



Number 26 of 2022

Circular Economy and Miscellaneous Provisions Act 2022



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CIRCULAR ECONOMY AND MISCELLANEOUS PROVISIONS ACT 2022

CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title and commencement
2. Definitions
3. Regulations
4. Expenses
5. Repeals and revocations

PART 2

PROVISIONS RELATING TO THE CIRCULAR ECONOMY

6. Interpretation (Part 2)
7. Circular economy strategy
8. Circular Economy Fund
9. Provisions relating to Environment Fund
10. Circular economy programme
11. Environmental levy
12. Payment etc. of environmental levy
13. Offences in relation to, recovery etc. of, environmental levy

14. Prohibition on sale of certain single-use items
15. National food waste prevention strategy

PART 3

AMENDMENTS TO ACT OF 1996

16. Amendment of section 5 of Act of 1996
17. Amendment of section 7 of Act of 1996
18. Amendment of section 10A of Act of 1996
19. Amendment of section 10B of Act of 1996
20. Operation of CCTV for certain purposes
21. Operation of mobile recording device by authorised person for certain purposes
22. Codes of practice for purposes of sections 14A and 14B
23. Admissibility of evidence obtained under section 14, 14A or 14B
24. Amendment of section 22 of Act of 1996
25. Amendment of section 27B of Act of 1996
26. Amendment of section 34 of Act of 1996
27. Amendment of section 34C of Act of 1996
28. Amendment of section 73 of Act of 1996
29. Waste recovery levy
30. Powers to make regulations in respect of end-of-waste and by-products processes

PART 4

AMENDMENTS TO ACT OF 1997

31. Amendment of section 2 of Act of 1997
32. Operation of CCTV for certain purposes
33. Code of practice for purposes of section 23A
34. Admissibility of evidence obtained under section 23A
35. Amendment of section 24 of Act of 1997
36. Amendment of section 28 of Act of 1997

PART 5

NATURAL RESOURCES

CHAPTER 1

Amendment of Minerals Development Act 1940

37. Amendment of section 8 of Minerals Development Act 1940

CHAPTER 2

Amendments to Minerals Development Act 2017

38. Amendment of section 17 of Minerals Development Act 2017
39. Amendment of section 65 of Minerals Development Act 2017
40. Amendment of section 66 of Minerals Development Act 2017

PART 6

AMENDMENT OF ENVIRONMENTAL PROTECTION AGENCY ACT 1992

41. Amendment of section 87 of Environmental Protection Agency Act 1992

PART 7

AMENDMENT OF ELECTRICITY REGULATION ACT 1999

42. Amendment of Electricity Regulation Act 1999

ACTS REFERRED TO

Climate Action and Low Carbon Development Act 2015 (No. 46)
Communications Regulation (Postal Services) Act 2011 (No. 21)
Companies Act 2014 (No. 38)
Data Protection Act 2018 (No. 7)
Education and Training Boards Act 2013 (No. 11)
Electricity Regulation Act 1999 (No. 23)
Environmental Protection Agency Act 1992 (No. 7)
Litter Pollution Act 1997 (No. 12)
Local Government Act 2001 (No. 37)
Minerals Development Act 1940 (No. 31)
Minerals Development Act 2017 (No. 23)
Planning and Development (Amendment) Act 2018 (No. 16)
Planning and Development Act 2000 (No. 30)
Waste Management Act 1996 (No. 10)



Number 26 of 2022

CIRCULAR ECONOMY AND MISCELLANEOUS PROVISIONS ACT 2022

An Act to provide for the making by the Minister for the Environment, Climate and Communications of a circular economy strategy; to provide for the establishment of the Circular Economy Fund; to make provision in relation to the Environment Fund; to provide for the establishment by the Environmental Protection Agency of a circular economy programme; to provide for a levy on certain single-use items; to provide for the prohibition on the supply of certain single-use items; to give further effect to Directive (EU) 2015/720 of the European Parliament and of the Council of 29 April 2015¹ and Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019²; to provide for the making of a national food waste prevention strategy; to make provision for the use by local authorities of closed circuit television and mobile recording devices in certain circumstances and for that purpose to amend the Waste Management Act 1996 and the Litter Pollution Act 1997; to provide for the inclusion of targets in respect of re-used and repaired products and materials in waste management plans; to provide for the introduction of a requirement for segregated waste bins and incentivised charging for the commercial sector; to make provision in relation to the operation of the National Waste Collection Permit Office; to provide for a waste recovery levy; to provide for the making by the Minister for the Environment, Climate and Communications of regulations to regulate end-of-waste and by-product notifications to the Environmental Protection Agency; for the purpose of giving further effect to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008³; for those purposes to amend the Waste Management Act 1996; to provide for a prohibition on certain licences relating to coal, lignite and oil shale and for that purpose to amend the Minerals Development Act 1940 and the Minerals Development Act 2017; to make provision in respect of applications to the Environmental Protection Agency for licences, reviews of licences or revised licences in circumstances where an order under section 181(2)(a) of the Planning and Development Act 2000 has been made, or is proposed to be made, by a Minister of the Government for development comprising or for the purposes of the activity to which the application relates and for that purpose to amend the Environmental Protection Agency Act 1992; to give further effect to Directive (EU) 2019/944 of the European Parliament and of the

1 O.J. No. L.115, 6.5.2015, p. 11

2 O.J. No. L.155, 12.6.2019, p. 1

3 O.J. No. L.312, 22.11.2008, p. 3

Council of 5 June 2019⁴ and for that purpose to amend the Electricity Regulation Act 1999; and to provide for related matters. [21st July, 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 Circular Economy and Miscellaneous Provisions Act 2022.
- (2) This Act, other than *Part 7*, shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definitions

2. In this Act—

“Act of 1996” means the Waste Management Act 1996;

“Act of 1997” means the Litter Pollution Act 1997;

“Agency” means the Environmental Protection Agency;

“enactment” means—

- (a) an Act of the Oireachtas,
- (b) a statute that was in force in Saorstát Éireann immediately before the date of coming into operation of the Constitution and that continued in force by virtue of Article 50 of the Constitution, or
- (c) an instrument made under an Act of the Oireachtas or a statute referred to in *paragraph (b)*;

“local authority” has the meaning given to it by the Local Government Act 2001;

“Minister” means the Minister for the Environment, Climate and Communications;

“prescribed” means prescribed by regulations made by the Minister.

Regulations

3. (1) The Minister may make regulations for the purpose of enabling any provision of this Act to have effect or to provide for any matter referred to in this Act as prescribed or

⁴ O.J. No. L.158, 14.6.2019, p.125

to be prescribed and different regulations under this section may be made in respect of different classes of matter the subject of the prescribing concerned.

- (2) Without prejudice to the provisions of this Act, regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations concerned.
- (3) Every regulation made under this Act and every order made under *section 8(3)* shall be laid before each House of the Oireachtas as soon as may be after it has been made and, if a resolution annulling the regulation or order is passed by either such House within the next 21 days on which that House sits after the regulation or order is laid before it, the regulations or order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses

4. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.

Repeals and revocations

5. (1) Section 72 of the Act of 1996 is repealed.
- (2) Section 74 of the Act of 1996 is repealed.
- (3) The following statutory instruments are revoked:
 - (a) Waste Management (Environmental Levy) (Plastic Bag) Order 2007 (S.I. No. 62 of 2007);
 - (b) Waste Management (Environmental Levy) (Plastic Bag) Regulations 2001 (S.I. No. 605 of 2001).

PART 2

PROVISIONS RELATING TO THE CIRCULAR ECONOMY

Interpretation (*Part 2*)

6. In this Part—

“circular economy” means an economic model and the policies and practices which give effect to that model in which—

- (a) production and distribution processes in respect of goods, products and materials are designed so as to minimise the consumption of raw materials associated with the production and use of those goods, products and materials,

- (b) the delivery of services is designed so as to reduce the consumption of raw materials,
- (c) goods, products and materials are kept in use for as long as possible thereby further reducing the consumption of raw materials and impacts harmful to the environment,
- (d) the maximum economic value is extracted from goods, products, and materials by the persons using them, and
- (e) goods, products and materials are recovered and regenerated at the end of their useful life;

“Circular Economy Fund” means the fund established under *section 8*;

“circular economy programme” has the meaning given to it by *section 10*;

“circular economy strategy” has the meaning given to it by *section 7*;

“climate action plan” has the meaning given to it by section 4(1)(a) of the Climate Action and Low Carbon Development Act 2015;

“environmental levy” has the meaning given to it by *section 11*;

“lightweight plastic bag” means a plastic bag with a wall thickness less than 50 microns but does not include a very lightweight plastic bag;

“material wastage”, in relation to a single-use item or class of single-use items, means the likelihood of the item or class to be discarded and become waste after the primary purpose for which it is used has been fulfilled;

“National Biodiversity Action Plan” means the National Biodiversity Action Plan 2017-2021 published by the Government on 5 October 2017 or any document published by the Government which amends or replaces that plan;

