offaly	Gloster House, Brosna, Birr	5
Offaly	Loughton, Moneygall, Birr	5
Offaly	Maltings Building, Castle St., Birr	5
Offaly	Round House, Boland's Lough Cappincuk, Tullamore	5
Roscommon	Castlecoote House (Recorded Monument)	10
Roscommon	Clonallis House	7
Roscommon	Frybrook House, Boyle	7
Roscommon	King House, Boyle	5
Roscommon	Strokestown Park House	5
Sligo	Coopershill House, Riverstown	
Sligo	Kevinsfort House, Strandhill Road	3.5

**Table A4.1: Section 482 Relief for Properties of Significant Horticultural, Scientific, Historical, Architectural or Aesthetic Interest in Ireland - Details re Current Listing of Properties Approved under the Scheme - May 2004**

Location - County	Property	Fee Charged (€)/Free
Sligo	Markree Castle Home Farm, Collooney	0
Sligo	Rathcarrick House	0
Sligo	Temple House, Ballymote	
Tipperary	Cloughjordan House, Cloughjordan	5
Tipperary	Grenane House	6
Tipperary	Lisheen Castle, Moyne, Thurles	5
Tipperary	Lismacue House, Bansha	
Tipperary	Mobarnane House, Knockbrit, Fethard	
Tipperary	Redwood Castle, Lorrha	3
Tipperary	Templenu House, Glebe	5
Tipperary	The Rectory, Cashel Road, Cahir	
Waterford	Cappoquin House	5
Waterford	Dromana, Cappoquin	4
Waterford	Sion Hill House & Gardens, Ferrybank	4
Waterford	Tourin House, Cappoquin	5
Westmeath	Lough Park House, Castlepollard	6
Westmeath	Middleton Park House, Castletown Geoghegan	5
Westmeath	Rockfield House, Rathaspic, Mullingar	7
Westmeath	Togherstown House, Loughnavalley	0
Westmeath	Tullynally Castle, Pakenham Hall	5
Wexford	Clohamon House, Bunclody	5
Wexford	Kilmokea, Great Island, Campile	5.5
Wexford	Ramsfort, Gorey	5
Wexford	Rathshillane, Broadway, Rosslare	0
Wicklow	Altidore, Kilpedder	6
Wicklow	Ballyorney House	4
Wicklow	Castle Howard, Avoca	4
Wicklow	Charleville Castle, Enniskerry	6
Wicklow	Christ Church, Bray	0
Wicklow	Kilruddery House, Bray	8
Wicklow	Kiltimon House, Newtownmountkennedy	7
Wicklow	Kingston House, Kingston, Rathdrum	3
Wicklow	Martello Terrace 1, Bray	0
Wicklow	Powerscourt House, Enniskerry	8
Wicklow	Russborough House	6
Wicklow	Trudder, Newcastle	5
Wicklow	Woodbrook House, Bray	5
<b>Total No. of Properties</b>	<b>166</b>	
<b>Average fee charged (Full Rate Fee)</b>		<b>4.0</b>
<b>Standard Deviation of admission charges</b>		<b>2.8</b>
<b>No of properties charging for admission</b>		<b>114</b>
Source: Fáilte Ireland		

Table A4.2: Visitor Numbers 2003	
Property	Total Number of Visitors
Altamont Gardens	15,239
Ardfert Cathedral	6,660
Athenry Castle	7,059
Aughnanure Castle	24,101
Ballyhack	1,609
Barryscourt	5,686
Blasket Centre	47,363
Boyle Abbey	7,820
Bru na Boinne	216,957
Cahir Castle	63,018
Carrowmore	22,514
Casino Marino	6,667
Castletown House	10,935
Ceide Fields	35,328
Charles Fort	58,392
Clonmacnoise	161,830
Connemara NP	70,623
Coole	4,756
Corlea Trackway Centre	2,755
Derrynane House	16,991
Desmond Castle	14,217
Desmond Hall	2,531
Donegal Castle	35,235
Doneraile	4,276
Dun Aonghasa	125,293
Dungarvan Castle	1,968
Dunmore Cave	31,774
Emo Court	2,976
Ennis Friary	15,226
Ferns Catle	1,842
Garnish Island	69,493
Glebe Gallery	9,586
Glendalough	99,015
Glenveagh	47,651
Hill of Tara	14,998
J.F. Kennedy Aboretum	89,381
Jerpoint Abbey	35,318
Kilkenny Castle	184,904
Kilmainham Gaol	153,883
Loughcrew Lusk HC	62
Mellifont Abbey	23,004
Muckross	195,882
Newmills Flax Mills	2,897
Ormonde Castle	5,302

Table A4.2: Visitor Numbers 2003	
Property	Total Number of Visitors
Parke's Castle	19,162
Pearse's Cottage	6,515
Phoenix Park Visitor Centre	14,841
Portumna Castle	14,041
Rathfarnham Castle	3,769
Reginald's Tower	15,536
Rock of Cashel	245,316
Roscrea Castle	4,687
Ross Castle	33,012
Sligo Abbey	10,687
St. Audoens Church	3,796
St. Mary's Abbey	802
Swiss Cottage	22,057
Tintern Abbey	8,194
Trim Castle	51,011
TOTAL	2,406,443

## Annex 5 National Trust of Queensland - Breakdown of Income

Table A10.2: National Trust of Queensland - Breakdown of Income from Ordinary Activities - 2003 - A\$		
Revenue Items	2003 - A\$	% of Total
Gain on sale of assets	653,567	39.7
Admissions and tours	217,437	13.2
Membership income	201,616	12.2
Untied grants	119,597	7.3
Merchandise sales	78,113	4.7
Commercial rentals	75,291	4.6
Contributed assets	51,051	3.1
Conservation services	61,282	3.7
Interest income	41,651	2.5
Administration fees	31,946	1.9
Sponsorships	22,027	1.3
Events & functions	20,015	1.2
Heritage week	19,101	1.2
Untied donations	13,913	0.8
Accommodation rentals	11,177	0.7
Other revenue	30,491	1.8
<b>Total Revenue</b>	<b>1,648,275</b>	<b>100</b>
Source: National Trust for Queensland, Annual Report and Accounts, 2003		

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## Annex 6 Endowment Funding and the 'Chorley Formula'

- A.6.1 The major elements of annual property expenditure comprise wages and cyclical repair costs. According to the Trust, it is necessary "to take particular care to make sure that sufficient initial capital expenditure is allowed for at acquisition so that repair provisions can be based on a property in good order".<sup>75</sup>
- A.6.2 In relation to rental income, the Trust states that one third is normally deducted from rents since the experience in the UK has shown that income from this source does not keep pace with wage costs, although this varies between farmland and housing.
- A.6.3 Adequately accounting for contingencies is an important requirement when using the Chorley approach. According to the Trust:
- "Despite the care which is taken to allow for expenditure under future conditions, the true annual cost can only become clear from actual experience and is often found to contain elements which were not thought of in advance. It is to cover these as well as underestimates of expected costs that we add 12 ½% for contingencies."<sup>76</sup>
- A.6.4 An uplift is also included in the calculation in relation to improvements, which, is typically of the order of 7½%. According to the Trust:
- "We [The National Trust] have found that in order to maintain or increase visitor numbers the Trust has continually to strive to improve standards of presentation, provide new attractions, and upgrade visitor facilities. In addition tenanted houses and cottages have to be modernised and the standards expected advance with each generation."<sup>77</sup>
- A.6.5 In addition, a further 20% is added to estimated annual property expenditure to cover administrative and management overheads. According to the Trust, as the number of properties increases so do the annual management costs of the Trust and the view is that it is not unreasonable that each property should contribute towards these costs.

