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*Number 14 of 2026*

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**Air Pollution (Amendment) Act 2026**

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## **AIR POLLUTION (AMENDMENT) ACT 2026**

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ACTS REFERRED TO

Air Pollution Act 1987 (No. 6)

Companies Act 2014 (No. 38)

Environment (Miscellaneous Provisions) Act 2011 (No. 20)

Environment (Miscellaneous Provisions) Act 2015 (No. 29)

Environmental Protection Agency Act 1992 (No. 7)

Local Government (Water Pollution) (Amendment) Act 1990 (No. 21)

Local Government (Water Pollution) Act 1977 (No. 1)

Local Government Act 2001 (No. 37)

Road Traffic Act 1961 (No. 24)

Taxes Consolidation Act 1997 (No. 39)



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*Number 14 of 2026*

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## **AIR POLLUTION (AMENDMENT) ACT 2026**

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An Act to amend the Air Pollution Act 1987 to make new provision for the appointment and powers of authorised persons, for offences, penalties, fixed payment notices and compliance notices, for regulations relating to fuel, for the establishment of registers, appointment of registration bodies and registration on such registers, for the forfeiture of articles connected with an offence, and for the sharing of information, and for other purposes; and to provide for related matters. [18th June, 2026]

**Be it enacted by the Oireachtas as follows:**

### **PART 1**

#### **PRELIMINARY AND GENERAL**

##### **Short title and commencement**

1. (1) This Act may be cited as the Air Pollution (Amendment) Act 2026.
- (2) This Act shall come into operation on such day or days as the Minister for Climate, Energy and the Environment may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

##### **Definition**

2. In this Act, “Principal Act” means the Air Pollution Act 1987.

##### **Repeals**

3. The following are repealed:
  - (a) in the Principal Act:
    - (i) in section 11, subsections (1) and (3);
    - (ii) section 12;
    - (iii) section 14;
    - (iv) Part IA;

- (v) section 53;
- (b) Part 3 of the Environment (Miscellaneous Provisions) Act 2011;
- (c) sections 19, 20, 23, 24 and 26 of the Environment (Miscellaneous Provisions) Act 2015.

## PART 2

### AMENDMENT OF PRINCIPAL ACT

#### **Amendment of section 4 of Principal Act**

**4.** The Principal Act is amended by the substitution of the following section for section 4:

- “4.** ‘Air pollution’ in this Act means the presence of a substance in air in such a quantity as to be liable to—
  - (a) be injurious to public health,
  - (b) have a deleterious effect on flora or fauna or an ecosystem,
  - (c) damage property,
  - (d) create a nuisance, or
  - (e) impair or interfere with amenities or the environment.”.

#### **Amendment of section 7 of Principal Act**

**5.** Section 7(1) of the Principal Act is amended—

- (a) by the deletion of the following definitions:
  - (i) “fuel activity”;
  - (ii) “fuel register”;
  - (iii) “the register”,
- (b) by the substitution of the following definition for the definition of “authorised person”:
  - “ ‘authorised person’ means a person appointed as an authorised person under section 14A or 14B;”,
- (c) in the definition of “emission”, by the substitution of “air” for “atmosphere”,
- (d) by the insertion of the following definition:
  - “ ‘functional area’, in relation to a local authority, means the administrative area of the local authority for the purposes of the Local Government Act 2001;”,
- (e) by the substitution of the following definition for the definition of “local authority”:

“ ‘local authority’ means a local authority within the meaning of the Local Government Act 2001;”,

(f) by the substitution of the following definition for the definition of “pollutant”:

“ ‘pollutant’ means—

- (a) any substance specified in the First Schedule, or
- (b) any other substance (including a substance which gives rise to odour) which, when emitted into the air, either by itself or in combination with any other substance, may cause air pollution;”,

and

(g) by the substitution of the following definition for the definition of “reserved function”:

“ ‘reserved function’ means a reserved function within the meaning of the Local Government Act 2001;”.

### **Continuing offences**

6. The Principal Act is amended by the insertion of the following section after section 11:

“**11A.** (1) A person guilty of a relevant offence shall, on each day on which, after having been convicted of that offence, he or she continues the contravention that constitutes the offence, be guilty of a further offence and for each such further offence shall be liable—

- (a) on summary conviction, to a class E fine, or
- (b) on conviction on indictment, to a fine not exceeding €5,000.

(2) In this section, ‘relevant offence’ means an offence under any provision of this Act other than—

- (a) section 16(3) or (5),
- (b) section 53C(2), or
- (c) section 53W(2).”.

### **Amendment of section 12A of Principal Act**

7. The Principal Act is amended by the substitution of the following section for section 12A:

“**12A.** (1) Where an authorised person has reasonable grounds for believing that a person has committed an offence under section 53C(2), the authorised person may serve on the person a notice (a ‘fixed payment notice’) in the prescribed form stating—

- (a) that the person is alleged to have committed the offence,

- (b) that the person may, during the period of 28 days beginning on the date of the fixed payment notice, make to the local authority specified in the notice a payment of €1,000 in respect of the offence, using a payment method which is specified in the notice,
  - (c) that the person is not obliged to make the payment specified in the notice,
  - (d) that a prosecution of the person in respect of the offence will not be instituted during the period of 28 days beginning on the date of the notice, and
  - (e) that if the payment specified in the notice is made during the period of 28 days beginning on the date of the notice, the person will not be prosecuted for the offence.
- (2) Where a fixed payment notice is served on a person under subsection (1)—
- (a) the person to whom the notice applies may make a payment in accordance with subsection (1)(b),
  - (b) no prosecution of the person in respect of the offence to which the notice relates shall be instituted during the period of 28 days referred to in subsection (1)(b),
  - (c) if the person to whom the notice applies makes a payment in accordance with subsection (1)(b), the person shall not be prosecuted for the offence,
  - (d) the local authority specified in the notice shall receive and retain in accordance with subsection (4) any payment that the person makes in accordance with subsection (1)(b), and issue a receipt for the payment, and
  - (e) any payment received by the local authority specified in the notice shall not be recoverable by the person who made it.
- (3) In proceedings for an offence under section 53C(2), it shall be a defence for the defendant to prove that he or she made a payment in accordance with this section pursuant to a fixed payment notice served on the defendant in respect of the offence.
- (4) Moneys received by a local authority pursuant to a fixed payment notice shall be lodged to the credit of the local fund maintained by the local authority in accordance with section 97 of the Local Government Act 2001 and expended in accordance with that section.”.

**Enforcement provisions**

8. (1) The Principal Act is amended by the insertion of the following sections after section 14:

**“Authorised persons appointed by Minister**

**14A.** (1) The Minister may, for the purposes of this Act—

- (a) appoint such officers of the Minister as he or she considers appropriate to be authorised persons, and
  - (b) appoint such other persons as he or she considers appropriate to be authorised persons, for such period and subject to such other terms and conditions as he or she may determine.
- (2) Without prejudice to subsection (1), an appointment under that subsection may be subject to such terms as the Minister may determine—
- (a) as to engagement with local authorities,
  - (b) as to the areas in which or the circumstances in which the person appointed may exercise any of the powers of an authorised person, and
  - (c) otherwise in relation to the exercise of any of those powers.
- (3) A person appointed under subsection (1) shall on appointment be given a certificate of the appointment, and when exercising a power conferred by or under this Act shall, if requested by a person affected by the exercise of the power, produce the certificate to that person for inspection.
- (4) An appointment under subsection (1) ceases—
- (a) if the Minister revokes the appointment in writing,
  - (b) if the appointment is under subsection (1)(a) and the person appointed ceases to be an officer of the Minister, or
  - (c) if the appointment is for a fixed period and the period expires.

**Authorised persons appointed by local authority**

**14B.** (1) A local authority may for the purposes of this Act—

- (a) appoint such members of staff of the local authority as it considers appropriate to be authorised persons, and
  - (b) appoint such other persons as it considers appropriate to be authorised persons, for such period and subject to such other terms and conditions as it may determine.
- (2) Without prejudice to subsection (1), but subject to any regulations under subsection (3), any appointment under subsection (1) may be subject to such terms as the local authority may determine—
- (a) as to engagement with other local authorities, and
  - (b) otherwise in relation to the exercise by the person appointed of any of the powers of an authorised person.