“National Development Plan” means the National Development Plan 2018-2027 published by the Government on 16 February 2018 or any document published by the Government which amends or replaces that plan;

“National Disability Inclusion Strategy” means the National Disability Inclusion Strategy 2017-2021 published by the Government on 14 July 2017 or any document published by the Government which amends or replaces that strategy;

“National Marine Planning Framework” means the National Marine Planning Framework within the meaning of section 69(6) of the Planning and Development (Amendment) Act 2018;

“National Planning Framework” means the National Planning Framework referred to in Chapter IIA of Part II of the Planning and Development Act 2000;

“National Policy Statement on the Bioeconomy” means the National Policy Statement on the Bioeconomy published by the Government on 12 March 2018 or any document published by the Government which amends or replaces that statement;

“oxo-degradable plastic” means plastic materials that include additives which catalyse

the fragmentation of the plastic material into micro-fragments;

“oxo-degradable plastic bag” means a plastic bag made of oxo-degradable plastic;

“packaging” means any material, container or wrapping, used for or in connection with the containment, transport, handling, protection, promotion, marketing or sale of any product or substance, including such material, container or wrapping as may be prescribed;

“plastic” means a polymer within the meaning of Article 3(5) of Regulation (EC) No. 1907/2006 of the European Parliament and of the Council⁵, to which additives or other substances may have been added, and which is capable of functioning as a main structural component of bags;

“plastic bag” means a bag, including, in particular, a lightweight plastic bag, oxo-degradable plastic bag or very lightweight plastic bag, that—

- (a) is made wholly or in part of plastic, and
- (b) is suitable for use by a customer at the point of sale in a supermarket, service station or such other class or classes of retail premises as may be prescribed,

other than a bag which falls within a class of bag specified in regulations under *section II(1)* as being a class of bag excepted from this definition;

“premises” includes a building or any part of a building, any outdoor space surrounding or adjacent to the premises, whether or not used in conjunction with the premises, any land, premises, tent, caravan, or other temporary or moveable structure, ship or other vessel, aircraft, railway carriage or other vehicle (whether stationary or otherwise) and any storage container;

“product” has the meaning given to it by section 5 of the Act of 1996;

“re-usable” in relation to a product, means conceived, designed or placed on the market so as to accomplish, within a single life span of the product, multiple trips or rotations by being refilled for, or put to, the same purpose for which the product was conceived, designed or placed on the market;

“re-usable alternative item” means a re-usable container, re-usable cup or re-usable packaging that is an alternative to a single-use container, single-use cup or single-use packaging, as the case may be;

“relevant re-usable alternative item” means a re-usable alternative item that belongs to a class of re-usable alternative item prescribed under *section II(1)(a)(v)*;

“Roadmap for Social Inclusion” means the Roadmap for Social Inclusion 2020-2025 published by the Government on 14 January 2020 or any document published by the Government which amends or replaces that roadmap;

“service station” has the meaning given to it by section 5 of the Act of 1996;

“single-use container” means a container which—

5 O.J. No. L396, 30.12.2006, p. 1

(a) is conceived, designed or placed on the market to hold food that is ready to be consumed without any further preparation such as by cooking, boiling or heating, and

(b) is not re-usable,

other than a container which falls within a class of container specified in regulations under *section 11(1)* as being a class of container excepted from this definition;

“single-use cup” means a cup which—

(a) is conceived, designed or placed on the market to hold a beverage, and

(b) is not re-usable,

other than a cup which falls within a class of cup specified in regulations under *section 11(1)* as being a class of cup excepted from this definition;

“single-use item” means a single-use container, single-use cup, single-use packaging, a relevant re-usable alternative item or a plastic bag, as the case may be;

“single-use packaging” means packaging which—

(a) is conceived, designed or placed on the market, and

(b) is not re-usable,

other than packaging which falls within a class of packaging specified in regulations under *section 11(1)* as being a class of packaging excepted from this definition;

“supply”, in relation to a single-use item, includes the sale of the single-use item;

“United Nations Sustainable Development Goals” means the United Nations Sustainable Development Goals 1 to 17 set out in the document entitled “Transforming our World: The 2030 Agenda for Sustainable Development, published by the UN Department of Economic and Social Affairs 2015” or any document which amends or replaces that document;

“very lightweight plastic bag” means a plastic bag with a wall thickness less than 15 microns which is—

(a) required for hygiene purposes, or

(b) provided as primary packaging for loose food when this helps to prevent food wastage;

“Waste Action Plan for a Circular Economy” means the Waste Action Plan for a Circular Economy 2020-2025 published by the Government on 4 September 2020 or any document published by the Government which amends or replaces that Plan.

Circular economy strategy

7. (1) The Minister shall, prepare and submit to the Government for their approval, with such modifications (if any) as they consider appropriate, a strategy (in this Part

referred to as a “circular economy strategy”) setting out the policy, objectives and priorities for the time being of the Government in relation to the circular economy.

- (2) The first circular economy strategy shall be prepared and submitted under *subsection (1)* not later than 6 months after the date on which this section comes into operation and thereafter a circular economy strategy shall be prepared and submitted under that subsection not less than once in every period of 3 years after the date on which the most recent circular economy strategy was published in accordance with *subsection (8)*.
- (3) Before the Minister submits a circular economy strategy to the Government for their approval under this section, he or she shall—
 - (a) consult with—
 - (i) members of the public in such manner as he or she considers appropriate,
 - (ii) such bodies, as he or she considers appropriate, representing economically or socially disadvantaged persons or persons who have a disability, and
 - (iii) such other persons, if any, as he or she considers appropriate, in relation to the proposed strategy, and
 - (b) ensure that a poverty impact assessment in respect of the strategy has been carried out.
- (4) The Minister shall, as soon as may be, after a circular economy strategy has been approved by the Government in accordance with this section cause that circular economy strategy to be laid before each House of the Oireachtas.
- (5) In making a circular economy strategy, the Minister shall, in particular, take the following into account:
 - (a) the Waste Action Plan for a Circular Economy;
 - (b) the climate action plan;
 - (c) the National Biodiversity Action Plan;
 - (d) the National Policy Statement on the Bioeconomy, including as it relates to technologies such as anaerobic digestion;
 - (e) the National Disability Inclusion Strategy;
 - (f) the Roadmap for Social Inclusion;
 - (g) the Programme for Government;
 - (h) the National Development Plan;
 - (i) the National Planning Framework;
 - (j) the National Marine Planning Framework;
 - (k) the law of the European Union;

- (1) United Nations Sustainable Development Goals.
 - (6) (a) For the purposes of the development of the circular economy, the circular economy strategy—
 - (i) shall set out targets, in accordance with *paragraph (b)*, in respect of each of the following sectors of the economy:
 - (I) construction;
 - (II) agriculture;
 - (III) retail;
 - (IV) packaging;
 - (V) textiles;
 - (VI) electronic equipment,
 - (ii) may set out targets, in accordance with *paragraph (b)*, in relation to such sectors of the economy other than those referred to in *subparagraph (i)*, if any, as the Minister considers appropriate, and
 - (iii) shall promote the use of criteria relating to the circular economy in public procurement.
 - (b) The targets to be set out in respect of a sector of the economy under *paragraph (a)(i)* or *(ii)* shall include any or all of the following as the Minister considers appropriate for the sector concerned:
 - (i) reductions in material resource consumption and the use of non-recyclable materials;
 - (ii) increases in the use of re-usable products and materials;
 - (iii) increased levels of repair and re-use of products and materials;
 - (iv) improved maintenance and optimised use of goods, products and materials.
 - (c) The Minister shall consult with such other Minister of the Government, if any, as he or she considers appropriate in relation to the targets to be set out in the strategy.
 - (d) The Minister shall, in relation to those sectors of the economy in respect of which targets have been set out in the strategy in accordance with this subsection, promote the entering into by participants in those sectors, on a voluntary basis, of sectoral agreements in respect of those targets.
- (7) The circular economy strategy shall set out—
 - (a) actions that are reasonably necessary to support Government policy on the circular economy, including measures to inform, and promote dialogue with, the public regarding the challenges and opportunities in the transition to a circular economy, and

- (b) actions necessary to meet the targets set out in the strategy.
- (8) The Minister shall publish, on a website maintained by or on behalf of the Minister or the Government—
 - (a) the circular economy strategy approved by the Government under this section, and
 - (b) on an annual basis, a report prepared by or on behalf of the Minister on the implementation of the strategy and the progress made in relation to—
 - (i) reaching the targets set out in the strategy in accordance with *subsection (6)*, and
 - (ii) the taking of the actions set out in the strategy in accordance with *subsection (7)*.

