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**An Bille um Thruailliú Aeir (Leasú), 2025**  
**Air Pollution (Amendment) Bill 2025**

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

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**AN BILLE UM THRUAILLIÚ AEIR (LEASÚ), 2025**  
**AIR POLLUTION (AMENDMENT) BILL 2025**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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**General**

The purpose of this Bill is to provide for changes to the Air Pollution Act (as amended) to support enhanced enforcement of air pollution related matters and support improvements in air quality. This includes provisions in relation to the appointment and powers of authorised persons, for offences, penalties, fixed payment notices and compliance notices, for regulations relating to fuel, for the establishment of registers, appointment of registration bodies and registration on such registers, for the forfeiture of articles connected with an offence, and for the sharing of information, and for other purposes; and to provide for related matters.

**PART 1**

**PRELIMINARY AND GENERAL**

**Short title and commencement**

*Section 1* is a standard, self-explanatory provision.

**Definition**

*Section 2* contains a definition which is self-explanatory, that the “Principal Act” means the Air Pollution Act 1987

**Repeals**

*Section 3* sets out the sections of the existing Principal Act that are now repealed, In *Section 11*, subsections 1 and 3 were removed as they were considered too general and additional provisions were substituted in specific sections where required. *Section 12*, the general section on penalties was removed and the penalty detail was added into the specific sections throughout the Act where an offence and penalty apply for clarity. *Section 14* is removed and replaced with an updated text regarding powers of authorised persons.

Part IA, the Fuels register was removed and provisions around the Fuels register are now within an updated Part VA of the proposed amended Act. *Section 53* has been replaced with a more detailed *Section 53A*.

Additionally changes that were introduced into the Principal Act through Part 3 of the Environment (Miscellaneous Provisions) Act 2011 and Sections 19, 20, 23, 24 and 26 of the Environment (Miscellaneous Provisions) Act 2015 have also been repealed as they are no longer required.

## PART 2

### Amendment of Principal Act

#### Amendment of section 4 of the Principal Act – Definition of Air Pollution

*Section 4* updates the definition of air pollution to better align with most recent definitions in EU law

#### Amendment of section 7 of the Principal Act – Interpretation

*Section 5* amends section 7 of the Principal Act by the insertion of or making updates to relevant definitions of words and phrases used in the Bill which are required due to changes in the Act or updated definitions from other sources.

#### Continuing offences

*Section 6* inserts Section 11a which is a provision to ensure that where required, additional offences and fines can be applied by the Court for specific sections of the Act where continuing relevant offences occur.

#### Amendment of section 12A of the Principal Act

*Section 7* amends section 12A of the Principal Act by the substitution of a new section 12A to re-instate fixed payment notices which were previously rendered void. It provides for the possibility of serving fixed payment notices of €1,000 (in lieu of a prosecution for an offence) for offences relating to requirements around maintaining / displaying records and information / labelling.

These fixed payment notices may only be applied to a relevant offence as set out in section 53C(2) of the Bill.

This section also restates the procedures in relation to the fixed payment notices.

#### Enforcement provisions

*Section 8* inserts the following sections before section 15 of the Principal Act as section 14 has been repealed under this Bill.

14A and 14B: authorised persons may be appointed by the Minister or a local authority under the 1987 Act.

14C defines the term ‘premises’ as specifically including ‘vehicle’ within sections 14D to 14H and the definition of vehicle is also set out for the purposes of these sections.

14D sets out the *Powers of authorised persons to enter premises* which includes that an authorised person shall not enter a private dwelling without the consent of the occupier or without a warrant.

14E outlines the *Powers of authorised persons to detain and halt vehicles* which includes that an authorised officer may not halt a vehicle in a public place without a member of An Garda Síochána or the Revenue Commissioners being present and may detain a vehicle for the purposes of the Act.

14F provides for specific *Powers of authorised persons entering premises* which includes the power to take samples, inspect documents, request information, etc.

14G provides that in order to secure a *Warrant to enter premises* an authorised officer may apply to the District Court for a warrant to enter a premises where there is evidence of the commission of an offence.