- (3) The Minister may by regulations make provision in relation to the areas in which or the circumstances in which a person appointed under subsection (1) may exercise any of the powers of an authorised person.
- (4) A person appointed under subsection (1) shall on appointment be given a certificate of the appointment, and when exercising a power conferred by or under this Act shall, if requested by a person affected by the exercise of the power, produce the certificate to that person for inspection.
- (5) An appointment under subsection (1) ceases—
  - (a) if the local authority revokes the appointment in writing,
  - (b) if the appointment is under subsection (1)(a) and the person appointed ceases to be a member of staff of the local authority, or
  - (c) if the appointment is for a fixed period and the period expires.

**Definitions — sections 14D to 14H**

**14C.** (1) In sections 14D to 14H, ‘premises’ includes a vehicle.

- (2) In this section and sections 14D and 14E, ‘vehicle’ means any conveyance in or by which a person or thing is transported, which is designed for use on land or in water or both, and includes—
  - (a) a part of a vehicle,
  - (b) an article designed as a vehicle but not capable of functioning as a vehicle, or
  - (c) a container, trailer, tank or other thing which is designed or constructed to be placed on, in, or attached to, a vehicle.

**Powers of authorised persons to enter premises**

**14D.** (1) Subject to subsection (2), an authorised person—

- (a) may, at all reasonable times, enter any premises if he or she has reasonable grounds for believing that it is necessary for any purpose connected with this Act or regulations made under it, and
  - (b) may bring with him or her such persons (including members of An Garda Síochána and officers of the Revenue Commissioners) and such equipment as he or she considers necessary for the purpose.
- (2) An authorised person shall not enter a private dwelling other than—
- (a) with the consent of the occupier, or
  - (b) pursuant to a warrant under section 14G.

**Powers of authorised persons to detain and halt vehicles**

**14E.** (1) An authorised person may at any time, if he or she has reasonable grounds for believing that it is necessary to do so for any purpose connected with this Act or regulations made under it—

- (a) detain a stationary vehicle, or
- (b) subject to subsection (2), halt a vehicle and detain it.
- (2) An authorised person may not halt a vehicle in a public place except in the presence of a member of An Garda Síochána or an officer of the Revenue Commissioners.
- (3) An authorised person who detains a vehicle under subsection (1) may have it taken, or, where there is a driver in charge of the vehicle, require the driver to take it, to a place designated by the authorised person, and may detain it there.
- (4) An authorised person may detain a vehicle under subsection (1) or (3) for such period as he or she considers necessary for any purpose connected with this Act or regulations made under it.
- (5) In this section, ‘public place’ has the same meaning as it has in the Road Traffic Act 1961.

**Powers of authorised persons entering premises**

- 14F.** (1) Whenever an authorised person enters any premises for any purpose connected with this Act or regulations made under it, the authorised person may (to such extent as, having regard to all the circumstances, appears to the authorised person to be necessary)—
- (a) carry out inspections and searches,
  - (b) make plans, take photographs, make sound and video recordings and otherwise record information by any means,
  - (c) inspect and make copies of books, records and other documents (including documents stored in non-legible form),
  - (d) take possession of books, records and other documents, labels or packaging, and remove them and retain them for such period as the authorised person considers necessary,
  - (e) conduct on or in relation to anything on the premises any test, examination, analysis, investigation, measurement or monitoring relating to any matter,
  - (f) take samples and remove them for testing, examination or analysis,
  - (g) require any person at the premises, the owner or person in charge of the premises and any person employed at the premises—
    - (i) to give the authorised person any information in the person’s possession or control or which the person is able to procure,
    - (ii) to produce to the authorised person books, records or other documents in the person’s possession or control or which the person is able to procure (and in the case of documents stored in non-legible form, to produce a legible reproduction), and

- (iii) to give the authorised person any other assistance that the person is able to give,
  - (h) require any person at the premises, the owner or person in charge of the premises and any person employed at the premises to answer such questions as the authorised person may ask relative to any matter in connection with compliance with this Act or regulations made under it,
  - (i) require that the premises, any part of the premises or anything on the premises is not to be disturbed, or that anything is not to be removed from the premises, without the authorised person's consent, and
  - (j) secure the premises or any part of them for later inspection, for such period as may reasonably be necessary.
- (2) The Minister may make regulations for the purposes of this section in relation to—
- (a) the taking of samples and the carrying out of tests, examinations and analyses of samples,
  - (b) the classes of persons responsible for the taking of such samples and for the carrying out of such tests, examinations and analyses,
  - (c) the form of the certificate or other evidence to be given of the result of any such test, examination or analysis, and
  - (d) the class or classes of person by whom a certificate or other evidence prescribed under paragraph (c) is to be given.
- (3) For the purposes of this Act and regulations made under it, a certificate or other evidence given in a form prescribed in accordance with subsection (2)(c) stating the result of a prescribed test, examination or analysis and that the test, examination or analysis was conducted pursuant to regulations under this section, shall be sufficient evidence of those matters unless the contrary is shown.
- (4) A statement or admission made by a person pursuant to a requirement under paragraph (g) or (h) of subsection (1) is not admissible as evidence in proceedings brought against that person for an offence (other than an offence under paragraph (b) or (c) of section 14H).
- (5) In this section, 'person in charge' in relation to premises means a person under whose direction and control any activities at the premises are conducted.

**Warrant to enter premises**

- 14G.** (1) Where an authorised person in the exercise of his or her powers under this Act or regulations made under it—
- (a) is prevented from entering any premises, or

- (b) has reason to believe that evidence relating to the commission of an offence under this Act may be present on any premises,

the authorised person or the person by whom he or she was appointed may apply to the District Court for a warrant authorising the entry by the authorised person onto the premises.

- (2) If, on application to him or her under subsection (1), a judge of the District Court is satisfied on the sworn information of the authorised person that he or she—

- (a) has been prevented from entering any premises, or

- (b) has reason to believe that evidence relating to the commission of an offence under this Act may be present on any premises,

the Court may issue a warrant authorising the authorised person at any time or times within one month from the date of issue of the warrant, on production of the warrant if so requested, to enter, if necessary by use of reasonable force, the premises concerned, to take with him or her such persons (including members of An Garda Síochána and officers of the Revenue Commissioners) and such equipment as he or she may consider necessary for the purpose, and to exercise all or any of the powers conferred on an authorised person by or under this Act.

### **Offences**

#### **14H. A person who—**

- (a) obstructs or impedes an authorised person in the exercise of any of the powers conferred on him or her by section 14D, 14E or 14F,
- (b) gives to an authorised person acting in the exercise of any of those powers information which is false or misleading in a material respect, or
- (c) fails or refuses to comply with a requirement imposed by an authorised person under paragraph (g), (h) or (i) of section 14F(1),

shall be guilty of an offence and liable—

- (i) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
  - (ii) on conviction on indictment, to a fine not exceeding €500,000, or imprisonment for a term not exceeding 24 months, or both.

### **Liability of authorised persons**

- 14I. (1)** Where the Minister is satisfied that an authorised person appointed by the Minister has performed his or her functions under this Act or regulations made under it in good faith, the Minister shall indemnify the authorised person against any actions or claims, however they arise, in relation to the performance by the authorised person of those functions.

- (2) Where a local authority is satisfied that an authorised person appointed by it has performed his or her functions under this Act or regulations made under it in good faith, the local authority shall indemnify the authorised person against any actions or claims, however they arise, in relation to the performance by the authorised person of those functions.

**Compliance Notice**

**14J.** (1) Where an authorised person is of the opinion that a person is not complying, or has not complied with this Act or regulations made under it, the authorised person may serve on the person a notice (a ‘compliance notice’) stating that opinion.

(2) A compliance notice shall—

- (a) state the grounds for the authorised person being of the opinion referred to in subsection (1),
- (b) require the person on whom it is served to take such measures (including refraining from doing such activities) as are specified in the notice for the purpose of ensuring compliance with this Act or regulations made under it,
- (c) specify a date as the date by which, subject to subsection (10), the measures referred to in paragraph (b) are required to be taken, and
- (d) advise the person on whom the compliance notice is served of his or her right under section 14K to appeal against the compliance notice and to apply to suspend the operation of the compliance notice.