Circular Economy Fund

8. (1) There shall stand established on the coming into operation of this section a fund which shall be known as the “Circular Economy Fund” and such monies (if any) that are standing to the credit of the Environment Fund on that date shall accrue to the benefit of the Circular Economy Fund on and from that date.
- (2) Subject to *subsection (3)*, the Minister shall manage and control the Circular Economy Fund.
- (3) (a) The Minister may by order delegate the management and control of all or part of the Circular Economy Fund and any other functions under this section related to such management and control to a specified person and functions so delegated shall, accordingly, be performable by that person.
- (b) An order under *paragraph (a)* may contain such ancillary and incidental provisions as the Minister considers necessary or expedient for the purposes of the delegation effected by the order.
- (c) The Minister may give directions or issue guidelines to the person to whom a delegation is made under *paragraph (a)* in relation to the performance by the person of the functions delegated to the person by the order and that person shall comply with any such directions and perform those functions in accordance with any such guidelines.
- (d) The Minister shall, before giving directions or guidelines under *paragraph (c)*, consult with such other Minister of the Government, if any, as he or she considers appropriate.
- (4) The Circular Economy Fund shall consist of such accounts in such financial institutions as the Minister may determine.
- (5) The Minister shall keep all proper and usual accounts of all monies paid into the Circular Economy Fund and disbursements from the Circular Economy Fund.

- (6) As soon as may be after the end of each financial year, the Minister shall submit the accounts of the Circular Economy Fund to the Comptroller and Auditor General for audit and the Minister shall cause a copy of the accounts so audited together with a copy of the report of the Comptroller and Auditor General thereon to be laid before each House of the Oireachtas as soon as practicable after he or she has received them.
- (7) Subject to, and in accordance with, regulations under section 53C, 73 or 73A of the Act of 1996 or *section 11(1)*, there shall be paid into the Circular Economy Fund the amounts specified in those regulations of financial resources or levy collected or recovered thereunder.
- (8) The Minister may, out of monies provided by the Oireachtas, pay into the Circular Economy Fund in any financial year, such amount as he or she determines, with the consent of the Minister for Public Expenditure and Reform, in relation to that financial year.
- (9) Without prejudice to *subsection (13)*, the Minister may, from time to time, pay out of the Circular Economy Fund such amount of monies as he or she considers appropriate for any or all of the following purposes:
- (a) to assist, support or promote any programmes or schemes established for the prevention or reduction of waste or the establishment of such programmes or schemes;
 - (b) to assist, support or promote any programmes or schemes established to support the circular economy or the establishment of such programmes or schemes;
 - (c) to assist the establishment, equipping and, where appropriate, the operation of waste re-use and recycling activities generally, or recovery activities in respect of any specified class of waste;
 - (d) to assist, support or promote research and development with respect to any aspect of waste management or the circular economy;
 - (e) to assist, support or promote the production, distribution or sale of products of a particular class, being products which possess characteristics (whether characteristics of an inherent nature or related to the process by which the products are manufactured) likely to render them less harmful to the environment than other products falling within the same class;
 - (f) to assist, support or promote the development of initiatives by producers of products to prevent or reduce waste arising from activities carried out by them;
 - (g) to assist generally in the implementation of waste management plans made by local authorities in accordance with Part II of the Act of 1996 and the hazardous waste management plan prepared by the Agency in accordance with section 26 of that Act;
 - (h) to facilitate or assist the enforcement of the provisions of any enactment (including this Act) relating to waste management or the prevention of litter or otherwise relating to the protection of the environment;

- (i) to facilitate or assist projects, commonly known as partnership projects, that involve local authorities and the purpose of which is to improve the quality of the environment in so far as it affects a particular local community or communities;
 - (j) to promote awareness of the need generally to protect the environment and, in particular, to assist, support or promote national and regional campaigns the objectives of which are to encourage such awareness;
 - (k) to promote or support education and training that would facilitate the achievement of the objectives of campaigns referred to in *paragraph (j)*;
 - (l) to assist the provision of the necessary resources, whether human or material, to enable such education and training to be carried out or facilitate the improvement of any such resources that exist for the time being;
 - (m) to assist, support or promote initiatives undertaken by community groups, environmental groups or other such persons with respect to the protection of any aspect of the environment;
 - (n) to facilitate, assist, promote or support initiatives undertaken by international organisations or other persons outside the State in respect of the protection of the environment or sustainable development, or both;
 - (o) other purposes in respect of the protection of the environment.
- (10) (a) Without prejudice to the generality of *subsection (9)*, the Minister, or such other person as he or she may nominate, may invite proposals to avail of monies from the Circular Economy Fund for any or all of the purposes set out in *paragraphs (a) to (o)* of that subsection.
- (b) An invitation under *paragraph (a)* shall be published on a website maintained by or on behalf of the Minister and shall outline the criteria to be used to assess proposals.
- (11) Any payment of monies out of the Circular Economy Fund under any of *paragraphs (a) to (o)* of *subsection (9)* shall be made to the person or persons who carry on, or as the case may be, carried on, the activity which, in the opinion of the Minister, furthers the achievement of the purpose referred to in such of *paragraphs (a) to (o)* for which the payment is made.
- (12) (a) Without prejudice to the preceding provisions of this section, the Minister may, after consulting with the Minister for Public Expenditure and Reform, prepare and publish guidelines in respect of an activity the carrying out of which furthers the achievement of the purpose for which the payment was made.
- (b) Where the Minister has published guidelines in accordance with *paragraph (a)* in respect of an activity, a payment shall not be made out of the Circular Economy Fund in respect of the activity if that activity is carried on otherwise than in accordance with the guidelines.
- (13) (a) The Minister may from time to time pay out of the Circular Economy Fund such amount of monies as he or she determines for the purposes of defraying, in whole

or in part, the expenses incurred, on or after the establishment of the Fund, by him or her or by any person to whom functions are delegated under *subsection (3)*, in connection with the administration of the Fund.

- (b) Any monies paid out of the Circular Economy Fund under *paragraph (a)* shall be paid into, or disposed of for the benefit of, the Exchequer in such manner as the Minister, with the consent of the Minister for Public Expenditure and Reform, may determine.
- (14) The Minister may establish a committee to advise him or her with respect to the performance by him or her of his or her functions under *subsection (9)* or *(12)* and a committee so established may advise the Minister accordingly.
- (15) In this section—
- “financial year” means the financial year of the Circular Economy Fund;
- “recovery activities” does not include incineration, whether with or without energy recovery, or export for incineration, whether with or without energy recovery;
- “waste”, “re-use” and “recycling” have the meanings given to them by section 5 of the Act of 1996.

Provisions relating to Environment Fund

9. (1) Any monies accruing to the benefit of the Environment Fund on or before the coming into operation of this section which have not, on the date of such coming into operation, been credited to the Environment Fund shall accrue to the benefit of the Circular Economy Fund and shall be paid into the Circular Economy Fund.
- (2) Any liabilities of the Environment Fund at the date on which this section comes into operation shall, on that date, become liabilities of the Circular Economy Fund and shall be discharged by the Minister from the Circular Economy Fund.
- (3) A reference to the Environment Fund in any enactment (other than this Act and sections 5 and 74 of the Act of 1996) or instrument under an enactment shall, from the date on which this section comes into operation be construed as a reference to the Circular Economy Fund.
- (4) The Minister shall, in respect of the period specified in *subsection (6)*, prepare final accounts of the Environment Fund.
- (5) The Minister shall submit the final accounts of the Environment Fund to the Comptroller and Auditor General for audit not later than 6 months after the coming into operation of this section and the Minister shall cause a copy of the accounts as so audited together with a copy of the report of the Comptroller and Auditor General thereon to be laid before each House of the Oireachtas as soon as practicable after he or she receives them.
- (6) For the purposes of *subsection (4)*, the Minister may specify a period that is longer or shorter than a financial year of the Environment Fund.

Circular economy programme

- 10.** (1) The Agency shall establish a programme (in this Part referred to as a “circular economy programme”) setting out measures to be taken by the Agency, including measures in respect of reporting and the provision of funding and education, to give effect to the objectives set out in the circular economy strategy.
- (2) A circular economy programme—
- (a) shall include the waste prevention programmes established by the Agency under section 27B of the Act of 1996, and
- (b) shall—
- (i) be integrated into waste management plans required under section 22 of that Act,
- (ii) be integrated into other environmental policy programmes, as appropriate, or
- (iii) operate as a separate programme.
- (3) Where a circular economy programme is integrated into a waste management plan as referred to in *subsection (2)(b)(i)* or into any other environmental policy programme as referred to in *subsection (2)(b)(ii)*, that plan or such other programme, as the case may be, shall clearly identify the measures and objectives referred to in *subsection (1)*.
- (4) The Agency shall, from time to time as it considers appropriate, but not less than once in each period of 6 years from the date on which the most recent circular economy programme was established, review the programme and make such revisions to it as it considers appropriate and a reference in this Part to such a programme shall, unless the context otherwise requires, be construed as being a reference to such a programme as so revised.
- (5) On establishing a circular economy programme, the Agency shall—
- (a) cause to be published in at least one national newspaper and on its website a notice of that fact, which notice shall also indicate how a copy of the programme may be obtained at a cost not exceeding the reasonable cost of making such a copy, and
- (b) furnish a copy of the programme to—
- (i) the Minister,
- (ii) each local authority, and
- (iii) any other public body that, in the opinion of the Agency, has an interest in the programme.
- (6) In this section, “public body” means any of the following:
- (a) a Minister of the Government;
- (b) a local authority;

- (c) the Health Service Executive;
- (d) a university or institute of technology;
- (e) an education and training board established under section 9 of the Education and Training Boards Act 2013;
- (f) any other person, body or organisation established—
 - (i) by or under an enactment (other than the Companies Act 2014) or charter,
 - (ii) by any scheme administered by a Minister of the Government, or
 - (iii) under the Companies Act 2014 in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of money provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government;
- (g) a company (within the meaning of the Companies Act 2014) a majority of the shares in which are held by or on behalf of a Minister of the Government;
- (h) any other person, body, organisation or group that the Minister may prescribe for the purposes of this section.

