



# **DÁIL ÉIREANN**

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## **AN BILLE UM SHLABHRA AN tSOLÁTHAIR TALMHAÍOCHTA AGUS BIA, 2022 AGRICULTURAL AND FOOD SUPPLY CHAIN BILL 2022**

### **LEASUITHE TUARASCÁLA REPORT AMENDMENTS**

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## AN BILLE UM SHLABHRA AN tSOLÁTHAIR TALMHAÍOCHTA AGUS BIA, 2022 —AN TUARASCÁIL

### AGRICULTURAL AND FOOD SUPPLY CHAIN BILL 2022 —REPORT

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#### *Leasuithe Amendments*

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1. In page 8, between lines 8 and 9, to insert the following:

“ “business-to-consumer” means matters arising between businesses and consumers;”.

—Claire Kerrane, Martin Browne.

2. In page 8, between lines 20 and 21, to insert the following:

“ “livestock producer” means any person engaged in the business of selling livestock to a meat processing plant for slaughter (including the sale of livestock from a meat processor to another meat processor);”.

—Michael McNamara.

3. In page 8, between lines 20 and 21, to insert the following:

“ “meat processing plant” means any plant or premises where there the business of slaughtering livestock, of manufacturing or preparing meats or meat food products from livestock for sale or shipment in commerce is carried out;”.

—Michael McNamara.

4. In page 8, between lines 30 and 31, to insert the following:

“ “reporting day” means a day on which—

- (a) a meat processing plant conducts business regarding livestock committed to the meat processing plant, or livestock purchased, sold, or slaughtered by the meat processing plant,
- (b) the Minister is required to make information concerning the business described in *paragraph (a)* available to the public, and
- (c) the Department of Agriculture, Food and the Marine is open to conduct business;”.

—Michael McNamara.

5. In page 9, between lines 9 and 10, to insert the following:

“(3) Without prejudice to the generality of *subsections (1) and (2)*, the following unfair commercial practices in the sale of the agricultural and food products may be

prohibited by regulation:

- (a) deferrals of payment of agricultural or food products that exceed 30 days or other reasonable time period set down in regulation;
- (b) one of the parties to the commercial relationship cancelling an order for perishable agricultural and food products within 30 days prior to the seller's delivery date;
- (c) one of the parties to the food contract unilaterally modifying the terms of the contract for the supply of agricultural products and food products, as regards the frequency, method, place, timing or volume of supply or delivery of agricultural products and food products, quality standards, payment terms or prices;
- (d) one party to the commercial relationship requiring payments from the other party that are not related to the sale of the supplier's agricultural or food products;
- (e) the buyer requiring the supplier to pay for deterioration or loss, or both, of agricultural produce and food products, occurring on the buyer's premises or where the property has already been transferred to the buyer, without such deterioration or loss being due to the negligence or fault of the supplier;
- (f) a party to a food contract refusing to confirm in writing the terms of a sales or supply contract agreed between the buyer and the supplier and whose written confirmation has been requested by the other party;
- (g) one party to the business relationship unlawfully acquiring, using or disclosing trade secrets of the other party within the meaning of the European Union (Protection of Trade Secrets) Regulations 2018 or any other regulations the stated purpose of which is to give effect in the State to Directive (EU 2016/943);
- (h) one party to the business relationship threatening to carry out, or carrying out, acts of commercial retaliation against the other party when the other party exercises its negotiating, contractual or legal rights, including by making a complaint to the regulator or cooperating with the regulator during an investigation;
- (i) the buyer passing on to the supplier the costs of investigating customers' complaints relating to the sale of the supplier's products, where the cause of the complaints was not due to the supplier's negligence or fault;
- (j) the buyer returning unsold agricultural and food products to the supplier without paying for these unsold products, or their disposal, or both;
- (k) a party charging a payment as a condition for storing, displaying or listing agricultural and food products or making them available on the market;
- (l) a party requiring the other party to bear more than 50 per cent of the cost of discounts for agricultural and food products sold as part of a promotion;
- (m) a party requiring the other party to bear any of the cost of discounts for agricultural and food products sold as part of a promotion unless, prior to a promotion commencing, the duration of the promotion and the expected quantity

of agricultural and food products to be ordered at a discounted price on the agreed terms are specified and the contract between the parties makes express provision for such a promotion and the extent of the discount arising therefrom;

