



Number 4 of 2022

Animal Health and Welfare and Forestry (Miscellaneous Provisions) Act 2022



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**ANIMAL HEALTH AND WELFARE AND FORESTRY (MISCELLANEOUS
PROVISIONS) ACT 2022**

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[No. 4.]

*Animal Health and Welfare and
Forestry (Miscellaneous Provisions) Act 2022.*

[2022.]

ACTS REFERRED TO

Animal Health and Welfare Act 2013 (No. 15)

Forestry Act 2014 (No. 31)

Milk (Miscellaneous Provisions) Act 1979 (No. 24)

Musk Rats Act 1933 (No. 16)

Redundancy Payments Act 1967 (No. 21)



Number 4 of 2022

ANIMAL HEALTH AND WELFARE AND FORESTRY (MISCELLANEOUS PROVISIONS) ACT 2022

An Act to amend the Animal Health and Welfare Act 2013 to provide for the prohibition of the breeding, rearing or keeping of specified animals solely or primarily for the value of, or the manufacture of products from, their fur or skin; to provide for a system of compensation to persons who before the coming into operation of the prohibition were engaged in the fur farming of mink pursuant to a licence under the Musk Rats Act 1933; to confer on the Minister for Agriculture, Food and the Marine the power to make regulations for the purpose of licensing livestock marts; to repeal certain provisions of the Animal Health and Welfare Act 2013 relating to the licensing of animal marts; to amend the Forestry Act 2014 to make provision for schemes to facilitate the planting of native tree areas; to repeal the Milk (Miscellaneous Provisions) Act 1979; and to provide for related matters. [4th April, 2022]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Animal Health and Welfare and Forestry (Miscellaneous Provisions) Act 2021.
- (2) This Act comes into operation on such day or days as the Minister for Agriculture, Food and the Marine may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

Definition

2. In this Act, “Act of 2013” means the Animal Health and Welfare Act 2013.

PART 2

AMENDMENT OF ACT OF 2013

Amendment of section 2 of Act of 2013

3. Section 2 of the Act of 2013 is amended in the definition of “animal product” by inserting the following paragraph after paragraph (c):

“(ca) the wool, skin, fur or feathers derived from an animal,”.

Amendment of section 39 of Act of 2013

4. Section 39 of the Act of 2013 is amended in subsections (1) and (2), by inserting “or (2A)” after “52(2)” in each place where it occurs.

Amendment of section 52 of Act of 2013

5. Section 52 of the Act of 2013 is amended by inserting the following subsection after subsection (2):

“(2A) A person who commits an offence under section 71B(2) is liable, on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 5 years, or to both.”.

Repeal of Part 12 of Act of 2013

6. Part 12 of the Act of 2013 is repealed.

Prohibition on Fur or Skin Farming

7. The Act of 2013 is amended by inserting the following Part before Part 13:

“Part 12A

PROHIBITION ON FUR OR SKIN FARMING

Definitions

71A. (1) In this Part—

‘Act of 1967’ means the Redundancy Payments Act 1967;

‘appeal’ means an appeal under section 71J(1);

‘application’ means, except in section 71C, an application under section 71D(1) made, in accordance with this Part and the regulations, by a licensee;

‘determination’ means, in relation to an application, a determination made by an assessor under section 71F(2)(b) in respect of that application;

‘dispose’, in relation to a specified animal, includes killing the animal in such manner as to inflict as little suffering as possible in the circumstances or causing the animal to be so-killed;

‘fur or skin farming’ means the breeding, rearing or keeping of a specified animal solely or primarily for the value of, or the manufacture of products from, its fur or skin;

‘income losses’ means losses of income;

‘licensee’ means a person who immediately before the commencement of this Part held a licence granted under the Musk Rats Act 1933;

‘non-income losses’ means losses other than income losses;

‘redundant worker’ means an employee (within the meaning of the Act of 1967) of a licensee who was dismissed, during the period commencing 6 months before, and ending 6 months after, the date of commencement of this Part;

‘regulations’ means regulations made under section 71D;

‘specified animal’ means—

- (a) a dog, fox, jackal, wolf and all other members of the *Canidae* family,
 - (b) a domestic cat, wild feline and all other members of the *Felidae* family,
 - (c) a hare, rabbit and all other members of the *Leporidae* family,
 - (d) a mink, weasel, stoat and all other *Rodentia*,
 - (e) a raccoon, olingo and all other members of the *Procyonidae* family,
 - (f) a civet and all other members of the *Viverridae* family,
 - (g) a reptile, and
 - (h) any other animal or class of animal designated in an order made by the Minister under subsection (2).
- (2) The Minister may, by order, designate an animal or class of animal as a specified animal for the purpose of paragraph (h) of the definition ‘specified animal’ in subsection (1).