14H sets out the *Offences* and penalty provisions for sections 14D, 14E and 14F.

14I *Liability of authorised persons* – sets out that the Minister or local authority (depending on who appointed an authorised officer) indemnifies an authorised officer against actions/claims for performing their duties in good faith.

14J *Compliance Notice* – provides that an authorised person may serve a compliance notice on a person who is not compliant with the legislation and failure to comply with such a notice by the compliance date is guilty of an offence.

14K *Appeal against compliance notice, and application to suspend compliance Notice* – provides that a person may appeal against a compliance notice within 21 days to the District Court.

14L *Application to District Court to enforce compliance notice* – provides that an authorised person may apply to the District Court for an order to require a person to comply with a compliance order.

#### **Amendment of section 15 of the Principal Act**

*Section 9* replaces section 15 of the Principal Act. This new section provides updates for the procedure of serving of notices under the Bill on a person to include new forms of technology.

#### **Amendment of section 16 of the Principal Act**

*Section 10* amends section 16 which deals with the obligation to provide information to a local authority on foot of a notice received. It provides for an offence and penalty for not providing information in response to such a notice.

#### **Amendment of section 17 of the Principal Act**

*Section 11* substitutes a new section 17 providing that the Minister may make Regulations with regard to establishing and maintaining a Register under the Act.

#### **Amendment of section 24 of the Principal Act**

*Section 12* amends section 24 of the Principal Act which requires the occupier of a non-private dwelling to limit or prevent emissions from such a premises to extend the good defence clause if the occupier is compliant with a licence issued or order made under section 99B of the EPA Act 1992 and provides for an offence within that section for not preventing/limiting emissions from a non-private dwelling as well as causing a nuisance through emissions from any dwelling.

#### **Amendment of section 25 of the Principal Act**

*Section 13* amends the current section 25 of the Principal Act which provides that the Minister may make Regulations to limit the emission of smoke from any premises. The amendment replaces the word “atmosphere” with “air” and provides for an offence and a penalty for non-compliance with Regulations within that section as well as extending the good defence clause to include compliance with a licence issued or order made under section 99B of the EPA Act 1992.

#### **Amendment of section 26 of the Principal Act**

*Section 14* amends section 26 of the Principal Act, which provides for the local authority to serve a notice to require measures to be taken to prevent or limit air pollution from any premises. The amendment inserts an offence/penalty within the section for non-compliance with a notice served under that section.

#### **Amendment of section 29 of the Principal Act**

*Section 15* amends Section 29 of the Principal Act which currently provides that the occupier of any premises notifies the relevant local authority of an incident that may cause air pollution, the amendment provides for an offence/penalty for not doing so.

#### **Amendment of section 30 of the Principal Act**

*Section 16* amends Section 30 of the Principal Act which requires specified plant to operate under a 1987 Act licence. The amendment inserts an offence and penalty within the section for non-compliance with that requirement.

#### **Amendment of section 40 of Principal the Act**

*Section 17* amends Section 40 of the Principal Act which currently sets out provisions in relation to *Special control area orders*. The amendment inserts an offence/penalty within the section for non-compliance with a special control area order.

#### **Amendment of section 46 of the Principal Act**

*Section 18* amends Section 46 of the Principal Act. The existing section provides for the making of *Air quality management plans* by a local authority within its functional area. The amendment clarifies that the making of any such plan is subject to section 47 which sets out the power of the Minister to direct or require that an air quality plan be made, varied or co-ordinated and under section 19 of the amending legislation, to give directions generally or to specify the matters to be contained in such a plan.

#### **Amendment of section 47 of the Principal Act**

*Section 19* amends Section 47 of the Principal Act which currently sets out the power of the Minister to direct or require that an air quality plan be made, varied or co-ordinated. The amendment in provides that the Minister may give directions generally or specify the matters to be contained in such a plan.

#### **Amendment of section 51 of the Principal Act**

*Section 20* amends Section 51 of the Principal Act which currently provides that the Minister may by regulations specify different emission limit values for different areas, premises, circumstances or periods of time. The amendment in section 20 substitutes *emitted into the "air"* for *emitted into the "atmosphere"* to align with updated definitions.

