

# SEANAD ÉIREANN

## AN BILLE OIDHREACHTA, 2016 LEASUITHE COISTE

### HERITAGE BILL 2016 COMMITTEE AMENDMENTS

#### *Leasuithe Breise Additional Amendments*

*\*Government amendments are denoted by an asterisk*

#### SECTION 3

- 1a.** In page 4, line 1, after “Waterways Ireland” to insert “to protect the interests of natural heritage, and where consistent with that objective,”.

—*Senators Kevin Humphreys, Aodhán Ó Riordáin.*

- 1b.** In page 4, line 3, after “property” to insert “to protect the interests of natural heritage”.

—*Senators Lynn Ruane, Alice-Mary Higgins.*

- 1c.** In page 4, line 9, after “designate” to insert “, without impeding navigation,”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

- 1d.** In page 4, line 11, after “aforesaid” to insert the following:

“, except for areas subject to protection or proposed protection for natural heritage or used by species listed in Annex IV or V or Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora”.

—*Senators Kevin Humphreys, Aodhán Ó Riordáin.*

- 1e.** In page 4, line 11, after “aforesaid” to insert the following:

“, with appropriate exception and allowance made for areas subject to protection or proposed protection for natural heritage or used by species listed in Annex IV or V or Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora”.

—*Senators Lynn Ruane, Alice-Mary Higgins.*

- 1f.** In page 4, line 15, after “canals” to insert “, and the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs”.

—*Senators Kevin Humphreys, Aodhán Ó Riordáin, Lynn Ruane, Alice-Mary Higgins.*

- 1g.** In page 4, line 16, after “Ireland” to insert “to maintain navigations,”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

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**1h.** In page 4, line 29, after “canals” to insert the following:

“subject to agreed criteria for safety standards aboard a vessel and adjudicated upon by a suitably qualified person”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1i.** In page 4, line 31, after “canals” to insert “subject to existing maximum dimensional criteria”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1j.** In page 4, line 32, after “canals” to insert “in the event of emergencies within agreed procedures on a temporary basis”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1k.** In page 4, line 34, after “boat” where it secondly occurs to insert the following:

“applied in exceptional circumstances where existing bye-laws are not being adhered to on a continuous basis and with an independent appeal mechanism provided for and/or within agreed procedures for a short determined time only if required by one or more of pre-determined scenarios”.

—*Senators David Norris, Brian Ó Domhnaill .*

**1l.** In page 4, line 36, to delete “boats on the canals or other canal property” and substitute the following:

“the canals or other canal property by all users. Any permits or licences issued should be set at a cost appropriate to the intended use and linked to the rate of inflation in the economy”.

—*Senators David Norris, Brian Ó Domhnaill, Lynn Ruane.*

**1m.** In page 4, to delete line 36 and substitute the following:

“the canals or other canal property by all users. Any permits and licences issued should be set at a cost appropriate to the intended use and linked to the rate of inflation in the economy. Any increases from current cost levels should be introduced on an incremental basis, subject to public consultation;”.

—*Senators Lynn Ruane, Alice-Mary Higgins.*

**1n.** In page 4, line 37, to delete “a boat using the canals which” and substitute “the use of the canals and canal properties by all users, where the user”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1o.** In page 5, line 3, after “canals” to insert the following:

“within agreed procedures on a temporary basis, taking into account with due diligence the safety of boats that may be on that stretch of the canal that could be effected by the alteration of water

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levels, that may need to complete the journey underway and notifying owners of same;”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1p.** In page 5, line 10, after “property” to insert the following:

“, taking into account and optimising in each area with regard to safety, security and access by the emergency services;”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1q.** In page 5, line 12, after “activities” to insert “prescribed for and detailed in the bye-laws”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane .*

**1r.** In page 5, line 14, after “property” to insert “as set out in the bye-laws”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1s.** In page 5, line 21, to delete “use by boats” and substitute “users”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1t.** In page 5, line 25, to delete “adequate cover of”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1u.** In page 5, line 26, after “boat” to insert “meeting agreed specifications as determined in the bye-laws,”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1v.** In page 5, line 28, after “7A(1)(b)” to insert the following:

“and only issued where there is failure to comply with warning notices as defined within the bye-laws”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1w.** In page 5, between lines 28 and 29, to insert the following:

“(t) the control of invasive alien species;

(u) the protection of biodiversity.”.

—*Senators Kevin Humphreys, Aodhán Ó Riordáin, Lynn Ruane, Alice-Mary Higgins.*

**1x.** In page 5, line 30, to delete “(1), it shall publish a notice of the proposal—” and substitute the following:

“(1) and following the conduct of any screenings and assessments necessary to comply with Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, it shall publish a notice of the proposal—”.

—*Senators Kevin Humphreys, Aodhán Ó Riordáin, Lynn Ruane, Alice-Mary Higgins.*

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**1y.** In page 5, between lines 33 and 34, to insert the following:

“(iii) it shall give notice to a user/interested party group established under this bill that draft bye-laws will be published for a period of 21 days.”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1z.** In page 6, line 5, to delete “21 days” and substitute “90 days”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1aa.** In page 6, line 7, to delete “21 days” and substitute “90 days”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1ab.** In page 6, line 12, to delete “21 days” and substitute “90 days”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1ac** In page 6, line 12, to delete “21 days” and substitute “8 weeks”.