Environmental levy

- 11.** (1) Subject to *subsection (3)*, the Minister may, with the consent of the Government, make regulations providing that there shall be chargeable, leviable and payable, a levy (in this Part referred to as an “environmental levy”) in respect of the following:
- (a) the supply to a customer, in or at such class or classes of retail premises as may be prescribed for the purposes of this section, of any or all of the following:
 - (i) single-use cups;
 - (ii) single-use containers;
 - (iii) single-use packaging;
 - (iv) such class or classes of the single-use items referred to in *subparagraphs (i) to (iii)* as may be prescribed for the purposes of this section;
 - (v) such class or classes of re-usable alternative items as may be prescribed for the purposes of this section;
 - (b) the supply to a customer of plastic bags or such class or classes of plastic bags as the Minister may prescribe for the purposes of this section in or at any or all of the following:
 - (i) a supermarket;
 - (ii) a service station;
 - (iii) such other class or classes of retail premises as may be prescribed for the purposes of this section.

- (2) In making regulations under *subsection (1)* in relation to the supply of a single-use item or a class or classes of single-use item or a class or classes of re-usable alternative item, the Minister shall have regard to the level of material wastage associated with the single-use item or, as the case may be, the class or classes of single-use item, or, as the case may be, the class or classes of re-usable alternative item, concerned, including by reason of—
- (a) where an amount is charged for the supply of that item or class or classes of item, as the case may be, to a customer, that amount, or
 - (b) where no amount is so charged, that fact.
- (3) Regulations may be made by the Minister under *subsection (1)* in relation to the supply of a single use item or a class or classes of single-use item or a class or classes of re-usable alternative item, as the case may be, only where he or she is satisfied that, in respect of the single-use item or, as the case may be, the class or classes of single-use item, or the class or classes of re-usable alternative items concerned, a suitable re-usable alternative item or class of such item or a suitable alternative item or class of such item with a lower level of material wastage, having regard to the purpose for which, and circumstances in which, the single-use item or class of single-use item or class of re-usable alternative item concerned is supplied, is, or could be made, readily available.
- (4) The amount of the environmental levy in respect of each single-use item or, as the case may be, each class of single-use item or, as the case may be, each class of re-usable alternative item prescribed under *subsection (1)(a)(v)*, shall be such amount as may be prescribed in respect of the single-use item concerned, or, as the case may be, the class or classes of single-use item concerned, having regard to the aim of—
- (a) reducing the generation of waste, and
 - (b) reducing the use of the single-use item, or, as the case may be, the class of single-use item concerned,
- and shall not, in any case, in respect of each single-use item supplied to a customer be less than €0.20 or more than €1.00.
- (5) The Minister may, subject to *subsections (6) and (7)*, alter the amount of the levy specified in regulations under *subsection (1)* for the purposes of promoting—
- (a) a reduction in the generation of waste, and
 - (b) a reduction in the use of the single-use item or class of single-use item, as the case may be,
- once and once only in each financial year beginning with the financial year following the financial year in which this section comes into operation.
- (6) The amount to which the amount of the levy standing specified in regulations under *subsection (1)* may be altered shall, subject to *subsection (7)*, be obtained by multiplying the amount of the levy standing specified for the time being in regulations made under *subsection (1)* by the figure specified in *subsection (8)* and if—

- (a) the amount so obtained is not a whole number of cent, and
 - (b) the Minister considers it appropriate to do so and specifies in the regulations that the amount has so been rounded,
rounding (up or down as he or she thinks fit) the amount to the nearest whole number of cent.
- (7) The Minister may, where he or she considers it appropriate for the purposes referred to in *subsection (5)*, add, to the amount obtained in accordance with *subsection (6)*, a figure which is not greater than 10 per cent of the amount of the levy standing specified in regulations under *subsection (1)* and if—
- (a) the amount so obtained is not a whole number of cent, and
 - (b) the Minister considers it appropriate to do so, and specifies in the regulations that the amount has been so rounded,
rounding (up or down as he or she thinks fit) the amount to the nearest whole number of cent.
- (8) The figure mentioned in *subsection (6)* is the quotient, rounded up to 3 decimal places, obtained by dividing the consumer price index number relevant to the financial year in which the regulations amending the levy are made by the consumer price index number relevant to the financial year in which the regulations amending the levy were last made.
- (9) Regulations under *subsection (1)*—
- (a) may make provision for any matter stated in this section or *section 12* as prescribed or to be prescribed and different regulations may be made in respect of different classes of matter the subject of the prescribing concerned,
 - (b) shall provide for the matters referred to in *section 12(2)* and
 - (c) may provide for the matters referred to in *section 12(3)*.
- (10) In this section, “consumer price index number” means the All Items Consumer Price Index Number compiled by the Central Statistics Office and a reference to the “consumer price index number relevant to the financial year” is a reference to the consumer price index number at such date in that year as is determined by the Minister with the consent of the Minister for Finance.
- (11) A relevant re-usable alternative item or a class of re-usable alternative item prescribed under *subsection (1)(a)(v)* shall not be considered to be a suitable re-usable alternative item or class of such item or a suitable alternative item or class of such item for the purposes of *subsection (3)*.

Payment etc. of environmental levy

- 12.** (1) The environmental levy shall be payable by the person who carries on the business of selling goods or products—

- (a) where *section 11(1)(a)* applies, in or at such class of retail premises prescribed for the purposes of that section, and
- (b) where *section 11(1)(b)* applies, in or at the supermarket, service station or such other class of retail premises prescribed for the purposes of that section,
- or if 2 or more persons each carry on such a business, whichever of them causes to be made the particular supply of the single-use item to which the levy relates.
- (2) Regulations under *section 11(1)* shall—
- (a) specify the person or persons to whom the environmental levy shall be payable (who, or each of whom, is referred to in this Part as a “collection authority”),
- (b) confer powers on a collection authority with respect to the collection and recovery of the environmental levy (and, for this purpose, the regulations may adapt, with or without modifications, the provisions of any enactment relating to the estimation, collection and recovery of, or the inspection of records or the furnishing of information in relation to, any tax charged or imposed by that enactment).
- (3) Regulations under *section 11(1)* may provide for any or all of the following:
- (a) the times at which payment of the levy shall be made and the form of such payment;
- (b) the notification to a collection authority by a person who carries on a business of the kind referred to in *subsection (1)* (being a business that involves the supply of single-use items in the circumstances mentioned in *section 11(1)(a)* or *(b)*), of that fact;
- (c) the keeping of specified records by a person referred to in *subsection (1)* in respect of matters connected with liability to pay the levy and the form of such records;
- (d) the furnishing of such records and other specified information relating to liability as aforesaid at specified intervals to a collection authority and the manner in which such records and information shall be so furnished;
- (e) the giving of specified notices, at the time of a specified act being done that involves a single-use item referred to in *section 11(1)(a)* or *(b)*, in a specified manner and in a specified form, of the fact that a levy is payable (whether in relation to that act or a previous such act);
- (f) the giving of notice in a supermarket, service station or other class or classes of retail premises as may be prescribed, in such form and manner as may be prescribed, of the fact that a levy is payable in respect of a single-use item referred to in *section 11(1)*;
- (g) the specifying of a class of single-use cup, single-use container or single-use packaging excepted from the definition in *section 6* of single-use cup, single-use container or single-use packaging, as the case may be, by reference to either or both of the following:

