

**Number 35 of 2004**

**[3rd November, 2004]**

## **DUMPING AT SEA (AMENDMENT) ACT 2004**

### **Arrangement of Sections**

1. Definition.
2. Amendment of section 1 of Principal Act.
3. Amendment of section 2 of Principal Act.
4. Amendment of section 5 of Principal Act.
5. New section 5A of Principal Act.
6. Amendment of section 6 of Principal Act.
7. Penalties.
8. Amendment of First Schedule to Principal Act.
9. Amendment of Second Schedule to Principal Act.
10. Repeals.
11. Short title and collective citation.

### **Acts Referred to**

Dumping at Sea Act 1996 (1996, No. 14)  
Fishery Harbour Centres Act 1968 (1968, No. 18)  
Harbours Acts 1946 to 1976  
Harbours Acts 1996 and 2000

AN ACT TO AMEND AND EXTEND THE DUMPING AT SEA ACT 1996.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

- 1.—In this Act “Principal Act” means Dumping at Sea Act 1996.
- 2.—Section 1 of the Principal Act is amended by—
  - (a) the substitution for the definition of “harbour authority” of the following: “ ‘harbour authority’ means—
    - (a) in the case of a harbour to which the Harbours Acts 1996 and 2000 apply, a company within the meaning of those Acts,

- (b) in the case of a harbour to which the Harbours Acts 1946 to 1976 apply, a harbour authority within the meaning of those Acts,
- (c) in the case of a fishery harbour centre to which the Fishery Harbour Centres Act 1968 applies or any other harbour under the control of the Minister, the said Minister,
- (d) in the case of a harbour under the control of a local authority, the local authority concerned,
- (e) in the case of a harbour under the management of Iarnród Éireann - Irish Rail, that company;”, and
- (b) the substitution for the definition of “the Minister” of the following: “ ‘Minister’ means the Minister for Communications, Marine and Natural Resources.”.

**3.**—Section 2 of the Principal Act is amended by the insertion after subsection (3) of the following:

“(4) In subsection (1) of this section a reference to the owner of a vessel or aircraft includes, where the vessel or aircraft is on hire, the person to whom it is on hire.”.

**4.**—Section 5 of the Principal Act is amended—

- (a) in subsection (1)(a), by the substitution for “the Minister for the Environment, the Minister for Enterprise and Employment, the Minister for Transport, Energy and Communications” of “the Minister for the Environment, Heritage and Local Government, the Minister for Enterprise, Trade and Employment”,
- (b) in subsection (1)(b)(ii), by the substitution for “as may be appropriate.” of “as may be appropriate, and”,
- (c) in subsection (1)(b), by the insertion of the following after subparagraph (ii): “(iii) in relation to the proposed dredging and dumping of any substance or material, any submission or observations made by a person, and comments made by an applicant, under section 5A.”,
- (d) in subsection (4), by the substitution for “the Minister for the Environment, the Minister for Enterprise and Employment, the Minister for Transport, Energy and Communications” of “the Minister for the Environment, Heritage and Local Government, the Minister for Enterprise, Trade and Employment”,
- (e) by the substitution for subsection (5) of the following subsection: “(5) (a) An application for a permit under this section or for amendment of any such permit shall be subject to such fee payable in such manner, as the Minister may, with the consent of the Minister for Finance, prescribe by regulations.  
(b) Regulations under this subsection may provide for fees of different amounts in respect of applications of different categories and in different circumstances.  
(c) Where under regulations made under this subsection a fee is payable in respect of any application, the application shall not be considered or decided unless the Department of Communications, Marine and Natural Resources is in receipt of the fee or the appropriate part thereof, as the case may be.  
(d) Every regulation made under this subsection shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”,
- (f) by the insertion of the following after subsection (7): “(7A) In this section references to an application for a permit include references to an application for an amendment of a permit.”,

and

- (g) in subsection (9), paragraph (b), by the insertion after “reasonable times.” of the following: “The Minister shall cause the register to be published by electronic means.”.

5.—The Principal Act is amended by the insertion of the following after section 5:

“5A. Notice of application for permit under section 5.