Prohibition

71B. (1) A person shall not—

- (a) engage in fur or skin farming, or

- (b) possess or have under his or her control a specified animal for the purpose of—
 - (i) breeding, rearing or keeping the specified animal for or on behalf of a person who is engaged in the fur or skin farming of the specified animal, or
 - (ii) selling or supplying the specified animal to another person to be used by the other person for the fur or skin farming of the specified animal.
- (2) A person who contravenes subsection (1) commits an offence.

Seizure under section 38 of specified animal: supplementary provisions

- 71C.** (1) Without prejudice to section 23(4), where an authorised officer seizes and detains a specified animal pursuant to section 38(4)(v), the Minister shall, as soon as practicable after the seizure and detention, apply to a judge of the District Court for an order authorising the Minister to dispose of the specified animal and the judge shall, unless there is good reason not to do so, grant the application.
- (2) The Minister shall not make an application under subsection (1) unless he or she—
 - (a) has served a notice on the person who appeared to be in possession or control of the specified animal immediately prior to it being seized and detained, or
 - (b) if that person cannot be readily identified, placed or cause to be placed the notice on or near the land or premises from which the specified animal was seized and detained.
 - (3) An order made under subsection (1) shall be expressed and operate to authorise the Minister to dispose of the specified animal in a manner that he or she considers appropriate.

Compensation for licensees under Musk Rats Act 1933

- 71D.** (1) A licensee may, subject to this Part and the regulations, make an application to the Minister for compensation for income losses, non-income losses and costs incurred by the licensee as a direct result of the licensee's ceasing to carry on the business of the fur farming of mink by reason of the enactment of this Part.
- (2) The Minister shall, on application by a licensee to him or her in accordance with subsection (1) and the regulations, pay the licensee such compensation as may be determined in accordance with this Part.
 - (3) For the purposes of this Part, the Minister may make regulations—
 - (a) specifying the income losses, non-income losses and costs in respect of which compensation shall be payable,

- (b) providing for the basis of valuation for assessing income losses and non-income losses,
- (c) providing, in respect of a particular income loss, non-income loss or type of costs—
 - (i) that a specified amount of compensation shall be payable, or
 - (ii) the basis on which the amount of compensation payable (which may be subject to a maximum amount) shall be determined,
- (d) providing, subject to any conditions set out in the regulations, for the types of costs reasonably incurred for which compensation may be payable, including the following costs:
 - (i) costs of disposal of breeding mink;
 - (ii) demolition and clean-up costs in respect of the removal of any buildings, specialised fencing or other structures used for the fur farming of mink that cannot reasonably be used for any other purpose;
 - (iii) amounts paid by the applicant to any redundant workers in accordance with section 19 of the Act of 1967;
 - (iv) costs incurred by the applicant for services provided to the applicant—
 - (I) by a chartered accountant or a public relations professional, or both, for any representations to the Minister made on behalf of the applicant during the 12 month period immediately before the date of enactment of this Part and ending on the date immediately preceding that date in respect of proposals to prohibit the fur farming of mink, and
 - (II) by a chartered accountant or a valuation professional, or both, in the preparation of the applicant's application and in providing assistance to the applicant during the course of the assessor's consideration of the applicant's application,
- (e) authorising the Minister to make, in specified circumstances, an advance payment to an applicant in respect of any particular income loss, non-income loss or type of cost and providing for the manner, including the setting off or recovery of the advance payment against any compensation payments to be made under this Part, in which the advance payment is to be repaid,
- (f) subject to section 71E, providing for the manner of appointment of an assessor and the terms and conditions of such an appointment,
- (g) specifying the form and content of an application, the documents and other information that are to accompany it and the period within which an application is to be submitted,

- (h) specifying the procedures to be followed by the assessor in his or her consideration of an application, and
- (i) providing for any other related matters including such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations.