(3) The date specified in a compliance notice for the purposes of subsection (2)(c) shall not be earlier than the end of the period within which an appeal may be brought under section 14K.

(4) A compliance notice—

- (a) may be served whether or not there has been a prosecution for an offence under this Act in relation to the matter the subject of the compliance notice, and
- (b) shall not prejudice the initiation of a prosecution for an offence under this Act in relation to the matter the subject of the compliance notice.

(5) An authorised person, at any time when he or she considers it appropriate or necessary having regard to his or her functions under this Act or regulations made under it, may—

- (a) revoke a compliance notice, or
- (b) serve a notice amending a compliance notice.

- (6) Where a compliance notice is amended under subsection (5)(b), references in this section and section 14K to a compliance notice include references to the compliance notice as amended.
- (7) A compliance notice remains in force until—
  - (a) it is discharged on appeal,
  - (b) an authorised person revokes it, or
  - (c) an authorised person gives notice to the recipient stating that the compliance notice has been complied with.
- (8) A person who fails to comply with a compliance notice by the compliance date shall be guilty of an offence and liable—
  - (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 24 months, or both.
- (9) Where a person does not comply with a compliance notice by the compliance date the authorised person may take any measures he or she considers necessary for the purpose of ensuring compliance with this Act or regulations made under it, and the authorised person may recover the cost of such measures from the person to whom the compliance notice is given as a simple contract debt in a court of competent jurisdiction.
- (10) In this section and section 14L, ‘compliance date’ means—
  - (a) subject to paragraph (b), the date specified in the compliance notice in accordance with subsection (2)(c), or
  - (b) where an appeal is brought under section 14K, the latest of the following dates:
    - (i) the date specified in the compliance notice in accordance with subsection (2)(c);
    - (ii) if the appeal is withdrawn, the date on which it is withdrawn;
    - (iii) subject to paragraph (iv), if the compliance notice is confirmed on appeal, the date on which it is confirmed or, if the date specified in the compliance notice is modified in accordance with section 14K(2)(a), the date as so modified;
    - (iv) if the operation of the compliance notice is suspended for a period on an application under section 14K(3), the date on which the period expires.

**Appeal against compliance notice, and application to suspend compliance notice**

**14K.** (1) A person on whom a compliance notice is served may, not later than 21 days from the date the notice is served, appeal against the compliance notice—

(a) to a judge of the District Court for the time being assigned—

(i) to the District Court district where the notice is served, or

(ii) to the District Court district where the person ordinarily resides or carries on any profession, business or occupation,

or

(b) where the person does not ordinarily reside or carry on any profession, business or occupation in the State, to a judge of the District Court for the time being assigned—

(i) to the District Court district where the non-compliance referred to in section 14J(1) is stated by the notice to have occurred or to be occurring, or

(ii) to the Dublin Metropolitan District.

(2) In determining the appeal, the judge of the District Court by whom the appeal is heard may, if he or she is satisfied that there are reasonable grounds for doing so in the interests of justice—

(a) confirm the compliance notice, with or without modification, or

(b) discharge the compliance notice.

(3) Where a compliance notice is confirmed under subsection (2)(a), the District Court may, on the application of the appellant, suspend the operation of the compliance notice for such period as, in the circumstances of the case in the interests of justice, the Court considers appropriate.

(4) A person who appeals against a compliance notice, or who applies to have the operation of a compliance notice suspended, shall at the same time notify the authorised person of the appeal or application and the authorised person shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal or application.

**Application to District Court to enforce compliance notice**

**14L.** (1) Where an authorised person is of the opinion that a person on whom a compliance notice has been served has failed to comply with the notice by the compliance date, the authorised person may apply to the District Court for an order requiring the person to take such measures as may be specified in the application to comply with the notice.

(2) An application under subsection (1) shall be made on not less than 10 days' notice to the person on whom the compliance notice was served.

- (3) On the hearing of an application under subsection (1), the District Court may—
- (a) make the order sought,
  - (b) make the order sought subject to such variations to the measures referred to in subsection (1) as may be specified in the order, or
  - (c) dismiss the application,
- and, where paragraph (a) or (b) applies, the District Court may make such order as to costs as it thinks fit in respect of the application.
- (4) In respect of proceedings brought or heard in the District Court under this section—
- (a) the amount for the time being specified as the monetary limit of the jurisdiction of the District Court shall not apply, and
  - (b) the monetary limit of the jurisdiction of the District Court shall be the amount for the time being specified as the monetary limit of the jurisdiction of the Circuit Court.
- (5) The jurisdiction conferred on the District Court by this section shall be exercised—
- (a) by a judge of the District Court for the time being assigned—
    - (i) to the District Court district where the notice is served, or
    - (ii) to the District Court district where the person ordinarily resides or carries on any profession, business or occupation,or
  - (b) where the person does not ordinarily reside or carry on any profession, business or occupation in the State, to a judge of the District Court for the time being assigned to the District Court district where the non-compliance referred to in section 14J(1) is stated by the notice to have occurred or to be occurring.”.
- (2) A person who immediately before the commencement of this section was an authorised person appointed by a local authority for the purposes of section 7 of the Principal Act continues to be an authorised person on and after that commencement, and the appointment shall be treated as having been made by the local authority under section 14B of the Principal Act (inserted by *subsection (1)*).

#### **Amendment of section 15 of Principal Act**

9. The Principal Act is amended by the substitution of the following section for section 15:

“15. (1) A notice served on a person under this Act shall be in writing and, subject to subsection (2), shall be addressed to the person by name.

- (2) Where a notice under this Act is to be served on the owner or occupier of premises and the name of the person cannot be ascertained by reasonable inquiry, the notice may be addressed to the person by using the words ‘the owner’ or ‘the occupier’ as appropriate.
- (3) A notice served on a person under this Act shall be served in one or more of the following ways:
  - (a) by delivering it to the person;
  - (b) by leaving it at the address at which the person carries on business or ordinarily resides or, in a case in which an address for service has been furnished, at that address;
  - (c) by sending it by post in a prepaid registered letter to the address at which the person carries on business or ordinarily resides or, in a case in which an address for service has been furnished, to that address;
  - (d) where the address at which the person carries on business or ordinarily resides cannot be ascertained by reasonable inquiry and the notice relates to premises, by delivering it to a person over 16 years of age resident in, or employed at, the premises, or by affixing it in a conspicuous position on or near the premises;
  - (e) by electronic means, in a case in which the person has given notice in writing to the person serving the notice concerned of his or her consent to the notice, or notices of a class to which the notice belongs, being served on him or her in that manner.
- (4) For the purposes of this section, a company (within the meaning of the Companies Act 2014) shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.
- (5) In this section—
  - ‘notice’ includes any document or notification;
  - ‘serve’ includes giving or notifying.”.

#### **Amendment of section 16 of Principal Act**

##### **10. Section 16 of the Principal Act is amended—**

- (a) by the substitution of the following subsection for subsection (3):
  - “(3) Any person who has been served with a notice under this section and who furnishes any information in reply to the notice which he or she knows to be false or misleading in a material way shall be guilty of an offence and liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months, or both.”,

(b) in subsection (4), by the substitution of “under section 55A” for “a person prescribed”, and

(c) by the insertion of the following subsection after subsection (4):

“(5) Any person who has been served with a notice under this section and who fails to comply with the provisions of paragraph (a), (b) or (c) of subsection (1) shall be guilty of an offence and liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months, or both.”.

#### **Amendment of section 17 of Principal Act**

**11.** Section 17 of the Principal Act is amended by the substitution of the following subsections for subsections (1) and (2):

“(1) The Minister may by regulations—

- (a) require local authorities to establish and maintain a register for any purpose relevant to the functions of local authorities under this Act or regulations made under it,
- (b) prescribe the form and manner in which the register is to be established and maintained,
- (c) prescribe matters to be registered on the register, and
- (d) make other provision relating to the establishment and maintenance of the register.

(2) Regulations under subsection (1) shall provide for the register established and maintained under the regulations to be made available to the public in a prescribed manner.”.