### **PART VA**

#### **Fuel regulations and fuel regulations registers**

*Section 21* is concerned with the insertion of new Part VA Fuel Regulations and Fuel Regulation Registers, this replaces Part IA and Section 53 of the current Act and includes new sections and provisions where required to support enhanced enforcement and an improved registration system.

### **Chapter 1**

#### **Interpretation**

#### **Section 53A – Interpretation**

This section provides for definitions within the Part.

## **Chapter 2**

### **Regulations relating to fuel**

#### **Section 53B: *Fuel regulations***

This section provides for regulations that the Minister may make for preventing or limiting air pollution through the regulation of fuels which are one of the main sources of air pollution.

Subsection 1 – This section is a restatement of section 53(1)c of the Primary Act with the inclusion of ‘*advertising, transportation, purchase or use*’ and allows the minister to set the requirements that apply in relation to fuels, which is a restatement of the previous 53(1)a

Subsection 2 (a-q) This sets out the specific types of regulations which can be put in place, it is a re-statement in more detail of the Section 53 (2) a-l of the Primary Act.

Subsection 3 relates to the matter of certificates, samples or tests as set out under provisions 2(n) or 2(m) and their use as evidence.

#### **Section 53C: *Offences of contravention of fuel regulations***

Subsection 1 provides for offences/penalties for contravention of the fuel regulations.

Subsection 2 sets out additional offences which are subject to a Class A fine and may also be the subject of a fixed payment notice as outlined in Section 7 of the Bill which inserts Section 12A into the Principal Act. These are classed as minor offences such as failure to keep records or other information, failure to display registration details or failure to comply with labelling or packaging requirements.

## **Chapter 3**

### **Fuel regulations registers and registration bodies**

#### **Section 53D: *Fuel regulations registers and power to provide for registration***

This section provides for the establishment of registers specifically related to the fuel regulations and provides that regulations under section 53B above can set out requirements around registration. It provides for different registers for different activities and clarifies references to ‘registration on a fuel regulation register’.

The remainder of this Chapter relates to the processes for establishing, operating and winding up registration bodies.

#### **Section 53E: *Appointing registration bodies***

This section provides that the Minister may request the Government to appoint a registration body to establish/maintain a fuel regulations register as well as the process for making such an order.

#### **Section 53F: *Eligibility for appointment as registration body***

This section provides the criteria for a registration body to ensure their independence and suitability to perform the function.

#### **Section 53G: *Revocation and transfer of functions of registration body***

This section provides for the process of revoking or transferring the functions of a registration body.

**Section 53H: *Power of Minister to give directions***

This section provides for the Minister to give directions to a registration body with respect to the performance of its functions but not in relation to a particular application, complaint, review or appeal.

**Section 53I: *Power of Minister to issue guidelines***

This section provides that the Minister may issue guidelines to clarify, assist or support a registration body with the performance of its functions and the body shall have regard to any such guidelines.

**Section 53J: *Funding and fees of registration body***

This section provides for the process for setting of fees to be paid to a registration body by applications. The registration body is expected to set a fee which ensures that the register is self-funding. It also provides for the Minister to approve the fee proposal and sets out how the registration body may recover unpaid fees.

**Section 53K: *Regulations relating to registration bodies***

This section provides that the Minister may make regulations regarding restricting or prohibiting a person's involvement in a registration body to ensure independence and imposing obligations on a registration body (e.g. keeping of records, presentation of accounts) as well as providing an offence/penalty for contravention of regulations made under this section.

**Chapter 4**

**Registration and operation of fuel regulations registers**

**Section 53L: *Application for registration on fuel regulations register***

This section provides for the process of applying to be registered on a fuel regulations register including details about information to be provided, fees to be paid, the format of the registration.

**Section 53M: *Decision on application for registration on fuel regulations register***

This section provides for how a registration body considers an application, including grounds for refusal, the ability of the Minister to issue guidelines on refusals, ability to take submissions on an application into account, notification of a proposed refusal and ability of an applicant to make representations in relation to a proposed refusal, and the notification of a refusal, including details of how a decision to refuse can be appealed.

