



Tithe an
Oireachtais
Houses of the
Oireachtas

An Comhcoiste um Chomshaol & Gníomhú ar son na hAeráide

Tuarascáil maidir leis an nGrinnscrúdú Réamhrechtach ar an
mBille Comhshaoil (Forálacha Ilghnéitheacha) 2024

Iúil 2024

Joint Committee on Environment and Climate Action
Report on the Pre-Legislative Scrutiny of the Environment
(Miscellaneous Provisions) Bill 2024

July 2024

Membership of the Joint Committee on Environment and Climate Action



Richard Bruton TD
Fine Gael



Cormac Devlin TD
Fianna Fáil



Alan Farrell TD
Fine Gael



Brian Leddin TD (Cathaoirleach)
Green Party



Martin Kenny TD
Sinn Féin



Darren O'Rourke TD
Sinn Féin



Christopher O'Sullivan TD
Fianna Fáil



Paul Murphy TD
Solidarity- People Before Profit



Jennifer Whitmore TD
Social Democrats



Senator Timmy Dooley
Fianna Fáil



Senator Alice-Mary Higgins
Independent



Senator John McGahon
Fine Gael



Senator Pauline O'Reilly
Green Party

Table of Contents

Contents

Membership of the Joint Committee on Environment and Climate Action	2
Introduction	5
Background and summary of the General Scheme	6
Committee Scrutiny of the General Scheme	7
Conclusions	10
Appendix 1- Terms of Reference.....	11

Introduction

In accordance with Standing Order 146A the General Scheme of Environment (Miscellaneous Provisions) Bill 2024 was referred to the Joint Committee on Environment and Climate Action on 14 June 2024. The Committee agreed at its private meeting on 25 June 2024 to undertake pre-legislative scrutiny of the General Scheme. The Committee held a private briefing on the General Scheme with officials from the Department of Environment Climate and Communications on 25 June 2024.

Background and summary of the General Scheme

In order to help optimise Ireland's transition to net zero and to encourage environmentally sustainable economic activity, the Minister for Environment, Climate and Communications is proposing a bill to reform decision-making and reviews by the Environmental Protection Agency (EPA). Specifically, these decisions relate to applications for and reviews of Industrial Emissions, Integrated Pollution Control and Waste licences.

It is contended that existing legislation:

- does not provide firm statutory timelines for decision making;
- does not provide for the use of 'General binding rules' for lower risk activities;
- is unnecessarily cumbersome in requiring full licence reviews where changes to the proposed activity is not substantial.

The Department submits that licence applications to the EPA can take up to two years to get a final determination. The proposed Bill intends to remedy the lengthy decision-making process and licence review regime by:

- providing for derogations for Environmental Impact Assessment or shorter decision times in emergency circumstances;
- providing a legislative timeframe between 6 to 12 months for EPA decisions on licence applications and reviews;
- provide for limited reviews of existing licences, allowing the EPA to focus, in certain circumstances, on specific proposed changes to a licence;
- providing for the development of General binding rules under which the applicant, once adjudged as meeting those standards, would not be required to seek a licence to perform lower risk activities.

The proposed Bill will amend the EPA Act 1992, the Waste Management Act 1996, Section 23 of the Petroleum (Exploration and Extraction) Safety Act 2015 and Part 2 Circular Economy and Miscellaneous Provisions Act 2022.

Committee Scrutiny of the General Scheme

1. The Committee notes that the proposed Bill is intended to compliment the statutory timelines of the Planning and Development Bill 2023, as both Bills will provide for governance in the development and operation of larger industrial and waste facilities. The Committee notes the importance of ensuring that this Bill is fully compliant with the Aarhus Convention and the AIE Directive.
2. The Committee notes that the proposed Bill is further intended to develop infrastructure necessary for the continued emergence of Ireland's Circular Economy, help to increase energy security and improve the environmental aspects of industrial installations.
3. The Committee notes that the proposed Bill provides for, in line with Article 1(3) of the Environmental Impact Assessment (EIA) Directive, exemptions from Environmental Impact Assessment (EIA) in cases where the carrying out of an EIA may undermine response to a civil emergency or threat to national security.
4. The Committee notes that the proposed Bill provides for, in line with Article 2(4) of the EIA Directive, exemptions from EIA in cases where the carrying out of an EIA may undermine the response to exceptional circumstances. The objectives of the EIA are to be achieved by alternative assessments prescribed by the Minister. The non-application of an EIA in this circumstance will be notified to the public, relevant Transboundary Convention States and the European Commission. The proposed Bill will also provide for the ending of the two-stage proposed decision process in emergency applications. The Committee notes that the proposed Bill will instead provide for a singular consultation period of 30 days.