Appointment of assessor

- 71E.** (1) The Minister may, in accordance with the regulations, where applicable, appoint a person (in this Part referred to as an ‘assessor’) who, in the opinion of the Minister, possesses the appropriate level of skill, knowledge and qualifications to perform the functions of an assessor under this Part, to be an assessor.
- (2) Subject to this Part, an assessor shall be independent in the performance of his or her functions.
 - (3) An assessor may engage one or more persons to assist him or her in the performance of his or her functions.
 - (4) An assessor and any persons engaged by him or her under subsection (3) shall be paid such fees and expenses as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine.

Assignment of application to assessor

- 71F.** (1) The Minister, upon receipt on an application, shall—
- (a) assign an assessor to consider the application in accordance with subsection (2), and
 - (b) transmit the application and any documents required to be submitted with it to the assessor.
- (2) The assessor to whom an application is assigned under subsection (1) shall, in accordance with this Part and the regulations—
- (a) examine the application and any information or documents transmitted to him or her under subsection (1) or provided by the applicant in compliance with section 71G, and
 - (b) determine the amount of compensation payable to the applicant.

Assessor may require or seek further information or documents

- 71G.** (1) For the purpose of performing his or her functions under this Part in relation to an application, the assessor may, by notice in writing, require an applicant—
- (a) to provide such further information or documents as are specified by the assessor that, in the assessor’s opinion, are reasonably required for the purposes of the consideration of the application, or

- (b) to verify such information or documents submitted with the application or provided under paragraph (a) as are specified by the assessor.
- (2) For the purposes of subsection (1), where the information or documents referred to in paragraph (b) of that subsection, or anything required to verify such information or documents, is in the power, possession or procurement of a third party, the applicant shall make every reasonable effort to obtain that information or those documents from the third party concerned.
- (3) The notice under subsection (1) shall specify the period, which may be extended by the assessor for good reason, within which the requirement concerned shall be complied with.
- (4) An applicant and his or her employees, servants or agents shall give all assistance (including permission to enter the applicant's property) to, and cooperate with, the assessor and any persons engaged under section 71E(3) for the purpose of performing their functions under this Part.

Failure by applicant to cooperate

- 71H.** (1) This section applies where an applicant or, where applicable, his or her employee, servant or agent—
- (a) fails to provide any information or documents required to be submitted with the application,
 - (b) fails to comply with a requirement under section 71G(1),
 - (c) fails to comply with section 71G(4), or
 - (d) provides information to the assessor that is, in a material respect, incomplete, inaccurate or misleading.
- (2) Where a circumstance referred to in paragraph (a), (b), (c) or (d) of subsection (1) applies and, as a result, the assessor is of the opinion that he or she is unable to adequately verify or substantiate any information or document provided by the applicant, he or she, in making a determination, may do one or more of the following:
- (a) draw any adverse inferences that he or she considers appropriate;
 - (b) in determining the amount of compensation payable to the applicant in respect of the income loss, non-income loss or cost to which the failure to provide the required information, documentation or cooperation, or the incomplete, inaccurate or misleading information provided, relates—
 - (i) determine that the applicant is not entitled to compensation, or

- (ii) have regard to the failure or to the fact that the information is incomplete, inaccurate or misleading, as the case may be.

Notice of determination

- 71I.** (1) Upon making his or her determination the assessor shall, as soon as practicable, by notice in writing, inform the applicant concerned of—
- (a) in relation to each income loss, non-income loss and type of cost in respect of which the applicant has applied for compensation—
 - (i) whether any compensation is payable, and
 - (ii) where compensation is payable, the amount of compensation payable to the applicant,
 - (b) the reasons for the determination, and
 - (c) the applicant's entitlement under section 71J to appeal the determination, or a part of the determination.
- (2) The assessor shall, as soon as possible after providing the applicant with a notice under subsection (1), provide a copy of the notice to the Minister.
- (3) The assessor shall transmit to the Minister all of the information and documents examined by the assessor in the course of his or her consideration of the application.
- (4) Subject to an appeal, a determination is final.

Appeal to High Court

- 71J.** (1) The applicant concerned or the Minister, where he or she is dissatisfied with a determination or with a part of such a determination relating to a particular income loss, non-income loss or type of cost to which the application concerned relates, may, not later than 3 months from the date on which he or she receives the notice referred to in section 71I, appeal the determination, or the part of the determination, as the case may be, to the High Court.
- (2) An appeal shall be commenced by motion on notice grounded on affidavit.
- (3) In any appeal—
- (a) where the appeal is by the applicant, the Minister shall be the respondent,
 - (b) where the appeal is by the Minister, the applicant shall be the respondent, and
 - (c) each party shall be entitled to be heard and to adduce evidence at the hearing of the appeal.

