



**AN BILLE IASCAIGH FIORUISCE (TOIRMEASC AR  
LIONTOIREACHT), 1951.**

**FRESHWATER FISHERIES (PROHIBITION OF  
NETTING) BILL, 1951.**

*Mar a ritheadh ag Dáil Éireann.  
As passed by Dáil Éireann.*

**ARRANGEMENT OF SECTIONS.**

**Section.**

1. Definitions.

2. *Ex-gratia* grants by the Minister to certain persons in respect of prohibition of netting in freshwater.

3. Compensation under subsection (5) of section 35 of the Act of 1939.

4. Consent of Minister for Finance to payments.

5. Expenses.

6. Short title.





AN BILLE IASCAIGH FIORUISCE (TOIRMEASC AR  
LIONTOIREACHT), 1951.

FRESHWATER FISHERIES (PROHIBITION OF  
NETTING) BILL, 1951.

BILL

entitled

AN ACT TO AUTHORISE THE MAKING OF *EX-GRATIA*  
PAYMENTS TO CERTAIN PERSONS IN RESPECT OF  
THE PROHIBITION OF NET FISHING IN FRESH  
WATER EFFECTED BY SECTION 35 OF THE  
FISHERIES ACT, 1939, AND TO MAKE FURTHER  
PROVISION IN RELATION TO COMPENSATION PAY-  
ABLE UNDER SUBSECTION (5) OF THE SAID  
SECTION 35.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

Definitions.

1.—In this Act—

the expression “the Act of 1939” means the Fisheries Act, 1939  
(No. 17 of 1939);

the expression “the Minister” means the Minister for Agriculture.

*Ex-gratia* grants  
by the Minister  
to certain persons  
in respect of  
prohibition of  
netting in  
freshwater.

2.—(1) Where—

(a) a right to use in a several fishery in freshwater a net for  
the capture of fish existed and was exercised before the  
1st day of January, 1939, and

(b) the Minister is satisfied that a person was the owner of  
that right on the 31st day of December, 1947, and

(c) that person satisfies the Minister that he has suffered loss  
by the coming into operation of section 35 of the Act of  
1939, and

(d) that person is not entitled to compensation under sub-  
section (5) of the said section 35,

the Minister may, if he so thinks proper, make to that person an  
*ex-gratia* payment of such amount as he thinks proper.

(2) Where—

(a) nets for the capture of fish were lawfully used in parti-  
cular freshwater before the 1st day of January, 1939, and



- (b) the Minister is satisfied that a person lawfully, as owner or part owner of a net, used, before the 1st day of January, 1948, such net for the capture of fish in that freshwater, and
- 5 (c) that person satisfies the Minister that he has suffered loss by the coming into operation of section 35 of the Act of 1939, and

- (d) that person is not entitled to compensation under subsection (5) of the said section 35,
- 10 the Minister may, if he so thinks proper, make to that person an *ex-gratia* payment of such amount as he thinks proper.

(3) Where—

- (a) during at least three of the five open fishing seasons next before the 1st day of January, 1948, a person (in this subsection referred to as the employee) was employed
- 15 in the service of another person in or about the operation or protection of a net lawfully used for the capture of fish in freshwater, and

- (b) the employee satisfies the Minister that he has suffered loss by the coming into operation of section 35 of the Act of 1939, and
- 20

- (c) the employee is not entitled to compensation under subsection (6) of the said section 35,

the Minister may, if he so thinks proper, make to the employee an

25 *ex-gratia* payment of such amount as he thinks proper.

- (4) No *ex-gratia* payment may be made under subsection (1), (2) or (3) of this section, unless an application for such *ex-gratia* payment or an application for compensation under section 35 of the Act of 1939 has been made before the 1st day of July, 1952.

- (5) The total of the amounts paid by way of *ex-gratia* payments under this section shall not exceed sixty thousand pounds.
- 30

3.—(1) In this section, the word “compensation” means compensation under subsection (5) of section 35 of the Act of 1939.

Compensation under subsection (5) of section 35 of the Act of 1939.