#### **Amendment of section 24 of Principal Act**

**12.** Section 24 of the Principal Act is amended—

(a) in subsection (3), by the insertion of the following paragraphs after paragraph (b):

- “(ba) the emission concerned was in accordance with a licence or revised licence under the Environmental Protection Agency Act 1992, or
- (bb) the emission concerned related to a process, development or operation as regards which an order was in force under section 99B of the Environmental Protection Agency Act 1992, or”,

and

(b) by the insertion of the following subsection after subsection (3):

“(4) A person who fails to comply with subsection (1) or (2) shall be guilty of an offence and liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 24 months, or both.”.

**Amendment of section 25 of Principal Act****13.** Section 25 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “air” for “atmosphere”,
- (b) in subsection (3), by the insertion of the following paragraphs after paragraph (b):
  - “(ba) the emission concerned was in accordance with a licence or revised licence under the Environmental Protection Agency Act 1992, or
  - (bb) the emission concerned related to a process, development or operation as regards which an order was in force under section 99B of the Environmental Protection Agency Act 1992, or”,

and

- (c) by the insertion of the following subsection after subsection (3):
  - “(4) A person who fails to comply with a provision of regulations made under subsection (1) shall be guilty of an offence and liable—
    - (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
    - (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 24 months, or both.”.

**Amendment of section 26 of Principal Act****14.** Section 26 of the Principal Act is amended by the insertion of the following subsection after subsection (7):

- “(8) A person who fails to comply with a notice served on the person under subsection (1) shall be guilty of an offence and liable—
  - (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 24 months, or both.”.

**Amendment of section 29 of Principal Act****15.** Section 29 of the Principal Act is amended by the insertion of the following subsection after subsection (1):

- “(1A) An occupier of a premises who fails to comply with subsection (1) shall be guilty of an offence and liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 24 months, or both.”.

**Amendment of section 30 of Principal Act**

16. Section 30 of the Principal Act is amended by the insertion of the following subsection after subsection (3):

- “(4) A person who contravenes subsection (1) or regulations under subsection (2) shall be guilty of an offence and liable—
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 24 months, or both.”.

**Amendment of section 40 of Principal Act**

17. Section 40 of the Principal Act is amended by the substitution of the following subsection for subsection (4):

- “(4) A person who contravenes any provision of a special control area order shall be guilty of an offence and liable—
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 24 months, or both.”.

**Amendment of section 46 of Principal Act**

18. Section 46 of the Principal Act is amended, in subsection (4), by the substitution of “Subject to section 47, an” for “An”.

**Amendment of section 47 of Principal Act**

19. Section 47 of the Principal Act is amended by the insertion of the following paragraph after paragraph (a):

- “(aa) give directions either generally or in relation to a particular local authority or, as the case may be, two or more local authorities, as to matters to be contained in an air quality management plan made or jointly made by them;”.

**Amendment of section 51 of Principal Act**

20. Section 51(3) of the Principal Act is amended by the substitution of “air” for “atmosphere”.

**Fuel regulations and fuel regulations registers**

21. The Principal Act is amended by the insertion of the following Part after Part V:

“PART VA

FUEL REGULATIONS AND FUEL REGULATIONS REGISTERS

CHAPTER 1

*Interpretation*

**Interpretation**

**53A.** In this Part—

‘advertising’ includes any promotion or marketing by telephone, by post, online, by broadcast or by any other means;

‘appeals officer’ means a member of a panel appointed under section 53Q(1);

‘appellant’ means a person who makes an appeal against the decision of a registration body or an appeals officer under section 53R or 53S;

‘distributing’ means distributing whether or not for remuneration;

‘fuel regulations register’ has the meaning given to it by section 53D(1);

‘person in charge’ in relation to premises has the same meaning as it has in section 14F;

‘placing on the market’ means offering or exposing for sale, inviting an offer to purchase or supplying for those purposes or the purposes of selling or distributing;

‘premises’ has the meaning given by section 14C;

‘public body’ means—

- (a) a Minister of the Government,
- (b) a local authority,
- (c) a body (other than a company) established by or under an enactment, or
- (d) a company established pursuant to a power conferred by or under an enactment, and financed wholly or partly by—

- (i) moneys provided, or loans made or guaranteed, by a Minister of the Government, or
- (ii) the issue of shares held by or on behalf of a Minister of the Government;

‘registration body’ has the meaning given to it by section 53E(1);

‘tax clearance certificate’ means a tax clearance certificate issued under section 1095 of the Taxes Consolidation Act 1997.

## CHAPTER 2

### *Regulations relating to fuel*

#### **Fuel regulations**

**53B.** (1) The Minister may, for the purpose of preventing or limiting air pollution, make regulations in relation to—

- (a) the production, treatment, importing, placing on the market, distributing, sale, advertising, storing, transporting, purchase and use or burning of fuels, and
  - (b) requirements that apply in relation to fuels.
- (2) Without prejudice to subsection (1), regulations under this section may—
- (a) prohibit or restrict the production, treatment, importing, placing on the market, distributing, sale, advertising, storing, transporting, purchase, use or burning of a fuel which does not comply with prescribed requirements, or which is otherwise of a prescribed type or description,
  - (b) prohibit or restrict the advertising of activities referred to in subsection (1)(a),
  - (c) make provision applying generally or in relation to a particular area or class of areas,
  - (d) make provision by reference to whether or not a fuel—
    - (i) is used in mechanically propelled vehicles,
    - (ii) is used or burnt in a prescribed manner,
    - (iii) complies with a prescribed requirement, or
    - (iv) is of any other prescribed type or description,
  - (e) provide for exemption from a provision of the regulations in prescribed circumstances or cases,
  - (f) require that prescribed information in relation to fuels be displayed at prescribed places and in a prescribed manner,

- (g) provide for the keeping of records by prescribed persons,
  - (h) provide for the examination of prescribed premises and records and for requirements that may be imposed, for the purposes of the examination, on the owner or the person in charge of the premises or records,
  - (i) provide for the colouring of a fuel,
  - (j) provide for a fuel to be labelled with or otherwise accompanied by prescribed information in a prescribed manner,
  - (k) impose requirements to be complied with by a fuel by reference to a prescribed standard or specification, including a standard or specification set from time to time by a prescribed person,
  - (l) provide for the taking of samples of fuels from prescribed premises,
  - (m) specify tests, examinations or analyses to establish whether a fuel complies with a prescribed requirement,
  - (n) provide for the certification of compliance of a fuel with a prescribed requirement, and for the issuing of certificates of compliance in a prescribed form by prescribed persons,
  - (o) where a provision of the regulations prohibits or restricts, or imposes any requirement in relation to, the carrying out of an activity by a person, provide for obligations relating to the person's compliance with the provision to be imposed on persons with whom that person deals in the course of the activity,
  - (p) provide for the enforcement of any provision of the regulations by prescribed persons, and for the powers of those persons and of persons authorised by them, and
  - (q) provide for such incidental, supplementary, consequential and transitional matters as appear to the Minister to be necessary or expedient for the purposes of regulations under this section.
- (3) For the purposes of this Act and regulations made under this section, a certificate given in a form prescribed under subsection (2)(n) stating that a test, examination or analysis specified under subsection (2)(m) was conducted, and the result of the test, shall be sufficient evidence of those matters unless the contrary is shown.

**Offences of contravention of fuel regulations**

- 53C.** (1) Subject to subsection (2), a person who contravenes a provision of regulations under section 53B stated in the regulations to be a penal provision shall be guilty of an offence and liable—
- (a) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months, or both, or

- (b) on conviction on indictment to a fine not exceeding €500,000 or imprisonment for a term not exceeding 24 months, or both.
- (2) A person who—
- (a) sells or distributes fuel and fails to keep a record or other information relating to the fuel which he or she is required by regulations under section 53B to keep,
  - (b) fails to keep, on a vehicle used for the transport of fuel, a record or other information relating to the fuel which he or she is required by regulations under section 53B to keep,
  - (c) fails to display on an invoice or other document or on a website a registration number or other information which he or she is required by regulations under section 53B to display on that invoice or other document or on that website,
  - (d) fails to display at premises used in connection with an activity relating to fuel a registration number or other information which he or she is required by regulations under section 53B to display at those premises,
  - (e) fails to include in advertising material distributed in writing or as video or audio content a statement of any matter which he or she is required by regulations under section 53B to include in that material, or
  - (f) sells or distributes fuel which does not comply with prescribed requirements of regulations under section 53B as to the labelling or packaging of the fuel,
- shall be guilty of an offence and liable on summary conviction to a class A fine.

