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An Comhchoiste um Thithíocht, Rialtas Áitiúil agus Oidhreach
An Tuarascáil maidir leis an nGrinnscrúdú Réamhreachtach ar Scéim
Ghinearálta an Bhille um Limistéir Mhuirí faoi Chosaint 2023

Feabhra 2023

Joint Committee on Housing, Local Government and Heritage
Report on the Pre-Legislative Scrutiny of the General
Scheme of the Marine Protected Areas Bill 2023

February 2023

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1. CATHAOIRLEACH'S PREFACE



Ireland has almost half a million square kilometres of highly valued marine territory, the ecosystems of which are home to extraordinary marine habitats, species, biodiversity, and resources. In accordance with the European Biodiversity Strategy and the United Nations Convention on Biological Diversity, Ireland is committed to achieving 30% Marine Protected Area coverage by 2030. In scrutinising the General Scheme, the Committee understands that the purpose of the proposed legislation is to provide the legal framework to achieve this objective, so that Ireland secures a healthy, productive, and sustainably used marine environment.

The proposed legislation aims to represent modern environmental legislation which protects biodiversity, mitigates against climate change, and promotes ecosystem-based management in the marine environment. Marine Protected Areas represent, not only an investment in nature, but also in Ireland's future economies and societies, as MPAs can be drivers of good biodiversity, climate, community, social, economic, and health outcomes. As such, they will contribute to Ireland's healthy future, particularly for coastal communities.

In examining the General Scheme of the Bill, the Committee gained valuable insights from all witnesses who attended before the Committee. I would like to express my appreciation for their contributions, and Committee Members for their contribution to the scrutiny of the proposed legislation. I hope this report will help to inform the legislative process and make a valuable contribution to the Marine Protected Areas Bill 2023.

A handwritten signature in dark ink, reading "Steven Matthews".

Steven Matthews T.D.,
Cathaoirleach,
Joint Committee on Housing, Local Government and Heritage,
28 February 2023

2. INTRODUCTION

In accordance with *Standing Order 173*¹ the *General Scheme of the Marine Protected Areas Bill 2023* (the General Scheme) was referred to the Joint Committee on Housing, Local Government and Heritage (the Committee) on 13 January 2023 by the Minister for Housing, Local Government and Heritage (the Minister), Mr. Darragh O'Brien T.D. The Committee agreed to undertake pre-legislative scrutiny of the General Scheme at its meeting on 17 January 2023.

The Committee conducted pre-legislative scrutiny on 26 January 2023, 31 January 2023, and 2 February 2023 (meeting transcripts linked in [Appendix 3](#)) in which officials from the Department of Housing, Local Government and Heritage (the Department), and representatives from industry, academia and non-governmental organisations were invited to the Committee to discuss the General Scheme. The Committee invited witnesses to make opening statements and written submissions on the General Scheme, which are linked in [Appendix 4](#).

Thursday 26 January 2023

Department of Housing, Local Government and Heritage

- Mr. Richard Cronin, Principal Adviser, Marine Environment
- Mr. Conall O'Connor, Assistant Principal Officer
- Dr. Oliver Ó Cadhla, Scientific Policy
- Dr. Tim Higgins, Scientific Policy

Tuesday 31 January 2023

University College Dublin

- Prof. Tasman Crowe, Professor in Marine Ecology, and Director of UCD's Earth Institute

¹ [Standing Orders 2020 consolidated version as of 26 May 2022 \(oireachtas.ie\)](#)

Thursday 2 February 2023

Irish Environmental Network

- Ms. Attracta Uí Bhroin, Environmental Law Officer, Irish Environmental Network
- Dr. Donal Griffin, Marine Policy Officer, Fair Seas Ireland
- Mr. Pádraic Fogarty, Campaigns Officer, Irish Wildlife Trust
- Ms. Sinéad Loughran, Marine Policy & Advocacy Officer, BirdWatch Ireland
- Mr. Patrick Lyne, Officer, Irish Whale and Dolphin Group

Wind Energy Ireland

- Mr. Denis Devane, Senior Policy Analyst
- Mr. Niall Goodwin, Head of Policy
- Ms. Patricia Comiskey, Consenting & Government Relations Manager at Simply Blue Group and Member of WEI's Offshore Consenting Committee

3. BACKGROUND

Marine Protected Areas (MPAs) are an essential conservation tool used across the world to produce healthy seas, reverse biodiversity loss and decline, and help to mitigate the impacts of climate change. Until now, the Birds² and Habitats³ Directives were relied upon to provide area-based protection in the marine environment. However, these Directives do not afford sufficient protection to critically endangered species, such as the Angel shark, or important habitats, such as coastal seagrass beds. In addition, 23 of Ireland's 24 breeding seabird species are either Red or Amber listed Birds of Conservation Concern, and Ireland has failed to meet Good Environmental Status (GES) for Biodiversity, Commercial Fish and Shellfish, and Sea-floor Integrity. In particular, regarding Commercial Fish and Shellfish, only 34 stocks (18%) have achieved GES.

The purpose of this legislation is to provide a statutory basis for the identification, designation, and management of MPAs in Ireland's maritime area. Thus, this Bill represents a move towards legal certainty and clarity on MPAs in Ireland. As MPAs are areas which are managed to achieve specific conservation objectives, activities may be permitted therein. This will allow for the enhancement of marine environmental protection, enabling Ireland to fulfil its commitment to achieve 30% MPA coverage by 2030, in accordance with the European Biodiversity Strategy and the United Nations Convention on Biological Diversity. Up until recently, Ireland had only designated 2.3% of its maritime area, which has now risen to 8%. However, Ireland is among one of the EU's largest countries when our Marine Territory is considered. Ireland has an immense responsibility for the stewardship of this area; therefore, this legislation represents a significant move toward fulfilling our obligations.

The Committee welcomes the publication of this important legislation, which aims to address the legislative gap and provide critically needed protection for our marine environment.

² Directive 2009/147/EC

³ Council Directive 92/43/EEC

3.1 PART 1 – PRELIMINARY AND GENERAL

Part One of the General Scheme consists of standard provisions regarding commencement matters, key definitions and terms, geographic application of the Bill and powers to make regulations.

This Part also makes provision for the Minister to seek advice regarding MPAs from any appropriate source. This includes the ability to establish an Expert Body or bodies which may advise the Minister on matters relating to scientific, technical, and socio-economic matters arising from the Bill.

3.2 PART 2 – DESIGNATING MARINE PROTECTED AREAS

Part Two of the General Scheme introduces several relevant Heads which make provisions for an Ocean Environmental Policy Statement, identification and designation of MPAs, public participation, existing authorisations, the Expert Body, and the management, enforcement and monitoring of MPAs.