- (n) one party requiring the other party to pay for the advertising of agricultural and food products by the other party;
- (o) one party requiring the other party to pay for the marketing of agricultural and food products;
- (p) one party charging the other party for the personnel to fit out the premises used for the sale of the agricultural and food products.”.

—Michael McNamara.

**6.** In page 9, between lines 9 and 10, to insert the following:

“(3) Without prejudice to the generality of *subsections (1) and (2)*, the Minister may make regulation requiring any or all of the following:

- (a) Meat processing plants may be required to report to the regulator on each designated reporting day with the following information for each cattle type:
  - (i) the prices for cattle (recorded in euros per kilogram weight) established on that day, categorised by—
    - (I) type of purchase, including grades, and age,
    - (II) the quantity of cattle purchased on a live weight basis,
    - (III) the quantity of cattle purchased on a dressed, or dead, weight basis,
    - (IV) a range of the weights of the cattle purchased,
    - (V) the number of cattle purchased that were Bord Bia quality assured,
    - (VI) any premiums or discounts associated with—
      - (A) weight, grade, or yield, or
      - (B) any type of purchase;
  - (ii) the terms of trade regarding the cattle, as applicable;
- (b) Meat processing plants may be required to report to the regulator, on the first reporting day of each week, the following information applicable to the prior slaughter week:
  - (i) the quantity of cattle purchased through a forward contract that were slaughtered;
  - (ii) the quantity of cattle delivered under a formula marketing arrangement that were slaughtered;
  - (iii) the quantity and carcass characteristics of meat processor owned cattle that were slaughtered;
  - (iv) the quantity, basis level, and delivery month for all cattle purchased through

forward contracts that were agreed to by the parties;

- (v) the range and average of intended premiums and discounts that are expected to be in effect for the current slaughter week;
- (c) Meat processing plants may be required to report to the regulator, on the first reporting day of each week, the following information for cattle purchased through a formula marketing arrangement and slaughtered during the prior slaughter week:
  - (i) the quantity (quoted in both numbers of head weights) of cattle;
  - (ii) the weighted average price paid for a carcass, including applicable premiums and discounts;
  - (iii) the range of premiums and discounts paid and the basis for same;
  - (iv) the weighted average of premiums and discounts paid;
  - (v) the range of prices paid;
  - (vi) the aggregate weighted average price paid for a carcass;
  - (vii) the terms of trade regarding the cattle, as applicable;
- (d) Meat processing plants may be required to report to the regulator, each reporting day information on boxed and/or vacuum-packaged beef sales, including:
  - (i) the price for each lot of each negotiated boxed beef sale (determined by seller-buyer interaction and agreement);
  - (ii) the quantity for each lot of each sale, quoted by number of boxes sold, and
  - (iii) information regarding the characteristics of each lot of each sale, including:
    - (I) the grade of beef;
    - (II) the cut of beef;
    - (III) the trim specification, and
    - (IV) any age specification of the beef;
- (e) (i) The Minister may establish a programme of swing price information reporting to the regulator that will—
  - (I) provide timely, accurate, and reliable market information,
  - (II) facilitate more informed marketing decisions, and
  - (III) promote competition in the swine slaughtering industry.
- (ii) The Minister may for the purposes of *subparagraph (i)* introduce such regulations as may be required to establish a programme of swine price information.
- (iii) The Minister may establish and implement a price reporting programme in accordance with this section that includes the reporting and publication of

information required under this section;

