



SEANAD ÉIREANN

**AN BILLE OIDHREACHTA, 2016
HERITAGE BILL 2016**

**LEASUITHE TUARASCÁLA
REPORT AMENDMENTS**

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AN BILLE OIDHREACHTA, 2016 —AN TUARASCÁIL

HERITAGE BILL 2016 —REPORT

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

*1. In page 3, between lines 21 and 22, to insert the following:

“Amendment of section 1(1) of Act of 1986

3. Section 1(1) of the Act of 1986 is amended—

- (a) by the deletion of the definition of “common interest property”, and
- (b) by the insertion of the following definitions:

“ ‘authorised officer’ means a person appointed as an authorised officer under section 7B;

‘canal bye-laws’ means bye-laws made under section 7;”.

2. In page 4, line 9, after “designate” to insert “, without unnecessarily impeding navigation,”.

—*Senators David Norris, Brian Ó Domhnaill.*

*3. In page 4, lines 12 and 13, to delete “Minister for Communications, Energy and Natural Resources” and substitute “Minister for Communications, Climate Action and Environment”.

*4. In page 4, line 15, to delete “canals.” and substitute “canals.”.

*5. In page 4, to delete lines 16 to 19.

6. In page 4, line 16, after “Ireland” to insert “to maintain navigations,”.

— *Senators David Norris, Brian Ó Domhnaill.*

7. In page 4, line 31, after “canals” to insert “subject to existing maximum dimensional criteria”.

—*Senators David Norris, Brian Ó Domhnaill.*

8. In page 4, line 32, after “canals” to insert “in the event of emergencies within agreed procedures on a temporary basis”.

—*Senators David Norris, Brian Ó Domhnaill.*

9. In page 4, line 34, after “boat” where it secondly occurs to insert the following:

“applied in exceptional circumstances where existing bye-laws are not being adhered to on a continuous basis and with an independent

appeal mechanism provided for and/or within agreed procedures for a short determined time only if required by one or more of pre-determined scenarios”.

—*Senators David Norris, Brian Ó Domhnaill.*

- 10.** In page 4, line 36, to delete “boats on the canals or other canal property” and substitute the following:

“the canals or other canal property by all users. Any permits or licences issued should be set at a cost appropriate to the intended use and linked to the rate of inflation in the economy”.

—*Senators David Norris, Brian Ó Domhnaill, Lynn Ruane, Alice-Mary Higgins.*

- 11.** In page 4, line 36, to delete “boats on the canals or other canal property” and substitute the following:

“the canals or other canal properties by all users. Any permits and licences issued should be set at a cost appropriate to the intended use and taking into account the rate of inflation in the economy. In the case of residential boats moored in designated rent pressure zones, increases in the cost of permits and licences should only be permitted in accordance with section 19 of the Residential Tenancies Acts 2004 to 2016”.

—*Senators Lynn Ruane, Alice-Mary Higgins.*

- 12.** In page 5, line 3, after “canals” to insert the following:

“within agreed procedures on a temporary basis, taking into account with due diligence the safety of boats that may be on that stretch of the canal that could be effected by the alteration of water levels, that may need to complete the journey underway and notifying owners of same”.

—*Senators David Norris, Brian Ó Domhnaill.*

- *13.** In page 5, lines 6 and 7, to delete “Minister for Communications, Energy and Natural Resources” and substitute “Minister for Communications, Climate Action and Environment”.

- 14.** In page 5, line 10, after “property” to insert the following:

“, taking into account and optimising in each area with regard to safety, security and access by the emergency services”.

—*Senators David Norris, Brian Ó Domhnaill.*

- 15.** In page 5, line 12, after “activities” to insert “prescribed for and detailed in the bye-laws”.

—*Senators David Norris, Brian Ó Domhnaill.*

- 16.** In page 5, line 14, after “property” to insert “as set out in the bye-laws”.

—*Senators David Norris, Brian Ó Domhnaill.*

17. In page 5, line 26, after “boat” to insert “meeting agreed specifications as determined in the bye-laws,”.

—*Senators David Norris, Brian Ó Domhnaill.*

18. In page 5, line 28, after “7A(1)(b)” to insert the following:

“and only issued where there is failure to comply with warning notices as defined within the bye-laws”.