### CHAPTER 3

#### *Fuel regulations registers and registration bodies*

#### **Fuel regulations registers and power to provide for registration**

- 53D.** (1) One or more registers ('fuel regulations registers') may be established in accordance with this Chapter for the purposes of regulations under section 53B.
- (2) Regulations under section 53B may—
- (a) require a person to be registered on a fuel regulations register for the purposes of a provision of the regulations,
  - (b) specify activities, premises, vehicles, fuels or other matters in relation to which a person is required to be registered,

- (c) require a person to hold separate registrations on a fuel regulations register in relation to different activities, premises, vehicles, fuels or other matters or classes of matters, and
  - (d) make any other provision for the purposes of the regulations by reference to registration on a fuel regulations register.
- (3) In this Act, references to a registration on a fuel regulations register are references—
- (a) to each registration of a person on the register, or
  - (b) where provision is made in accordance with subsection (2)(c), to each registration of a person on the register in relation to a matter or class of matters for which a separate registration is required.

### **Appointing registration bodies**

- 53E.** (1) The Minister may, subject to subsection (2) and section 53F, request the Government to make an order appointing a body (a ‘registration body’) to establish and maintain a fuel regulations register, or to maintain an existing fuel regulations register.
- (2) Before making a request under subsection (1), the Minister shall consult the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation.
- (3) The Government, having considered a request of the Minister under subsection (1), may make an order appointing the registration body referred to in the request.
- (4) A draft of an order under this section shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving the draft has been passed by each such House.
- (5) The same body or different bodies may be appointed under this section in relation to different fuel regulations registers.
- (6) A registration body shall be independent in the performance of its functions under this Act and regulations made under it.
- (7) References in this Part to ‘the registration body’ in relation to a fuel regulations register are references to the registration body appointed to maintain the register.

### **Eligibility for appointment as registration body**

- 53F.** (1) A body may be appointed as a registration body only if it is—
- (a) a public body any of whose functions relate to the protection of the environment or to fuel,
  - (b) a body corporate which is not a public body and is not an excluded body, or
  - (c) an unincorporated body of persons which is not an excluded body.

- (2) In subsection (1), ‘excluded body’ means any of the following:
- (a) a political party, or a body that promotes a political party or candidate;
  - (b) a body that promotes a political cause;
  - (c) a chamber of commerce;
  - (d) a body that promotes purposes that are—
    - (i) unlawful,
    - (ii) contrary to public morality,
    - (iii) contrary to public policy,
    - (iv) in support of terrorism or terrorist activities, whether in the State or outside the State, or
    - (v) for the benefit of an organisation membership of which is unlawful.
- (3) Before making a request under section 53E(1) for an order appointing a body as a registration body, the Minister shall take into account, for the purpose of forming an opinion as to whether the body is capable of performing the functions of a registration body, the need, in performing those functions, for—
- (a) efficiency, effectiveness and economy,
  - (b) availability of sufficient resources,
  - (c) capacity to comply with policy of the Government or the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation concerning remuneration, allowances or pension arrangements for staff and appeals officers, and
  - (d) satisfactory corporate governance, accounting and internal audit structures.

#### **Revocation and transfer of functions of registration body**

**53G.** (1) An appointment under section 53E comes to an end if it—

- (a) expires in accordance with the terms and conditions of the appointment,
  - (b) is brought to an end otherwise in accordance with those terms and conditions, or
  - (c) is revoked under subsection (2).
- (2) Where the Minister is of the opinion that the registration body has—
- (a) failed to perform one or more of its functions conferred by or under this Act,

- (b) failed to comply with a condition of its appointment,
- (c) failed to comply with a direction under section 53H, or
- (d) failed to have regard to guidelines under section 53I,

he or she may request the Government to make an order revoking the appointment of the registration body (in this section referred to as the ‘old registration body’).

- (3) An order under subsection (2) may provide for the functions of the old registration body to be transferred in whole or in part to a different registration body (in this section referred to as a ‘new registration body’) which—
  - (a) is appointed by an order under section 53E for the purposes of the transfer, or
  - (b) was before the transfer appointed by an order under section 53E for other purposes.
- (4) The Minister may request the Government to make an order under subsection (2) only if—
  - (a) the Minister has given the old registration body notice in writing stating the grounds for seeking an order revoking the appointment,
  - (b) the notice specifies a period of not less than 4 weeks within which the old registration body may make submissions to the Minister about the proposed order revoking the appointment, and
  - (c) the Minister has considered any submissions made by the old registration body in accordance with the notice.
- (5) Where functions of the old registration body stand transferred to a new registration body, such functions shall no longer be under the direction, control or supervision of the old registration body.
- (6) Notwithstanding subsection (5), an order under subsection (2) may provide that the old registration body shall continue to perform any function for a specified period and comply with any direction referred to or contained in the order as may appear to the Government, following a request by the Minister on that behalf, to be necessary or expedient.
- (7) Without prejudice to subsection (6), an order under subsection (2) may, in relation to a function being transferred, provide for matters including—
  - (a) transfer of records, data and information,
  - (b) transfer of interests in land or other property,
  - (c) enforcement and continuation in force of leases, licences or permissions,

- (d) enforcement and continuation in force of contracts, agreements or legal proceedings,
- (e) transfer of employees or employment contracts,
- (f) preparation of final accounts,
- (g) transfer of fuel regulations registers,
- (h) transfer of moneys collected through fees,
- (i) construction of references to the old registration body as references to the new registration body,
- (j) arrangements concerning the continued performance by the old registration body and appeals officers, of particular functions in so far as they relate to matters commenced but not completed before the coming into operation of the order under subsection (2), and
- (k) such incidental, supplementary and consequential provisions, including provisions concerning remuneration, allowances or pension arrangements for the staff of the old registration body or appeals officers, as appear to the Government to be necessary or expedient.

**Power of Minister to give directions**

- 53H.** (1) Subject to subsection (4), the Minister may give a registration body a direction in writing with respect to the performance of its functions under this Act or regulations made under it, and concerning any matter or thing referred to by or under this Act.
- (2) A registration body shall comply with any direction given under this section.
  - (3) The Minister may, by direction in writing, amend or revoke a direction issued under subsection (1).
  - (4) Nothing in this section shall be construed as enabling the Minister to exercise any power or control in relation to a particular application for registration on a fuel regulations register or particular complaint or review before the registration body or appeal before appeals officers.

**Power of Minister to issue guidelines**

- 53I.** (1) The Minister may issue guidelines to the registration body with respect to the performance of its functions under this Act or regulations made under it, and concerning any matter or thing referred to by or under this Act.
- (2) The registration body shall have regard to any guidelines issued under subsection (1).

**Funding and fees of registration body**

- 53J.** (1) The registration body shall propose to the Minister the fees to be paid to it under regulations under section 53Y(f) by applicants for registration on a fuel regulations register.
- (2) Fees proposed under subsection (1) shall be fixed at a level calculated to produce an annual amount which is sufficient to discharge the capital outlay, salaries and remuneration and any other expenses of the registration body in the performance of its functions in relation to the register concerned.
- (3) A proposal under subsection (1) may provide for exemptions from the payment of fees or waiving, remitting or refunding fees (in whole or in part), in different circumstances or classes of circumstances or in different cases or classes of cases.
- (4) Where a registration body makes a proposal under subsection (1), the Minister may—
- (a) agree to the proposal, or
  - (b) return the proposal to the registration body with such modifications as the Minister thinks fit.
- (5) Where the Minister returns a proposal under subsection (4)(b), the registration body may—
- (a) agree to the proposal as modified, or
  - (b) make a new proposal under subsection (1).
- (6) A registration body may recover, as a simple contract debt in any court of competent jurisdiction, from the person by whom the fee is payable, any amount due and owing to the registration body in respect of a fee charged under regulations under section 53Y(f).