- (f) (i) The Minister may establish a programme of mandatory mutton and lamb price information reporting to the regulator that will—
  - (I) provide timely, accurate, and reliable market information,
  - (II) facilitate more informed marketing decisions, and
  - (III) promote competition in the lamb slaughtering industry.
- (ii) The Minister may for the purposes of *subparagraph (i)* introduce such regulations as may be required to establish a programme of mutton and lamb price information.
- (iii) Whenever the prices or quantities of lamb and mutton are required to be reported or published under this section, the prices or quantities shall be categorised so as to clearly delineate—
  - (I) the prices or quantities, as applicable, of lamb and mutton purchased in the domestic market, and
  - (II) the prices or quantities, as applicable, of any imported lamb and mutton.
- (iv) Information required under this section for meat processing plant owned lamb or mutton shall include quantity and carcass characteristics, but not price;
- (g) The Minister shall review the information required to be reported by meat processing plants under this section at least once every two years.”.

—Michael McNamara.

7. In page 9, between lines 9 and 10, to insert the following:

“(3) Without prejudice to the generality of *subsections (1) and (2)*, the Minister may make regulation requiring that the regulator shall, in consultation with Teagasc - the Agriculture and Food Development Authority - collect such information as is required to ascertain the cost of production in the State of such agricultural or food products as the Minister deems necessary to ensure fairness and transparency in the food and agricultural food supply chain in the State.”.

—Michael McNamara.

8. In page 9, between lines 9 and 10, to insert the following:

- “(3) (a) Without prejudice to the generality of *subsections (1) and (2)*, proscription of sale or resale of certain agricultural or food products below their cost of production in the State may be prohibited by regulation.
- (b) A party to a contract or commercial relationship for the supply of agricultural products and food products, or such agricultural products and food products as the Minister deems necessary to ensure fairness and transparency in the food and agricultural food supply chain in the State, shall not require or induce or attempt to require or induce any party to the said commercial relationship or contract

(whether directly or indirectly, by agreement, threat, promise or any other means) to offer for sale or resell or offer for resale in the State the said products at a price less than the cost of production of the said product in the State, as determined by the regulator in consultation with Teagasc - the Agriculture and Food Development Authority.”.

—Michael McNamara.

9. In page 10, line 9, to delete “regulator” and substitute “*rialálaí*”.

—Claire Kerrane, Martin Browne.

10. In page 11, between lines 17 and 18, to insert the following:

“(2) The regulator shall collate the costs associated with the production of different agricultural and food products in order to determine a cost-of-production, and publish reports on such on an annual basis.”.

—Claire Kerrane, Martin Browne.

11. In page 11, line 19, after “to” to insert “the full breadth of.”.

—Claire Kerrane, Martin Browne.

12. In page 11, between lines 21 and 22, to insert the following:

“(b) publish an annual analysis and reports on costs associated with the production of different foodstuffs in order to determine a cost-of-production, and”.

—Holly Cairns.

13. In page 11, between lines 21 and 22, to insert the following:

“(b) publish an annual analysis and reports on the environmental impacts associated with the production of different foodstuffs, and”.

—Holly Cairns.

14. In page 11, between lines 28 and 29, to insert the following:

“(d) the regulator shall be authorised to seek from businesses within the agri-food supply chain any data impacting upon price and margins considered necessary, including—

- (i) prices paid and received,
  - (ii) margin,
  - (iii) financial and accounting data,
  - (iv) throughput of agricultural produce,
  - (v) data in relation to policy and procedure,
  - (vi) employment status, and
  - (vii) salary,
- and



- (e) data referenced under *paragraph (d)* may be in paper or electronic form, held by a business involved in the agri-food supply chain, or otherwise on their behalf.”.

—Claire Kerrane, Martin Browne.

*Amendments to amendment No. 14*

1. In paragraph (d), to delete “the regulator shall be authorised to”.

—An tAire Talmhaíochta, Bia agus Mara.

2. In paragraph (d), to delete “agri-food” and substitute “agricultural and food”.

—An tAire Talmhaíochta, Bia agus Mara.