—*Senators David Norris, Brian Ó Domhnaill.*

*19. In page 5, to delete lines 29 to 33 and substitute the following:

“(2) (a) If Waterways Ireland proposes to make bye-laws under subsection (1), it shall—

(i) publish a notice of the proposal on its website and in one or more newspapers circulating in the vicinity of the canal or other canal property to which the proposal relates, and

(ii) communicate the proposal in writing to each local authority whose functional area is affected by the proposal.”.

*20. In page 6, line 5, to delete “21 days” and substitute “90 days”.

—*Senators Brian Ó Domhnaill, David Norris.*

*21. In page 6, line 7, to delete “21 days” and substitute “90 days”.

—*Senators Brian Ó Domhnaill, David Norris.*

*22. In page 6, line 12, to delete “21 days” and substitute “90 days”.

—*Senators Brian Ó Domhnaill, David Norris.*

*23. In page 6, line 13, to delete “21 days” and substitute “90 days”.

*24. In page 6, line 15, to delete “Minister for Arts, Heritage and the Gaeltacht” and substitute “Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs”.

25. In page 6, to delete lines 24 and 25 and substitute the following:

“(ii) publish canal bye-laws on its website,

and

(iii) provide to authorised officers for presentation on request for reference purposes a copy, either hard copy or copy by electronic transmission by smart phone, iPad, etc., of the bye laws in the event of a bye law issue being raised by the authorised officer.”.

—*Senators David Norris, Brian Ó Domhnaill.*

26. In page 6, to delete lines 26 to 28.

—*Senators David Norris, Brian Ó Domhnaill.*

***27.** In page 6, between lines 28 and 29, to insert the following:

“(4) Waterways Ireland shall, within 5 years after the making of any bye-laws under subsection (1) and thereafter at intervals not exceeding 5 years, review such bye-laws and prepare and submit a report on its findings to the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs consequent on that review.

(5) The Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs shall, as soon as practicable after receiving a report under subsection (4), cause a copy of the report to be laid before each House of the Oireachtas.”.

***28.** In page 6, line 29, to delete “(4) A person” and substitute “(6) A person”.

29. In page 6, line 32, to delete “a class D fine” and substitute “warning notices and fines as defined within the bye-laws”.

—*Senators David Norris, Brian Ó Domhnaill.*

***30.** In page 6, line 33, to delete “(5) Where” and substitute “(7) Where”.

***31.** In page 7, line 1, to delete “(6) Every” and substitute “(8) Every”.

***32.** In page 7, line 8, to delete “(7) Waterways” and substitute “(9) Waterways”.

33. In page 7, line 15, after “section 7” to insert “and can produce proof of same”.

—*Senators David Norris, Brian Ó Domhnaill.*

34. In page 7, between lines 19 and 20, to insert the following:

“(b) details of reason for grounds for believing that an offence has been committed and details of proof of this offence,”.

—*Senators David Norris, Brian Ó Domhnaill.*

35. In page 7, line 20, to delete “21 days” and substitute “30 days”.

—*Senators David Norris, Brian Ó Domhnaill.*

36. In page 7, line 29, after “notice” to insert “determining reasonable proof”.

—*Senators David Norris, Brian Ó Domhnaill.*

37. In page 7, between lines 41 and 42, to insert the following:

“(d) where a person wishes to contest the notice served, the matter should be referred to an independent appeals board who will adjudicate on the matter as determined in the bye-laws.”.

—*Senators David Norris, Brian Ó Domhnaill.*

38. In page 7, line 44, after “bye-laws” to insert the following:

“ . The fine payable shall be clearly outlined in the bye-laws and shall attach to the offence for a specific period of time as determined in the bye-laws”.

—*Senators David Norris, Brian Ó Domhnaill.*

39. In page 8, line 3, after “defendant” to insert the following:

“ . This will be determined by the issue of a receipt by Waterways Ireland confirming that a payment has been received”.