Head 6 of the General Scheme sets priorities for MPA designations based on international and national government priorities and targets, through the publication of an Ocean Environment Policy Statement. The Policy Statement allows the MPA process to focus on specific areas, species, or site characteristics, and is to be published every six years at a minimum, to ensure alignment and harmonisation with the Marine Strategy Framework Directive. The Department informed the Committee that the Ocean Environmental Policy Statement will help to articulate an overall vision for not only what is necessary for the health of the ocean, but also to set out legitimate policies for sustainable use, transport, communications, and tourism. The Department stated that it intends to lay the Ocean Environmental Policy Statement before both Houses of the Oireachtas.

Head 7 provides for the identification of MPAs, which will be informed by expert advice and the best available scientific information. The Minister will conduct public consultation when compiling the list of potential MPAs.

Head 8 requires the Minister to develop and publish MPA proposals drawn from this candidate list. Activities taking place in such areas will be identified, and the conservation objectives and measures will be set out.

Head 9 outlines the public participation process, while Head 10 provides that interested parties will be informed and consulted about an MPA designation where they may be affected by it.

Head 11 empowers the Minister to designate MPAs and appoint management authorities for such MPAs, which will require the Minister to issue a management plan to ensure conservation objectives are met.

Head 12 grants the Minister emergency powers to designate an MPA, to mitigate the impact of an event with significant environmental impact, such as a shipping disaster or underwater volcanic eruption. The Designation Order may also be granted where there is emerging scientific information referencing an urgent need to protect a particular species. It is proposed that emergency MPAs would be in place for two years but can be extended by up to a further two years, if required.

Head 13 enables the Minister to develop designation proposals for MPAs, where there is an urgent need to do so in the national interest. For example, to facilitate Offshore Renewable Energy (ORE) development, the Minister may use this Head to quickly identify areas which are unsuitable for ORE for the purpose of pursuing national climate adaptation goals.

Head 14 makes provision for existing authorisations, guaranteeing the rights of current license holders who held licenses before the MPA was designated. It also outlines that where a renewal of a license or a new license is being considered, the Minister can amend the conditions of carrying out the activity, except where there is an overriding public interest.

Head 15 empowers the Minister to appoint enforcement authorities.

Head 16 establishes an independent scientific, technical, and socio-economic advisory body, or “Expert Body”, which will advise the Minister on the designation and effective management of MPAs.

Heads 17 to 19 set out the Minister's duties and tasks regarding MPAs, the Secretariat's role in assisting the Minister, and the duties of management authorities who manage MPAs.

Head 20 creates a mechanism where activities which are damaging the marine environment but are regulated at an EU or international level can be referred to the relevant authorities.

Head 21 provides for environmental monitoring and the use of the Marine Strategy Framework Directive monitoring programmes to fill gaps in data. In its attendance at the Committee, the Department acknowledged the need for resources in carrying out adequate monitoring.

3.3 PART 3 – REGULATION AND MANAGEMENT

Part Three outlines the power to appoint authorised persons who may enforce regulations, the standard procedures for the prosecution of offences, and subsequent penalties for anyone found guilty of such offences. The Department outlined that these authorised persons would have the powers of any authorised person who conducts an investigation, such as entering premises, seizing documents and questioning individuals in accordance with the Constitution.

In accordance with the Aarhus Convention and the EU INSPIRE Regulations, Head 25 refers to scientific data generated in relation to MPAs, providing for open access to such data. The Department informed the Committee that its objective is for data to be findable, accessible, interoperable, and reusable.

Lastly, Head 26 provides for a regular review of this legislation (every six years at a minimum), to ensure it remains fit for purpose. Regarding this cycle of reviews, Prof. Tasman Crowe emphasised to the Committee that this flexibility gives Ireland scope to ensure that its MPA network reflects evolving international best practice, as well as Ireland's needs. It is stipulated in the General Scheme that such a review includes consultation with management authorities for MPAs, public consultation, and the submission of a report of the review to both Houses of the Oireachtas.

4. KEY ISSUES WITH THE PROPOSED LEGISLATION

In scrutinising the General Scheme, the Committee focussed on seven key issues which were of particular interest.

4.1 KEY ISSUE 1: ALIGNMENT WITH COMMITMENTS

The Committee acknowledges the importance that this legislation is robust and aligned with Ireland's existing commitments. The Committee makes several recommendations below to ensure this.

4.1.1 UP TO 30%

In 2010, the Aichi target of Convention on Biological Diversity called for 10% of coastal and marine areas to be designated as protected areas by 2020. Ireland missed this target, achieving currently just 8.2% MPA coverage. However, the Department informed the Committee that the 10% target is to be achieved in 2023. In 2022, the Kunming-Montreal Global Biodiversity Framework agreed to protect *at least* 30% of the sea by 2030 and Irish Wildlife Trust (IWT) informed the Committee that scientific consensus is moving towards protecting 50% of the sea. Head 6(4) of the General Scheme outlines that:

“the Minister, shall to the extent possible and appropriate aim to designate up to 10% of the maritime area as Marine Protected Areas as soon as practicable after commencement of this Act and up to 30% of the maritime area as Marine Protected Areas by 2030”

In its submission, BirdWatch stated that the Bill should not allow for opportunities for non-implementation of existing obligations, and misinterpretation of this provision. The Committee is of the opinion that the language in this provision is weak as it places no obligation on the Minister to achieve the 30x30 target. As Ireland has made commitments to do so at national, European, and international levels, the Committee recommends that the language of Head 6(4) of the General Scheme is strengthened. The Committee suggests removing the words *“to the extent possible and appropriate aim to”* and *“up to”* in Head 6(4), so that there is a clear legal obligation to meet a minimum target of 30% MPA coverage by 2030.

Similarly, there are no timelines for MPA delivery set out in the General Scheme, but clear timelines and time limits are needed for procedural and governance related milestones between the commencement of this legislation and 2030. The Committee is of the opinion that timelines to achieve MPA targets should be set out in the legislation.

4.1.2 10% DESIGNATION FOR HIGHLY PROTECTED MARINE AREAS

Witnesses highlighted to the Committee that, although activities may be permitted in some MPAs, the EU Biodiversity Strategy seeks “strict protection” for 10% of the EU maritime area. However, this is not reflected in the proposed Bill. The Joint Oireachtas Committee on Environment and Climate Action recommended in its November 2022 report on Biodiversity⁴ that MPAs should be designated and managed without delay, and that, highly protected marine areas (HMPAs) are part of that designation. IWT cited this report in its opening statement, commenting that HMPAs may also be referred to as “strict protection zones” or “no take zones”, where no extractive or harmful activities are permitted. The Committee heard that international best practice shows that fully protected MPAs are the most beneficial and most effective types of MPAs in restoring marine biodiversity, including commercially exploited fish species. As such, varying levels of MPAs are good for fisheries industry long-term as such MPAs can boost enhanced and more sustainable fish stocks. There is a need to recognise this requirement for HMPAs in Head 6(4) of the General Scheme, which should provide that the HMPA target should be at least 10% of the maritime area.

In addition, BirdWatch and Fair Seas outlined that, to achieve an ecologically coherent network of MPAs, a hierarchy of different MPA management levels and strategies should be prescribed, that is, that different MPAs may receive different levels of protection. As such, the Committee asks that the Bill outlines hierarchies of levels of protection and management for MPAs, such as fully or partially protected, and that the Bill sets out the percentage area coverage for each level of protection to be achieved by 2030.

