



DÁIL ÉIREANN

AN BILLE UM CHOMHSHAOL UISCE (ASTÓGÁLACHA AGUS GAIBHNITHE GAOLMHARA), 2022 WATER ENVIRONMENT (ABSTRACTIONS AND ASSOCIATED IMPOUNDMENTS) BILL 2022

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM CHOMHSHAOL UISCE (ASTÓGÁLACHA AGUS GAIBHNITHE GAOLMHARA), 2022 —AN COISTE

WATER ENVIRONMENT (ABSTRACTIONS AND ASSOCIATED IMPOUNDMENTS) BILL 2022 —COMMITTEE

*Leasuithe
Amendments*

SECTION 2

1. In page 9, after line 37, to insert the following:

“ “exceptional circumstances” has the same meaning as it has in section 177(2) of the Planning and Development Act 2000 (as amended);”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

2. In page 10, to delete lines 28 to 31 and substitute the following:

“ “Licensing threshold” means 2,000 cubic metres or more in any 24-hour period;”.

—Seán Canney, Verona Murphy, Denis Naughten, Michael Fitzmaurice.

3. In page 10, line 30, to delete “2,000 cubic metres” and substitute “250 cubic metres”.

—Thomas Pringle.

4. In page 11, to delete lines 26 to 29 and substitute the following:

“ “Registration threshold” means 25 cubic metres or more in any 24 hours;”.

—Seán Canney, Verona Murphy, Denis Naughten, Michael Fitzmaurice.

SECTION 8

5. In page 15, to delete lines 15 and 16 and substitute the following:

“(b) limits on the rate of water that may be abstracted from a body of surface water having regard to the surface water status, and significant effects on a European site;”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

6. In page 16, between lines 9 and 10, to insert the following:

“(7) In setting these regulations the Minister shall ensure that all abstractions of 10 cubic metres per day or more shall be required to be on the register of abstractions.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

[SECTION 9]

SECTION 9

7. In page 17, to delete lines 1 and 2.

—Thomas Pringle.

8. In page 17, between lines 2 and 3, to insert the following:

“(i) such abstraction that may be required on animal welfare grounds.”.

—Seán Canney, Verona Murphy, Denis Naughten, Michael Fitzmaurice.

SECTION 11

9. In page 19, between lines 2 and 3, to insert the following:

“(5) The information required under *subsection (4)* should be confidential to the Agency and not published.”.

—Seán Canney, Verona Murphy, Denis Naughten, Michael Fitzmaurice.

SECTION 14

10. In page 21, to delete lines 28 and 29 and substitute the following:

“(i) the identification of the existence of exceptional circumstances within the meaning of this Act,”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

SECTION 16

11. In page 24, to delete lines 27 to 36 and substitute the following:

“(5) In determining whether to make an order under *subsection (1)*, the Minister shall have regard to—

- (a) the impact of abstractions on groundwater status and surface water status,
- (b) the need to protect the environment and European sites from abstractions,
- (c) the expected environmental benefit of reducing the registration threshold or varying the licensing threshold, as the case may be,
- (d) the requirements of the Water Framework Directive and the River Basin Management Plan,
- (e) any submissions received under *subsection (6)(a)(i)*.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

12. In page 25, to delete lines 7 and 8 and substitute the following:

“(7) Submissions under *subsection (6)(a)(i)* shall be made in such manner as the Minister may specify, and may be inspected at a stated place or places and at stated times, and on the authority’s website, during a stated period of not less than 4 weeks (and that copies will be kept for inspection accordingly).”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

[SECTION 17]

SECTION 17

13. In page 26, between lines 2 and 3, to insert the following:

“(5) For the purpose of forming an opinion under *subsection (1)*, the Agency shall cause a notice to be published on the Agency’s website of the opinion that the abstraction is required to be subject to a licence, and that submissions may be made in respect of that proposal.”.

—Eoin Ó Broin, Thomas Gould, Cian O’Callaghan, Steven Matthews.