- (i) one or more of the size, composition or intended use of the cup, container or packaging, as the case may be;
 - (ii) the place of supply of the cup, container or packaging, as the case may be;
- (h) the specifying of a class or classes of bag excepted from the definition of plastic bag in *section 6* by reference to either or both of the following:
- (i) one or more of the size, composition or intended use of the bag;
 - (ii) the place of supply of the bag;
- (i) exceptions in specified circumstances from the liability to pay the levy;
- (j) the payment of the levy by specified persons to be deferred in specified circumstances;
- (k) the keeping by collection authorities of such records and accounts that the Minister may prescribe in respect of the levy paid or payable to them;
- (l) the refund of payments of the levy in such circumstances that the Minister may prescribe;
- (m) the entering by a collection authority into arrangements with one or more persons whereby that person or those persons, by means of a scheme carried out by the person or persons for the discharge of the liabilities of others participating in the scheme in respect of the levy, collects amounts due in respect of the levy and remits them to the collection authority in consideration of the payment of specified sums by the authority to that person or persons;
- (n) the payment into the Circular Economy Fund by collection authorities of amounts received by them on account of the levy (subject to the deduction from such amounts of any amounts specified as being capable of being deducted therefrom for the purposes of defraying expenses incurred by collection authorities in collecting or recovering the levy).
- (4) Where any amount of the environmental levy becomes payable in accordance with regulations under *section 11(1)* and is not paid, simple interest on the amount shall be paid by the person liable to pay the levy and such interest shall be calculated from the date on which the levy became payable and at a rate of 0.0322 per cent for each day or part of a day during which the amount remains unpaid.
- (5) Interest due in accordance with *subsection (4)* shall be payable to the collection authority specified in the regulations under *section 11(1)* and the provisions of those regulations relating to the recovery of the levy shall apply to the interest as if it were levy.
- (6) For the purposes of *subsection (4)*, the levy includes any estimated amount which has been included in a notice served by a collection authority on the person liable to pay the levy concerned provided such estimated amount has, in accordance with regulations under *section 11(1)*, become due and payable to the collection authority.

- (7) Interest paid in accordance with *subsection (4)* shall be treated as the levy for the purposes of *paragraph (n)* of *subsection (3)* and *section 8(7)*.

Offences in relation to, recovery etc. of, environmental levy**13. (1)** A person who fails to—

- (a) pay a levy which is due and payable by virtue of regulations under *section 11(1)*,
- (b) comply with a provision of regulations under that section, or
- (c) comply with any term or condition, in as far as the term or condition relates to the payment of a levy under *section 11(1)*, of a scheme referred to in *section 12(3)(m)*, carried out by him or her or in which he or she has assented to participate (and which assent has not, by notice in writing given to the person carrying out the scheme before the failure occurs, been withdrawn),

shall be guilty of an offence.

- (2) In proceedings for the recovery of levy or for an offence under *subsection (1)(a)*, it shall be presumed, until the contrary is proved, that the single-use item in respect of which the levy concerned is alleged not to have been paid was a single-use cup, single-use container, single-use packaging, relevant re-usable alternative item, or plastic bag, as the case may be.
- (3) In proceedings for the recovery of levy or for an offence under *subsection (1)(a)*, it shall be presumed, until the contrary is proved, that the number of single-use items supplied to customers in or at the retail premises concerned in the circumstances mentioned in *section 11(1)* in a particular period was equal to the number of single-use items acquired for the purposes of such supply in that period by the person who carried on, during that period, the business of selling goods or products in or at those retail premises or, if two or more persons each carried on, during that period, such a business in or at those retail premises, whichever of them caused to be made the particular supply of the single-use item concerned.
- (4) A person guilty of an offence under *subsection (1)* shall be liable—
 - (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
 - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding two years or both.
- (5) If the contravention in respect of which a person is convicted of an offence under this section is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence the person shall be liable, on summary conviction, to a fine not exceeding €1,000 or on conviction on indictment to a fine not exceeding €50,000.
- (6) In imposing any penalty under *subsection (4)* or *(5)*, the court shall, in particular, have regard to the risk or extent of environmental pollution and any remediation required, arising from the act or omission constituting the offence.

- (7) In this section, “environmental pollution” has the meaning given to it by section 5 of the Act of 1996.

Prohibition on sale of certain single-use items

- 14.** (1) Subject to *subsection (3)*, the Minister may, with the consent of the Government, make regulations prohibiting the supply in the State of any or all of the following:
- (a) single-use cups;
 - (b) single-use containers;
 - (c) single-use packaging;
 - (d) plastic bags;
 - (e) such class or classes of the single-use items referred to in *paragraphs (a) to (d)* as he or she may prescribe for the purposes of this section.
- (2) In making regulations under this section, the Minister shall have regard to the level of material wastage associated with the single-use item or, as the case may be, the class or classes of single-use item, concerned.
- (3) Regulations may be made by the Minister under this section in respect of a single-use item referred to in *subsection (1)* or a class or classes of such single use items, as the case may be, only where he or she is satisfied that, in respect of the single-use item or, as the case may be, the class or classes of single-use item concerned, a suitable re-usable alternative or a suitable alternative with a lower level of material wastage, having regard to the purpose for which and circumstances in which the single-use item or class of single-use item concerned is supplied, is, or could be made, readily available.
- (4) Regulations under *subsection (1)* shall come into operation not earlier than 6 months after the date on which they are made.
- (5) The Minister may, having regard to the need to protect the health or safety of the public, prescribe exemptions from the application of regulations made under this section.
- (6) A person who fails to comply with a provision of regulations under *subsection (1)* commits an offence and *sections 13(4) to (7)* shall apply in respect of that offence as they do to an offence under *section 13(1)*.
- (7) The Minister shall, not later than 12 months after the coming into operation of this subsection, publish, on a website maintained by or on behalf of the Minister or the Government, a report prepared by or on behalf of the Minister examining how single-use packaging used in the sale of fruit and vegetables can be reduced.

National food waste prevention strategy

- 15.** (1) Subject to *subsection (3)*, the Minister shall prepare and submit to the Government for their approval, with such modifications (if any) as they consider appropriate, a

national food waste prevention strategy (to be known as “the national food waste prevention roadmap” and in this section referred to as “the national food waste prevention strategy”) setting out the policy, objectives and priorities for the time being of the Government in relation to food waste prevention.

- (2) The first national food waste prevention strategy shall be prepared and submitted under *subsection (1)* not later than 6 months after the date on which this section comes into operation and thereafter a national food waste prevention strategy shall be prepared and submitted under that subsection not less than once in every period of 3 years after the date on which the most recent national food waste prevention strategy was published in accordance with *subsection (4)*.
- (3) In preparing the national food waste prevention strategy, the Minister shall take the following into account:
 - (a) the Circular Economy Strategy;
 - (b) the climate action plan;
 - (c) the National Biodiversity Action Plan;
 - (d) the National Policy Statement on the Bioeconomy;
 - (e) the National Disability Inclusion Strategy;
 - (f) the Roadmap for Social Inclusion;
 - (g) the Programme for Government;
 - (h) the European Union Farm to Fork Strategy;
 - (i) Food Vision 2030 Strategy;
 - (j) the law of the European Union;
 - (k) United Nations Sustainable Development Goals.
- (4) A national food waste prevention strategy approved by the Government under this section shall be published on a website maintained by or on behalf of the Minister or the Government and the Minister shall, on an annual basis, publish on that website a report prepared by or on behalf of the Minister on the implementation of the strategy.
- (5) In this section—

“European Union Farm to Fork Strategy” means the document entitled “A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system” published by the European Commission on 20 May 2020, or any document that amends or replaces that document;

“Food Vision 2030 Strategy” means the strategy entitled “Food Vision 2030 – A World Leader in Sustainable Food Systems” published by the Government on 2 August 2021, or any document which amends or replaces that strategy;

“food waste” has the meaning given to it by section 5 of the Act of 1996.

PART 3

AMENDMENTS TO ACT OF 1996

Amendment of section 5 of Act of 1996

16. Section 5 of the Act of 1996 is amended in subsection (1)—

(a) by the insertion of the following definitions:

“ ‘Act of 2022’ means the *Circular Economy and Miscellaneous Provisions Act 2022*;

‘approval’, in relation to a proposal under section 14A(4), means an approval given under section 14A(5) or renewed under section 14A(11) in respect of the CCTV scheme which is the subject of the proposal;

‘approved CCTV scheme’ means a CCTV scheme which is the subject of a proposal in respect of which an approval is in being;

‘automatic number plate recognition device’ means a device which engages an automated method of recognising vehicle registration plates from a camera image;

‘biometric data’ has the meaning given to it by section 69(1) of the Data Protection Act 2018;

‘body-worn recording device’ means a recording device affixed to or contained in the clothing, uniform or headgear of an authorised person;

‘CCTV scheme’ has the meaning given to it by section 14A(1);

‘closed circuit television’ or ‘CCTV’ means a system of recording devices the signals of which are not made publicly available but are monitored, or are capable of being monitored, by a local authority;

‘code of practice’ means a code of practice approved by the Minister in accordance with section 14C and includes part of a code of practice;

‘facial recognition device’ means a device or system of devices which, through automated use of biometric data, matches or categorises facial images captured by the device;

‘mobile recording device’ means a recording device, other than CCTV, and includes a body-worn recording device;

‘operation’, in relation to closed circuit television, includes the maintenance and monitoring of closed circuit television;

‘recording device’ means a device that is capable of recording or processing, or both, visual images or audio, or both, on any medium, from which a visual image or moving visual images may be produced and includes any accompanying document, and, where only visual images or moving visual images are concerned, includes any sound accompanying

those images but does not include automatic number plate recognition devices or facial recognition devices;”,

and

(b) by the deletion of the definition of “Environment Fund”.

