



**An Bille fán nGníomhaireacht um Chaomhnú
Comhshaoil (Giniúint Éigeandála Leictreachais) (Leasú),
2023**

**Environmental Protection Agency (Emergency
Electricity Generation) (Amendment) Bill 2023**

*Meabhrán Míniúcháin
Explanatory Memorandum*



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COMHSHAOIL (GINIÚINT ÉIGEANDÁLA LEICTREACHAIS)
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**ENVIRONMENTAL PROTECTION AGENCY (EMERGENCY
ELECTRICITY GENERATION) (AMENDMENT) BILL 2023**

EXPLANATORY MEMORANDUM

Introduction

This Bill is to provide for an application process and public consultation in relation to licence applications to the Environmental Protection Agency from designated developments under the Development (Emergency Electricity Generation) Act 2022.

The Bill amends the Environmental Protection Agency Act 1992 to enable the Minister for the Environment, Climate and Communications to provide for arrangements for an alternative assessment to be carried out by the Agency in respect of an application for a licence for an activity in relation to designated development within the meaning of the Development (Emergency Electricity Generation) Act 2022 in accordance with Article 2(4) of Directive No. 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014. The Bill provides for the information obtained under such assessment to be made available to the public. The Bill also provides for co-ordination of the alternative assessment and an appropriate assessment of such activity for the purposes of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora and for other related matters.

The Bill contains 9 provisions.

Definitions

Section 1 proposes a definition of the Environmental Protection Agency Act 1992 for the purpose of this Bill.

Amendment to section 3 of the Act of 1992

Section 2 proposes to amend Section 3 of the Environmental Protection Agency Act 1992 (Act of 1992) to include in its definitions the Development (Emergency Electricity Generation) Act 2022, (Act of 2022) a definition for “designated development” and assigns a meaning for an application for a licence that forms part of a designated development as a “designated application”.

Amendment of Act of 1992 – supply of electricity

Section 3 proposes a the insertion of section 82C in the Act of 1992 to state that the exemption under section 5(1) of the Act of 2022 applies to an application under Part IV of the Act of 1992 in respect of activity relating to designated development. Furthermore, section 3 provides, by way of inserting section 82D, that the Agency in performing its function in respect of designated development shall do so in a manner consistent with the plans, strategy, framework and objectives referred to in section 15(1) of the Climate Action and Low Carbon Development Act 2015 to the extent that the Agency considers practicable, taking particular account of the said exceptional circumstances and urgent compelling necessity.

Amendment of section 83 of Act of 1992

Section 4 proposes to amend Section 83 of the EPA Act. Section 83 concerns the determination of applications and the amendments proposed under section 3 of this Bill insert a definition of the alternative assessment and associated environmental report that form part of that process. Provisions proposed in this section disapply, in the case of designated developments, certain provisions of section 83.

Section 4 also provides for an alternative assessment to be carried out by the Agency and for designated applications to include the Environmental Report prepared in accordance with of the Development (Emergency Electricity Generation) Regulations 2022. The process and format for alternative assessment will be set out in Regulations under Section 89 of the Act of 1992. This is provided for under Section 7 of the Bill.

Amendment of section 87 of Act of 1992

Section 5 proposes to amend Section 87 of the EPA Act to dis-apply, in the case of designated applications, provisions of section 87 that relate to planning and EIA. Instead, a new provision (87A) is proposed to be inserted for designated applications at Section 6.

Processing of designated application

Section 6 provides for a new provision for designated applications (section 87A) to be inserted into the Act of 1992 and is intended to ensure that the Agency does not grant a licence in respect of a designated development unless the Minister has approved the designated development in accordance with Section 7 of the Development (Emergency Electricity Generation) Act 2022.

Amendment of Act of 1992

Section 7 proposes inserting a further new provision (88A) after Section 88 of the Act of 1992.

S88A proposes procedures for the Agency to take alternative assessment into account before making a decision on a designated application and intends that these procedures will be set out in Regulations.

Section 88A(2) enables the Agency to incorporate, as a condition to a licence, any feature of the project or measure envisaged to prevent, reduce or offset significant adverse effects on the environment while subsection (3) ensures that the Agency incorporates into its decision, documentation relating to the alternative assessment as may be prescribed for the purposes of ensuring that the objectives of the EIA Directive are met.

S88B is provided for to oblige the Agency to inform the public and other persons of its decision in respect of a designated application.

Amendment of section 89 of Act of 1992

Section 8 proposes an amendment to section 89 of the Act of 1992 to enable matters to be prescribed in relation to the alternative assessment, procedures for consultation to be carried out by the EPA, and includes a provision that as part of the alternative assessment, the Agency is obliged to assess the impacts (if any) on natural habitats, fauna and flora in accordance with Council Directive 92/43/EEC as amended, including to consider whether there is a derogation for the purpose of Article 16 of that Directive in respect of a designated development.

Short title and commencement

Section 9 comprises Short Title and Commencement provisions.

*Roinn Comhshaoil, Aeráide agus Cumarsáide,
Márta, 2023.*