(1) A person who applies for a permit under section 5 shall, within 21 days after so applying, publish a notice of the application in a newspaper circulating in the area adjacent to the site of the proposed dumping (and where dredging is proposed in the maritime area of any substance or material for dumping in the maritime area, publish the notice also in a newspaper circulating in the area adjacent to the site of the proposed dredging) or, if no newspaper is circulating in those areas, then in a newspaper circulating nationally or such other newspaper as, in the opinion of the Minister, is likely to bring the proposal to the attention of persons who may be affected in the areas.

(2) A notice under subsection (1) shall contain a brief sketch map showing the location of the proposed site or sites and the approximate distance therefrom to a specified place on the mainland and brief details of the commencement and duration of the proposed activity, the characteristics, composition and the approximate amounts of any substance or material involved and the method of the proposed dredging or dumping as the case may be, and indicate where any relevant documentation in relation to the proposal may be inspected or a copy thereof may be obtained at a reasonable cost.

(3) Except in a case of dredging which, in the opinion of the Minister, is urgently required for the purposes of navigational safety and is specified in a notice under subsection (1), which is published in a newspaper circulating nationally, to be of an urgent nature for the reason or reasons stated in the notice, a person may, in writing, within—

(a) in the case of proposed dredging, over a period of not more than 12 months, for the maintenance of navigable depths, 21 days, or

(b) in any other case, 1 month, after the date on which a notice under subsection (1) is published, make a submission or observations to the Minister about the proposal.

(4) A submission or observations under subsection (3) shall—

(a) state the name and address of the person making the submission or observations,

(b) state the grounds for the submission or observations and any considerations and arguments on which it or they are based, and

(c) be accompanied by such documents, particulars or other information the person considers are necessary or appropriate for the consideration by the Minister of the application.

(5) The Minister shall, within 10 working days after the period within which a submission or observations may be made under subsection (3), give to the applicant for the permit, for comment, a copy of the submission or observations and any accompanying documents, particulars or other information provided.

(6) Except in a case of dredging which, in the opinion of the Minister, is urgently required for the purposes of navigational safety and is specified in a notice under subsection (1), which is published in a newspaper circulating nationally, to be of an urgent nature for the reason or reasons stated in the notice, the Minister shall not consider an application referred to in that subsection until after—

(a) the period specified in subsection (3) in respect of the proposed dredging, after publication of the notice, and

(b) the period of 21 days after a copy of any submission or observations has been given to the applicant under subsection (5) or, if the applicant responds to the Minister on the submission or observations before the end of that period, the date the Minister receives the response.

(7) The Minister shall cause to be published by electronic means—

(a) all applications received for permits on or after 1 August 2004, together with a copy of the notice published under subsection (1) in relation thereto,

(b) all submissions or observations under subsection (3) in relation to such applications, together with any comments of the applicants thereon under subsection (5) on or after 1 August 2004, and

(c) all decisions made on or after 1 January 2004 on applications for permits or to amend or revoke a permit.”.

**6.**—Section 6(1)(g) of the Principal Act is amended by the substitution for “Minister for Transport, Energy and Communications” of “Minister for the Environment, Heritage and Local Government”.

**7.**—Section 10 of the Principal Act is amended by the substitution—

(a) in subsection (2) for “£1,500” of “€3,000”, and

(b) in subsection (4) for “£1,500” of “€3,000”.

**8.**—The First Schedule to the Principal Act is amended by the substitution of the following for paragraph 1 in that part of the Schedule headed “C—General considerations and conditions”: “1. Interference with shipping, fishing, recreation, mineral extraction, desalination, fish spawning and nursery habitats, fish and shellfish culture, areas of special scientific importance, areas of natural or archaeological heritage importance, biological diversity (including diversity within species, between species, and of ecosystems) and other legitimate use of the sea.

1A. Results of the National Seabed Survey.”.

**9.**—The Second Schedule to the Principal Act is amended by the deletion of paragraph (d) in Article 3 in Part 1.

**10.**—Section 12 and subsection (2) of section 16 of the Principal Act are repealed.

**11.**—(1) This Act may be cited as the Dumping at Sea (Amendment) Act 2004.

(2) The Principal Act and this Act may be cited together as the Dumping at Sea Acts 1996 and 2004.

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