⁴ [Report on Biodiversity \(oireachtas.ie\)](https://www.oireachtas.ie/en/reports-and-publications/publications/2022/09/2022-09-22-report-on-biodiversity/)

4.1.3 LINK TO LEGISLATIVE ARCHITECTURE

Witnesses in attendance at the Committee commented that the General Scheme lacks an overarching marine conservation ambition, stating that the overall objective of the legislation is not clearly stipulated in the Bill. BirdWatch asserted that Ireland's existing commitments and legal obligations must be set out, while prescribing an ambitious vision for the conservation of Ireland's marine protection goals. Fair Seas commented that there is a lack of clear MPA governance in the Bill, and the Irish Environmental Network (IEN) stated that the General Scheme fails to link the legislation to the wider legislative architecture to clearly inform its legal purpose. The Committee is of the opinion that it is important that this Bill fully complies with the Aarhus Convention, the Marine Strategy Framework Directive, and the Maritime Spatial Planning Directive, among others. The Committee recognises the importance of these obligations; therefore, it asks that Head 6 of the General Scheme is amended so that the Ocean Environment Policy Statement reflects the obligation under Article 13(4) of the Marine Strategy Framework Directive to deliver ecologically coherent and representative networks of MPAs.

IEN highlighted to the Committee that the 30% MPA designation must also reflect the fundamental objective of MPAs. It stated that the fundamental objective of the Marine Strategy Framework Directive is to achieve Good Environmental Status, as well as ecologically coherent and representative networks of MPAs, which cover the diversity of the constituent ecosystems. The Committee is of the opinion that designation and percentage targets must reflect these legal considerations as set out under the Marine Strategy Framework Directive, and that timelines and actions of the Minister in achieving this are set out in the Bill.

In addition, witnesses in attendance at the Committee highlighted the importance that the Minister form an ecologically coherent network of MPAs, as this is critical for successful biodiversity outcomes, as mobile species must be protected cross-jurisdictionally. Fair Seas highlighted that the advantages of MPA networks significantly outweigh individual MPAs, as networks of MPAs of different sizes may help to reduce socioeconomic impacts without compromising conservation and fisheries benefits and may even provide greater ecological benefits. The Committee asks that this is reflected in the Bill.

Further, witnesses emphasised the need for an increased focus on restoration. Fair Seas submitted that, while the General Scheme allows for restoration activities to be included in MPA conservation measures, the Bill can go further to include a more strategic approach to the *active* restoration of habitats, species, and ecosystems within MPAs. Fair Seas outlined that there must be clarity regarding the mechanisms by which active restoration activities will be facilitated, delivered, and resourced in MPAs. The Committee notes that restoration rarely features in the legislation, and that, considering the forthcoming EU Nature Restoration Law, greater provision is made for restoration measures in this Bill.

4.1.4 EXISTING CONSERVATION AREAS

Further, IWT highlighted to the Committee that Head 2 of the General Scheme defines “Other Effective Means of Conservation” but that this definition complies with the International Union for Conservation of Nature (IUCN) accepted definition of “Other Effective Area-based Conservation Measures” (OECM). As this is the internationally accepted term for this definition, the Committee asks that this is reflected in the General Scheme.

At the Committee, it was discussed that Ireland currently has MPAs, that is, Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), but witnesses such as IEN highlighted that these are poorly managed. It is important that the poor management of these current sites is resolved before new MPAs are designated. The Committee asks that the legislation outlines how these sites will transition to effective MPA sites, particularly the timelines by which this will happen.

Additionally, the Committee believes that it is important that active measures are included in the Bill that set a requirement to address the shortcomings of Ireland’s current protected marine areas that may be designated as MPAs under this Bill, that is, Natura2000 sites. These measures should include but are not restricted to, the implementation of all relevant EU legislative requirements (for example, Article 6.3 of the Habitats Directive), the establishment of management plans for all existing and future Natura2000 sites, and the implementation of management, including enforcement.

4.1.5 FURTHER CONSIDERATIONS

Through submission, the Fishing and Aquaculture Representative Bodies noted that, under Head 7(5) and Head 16(3), consideration must be given to “energy security” when generating lists of potential MPAs. However, the Bodies noted that there is a notable absence of any reference to fishing and aquaculture industries in the proposed Bill. They stated that this Bill represents an opportunity to develop a Bill which incorporates environmental considerations and international obligations, along with socio-economic and cultural considerations of the fishing industry. As such, the Committee suggests including sustainable food security in the list of items to be considered under Head 7(5) and Head 16(3) of the General Scheme.

In addition, the Fishing and Aquaculture Representative Bodies highlighted to the Committee that the MPA designation process could result in the closure of important fishing grounds or aquaculture areas, which could significantly financially impact the sector. Through submission, the Fishing and Aquaculture Representative Bodies welcomed MPAs where the designations are based on scientific evidence. However, they stated that the industry must not be negatively impacted by MPA designations but that this may be accounted for through a compensatory provision, such as provisions included for SAC designation under the European Communities (Birds and Natural Habitats) Regulations 2011⁵. As such, the Committee asks that the Minister considers a compensatory provision to account for impacts on the fishing and aquaculture industry which may result from an MPA designation.

Head 6(3)(viii) outlines that the Ocean Environmental Policy Statement must take an “ecosystem-based approach” into account, Head 7(5)(iii) sets out that the Minister shall consider “ecosystem services” when generating the list of potential MPA designations and Head 16 states that the Expert Body must apply an ecosystem-based approach in advising the Minister. Although there is no definition of an ecosystem-based approach in the General Scheme, the Department defined the ecosystem-based approach as an approach which integrates the connections between land, air, water, all living things, human beings and their institutions which is the common principle underlying the

⁵ S.I. No. 477/2011

Marine Spatial Planning Directive and the Marine Strategy Framework Directive. As such, the Committee asks that this definition is set out in the legislation.

Wind Energy Ireland highlighted to the Committee that Head 3(1)(c) outlines that this legislation will also apply to the airspace above the seabed, and that this definition originates from the Maritime Area Planning Act 2021. However, that 2021 Act makes no reference to airspace. The Committee asks that the Department clarify why airspace is included in the definitions set out in Head 3(1)(a) and Head 3(1)(b) by referencing the Maritime Area Planning Act 2021, for the purposes of providing legal certainty on where this applies.

Furthermore, under Head 7(5)(ii)(b), the Minister shall consider species contained on IUCN lists. Currently, 23 of Ireland's 24 breeding seabird species are on amber or red lists. Most of them would not be considered threatened under the "IUCN lists".

However, as BirdWatch highlighted to the Committee, some internationally important seabird populations may not be recognised under these categories, as the lists are not specified. Head 7(5) and Head 16(3) of the General Scheme refer to the "IUCN lists", thus these lists must be specified for clarity.

