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**An Bille Oidhreachta, 2016**  
**Heritage Bill 2016**

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*Meabhrán Mínitheach agus Airgeadais*  
*Explanatory and Financial Memorandum*

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

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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**Background**

The principal purpose of the Bill is to amend the Heritage Act 1995, on foot of the Report of the Critical Review of the Heritage Council, and to make provision for the regulation of cutting and burning of vegetation. The Bill also provides for clarification of the powers of authorised officers under the Wildlife Acts. Provision is also being made in the Bill to amend the Canals Act 1986 in order to provide enabling provisions in primary legislation so as to allow for the subsequent making of bye-laws for the regulation of the use of the canals and other canal property.

*Purpose of Bill*

The Bill provides for the following matters in relation to the canals, wildlife and the Heritage Council:

**Canals**

The amendments to the Canals Act 1986 set out the general duty of Waterways Ireland (which is being substituted for the Commissioner of Public Works) and provide for the making of bye-laws for the care, management, maintenance and control of the canals and the regulation of the use of the canals and other canal property. The amendments also provide for the appointment and powers of authorised officers.

**Wildlife**

The new amendments to the Wildlife Acts give the Minister power by Regulations to permit to the burning of vegetation in March (a month normally closed to burning) during such period or periods and in such areas of the State as the Minister may specify. The Regulations may also set out conditions or restrictions to protect protected habitats and species in areas where such burning is permitted. These powers will expire after a two-year pilot period although there is provision for continuation by resolution by each House of the Oireachtas.

There is also provision to allow landowners or their agents to cut, grub or destroy vegetation in any hedge or ditch during August, subject to such Regulations as the Minister may make. As in the case of burning, this provision will remain active for a pilot period of two years, with provision for continuation by resolution by each House of the Oireachtas.

There are also provisions clarifying the powers of authorised officers of the Department and An Garda Síochána under the Wildlife Acts, the updating of penalties for offences under the Wildlife Acts, the introduction of fixed payment notices and associated matters.

## **Heritage Council**

The Bill now presented deals with the refocusing of particular functions of the Heritage Council, the size and composition of its board, the requirements for a quorum at board meetings, remuneration of the board, and the elimination of the need for statutory standing committees.

### *Provisions of Bill*

The Bill is divided into three parts, the main provisions of which are summarised below.

## **Part 1**

### **Preliminary and General**

*Section 1* sets out the short title, collective citation and construction

## **Part 2**

### **Canals**

*Section 2* is a standard provision providing a definition for this part of the Bill.

*Section 3* is being substituted for section 5 of the Canals Act 1986 and defines the general duty of Waterways Ireland (which is being substituted for the Commissioners of Public Works) and of Córas Iompar Éireann. It is the general duty of Waterways Ireland to undertake the care, management and maintenance of the canals and other canal property as a public amenity for navigation, fishing and other recreational purposes, subject to consultation with the Minister for Communications, Energy and Natural Resources in relation to fishing matters. Both Córas Iompar Éireann and Waterways Ireland have a duty in regard to the care, management and maintenance of common interest property.

*Section 4* substitutes sections 7 and 7A (inserted by the Maritime Safety Act 2005) of the Canals Act 1986. Provision is made in section 7 for the making of bye-laws in relation to various matters including the regulation of the conditions under which boats may be used on the canals, the type or class of boats that may be used, the issuing of permits and licences to regulate the use of boats on canals and canal property, the closing to navigation of any part of the canals, the regulation of berths and moorings and the placing of buoys on the canals or other canal property, the regulation and care of animals on the canals and other canal property, the charging and fixing of fees, tolls and charges and the specification of the form and amount of a fixed payment notice in regard to offences under the bye-laws. Provision is also made for publication of the proposal to make bye-laws, the inspection of draft bye-laws and the publication of bye-laws. Section 7A makes provisions in relation to fixed payment notices. New sections are provided at sections 7B, 7C, 7D and 7E. Section 7B provides for the appointment and powers of authorised officers. Section 7C provides for the issue of search warrants by a judge of the District Court. Section 7D contains provisions on the service of directions. Section 7E provides that proceedings for an offence under the Canals Act may be prosecuted summarily by Waterways Ireland and may be instituted within 12 months from the date of the offence.

*Section 5* relates to the Schedule which contains a list of miscellaneous amendments to the Canals Act 1986.

*Section 6* repeals section 56 of the Maritime Safety Act 2005.

### **Part 3**

#### **Wildlife**

*Section 7* sets out definitions relating to the wildlife primary legislation.

*Section 8* provides for amendments to section 40 of the Wildlife Acts. The new provisions under section 8 give the Minister power by Regulations to permit to the burning of vegetation in March, during such period or periods and in such areas of the State as the Minister may specify. Section 8 also provides for the amendment of section 40 to allow landowners or their agents to cut, grub or destroy vegetation in any hedge or ditch during August, subject to such Regulations as the Minister may make.

*Section 9* relates to updating references to Inland Fisheries Ireland and to current fisheries legislation.

*Section 10* provides for clarification of the powers of authorised officers of the Department and An Garda Síochána under the Wildlife Acts.

*Section 11* provides for the updating of penalties for offences under the Wildlife Acts and the introduction of fixed payment notices for certain offences.

### **Part 4**

#### **Heritage Council**

*Section 12* provides for amendments to the Heritage Act 1995 as follows:

- 1 (a) A refocusing of activities and functions of the Heritage Council, with a particular emphasis on engagement with communities and public authorities;
- (b) A reduction in the size of the board of the Heritage Council to between 8-10 members with remuneration no longer being provided to members; and
- (c) The requirement for the Heritage Council to establish statutory Standing Committees on wildlife, archaeology, architectural heritage and inland waterways is removed.

### **Schedule**

Amendment of Act of 1986

#### **Financial Implications**

These proposals are not expected to give rise to any significant additional costs to the Exchequer

*Department of Arts, Heritage and the Gaeltacht*  
*January, 2016.*