



Submission to the General Scheme of Water Environment  
(Abstraction) Bill

December 2020

## 1. Introduction

We appreciate the opportunity to make a submission to the General Scheme of Water Environment (Abstraction) Bill.

The Irish Farmers Association is Ireland's largest farming organisation with approximately 72,000 members. IFA is a democratic association, organised in branches, County Executive and National Committees. There are 20 national commodity committees including the Environment committee, which is responsible for formulating environmental policy including water.

## 2. Overview of water abstraction in Ireland

Water abstraction represents a low risk pressure in Ireland compared to other European countries. This broadly reflects the registration rationale set out in the European Union (Water Policy) (Abstractions Registration) Regulation introduced by your Department in July 2018. This registration threshold was supported by the fact that Ireland's overall water quality is of high quality by European standards, for example:

- Ireland, Sweden and Greece have the lowest annual average nitrate concentrations (highest proportion less than 2mg/L) in rivers and lakes in the EU<sup>1</sup>
- Ireland has some of the best groundwater quality in Europe, with almost no groundwater stations exceeding 50mg nitrate per litre.<sup>2</sup>
- Ireland's nitrogen balance is 9kg lower than the EU average.<sup>3</sup>

Regarding general water use in the agriculture sector, Ireland has a low water footprint for food production, with most of the water used in production being "green", that is rainfall water rather than water abstracted from rivers. In addition, the UN has placed Ireland as a top performer in food production with a 0.2 percent stress rating for water, compared to a 40 percent rating in the UK, for example.<sup>4</sup>

IFA have a number of concerns in relation to the General Scheme of Water Environment (Abstraction) Bill ("the Bill") including:

## 3. Compensation for land sterilisation, crop loss and disturbance

Where water abstraction takes place on farm land and results in land sterilisation, crop loss and disturbance, fair and equitable compensation must be paid to farmers.

IFA has, over a long number of years<sup>5</sup>, advocated for the development of an equitable national package of measures, including compensation to replace the ad-hoc arrangements implemented by local authorities and now Irish Water.

This right to compensation is reflected in Articles 14 and 15 of the Water Supply Act, 1942 ("the 1942 Act"). The Bill proposes to repeal the 1942 Act, including Articles 14 and 15 and replace them with an Article (Head 17), which is more limited in scope.

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<sup>1</sup> European Commission (2018) *Report from the Commission to the Council and the European Parliament on the implementation of Council Directive 91/676/EEC concerning the protection of waters against pollution from agricultural sources based on Member State reports for the period 2012-2015.*

<sup>2</sup> European Commission (2018) *Report from the Commission to the Council and the European Parliament on the implementation of Council Directive 91/676/EEC concerning the protection of waters against pollution from agricultural sources based on Member State reports for the period 2012-2015.*

<sup>3</sup> UCC (2018) *The Economic and Societal Importance of the Irish Suckler Beef Sector*

<sup>4</sup> UCC (2018) *The Economic and Societal Importance of the Irish Suckler Beef Sector*

<sup>5</sup> IFA (2013, 2017) Submissions to reviews of the nitrates regulations

IFA has serious concerns in relation to what is proposed in the Bill under compensation, our main concerns include:

- The limit to any claim for compensation to within 2 years of the authorised abstractions commencing. This would allow the State to side-step its existing obligations to farmers, resulting in a haphazard approach across the country by differing local authorities and many compensation issues remaining unresolved. This inequity should be addressed by -
  - **Remove the time limit on a claim for compensation,**
  - **Oblige Irish Water to notify all farmers directly** by registered post that they may be impacted by a proposed water abstraction; and
  - **Develop a national protocol and package of measures,** which equitably resolves concerns regarding losses arising, where abstractions are imposed.

The requirement to notify impacted farmers will enable them to engage with the planning process and bring their views to the attention of relevant agencies.

- It is highly unusual when it comes to re-dress that the burden of “proof of loss” would be placed on individual farmers. For example, Irish Water’s sister company Gas Networks Ireland (GNI) recognises from the outset that a loss exists and endeavours to address such losses through negotiation. GNI’s approach represents established practice and the adversarial “proof of loss” obligations should be avoided. Instead the proposed legislation should be amended to facilitate positive discussions to bring matters to conclusion.
- The guidance provided to determine compensation is inadequate. The 1942 Act clearly sets out the relevant legislation for the determination of compensation, however the Bill provides absolutely no framework for the determination of compensation. The Bill should be amended to address this and provide clarity that the existing framework for compensation will continue to apply.
- Mediation is a widely used and acceptable alternative dispute resolution mechanism. For individual citizens such as farmers, mediation represents a more affordable mechanism to arrive at an outcome, where an agreement is not reached. It is proposed that the Bill include an obligation on all parties to firstly engage in mediation, in default of agreement.

#### **4. Power for Irish Water to take a supply of water**

The Bill proposes to extend the powers of Irish Water to take a water supply beyond lands it owns or acquires. However, it fails to adequately provide for the necessary package of measures and framework, including compensation where such powers are exercised. As already outlined, the notice of intention to abstract water must be directly communicated with all farmers impacted, including any farmer in a zone of sterilisation.

#### **5. Information in relation to the proposed abstraction, extension or increased abstraction**

The Bill should require Irish Water to disclose the full impact of the proposal to abstract or increase abstraction of water, to the farmers impacted (host farmers and adjoining farmers). There should be a provision within the Bill that sets out how the impact of the land sterilisation zone will be mitigated and compensated.

#### **6. Conclusion**

The Bill needs to be amendment to better reflect the rights of farmers and makes provision for an equitable package of measures, including compensation where losses arise due to a water abstraction.

Many of these water supplies were provided by farmers free of charge to their communities and were subsequently *gifted* at no cost to the state. The matters raised in this submission necessitate a response, which recognises the losses incurred by landowners, as they facilitate the *common good* in the provision of a water supply to their local communities.

We trust that these comments are useful. If you wish to discuss any aspect of this submission, please contact Geraldine O'Sullivan, IFA Senior Policy Executive on M: 087 9385283 and E: [geraldineosullivan@ifa.ie](mailto:geraldineosullivan@ifa.ie).

Ends.