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<sup>75</sup> Ibid.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

A.6.6 Subtracting estimated (and adjusted) annual property income from the total grossed up annual expenditure yields the total grossed up annual income deficit for property. To this figure is added an uplift of 50%, on the grounds that investment income tends to increase more slowly than wages (a 2% shortfall is assumed). According to the Trust:

“[I]n the early years this uplift should ensure that income from the endowment would be in excess of the annual property deficit. Gradually as wages overtake dividends, the surplus will diminish but provided that it has been accumulated and put into reserve the property will have a financial cushion to support it for many years.”<sup>78</sup>

A.6.7 The total grossed up annual deficit is finally capitalised to yield the total required endowment fund. Expert actuarial advice is sought on this aspect. However, the capitalisation rate has typically in the past been based on the net yield on the Financial Times All-Share Index, although, given the volatility associated with this series, the Trust has experimented with averaging the yield over a number of quarterly periods.

A.6.8 The initial yield on an endowment will be that available from the market on the day that it is invested. According to the Trust, it now tends to use the quoted yield as close as possible to the day when it has funds to invest, although it notes that this may necessitate the need to recalculate the formula.

A.6.9 Overall, according to the Trust:

“Our experience has shown that the formula cannot be cast in stone and must be flexible in minor details (perhaps it is not always necessary to deduct 1/3<sup>rd</sup> from rents and management costs on opens space properties may not be as great as for houses or buildings).”<sup>79</sup>

A6.10 Essentially what the Chorley Formula does is to provide a basis for estimating the capital endowment required to both produce an annual income to support the ongoing upkeep of a property and to ensure that the value of the fund is maintained. It is clear, however, from the above description that the hurdle rate, in terms of endowment funding required for the long-term upkeep of a heritage property could and maintenance of the value of the fund could, depending on the assumptions used in the Chorley Formula, be considerable.

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<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

## Annex 7 Heritage Management in the Netherlands, Belgium, France, Malta, Germany and Canada

### The Netherlands

- A.7.1 The Netherlands has a long history of public involvement at both government and municipal levels in both the cultural heritage and contemporary arts fields, with public funding accelerating through the 1980s and 1990s, particularly at the municipal level. Also, there has been a very substantial growth in non-governmental museums, often very small and local, established and run by local no-profit bodies, such as local associations or community councils. Accordingly it is now government policy that each county Council should appoint at least one *Museumconsultant* - an experienced museum or heritage professional who is available to advise and support in practical ways local community heritage initiatives and institutions, and to promote cooperation between and support for these.
- A.7.2 At the national level The Netherlands has had a national policy of decentralisation since the late 1980s operating on at least two levels: decentralising what have traditionally been central government services to regional and local government, and devolving the internal management of central government institutions to their staff - the latter being confusingly referred to as *privatisation* - even though the institutions or organisations have not been privatised in the normal sense of the word, i.e. they remain wholly publicly owned and largely publicly financed.
- A.7.3 The major national museums and galleries have been given their own appointed management boards under the *privatisation* principle. While there is now some flexibility in terms of policy and finance, the government retains close control over most key areas, and in particular retains ownership of buildings and sites, and all collections, and they are required to meet explicit standards in relation to collections management and conservation. Also, though much of the institutions' funding still comes from government, there is a very active programme of promoting all aspects of marketing, including all kinds of income self-generation.

- A.7.4 The recent introduction of four year funding plans for the national museums and special government funds is a welcome development. Despite this, the approved national budget for 2004 includes a cut in the annual grants to national cultural institutions and funds by €25 million in 2004 with the prospect of further cuts in future years. (A €55 million per year real-terms reduction is planned in total cultural expenditure and subsidies by 2007, largely on the assumption that under the new organisation and management structures, self-generated funding will increasingly replace government funding. It is not yet clear how this is compatible with the promise of longer-term stability in funding under the four-year agreements.
- A.7.5 In relation to the Netherlands great confusion has been caused internationally by the use of the term “privatisation” to describe the relatively modest changes in the management of museums and other cultural institutions by converting these to separate legal entities, though still under far closer government control than e.g. most United Kingdom national museums, galleries and institutions have experienced for several decades. Also, there is little sign of major internal reforms in terms of internal and professional decentralisation: despite the new legal status and structures the internal organisation and culture of most of the institutions continues the work along very traditional “civil service” lines.
- A.7.6 While it is perhaps a little too early to see how the new Maltese system will work in practice, the prospects seem to be very much as in The Netherlands. In law at least the Government and Parliament are clearly retaining extremely close control over the membership, operation and - not least - the finances of the new cultural heritage bodies. The new structure also seems extraordinarily complicated for a country of just 316 sq. km. and 392,000 population - figures comparable with e.g. those of a smaller English county.

#### **The Kinderdijk World Heritage Foundation**

- A.7.7 It is instructive to describe the background and operation of one of the main heritage bodies in the Netherlands, namely the Kinderdijk World Heritage Foundation. The Foundation, which is a non-profit heritage foundation, was established with government encouragement in 2001 to support and promote the heritage hydraulic works network at Kinderdijk-Elshout, Zuid-Holland Province. Constitutionally it has a five-year lifespan.

A.7.8 The Kinderdijk cultural heritage complex was recognised as of world heritage importance with its formal Inscription on the World Heritage List in 1997, under the categories of both a network of World Heritage standard buildings and a cultural landscape. Its significance is summarised succinctly in the official justification of the Inscription by the World Heritage Committee as follows:

“The outstanding contribution made by the people of the Netherlands to the technology of handling water is admirably demonstrated by the installations in the Kinderdijk-Elshout area. Construction of hydraulic works for the drainage of land for agriculture and settlement began in the Middle Ages and have continued uninterrupted to the present day. The site illustrates all the typical features associated with this technology – dykes, reservoirs, pumping stations, administrative buildings and a series of beautifully preserved windmills.”

A.7.9 Reclamation works began in the 11th century the earliest preserved features date to the 12th century, while the oldest man-made watercourse, the Graafstroom, dates from around 1264. In 1277 Count Floris V of Holland set up a central body to be responsible for the maintenance of the dikes in the Alblasserwaard, known as the Hoogheemsraadschap van den Alblasserwaard (District Water Board for the Alblasserwaard) with 14 members. This body was responsible for the reclamation and drainage works of the area, including the digging and maintenance of canals over the next six centuries or more, and with relatively minor modifications remains in place today.

A.7.10 In 1612 the parallel internal drainage body for the adjacent district of De Nederwaard was granted a permit for the compulsory purchase of 70ha of polder-land to the west of the Nieuw Waterschap in order to increase the capacity of the reservoirs by creating a new elevated reservoir. This also involved raising the water level in the reservoirs and, as a result, the levels of the roads and low-level inner dykes in the area all had to be raised. The Assembly Houses of the two Boards, the oldest dating from 1512 are among the most important World Heritage properties.

