



**AN BILLE UM FHIADHÚLRA (LEASÚ), 2021
WILDLIFE (AMENDMENT) BILL 2021**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The basking shark (*Cetorhinus maximus*) is the world's second largest shark and is classified as endangered by the International Union for Conservation of Nature's Red List (2019) and the Ireland Red List No.11: Cartilaginous fish (2016).

The basking shark is a very large, migratory species, that can grow to 12m long. It is completely harmless to humans, feeding only on tiny plankton. Its slow rate of breeding makes the population very vulnerable to disturbance of any kind. In Irish waters, basking sharks are most commonly observed off the coasts of Donegal, Mayo, Cork and Kerry between April and August each year.

Basking sharks have a long history of exploitation, particularly in the Northeast Atlantic. Annual catches by former directed fisheries in Norway, Ireland and Scotland fell by approximately 90 per cent during a period approximating half a generation. The species is susceptible to exploitation due to its large size and aggregating behaviour. Although the fishery has ceased, population recovery in basking sharks has been very slow due to low productivity and late age at maturity.

For these reasons basking shark was assessed as "Endangered" under the "Ireland Red List No.11: Cartilaginous fish" - an assessment undertaken by the Marine Institute, Irish Elasmobranch Group, Inland Fisheries Ireland, National Biodiversity Data Centre, Department of Agriculture, National Parks & Wildlife Service and in consultation with the Irish Basking Shark Study Group and Irish Whale and Dolphin Group in 2016.

Despite this "Endangered" designation, the basking shark is not currently listed as a protected or restricted fish species under Irish National marine or conservation legislation.

Whilst no longer actively fished, the species continues to face a variety of anthropogenic threats including boat strikes, harassment by recreational boat users and habitat alteration due to the development of large-scale infrastructure. Nationally and internationally, there has been significant increase in the wildlife tourism industry, with many operators offering boat rides and swimming opportunities with marine mammals and basking sharks.

Basking sharks are protected in various international treaties and legislation in other jurisdictions. For example, the species is protected from capture and disturbance in British waters (up to 12 miles offshore) under the UK Wildlife and Countryside Act (1981) and within the territorial

waters of the Isle of Man and Guernsey. The Wildlife (Northern Ireland) Order 1985 (as amended in 2011) offers protection for basking shark out to 6 nautical miles.

Internationally, target fishing is prohibited in EU waters and by EU registered vessels (EC No41/2007 of the 21/12/2006 and equivalent Norwegian regulations). In the Mediterranean, this species is protected under the Bern Convention (with EU reservation) and Barcelona Convention (non-ratified).

Provisions of the Bill

This Bill proposes to amend the Wildlife Act, 1976 to address the gap in protection for the basking shark in the Irish context by adding this species to the list of protected wild animals in the Fifth Schedule of the 1976 Act. A new subsection titled 'Fish' is also included in the Fifth Schedule to accurately categorise the Basking Shark as a fish within legislation.

To ensure adequate protection is afforded to the basking shark, this Bill seeks to amend section 23(5)(c) of the 1976 Act to make illegal the intentional or reckless injuring, disturbance or harassment of any protected wild animal other than for the purposes of hunting.

Section 2(b) of the Bill proposes to give the Minister powers by regulation to draft a code of conduct for the purposes of wildlife tourism or recreational activities. In drafting a code of conduct for affected sectors, the Minister must consult with relevant environmental organisations, be cognisant of international best practice, ethics and scientific evidence and consider, in the context of animals referenced in section 23, references made in EU and international legislation or treaties.

*Jennifer Whitmore, TD,
Bealtaine, 2021.*