14. In page 26, to delete lines 3 to 12 and substitute the following:

“(5) In forming an opinion under *subsection (1)*, the Agency shall have regard to—

- (a) the Environmental Objectives, as defined in this Act,
- (b) the sufficiency, for the purpose of the proper regulation of the abstraction, of regulations made under *section 8*,
- (c) the reasons why a licence is not required under *paragraph (c) or (d) of section 15(1)*,
- (d) the information contained in any notice under *subsection (2)*,
- (e) information provided by the person carrying out the abstraction under *subsection (4)*,
- (f) information provided by members of the public under *section 17(5)**,
- (g) the River Basin Management Plan, and
- (h) any other matter the Agency considers relevant.”.

—Eoin Ó Broin, Thomas Gould, Cian O’Callaghan, Steven Matthews.

[*This is a reference to the subsection proposed to be inserted by amendment No. 13.]

15. In page 26, between lines 27 and 28, to insert the following:

“(c) invite members of the public to make observations, in writing, in relation to the proposed opinion and any other matter relating to the abstraction not later than 6 weeks from the date of the notice.”.

—Eoin Ó Broin, Thomas Gould, Cian O’Callaghan, Steven Matthews.

Section opposed.

—Seán Canney, Verona Murphy, Denis Naughten, Michael Fitzmaurice.

SECTION 18

16. In page 27, to delete lines 11 and 12 and substitute the following:

“(c) causes or is likely to cause a protected area or European site to fail to achieve its environmental objectives.”.

—Eoin Ó Broin, Thomas Gould, Cian O’Callaghan, Steven Matthews.

[SECTION 18]

17. In page 27, to delete lines 20 to 26 and substitute the following:

- “(4) In carrying out an assessment under *subsection (3)*, the Agency shall have regard to—
- (a) in the case of an abstraction from a body of surface water—
 - (i) the hydrological regime of the body of surface water and the impact of the abstraction on river continuity and the morphological condition of that water body, and
 - (ii) the impact or likely impact of the abstraction on the applicable biological and physico-chemical quality elements set out in Schedule 5 to the Regulations of 2009,”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

18. In page 28, to delete lines 1 to 6 and substitute the following:

- “(c) in the case of all abstractions—
- (i) the impact or likely impact of the abstraction on a protected area or European site,
 - (ii) the results of monitoring programmes undertaken under Article 10 of the Regulations of 2003, and
 - (iii) the results of analyses and reviews undertaken under Article 7 of the Regulations of 2003.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

19. In page 28, between lines 20 and 21, to insert the following:

- “(7) The Agency shall invite members of the public to make observations, in writing, in relation to the proposed opinion and any other matter relating to the abstraction not later than 6 weeks from the date of the notice.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

SECTION 19

20. In page 29, lines 6 to 22, to delete all words from and including “(1) For” in line 6 down to and including line 22 and substitute the following:

- “(1) For the purpose of determining if an abstraction should be subject to a retrospective EIA or NIS the Agency shall assess an abstraction that—
- (a) is deemed to be entered in the appropriate part of the register pursuant to *section 113(2)*,
 - (b) is of a class specified in Part 2 of Schedule 5 to the Regulations of 2001 but does not equal or exceed, as the case may be, the relevant quantity or area specified in that Part, and
 - (c) is less than the licensing threshold and does not otherwise require a licence under *paragraphs (b) or (c) of section 15(1)*,

and an Appropriate Assessment screening shall be carried out by the competent

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authority to assess, in view of best scientific knowledge, if the abstraction, individually or in combination with another plan or project is likely to have a significant effect on the European site.

(2) For the purpose of determining if an abstraction should be subject to an EIA or an NIS, the Agency may assess an abstraction, other than an abstraction referred to in *subsection (1)(a)*, that—

(a) is of a class specified in Part 2 of Schedule 5 to the Regulations of 2001 but does not equal or exceed, as the case may be, the relevant quantity or area specified in that Part, and

(b) is less than the licensing threshold and does not otherwise require a licence under *paragraphs (b) or (c) of section 15(1)*,

and an Appropriate Assessment screening shall be carried out by the competent authority to assess, in view of best scientific knowledge, if the abstraction, individually or in combination with another plan or project is likely to have a significant effect on the European site.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

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

“(4) The Agency shall invite members of the public to make observations, in writing, in relation to the abstraction and any other matter relating to the abstraction not later than 6 weeks from the date of the notice.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

SECTION 20

22. In page 31, between lines 26 and 27, to insert the following:

“**20.** The Agency may decide to grant or refuse to grant a licence under *section 27, 35 or 44* on an application being made to it and—

(a) the Agency may attach such conditions to the licence as it considers appropriate, and

(b) the licence shall, subject to any conditions concerning its duration, remain in force for not more than 10 years without review, subject to its surrender, suspension or revocation.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

[Acceptance of this amendment involves the deletion of section 20 of the Bill.]