RECOMMENDATIONS

1. The Committee recommends that Head 6(4) of the General Scheme should read "*the Minister, shall designate up to 10% of the maritime area as Marine Protected Areas as soon as practicable after commencement of this Act and 30% of the maritime area as Marine Protected Areas by 2030*" and that timelines for achieving this are set out.
2. The Committee recommends that Head 6(4) of the General Scheme makes provision for at least 10% of the maritime area to be designated as Highly Protected Marine Areas.
3. The Committee recommends that the Bill provides for a hierarchy of levels of protection and management for MPAs, such as full protected or partially protected, and that the Bill sets out the percentage area coverage for each level of protection to be achieved by 2030.

4. The Committee recommends that the Bill fully complies with The Aarhus Convention, The Marine Strategy Framework Directive, Directive 2008/56/EC, The Maritime Spatial Planning Directive, Directive 2014/89/EU.
5. The Committee recommends that Head 6 be amended to reflect the Ocean Environmental Policy Statement which is to support the delivery of the objective of the Marine Strategy Framework Directive through effective implementation of the obligation under Article 13(4) of that Directive for an ecologically coherent and representative network of marine protected areas, adequately covering the diversity of the constituent ecosystems, in Irish waters.
6. The Committee recommends the designation targets in Head 6 in conjunction with percentage targets also reflect the legal considerations required for MPAs under the Marine Strategy Framework Directive, including that designations contribute: to A) the achievement of the objective of Good Environmental Status, and B) to an ecologically coherent and representative network of marine protected areas, covering the diversity of the constituent ecosystems.
7. The Committee recommends in the interest of the provision of an ecologically coherent and representative network of Marine Protected Areas as required by Article 13(4) the Marine Strategy Framework Directive, that there be ambitious timelines on the actions and decisions of the Minister within the Bill.
8. The Committee recommends that, as part of this Bill, the Department sets out clearly the legislative architecture and policies and objectives for marine conservation in relation to both the 30x30 target and Good Environmental Status.
9. The Committee recommends that the Bill highlights the importance of designating MPA networks, rather than individual MPAs.
10. The Committee recommends that greater provision is made for restoration measures in this Bill.
11. The Committee recommends that “Other Effective Means of Conservation” as referred in Head 2 of the General Scheme is renamed as “Other

Effective Area-based Conservation Measures” as accepted by the International Union for Conservation of Nature.

12. The Committee recommends that the legislation outlines timelines for the transition of SAC and SPA sites to effective MPA sites.
13. The Committee recommends active measures are included in the Bill that set a requirement to address the shortcomings of Ireland’s current protected marine areas that may be designated as MPAs under this Bill (i.e., Natura2000 sites). These measures should include but are not restricted to, implementation of all relevant EU legislative requirements (for example, Article 6.3 of the Habitats Directive), establishment of management plans for all existing and future Natura2000 sites, and the implementation of management including enforcement.
14. The Committee recommends that sustainable food security is included in the list of considerations when generating lists of MPA designations under Heads 7(5) and 16(3) of the General Scheme.
15. The Committee asks that the Minister considers a compensatory provision to account for impacts on the fishing and aquaculture industry that may result from an MPA designation.
16. The Committee recommends that “ecosystem services” and “ecosystem-based approach” is defined in the Bill.
17. The Committee asks that the Department clarifies the reference to “airspace” in Head 3(1)(c) of the General Scheme.
18. The Committee recommends that the Department clarifies which lists fall under the “IUCN lists” specified in Head 7(5)(ii)(b) and Head 16(3)(ii)(b) of the General Scheme.

4.2 KEY ISSUE 2: DESIGNATION OF MARINE PROTECTED AREAS

Head 12 of the General Scheme outlines the Emergency Temporary MPA Designation Order of two years which allows urgent protective action to be taken in emergency situations, with the possibility of an extension of a further two years. Witnesses in attendance at the Committee stated that it is appropriate that a scientific review is required after the four-year period to assess if the required recovery has taken place,

BirdWatch suggesting that the Emergency Designation Order should only be lifted once there is scientific evidence that the necessary and intended recovery has taken place. The Committee is of the opinion that to ensure the designation has been successful, a scientific review must take place once the Emergency Designation period has passed, and that the Emergency Designation should only be lifted once recovery has taken place.

In its attendance at the Committee, Fair Seas highlighted the importance of ensuring that this provision also extends to *preventative* emergency temporary MPA designations which would prevent damage to marine habitats or species. It informed the Committee that the Scottish government designated an emergency MPA in 2021 to protect a critically endangered flapper skate egg site near the Isle of Skye. The Committee is of the opinion that such a preventative designation is essential to ensure adequate protection. As such, the Committee asks that preventative Emergency Temporary MPA Designation is considered in Head 12 of the General Scheme.

Furthermore, Head 11(10) of the General Scheme states that the designation of a MPA “shall not preclude appropriate development in that area.” However, the General Scheme neither defines nor outlines a mechanism to decide what constitutes “appropriate development”. BirdWatch informed the Committee that this could lead to severe shortcomings in achieving positive marine environment outcomes in MPAs. IWT highlighted that “appropriate” has already been defined by the IUCN and that this Bill must be compliant with that definition. The Committee asks that the Department prescribe such a definition or mechanism for the purposes of clarity and legal certainty.

Furthermore, IEN highlighted to the Committee that Head 10(7) empowers the Minister to “accept, reject or amend” any proposal to designate part of the marine space as an MPA without sufficient oversight. As such, the Committee recommends that, pursuant to Head 10(7) of the General Scheme, the Minister be required to outline, in writing, the grounds for such decisions and that this is made public and laid before the Houses of the Oireachtas for the purposes of transparency for the members of the public, organisations, developers, and effected communities, among others.

Lastly, given the importance of designating evidence based MPAs, the Committee is of the opinion that, under Head 7(6)(i) of the General Scheme, the identification of potential MPA designations should specify relevant scientific information as a mandatory requirement. In addition, it is preferable that all environmental research and science contributing to designations are made public.

RECOMMENDATIONS

1. The Committee recommends that, pursuant to Head 12 of the General Scheme, a scientific review takes place after the Emergency Designation Order period of four years to assess if the necessary and intended recovery has taken place, and that the Emergency Designation Order should not be lifted until this recovery has occurred.
2. The Committee recommends that Head 12 of the General Scheme considers preventative Emergency Temporary MPA Designation.
3. The Committee recommends that “appropriate development” in Head 11(10) of the General Scheme is defined in legislation, or a mechanism is prescribed to determine what constitutes “appropriate development”.
4. The Committee recommends that, pursuant to Head 10(7) of the General Scheme, the Minister is required to outline, in writing, the grounds for such decisions and that this is made public and laid before the Houses of the Oireachtas.
5. The Committee recommends that the text of Head 7(6)(i) should be updated to include ‘relevant scientific information’ as a mandatory requirement.
6. The Committee recommends that all environmental research and science contributing to designations be made public.