A.7.11 Serious flooding in 1726 led the Nederwaard and Overwaard management boards each to build a series of eight drainage mills to deal with the endless battle against water and transfer the water produced at that time by 43 polder mills from the lower to the elevated reservoirs. By the 19th century in total more than a hundred wooden and brick windmills were in use along with steam (later diesel and now electric) pumping stations

- A.7.12 The actual ownership of the many built properties, canals, drainage and other engineering works within the World Heritage zone is vested in a range of governmental bodies including the two district water and drainage boards, local authorities and at least one voluntary organisation.
- A.7.13 The Province of Zuid-Holland has held the eight windmills on De Overwaard on long lease since 1953 and has managed them through the Provincial Department of Welfare, Economics, and Administration, though the District Water Board of the Alblasserwaard, established in 1277, and the Vijfheerenlandeu retains the freehold. The parallel local Water Board owns and manages directly the eight De Nederwaard mills, the Hoge Molen ("High" or "Great" Mill), and all the pumping stations and their equipment. Though primarily constructed to pump water for drainage purposes, the De Overwaard and De Nederwaard mills were also fitted with grinding wheels and equipment for corn milling. Those remaining are now leased to millers, some of whose ancestors had been responsible for operating them for generations.
- A.7.14 The Lage Molen on the Nieuw-Lekkerland polder and the Blokker on the Alblasserdam polder are owned and managed by a non-profit voluntary body created by windmill preservation enthusiasts around 80 years ago, the Association for the Preservation of Windmills in the Alblasserwaard and the Vijfheerenlanden.
- A.7.15 At the national level the cultural heritage properties are regulated by the Rijksdienst voor de Monumentenzorg (State Service for the Care of Monuments) of the OCenW Ministry (Education, Cultural Affairs, and Science Ministry). The Rijksdienst is responsible for maintaining the register of protected buildings, and also advises the relevant Municipal authorities on the application of the Dutch system of Permits in respect of any proposed modifications and other physical interventions to registered cultural heritage properties.
- A.7.16 Faced with such a highly complex pattern of property ownership and management in 2001 the Government sponsored the creation of a special non-profit body the "Stichting Werelderfgoed Kinderdijk" [The Kinderdijk World Heritage Foundation]. This coordinates fund-raising and the management, interpretation and promotion of all the heritage properties and cultural landscape within what is now the World Heritage zone. The various owners and managing bodies pool part of their own funds to contribute to the cost of maintenance of those historic properties and structures that are no longer in operational use. In addition to this, and to its co-ordination and marketing roles, the Foundation also seeks to raise additional public and private funds for its work, and towards the backlog of repair and maintenance, and is currently seeking funds totalling 10 million Euros.
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- A.7.17 The membership of the Stichting Werelderfgoed Kinderdijk comprises the provincial government of Provincie Zuid-Holland, the councils of two municipalities (Alblasserdam and Nieuw-Lekkerland) and the authority responsible for the water management (Waterschap Alblasserwaard en Vijfheerenlanden) successor to the original 1277 drainage and reclamation body. These authorities dominate the Board and the foundation's policy, programme and finances. Their participation is viewed as short-term and the public bodies are concerned that they should not be drawn into a permanent commitment, hence the provision that the foundation should become entirely self-financing in due course. The constitutional provision that it will be dissolved in 2006 is regarded as too optimistic, but the partner bodies seem determined to see it dissolved and replaced by a self-funding body by 2010 at the latest.
- A.7.18 Though a key aim of the new structure was to develop private funding and sponsorship to enhance the funding from the public authority partners in the foundation, i.e. the provincial and local councils and the two water boards. However, so far at least the majority of the listed "sponsorship" of the Stichting is in fact from other public bodies, in particular the State Water Ministry and the Ministry of Education, Culture and Science.
- A.7.19 Non-profit sponsors include the Nederland Wandelsport Bond [Netherlands Ramblers Association], the ANWB [Netherlands Automobile Association] and the Prins Bernhard Culturfonds [Prince Bernard Cultural Foundation]. The two sponsors in the strict sense of the word are the Coca Cola Corporation and Arcadis NV - 850 million Euro annual turnover Dutch-based international infrastructure and communications conglomerate.
- A.7.20 The heritage foundation structure adopted is probably well justified in terms of co-ordinating the management of this unique World Heritage zone with its highly complex property ownership and occupation, and in the successful joint promotion and marketing. However, as with most if not all of the Dutch so-called "privatisations" in the heritage field, the aim of promoting sponsorship and a more commercial attitude towards trading activities could have been achieved in a much less complicated way: i.e. by sweeping aside the out-of-date laws and public finance rules that make it very difficult if not impossible for public bodies to earn and receive income from private sources and - not least - the current government policy that the payment of heritage grants from public funds should be conditional on this kind of quasi-privatisation.

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## Belgium

### Historic context and background to heritage management

- A.7.21 From its independence in 1830 until 1970 Belgium had a constitutional structure based on a unitary, though decentralised, State, but between 1970 and 1993 four successive revisions of the constitution have created and strengthened a structure based on a Federal State built around the country's language-linked communities. All competences and functions other than a small number specifically reserved (such as foreign relations, defence, justice and central taxation) have thereby been transferred to the three, largely self-governing, groupings of the ten provinces: the Walloon Region (predominantly French-speaking) communities, with a population of 3.3 million), Flanders (predominantly Dutch-speaking with a population of 6.0 million), plus the legally bilingual Capital Region of Brussels (1.0 million). (A fourth - German-speaking - community is recognised in the constitution. This population, based largely in the Walloon province of Liege, totals only 70,000, but nevertheless does have its own Ministry of Culture and Communication which covers culture, heritage and tourism promotion for what are termed "The Eastern Cantons".)
- A.7.22 The residual Federal powers in relation to culture and heritage cover only the five major national museums and art galleries, designated as "Scientific Establishments of the State", all in or close to Brussels, but the Federal ministry has the power to advise the regions and local authorities on cultural and heritage matters and allocates funds from the National Lottery to heritage projects, such as the funding of monuments, sites, restoration, museum acquisitions and promotional campaigns.
- A.7.23 Though much of the reform efforts of the past two decades have been concentrated on the almost total decentralisation of cultural (and most other) legal competences and operational responsibilities from central government to large and powerful regional government ministries, more recently there have been some important further transfers of powers and functions from the regional governments to autonomous or semi-autonomous bodies. For example, in 1994 the Walloon Region became responsible for the independent *Commission royale des Monuments, Sites et Fouilles* (Royal Commission on Monuments, Sites and Archaeological Excavations) - a consultative and advisory body which reports to ministers and administers the regulation of e.g. restoration work on registered monuments and on protected buildings.

- A.7.24 Then in 1999 the *Institut du patrimoine wallon* (Walloon Heritage Institute) was created as an independent body with its own legal personality, to manage “classified” cultural property, and to undertake and promote specialised cultural heritage training.
- A.7.25 The dozen or so federal cultural institutions (the national museums and galleries, national opera house etc.) Remain under direct control of the relevant divisions of the federal Ministry, and their staff are all recruited and employed on permanent civil service contracts by the State, which is also responsible for their salaries and all other operating costs. However, there is currently much discussion of this policy, which is seen by some, if not all, as a serious constraint on operational policy and activities, partly, though by no means only because of the strict limits placed on staff numbers and functions.
- A.7.26 However, the one heritage institution currently managed directly by the French Community, the important Mariemont Royal Museum, appears to be moving towards a dual structure. There, the directly managed main operations of the museum are staffed with civil servants employed by the Community. However, alongside this the museum now has an autonomous “*caisse*” (foundation - literally “fund”) which raises its own finances for the museum, and which now employs and pays for additional staff and activities over and above what is provided by the regional government, giving the museum greater flexibility in addition to greater overall financial and resources. (There are also VAT advantages - see below).