Amendment of section 7 of Act of 1996

17. Section 7 of the Act of 1996 is amended in subsection (5)(a) by the deletion of “other than an order under section 72(12) but”.

Amendment of section 10A of Act of 1996

18. Section 10A of the Act of 1996 is amended—

(a) in subsection (4)—

(i) by the substitution of the following paragraph for paragraph (a):

“(a) €2,000 where the relevant offence consists of a contravention of—

(i) Regulation 10(5)(a) of the WEEE Regulations,

(ii) Regulation 17(1)(a)(i) of the Batteries and Accumulators Regulations, or

(iii) Regulation 9(a) or 21(1)(a) of the Tyres and Waste Tyres Regulations,”

(ii) in paragraph (b)—

(I) in subparagraph (iii), by the substitution of “Packaging Regulations,” for “Packaging Regulations, or”,

(II) in subparagraph (iv), by the substitution of “the WEEE Regulations, or” for “the WEEE Regulations”, and

(III) by the insertion of the following subparagraph after subparagraph (iv):

“(v) Regulation 9(d), 14, 19 or 29(1)(b) of the Tyres and Waste Tyres Regulations,”

and

(iii) in paragraph (c)—

(I) in subparagraph (ii), by the substitution of “Packaging Regulations,” for “Packaging Regulations, or”,

(II) in subparagraph (iii), by the substitution of “WEEE Regulations, or” for “WEEE Regulations,” and

(III) by the insertion of the following subparagraph after subparagraph (iii):

“(iv) Regulation 24(2), 26(a), 26(b), 42(2) or 42(3) of the Tyres and Waste Tyres Regulations”,

and

(b) in subsection (6)—

(i) in paragraph (a)—

(I) in the definition of “authorised person”—

(A) in subparagraph (iii), by the substitution of “Packaging Regulations,” for “Packaging Regulations, and”,

(B) in subparagraph (iv), by the substitution of “WEEE Regulations, and” for “WEEE Regulations;”, and

(C) by the insertion of the following subparagraph after subparagraph (iv):

“(v) in relation to a relevant offence referred to in paragraph (b)(v), an authorised person within the meaning of the Tyres and Waste Tyres Regulations;”,

and

(II) by the insertion of the following definition after the definition of “End of Life Vehicles Regulations”:

“ ‘Tyres and Waste Tyres Regulations’ means the Waste Management (Tyres and Waste Tyres) Regulations 2017 (S.I. No. 400 of 2017);”,

and

(ii) in paragraph (b)—

(I) in subparagraph (i), by the substitution of “contravention of Regulation 17(1)(a)(i), Regulation 17(3),” for “contravention of Regulation 17(3),”,

(II) in subparagraph (iii), by the substitution of “those regulations,” for “those regulations, or”,

(III) in subparagraph (iv), by the substitution of “those regulations, or” for “those regulations.”, and

(IV) by the insertion of the following subparagraph after subparagraph (iv):

“(v) an offence under Regulation 46 of the Tyres and Waste Tyres Regulations consisting of a contravention of Regulation 9(a), 9(d), 14, 19, 21(1)(a), 24(2), 26(a), 26(b), 29(1)(b), 42(2) or 42(3) of those Regulations.”.

Amendment of section 10B of Act of 1996**19.** Section 10B of the Act of 1996 is amended—

- (a) in subsection (1)—
 - (i) by the substitution of “a relevant offence” for “an offence under section 34(1)(c), in so far as the offence consists of contravention of a condition attached, under section 34(7)(d), to a waste collection permit”, and
 - (ii) in paragraph (b), by the substitution of “payment of the amount specified in subsection (3A)” for “payment of €500”,
- (b) in subsection (3), by the substitution of “a relevant offence” for “an offence under section 34(1)(c), in so far as the offence consists of contravention of a condition attached, under section 34(7)(d), to a waste collection permit”,
- (c) by the insertion of the following subsection after subsection (3):

“(3A) The amount to be specified in a fixed payment notice in respect of a relevant offence is—

- (a) €500 where the relevant offence consists of—
 - (i) a contravention of section 32(1A)(a) or 32(2),
 - (ii) a contravention of a condition attached, under section 34(7)(c) or 34(7)(d), to a waste collection permit,
 - (iii) a contravention of section 34(1)(a),
 - (iv) an offence under section 34(10A), or
 - (v) an offence under section 39(9), in so far as the offence consists of a contravention of a provision of regulations made under section 39(4) prohibiting, other than in accordance with those regulations, the recovery or disposal in a specified manner of a specified class or classes of waste, including a class or classes of household waste,

or

- (b) €1,000, where the relevant offence consists of a contravention of section 32(1).”

and

- (d) by the insertion of the following subsection after subsection (4):

“(5) In this section, ‘relevant offence’ means—

- (i) an offence under section 32(6)(a), in so far as the offence consists of a contravention of section 32(1), 32(1A)(a) or 32(2),
or

- (ii) an offence under section 34(1)(c), in so far as the offence consists of—
 - (I) a contravention of a condition attached, under section 34(7)(c) or 34(7)(d), to a waste collection permit,
 - (II) a contravention of section 34(1)(a),
 - (III) an offence under section 34(10A), or
 - (IV) an offence under section 39(9), in so far as the offence consists of a contravention of a provision of regulations made under section 39(4) prohibiting, other than in accordance with those regulations, the recovery or disposal in a specified manner of a specified class or classes of waste, including a class or classes of household waste.”.

Operation of CCTV for certain purposes

20. (1) The Act of 1996 is amended by the insertion of the following section after section 14:

“14A. (1) An authorised person may submit a proposal in accordance with subsection (4) for the installation and operation of closed circuit television in the functional area of, or any particular area within the functional area of, a local authority (in this Part referred to as ‘a CCTV scheme’), for the purposes of—

- (a) deterring environmental pollution, and
 - (b) facilitating the deterrence, prevention, detection and prosecution of offences under this Act.
- (2) A proposal made under subsection (1) shall include—
- (a) details of the location, number and technical specification of the devices to be used in the CCTV scheme,
 - (b) details of the geographical areas to be covered by the CCTV scheme,
 - (c) a plan prepared in accordance with subsection (3) for the purposes of this paragraph in respect of the CCTV scheme, and
 - (d) such other matters referred to in the code of practice approved under section 14C in respect of the operation of this section that relate to the installation and operation of the CCTV scheme.
- (3) A plan prepared for the purposes of subsection (2)(c)—
- (a) shall contain details of the arrangements proposed in respect of—
 - (i) the monitoring, recording and disclosure of the images, sounds or documents, produced pursuant to the CCTV scheme, and

- (ii) the preservation of recordings made and documents produced pursuant to that scheme,
- (b) shall include a data protection impact assessment in respect of the CCTV scheme carried out in accordance with section 84 of the Data Protection Act 2018, and
- (c) shall comply with—
 - (i) Part 5 of the Data Protection Act 2018, and
 - (ii) the code of practice approved under section 14C for the purposes of the operation of this section.
- (4) A proposal under subsection (1) shall be submitted to the chief executive of the local authority in whose functional area, or part thereof, the proposed CCTV scheme is to operate and he or she shall decide whether or not to approve the proposal.
- (5) Subject to subsections (6) to (8), the chief executive—
 - (a) may approve, or approve, subject to such modifications, terms and conditions (if any) as he or she considers appropriate, a proposal submitted to him or her under this section, and
 - (b) where he or she approves a proposal, whether with or without modifications, terms and conditions, he or she shall specify the date on which the approval expires.
- (6) In deciding whether or not to approve a proposal under subsection (5), in considering what, if any, modifications, terms and conditions are appropriate and in specifying the date on which an approval is to expire, the chief executive shall consider the extent to which the proposal is proportionate to, and necessary for, the purposes referred to in subsection (1) and he or she shall not approve a proposal unless he or she is satisfied that the proposal is proportionate to, and necessary for, those purposes.
- (7) Where the chief executive approves a proposal under subsection (5)—
 - (a) the approval shall—
 - (i) be in writing,
 - (ii) set out such modifications, terms and conditions (if any) as he or she considers appropriate, and
 - (iii) state the date on which the approval shall expire,and
 - (b) the CCTV scheme to which the approval relates shall be operated in accordance with the approval and with the code of practice

approved under section 14C for the purposes of the operation of this section.

(8) Subject to subsections (11), (12) and (13), an approval given under subsection (5) shall expire not later than the date that is 5 years from the date on which the approval was given.

