



**DÁIL ÉIREANN**

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

**LEASUITHE TUARASCÁLA  
REPORT AMENDMENTS**

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# DÁIL ÉIREANN

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## AN BILLE OIHDREACHTA, 2016 —AN TUARASCÁIL

### HERITAGE BILL 2016 —REPORT

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#### *Leasuithe Amendments*

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1. In page 4, lines 18 and 19, to delete all words from and including “These” in line 18 down to and including line 19.

—An tAire Cultúir, Oidhreachta agus Gaeltachta.

2. In page 4, lines 35 to 37, to delete all words from and including “, subject” in line 35 down to and including “for” in line 37.

—An tAire Cultúir, Oidhreachta agus Gaeltachta.

3. In page 4, line 38, after “canals” to insert the following:

“, within agreed procedures on a temporary basis due to an emergency or to facilitate a planned event or maintain and upgrade”.

—Éamon Ó Cuív.

4. In page 5, line 3, after “permits” to insert “(for mooring and passage by boats)”.

—Éamon Ó Cuív.

5. In page 5, to delete lines 27 to 29 and substitute the following:

“(p) the charging and fixing of fees, tolls and charges in respect of the use by boats of the canals (including the use of locks on the canals and mooring on the canals) and the charging and fixing of fees in respect of the use by persons of the canals (including the taking of water from the canals);”.

—An tAire Cultúir, Oidhreachta agus Gaeltachta.

6. In page 5, line 40, to delete “and” and substitute the following:

“(ii) develop a system whereby interested parties can register electronically with Waterways Ireland and be notified automatically of all bye-laws proposed to be made, and”.

—Éamon Ó Cuív.

7. In page 6, lines 22 and 23, to delete “Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs” and substitute “Minister for Culture, Heritage and the Gaeltacht”.

—An tAire Cultúir, Oidhreacht agus Gaeltachta.

8. In page 6, line 32, to delete “website.” and substitute the following:

“website, and

- (iii) ensure that Authorised Officers have access to a copy of the bye-laws (electronic or printed version) for presentation on request by a canal user.”.

—Éamon Ó Cuív.

9. In page 6, lines 39 and 40, to delete “Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs” and substitute “Minister for Culture, Heritage and the Gaeltacht”.

—An tAire Cultúir, Oidhreacht agus Gaeltachta.

10. In page 7, line 1, to delete “Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs” and substitute “Minister for Culture, Heritage and the Gaeltacht”.

—An tAire Cultúir, Oidhreacht agus Gaeltachta.

11. In page 7, line 9, to delete “subsection (4)” and substitute “subsection (6)”.

—An tAire Cultúir, Oidhreacht agus Gaeltachta.

12. In page 9, between lines 12 and 13, to insert the following:

- “(iii) if the evidence requested under subparagraph (ii) is not available then an individual should be able to produce said evidence within a reasonable period of time and at a place as specified by bye-laws;”.

—Éamon Ó Cuív.

13. In page 9, line 28, to delete “persons on canal property” and substitute “owner of a boat”.

—An tAire Cultúir, Oidhreacht agus Gaeltachta.

14. In page 11, between lines 32 and 33, to insert the following:

“7F. (1) That no more than three months from the enactment of this Act, the Minister shall convene a forum of all stakeholders including, but not limited to, wildlife preservation groups, Birdwatch Ireland and relevant academic researchers to discuss the concerns/issues about managing our uplands and roadside hedgerows and come up with positive solutions to minimise the conflict with nature and to provide a new vision for the conservation of our uplands and hedgerows.

- (2) That no more than three months from the enactment of this Act, the Minister shall commission a report on bird nesting dates in Ireland in our uplands and lowland hills and hedgerows to inform any changes to measures that seek to protect birds and bees during nesting seasons.”.

—Bríd Smith, Gino Kenny, Richard Boyd Barrett.

15. In page 12, to delete lines 1 to 22.

—Peadar Tóibín, Bríd Smith, Gino Kenny, Richard Boyd Barrett.

16. In page 12, to delete lines 2 to 7.

—Catherine Martin, Eamon Ryan, Peadar Tóibín.

17. In page 12, lines 3 and 4, to delete “that section” and substitute “section 40 (1)(a)”.

—Catherine Martin, Eamon Ryan.