4.3 KEY ISSUE 3: PUBLIC PARTICIPATION

In its opening statement, the Department stated that, in 2019, an expert group gave independent advice on how best to expand Ireland’s network of MPAs. The expert group found that in addressing the legislative gap, full and meaningful participation in the design, production, and delivery of MPAs is needed. In 2021, these findings received 99% of public support for the creation of MPAs in a roundtable consultation, in

which participants stated that they wanted to see clean healthy seas which provide a foundation for sustainable and productive industries. Prof. Tasman Crowe, who chaired the expert advisory group, stated at the Committee that Ireland has the capacity to bring the agility and flexibility to the participation process and become leaders for international best practice. In its opening statement, Fair Seas commented that the most successful MPAs have local support and buy-in, illustrating by example the successful biodiversity outcomes seen in a community proposed MPA on the Isle of Arran in Lamlash Bay in Scotland where the community fostered a sense of ownership and stewardship over the designated MPA. The Committee recognises the importance of meaningful consultation through early buy-in from affected communities and other interested stakeholders, and that Ireland has the capacity to show leadership in the areas of public participation for MPAs. To generate a co-creation model, the legislation must prescribe principles of public participation throughout the process, including openness and transparency, inclusiveness, fairness, participative, early, and continuous engagement. The Committee is of the opinion that prescribing these principles is important to ensure the MPA designation process is based on the principle of co-creation.

Furthermore, Head 6(6) of the General Scheme states that the “draft Ocean Environment Policy shall be available for public consultation for a period of four weeks from the date of its publication.” Witnesses who attended the Committee expressed their concern that this period is not sufficient, stating that it would be challenging to respond comprehensively in that time. The Committee believes that this does not represent a meaningful period for engagement and a sufficient timeframe in this consultation process is needed for transparency, buy-in and confidence in the process. Therefore, the Committee strongly recommends that this consultation period is extended to an eight-week period at least. In addition, the Committee notes that Head 9 of the General Scheme does not set out timelines, and it asks that the Minister consider and provide appropriate timelines under this Head.

The Committee notes that Head 7(4) of the General Scheme allows just six weeks for the receipt of submissions for the identification of MPAs once it publishes its invitation for submissions on the Department’s website. IEN informed the Committee that, as access-to-information requests on the environment take four weeks, this timeline is

inadequate. The Committee recommends that this period is extended to eight weeks so that sufficient time is allowed for submissions to be made.

RECOMMENDATIONS

1. The Committee recommends that the MPA designation process should be based on the principle of co-creation whereby all relevant stakeholders are involved in the designation process from the earliest possible stage to ensure that all sectors concerned are considered during designation.
2. The Committee recommends that co-creation is reflected more strongly in the Bill, by prescribing the principles of public participation in the Bill, that is, openness, transparency, inclusiveness, fairness, participative, early, and continuous engagement.
3. The Committee recommends that the consultation period as prescribed in Head 6(6) of the General Scheme is extended from four to at least eight weeks.
4. The Committee ask the Minister to consider and provide appropriate timelines under Head 9.
5. The Committee recommends that the period set out in Head 7(4) of the General Scheme regarding the six-week period for the receipt of submissions for the identification of MPAs is extended to eight weeks.

4.4 KEY ISSUE 4: EXISTING AUTHORISATIONS

The Committee notes that there is a failure in this Bill to adequately provide certainty regarding existing authorisations and MPAs. Head 14(4) of the General Scheme states that where the Minister has designated an MPA, and an application for an authorised activity in an MPA is being considered, the public authorities considering the authorisation must be satisfied that the proposed activity would comply the conservation objectives set out in the Designation Order of the MPA. However, Head 14(5)(a) of the General Scheme states that an application for an authorised activity which does not comply with the conservation objectives of the designated MPA may be granted where there are either (i) imperative reasons of overriding public interest or where (ii) no reasonable alternative solutions exist. In its attendance at the Committee, IWT

highlighted that the latter provision grants excessive leeway to override the aims of an MPA, representing a *carte blanche* for activities to be permitted in MPAs regardless of impact. The Committee is of the opinion that this provision lacks detail, therefore it must set out the criteria against which this is decided. For existing authorisations set out in Head 14(5)(a), the Committee stressed that a qualification threshold for the invocation of this clause must be set out in the legislation.

RECOMMENDATIONS

1. The Committee recommends that Head 14(5)(a) of the General Scheme sets out the criteria against which it is decided that (ii) no reasonable alternative solutions exist, where an application for an authorised activity is granted in a designated MPA.
2. The Committee recommends that a qualification threshold for the invocation of the Head 14(5)(a) clause is set out in the legislation.

4.5 KEY ISSUE 5: MANAGEMENT AUTHORITIES & ENFORCEMENT

The Committee acknowledges that this Bill must provide for adequate enforcement measures to ensure compliance with MPA designations. Head 19 of the General Scheme outlines the duties of management authorities but does not specify who they are. In its attendance at the Committee, the Department outlined that special management authorities will be assigned to specific MPAs depending on the nature of the activity or infringement; therefore, several management authorities will be involved. In its attendance at the Committee, the Department set out a complex organisational structure of bodies who would be involved in MPAs, and the Committee asks that the Department detail this organisational structure.

The Committee notes that there is a critical need to nominate authorities in a coherent hierarchy for the responsibility of the designation, monitoring, and enforcement of MPAs. The Committee believes this Bill requires an enforcement regime which works practically. As such, the Committee recommends that there is a single point of contact in a geographical area associated with the MPA which redirects those wishing to report non-compliance to the correct agency, and that the appropriate body is appointed to investigate complaints and ensure that remediation takes place. In addition, the

legislation must set out that the enforcement authorities will be properly resourced for MPA enforcement. As such, the Committee recommends that, under Head 15(2), the following line is added: “Such functions shall require equipment and training appropriate to the Service Level Agreement”. In addition, the Committee asks that regulations are provided following this Bill which set out guidance for the protection and management of MPAs.

RECOMMENDATIONS

1. The Committee recommends that the Department detail the organisational structure of the authorities involved in MPAs in the legislation.
2. The Committee recommends that provision is made for a single point of contact per geographical areas, so that those wishing to report non-compliance with the objectives of MPAs are redirected to the correct agency, and that an appropriate body is appointed to investigate complaints and ensure that remediation takes place, where appropriate.
3. The Committee recommends that, under Head 15(2), the following line is added: “Such functions shall require equipment and training appropriate to the Service Level Agreement”.
4. The Committee recommends that the regulations following this Bill shall provide for provision of guidance for protection and management of MPAs.

4.6 KEY ISSUE 6: EXPERT BODY

Head 5 of the General Scheme empowers the Minister to establish the Expert Body, which may provide advice on scientific, technical, and socio-economic matters.

However, Head 7(2) of the General Scheme states that the Minister “*may*” request advice from the Expert Body. The Committee is of the opinion that this language needs to be strengthened by replacing “*may*” with “*shall*”, so that there is a clear obligation on the Minister to engage with the Expert Body. The Committee is of the opinion that this obligation should extend to Head 13(1) of the General Scheme, that is, the Minister “*shall*” develop designation proposals “*in consultation with the Minister for Environment, Climate and Communications, and the Expert Body, or other specialist body*”. In addition, Head 17(2) should reflect that the Minister “*shall*” seek “*such scientific and*

technical analysis and guidance, from the Expert Body, or any other specialist body”.