(9) The chief executive of a local authority in whose functional area, or part of whose functional area, an approved CCTV scheme is in operation and in respect of which an approval is in being—

(i) may, at any time, and

(ii) shall, not later than 5 years from the date on which the approval in respect of the CCTV scheme was given under subsection (5) and thereafter at intervals of not more than 5 years from the date of the immediately preceding review,

cause a review of the operation of that scheme to be carried out by an authorised person.

(10) An authorised person carrying out a review pursuant to this section shall consider—

(a) whether the approved CCTV scheme is being operated—

(i) in accordance with the approval in respect of the scheme, and

(ii) in compliance with the code of practice approved under section 14C for the purposes of the operation of this section,

(b) the extent to which the operation of the scheme during the period in respect of which the review is being conducted has been, and remains, successful, proportionate and necessary having regard to the purposes referred to in subsection (1), and

(c) such other matters that he or she considers appropriate having regard to the purposes referred to in subsection (1).

(11) Without prejudice to subsection (12), following a review carried out under subsection (10), the chief executive shall decide whether to—

(a) renew the approval given in respect of the scheme, subject to such modifications, terms and conditions, if any, as he or she considers appropriate, or

(b) revoke the approval,

and subsections (6) to (10) shall, with any necessary modifications, apply in respect of the decision of the chief executive under this subsection and, where renewed, the approval as so renewed.

- (12) The chief executive may at any time revoke an approval where the CCTV scheme to which the approval relates has been operated otherwise than—
- (a) in accordance with the approval, or
 - (b) in accordance with the code of practice for the time being approved under section 14C for the purposes of the operation of this section.
- (13) Where, in relation to an approved CCTV scheme, it is proposed that there are to be changes to the scheme, other than repairs or modifications that do not alter the extent of the coverage of the scheme or the capability of the devices used in the scheme, an authorised person shall make a proposal under subsection (1) in respect of those changes and this section shall apply, with any necessary modifications, in respect of that proposal and where an approval is given in respect of that new proposal, the existing approval shall be revoked.
- (14) Where an approval expires and is not renewed or is revoked by a chief executive under this section, the local authority shall, not later than one month after the date on which the approval expired or is revoked, as the case may be, terminate the operation of the CCTV scheme concerned.
- (15) Notice of the approval, review or revocation of a proposal under this section shall be published on the website of the local authority concerned.
- (16) In this section, ‘chief executive’ has the same meaning as it has in section 2 of the Local Government Act 2001.”.
- (2) The Minister shall not make an order under *section 1(2)* for the purposes of bringing *subsection (1)* into operation until such time as a code of practice for the purposes of the operation of section 14A (inserted by *subsection (1)*) of the Act of 1996 has been approved by the Minister under section 14C (inserted by *section 22*) of that Act and laid before each House of the Oireachtas in accordance with section 14C.

Operation of mobile recording device by authorised person for certain purposes

21. (1) The Act of 1996 is amended by the insertion of the following section after section 14A (inserted by *section 20*):
- “14B. (1) An authorised person acting in the course of his or her duties under this Act may, in accordance with this section and with the code of practice approved under section 14C for the purposes of the operation of this section, operate a mobile recording device for the purposes of—
- (a) preventing, investigating, detecting or prosecuting offences under this Act, or

- (b) ensuring his or her personal safety or security in preventing, investigating, detecting or prosecuting offences under this Act.
 - (2) The operation of a mobile recording device under subsection (1) must be necessary for, and proportionate to, the purpose for which it is operated.
 - (3) A mobile recording device shall be operated by an authorised person in accordance with the code of practice approved under section 14C for the purposes of the operation of this section.”.
- (2) The Minister shall not make an order under *section 1(2)* for the purposes of bringing *subsection (1)* into operation until such time as a code of practice for the purposes of the operation of section 14B (inserted by *subsection (1)*) of the Act of 1996 has been approved by the Minister under section 14C (inserted by *section 22*) of that Act and laid before each House of the Oireachtas in accordance with section 14C.

Codes of practice for purposes of sections 14A and 14B

- 22.** The Act of 1996 is amended by the insertion of the following section after section 14B (inserted by *section 21*):

“**14C.** (1) The Local Government Management Agency shall, as soon as practicable after the coming into operation of *section 22* of the *Act of 2022*, prepare and submit to the Minister for his or her approval a draft code or codes of practice for the purposes of setting standards for the operation of each of sections 14A and 14B.

- (2) A draft code of practice referred to in subsection (1) shall, in respect of the section to which it relates, include provisions in relation to the following:
 - (a) the procedures and standards to be followed in the operation of the section including, where section 14A applies, in the installation of devices to be used in a CCTV scheme;
 - (b) confidentiality, security, storage, access to, retention, deletion and any other processing of, data gathered in accordance with the section;
 - (c) the circumstances in which data gathered under the section is to be disposed of or destroyed;
 - (d) the rights of data subjects in so far as they relate to the operation of the section concerned;
 - (e) such other matters, if any, related to the operation of the section that the Local Government Management Agency considers appropriate,

and the code or codes of practice may contain different provisions in relation to different types of devices or systems, in relation to different

categories of persons and in relation to the different circumstances in which such devices or systems are operated.

- (3) In preparing a draft code of practice under this section, the Local Government Management Agency—
- (a) shall carry out or cause to be carried out on its behalf an assessment of the likely impact on data subjects of types of processing of personal data contemplated by section 14A or 14B, as the case may be,
 - (b) shall ensure that the assessment referred to in paragraph (a) contains the following:
 - (i) a general description of the type of processing operations to which the assessment relates;
 - (ii) an assessment of the potential risks to the rights and freedoms of data subjects as a result of that processing;
 - (iii) a description of any safeguards, security measures or mechanisms proposed to be implemented by the local authority to mitigate any risk referred to in subparagraph (ii) and to ensure the protection of the personal data in relation to the types of processing contemplated by section 14A or 14B, as the case may be,
- and
- (c) shall ensure that the draft code takes account of the assessment referred to in paragraph (a).
- (4) Before submitting a draft code or codes of practice to the Minister under this section, the Local Government Management Agency—
- (a) shall consult with—
 - (i) the Minister,
 - (ii) the Minister for Housing, Local Government and Heritage,
 - (iii) the Minister for Justice, and
 - (iv) the Data Protection Commission,
 - (b) shall provide the assessment referred to in subsection (3) to the persons referred to in paragraph (a) before consulting with those persons, and
 - (c) may consult with any other person or body appearing to the Local Government Management Agency to have an interest in the operation of section 14A or 14B and such other person that the Minister may direct.

- (5) The Minister may approve, with or without modifications, a code of practice submitted to him or her under this section.
- (6) The Local Government Management Agency shall ensure that a code of practice approved by the Minister under this section is reviewed by it on a regular basis with the first review to be not later than 5 years from the date on which the code is first approved by the Minister, and, in the case of each subsequent review, not later than 5 years from the date of the previous review.
- (7) The Local Government Management Agency shall consult with the persons referred to in subsection (4) when conducting a review under subsection (6).
- (8) The Minister shall be informed in writing by the Local Government Management Agency of the outcome of a review under subsection (6).
- (9) The Local Government Management Agency, following a review under subsection (6) or at any other time that it considers appropriate, may submit a further draft code of practice to the Minister to amend, revoke or replace, an existing code of practice, or to create a new code of practice or may request the Minister to renew the code which was the subject of the review.
- (10) Subject to subsection (11), subsections (2) to (9) shall apply in relation to a draft code of practice submitted to the Minister under subsection (9) or a request made under that subsection to renew an existing code of practice as they apply to a draft code of practice submitted to the Minister under subsection (1).
- (11) Subsection (10) shall not apply where the amendments being made to a code of practice are minor or technical only.
- (12) A code of practice, renewed or approved, as the case may be, by the Minister under this section shall be laid before each House of the Oireachtas by the Local Government Management Agency and shall be published on a website maintained by or on behalf of the Minister or the Government.”.

Admissibility of evidence obtained under section 14, 14A or 14B

23. The Act of 1996 is amended by the insertion of the following section after section 14C (inserted by *section 22*):

- “14D. (1) Evidence obtained under section 14, 14A or 14B—
- (a) may be admitted as evidence in criminal proceedings, and
 - (b) shall not require the device from which it was obtained to be exhibited in court proceedings.