**Regulations relating to registration bodies**

- 53K.** (1) The Minister may by regulations—
- (a) prohibit or restrict a person's involvement in prescribed activities relating to fuels or fireplaces while holding a prescribed office or employment in a registration body,
  - (b) impose obligations on a registration body, or a body that ceases to be a registration body, including obligations relating to—
    - (i) the keeping of records, the presentation of accounts and the provision of other information to any person, and
    - (ii) where a body ceases to be a registration body, the transfer of property and information relating to its functions as a registration body, and the securing of rights relating to the use of any property or information,

and

- (c) provide for such incidental, supplementary, consequential and transitional matters as appear to the Minister to be necessary or expedient for the purposes of this section.
- (2) A person who contravenes a provision of regulations under this section stated in the regulations to be a penal provision shall be guilty of an offence and liable—
  - (a) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment to a fine not exceeding €500,000, or imprisonment for a term not exceeding 24 months, or both.

#### CHAPTER 4

##### *Registration and operation of fuel regulations registers*

##### **Application for registration on fuel regulations register**

- 53L.** (1) A person may apply to a registration body to be registered on a fuel regulations register maintained by it.
- (2) Where provision made in accordance with section 53D(2) requires separate registrations in relation to different matters or classes of matters, a separate application shall be made under this section for each registration.
  - (3) An application under this section shall—
    - (a) be made in writing,
    - (b) specify the name of the applicant and the address at which the applicant ordinarily resides,
    - (c) specify the address at which or the area within which any activity to which the registration relates is carried on,
    - (d) be accompanied by a tax clearance certificate in force relating to the person,
    - (e) be accompanied by such other information as may be prescribed under section 53Y, and
    - (f) be accompanied by the fee prescribed under section 53Y.
  - (4) For the purposes of subsection (3)(b), a company within the meaning of the Companies Act 2014 shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

**Decision on application for registration on fuel regulations register**

**53M.** (1) The registration body to which an application is made under section 53L shall consider the application and, subject to subsections (2), (3) and (4), shall either—

- (a) make the registration applied for, or
- (b) make the registration subject to conditions imposed under section 53N.

(2) The registration body shall refuse an application under section 53L if—

- (a) the application does not comply with section 53L, or
- (b) any registration criterion prescribed under section 53Y(c) for the making of the registration applied for is not met.

(3) The registration body may refuse an application under section 53L—

- (a) if the person making the application has been convicted—
  - (i) of a relevant offence which is of such seriousness as to warrant the refusal of the application, or
  - (ii) of two or more relevant offences which, when taken together, are of such seriousness as to warrant the refusal of the application,

or

- (b) the person making the application has failed, within the previous 12 months, to comply with a condition or conditions imposed on that person under section 53N and—

- (i) any such failure is of such seriousness as to warrant the refusal of the application, or
  - (ii) two or more such failures, when taken together, are of such seriousness as to warrant the refusal of the application.

(4) The Minister may issue guidelines relating to the operation of subsection (3) and the registration body shall have regard to such guidelines.

(5) In considering an application under subsection (1), the registration body may take into account submissions that relate specifically to the applicant and that are made to the registration body by any person.

(6) Where the registration body proposes to refuse an application made by a person under section 53L it shall serve on the person a notice which—

- (a) states the action the registration body proposes to take,
- (b) states the registration body's reasons for the proposed action,

- (c) is accompanied by any submissions taken into account under subsection (5), and
- (d) informs the person of the procedure for making representations under subsection (7).
- (7) A person on whom a notice is served under subsection (6) may, not later than 14 days after receiving the notice, make representations in writing to the registration body in relation to the proposed action.
- (8) A registration body shall not make a decision to refuse an application under section 53L unless it has considered any representations made by the person under subsection (7).
- (9) Where a registration body makes a decision under this section to refuse an application made by a person under section 53L, it shall serve on the person a notice which—
  - (a) states the decision and the reasons for it, and
  - (b) informs the person that he or she may appeal against the decision to an appeals officer under section 53R not later than 21 days from the date on which the notice is served on the person.
- (10) A decision under this section to refuse an application under section 53L takes effect on the expiry of the period of 21 days referred to in subsection (9)(b) unless an appeal against the decision is brought under section 53R within that period.
- (11) In this section, ‘relevant offence’ means an offence under any of the following:
  - (a) this Act;
  - (b) the Environmental Protection Agency Act 1992;
  - (c) the Local Government (Water Pollution) Act 1977;
  - (d) the Local Government (Water Pollution) (Amendment) Act 1990.

**Power to impose conditions in relation to registration on fuel regulations register**

**53N.** (1) A registration body may—

- (a) when making a registration on a fuel regulations register, or
- (b) at any time after making a registration on a fuel regulations register, impose conditions on the person to whom the registration relates requiring the person to produce to the registration body, at times and in a manner specified in the conditions, certificates or other documents or information for the purpose of enabling the registration body to monitor compliance by that person with any requirement relevant to the registration.

- (2) In considering whether to impose a condition under subsection (1) on a person, the registration body may take into account submissions that relate specifically to that person and are made to the registration body by any person.
- (3) Where a registration body proposes to impose a condition under subsection (1) on a person, it shall serve on the person a notice which—
  - (a) states the action the registration body proposes to take,
  - (b) states the registration body's reasons for the proposed action,
  - (c) is accompanied by any submissions taken into account under subsection (2), and
  - (d) informs the person of the procedure for making representations under subsection (4).
- (4) A person on whom a notice is served under subsection (3) may, not later than 14 days after receiving the notice, make representations in writing to the registration body in relation to the proposed action.
- (5) A registration body shall not make a decision to impose a condition under subsection (1) on a person unless it has considered any representations made by the person under subsection (4).
- (6) Where a registration body makes a decision to impose conditions on a person under subsection (1), the registration body shall serve on the person a notice which—
  - (a) states the decision and the reasons for it, and
  - (b) informs the person that he or she may appeal against the decision to an appeals officer under section 53R not later than 21 days from the date on which the notice is served on the person.
- (7) A decision under this section to impose conditions on a person takes effect on the day after the day on which notice of the decision is served under subsection (6).

**Registration on fuel regulations register**

- 53O.** (1) For each registration on a fuel regulations register, the registration body shall enter on the register—
- (a) the name of the person to whom the registration relates,
  - (b) the prescribed details of the matters to which the registration relates,
  - (c) the registration number issued to the person,
  - (d) any conditions to which the registration is subject under section 53N, and

- (e) any other information that it considers appropriate.
- (2) As soon as practicable following the registration of a person on a fuel regulations register, the registration body shall issue to that person a document containing a registration number relating to the registration and the information entered in the fuel regulations register.

**Removal of registration from fuel regulations register**

**53P.** (1) The registration body may remove a registration from a fuel regulations register on the grounds that—

- (a) any registration criterion prescribed under section 53Y(c) for the registration to remain in force is not met,
  - (b) the person to whom the registration relates has been convicted—
    - (i) of a relevant offence which is of such seriousness as to warrant the removal of the registration, or
    - (ii) of two or more relevant offences which, when taken together, are of such seriousness as to warrant the removal of the registration,
- or
- (c) the person to whom the registration relates has failed, within the previous 12 months, to comply with a condition or conditions imposed on that person under section 53N in relation to the registration, and—
    - (i) any such failure is of such seriousness as to warrant the removal of the registration, or
    - (ii) two or more such failures, when taken together, are of such seriousness as to warrant the removal of the registration.
- (2) In considering whether to remove a registration from a fuel regulations register under subsection (1), the registration body may take into account submissions that relate specifically to the person to whom the registration relates and that are made to the registration body by any person.
  - (3) Where a registration body proposes to make a decision under subsection (1) to remove a registration from a fuel regulations register it shall serve on the person to whom the registration relates a notice which—
    - (a) states the action the registration body proposes to take,
    - (b) states the registration body's reasons for the proposed action,
    - (c) is accompanied by any submissions taken into account under subsection (2), and

- (d) informs the person of the procedure for making representations under subsection (4).
- (4) A person on whom a notice is served under subsection (3) may, not later than 14 days after receiving the notice, make representations in writing to the registration body in relation to the proposed action.
- (5) A registration body shall not make a decision under subsection (1) to remove a registration from a fuel regulations register unless it has considered any representations made by the person under subsection (4).
- (6) Where a registration body makes a decision under this section to remove a registration from a fuel regulations register, the registration body shall serve on the person to whom the registration relates a notice which—
  - (a) states the decision and the reasons for it, and
  - (b) informs the person that he or she may appeal against the decision to an appeals officer under section 53R not later than 21 days from the date on which the notice is served on the person.
- (7) A decision under this section to remove a registration from a fuel regulations register takes effect on the expiry of the period of 21 days referred to in subsection (6)(b) unless an appeal against the decision is brought under section 53R within that period.
- (8) Where a registration is removed from a fuel regulations register, the registration body shall enter a statement in the register that the registration has been removed and a statement of the reasons for the removal.
- (9) In this section, ‘relevant offence’ means an offence under any of the following:
  - (a) this Act;
  - (b) the Environmental Protection Agency Act 1992;
  - (c) the Local Government (Water Pollution) Act 1977;
  - (d) the Local Government (Water Pollution) (Amendment) Act 1990.

