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**AN BILLE UM DHUMPÁIL AR FARRAIGE (LEASÚ), 2000  
DUMPING AT SEA (AMENDMENT) BILL, 2000**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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*Mar a ritheadh ag Seanad Éireann  
As passed by Seanad Éireann*

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*Introduction*

The purposes of this Bill are to:

- update the definition of “harbour authority” in section 1 of the Dumping at Sea Act, 1996 (No. 14), so as to include port companies to which the Harbours Acts, 1996 and 2000, apply [*section 1*],
- include specifically the Minister for Arts, Heritage, Gaeltacht and the Islands in the list of Ministers, in section 5 of the Dumping at Sea Act, 1996, who must be consulted by the Minister for Communications, Marine and Natural Resources in relation to all applications for Dumping at Sea Permits [*section 2*], [**See Note**]
- require all applicants for such permits to publicly advertise their applications in a newspaper circulating in the vicinity of the area or areas to which the applications relate so as to enable interested parties to comment within 21 days of the publication of the notice, except in urgent cases involving navigational safety where public advertisement only is being provided for [*section 3*], and
- include any likelihood of interference with important natural or archaeological heritage among the particular matters to be considered, as required by the First Schedule to the Dumping at Sea Act, 1996, before a decision is made on any application for a Dumping at Sea Permit [*section 4*], and
- require the publication of the Dumping at Sea Permit Register by electronic means [*section 2—(e)*] and the publication by electronic means of all Permit applications received on or after 1 January 2001 (and any submissions or observations in relation to such applications) [*section 3—(7)*].**

The Dumping at Sea Act, 1996, strengthened considerably and replaced earlier legislation for the control of dumping at sea, in line

**Note: The reference to the Minister for Arts, Heritage, Gaeltacht and the Islands has to be deleted in consequence of Government changes in June 2002, notably the abolition of that Office and the transfer of natural and archaeological heritage functions to the Minister for the Environment and Local Government who is already specified in the 1996 Act for consultation in relation to all such applications.**

with updated international obligations of the State. The Act enables the Minister for Communications, Marine and Natural Resources to grant permits for certain dumping, as specified in the permits and subject to such conditions as the Minister may specify in the permits. It also empowers the courts to impose such monetary penalty and/or imprisonment for a term not exceeding 5 years, as they may decide, on conviction on indictment of any person for illegal dumping as defined by the Act.

#### *Provisions of Bill*

*Section 1* updates the definition of “harbour authority” in section 1 of the Dumping at Sea Act, 1996, so as to include port companies to which the Harbours Acts, 1996 and 2000, apply.

*Section 2* provides firstly for amendment of section 5 of the Dumping at Sea Act, 1996, to include specifically the Minister for Arts, Heritage, Gaeltacht and the Islands in the list of Ministers who must be consulted by the Minister for Communications, Marine and Natural Resources in relation to all applications for Dumping at Sea Permits (*paragraphs (a) and (d)*). That inclusion reflects current practice and is considered necessary to highlight the functions of the Minister for Arts, Heritage, Gaeltacht and the Islands in relation to protection of the natural and archaeological heritage. As a corollary, *section 4* of the Bill removes doubt that any likelihood of interference with important natural or archaeological heritage should be considered before a decision is made on an application for a Dumping at Sea Permit. [See Note on page 1]

Secondly, the section (*paragraphs (b) and (c)*) makes a number of amendments to section 5 of the 1996 Act consequential to the new section 5A being inserted in the 1996 Act by *section 3* of the Bill to require applicants for Dumping at Sea Permits to publicly advertise their applications in a newspaper circulating in the vicinity of the area or areas to which the applications relate.

**Thirdly, the section (*paragraph (b)*) requires the Minister for Communications, Marine and Natural Resources to arrange for the publication by electronic means of the Dumping at Sea Permit Register.**

*Section 3* inserts a new section, section 5A, in the 1996 Act to require all applicants for Dumping at Sea Permits to publish notice of their applications in a newspaper circulating in the vicinity of the area or areas to which the applications relate so as to enable interested parties to comment within 21 days of the publication of the notice except in urgent cases, that is involving navigational safety, where public advertisement only is provided for. In essence, this formalises the non-statutory obligation imposed on applicants for Dumping at Sea Permits since August 1999, in the public interest.

*Subsection (1)* requires the applicant to publish the notice in a newspaper within 21 days of the application being made and enables the Minister for Communications, Marine and Natural Resources if necessary to specify a particular newspaper in which the notice should be published, so as to ensure that the proposal would be known to persons who may be affected thereby. The subsection distinguishes between cases involving only disposal at sea of a substance or material (e.g. fish processing wastes) and the vast majority of cases involving dredging and disposal at sea of a substance or material arising from the maintenance or improvement of ports and harbours. In any case, disposal at sea is only permitted under the 1996 Act where it is the only option and where it is confirmed, by chemical

and other analyses, that the substance or material in question would not harm the marine environment.

*Subsection (2)* specifies what the required public notices should contain.

*Subsection (3)* allows any person concerned to make a submission or observations in writing to the Minister for Communications, Marine and Natural Resources within 21 days after the date of publication in a newspaper of the notice of the application for a Dumping at Sea Permit, except in any case which is specified with the consent of the Minister in such a notice to be of an urgent nature, that is involving navigational safety, while *subsection (4)* specifies the particulars, etc., which should be in and with all such submissions or observations.

*Subsection (5)* requires the Minister for Communications, Marine and Natural Resources to copy to the permit applicant for comment all submissions or observations together with any accompanying documents, etc., received in relation to the application.

*Subsection (6)* empowers the Minister for Communications, Marine and Natural Resources to consider urgent cases, that is involving navigational safety, as quickly as possible but otherwise obliges the Minister not to make a decision to grant or refuse the permit sought until after the end of the 21 days allowed for any person to make a submission or observations in relation to the permit application. If no submissions or observations are received during that period, the Minister can make a decision immediately after the end of that period. If any submissions or observations are received during that period, the Minister is obliged to allow sufficient time for the applicant to comment thereon and to consider those comments before making a decision on the application.

***Subsection (7) requires the Minister to arrange for the electronic publication of all applications for Dumping at Sea Permits received on or after 1 January 2001 and of all submissions or observations received in relation to such applications.***

*Section 4* provides for amendment of the First Schedule to the Dumping at Sea Act, 1996, so as to remove doubt that any likelihood of interference with important natural or archaeological heritage should be considered before a decision is made on an application for a Dumping at Sea Permit.

*Section 5* is a standard feature which gives the short title to the Bill when enacted (*subsection (1)*) and provides for comprehensive referencing and interpretation of the Bill when enacted (*subsection (2)*).

#### *Staffing and financial implications*

The Bill does not require additional staffing or involve any net additional costs for the Exchequer.

Applicants for Dumping at Sea Permits will be required under the Bill, in the public interest, to publish, at their own expense, a newspaper notice of all future applications, and so will incur additional costs, which should not be significant, if they have not already published such notices on a non-statutory basis.

*Roinn Cumarsáide, Mara agus Acmhainní Nádurtha,  
Samhain, 2002.*