18. In page 12, to delete lines 8 to 13 and substitute the following:

“(2) Notwithstanding section 40 of the Act of 1976, the Minister may make regulations to provide for derogations from the restrictions of section 40(1) of the Act of 1976 in order to permit the management of vegetation growing in any hedge or ditch for the purpose of ensuring public health and safety pursuant to section 70 of the Roads Act 1993.

(3) Regulations made under subsection 2 shall specify—

- (a) the species of wild flora which are not subject to the derogations,
- (b) the circumstances of risk and the circumstances of time and place under which such derogations may be granted,
- (c) the authority empowered to declare that the required circumstances obtain and which can impose conditions on the management of vegetation under the derogation, and
- (d) the controls which will be put in place to ensure compliance with the conditions.”.

—Catherine Martin, Eamon Ryan.

19. In page 12, to delete lines 8 to 13 and substitute the following:

“(2) Notwithstanding section 40 of the Act of 1976, the Minister may make regulations to establish a taskforce to identify the most efficient agriculturally and environmentally sympathetic fashion in which to proceed in this area.”.

—Peadar Tóibín.

20. In page 12, to delete lines 8 to 13 and substitute the following:

“(2) Notwithstanding section 40 of the Act of 1976, the Minister may, where no other satisfactory solution exists, derogate from the restrictions of section 40(1) of the Act of 1976 to permit the management of vegetation growing in any hedge or ditch being carried out pursuant to section 70 of the Roads Act 1993 subject to regulations which must specify—

- (a) the species of wild flora and fauna which are subject to the derogations,
- (b) the conditions of risk and the circumstances of time and place under which such derogations may be granted,

- (c) the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom,
- (d) the controls which will be carried out.”.

—Peadar Tóibín.

21. In page 12, line 9, to delete “that section” and substitute “section 40(1)(b)”.

—Catherine Martin, Eamon Ryan.

22. In page 12, line 10, to delete “on the roadside during the month of August” and substitute “for the purpose of ensuring the safe use of public roads during the period 1st March to 31st August”.

—Catherine Martin, Eamon Ryan.

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

“(3) Notwithstanding section 40 of the Act of 1976, the Minister may make regulations to restrict the cutting of vegetation growing in any hedge or ditch during the months of February and September of such year as is specified in the regulations, subject to such conditions or restrictions specified in the regulations to ensure the protection of fauna or flora.”.

—Catherine Martin, Eamon Ryan.

24. In page 12, between lines 22 and 23, to insert the following:

**“Amendment of Act of 1976**

8. The Act of 1976 is amended in section 40—

(a) by the substitution for subsection (2) of the following:

“(2) The Minister may, where no other satisfactory solution exists, derogate from the restrictions of section 40(1) of the Act of 1976 to permit the management of vegetation referred to in section 1(a) and (b) being carried out—

(a) in the interests of public health and safety,

(b) in the interests of air safety,

(c) to prevent serious damage to crops, livestock, forests, fisheries and water,

(d) for the protection of flora and fauna,

subject to regulations which must specify—

(i) the species of wild flora and fauna which are subject to the derogations,

(ii) the conditions of risk and the circumstances of time and place under which such derogations may be granted,

(iii) the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom, and

(iv) the controls which will be carried out.”,

and

(b) subsection (3) is deleted.”.”.

—Peadar Tóibín.

25. In page 12, between lines 22 and 23, to insert the following:

**“Amendment of Act of 1976**

8. Section 40 of the Act of 1976, as amended by the Act of 2000, is amended—

(a) in subsection (1), by the insertion of the following new paragraphs after paragraph (b):

“(c) The Minister may make regulations to extend, in part or parts of the State, the period of protection referred to in paragraph (a) in order to protect species covered by Article 1 of the Birds Directive.

(d) The Minister may make regulations to protect individual hedgerows of archaeological, historical, ecological or landscape significance.”,

and

(b) in subsection (2)(c), by the insertion of the words “, or under notice from,” between “safety by” and “a Minister”.”.

—Peadar Tóibín.

26. In page 12, to delete lines 23 to 29.

—Catherine Martin, Eamon Ryan, Bríd Smith, Gino Kenny, Richard Boyd Barrett.

27. In page 12, line 28, after “pursuant to” to insert “paragraph (2)(b) or subsection (9) of”.

—Catherine Martin, Eamon Ryan.