- (4) The High Court shall give such directions and make such orders for the conduct of an appeal as it considers appropriate for the purpose of determining the proceedings in a manner which is just and expeditious.
- (5) Following consideration of an appeal, the High Court may by order—
- (a) affirm the determination or part of the determination, as the case may be, or
 - (b) subject to subsection (6)—
 - (i) vary the determination or part of the determination,
 - (ii) set aside the determination or part of the determination and remit it, for stated reasons, to the Minister, or
 - (iii) where the Court considers it appropriate to do so, by reference to submissions, documents or evidence before it which were not examined by the assessor in his or her consideration of the application concerned or for other good reason, substitute its determination for the determination or part of the determination.
- (6) The High Court shall make an order under subsection (5)(b) only where it is satisfied, taking into account the degree of expertise and specialist knowledge possessed by the assessor and taking the process as a whole, that—
- (a) a serious and significant error or a series of such errors was made in making the determination or part of the determination the subject of the appeal, or
 - (b) the determination or part of the determination was made without complying with fair procedures.

Remission of determination to Minister

71K. Where the High Court makes an order under section 71J(5)(b)(ii), the Minister shall, in accordance with the terms of the order and section 71F(1), assign an assessor to consider the application concerned and the assessor shall proceed, having regard to the stated reasons of the Court, to consider the application concerned in accordance with this Part, and this Part and the regulations shall apply accordingly.

Payment of compensation by Minister

71L. (1) The Minister shall—

- (a) pay to the applicant concerned the amount of compensation set out in the determination—
 - (i) where no appeal has been made, as soon as practicable after the date on which the period specified in section 71J(1) for making such an appeal has expired, or

- (ii) where an appeal has been made, but the determination under appeal ceases to be under appeal, as soon as practicable after the date on which the determination under appeal ceases to be under appeal,
 - or
 - (b) where the High Court has made an order under paragraph (a), or paragraph (b)(i) or (iii), of section 71J(5), pay to the applicant concerned compensation in accordance with the order as soon as practicable after the date on which the order is made.
- (2) Where an appeal has been made in respect of a part of a determination only—
 - (a) the Minister shall, as soon as practicable, pay to the applicant concerned compensation in accordance with the parts of the determination that are not the subject of the appeal, and
 - (b) paragraphs (a)(ii) and (b) of subsection (2) shall apply in respect of the parts of the determination that are the subject of the appeal.
- (3) Where an advance payment has been made to an applicant by the Minister in accordance with regulations made under section 71D(3)(e), and has not been repaid in whole or in part, the Minister may, in accordance with regulations made under section 71D(3)(e), reduce the amount payable to the applicant under subsection (1) or (2), as the case may be, by the amount, or a portion of the amount, of the advance payment owing.
- (4) For the purposes of this section, a determination under appeal ceases to be under appeal where—
 - (a) the party who appealed withdraws or abandons the appeal, or
 - (b) where both parties have appealed, the appeal is withdrawn or abandoned by both parties.
- (5) In this section—
 - ‘determination under appeal’ means a determination, or a part of a determination, that has been appealed under section 71J, but in relation to which no order has been made by the High Court under paragraph (a), or paragraph (b)(i) or (iii), of section 71J(5);
 - ‘date on which a determination under appeal ceases to be under appeal’ means—
 - (a) where subsection (4)(a) applies, the date of the withdrawal or abandonment concerned, or
 - (b) where subsection (4)(b) applies, the date on which the later party to withdraw or abandon the appeal does so.

Revocation of licences under Musk Rats Act 1933

71M. All licences granted under the Musk Rats Act 1933 and subsisting on the date immediately before the date on which this Part comes into operation are, on that date, revoked.”.

Amendment of Schedule 3 to Act of 2013

8. The Act of 2013 is amended in Schedule 3—

- (a) in paragraph 40, by inserting “(including the suspension and revocation)” after “granting”, and
- (b) by inserting the following paragraph after paragraph 40:
 - “40A. The granting (including the suspension and revocation) of licences in respect of the operation of a livestock mart, where the mart holds livestock on its land or premises immediately before or after the sale, supply, auction or brokerage of the livestock.”.