- (2) Compensation shall not be payable unless an application
- 35 therefor is made before the 1st day of July, 1952.

(3) Where compensation is payable in respect of the cesser of a right to use a net in a several fishery in freshwater—

- (a) subject to paragraph (b) of this subsection the Minister may, if he so thinks proper, pay to the person entitled thereto interest on the amount thereof at such rate (not exceeding three per cent. per annum) as the Minister thinks fit from such date (not being earlier than the first day of the open season for the taking of salmon and trout by engines other than rod and line in the year 1948 as respects that freshwater) as the Minister thinks proper until the payment of such compensation in accordance with subsection (4) of this section;
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(b) if—

- (i) the Minister has made an unconditional offer in writing of any sum as such compensation to such person, and
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- (ii) the offer is not accepted by such person, and



(iii) the sum awarded as compensation by the official arbitrator does not exceed the sum so offered, the Minister shall not pay interest on such compensation in respect of any period after the date of the offer.

(4) The following provisions shall apply in respect of the payment of compensation—

(a) in case, within six months after the final determination of the compensation, or six months after the passing of this Act (whichever is the later) any person applies to the Minister for payment thereof and satisfies the Minister that he is competent to give an effective discharge therefor, the compensation being regarded for this purpose as the proceeds of a sale of the right which ceased by the operation of section 35 of the Act of 1939 effected on the 31st day of December, 1947, the Minister shall pay the compensation to that person,

(b) in any other case—

(i) if the compensation does not exceed one thousand pounds, the Minister shall pay it into the Circuit Court and the Circuit Court shall thereupon have with respect to it all the jurisdiction exercisable by the High Court under the provisions of the Lands Clauses Acts,

(ii) if the compensation exceeds one thousand pounds, it shall be paid, applied and dealt with in accordance with the provisions of the Lands Clauses Consolidation Act, 1845, with respect to purchase money or compensation coming to persons having limited interests or prevented from treating or making title and those provisions shall have effect accordingly.

(5) Where compensation is payable to any person, then, unless it is deposited in Court under subsection (4) of this section by reason of the wilful default of any person to make a good title thereto, the Minister may, if he so thinks proper, pay to such person such sum as he thinks proper towards the costs incurred by him in deducing, evidencing and verifying the title to the compensation.

Consent of Minister for Finance to payments.

4.—The Minister shall not make any payments under this Act except with the previous consent of the Minister for Finance.

Expenses.

5.—All expenses incurred by the Minister under this Act shall be paid out of moneys provided by the Oireachtas.

Short title.

6.—This Act may be cited as the Freshwater Fisheries (Prohibition of Netting) Act, 1951.







AN BILLE IASCAIGH FIORUISCE  
(TOIRMEASC AR LIONTOIREACHT),  
1951.

BILLE

*dá ngairmtear*

Acht dá údarú focaíochta *ex-gratia* a dhéanamh le daoine áirithe i leith an toirmise a chuireas alt 35 den Acht Iascaigh, 1939, ar iascach le líon i bhfíoruisce, agus do dhéanamh tuilleadh socruithe maidir le cúiteamh is infíochta faoi fho-alt (5) den alt sin 35.

*'An tAire Talmhaíochta a thug isteach.*

*Rite ag Dáil Éireann, 12ú Iúil, 1951.*

BAILE ATHA CLIATH:  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR.

Le ceannach díreach ón Oifig Díolta Foilseachán Rialtais  
3-4 Sráid an Choláiste, Baile Átha Cliath, nó trí  
aon díoltóir leabhar.

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[*Raol Glan.*]

Wt. 4301—1810. 625. 7/51. C.&Co. (893).

FRESHWATER FISHERIES (PRO-  
HIBITION OF NETTING) BILL, 1951.

BILL

*entitled*

An Act to authorise the making of *ex-gratia* payments to certain persons in respect of the prohibition of net fishing in fresh water effected by section 35 of the Fisheries Act, 1939, and to make further provision in relation to compensation payable under subsection (5) of the said section 35.

*Introduced by the Minister for Agriculture.*

*Passed by Dáil Éireann, 12th July, 1951.*

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