—*Senators Kevin Humphreys, Aodhán Ó Riordáin.*

**1ad.** In page 6, between lines 25 and 26, to insert the following:

“(iii) provide to Authorised Officers for presentation on request for reference purposes a hard copy of the bye-laws in the event of a bye-law issue being raised by the Authorised Officer.”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1ae.** In page 6, between lines 25 and 26, to insert the following:

“(iii) conduct a review of bye-laws no less frequently than every 36 months. Each review to focus on bye-laws passed in the period since the last review and to include a public consultation in relation to those bye-laws. This consultation is to take place during the open season.”.

—*Senators Lynn Ruane, Alice-Mary Higgins.*

**1af.** In page 6, to delete lines 26 to 28.

—*Senators David Norris, Alice-Mary Higgins, Lynn Ruane*

**1ag.** In page 6, line 32, to delete “a class D fine” and substitute “warning notices and fines as defined within the bye-laws”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1ah.** In page 6, line 32, to delete “class D fine” and substitute “class B fine”.

—*Senators Kevin Humphreys, Aodhán Ó Riordáin.*

**1ai.** In page 7, line 15, after “section 7” to insert “and can produce proof of same”.

—*Senators David Norris, Brian Ó Domhnaill.*

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**1aj.** In page 7, between lines 19 and 20, to insert the following:

“(b) details of reason for grounds for believing that an offence has been committed and details of proof of this offence.”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1ak.** In page 7, line 20, to delete “21 days” and substitute “30 days”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1al.** In page 7, line 29, after “notice” to insert “determining reasonable proof”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1am.** In page 7, between lines 41 and 42, to insert the following:

“(d) where a person wishes to contest the notice served, the matter should be referred to an independent appeals board who will adjudicate on the matter as determined in the bye-laws.”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1an.** In page 7, line 42, to delete “€150” and substitute “€1,000”.

—*Senators Kevin Humphreys, Aodhán Ó Riordáin.*

**1ao.** In page 7, line 44, after “bye-laws” to insert the following:

“. The fine payable shall be clearly outlined in the bye-laws and shall attach to the offence for a specific period of time as determined in the bye-laws.”.

—*Senator Brian Ó Domhnaill.*

**1ap.** In page 8, line 3, after “defendant” to insert the following:

“. This will be determined by the issue of a receipt by Waterways Ireland confirming that a payment has been received”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1aq.** In page 8, line 5, after “appoint” to insert “from within its own staff”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1ar.** In page 8, line 6, to delete “it considers appropriate” and substitute “are appropriately qualified for the carrying out of statutory functions”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1as.** In page 8, line 10, before “(2) A person” to insert “(2)(a)# A person”.

—*Senators David Norris, Brian Ó Domhnaill.*

[#This is the appropriate reference if amendment 1at is accepted.]

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**1at.** In page 8, between lines 14 and 15, to insert the following:

“(b) All authorised officers should be permanent employees of Waterways Ireland.”.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1au.** In page 8, to delete lines 18 to 20.

—*Senators David Norris, Brian Ó Domhnaill, Alice-Mary Higgins, Lynn Ruane.*

**1av.** In page 8, lines 25 and 26, to delete “boats may be used in the canals in” and substitute “the canals and canal property may be used in”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1aw.** In page 8, line 34, to delete “stop a boat that is under way” and substitute “direct a boat to stop when it is safe to do so”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1ax.** In page 8, line 36, after “inspection” to insert “evidence of”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1ay.** In page 8, line 37, to delete “certificate” and substitute “evidence”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1az.** In page 9, between lines 2 and 3, to insert the following:

“(iv) if this evidence is not available then an individual should be able to produce said evidence within a reasonable period of time as determined in the bye-laws.”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1aaa.** In page 9, lines 10 and 11, to delete “and (if the officer considers it necessary) evidence of his or her identity” and substitute “(if the officer considers it necessary)”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1aab.** In page 9, line 14, to delete “owner of a boat” and substitute “persons on canal property”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1aac.** In page 9, line 17, to delete “A person to whom a direction is given, or a request is made” and substitute “Where there is an identified risk to safety a person to whom a direction is given, or a request is made, by a suitably qualified authorised officer”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1aad.** In page 9, lines 27 and 28, to delete “a class D fine” and substitute “fines as outlined in the bye-laws”.

—*Senators David Norris, Brian Ó Domhnaill.*

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**1aae.** In page 9, line 30, to delete “that part” and substitute “any part”.

—*Senators David Norris, Brian Ó Domhnaill.*

**1aaf.** In page 10, line 12, to delete “a named authorised officer” and substitute “a member of an Garda Síochána or a Customs or Revenue Official”.

—*Senators Lynn Ruane, Alice-Mary Higgins.*

**1aag.** In page 10, lines 13 and 14, to delete “as the named authorised officer thinks necessary” and substitute “as the member of an Garda Síochána or the Customs or Revenue Official thinks necessary”.

—*Senators Lynn Ruane, Alice-Mary Higgins.*

**1aah.** In page 10, line 15, to delete “if so requested.”

—*Senators David Norris, Brian Ó Domhnaill.*

**1aai.** In page 10, line 16, after “boat” to insert “/canal property”.

—*Senators David Norris, Brian Ó Domhnaill.*

SECTION 9

**5a.** In page 12, line 17, to delete “Section 40(1) of the Act of 1976 is amended by substituting for paragraph (cc)” and substitute “Section 40(2) of the Act of 1976 is amended by substituting for paragraph (cc)”.

—*Senators Kevin Humphreys, Aodhán Ó Riordáin.*

SECTION 11

**6a.** In page 18, to delete lines 9 to 12.

—*Senators Kevin Humphreys, Aodhán Ó Riordáin, Grace O'Sullivan, Alice-Mary Higgins, David Norris, Frances Black, John Dolan, Colette Kelleher.*