#### **Application of trust-type and other organisational approaches**

- A.7.27 In both the Walloon and Flanders regions the great majority of publicly-owned heritage sites and institutions are the property of over 2,500 local authorities, which range in size from major cities with populations approaching one million (as with Antwerp) down to small villages, and it is within the local government sector that a more diverse and innovative pattern of organisational structures are now emerging. In fact, since 1921 under what is now Art. 162 of the Belgian constitution, it has been possible for two or more local authorities to set up, with or without private organisations or individuals, not-for-profit “intercommunal associations” for any joint or shared purpose or activity. These associations have a legal identity in their own right and benefit from significant tax concessions including exemption from all business and related taxes. In all cases the sponsoring public authorities must retain the presidency and a majority of the board membership, and this model now used very widely in the management and promotion of what are, or were previously, essentially public sector arts, heritage or tourism facilities and services.

- A.7.28 There is, however, some concern that such not-for-profit and tax exempt arrangements may be used - deliberately or by default - to benefit financially or otherwise the private sector partners that are may be included in the association, and it is argued in some quarters that these arrangements lack transparency and adequate democratic control despite the requirement of the active participation of local elected officials on the governing board.
- A.7.29 A further, and growing, development of this principle has been the establishment of joint not-for-profit associations (*Associations sans but lucratif* - "asbl") for heritage and similar site management purposes under the general law of associations, rather than the special "intercommunal association" provisions. In the francophone territories this follows closely the model of the French "association incorporated under the law of 1 July 1901". These potentially can have a much wider mandate and can for example be established by a single local authority and involve both non-profit and commercial partnerships which may contribute private finance, property and human resources to the venture, and are considered to have a much more flexible board etc. structure. However, these can be more transparent in their operation and reporting, as they require formal official approval of their objects, constitutions and administrative rules and structures, and are subject to public scrutiny, for example of their independently audited accounts.
- A.7.30 In response to growing concerns about reported or potential abuses, Belgium reformed the law relating to associations in April 2002 and at the same time provided a new legal basis for the creation and management of foundations (which in practice are created and operated in a very similar way to associations, though without the requirement to have an "open" membership of individuals or nominees). In addition to the not-for-profit principle, it is now explicit that associations and foundations may not undertake commercial or industrial activities for profit, and the prohibition on personal financial gain or benefit has been strengthened.
- A.7.31 As an alternative, where it is proposed that the heritage site or museum etc. (whether private or essentially public) is to engage in commercial activities or industrial production for profit (e.g. producing products or artefacts for sale) or wishes to draw on private capital investments, the alternative is to incorporate as either a co-operative society or limited company ("*sprl*") regulated under the company law code (Art. 350 for co-operatives or Art. 210 - 349 for companies).

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### Nature of Tax and Other Economic Instruments

- A.7.32 Recognised not-for-profit associations, both general and inter-communal, as well as foundations, all benefit from significant tax concessions including exemption from all business and related taxes, including VAT. They also can take advantage of important concessions in relation to employment contracts and employer payroll costs. However, heritage etc. bodies operating as co-operatives and limited companies, whether established by public or private bodies or individuals, are subject to normal company taxes, as well as VAT on relevant activities.
- A.7.33 Overall, the regional governments in Belgium are relatively generous in terms of delegated financial support for local government, heritage and tourism organisations and activities of is moving towards a system of formal contracts, and local authorities in turn frequently support not-for-profit services and facilities, and public authorities are also active in seeking European Union support for both non-profits and appropriate co-operative and private commercial developments. Perhaps because of the long and continuing tradition of public sector support for regional and local provision there has been only limited development of the concept of business sponsorship in Belgium so far. However, businesses and any individual subject to Belgium's 39% tax rate can now get a tax deduction of up to 5% of net profit (with a limit of 20 million Belgian francs - around € 600,000). Tax deduction is restricted to direct financial aid: there is no deduction for contributions "in kind" (except on donations of works of art to approved museums).
- A.7.34 Private patronage and giving is also very limited in Belgium, in most cases amounting to little more than the nominal membership dues of "Friends" organisations. However, there is now a marked trend towards linking regional and other public financial support to formal medium term (usually five year) performance contracts, which reflect both overall regional and local objectives and specific targets for the funded body, so significant changes in the management and operational culture are to be expected in the near future.

### France

- A.7.35 As is well known, France has been a very centralised State for centuries, certainly since Napoleon. However, in the case of the heritage and related areas (and indeed many other parts of the governance of the country) the systems of central control developed and codified during the First Republic were in fact very largely a continuation of polices and practices that had developed up a century or more earlier under the *Ancien Régime*. The main change following the Revolution was that the most of the palaces,

monuments, institutions, works of art and collections of the Crown, the Church, private academies and foundations, and much of the cultural property of the aristocracy, were brought under the direct ownership and governance of the State. The same model was subsequently adopted for the growing number of new cultural and heritage institutions, such as museums, preserved monuments etc. that were added to the national inventories and collections after 1789. The buildings and collections were declared to be the property of the State, and the regardless of where the institution or organisation was located within France or any of its overseas territories, the professional staffing was provided by a national corps of curators, architects, librarians, archivists etc. Recruited by open competition as career civil servants, who were then employed, assigned and reassigned or transferred at will by the relevant Ministry.

- A.7.36 While much of the national art collection was decentralised to a network of initially 16, now over 40, major provisional museums across metropolitan France to be managed on a day to day basis by the city or other municipal authority, the central authorities retained a very high degree of control over the professional and artistic policies and operations, not least through the State's direct employment of the Curator/Director and his or her official Deputy (plus any other professional staff allocated for the time being to the provincial institution).
- A.7.37 For 170 years following the Revolution, culture, heritage and related activities passed, often rapidly, through a wide range of Ministries or Public Offices. In 1959, following the election of De Gaulle as President and the adoption of the 1958 Constitution, a Ministry of Culture was created under André Malraux (though with the status of only a Deputy Minister: it only became a "full" Ministry with the appointment of the Socialist Jack Lang as Minister in 1981). However, very important areas of the heritage and museums remained - and still remain to day - with a wide range of other ministries and public bodies. For example the original national *Muséum* (now the *Musée d'Histoire Naturelle* and the *Jardin des Plantes*) is under the Ministry for Higher Education and Research, while the Ministry of Defence retains a wide range of important national monuments and museums. Other heritage properties and museums are the responsibility of autonomous national institutions such as the *Institut* or the *Legion d'Honneur*, while much of the Church property (though not the 87 cathedrals) confiscated by the State in the Revolutionary and First Republic periods was later returned to the Church and other religious bodies and is today primarily managed by them, though often with State financial and technical assistance.

- A.7.38 “Decentralisation” of functions of the immensely powerful central government was a theme of Mitterand’s bid for the presidency in 1981 and of the socialist government that followed his election. However, the early measures, carried through in legislation of 1982-3 and which started to come into operation from 1984, were mainly focused on expanding the competences and functions of local and regional government rather than transferring powers and activities from the central ministries such as Culture. Nevertheless, the changes in this sector were very significant in the longer term particularly in granting new general legal competences in the field of culture to all tiers of local government, including the *Départements* (equivalent to counties). The changes also included the creation of new regions with their own elected members, which quickly developed their own regional cultural councils and other organisations in partnership with other levels of local government and with the Ministry. Over the next two decades the commitment of local and regional government, and in particular the Departments and Regional Councils, to cultural development and innovation was impressive, so that by the mid-1990s these were together typically providing around half of all provincial expenditure on culture and heritage (mostly in two-way or three-way partnerships with the State or the municipalities).
- A.7.39 France had had provision for purely voluntary action in the cultural field since at least the passing of the *Loi des Associations de 1 juillet 1901*, which aimed to simplify and facilitate the creation and management of voluntary associations by among other things granting them a legal personality or identity. However, it was not perhaps until the 1980s that this model began to be used extensively within the heritage field, with the establishment of many local, mostly small scale, site and monument preservation projects, programmes of cultural action, such as oral history recording, and the creation of community-based and community-led “*ecomusées*” aiming to preserve and communicate the particular values and character of a defined locality or territory. In order to respond to this interest the Ministry adopted a model *Statut des Ecomusées*, which, among other things, provided means for links and cooperation (or even direct participation) with local authorities and with the *Direction des Musées de France* and its advisory and inspection services within the Ministry.
- A.7.40 In recent years there has been a positive explosion of new cultural, especially, heritage associations, mostly at the local level. A 2003 analysis for the Ministry’s research and forecasting department of formal notices between 1998 to 2002 in the government’s national *Journal Officiel* (where the approval of the constitutions of all new associations must be announced) identified more than 2,000 new cultural associations that had been established during the five years,

the majority of them being established largely or mainly within the heritage sector.