**Appeals officers**

- 53Q.** (1) The Minister may appoint a panel of suitable persons to be appeals officers to consider appeals under section 53R.
- (2) A person is suitable for the purposes of subsection (1) if the Minister is satisfied that the person has the skill, experience and knowledge necessary to perform the functions of an appeals officer.

- (3) Appointment as an appeals officer shall be for a period specified by the Minister and on such other terms as the Minister considers appropriate.
- (4) An appeals officer shall be paid such remuneration and allowances as the Minister, with the consent of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, determines.
- (5) An appeals officer shall be independent in the performance of his or her functions.
- (6) Any appointment of a person under subsection (1) shall not have effect, or shall cease to have effect, if the person is or becomes a member of the staff of a registration body.

**Appeal to appeals officer**

**53R.** (1) A person to whom a decision made by a registration body under section 53M, 53N or 53P relates may appeal against the decision to an appeals officer.

- (2) An appeal under this section shall be made in writing to the registration body concerned within 21 days from the date on which the notice of the decision was served on the appellant under section 53M(9), 53N(6) or 53P(6), and shall be accompanied by a statement of the reasons for the appeal, and shall be in such form and be accompanied by such documents as may be prescribed.
- (3) Where an appeal is made under this section, the registration body whose decision is being appealed shall, without delay, assign the appeal to an appeals officer, who shall consider the appeal in accordance with this section.
- (4) On an appeal under this section the appeals officer may—
  - (a) consider—
    - (i) all information furnished with the original application under section 53L,
    - (ii) any submissions taken into account by the registration body under section 53M(5), 53N(2) or 53P(2) in connection with the decision being appealed,
    - (iii) any representations under section 53M(7), 53N(4) or 53P(4) relating to the decision being appealed,
    - (iv) any information provided under subsection (2), and
    - (v) any additional information that the appeals officer considers necessary,
  - and

- (b) consult as the appeals officer considers appropriate with any person who made a submission that under section 53M(5), 53N(2) or 53P(2) the registration body had power to take into account in connection with the decision being appealed.
- (5) An appeals officer considering an appeal under this section—
  - (a) shall not be confined to the grounds on which the decision under appeal was based, but may decide the matter the subject of the appeal as if it were being decided for the first time,
  - (b) may, as he or she considers appropriate, consider written or oral submissions made by the appellant and by or on behalf of the registration body, and
  - (c) shall determine the appeal as soon as is practicable in all the circumstances of the case, and in any case within such period as may be prescribed.
- (6) For the purposes of an appeal under this section, the appeals officer may—
  - (a) require the appellant to provide documentation or information in relation to any matter that may be relevant to the determination of the appeal, within such reasonable period as the appeals officer may specify, and
  - (b) where the appeals officer considers it necessary, require the appellant to provide such information by affidavit.
- (7) An appeals officer, having considered an appeal in accordance with this section, shall—
  - (a) make a determination which confirms the decision of the registration body, or
  - (b) make a determination which—
    - (i) where the appeal relates to a decision under section 53M to refuse to make a registration, directs the registration body to make the registration,
    - (ii) where the appeal relates to a decision under section 53N to make a registration subject to conditions, directs the registration body to remove the conditions, or to vary the conditions, or
    - (iii) where the appeal relates to a decision under section 53P to remove a registration, directs the registration body not to remove the registration.
- (8) Where an appeals officer makes a determination under subsection (7) in relation to a registration, the appeals officer shall serve on the appellant and the relevant registration body a notice which—

- (a) states the determination and the reasons for it, and
- (b) informs the appellant that he or she may appeal against the determination to the Circuit Court under section 53S not later than 21 days from the date on which the notice of the decision was served on the appellant.
- (9) The registration body on which a notice under subsection (8) is served shall publish notice of the determination on a website maintained by or on behalf of the registration body.
- (10) A determination under subsection (7) takes effect on the expiry of the period of 21 days referred to in subsection (8)(b) unless an appeal is brought under section 53S within that period.
- (11) A registration body shall comply with any direction under subsection (7).

#### **Appeal from appeals officer to Circuit Court**

- 53S.** (1) A person to whom a determination by an appeals officer under section 53R(7) relates may, not later than 21 days from the date of the notice of the decision served in accordance with section 53R(8), appeal against the determination—
- (a) to the judge of the Circuit Court within whose circuit the person ordinarily resides or carries on any profession, business or occupation, or
  - (b) where the person does not ordinarily reside or carry on any profession, business or occupation in the State, to the judge of the Circuit Court for the Dublin Circuit.
- (2) On an appeal under this section the Circuit Court shall—
- (a) confirm the determination of the appeals officer, or
  - (b) substitute its determination for that of the appeals officer.
- (3) A decision of the Circuit Court under this section shall be final, save that, by leave of that Court, an appeal shall lie to the High Court on a point of law.
- (4) Where, on an appeal under this section against a determination of the appeals officer under section 53R, relating to a decision under section 53M or 53P, the Circuit Court confirms the determination, the decision under section 53M or 53P takes effect, subject to subsection (3), on the giving of the confirmation by the Circuit Court, unless the Circuit Court orders otherwise.

#### **Application to suspend conditions subject to appeal**

- 53T.** (1) The bringing of an appeal under section 53R against a decision under section 53N to impose conditions does not suspend the operation of any condition imposed by the decision, but the appellant may apply to

the appeals officer to whom the appeal is assigned to have the operation of any such condition suspended until the appeal is disposed of.

- (2) On an application under subsection (1) the appeals officer, if satisfied that there are reasonable grounds for doing so, may direct that the operation of any such condition is suspended until the appeal is disposed of.
- (3) Where an application under subsection (1) is refused, the appellant may appeal against the refusal to the Circuit Court.
- (4) The jurisdiction conferred on the Circuit Court by this section shall be exercised—
  - (a) by the judge of the Circuit Court within whose circuit the appellant ordinarily resides or carries on any profession, business or occupation, or
  - (b) where the appellant does not ordinarily reside or carry on any profession, business or occupation in the State, by the judge of the Circuit Court for the Dublin Circuit.

#### **Publication of information relating to fuel regulations register**

**53U.** In relation to any fuel regulations register the registration body shall publish on a website maintained by or on behalf of the registration body the following information:

- (a) the making of any registration on the register, the person to whom the registration relates, any matter or class of matters to which the registration relates, and any conditions to which the registration is subject;
- (b) the removal of any registration from the register;
- (c) the procedure for making submissions or representations in respect of making a registration on the register, making a refusal of registration on the register, imposing conditions in respect of a registration on the register or removal from the register.

#### **Correction of fuel regulations register**

**53V.** The registration body shall, on becoming aware that any particular entered in a fuel regulations register is incorrect, make any alteration to the register that it considers necessary.

#### **Duty to provide replacement tax clearance certificate**

**53W.** (1) A person registered on a fuel regulations register who ceases to be in possession of a current tax clearance certificate shall—

- (a) notify the registration body as soon as practicable in writing, and
- (b) not later than 28 days after giving the notification, provide to the registration body a current tax clearance certificate.

- (2) A person shall be guilty of an offence if he or she fails, without reasonable excuse, to comply with subsection (1), and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months, or both.

**Offences relating to registration**

**53X.** A person who knowingly makes a false or misleading statement in an application or appeal under this Part or otherwise gives false or misleading information to a registration body or an appeals officer for the purposes of a provision of this Part shall be guilty of an offence and liable—

- (a) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment to a fine not exceeding €500,000 or imprisonment for a term not exceeding 24 months, or both.