**Section 53N: *Power to impose conditions in relation to registration on fuel regulations register***

This section provides the ability for the registration body to impose conditions on persons who are to be registered or are already registered, requirement to inform a person if it is proposed to impose conditions and inviting submissions on that proposed decision as well providing details of the appeals process where any conditions are imposed.

**Section 53O: *Registration on fuel regulations register***

This section sets out the details that shall be entered on the fuel regulations register as well as requiring the registration body to send a registration number and the information entered on the fuel regulations register.

**Section 53P: *Removal of registration from fuel regulations register***

This section sets out the process for the removal of a person from the register, including informing the person of the proposed decision and



inviting submissions on same, informing the person of the decision to remove and providing details of the appeal process.

**Section 53Q: Appeals officers**

This section sets out that the Minister may appoint a panel to consider appeals made under subsections 53M, 53N or 53P.

**Section 53R: Appeal to appeals officer**

This section sets out that a person may appeal a decision regarding an application to be registered (53M), the imposition of a condition on a person (53N) and the removal of a person from the fuel regulations register (53P).

**Section 53S: Appeal from appeals officer to Circuit Court**

This section provides the process for appealing the decision by an appeals officer to the Circuit Court.

**Section 53T: Application to suspend conditions subject to appeal**

This section provides that conditions imposed but appealed to an appeals officer still apply, however a person may request that the condition(s) are suspended pending the decision of the appeals officer. If such a request is made and refused, that decision not to suspend the condition may be appealed to the Circuit Court.

**Section 53U: Publication of information relating to fuel regulations register**

This section provides for information to be published and maintained on a website including the making of registrations, conditions imposed (if any), removal from the register, procedure for making submissions or representations.

**Section 53V: Correction of fuel regulations register**

This section provides for the correction of incorrect details on the register.

**Section 53W: Duty to provide replacement tax clearance certificate**

This section requires that a person registered on the fuels regulation register who does not have a current tax clearance certificate to inform the registration body and provide a current tax clearance certificate within 28 days; failure to do so is an offence and subject to the penalty set out within this section.

**Section 53X: Offences relating to registration**

This section provides for an offence and penalty for providing false or misleading information as part of an application or appeal under this Part.

**Section 53Y: Regulations relating to fuel regulations registers**

This section provides powers to the Minister to make regulations relating to fuel regulations registers.

## **Chapter 5**

### ***Forfeiture of fuel or other articles connected with an offence***

**Section 53Z: Forfeiture of fuel and other articles if offence committed**

This section provides powers to authorised persons to seize articles such as fuel in respect of which an offence has been committed, containers in which the fuel is found, anything packed with the fuel, any vehicle that the fuel is found in. It also sets out how a person on whom a notice has been served of the seizure may subsequently serve a notice on the local authority that the article is not liable to seizure and signposts the

procedure in section 53ZA for ‘condemnation proceedings’ to determine if the article seized is liable to forfeiture or must be released.

**Section 53ZA: *Condemnation of article liable to forfeiture***

This section provides for ‘condemnation proceedings’ in court to determine if the article seized is liable to forfeiture or must be released, an appeals process to a decision of the court, what happens to articles seized which are liable to forfeiture.

**Information sharing**

*Section 22* provides for the insertion of a new section 55A into the Act that permits the sharing of information between a registration body, an authorised person and a local authority as well as with a “relevant body” and enter into a data sharing agreement if necessary and proportionate for the purposes of performance of functions under the Act or orders or regulations made under it.

**Amendment of First Schedule to Principal Act**

*Section 23* provides for amendments to the First Schedule to the Act contains details of pollutants to which the Act applies. The amendments in this section are technical in nature and update the Schedule.

**Cost to Exchequer**

There is no cost to the Exchequer expected as a result of this proposal. Changes to the registration schemes will be self-financing and changes to the enforcement provisions will be supported by existing commitments to enforcement support.

*An Roinn Aeráide, Fuinnimh agus Comhshaoil,  
Iúil, 2025.*