- A.7.41 More substantial changes were introduced by the third Mitterrand government of 1988 to 1992, again under Jack Lang as Minister. The decentralisation focus shifted away from increasing the cultural competences and involvement of regional and local authorities to the aim of decentralising much of the power (and staff) of the Ministry itself. Consequently, in the second half of 1991 a rapid succession of laws were passed changing markedly the status and organisation of some of France's most famous cultural flagships, including among others the Paris Opera, the Paris Conservatoire, and the Louvre and Orsay Museums. There were some differences in detail in each case, but the underlying objective was very similar: to take these institutions right out of the Ministry itself and establish them as independent bodies (*Etablissements publiques*) with their own legal identities, governing Boards and financial and personnel management, and with wide powers to operate in the private (and commercial) spheres.
- A.7.42 A good example is the new structure for the Musée du Louvre. Though still in receipt of very substantial public funding and subject to certain controls in terms of its financial and other operations, the *Etablissement publique du Louvre* has ownership of the site and buildings including the major new underground *Carousel du Louvre* commercial centre and what must be one of the most profitable underground car parks in Europe. One of stated objectives of the transfer from the Ministry to foundation/trust status was to endow the Louvre with a very substantial revenue-producing capital asset in the form of the new commercial development and car park, and to allow the new body the freedom to trade in a much more commercial manner. However, while the very considerable intellectual property rights of the museum's collections were also transferred, the collections have been retained as part of the National Inventory, and the Louvre (and other museums under similar arrangements) remain responsible for the proper safeguarding and care of the collections in accordance with agreed national standards and arrangements.
- A.7.43 In contrast with most if not all comparable arrangements in other countries, the Board structure follows that familiar in other French public bodies, such as nationalised industries, and in French private business, centred on the concept of the President-Director-General ("PDG"). Consequently the Director of the Louvre (who must by law be a qualified and established State curator) is also ex officio President of the Board, which comprises a combination of around one-third ex officio and elected staff representatives and two-thirds officials, experts and prominent private citizens, including academics, patrons and other and benefactors. Except for the

elected staff representatives, who comprise around 20% of the tittle, the members of the Board are nominated by various Ministers (mainly the Minister of Culture) and then appointed by formal Decree published in the *Journal Officiel* with the approval of the Assembly, Senate and other official consultees. The general view is that the restructuring in the case of the Louvre and the other major cultural institutions has been beneficial overall, particularly in liberating the institution and its management from the many of the bureaucratic administrative and financial restrictions that applied what it was inside the public service, and there have been major financial benefits, particularly in terms of income from the commercial activities and facilities, and also in relation to income-generation through sponsorship and private patronage.

- A.7.44 There were inevitably a lot of concerns initially about pay, conditions and job security among the large number of staff who were transferred out of direct State employment to the service of the new *Etablissement* and its Board, and also on all sides about placing the additional duties of President of the Board on top of the already very heavy burden the Director-General carries as head of one of the world's largest museums. In this respect it is perhaps significant that in the case of some more recent transfers from the Ministry along basically the same line, such as the merged national museums, archives, heritage and conservation training "*grand école*" the *Institut National du Patrimoine*, created in 2002. The dual role has been abandoned. Instead, a leading public figure (a former Minister of Culture) has been appointed part-time President of the *Institut* alongside the full-time Director.
- A.7.45 Most recently France has embarked on what is arguably the most fundamental constitutional reforms for more than 200 years, with the adoption in March 2003 of an amendment to the 1795 wording of the first paragraph of the Constitution to declare France to be not just a "democratic Republic" by a "democratic decentralised Republic", based on the principle of subsidiarity, i.e. that all functions should be delegated to the lowest tier of government or management that is practicable. With two months of the final approval of the change by the constitutional court the first 200,000 civil servants and their services were transferred from central government to regional department or municipal authorities, and the current plan is that many tens of thousands of State bodies and establishments, and around 2 million central government employees, will be "decentralised" over the coming two years or so.
- A.7.46 Also, though it is anticipated that the great majority of these will be transferred to regional or local authorities and hence remain in the public sector as such, but probably with significant changes in their operation, staffing conditions etc. in the longer term, the Government is not ruling out transfers from the public sector to both

the commercial and non-profit organisations within the private sector. As part of this programme there are already plans for further large-scale privatisations of nationalised industries and other public enterprises, and every Ministry or other area of central government is being required to examine all possibilities for the decentralisation of its remaining centrally run operations.

- A.7.47 Among the Culture Ministry's work in relation to this policy, there has been a comprehensive review, chaired by Jean-Pierre Bady of the whole of the Ministry's direct involvement in the Built Heritage and Sites and Monuments area. As a first step there are proposals to transfer to the Regions most of the *Patrimoine* Divisions functions relating to the assessment and listing on national inventories, archaeology etc. Currently the Ministry manages directly 400 historic monuments and sites (including some local museums of national interest, together with the 87 cathedrals). The Bady Report (December 2002) proposes that 140 of these should be decentralised. In most cases transfer to appropriate regional or local bodies is assumed as at least the first stage, though the report expresses a strong preference for the involvement of the private sector: private owners, not-for-profit associations and foundations. The intention is that the State will remain firmly in terms of policy: national standards for the evaluation, registration and conservation of monuments etc. will be maintained, but in future this will be achieved by means of policies, agreements and inspection rather than direct action by the central Ministry itself.
- A.7.48 While it is likely that in the first instance at least the transfer from the State would be to an appropriate regional, departmental or municipal authority, these might well decided to place them under a different management structure, such as an existing heritage foundation or 1st July 1901 association (perhaps one of the large number of newly created heritage associations and partnerships referred to above), under a newly association or foundation established for the purpose, or perhaps a new public-private partnership or joint management. It seems very likely that as the implementation of the decentralisation constitutional amendment is carried forward similar questions will be asked in due course about the longer-term organisation and functioning of some of the small, more specialised, national museums, particularly those for which a complex Louvre- or Orsay-type *Etablissement publique* would probably not be practicable.