**Regulations relating to fuel regulations registers**

**53Y.** Without prejudice to any other power to make regulations under this Part, the Minister may by regulations—

- (a) make provision in relation to a fuel regulations register and its maintenance by a registration body,
- (b) subject to section 53L, make provision in relation to the procedure for making applications for registration and the determination of applications,
- (c) prescribe registration criteria to be satisfied for a registration to be made, or for a registration to remain in force, including registration criteria relating to—
  - (i) the nature, scale or location of an activity relevant to the registration,
  - (ii) premises or equipment relevant to the registration, or which are used in connection with an activity which is relevant to the registration,
  - (iii) notification to the registration body of an address at which notices under this Act may be served by electronic means, or
  - (iv) notification to the registration body of changes to a matter to which the registration relates,
- (d) provide for the information required to accompany the application under section 53L,
- (e) provide for the period for which a registration has effect,
- (f) provide for the fees to be paid to the registration body by applicants for registration on a register, and any exemptions, remissions or

refunds, in accordance with any proposal agreed under section 53J(4)(a) or (5)(a),

- (g) require a person to whom a registration relates—
  - (i) to keep records of prescribed information in relation to a matter to which the registration relates, and
  - (ii) to provide prescribed information to the registration body at prescribed times,and
- (h) provide for such incidental, supplementary, consequential and transitional matters as appear to the Minister to be necessary or expedient for the purposes of regulations under this section.

## CHAPTER 5

### *Forfeiture of fuel or other articles connected with an offence*

#### **Forfeiture of fuel and other articles if offence committed**

- 53Z.** (1) An authorised person may seize any article that the authorised person has reasonable grounds to believe is liable to forfeiture.
- (2) The following articles are liable to forfeiture:
- (a) any fuel in respect of which an offence has been committed under this Act;
  - (b) any container in which the fuel is found;
  - (c) anything packed with the fuel or used in concealing it;
  - (d) any vehicle that the fuel is found in, on or attached to.
- (3) Subject to subsection (4), an authorised person shall give notice of the seizure of any article under this section and of the grounds for seizure to any person who to the authorised person's knowledge was at the time of the seizure the owner or one of the owners of the article.
- (4) Notice under subsection (3) need not be given under this section to a person if the seizure was made in the presence of the person whose offence or suspected offence occasioned the seizure.
- (5) Notice under subsection (3) shall, if the person concerned has no known address in the State, be deemed to have been duly given to the person by publication of notice of the seizure in *Iris Oifigiúil*.
- (6) Where an article is seized under this section, a person (referred to in this section and section 53ZA as the 'claimant') may—
- (a) not later than 30 days from the date of the notice of seizure under this section, or

- (b) where no such notice is required to be given, not later than 30 days from the date of the seizure,  
  
serve notice on the local authority of a claim (a ‘notice of claim’) that the article is not liable to forfeiture.
- (7) A notice of claim shall specify—
  - (a) the full name and address of the claimant,
  - (b) the article to which the claim relates, and
  - (c) the basis on which the claim is grounded.
- (8) Where the address of the claimant is outside the State, any documents relating to proceedings for condemnation by the court (referred to in this section and section 53ZA as ‘condemnation proceedings’) may be served at that address.
- (9) If, on the expiration of the period referred to in subsection (6), no notice of claim has been given, the article seized shall be deemed to have been duly condemned as forfeited, and the forfeiture shall apply from the date when the liability to forfeiture arose.
- (10) Where a notice of claim has been served, the local authority shall, subject to section 53ZA, bring condemnation proceedings for the condemnation of the article concerned.

#### **Condemnation of article liable to forfeiture**

- 53ZA.** (1) Condemnation proceedings are civil proceedings, and such proceedings shall be commenced in the name of the local authority.
- (2) Where in any condemnation proceedings the court finds that the article seized was, at the time of seizure, liable to forfeiture, the court shall condemn it as forfeited, and in any other case the court shall order its release.
  - (3) Condemnation proceedings may be instituted—
    - (a) in the High Court, in any case,
    - (b) in the Circuit Court, if in the opinion of the local authority the value of the article concerned does not exceed €75,000, or
    - (c) in the District Court, if in the opinion of the local authority the value of the article concerned does not exceed €15,000.
  - (4) In any condemnation proceedings, the claimant or a solicitor acting on behalf of the claimant shall state on oath that the claimant was, or was to the best of his or her knowledge and belief, the owner of the article seized at the time of the seizure.
  - (5) The local authority may restore any article which is the subject of condemnation proceedings to the person from whom it was seized.

- (6) Where in any condemnation proceedings—
- (a) judgment is given for the claimant, and
  - (b) the court certifies that there was probable cause for the seizure of the article as liable to forfeiture,
- no authorised person or other person who made or assisted in making the seizure is liable to any civil or criminal proceedings on account of the seizure or detention of the thing seized.
- (7) Where in condemnation proceedings any article is condemned as forfeited, the forfeiture shall apply from the date when the liability to forfeiture arose.
- (8) Where a decision is made under subsection (2), any person aggrieved may, within 21 days beginning on the day the decision was made, appeal the decision to the following court:
- (a) where the decision was made by the District Court, the Circuit Court;
  - (b) where the decision was made by the Circuit Court, the High Court;
  - (c) where the decision was made by the High Court, the Court of Appeal.
- (9) On hearing an appeal under subsection (8) the court may, if it considers it appropriate to do so, confirm the decision which is the subject of the appeal, vary it or allow the appeal.
- (10) All articles seized by an authorised person as liable to forfeiture shall after condemnation be sold or destroyed or otherwise disposed of in such manner as the local authority may direct.
- (11) Any moneys arising from the disposal of condemned articles shall be lodged to the credit of the local fund maintained by the local authority pursuant to, and in accordance with, section 97 of the Local Government Act 2001 and expended in accordance with that section.
- (12) Where an article is disposed of under subsection (10), the costs of the disposal, less any moneys arising from the disposal, shall (except where the costs have been waived in writing) be recoverable by the local authority from any person by whom an offence referred to in section 53Z(2) was committed as a simple contract debt in any court of competent jurisdiction.”.

### **Information sharing**

**22.** The Principal Act is amended by the insertion of the following section after section 55:

- “**55A.** (1) Without prejudice to any other power to do so, a registration body, an authorised person, and local authorities may each disclose information (including personal data) to each other and may each disclose

information (including personal data) to a relevant body and enter into a data sharing arrangement with each other or with a relevant body where such disclosure is necessary and proportionate for the purpose of the performance of a function of a registration body, authorised person, local authority or relevant body, as the case may be, under this Act or under an order or regulations made under this Act.

- (2) The information referred to in subsection (1) may—
- (a) include the name, address and contact details of a person registered on a fuel regulations register,
  - (b) identify the activity engaged in or proposed to be engaged in by a person registered on a fuel regulations register,
  - (c) identify a fuel or other item as an item of interest under a fuel regulations register, or
  - (d) be information required for the purpose of consideration of an application to be registered under a fuel regulations register.
- (3) For the purposes of subsections (1) and (2), the Minister may prescribe—
- (a) specific information (including personal data) that may be disclosed,
  - (b) the purposes for which the information may be disclosed,
  - (c) the persons to whom the information may be disclosed, and
  - (d) such conditions as the Minister considers appropriate to impose on the sharing of the information.
- (4) In this section—

‘personal data’ has the meaning it has in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

‘relevant body’ means—

- (a) the Minister,
- (b) any other Minister of the Government or any Department of the Government if the Minister is satisfied that that other Minister or that Department performs functions which are relevant to the purpose referred to in subsection (1),
- (c) the Environmental Protection Agency,
- (d) the Sustainable Energy Authority of Ireland,

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<sup>1</sup> OJ No. L119, 4.5.2016, p. 1

- (e) An Garda Síochána, and
- (f) the Revenue Commissioners.”.

**Amendment of First Schedule to Principal Act**

**23.** The First Schedule to the Principal Act is amended—

- (a) in paragraph 1, by the substitution of “particulate matter” for “dust”, and
- (b) in paragraph 2—
  - (i) by the substitution of “particulate matter” for “dust”,
  - (ii) in subparagraph (c), by the insertion of “and other inorganic carbon compounds” after “carbon monoxide”,
  - (iii) in subparagraph (h), by the substitution of “compounds, or” for “compounds.”, and
  - (iv) by the insertion of the following subparagraph after subparagraph (h):
    - “(i) ozone.”.