



IRISH TIMBER GROWERS ASSOCIATION

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Irish Timber Growers Association submission to the Department of Agriculture, Food and the Marine on the Draft Agriculture Appeals (Amendment) Bill 2020

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The Irish Timber Growers Association (ITGA) was established in 1977 and is the national representative body of private woodland owners in Ireland. The membership of the Association mirrors the wide range of different timber growers in the country and current membership includes farm forest owners, forestry co-operative members, private woodland estates, forestry investors and forestry pension funds. This wide range of membership allows the Association to take a broad view of the industry and issues facing the sector.

The Irish Timber Growers Association (ITGA) support the draft Agriculture Appeals (Amendment) Bill 2020 and would like to take this opportunity to make further comments on the draft Bill as outlined below. The focus should be as much on enabling and resourcing the Appeals process to function in a timely and efficient manner as on regulating the Appeals system.

The current situation in the sector where there are significant delays and a considerable and growing backlog and accumulation of licence applications in the system is undermining the sector and poses a serious threat to sustainable forestry and our timber industry. It is also undermining National Forest Policy and its contribution to economic development and our Climate Change Action Plan.

Irish Timber Growers Association (ITGA) comments on the text of the Draft Agriculture Appeals (Amendment) Bill 2020;

ITGA are supportive of the draft Agriculture Appeals (Amendment) Bill 2020 and welcomes the opportunity to make this submission to the Department of Agriculture, Food and the Marine. ITGA are of the opinion that the Agriculture Appeals (Amendment) Bill could be improved by also incorporating the following important points:

In relation to Head 3: RE: Annual Report. From the text of the draft Agriculture Appeals (Amendment) Bill 2020;

“(4) As soon as may be after the end of each year, but not later than 6 months thereafter, the Chairperson of the Forestry Appeals Committee shall make a report to the Minister of his or

her activities and the activities of the Forestry Appeals Committee during that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.”

ITGA propose that the length of time be revised to 3 months as below;

“(4) As soon as may be after the end of each year, but not later than 3 months thereafter, the Chairperson of the Forestry Appeals Committee shall make a report to the Minister of his or her activities and the activities of the Forestry Appeals Committee during that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.”

Key Performance Indicators should be agreed with stakeholders and incorporated into the annual report and for online monthly reporting outlining Forestry Appeals Committee (FAC) statistics with respect to the delivery of decisions on appeals and related information.

The Forestry Appeals Committee needs to be technically and administratively well-resourced and must be able to demonstrate consistent, transparent, and timely decisions on acceptance or rejection of appeals and on the substance of accepted appeals. It is critical to ensure that sufficient resources are put in place to ensure that FAC delivery of decisions are in keeping with current legislation and the ‘*Time period for decisions on applications for felling licences*’ as contained in the current Forestry Act 2014 under 18.(1);

‘18. (1) It shall be the objective of the Minister to ensure that every application under section 17 for a licence (a “felling licence application”) is determined within a period of 4 months beginning on the date of receipt by the Minister of the application.’

- As outlined in the above legislation, the period of 4 months should be beginning on the date of receipt by the Minister of the application by which date a decision on a licence application should be communicated to the applicant.

In relation to Head 4, ITGA are supportive of the draft Agriculture Appeals (Amendment) Bill 2020 regarding the introduction of a Deputy FAC Chairperson.

In relation to Head 5 of the draft Bill, ITGA are supportive of the draft Agriculture Appeals (Amendment) Bill 2020 regarding the introduction of a fee for appeals. It is important that fees should be reasonable and appropriate and that such fees should, consistent with other planning, apply to observations on licence applications as well as Appeals.

ITGA also supports the proposal regarding the power of the Chairperson(s) to determine whether an oral hearing is required to determine an appeal.

The current forestry appeals process allows virtually any third party to appeal any forestry licence application. This can permit vexatious blanket appeals on forestry operations which might otherwise be entirely uncontentious. Licence applications themselves should be subject to derogation and proportionality. For example, the renewal of a Tree Felling Licence is far removed from other Planning Permission applications for major developments and must be treated as such. Ultimately, the planning process, whether forestry or otherwise, is a regulatory process; it should not act as a blanket restraint on trade and rural development. In this regard, ITGA propose the following additional measures to those contained in the draft Agriculture Appeals (Amendment) Bill 2020;

Valid grounds for appeal should be developed and articulated in the draft Bill so as to ensure all appeals are related to a specific site and are not used as a mechanism to permit blanket appeals or on the grounds of disagreement with current national policies. Appeals should have grounds that relate to an individual licence rather than a group of licences. Evidence for specific appeals should be provided when lodging the appeal and the appellant should be required to state their specific interest in the licence that they are appealing.

The FAC Chairperson should be given general powers to reject appeals on the above basis and any appeals which are without sufficient grounds or merit.

Appropriate grounds for appeal should also be developed and articulated in the draft Bill so as the FAC Chairperson can establish firm precedents from existing decisions which would avoid situations of hearing repeated generic appeals that raise no new issues. If an appeal is upheld or rejected, the FAC should be able to examine its backlog of existing appeals and new appeals and issue the same decision on such appeals of the same type.

Terms of reference for the FAC should make note of the obligation of the licensing system and the appeals process to support the Climate Change Action Plan and National Forest Policy.

In summary, ITGA are supportive of the draft Agriculture Appeals (Amendment) Bill 2020. In the longer term, a more resilient and permanent solution must be secured, not only in administering a more efficient and streamlined appeals system, but also in developing more effective and inclusive licencing procedures around licenceable forestry operations. In this regard, amending current Forestry Legislation and the Forestry Act 2014 must also be a priority, otherwise nationally we will not achieve our ambitions in our Climate Action Plan or in forest policy. Ultimately, our legislation should ensure that where a timber grower secures a licence for afforestation of lands, having worked through all the rigorous environmental and appropriate assessment procedures, then that licence should also apply to the various standard and best practice forestry operations that must be undertaken on the site to sustainably manage the woodlands. If one secures Planning Permission for the building of a house, separate licences or permissions are not subsequently required for the various standard operations required in the build. Forestry licencing should be treated the same as similar planning processes with strict timelines and deadlines for decisions.