

23rd September, 2020

**An Roinn Talmhaíochta,
Bia agus Mara**
Department of Agriculture,
Food and the Marine



Report on the results from Public Consultation on the Draft Agriculture Appeals (Amendment) Bill 2020 (now titled the Forestry (Miscellaneous Provisions) Bill 2020

Background

The purpose of the Draft Agriculture Appeals (Amendment) Bill 2020 (now titled the Forestry (Miscellaneous Provisions) Bill 2020) is to reform the forestry appeals process by bringing it into line with similar planning processes and is one of the commitments in the Programme for Government.

Public Consultation

The public consultation on the Draft Bill 2020 was published on the Department's website on 31st July 2020 with a closing date for receipt of for submission of feedback on the draft Bill of Friday 28th August 2020. A specific e-mail address for the submission of contributions was provided in the published Public Consultation document and the draft Bill was attached to this document.

Close to 8,900 submissions were received by the Department by the deadline for submission of contributions. DAFM has reviewed all the submissions and arrangements are being made to publish them the Department's website. This publication will be done in a suitable format to ensure compliance with GDPR requirements which will require the redacting of personal information.

This report is a summary of the results of a review of the submissions received.

The methodology for presenting these results are:

1. Was the submission related to the Bill?
2. Did the submission support or object to the Bill?
3. Did the submission refer to the Bill in general terms or make specific reference to individual Heads?
4. A categorisation of the submitter by grouping divided into four categories:
 - a. Industry: The submission was made on behalf of an industry stakeholder, such as forestry companies, haulage companies, sawmills, forestry contractors, building providers, timber processing industry, etc.
 - b. Private: The submission was made by a private stakeholder in his/her private capacity.
 - c. Public Representatives: The submission was made by a public representative, such as Councillor, TD, Senator.
 - d. Other organisations: The submission was made on behalf of a non-industry stakeholder organisation, such as NGOs, associations, political parties, and other groups.



Results of the Public Consultation exercise

The Table below details the submissions as recorded:

	Total No.
Total submissions received	8,888
Total submissions reviewed	8,888

	In % of submissions received
Submissions received unrelated to the Bill	3%
Submissions received in support of the Bill	81%
Of which are: <ul style="list-style-type: none"> - Industry submissions: 24.9% - Private submissions: 74.4% - Submissions made by Public Representatives: 0.4% - Submissions made by Other Groups: 0.3% - Submissions that did not engage with a particular Head: 99% 	
Submissions received objecting to the Bill	16%
Of which are: <ul style="list-style-type: none"> - Industry submissions: 0% - Private submissions: 94.5% - Submissions made by Public Representatives: 1.4% - Submissions made by Other Groups: 4.1% - Submissions that specifically engaged with Heads 4 & 5: 23% - Submissions that did not engage with a particular Head: 73% 	



Summary of outcomes

- Of the 8,888 submissions examined, 7,195 (81%) were in general support of the Bill and 1,418 (16%) raised objections. 3% of submissions received were unrelated to the Bill.
- The majority of submissions reviewed do not include any recommendations for the amendment of the Bill but refer to a general support or objection to the Bill.
- Those submissions that referred in detail to the Bill, concentrated mainly on Head 4 and in particular Section 4(1)(d) – definition of a relevant person and section 5. (1) to (5) – introduction of fees.

Summarised comments from submissions on specific sections of the Bill

Head 4 –Issues raised:

- Request that relevant person category not be introduced and that all interested parties may appeal directly to the FAC.
- Suggest that as currently drafted the Bill restricts eNGOs right of access to appeal.
- Consider requiring the FAC to have regard to the national interest and issues of strategic economic or social importance to the State when determining appeals.
- Suggest that a provision allowing the determination of appeals using precedence be introduced, and that the Committee adjudicate on appeals on the same issue at the same time.
- Suggest that the chairperson of the Committee should be in a position to consider appeals based on their validity before going through a hearing.
- Additional Information from Appellant: For good administrative decision making, request that the Minister's entitlement to make regulations be broadened to require what an appeal should contain in respect of additional information, such as – precise grounds for appeal, relevance to a particular licence.
- Suggest that the FAC should be able to sit in a Quorum of 2 rather than 3.
- Suggest that 'Environmental Body' be further defined in the Bill.

Head 5 – Issues raised:

- Compliance with the Aarhus convention on public participation and that such participation should not be “prohibitively expensive.”
- Comments on the Bill giving the Minister the power to issue policy directives to the FAC and its operations.
- Suggest that the proposed Bill leaves excessive discretion to the Minister to introduce measures by regulation.
- The proposal regarding an introduction of a fee for appeals is welcome and a key step to ensure the FAC is adequately resourced and brings the process in line with other planning requirements.



Publication of the updated Bill

The updated Bill retains provisions which aim to increase the capacity of the Forestry Appeals Committee (FAC) to manage its workload and to recoup some element of the cost involved by:

- Increasing the capacity of the FAC to determine appeals by enabling it to sit in divisions of itself;
- Enabling the FAC to determine appeals without an oral hearing where it is possible to properly dispose of an appeal in that manner;
- Providing the Minister with a regulation making power to specify, inter alia, the procedures in relation to appointments to the FAC and for other FAC related matters generally;
- Introducing fees for appeals, by means of regulation; while there was concern expressed in relation to fees, such fees will be reasonable and charging fees is common practice in appeals processes.

In view of the submissions received, certain matters were taken on board by the Minister in the new version of the Bill and amendments made to the previous Heads by:

- Removing the category of relevant person who may appeal to the FAC and allowing all persons dissatisfied with a decision of the Department the right to appeal directly to the FAC;
- Introducing a quorum of two, rather than three, for a FAC hearing and where there is no unanimous decision, the appeal to revert to a reconstituted Committee of three others;
- Providing that decisions may be affirmed, varied, set aside and returned to the Department, or substituted in certain circumstances by the FAC;
- Providing clarity as to the circumstances in which the Minister might issue a general policy directive i.e. in prioritising certain classes of appeal having regard to the need to ensure an economically and environmentally sustainable yield of forest goods and services in the State.

Certain other matters relating to the Forestry Act 2014 in relation to the publication of documents and the making of regulations are also added to the updated Bill.



Conclusion

The public consultation exercise prompted extensive engagement from all stakeholders and confirmed support for this Bill. The Bill has been amended in light of submissions received. In adopting suggestions from the public consultation process, the Minister sought to retain the integrity of a Bill which will make for an improved and more efficient appeals system, while ensuring fair and accessible rights to interested parties to appeal forestry licence decisions to an independent body.

The Minister will address these issues in more detail when the Bill is presented to the Houses of the Oireachtas.

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