### Nature of Tax and Other Economic Instruments

- A.7.49 The *1 juillet 1901 Loi des Associations* (as updated at various dates since then) is very widely used in France and its territories. This is a very flexible and relatively informal and inexpensive way in which not-for-profit bodies with a legal personality of their own can be created by any two or more citizens of France (now of the EU) for any lawful purpose, subject to the approval of the aims and key constitutional provisions by the Prefect of the Department (the Prefect of Police within Paris) and the placing of a formal notice in the *Journal Officiel*. (Very many francophone countries and regions around the world have adopted similar legal provisions, including most former French colonies as well as the Walloon region of Belgium and the Canadian Province of Quebec.)
- A.7.50 In France Associations recognised as not-for-profit and whose objects and activities are regarded as for the public benefit are in principle exempt from all corporate and income taxes, though there very narrow limits on trading activities, including publishing for profit. The concept of a Foundation is not so well developed in France yet, and tends to be regarded as primarily a financial instrument intended to receive and invest funds from either private or business benefactors and distribute these by way of grants. In recent years many major private enterprises (and indeed nationalised industries) have established public benefit foundations, and some of these have become closely involved in the actual provision and management of cultural, including heritage, services either on their own initiative or in partnerships with other public or private bodies. Foundations also benefit from exemption from corporate and other business taxes on the same lines as associations, and a wide range of not-for-profit cultural associations and foundations are now completely exempt from VAT.
- A.7.51 A number of important ministries, including Culture, and strongly supported by the President and Prime Minister have all recognised that France had been lagging behind other leading developed countries in this area. Consequently in 2003 France greatly strengthened the law, and particularly the fiscal incentives, in relation to charitable giving, sponsorship, associations and foundations with *Loi n° 2003-709 du 1er août 2003 relative au mécénat, aux associations et aux fondations*. Under this both private benefactors and businesses can claim a 60% tax deduction in respect of altruistic charitable giving (i.e. without a personal benefit in return), with a limit of 10% of total income in the case of private individuals and of 0.325% of gross annual turnover in the case of businesses.

- A.7.52 The full value of any donation in kind is also deductible within these limits. Sponsorship (including sponsorship in kind such as staff secondments), for which a business receives a measurable benefit, such as advertising, is 100% deductible as a normal business expense without limit. The Government estimates that these various provisions of the new law could immediately double tax efficient private funding of eligible areas particularly culture, education and research, and expects that these changes, which are now being heavily promoted, will encourage far greater private and business involvement over the coming years.
- A.7.53 Neither the hope-for increase in charitable giving and sponsorship, nor decentralisation, are intended to reduce the financial engagement of the State with culture and the heritage. Already there are very many two- three - or even four-way funding partnerships between the central government, different levels of regional and local government, and with the private sector, and the Ministry hopes to strengthen these by moving where possible from annual budget decisions in relation to State funding to longer-term funding agreements. (It is recognised that this would be very necessary if e.g. a particular monument or other heritage property was to be transferred to a private association or foundation with little or no working capital.)

## **Germany**

- A.7.54 Traditionally culture and heritage in Germany was been primarily the responsibility of the often small local principedoms and city states, (together with the churches and private owners and benefactors), and today responsibility remains mainly with the regions (Länder), with only a very limited central government role. The highly centralised political control of culture between 1933 and 1945 under the National Socialist regime was an exception, and partly in response to this the May 1949 Federal Constitution agreed with the Western Allies virtually prohibited any involvement of the central government in the fields of education and culture. However, the incorporation of the former German Democratic Republic (DDR) and East Berlin after the fall of the Berlin Wall in 1989 created major constitutional and practical problems for the cultural sector (as for many others). In East Germany, between 1954 and 1989 the Ministry of Culture of the DDR had exercised very close control over cultural policies, institutions and activities at all levels throughout the country: at the time of reunification the Ministry's budget was €2.1 billion a year and it employed directly nearly 90,000 staff.

- A.7.55 After reunification was formalised in 1991 it was clear that the new eastern Länder and the unified City State of Berlin could not immediately take over financial and other responsibility for the more than 750 cultural bodies that were in principle being transferred to them. Consequently, since it appeared that a number of major DDR cultural institutions and organisations such as the leading museums, monuments, opera houses, theatre companies and orchestras etc. of East Berlin, Dresden, Leipzig etc. faced immediate collapse, temporary arrangements were made for continued Federal support for the most important of the DDR's cultural provision.
- A.7.56 Later, as part of the ratification of the Maastricht Treaty of European Union in 1994 the opportunity was taken to give very limited powers to the Federal government within the cultural field, and in 1997 the Schröder government appointed a Federal deputy minister for culture, who must however work in close cooperation with the culture ministers of the 13 Länder and the three City-States of Berlin, Hamburg and Bremen. Total public sector funding of culture and the heritage from the different levels of government is very generous in comparison with most other countries, and is currently estimated at around €8 billion per year (though expenditure has not increased in cash terms since 1996, implying a significant decline in real-terms public subsidy.)
- A.7.57 In the case of the longer-established heritage bodies, such as museums, monuments and sites, there is a very strong tradition of close integration into the public service. In many places there has therefore been strong opposition from both staff and some powerful political quarters to any proposal to change this relationship in any way, for example by diminishing the power of local politicians through the establishment of governing boards with private members on them. Similarly the introduction of private financing or income generation measures, or removing the employees' life-long job protection as civil servants have also been strongly opposed. Consequently there have been few if any significant transfers of such bodies to foundation or trust status so far, and not many internal "decentralisation" or similar reforms. (In most cases the professional staff remain overwhelmingly "academic" or "curatorial" in the narrow sense, with often very few personnel drawn from the newer museum and heritage professions now found in many other OECD countries, such as education, interpretation or management, and where such positions exist these often offer only "un-established" or temporary employment.)

- A.7.58 However, the “foundation” (*Stiftung*) model is becoming common in relation to new initiatives and facilities. Following the decision of the Allies in 1947 to dissolve the State of Prussia (which had in any case been partitioned between the occupying powers, there was an immediate problem over the management and funding of the many major museums, arts and heritage institutions that had previously been developed and managed by the Prussian government. After much consultation, in 1957 a Prussian Cultural Foundation (*Stiftung Preussischer Kulturbesitz*) was created as a partnership between the Federation government and the City of Berlin to take responsibility for the management and financing of these. In 1994 more or less parallel public foundation was established, this time between the governments of Berlin and the State of Brandenburg, to take responsibility for the historic palaces and gardens of the former Prussian Royal family: the *Stiftung Preussische Schlösser und Gärten in Berlin-Brandenburg*.
- A.7.59 An interstate foundation for culture, the *Kulturstiftung der Länder*, has also been established as a partnership between the Federal government and the then 12 States to share funding and activities of national scale and importance, or considered too onerous financially to be borne by a single State, including supra-regional institutions and foundations such as the National Library, and the development and implementation of international cultural relations. Similarly, there is now a national advisory committee on the protection of monuments (*Deutsches Nationalkomitee für Denkmalschutz*) and a national public sector foundation that undertakes the practical maintenance and conservation of many monuments of national importance the *Deutsches Stiftung Denkmalschutz*.
- A.7.60 The public benefit foundation model is now perhaps the most common one for new initiatives originating wholly or partly within the private sector, for example as the result of the donation or bequest of an important art or other collection, as with the *Stiftung Ernst Barlach* at Güstrow. However, it is also being used for some important institutions formerly under the East German government, such as the Bach family musical archive at Leipzig, the Oceanographic Museum at Stralsund on the Baltic, and the Bauhaus at Dessau. A particularly interesting example is the creation of a foundation in partnership with Poland to preserve and manage jointly Schloss Branitz and the Fürst Pückler Park, now cut in two by the post-1945 border. (Poland and Germany are submitting this jointly to UNESCO for inscription as a trans-national site on the World Heritage List.)