23. In page 32, to delete lines 1 and 2 and substitute the following:

“(d) any information submitted by members of the public under *section 17(9)(c)*, 18(7)** and 19(4)****,”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

*[*This is a reference to the paragraph proposed to be inserted by amendment No. 15.]*

*[**This is a reference to the subsection proposed to be inserted by amendment No. 19.]*

[SECTION 20]

[***This is a reference to the subsection proposed to be inserted by amendment No. 21.]

24. In page 32, to delete lines 14 to 19 and substitute the following:

- “(3) The Agency shall not grant a licence unless it is satisfied that the abstraction, carried out in accordance with such conditions as may be attached to the licence will not—
- (a) cause a deterioration in the status of the body of surface water concerned or the body of groundwater concerned, and
 - (b) compromise compliance with any standards and objectives established for a protected area or European site, where applicable.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

25. In page 33, to delete lines 23 to 29 and substitute the following:

- “(8) For the avoidance of doubt, and notwithstanding any other enactment or assessment requirement under EU environmental law, the Agency is not required to make a screening determination or carry out an EIA for the purposes of considering—
- (a) a water abstraction agreement referred to in *section 83*,
 - (b) an opinion of Waterways Ireland referred to in *section 84*,
 - (c) an agreement to abstract water from a canal referred to in *section 85*, or
 - (d) further information furnished by the ESB referred to in *section 87(2)**.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

[*This is a reference to the subsection proposed to be inserted by amendment No. 38.]

SECTION 21

26. In page 34, to delete lines 1 to 5 and substitute the following:

- “(2) The applicant shall provide the prescribed information in electronic form to the EIA and/or NIS portal prior to—
- (a) the making of an application under *subsection (1)(a)*, where that application is accompanied by an EIAR or an NIS, or
 - (b) the submission of an EIAR or NIS following a screening determination.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

27. In page 34, to delete lines 6 to 14 and substitute the following:

- “(3) Subject to section 22, an EIA and/or NIS shall be carried out by the Agency in respect of an application for a licence under *subsection (1)* where the abstraction is of a class—
- (a) specified in Part 1 or Part 2 of Schedule 5 to the Regulations of 2001 and the abstraction would equal or exceed, as the case may be, any relevant quantity or area specified in that Part, or
 - (b) specified in Part 2 of Schedule 5 to the Regulations of 2001 but does not equal or exceed, as the case may be, the relevant quantity or area specified in that Part and

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the Agency, the planning authority or the Board determines that the abstraction is likely to have significant effects on the environment,

if the abstraction, individually or in combination with another plan or project is likely to have a significant effect on the European site.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

SECTION 23

28. In page 35, between lines 12 and 13, to insert the following:

“(vi) any additional information specified in Annex IV of Directive No. 2011/92/EU relevant to the specific characteristics of the abstraction and to the environmental features likely to be affected;”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

SECTION 24

29. In page 35, between lines 39 and 40, to insert the following:

“**24.** Where an application for a licence is subject to an NIS under *section 21(3)**, the applicant shall submit, in electronic form, an NIS to the Agency where the application is in respect of an abstraction specified in *section 21(3)**, which individually or in combination with another plan or project is likely to have a significant effect on the European site.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

*[*This is a reference to the subsection proposed to be inserted by amendment No. 27.]*

30. In page 36, between lines 4 and 5, to insert the following:

“(2) Where the Agency receives an application for a licence in respect of an abstraction of a class specified in *section 21(3)**, and that application does not include an NIS as required, the Agency shall, where the application does not involve development or proposed development for which a grant of permission is required, determine whether or not the abstraction is likely to have significant effects on the environment (in this Part referred to as a “screening determination”).”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

*[*This is a reference to the subsection proposed to be inserted by amendment No. 27.]*

SECTION 26

31. In page 40, between lines 22 and 23, to insert the following:

“**26.** (1) The Agency may give notice to an applicant for a licence under *section 21(1)* requiring him or her to submit, within the period specified in the notice, any further information that the Agency considers necessary—

(a) to consider the application, or

(b) to enable the Agency to carry out an EIA or an Appropriate Assessment.