Placing this obligation on the Minister to engage with the Expert Body foregrounds the use of sound scientific evidence as central to the identification of potential MPAs. In addition, the Committee recognises the value of this Expert Body being independent, therefore, the Committee asks that the Expert Body is independent and is renamed as such in the Bill.

Head 16(3) of the General Scheme lists specific areas the Expert Body shall consider when providing advice to the Minister. The Committee engaged in discussion with witnesses regarding the express addition of “carbon-rich habitats” to the Expert Body’s considerations, as the protection of such habitats is critical for the storage and sequestration of carbon. The Department acknowledged the important position of carbon-rich habitats and the need to protect them but stated that the Ocean Environmental Policy Statement gives flexibility to list this as a priority. However, witnesses stated that they anticipate that there will be EU-wide targets for the protection of carbon-rich marine habitats, therefore, the inclusion of them in this piece of legislation would be helpful from a future-proofing perspective. The Committee asks that, as carbon-rich habitats are of incredible strategic importance to the marine environment and our climate strategy, they are explicitly mentioned in the Bill.

In addition, witnesses highlighted to the Committee that the Expert Body would require a Secretariat in carrying out its work. The Committee recommends that the legislation should provide for a Secretariat to support the Expert Body, as well as the allocation of funding to the Expert Body to support its representatives in its engagement with its advisory function, as required.

RECOMMENDATIONS

1. The Committee recommends that the Bill provides that there is an obligation on the Minister to engage with the Expert Body, by replacing “may” with “shall” in Heads 7(2), 13(1) and 17(2) of the General Scheme.
2. The Committee recommends that the Expert Body is independent and should be renamed as such in the Bill – ‘Independent Expert Body’.

3. The Committee recommends that, under Head 16(3) of the General Scheme, “carbon-rich habitats” are expressly added to the Expert Body’s considerations in advising the Minister.
4. The Committee recommends that the Expert Body is allocated funding and provision is made for a Secretariat to support the Expert Body as required.

4.7 KEY ISSUE 7: MONITORING & DATA

Witnesses in attendance at the Committee highlighted that a clear understanding of the current state and ongoing, mandatory monitoring is essential to ensure the effectiveness of MPAs, which must demonstrate recovery through systematic biodiversity monitoring. The General Scheme does not mandate any additional monitoring, but rather relies on the Marine Strategy Framework Directive’s monitoring programme to meet the monitoring needs of this legislation. The Department informed the Committee that the monitoring subprogramme under that Directive will be used which runs on six-year cycles and already covers the monitoring of litter, noise, pollutants, the intensity of fishing activities, the state of biodiversity and other matters. Witnesses, such as IEN and BirdWatch, informed the Committee that the quality of monitoring under that framework may be inadequate for MPAs as it would not provide the appropriate data which is vital for achieving Good Environmental Status. As MPAs have specific requirements, the Committee is of the opinion that a framework must be provided which is specifically appropriate for MPAs. The Committee believes that it is critical that legal provision is made for new and ongoing monitoring, and this must be allocated a specific mandate for baseline data monitoring of the status of MPAs, their qualifying interests and progress in meeting their conservation objectives, which includes acoustic monitoring and reporting as appropriate to the conservation objectives of the specific MPA.

The Committee notes that acoustic monitoring is not mentioned in the General Scheme, despite its importance for protecting cetaceans, including whales and dolphins. The Irish Whale and Dolphin Group (IWADG) illustrated the importance of acoustic monitoring. It informed the Committee that, in 2018, Ireland had the largest mass stranding of beaked whales anywhere in the world which was caused by an acoustic event which occurred in Irish waters. IWADG stated that Ireland does not have an

acoustic monitoring network, despite being an essential part of baseline monitoring, and as such, we are not aware of the fish and cetaceans that are present in Irish waters and their activities. Given the importance of acoustic monitoring, the Committee recommends that Head 19(2) of the General Scheme, which requires management authorities to report to the Minister, requires management authorities to include establishing an appropriate method and schedule for acoustic monitoring to inform management plans.

Further, funding must be allocated to support baseline data acquisition and ongoing monitoring programmes, which must be flexible and adaptable as circumstances evolve and new evidence emerges. Any monitoring or enforcement authority involved in fulfilling the requirements of the legislation all must be properly resourced so that they can properly monitor and manage MPAs, including the Marine Area Regulatory Authority, the National Parks and Wildlife Service, the Naval Service, among others.

In addition, Head 11(4)(iii) outlines that the Minister may identify monitoring authorities in designating MPAs. The Committee is of the opinion that, given the importance of monitoring, there must be an obligation on the Minister to identify such monitoring authorities. In addition, the Committee suggests that provision is made for the earliest possible sharing of monitoring data. Lastly, Head 21(1) should require more definitive action by the Minister, therefore the Committee asks that this provision is amended to reflect that the Minister shall consult with and direct the management authority where there is a requirement for additional monitoring.

RECOMMENDATIONS

1. The Committee recommends that, considering the importance of a robust system of effective monitoring, a specific mandate for baseline data monitoring of the status of MPAs, their qualifying interests and progress in meeting their conservation objectives, which includes acoustic monitoring, and reporting as appropriate to the conservation objectives of the MPA.
2. The Committee recommends that Head 19(2) of the General Scheme, requires management authorities to include establishing an appropriate

method and schedule for acoustic monitoring to inform management plans in its report to the Minister.

3. The Committee recommends that the Marine Area Regulatory Authority, the National Parks and Wildlife Service, the Naval Service and any other authorities are adequately resourced if they are to fulfil adequate monitoring and enforcement.
4. The Committee recommends that, under Head 11(4)(iii), the Minister should have an obligation to identify monitoring authorities.
5. The Committee recommends that provision is made for the earliest possible sharing of monitoring data.
6. The Committee recommends that Head 21(1) is amended so that the Minister is required to consult with and direct the management authority where there is a requirement for additional monitoring.