- A.7.61 In recent years there have been a number of important developments intended to promote private and, particularly, business, support for culture, with special commissions recommending businesses to establish their own foundations, where they did not exist, in 1995, and to engage in sponsorship in 1996. Three forms of foundation are found. Some create or manage a particular institution such as a museum or monument, others may be established to run a specific, time-limited, project (such as the European City of Culture), while the remainder have a promotional or grant-making role. Recent initiatives to promote sponsorship and private giving through the foundation model seem to have had an effect. By 1999 more than half (52%) of the country's 273 leading businesses surveyed reported that they were actively involved in supporting the cultural sector, and a high proportion of the country's cultural activities, town and some churches are now receiving such support from foundations.
- A.7.62 There is now a national organisation for foundations which exists to promote and support such business and private patronage: the *Deutsche Bundesstiftung Umwelt*, and the latest survey from this identified 11,000 non-profit public benefit foundations in Germany, of which a quarter are supporting culture and heritage in some form, while new foundations are being registered at the rate of around three a day. In addition to foundations, there is a relatively large number of private associations being established for cultural heritage and tourism promotion purposes, often relatively small scale, and usually linked to a specific monument, site, museum or local territory.

#### **Nature of Tax and Other Economic Instruments**

- A.7.63 The main advantage of not-for-profit foundations and associations is their exemption from normal business taxes. The new 1997 law on sponsoring allows the donor to treat the donation as either a charitable gift - if there is no direct financial benefit to the donor, or as a business expense where there is a measurable benefit (e.g. through advertising and promotion of the sponsoring business). Sponsorship is 100% deductible as a legitimate business expense providing the direct benefit to the sponsor in comparison with other kinds of advertising or promotion is at least equal in value to the cost of the sponsorship.
- A.7.64 In the case of charitable giving the total tax deduction for all donations in any year can be up to 10% of income in the case of individuals, and either 10% of pre-tax profits or 0.2% of annual turnover in the case of businesses. Within these limits businesses may also claim the same deduction for donations "in kind" (such as

equipment, professional staff secondments etc.). Despite these efforts and incentives, the total and relative levels of self-generated income of most German cultural and heritage bodies remains low in comparison with most otherwise comparable countries. Self-generated income, including admissions and trading activities averages only 28% of total cultural expenditure, and within this fundraising and sponsorship only amount to about 0.6%.

- A.7.65 However, there are considerable management advantages in the German foundation model, even discounting a possible fund-raising or sponsorship role. Foundations have much greater flexibility in accounting terms and are, for example, able carry funds over from one year to another, whilst within the public sector and surpluses or unspent moneys must legally be returned to the public authority providing them at the end of each financial year. Foundations are also much less restricted in staffing terms: they are not required to recruit only from within the established public service, and they can - within national and European law limits - negotiate employment terms and conditions that are seems as appropriate to the particular institution or project.
- A.7.66 On the other hand, it has to be recognised that while the financial and personnel responsibilities and liabilities of a cultural institution run directly by e.g. a city administration are ultimately the responsibility of the city council, this in not the case with a body constituted as an independent foundation. Consequently can be legitimate concern about the potential lack of stability if the body relies on annual donations from a business or private patron and on fund-raising.
- A.7.67 It is clear that significant working capital is needed - perhaps even a substantial endowment fund - if only for normal cash-flow management purposes, though at the moment this seems to be more a point for discussion about longer-term reforms and stabilisation measures, rather than matters for action.

## **Malta**

- A.7.68 Government involvement in the management of the heritage in Malta began in colonial times, with the establishment of a government-run Museum (now the National Museum of Archaeology) in 1904, with special cultural protection legislation from the 1920s onwards. The Malta Government's Museums Department has developed considerably since independence in 1964, and by 2002 was responsible for this and five more national museums on Malta itself (Fine Arts, Maritime, Natural History, Natural Science and the War Museum), plus Folklore and Archaeology Museums on the smaller island of Gozo. In addition the Museums Department managed two dozen monuments and

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sites, and supervised heritage protection under the Antiquities (Protection) Act, 1925-1974 (Cap. 54), which provided for English-type “scheduling” of important monuments and sites, and also regulated matters such as archaeological excavations, the export of movable cultural property more than 50 years old, and among other provisions prohibited the import or metal detectors, lest these be used illegally on archaeological sites.

- A.7.69 However, this long-standing legislation has recently been replaced by the Cultural Heritage Act 2002, Cap. 445 (Act VI of 2002, amended later the same year by Act XVIII of 2002). As with the Act that it replaces, this is wide-ranging, but in relation to the present interest substantial part of the Act makes a number of important organisational changes, based on transferring direct civil service management to six new bodies that are nominally at least at “arms length” from Government: the Superintendance of Cultural Heritage, the Heritage Malta government agency, the Malta Centre for Restoration, the Committee of Guarantee, the Cultural Heritage Fund and the National Forum for Cultural Heritage.
- A.7.70 The Superintendance of Cultural Heritage under a Superintendent of Cultural Heritage appointed by the Minister. Apparently modelled closely on the long established *Soprintendencias* of nearby Italy, this has the duty of among other things maintaining a national inventory of State, Church, Foundation and other publicly accessible cultural property, to control and supervise archaeology, and to advise on planning matters.
- A.7.71 The second organisation is a government “operating agency” called Heritage Malta, which the Act incorporates as a body corporate with a legal personality. The functions are defined as:
- “(a) to ensure that museums, collections, sites, buildings and property, movable or immovable, forming part of the cultural heritage, owned or administered by it, are conserved, restored, administered, managed, operated, marketed, studied and presented for exhibition, in the best way possible;
  - (b) to acquire in property or in trust objects, collections of objects, sites, buildings, for the Museums, collections, sites and buildings;
  - (c) to perform or commission, in each case under the surveillance of the Superintendent, the restoration or conservation of cultural property owned or otherwise held or administered by it;
  - (d) to coordinate with the Malta Tourism Authority, the Planning Authority and other pertinent bodies, measures which are deemed necessary so that objects, sites and buildings forming part of the cultural heritage are protected and made accessible through any necessary conservation, maintenance, restoration, exhibition and promotion;

(e) to promote public knowledge, education, appreciation and enjoyment of the cultural heritage;

(f) in coordination with the Superintendence to consult with Local Councils in the preservation of the cultural heritage in their locality; and

(g) to perform such other functions which the Minister may from time to time assign to it.

A.7.72 While the Heritage Malta agency has its own Board including a Chairperson, all of whom are appointed by the Minister, and it is clear that Heritage Malta and its appointed Chief Executive are in law and in practice subject to close control by the Minister and by the Superintendent of Cultural Heritage.

A.7.73 The third body is the Malta Centre for Restoration, which, in cooperation with the Culture and Education Ministers and the University of Malta, is responsible for the education, recognition and supervision of conservator-restorers, for the supervision of and promotion of cultural heritage conservation and other conservation-related duties.

A.7.74 The fourth new body is the Committee of Guarantee comprising 12 members: a Chairperson and three other members appointed by the Culture Minister, two appointed by the Tourism and Environment Ministers respectively, one by the Minister for Gozo, a member of the Catholic Cultural Heritage Commission appointed by the Church, plus *ex officio* the Superintendent of Cultural Heritage and the Chairpersons of Heritage Malta, the Centre for Conservation and the Malta Planning Authority. The main duties of the Committee of Guarantee are ensuring cooperation and coordination between the different government bodies, and the administration of a new Cultural Heritage Fund. Though technically separate from the Committee, the Fund is another body corporate with its own legal personality which manages all government moneys allocated for cultural heritage purposes under the provisions of the Cultural Heritage Act or any other legislation, and any funds or movable or immovable properties donated for cultural heritage purposes by non-governmental, corporate or private bodies or persons.

A.7.75 The final new body is the National Forum for Cultural Heritage, which is convened once a year by the Minister under a Chairperson appointed by the Minister to discuss cultural heritage matters. Potentially the Forum has a very large and wide-ranging membership. It aims to bring together representatives of the Superintendence, Heritage Malta, the Centre for Conservation, the Committee of Guarantee, the Catholic Cultural Heritage Commission, any other Religious Cultural Commissions, other government departments and agencies, the Mayors of all local councils and the University of Malta, and any other non-

governmental heritage organisation registered with the Superintendence. In addition, simply by registering their interest in writing with the Minister, any other institution, individual specialist or consultant, or representative of the commercial sector, may take part in the annual meetings of the National Forum.