28. In page 12, between lines 29 and 30, to insert the following:

“9. Section 11 of the Act of 1976 is amended by inserting the following subsection after subsection (4):

“(5) The Minister shall report annually to the Oireachtas on the funding made available to the National Parks and Wildlife Service during the previous year and the degree to which the Service has been able to effectively fulfil its role.”.”.

—Catherine Martin, Eamon Ryan.

29. In page 12, between lines 29 and 30, to insert the following:

“9. Section 11 of the Act of 1976 is amended by inserting the following subsection after subsection (4):

“(5) The Minister shall report annually to the Oireachtas on progress in meeting the Aichi Targets adopted at the Tenth Conference of the Parties to the Convention on Biological Diversity.”.

—Catherine Martin, Eamon Ryan.

30. In page 12, between lines 29 and 30, to insert the following:

“9. Section 40 of the Act of 1976 is amended by the substitution of the following for subsection (3):

“(3) Details of works, including prior inspections, length and location, carried out under subsections (2)(c) or (2)(g) shall be furnished to the Minister by that person, within 14 days, together with a statement of the public health or safety factors involved, including details of alternative solutions assessed.”.

—Catherine Martin, Eamon Ryan.

31. In page 12, between lines 29 and 30, to insert the following:

“9. (1) The Minister shall conduct a comprehensive national baseline study over a period of at least 3 years to collect data on bird nesting and other aspects of hedgerow and countryside biodiversity in order to inform the protection of biodiversity and of other aspects of the environment including the consideration of appropriate closed season dates for burning vegetation and cutting of hedgerows (without prejudice to current limitations as set out in the Wildlife Acts 1976 to 2010).

(2) Before initiating the study referred to in *subsection (1)* the Minister shall consult with interested parties in relation to the purpose and methodology of the study, the arrangements for review and publication of the study, including through a public participation process which conforms to Article 6 of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters adopted in Aarhus, Denmark on 25 June 1998.

(3) The study referred to in *subsection (1)* will also have regard to the key areas of policy coherence as enumerated elsewhere in this Act.

(4) No regulation or legislation allowing for an extension of the burning or cutting period of the cutting of hedgerows or burning of uplands beyond that set out in the Wildlife Acts 1976 to 2010 shall be initiated prior to publication and full consideration of the baseline study.”.

—Peadar Tóibín.

32. In page 12, between lines 29 and 30, to insert the following:

“9. (1) Section 40(2) of the Act of 1976 is amended by inserting the following:

“(g) the removal or destruction of vegetation required by a notice served

by a local authority under section 70 of the Roads Act 1993 (as amended).”.

(2) Section 40 of the Act of 1976 is amended by adding after subsection (2) the following:

“(2A) Any activity undertaken under section 40(2), by a public authority or any activity authorised by them in the interests of public health and safety is required to be notified to the Minister by the public authority responsible for the execution or authorising of such works, and shall outline:

- (a) the public health and/or safety concern or other rationale as to why the works need to be undertaken during the prohibited period together with supporting evidence in this regard; and
- (b) how such works were strictly limited to those necessary, and were undertaken in a manner so as to limit the negative impacts on biodiversity where possible, or any issues in respect of such considerations.”.

(3) Section 70(1)(b) of the Roads Act 1993 is amended by inserting the following:

“(c)(i) where there is a risk to public health and safety from a structure on the land to the safe use of a public road or the maintenance of the public road, any party including a land owner or occupier of land, may apply to a local authority to serve a notice in writing in accordance with this section on the owner or occupier of any land on which the structure is situated to remove, modify or carry out specified works in relation to the structure within the period stated in the notice. The local authority shall consider the necessity of such works and determine whether to issue a notice accordingly. Such works shall be considered exempted for the purposes of section 40 of the Wildlife Act 1976 (as amended);

(ii) the local authority shall comply with all legislative obligations, screenings, assessments and notifications necessary to the making of any such a notice;

(iii) the notice shall contain details of—

(I) the precise location of the issue to be addressed,

(II) the precise nature of the issue to be addressed, and

(III) precisely what remedial work needs to be carried out;

(iv) where notification is during the closed period for hedge-cutting specified in section 40 of the Wildlife Act 1976 (as amended) detailed guidance on biodiversity considerations shall be included; and

- (v) the local authority shall notify the Minister for Culture, Heritage and the Gaeltacht, with responsibility for natural heritage of the making of any such notice, at the same time it notifies the land owner or occupier of the land.””.

—Peadar Tóibín.