3. In paragraph (d), to delete “(vii) salary, and” and substitute “(vii) salary.”.

—An tAire Talmhaíochta, Bia agus Mara.

4. To delete paragraph (e) and substitute the following:

“(4) Data referenced under *paragraph (d)* of *subsection (3)* may be in paper or electronic form, held by a business involved in the agriculture and food supply chain, or otherwise on their behalf.”.

—An tAire Talmhaíochta, Bia agus Mara.

15. In page 11, between lines 28 and 29, to insert the following:

“(d) in support of the regulator’s activities, the regulator shall be authorised to seek from businesses within the agri-food supply chain any data impacting upon price and margins considered necessary, including—

- (i) prices paid and received,
  - (ii) margin,
  - (iii) financial and accounting data,
  - (iv) throughput of agricultural produce,
  - (v) data in relation to policy and procedure,
  - (vi) employment status,
  - (vii) salary,
- and

- (e) data referenced under *paragraph (d)* may be in paper or electronic form, held by a business involved in the agri-food supply chain, or otherwise on their behalf.”.

—Holly Cairns.

16. In page 11, after line 33, to insert the following:

“(7) Where the regulator believes that data relating to a business obtained under *paragraph (d)\** of *subsection (3)* is or is likely to be of a commercially sensitive nature and is not in the public domain, the regulator shall not publish the data without

the consent of the business (notwithstanding *section 51*).”.

—An tAire Talmhaíochta, Bia agus Mara.

[\*This is a reference to a paragraph proposed to be inserted by amendment No. 14.]

**17.** In page 11, after line 33, to insert the following:

“(6) The regulator shall within 3 months of its establishment date commission a social, economic and environmental impact assessment on the impact of factory-controlled feedlots regarding the beef sector.”.

—Claire Kerrane, Martin Browne.

**18.** In page 12, line 22, after “law” to insert “and anti-competitive actions in the agri-food supply chain”.

—Claire Kerrane, Martin Browne.

**19.** In page 14, between lines 20 and 21, to insert the following:

“(4) The regulator shall report to the Minister within 12 months of its establishment date as to its ability to acquire data under *section 12(3)(d)\**, and make any appropriate recommendation so as to ensure the regulator is empowered to access or seize such data it requires to meet its obligations.”.

—Claire Kerrane, Martin Browne.

[\*This is a reference to a paragraph proposed to be inserted by amendment No. 14.]

**20.** In page 16, line 3, after “buyers” to insert “, consumers”.

—An tAire Talmhaíochta, Bia agus Mara, Claire Kerrane, Martin Browne.

**21.** In page 16, lines 13 to 17, to delete all words from and including “(1) The” in line 13 down to and including line 17 and substitute the following:

“(1) The regulator shall consist of—

(a) a member (in this Act referred to as the “chairperson”) designated by the Minister to chair the regulator, and

(b) seven ordinary members,

of whom at least three shall be persons appearing to the Minister to be primary producers.”.

—An tAire Talmhaíochta, Bia agus Mara.

**22.** In page 16, line 16, to delete “two” and substitute “three”.

—Holly Cairns, Claire Kerrane, Martin Browne.

23. In page 24, between lines 15 and 16, to insert the following:

“(2) Prior to an appointment under *section 33(1)*, a proposed candidate for Chief Executive shall attend the relevant Oireachtas sectoral committee to discuss his or her strategic priorities for the role.”.

—Claire Kerrane, Martin Browne.

24. In page 53, line 21, after “the” to insert “agricultural and”.

—An tAire Talmhaíochta, Bia agus Mara.

25. In page 53, line 21, after “chain” to insert the following:

“(which may, in particular, include provision allowing the regulator to compel the provision of information referred to in *section 12(3)(d)\**)”.

—An tAire Talmhaíochta, Bia agus Mara.

[*\*This is a reference to a paragraph proposed to be inserted by amendment No. 14.*]