PART 3

AMENDMENT OF FORESTRY ACT 2014

Amendment of Forestry Act 2014

9. The Forestry Act 2014 is amended—

- (a) in section 2, by the insertion of the following definitions:

“ ‘native tree area’ means land under trees—

(a) with—

- (i) an area of not less than 0.1 hectare and not greater than 1 hectare, or
- (ii) an area of not less than 0.1 hectare that is not greater than 20 metres in width,

and

- (b) where the trees concerned are native tree species only, of which not more than 25 per cent are Scots pine;

‘native tree area grant’, in relation to a native tree area, means any payment made by the Minister for native tree area-related activities, other than a loan;

‘native tree species’ means a species of tree specified in the Schedule by its common name in column (1) thereof and by its scientific name in column (2) thereof;

‘planting’, in relation to a native tree area, means the conversion of land to a native tree area;”,

(b) in section 6, by the insertion of the following paragraph after paragraph (g):

“(ga) in order to enable the State to pursue, and achieve, the transition to a low carbon, climate resilient, biodiversity rich and environmentally sustainable economy—

(i) undertake, participate in or promote any scheme or project promoting the planting of native tree areas, and

(ii) in accordance with the relevant statutory provisions, give approval for and provide native tree area grants, subject to such conditions as may be specified, for the planting of native tree areas;”,

(c) in section 22(1), by the substitution of “Subject to sections 7 and 22A,” for “Subject to section 7;”,

(d) by the insertion of the following section after section 22 but in Part 5:

“22A. (1) The Minister may, for the purpose of enabling the State to pursue, and achieve, the transition to a low carbon, climate resilient, biodiversity rich and environmentally sustainable economy, provide by regulation for a scheme to facilitate the planting of native tree areas.

(2) Regulations under subsection (1) may—

(a) subject to paragraph (b) and subsection (3), provide for the exemption of the planting of native tree areas, that would, but for such exemption, be subject to the requirements of section 22, from the requirements of that section,

(b) prescribe conditions for an exemption under paragraph (a), having regard to—

(i) the requirements of the environment and environmental law,

(ii) the need for increased planting of native tree species,

(iii) public safety,

(iv) fire, pest or disease control, and

(v) research and such other silvicultural requirements as the Minister considers appropriate,

and

(c) in relation to the scheme referred to in subsection (1)—

(i) prescribe the terms and conditions of that scheme, having regard to such matters referred to in subparagraphs (i) to (v) of

paragraph (b) and any other matters as the Minister considers relevant, and

- (ii) provide for the provision of native tree area grants for the planting of native tree areas.
- (3) Regulations under subsection (1) shall provide that an exemption from the requirements of section 22 shall be granted only where, on the basis of objective information, the proposed native tree area is not likely to have a significant effect on a European site in view of the site conservation objectives, either individually or in combination with other plans or projects.
- (4) In this section, ‘European site’ has the same meaning as it has in the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011).”,
- (e) in section 27(1), by the substitution of “in applying for a grant, native tree area grant, registration, licence or approval” for “in applying for a grant, registration, licence or approval”, and
- (f) by the insertion of the following Schedule after section 35:

“SCHEDULE

Section 2

Native tree species

Common Name	Scientific Name
Alder	<i>Alnus glutinosa</i>
Strawberry tree	<i>Arbutus unedo</i>
Silver birch	<i>Betula pendula</i>
Downy birch	<i>Betula pubescens</i>
Hazel	<i>Corylus avellana</i>
Ash	<i>Fraxinus excelsior</i>
Holly	<i>Ilex aquifolium</i>
Crab apple	<i>Malus sylvestris</i>
Scots pine	<i>Pinus sylvestris</i>
Black poplar	<i>Populus nigra</i>
Aspen	<i>Populus tremula</i>
Wild cherry	<i>Prunus avium</i>
Bird cherry	<i>Prunus padus</i>
Sessile oak	<i>Quercus petraea</i>
Pedunculate oak	<i>Quercus robur</i>
Goat willow	<i>Salix caprea</i>
Grey willow	<i>Salix cinerea</i>
Bay willow	<i>Salix pentandra</i>
English whitebeam	<i>Sorbus anglica</i>
Whitebeam	<i>Sorbus aria</i>
Rowan	<i>Sorbus aucuparia</i>
Irish whitebeam	<i>Sorbus hibernica</i>

Common Name	Scientific Name
Rock whitebeam	<i>Sorbus rupicola</i>
Yew	<i>Taxus baccata</i>
Wych elm	<i>Ulmus glabra</i>

”.

PART 4

MISCELLANEOUS

Repeal

- 10.** The Milk (Miscellaneous Provisions) Act 1979 is repealed.