(2) Where information required by the Agency under *subsection (1)* or *section 23(6)* is not submitted by the applicant within the period specified, or any further period as

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may be specified by the Agency, the application for a licence shall be deemed to be withdrawn.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

[Acceptance of this amendment involves the deletion of section 26 of the Bill.]

SECTION 31

32. In page 44, between lines 21 and 22, to insert the following:

“(ii) any additional information specified in Annex IV of Directive No. 2011/92/EU relevant to the specific characteristics of the abstraction and to the environmental features likely to be affected;”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

SECTION 51

33. In page 58, to delete lines 31 to 32 and substitute the following:

“(b) compromise compliance with any standards and objectives established for a protected area or European Site, where applicable.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

SECTION 61

34. In page 71, to delete lines 1 to 8.

—Michael Fitzmaurice.

SECTION 69

35. In page 77, to delete lines 7 and 8 and substitute the following:

“(2) Subject to *subsection (3)*, a claim under *subsection (1)* shall be made within 6 years from the date of the commencement of the carrying out of the public abstraction.”.

—Seán Canney, Verona Murphy, Denis Naughten.

36. In page 77, to delete lines 7 and 8 and substitute the following:

“(2) Subject to *subsection (3)*, a claim under *subsection (1)* shall be made within 6 months from the date of the commencement of the carrying out of the public abstraction.”.

—Michael Fitzmaurice.

SECTION 70

37. In page 78, between lines 13 and 14, to insert the following:

“(5) The Minister shall within 12 months of passing this Act produce a report detailing how a national compensation claims protocol could be developed which equitably resolves concerns regarding property losses and/or disruption to farm businesses arising where abstractions are imposed.”.

—Seán Canney, Verona Murphy, Denis Naughten, Michael Fitzmaurice.

SECTION 87

38. In page 89, between lines 33 and 34, to insert the following:

“(2) In considering an application under *Part 5* by the ESB for a licence, stated in the

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application to be necessary for carrying out an abstraction for the purposes of a hydro-electric scheme, the Agency shall not grant a licence unless it is satisfied that the abstraction, carried out in accordance with such conditions as may be attached to the licence will not—

- (a) cause a deterioration in the Water Framework Directive status of the body of surface water concerned or the body of groundwater concerned, and
- (b) compromise compliance with any standards and objectives established for a protected area or European site, where applicable.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

39. In page 89, between lines 33 and 34, to insert the following:

“(2) Where, notwithstanding a determination by the Agency that an abstraction necessary for the purposes of a hydro-electric scheme will adversely affect the integrity of a European site, and in the absence of alternative solutions, a competent authority considers that the abstraction should nevertheless be made for imperative reasons of overriding public interest, the authority shall—

- (a) set out the imperative reasons of overriding public interest that necessitate the abstraction,
- (b) propose the compensatory measures that are necessary to ensure that the overall coherence of the Natura 2000 network is protected,
- (c) prepare a statement of case that imperative reasons of overriding public interest exist and of the compensatory measures that are required, and
- (d) forward the said statement of case and Natura impact report to the Minister.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

40. In page 89, between lines 33 and 34, to insert the following:

“(2) Where, notwithstanding a determination by the Agency that an abstraction necessary for the purposes of a hydro-electric scheme will adversely affect Water Framework Directive status of a waterbody, the authority will not be in breach of the Water Framework Directive where the conditions and rationale as laid out under Article 4 of the Directive are met.”.

—Eoin Ó Broin, Thomas Gould, Cian O'Callaghan, Steven Matthews.

41. In page 90, between lines 24 and 25, to insert the following:

- “(d) ensuring no levels of water can be risen that would have an adverse effect on the farming community or on their lands, or
- (e) ensuring Irish Water would have no autonomy on any rivers, streams or lakes that are in the surrounding area of group water schemes.”.

—Michael Fitzmaurice.