—*Senators David Norris, Brian Ó Domhnaill.*

40. In page 8, line 10, to delete “(2) A person” and substitute “(2)(a)# A person”.

—*Senators Brian Ó Domhnaill, David Norris.*

#This is the appropriate reference if amendment no. 41 is accepted.

41. In page 8, between lines 14 and 15, to insert the following:

“(b) All authorised officers should be permanent employees of Waterways Ireland.”.

—*Senators Brian Ó Domhnaill, David Norris.*

42. In page 8, lines 25 and 26, to delete “boats may be used in the canals in” and substitute “the canals and canal property may be used in”.

—*Senators David Norris, Brian Ó Domhnaill.*

43. In page 8, line 34, to delete “stop a boat that is under way” and substitute “direct a boat to stop when it is safe to do so”.

—*Senators David Norris, Brian Ó Domhnaill.*

44. In page 8, line 36, after “inspection” to insert “evidence of”.

—*Senators David Norris, Brian Ó Domhnaill.*

45. In page 9, between lines 2 and 3, to insert the following:

“(iv) if this evidence is not available then an individual should be able to produce said evidence within a reasonable period of time as determined in the bye-laws,”.

—*Senators Brian Ó Domhnaill, David Norris.*

46. In page 9, line 17, to delete “A person to whom a direction is given, or a request is made” and substitute “Where there is an identified risk to safety a person to whom a direction is given, or a request is made, by a suitably qualified authorised officer”.

—*Senators David Norris, Brian Ó Domhnaill.*

47. In page 9, lines 27 and 28, to delete “a class D fine” and substitute “fines as outlined in the byelaws”.

—*Senators David Norris, Brian Ó Domhnaill.*

*48. In page 11, to delete lines 16 to 21.

49. In page 11, to delete lines 30 to 35.

—*Senators Grace O'Sullivan, Alice-Mary Higgins.*

*50. In page 11, line 30, to delete “(as amended by section 46 of the Act of 2000)” and substitute “(as amended by the Inland Fisheries Act 2010)”.

51. In page 11, line 32, to delete “the burning of vegetation during such period or periods” and substitute the following:

“the issue of an order to a landowner to permit the targeted removal of a recognised invasive species during a specified period or periods”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

52. In page 11, line 35, after “flora” to insert “but covering an area no greater than 10 per cent of such uncultivated land in the State”.

—*Senators Grace O'Sullivan, Alice-Mary Higgins.*

*53. In page 12, to delete lines 1 to 6 and substitute the following:

“(2) Notwithstanding section 40 of the Act of 1976, the Minister may make regulations, in relation to land referred to in that section, to allow the cutting of vegetation growing in any hedge or ditch on the roadside during the month of August of such year as is specified in the regulations, subject to such conditions or restrictions specified in the regulations in relation to hedgerow husbandry, management or maintenance to ensure the protection of fauna or flora.”.

54. In page 12, lines 2 and 3, to delete “, grubbing or destroying otherwise”.

—*Senators Kevin Humphreys, Ivana Bacik, Gerald Nash, Aodhán Ó Riordáin, Denis Landy, Fintan Warfield.*

55. In page 12, line 4, after “roadside” to insert the following:

“in such part or parts of the State as specified in the regulations, but covering an area no greater than 20 per cent of the hedgerows in the State”.

—*Senators Kevin Humphreys, Ivana Bacik, Gerald Nash, Aodhán Ó Riordáin, Denis Landy.*

56. In page 12, line 4, after “regulations” to insert the following:

“in such part or parts of the State as specified in the regulations, but covering an area no greater than 10 per cent of the uplands in the State”.

—*Senators Kevin Humphreys, Ivana Bacik, Gerald Nash, Aodhán Ó Ríordáin, Denis Landy, Fintan Warfield.*

57. In page 12, between lines 6 and 7, to insert the following:

“(3) All hedges cut and uplands burned under this section of this Act shall be included in a register with the Department of Communications, Climate Action and Environment which is made publicly available.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

58. In page 12, between lines 6 and 7, to insert the following:

“(3) Hedgerows cut under the pilot scheme in *Section 8* of this Act and hedgerows cut under a *Section 70* order must be included in a register that is publicly available.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

*59. In page 12, lines 12 and 13, to delete “for such further period as is expressed in the resolution” and substitute “for such further period not to exceed 3 years as is specified in the resolution”.