5. RECOMMENDATIONS

RECOMMENDATIONS

1. The Committee recommends that Head 6(4) of the General Scheme should read *“the Minister, shall designate up to 10% of the maritime area as Marine Protected Areas as soon as practicable after commencement of this Act and 30% of the maritime area as Marine Protected Areas by 2030”* and that timelines for achieving this are set out.
2. The Committee recommends that Head 6(4) of the General Scheme makes provision for at least 10% of the maritime area to be designated as Highly Protected Marine Areas.
3. The Committee recommends that the Bill provides for a hierarchy of levels of protection and management for MPAs, such as full protected or partially protected, and that the Bill sets out the percentage area coverage for each level of protection to be achieved by 2030.
4. The Committee recommends that the Bill fully complies with The Aarhus Convention, The Marine Strategy Framework Directive, Directive 2008/56/EC, The Maritime Spatial Planning Directive; Directive 2014/89/EU.
5. The Committee recommends that Head 6 be amended to reflect the Ocean Environmental Policy Statement which is to support the delivery of the objective of the Marine Strategy Framework Directive through effective implementation of the obligation under Article 13(4) of that Directive for an ecologically coherent and representative network of marine protected areas, adequately covering the diversity of the constituent ecosystems, in Irish waters.
6. The Committee recommends the designation targets in Head 6 in conjunction with percentage targets also reflect the legal considerations required for MPAs under the Marine Strategy Framework Directive, including that designations contribute: to A) the achievement of the objective of Good Environmental Status, and B) to an ecologically coherent and representative network of marine protected areas, covering the diversity of the constituent ecosystems.

7. The Committee recommends in the interest of the provision of an ecologically coherent and representative network of Marine Protected Areas as required by Article 13(4) the Marine Strategy Framework Directive, that there be ambitious timelines on the actions and decisions of the Minister within the Bill.
8. The Committee recommends that, as part of this Bill, the Department sets out clearly the legislative architecture and policies and objectives for marine conservation in relation to both the 30x30 target and Good Environmental Status.
9. The Committee recommends that the Bill highlights the importance of designating MPA networks, rather than individual MPAs.
10. The Committee recommends that greater provision is made for restoration measures in this Bill.
11. The Committee recommends that “Other Effective Means of Conservation” as referred in Head 2 of the General Scheme is renamed as “Other Effective Area-based Conservation Measures” as accepted by the International Union for Conservation of Nature.
12. The Committee recommends that the legislation outlines timelines for the transition of SAC and SPA sites to effective MPA sites.
13. The Committee recommends active measures are included in the Bill that set a requirement to address the shortcomings of Ireland’s current protected marine areas that may be designated as MPAs under this Bill (i.e., Natura2000 sites). These measures should include but are not restricted to, implementation of all relevant EU legislative requirements (for example, Article 6.3 of the Habitats Directive), establishment of management plans for all existing and future Natura2000 sites, and the implementation of management including enforcement.
14. The Committee recommends that sustainable food security is included in the list of considerations when generating lists of MPA designations under Heads 7(5) and 16(3) of the General Scheme.

15. The Committee asks that the Minister considers a compensatory provision to account for impacts on the fishing and aquaculture industry that may result from an MPA designation.
16. The Committee recommends that “ecosystem services” and “ecosystem-based approach” is defined in the Bill.
17. The Committee asks that the Department clarifies the reference to “airspace” in Head 3(1)(c) of the General Scheme.
18. The Committee recommends that the Department clarifies which lists fall under the “IUCN lists” specified in Head 7(5)(ii)(b) and Head 16(3)(ii)(b) of the General Scheme.
19. The Committee recommends that, pursuant to Head 12 of the General Scheme, a scientific review takes place after the Emergency Designation Order period of four years to assess if the necessary and intended recovery has taken place, and that the Emergency Designation Order should not be lifted until this recovery has occurred.
20. The Committee recommends that Head 12 of the General Scheme considers preventative Emergency Temporary MPA Designation.
21. The Committee recommends that “appropriate development” in Head 11(10) of the General Scheme is defined in legislation, or a mechanism is prescribed to determine what constitutes “appropriate development”.
22. The Committee recommends that, pursuant to Head 10(7) of the General Scheme, the Minister is required to outline, in writing, the grounds for such decisions and that this is made public and laid before the Houses of the Oireachtas.
23. The Committee recommends that the text of Head 7(6)(i) should be updated to include ‘relevant scientific information’ as a mandatory requirement.
24. The Committee recommends that all environmental research and science contributing to designations be made public.
25. The Committee recommends that the MPA designation process should be based on the principle of co-creation whereby all relevant stakeholders are involved in the designation process from the earliest possible stage to ensure that all sectors concerned are considered during designation.

26. The Committee recommends that co-creation is reflected more strongly in the Bill, by prescribing the principles of public participation in the Bill, that is, openness, transparency, inclusiveness, fairness, participative, early, and continuous engagement.
27. The Committee recommends that the consultation period as prescribed in Head 6(6) of the General Scheme is extended from four to at least eight weeks.
28. The Committee ask the Minister to consider and provide appropriate timelines under Head 9.
29. The Committee recommends that the period set out in Head 7(4) of the General Scheme regarding the six-week period for the receipt of submissions for the identification of MPAs is extended to eight weeks
30. The Committee recommends that Head 14(5)(a) of the General Scheme sets out the criteria against which it is decided that (ii) no reasonable alternative solutions exist, where an application for an authorised activity is granted in a designated MPA.
31. The Committee recommends that a qualification threshold for the invocation of the Head 14(5)(a) clause is set out in the legislation.
32. The Committee recommends that the Department detail the organisational structure of the authorities involved in MPAs in the legislation.
33. The Committee recommends that provision is made for a single point of contact per geographical areas, so that those wishing to report non-compliance with the objectives of MPAs are redirected to the correct agency, and that an appropriate body is appointed to investigate complaints and ensure that remediation takes place, where appropriate.
34. The Committee recommends that, under Head 15(2), the following line is added: "Such functions shall require equipment and training appropriate to the Service Level Agreement".
35. The Committee recommends that the regulations following this Bill shall provide for provision of guidance for protection and management of MPAs.

36. The Committee recommends that the Bill provides that there is an obligation on the Minister to engage with the Expert Body, by replacing “may” with “shall” in Heads 7(2), 13(1) and 17(2) of the General Scheme.
37. The Committee recommends that the Expert Body is independent and should be renamed as such in the Bill – ‘Independent Expert Body’.
38. The Committee recommends that, under Head 16(3) of the General Scheme, “carbon-rich habitats” are expressly added to the Expert Body’s considerations in advising the Minister.
39. The Committee recommends that the Expert Body is allocated funding and provision is made for a Secretariat to support the Expert Body as required.
40. The Committee recommends that, considering the importance of a robust system of effective monitoring, a specific mandate for baseline data monitoring of the status of MPAs, their qualifying interests and progress in meeting their conservation objectives, which includes acoustic monitoring, and reporting as appropriate to the conservation objectives of the MPA.
41. The Committee recommends that Head 19(2) of the General Scheme, requires management authorities to include establishing an appropriate method and schedule for acoustic monitoring to inform management plans in its report to the Minister.
42. The Committee recommends that the Marine Area Regulatory Authority, the National Parks and Wildlife Service, the Naval Service and any other authorities are adequately resourced if they are to fulfil adequate monitoring and enforcement.
43. The Committee recommends that, under Head 11(4)(iii), the Minister should have an obligation to identify monitoring authorities.
44. The Committee recommends that provision is made for the earliest possible sharing of monitoring data.
45. The Committee recommends that Head 21(1) is amended so that the Minister is required to consult with and direct the management authority where there is a requirement for additional monitoring.