5. The Committee notes that, in a standard licence application, the EPA will issue its decision within 26 weeks of planning permission becoming effective, or after an appeal decision has been made and the period for judicial review has expired. Where planning permission is not required and the EPA finds that the activity will not make a significant environmental impact, 26 weeks will also be the timeframe. A 52-week period will apply in cases where the licence application did not occur within the relevant time-period, in both situations where planning permission is and is not necessary.
6. The Committee notes that the proposed Bill will provide for limited licence reviews in cases where there is limited change taking place. This will not apply in cases of “substantial change” as outlined in Article 3(9) of the Industrial Emissions Directive (IED). The timeframe for an Agency decision on a limited licence review is 16 weeks. Where Planning Permission is required, the 16-week period will commence from when permission is granted or from when an appeal decision has been made and the time for Judicial Review has expired.
7. The Committee notes the proposed insertion of section 89A to the EPA Act 1992 to set out “General binding rules”, under which applicants would not be required to seek a licence to perform certain activities but would be required to register specified details of the Activity with the EPA and to meet standard rules set out by the agency. The formation of these rules will be undertaken with public participation. In the final instance, the Bill will propose the keeping of a public register of activities that fall under the general binding rules. The General Scheme cites a similar arrangement in the UK in which a framework is used to decide upon the number/type of permit(s) required based on risk level associated with the activity(s).
8. The Committee notes the proposed insertion of Section 7A into the Circular Economy and Miscellaneous Provisions Act 2022, which will provide guidance and criteria for green procurement in the public sector. The Committee further

notes that this proposed section will also obligate public sector bodies to report on how they acquire goods, services or works using Green Public Procurement. The Committee notes the importance of quality criteria and/or lifecycle costing based approach rather than a price-only approach.

9. The Committee notes further proposed amendments to the Circular Economy and Miscellaneous Provisions Act 2022, which will make Revenue the Collection Authority for a levy on single-use cups. This will take the form of a charge early in the supply chain with a pricing signal at the point of consumption. Producers of single-use items will be responsible for the payment of the levy, and this is to be included on the customer receipt. Interest rates for unpaid levies will be amended to be in line with direct tax. The Committee notes Departmental advice that proposed amendments in Heads 28-29 of the General Scheme will evolve to reflect compliance and enforcement activity by Revenue.

10. The Committee notes the proposed amendment to Section 23 of the Petroleum (Exploration and Extraction) Safety Act 2015 will allow for the lifting of prohibitions for entry of ships into designated areas where the prohibition is no longer necessary. This power was previously prescribed by the Section 6 of the Continental Shelf Act 1968 (Protection of Installations in Designated Areas).

Conclusions

1. The Committee notes and encourages continued Departmental consultation with multiple stakeholders on the drafting of this Bill, including the EPA and representatives from the Waste Economy Sector and Circular Economy sector and environmental NGOs and the public. The Committee further notes and encourages the occurrence of cross-body workshops with An Bord Pleanála and the Department of Housing, Local Government & Heritage and local authorities on how to co-ordinate changes in proposed EPA licencing system with those proposed in the planning system.
2. The Committee, in concluding pre-legislative scrutiny of this General Scheme, recommends the passage of the Bill through both Houses of the Oireachtas and looks forward to further engagement and debate in the course of this consideration. The Committee recommends that the General Scheme be reviewed and, if necessary, amended to ensure full compliance with the Aarhus Convention.

Appendix 1- Terms of Reference

Functions of the Committee – derived from Standing Orders [DSO 95; SSO 71]

- (1) The Select Committee shall 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) The 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) The 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) The 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 the 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) The 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) It shall be an instruction to each Select Committee that—
- (a) it 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;
 - (b) 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;
 - (c) 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 Standing Order 125(1)1; and
 - (d) 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—
 - (i) a member of the Government or a Minister of State, or
 - (ii) the principal office-holder of a State body within the responsibility of a Government Department or

- (iii) 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.

- (2) 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.

Houses of the Oireachtas

Leinster House

Kildare Street

Dublin 2

D02 XR20

www.oireachtas.ie

Tel: +353 (0)1 6183000

Twitter: @OireachtasNews

Connect with us



Download our App