60. In page 12, between lines 13 and 14, to insert the following:

“(c) The regulations set out by the Minister under *Section 8* of this Act will be laid before the Joint Oireachtas Committee on Arts, Heritage, Regional, Rural and Gaeltacht Affairs for consideration.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

61. In page 12, between lines 13 and 14, to insert the following:

“(c) Any subsequent changes to the regulations under *Section 8* of this Act will be put before the Joint Oireachtas Committee on Arts, Heritage, Regional, Rural and Gaeltacht Affairs for consideration.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

62. In page 12, between lines 13 and 14, to insert the following:

“(5) The Minister shall have regard to the objectives and actions in the All-Ireland Pollinator Plan 2015 to 2020 in making regulations under *Section 8* of this Act.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

*63. In page 12, between lines 15 and 16, to insert the following:

“Disapplication of section 40(1) of Act of 1976 to cutting etc. undertaken pursuant to section 70 of Roads Act 1993

9. Section 40(2) of the Act of 1976 is amended by inserting the following paragraph after paragraph (f):

“(g) the felling, cutting, lopping, trimming or removal of a tree, shrub, hedge or other vegetation pursuant to section 70 of the Roads Act 1993;”.

64. In page 12, between lines 15 and 16, to insert the following:

“9. The Minister shall establish a register of professional hedge-cutting contractors and publish a set of hedge-cutting guidelines which must be adhered to by hedge-cutting contractors and landowners.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

65. In page 12, between lines 15 and 16, to insert the following:

“9. The Minister shall have regard to the objectives and actions in the All-Ireland Pollinator Plan 2015 to 2020 in making regulations under this Act.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

***66.** In page 12, between lines 17 and 18, to insert the following:

“(a) in section 44 (as amended by section 5 of the Act of 2010)—

(i) by the substitution for subsection (1) of the following:

“(1) Any person, not being the owner or occupier of land, who, without the permission of the owner or occupier of the land or, in the case some other person is entitled to enjoy sporting rights over the land, that other person—

(a) hunts a wild bird or wild animal on the land,

(b) carries or brings on the land a thing mentioned in section 72(7) (as amended by section 65(d) of the Act of 2000), or

(c) shoots over or into the land,

commits an offence.”, and

(ii) in subsection (2) by the substitution of “Where a person who is neither the owner nor the occupier of land carries on the land a thing mentioned in section 72(7),” for “Where a person who is neither the owner nor the occupier of land carries on the land a firearm, other weapon or device (or a part thereof) described in paragraph (c) of subsection (1) of this section,

(b) in section 69 (as amended by section 63 of the Act of 2000)—

(i) by substituting for subsection (3)(c) the following:

“(c) Any person who assaults an authorised person in the exercise of any power conferred on him or her by this Act shall be guilty of an offence.”, and

(ii) by inserting after subsection (7A) the following:

“(7B) A statement or admission made by a person pursuant to a requirement to give information under section 72 or 73 shall not be admissible as

evidence in proceedings against the person for an offence (other than an offence under subsection (3)).”, ”.

*67. In page 12, to delete lines 18 to 23.

*68. In page 12, line 24, to delete “section 65” and substitute “section 6”.

*69. In page 15, line 18, to delete “is being used” and substitute “has been or is being used”.

*70. In page 16, between lines 32 and 33, to insert the following:

“(5) Where a person commits an offence under section 69(3)(c) such person is liable—

(a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 6 months or to both, or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 5 years or to both.”.

*71. In page 16, line 33, to delete “(5) Where” and substitute “(6) Where”.

*72. In page 18, to delete line 2.

—*Senators Grace O'Sullivan, Alice-Mary Higgins.*

*73. In page 19, to delete lines 1 to 38.