6. APPENDIX 1: ORDERS OF REFERENCE

a. FUNCTIONS OF THE COMMITTEE – DERIVED FROM STANDING ORDERS [DSO 95; SSO 71]

(1) The Adil may appoint a Departmental Select Committee to consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Dáil on any matter relating to—

- (a) legislation, policy, governance, expenditure and administration of—
 - (i) a Government Department, and
 - (ii) State bodies within the responsibility of such Department, and
- (b) the performance of a non-State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.

(2) A Select Committee appointed pursuant to this Standing Order shall also consider such other matters which—

- (a) stand referred to the Committee by virtue of these Standing Orders or statute law, or
- (b) shall be referred to the Committee by order of the Dáil.

(3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be—

- (a) for the accountability of the relevant Minister or Minister of State, and
- (b) to assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.

(4) A Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts—

- (a) consents to such consideration, or
- (b) has reported on such accounts or reports.

(5) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for the purposes of paragraph (1) and such other purposes as may be specified in these Standing Orders or by order of the Dáil: provided that the Joint Committee shall not consider—

- (a) the Committee Stage of a Bill,
- (b) Estimates for Public Services, or
- (c) a proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.

(6) Any report that the Joint Committee proposes to make shall, on adoption by the Joint Committee, be made to both Houses of the Oireachtas.

(7) The Chairman of the Select Committee appointed pursuant to this Standing Order shall also be Chairman of the Joint Committee.

(8) Where a Select Committee proposes to consider—

- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 133, including the compliance of such acts with the principle of subsidiarity,
- (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
- (c) non-legislative documents published by any EU institution in relation to EU policy matters, or
- (d) matters listed for consideration on the agenda for meetings of the relevant Council (of Ministers) of the European Union and the outcome of such meetings,

the following may be notified accordingly and shall have the right to attend and take part in such consideration without having a right to move motions or amendments or the right to vote:

- (i) members of the European Parliament elected from constituencies in Ireland,
- (ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

- (iii) at the invitation of the Committee, other members of the European Parliament.

(9) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department consider—

- (a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
- (b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 130 apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.

b. SCOPE AND CONTEXT OF ACTIVITIES OF COMMITTEES (AS DERIVED FROM STANDING ORDERS) [DSO 94; SSO 70]

1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;

(2) such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil/Seanad;

(3) it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under DSO 125(1) and SSO 108(1); and

(4) it shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

- (a) a member of the Government or a Minister of State, or
- (b) the principal office-holder of a State body within the responsibility of a Government Department or
- (c) the principal office-holder of a non-State body which is partly funded by the State,

Provided that the Committee may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

(5) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice to the Business Committee by a Chairman of one of the Select Committees concerned, waives this instruction.

c. POWERS OF COMMITTEES (AS DERIVED FROM STANDING ORDERS) [DSO 96; SSO 72]

Unless the Dáil/Seanad shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

(1) power to invite and receive oral and written evidence and to print and publish from time to time—

(a) minutes of such evidence as was heard in public, and

(b) such evidence in writing as the Committee thinks fit;

(2) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil/Seanad;

(3) power to draft recommendations for legislative change and for new legislation;

(4) in relation to any statutory instrument, including those laid or laid in draft before either or both Houses of the Oireachtas, power to—

(a) require any Government Department or other instrument-making authority concerned to—

(i) submit a memorandum to the Joint Committee explaining the statutory instrument, or

(ii) attend a meeting of the Joint Committee to explain any such statutory instrument: Provided that the authority concerned may decline to attend for reasons given in writing to the Joint Committee, which may report thereon to the Dáil, and

(b) recommend, where it considers that such action is warranted, that the instrument should be annulled or amended;

(5) power to require that a member of the Government or Minister of State shall attend before the Joint Committee to discuss—

(a) policy, or

(b) proposed primary or secondary legislation (prior to such legislation being published),

for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Joint Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Joint Committee to enable him or her to discuss such policy or proposed legislation;

(6) power to require that a member of the Government or Minister of State shall attend before the Joint Committee and provide, in private session if so requested by the attendee, oral briefings in advance of meetings of the relevant EC Council (of Ministers) of the European Union to enable the Joint Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;

(7) power to require that the Chairperson designate of a body or agency under the aegis of a Department shall, prior to his or her appointment, attend before the Select Committee to discuss his or her strategic priorities for the role;

(8) power to require that a member of the Government or Minister of State who is officially responsible for the implementation of an Act shall attend before a Joint Committee in relation to the consideration of a report under DSO 197/SSO 168;

(9) subject to any constraints otherwise prescribed by law, power to require that principal office-holders of a—

(a) State body within the responsibility of a Government Department or

(b) non-State body which is partly funded by the State,

shall attend meetings of the Joint Committee, as appropriate, to discuss issues for which they are officially responsible: Provided that such an office-holder may decline to attend for stated reasons given in writing to the Joint Committee, which may report thereon to the Dáil/Seanad; and

(10) power to—

(a) engage the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and

(b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Chairmen under DSO 120(4)(a)/SSO 107(4)(a).

7. APPENDIX 2: COMMITTEE MEMBERSHIP

7.1 DEPUTIES



Francis Noel Duffy
Green Party



Joe Flaherty
Fianna Fáil



Thomas Gould
Sinn Féin



Emer Higgins
Fine Gael



Steven Matthews
Cathaoirleach
Green Party



Paul McAuliffe
Leas-Cathaoirleach
Fianna Fáil



Cian O'Callaghan
Social Democrats



Richard O'Donoghue
Independent



Eoin Ó Broin
Sinn Féin

7.2 SENATORS



Victor Boyhan
Independent



John Cummins
Fine Gael



Mary Fitzpatrick
Fianna Fáil



Rebecca Moynihan
Labour



Mary Seery Kearney
Fine Gael

Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil of 30 July 2020.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 18 September 2020.
3. The Dáil Committee of Selection nominated Deputy Joe Flaherty to replace Deputy Jennifer Murnane O'Connor on 2 February 2021.

8. APPENDIX 3: MEETING TRANSCRIPTS

- [Thursday 26 January 2023](#)
- [Tuesday 31 January 2023](#)
- [Thursday 2 February 2023](#)

9. APPENDIX 4: OPENING STATEMENTS & SUBMISSIONS

9.1 OPENING STATEMENTS

- [Mr. Richard Cronin, Principal Adviser for the Marine Environment, Department of Housing, Local Government and Heritage](#)
- [Prof. Tasman Crowe, Professor in Marine Ecology, and Director of UCD's Earth Institute](#)
- [Ms. Attracta Uí Bhroin, Environmental Law Officer, Irish Environmental Network](#)
- [Mr. Niall Goodwin, Head of Policy, Wind Energy Ireland](#)

9.2 SUBMISSIONS

- [Irish Wildlife Trust](#)
- [Fair Seas Ireland](#)
- [BirdWatch Ireland](#)
- [BirdWatch Ireland – Final Recommendations](#)
- [Irish Whale and Dolphin Group](#)
- [Fishing and Aquaculture Representative Bodies](#)

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