- A.7.76 The aim of the new regime appears to have been to reduce direct government involvement and to encourage Heritage Malta and the Committee of Guarantee in particular to seek to use of non-governmental moneys, whether through fund-raising and sponsorship, or the use of private capital loans. However, any capital borrowing remains ultimately a charge on the Consolidated Fund and hence is guaranteed, so any proposed loan over 50,000 Maltese liri (approx. €117,000) requires ministerial approval, and the Finance Minister may impose whatever conditions he thinks fit.
- A.7.77 The various agencies are allowed, indeed encouraged, to carry forward unspent balances from their annual accounts into reserve funds for future developments, but on the other hand their annual estimates still have to be submitted not just to the Minister of Culture, but also to Parliament, for approval. There seems to be no guarantee that an actual or forecast healthy surplus or accumulated reserve fund in the audited accounts for a previous year or budget plans shown in the forward estimates will not lead to a reduction in Government support. Also, once the annual estimates have been approved by Parliament the permission of the Minister is required for any proposed movement between different heads or even sub-heads of expenditure.

## **Canada**

### **Historic context and background to heritage management**

- A.7.78 In Canada, as a Federal State, there are many important differences from Province to Province in not only the provision and management of public services, but also local and regional taxation, so these notes relate only to the Federal government and to the example of one province - British Columbia.
- A.7.79 Canada has been gradually reducing the direct involvement of Government in the heritage and museums sector over the past few decades. The major national museums in and around the capital were first transferred to a semi-independent public body - the National Museums Corporation - and responsibility was further devolved in 1988, with the passing of separate Acts incorporating each museum as separate independent public corporations or foundations with their own Boards and which are - nominally at least - now operated at arms-length. A wide range of other Federal functions in relation to both the cultural and natural heritage,

including the management of national parks and historic Federal buildings and other properties, have similarly been devolved to a Chartered public body: the Parks Canada Agency which operates in a similar way.

- A.7.80 In addition, a number of Federal and Provincial historic sites have been devolved to local public or private management as non-profit trusts or foundations. Also, across the country some provincial and local museums are also being transferred out of direct public sector control and management. For example in the early 1990s the Ontario Provincial Government decided to close the Ontario Agricultural Museum, but after protests and campaigns it was transferred to a non-profit foundation status and handed over to the Museum's volunteers and local supporters, who have successfully run the Museum ever since.
- A.7.81 The most drastic changes seem to have been in British Columbia, where over the last three years the Ministry of Community, Aboriginal and Women's Services of the Provincial
- A.7.82 Government took over responsibility for culture and heritage, and has virtually abolished its Culture and Heritage branches of the Provincial Government, retaining only a dozen of the Ministry's previous policy, administrative and finance staff of more than 100. The declared policy is now to: " Build partnerships with other levels of government, institutions, non-profit organizations and the private sector to facilitate increased investment in heritage initiatives and build capacity for community heritage conservation, [and] develop and monitor long-term agreements for the management of [provincial heritage properties](#) by local governments, non-profit organizations and private businesses." Under this, the British Columbia government is very actively seeking to divest itself of responsibility for the Province's heritage and culture responsibilities built up over more than a century.
- A.7.83 Almost all the 13 Province historic heritage sites, and large numbers of natural heritage properties, have now been devolved to commercial or non-profit private sector concessions, or merged into Crown Corporations, Trusts, non-profit societies, Foundations, to the municipal level of government. The Royal British Columbia Museum, one of the largest and most important in Canada, is now an arms-length Crown Corporation with its own constitution and Board (and much reduced public funding). Three key "government owned" organisations: the British Columbia Heritage Trust, the Historic Sites Advisory Board and the British Columbia Arts Festival have all been dissolved and their assets dispersed to local government, private non-profit bodies or the fully commercial sector.

**Application of trust-type and other organisational approaches***The Canadian Commercial Heritage Properties Incentive Fund*

- A.7.84 The objective of the Commercial Heritage Properties Incentive Fund is to engage a broad range of taxable Canadian corporations in preserving Canada's heritage properties, to the benefit of Canadians and communities throughout Canada.
- A.7.85 The program is designed to award financial incentives to eligible commercial historic places listed on the Canadian Register of Historic Places (provided that conservation work complies with the Standards & Guidelines for the Conservation of Historic Places in Canada) in order to:
- ❑ save threatened historic properties from demolition or destruction;
  - ❑ preserve historic properties for future generations through proper conservation; and
  - ❑ develop new or enhance existing commercial purposes for historic properties within the community.

**Nature of Tax and Other Economic Instruments**

- A.7.86 In Canada individuals, corporations and other businesses and charities are primarily regulated by the (Federal) Canadian Customs and Revenue Agency (CCRA), though both provinces and municipalities levy their own taxes in addition. In general the approval or otherwise of applications for charitable status, and the regulation of charities (and non-charitable non-profit bodies) are primarily the responsibility of the charities division of the CCRA. Once registered a foundation, trust not-for-profit association or other heritage body is in principle exempt from all income and business taxes. (Exemption or otherwise from provincial or local taxes, such as property or sales taxes is a matter for the relevant provincial or municipal authority.)
- A.7.87 Charities are nevertheless required to submit annual income/business tax returns (though in a special format) but providing the trust or foundation etc. keeps within its approved objectives and terms, generally no tax is payable. (The tax return seems to focus much more on identifying donations, sponsorship and other assistance received from taxpayers, so that the benefactors can be granted the appropriate allowances and deductions in respect of their charitable giving.) The tax return will also indicate whether or not the foundation, trust or other charity is actively making use of its capital and/or income in accordance with its charitable purpose. (Though it is permissible for approved charities to build up financial

reserves and investments both as working capital general purposes or in anticipation of major future expenditure, such as major building maintenance or improvements, they risk reclassification as a private foundation and losing some of the tax and other benefits and if such unused capital reserves are excessive.)

- A.7.88 Canada has generous provisions intended to encourage both private and business taxpayers to support charities and other public benefit activities and organisations: indeed since the latest improvements in the tax code from 2003 it is among the most generous of any major country in such provisions. In general the full value of all donations, whether in cash or kind, to eligible charities are full deductible from an individual's or business's annual income tax bill up to a limit of 75% of their net taxable income for the year in most cases, and up to 100% in the case of authorised "cultural or ecological" gifts. The eligible amount of any deduction is the amount of the donation or gift in excess of any advantage - whether property, service, compensation or other benefit - that the taxpayer received for making the donation or gift.
- A.7.89 Gifts to museums or other heritage bodies with charitable status of cultural property considered to be of national importance under the Cultural Property Import & Export Act can receive accelerated tax benefits, including exemption from capital gains tax as well as an immediate 100% tax write off for the value of the donation. Further, only donations valued at over \$1,000 require independent external valuation: less valuable items can be self-appraised and valued for the purposes of these tax concessions. (Importantly, "national importance" is determined locally, not nationally, and in practice virtually anything offered to, and accepted by, a national or local museum or heritage body is likely to be granted this status.)
- A.7.90 Further, the special heritage provisions allow the carry forward of any value of such gifts in excess of the 100% deduction in the year of the donation for a further four years, making a total of five years. In other words an individual making a one-off major donation could receive a tax reduction of up to 100% in each of the subsequent five years if the value of the gift warranted this.