- (2) Nothing in section 14, 14A or 14B is to be construed as prejudicing the admissibility of information or material obtained otherwise than as a result of operating a recording device under the provisions of this Act.
- (3) Information obtained as a result of the operation of an approved CCTV scheme may be admitted as evidence in criminal proceedings notwithstanding any error or omission on the face of the approval given in respect of the scheme concerned, if the court, having regard in particular to the matters specified in subsection (4), decides that—
 - (a) the error or omission concerned was inadvertent, and
 - (b) the information ought to be admitted in the interests of justice.
- (4) The matters referred to in subsection (3) are—
 - (a) whether the error or omission concerned was serious or merely technical in nature,
 - (b) the nature of any right infringed by the manner in which the information was obtained,
 - (c) whether there were circumstances of urgency relating to the giving of the approval, or
 - (d) the probative value of the information concerned.
- (5) A failure to observe any provision of section 14, 14A or 14B or of any code of practice approved under section 14C on the part of any local authority or authorised person, shall not (without prejudice to the power of the court to exclude evidence) of itself affect the admissibility of any evidence thereby obtained.
- (6) It shall be presumed, unless the contrary is shown, that—
 - (a) any device used in an approved CCTV scheme or any mobile recording device operated for the purposes of this Act is a device capable of producing accurate information or material without the necessity of proving that that device was in good working order,
 - (b) the information produced by the device, and any copies thereof, is accurate, and
 - (c) the device was operated in accordance with the relevant code of practice approved under section 14C in respect of its operation.
- (7) A person who—
 - (a) falsifies, conceals, destroys or otherwise disposes of, information gathered by a recording device while it was or is being operated under this Act,

- (b) permits the falsification, concealment, destruction or disposal, of such information, or
 - (c) knowingly causes damage to or destroys a recording device, shall be guilty of an offence.
- (8) A person shall not be guilty of an offence under subsection (7) where he or she—
- (a) destroys or disposes, or
 - (b) permits the destruction or disposal, of information gathered by a recording device in accordance with a code of practice approved under section 14C or otherwise in accordance with law.”.

Amendment of section 22 of Act of 1996

24. Section 22 of the Act of 1996 is amended—

- (a) in subsection (6)(b), by the substitution of the following subparagraph for subparagraph (ix):

“(ix) appropriate qualitative or quantitative indicators and targets, including in respect of any or all of the following:

- (I) the quantity of generated waste and its treatment;
- (II) municipal waste that is disposed of or subject to energy recovery;
- (III) the use of products and materials that have been re-used, re-manufactured or repaired, or any combination thereof;”

and

- (b) by the substitution of the following subsection for subsection (9):

“(9) The Minister may make regulations relating to any matter to be set out or addressed in a waste management plan.”.

Amendment of section 27B of Act of 1996

25. Section 27B of the Act of 1996 is amended, in subsection (1), by the substitution of “section 22” for “Section 28”.

Amendment of section 34 of Act of 1996

26. (1) Section 34 of the Act of 1996 is amended—

- (a) in subsection (3), by the substitution of “to refuse to grant the permit for stated reasons which may include the abandonment of the application by the applicant” for “to refuse to grant the permit”,
- (b) in subsection (7)—
 - (i) in paragraph (b), by the substitution of “household waste or commercial waste” for “household waste” in each place where it occurs,
 - (ii) in paragraph (c)—
 - (I) in subparagraph (i), by the insertion of “or shall” after “may”,
 - (II) in subparagraph (iv), by the substitution of “is required to be delivered, or to which it is prohibited from being delivered,” for “is required to be delivered”,
 - (III) in subparagraph (viii), by the substitution of “concerned, and the form in which such records are to be kept and preserved and in which the information is to be supplied” for “concerned”,
 - (IV) in subparagraph (xxii)—
 - (A) by the substitution of “incorrect separation of waste in receptacles for segregated waste” for “incorrect separation of household waste from other waste in receptacles for segregated household waste”, and
 - (B) in clause (IV), by the substitution of “the receptacle;” for “the receptacle.”,
 - and
 - (V) by the insertion of the following subparagraphs after subparagraph (xxii):
 - “(xxiii) the achievement of such targets as may be specified in the permit in relation to recycling rates;
 - (xxiv) effecting and maintaining a record, document and data management system of such standard, or in accordance with such criteria, as the Minister may prescribe and which may include an electronic record, document and data management system;
 - (xxv) the requirement to collect waste where a waste service is not provided;
 - (xxvi) the requirement to effect and maintain a customer communication and awareness programme.”,
 - (iii) in paragraph (e), by the substitution of “household waste or commercial waste” for “household waste”,
 - (iv) in paragraph (f)—

- (I) by the substitution of “transport of household waste or commercial waste, as the case may be,” for “transport of household waste”,
 - (II) in subparagraph (i)—
 - (A) by the substitution of “household waste or commercial waste, as the case may be, collected or transported, or both,” for “household waste collected or transported”, and
 - (B) by the substitution of “household waste or commercial waste, as the case may be, collected and transported” for “household waste collected and transported”,and
 - (III) in subparagraph (iii), by the substitution of “household waste or commercial waste, as the case may be, incentivise waste prevention and segregation” for “waste incentivise household waste prevention and household waste segregation”,
- and
- (v) in paragraph (g)—
 - (I) in subparagraph (i), by the substitution of “household waste or commercial waste, as the case may be,” for “household waste” in each place where it occurs, and
 - (II) in subparagraph (ii), by the substitution of “household waste and commercial waste,” for “household waste”,
 - (c) in subsection (9)(a), by the substitution of “28 days” for “one month”,
 - (d) by the insertion of the following subsection after subsection (10A):
 - “(10B) A person shall not carry out any waste collection activity for, or on behalf of, the holder of a waste collection permit unless the person is an authorised waste collector.”,
 - (e) in subsection (11)(b)—
 - (i) by the insertion of the following subparagraph after subparagraph (iv):
 - “(iva) the bases upon which a local authority may consider an application to be abandoned;”,and
 - (ii) by the insertion of the following subparagraph after subparagraph (x):
 - “(xa) requiring that a permit holder defray, or contribute towards, any costs incurred by the local authority or, as the case may be, the nominated authority (within the meaning of section 34B) concerned, in the ongoing maintenance of the waste collection permitting system;”,

and

(f) by the insertion of the following subparagraphs after subparagraph (xa) (inserted by *paragraph (e)*):

“(xb) targets in relation to recycling rates for permit holders;

(xc) standards or criteria, or both, in relation to record, document and data management by permit holders;”.

(2) The amendment effected by *paragraph (c)* of *subsection (1)* shall apply in respect of applications made under section 34 of the Act of 1996 after the coming into operation of that paragraph.

Amendment of section 34C of Act of 1996

27. Section 34C of the Act of 1996 is amended—

(a) in subsection (1), by the substitution of “subsection (7) or (9), or both,” for “subsection (7)”,

(b) in subsection (3)—

(i) by the substitution of “household waste or commercial waste” for “household waste” in each place where it occurs, and

(ii) by the deletion of “within the meaning of section 66 of the Communications Regulation (Postal Services) Act 2011”,

(c) in subsection (6), by the substitution of “household waste or commercial waste” for “household waste”,

(d) in subsection (7), by the substitution of “household waste or commercial waste” for “household waste”,

(e) in subsection (8), by the substitution of “household waste or commercial waste” for “household waste”,

(f) by the insertion of the following subsections after subsection (8):

“(9) A local authority may establish and maintain a register of postcodes in respect of addresses in its functional area from which household waste or commercial waste is not—

(a) collected by an authorised waste collector,

(b) deposited at a waste facility, or

(c) otherwise disposed of or treated in accordance with this Act,

for the purposes of establishing compliance by original producers and other waste holders with section 32(1A) and any regulations or by-laws made under this Act in relation to household waste or commercial waste.

- (10) A local authority may, in performing its functions under this Act, use—
- (a) the information specified in subsection (3)(a) that is provided to the local authority under subsection (2), and
 - (b) such data as is contained in a postcode database referred to in subparagraph (i) of paragraph (g) of section 65A(2) of the Act of 2011 that is provided to it pursuant to a licence referred to in the said paragraph (g),
- for the purposes of establishing and maintaining a register under subsection (9).
- (11) Where a local authority proposes to establish and maintain a register under subsection (9) in respect of its functional area, the chief executive of the local authority concerned shall satisfy himself or herself that the establishment and maintenance of the register is proportionate to, and necessary for, the purposes for which the register is to be so established and maintained.
- (12) The chief executive of a local authority in respect of whose functional area a register is established and maintained under subsection (9)—
- (a) may, at any time, and
 - (b) shall, not later than 5 years from the establishment of the register and thereafter at intervals of not more than 5 years from the date on which the chief executive was informed of the outcome of the immediately preceding review in accordance with subsection (13) (b),
- cause a review of the register to be carried out by an authorised person.
- (13) An authorised person carrying out a review pursuant to subsection (12) shall—
- (a) consider—
 - (i) whether the register has been established and maintained, and the information contained therein used, in accordance with the guidance issued, revised or re-issued by the Minister under subsection (16),
 - (ii) the extent to which the maintenance of, and use of the information contained in, the register during the period in respect of which the review is being conducted has been, and remains, successful, proportionate and necessary having regard to the purposes for which the register has been established, and

- (iii) such other matters that he or she considers appropriate having regard to the purposes for which the register has been established and is maintained,
- and
- (b) shall inform the chief executive, in writing, of the outcome of that review.
- (14) Without prejudice to subsection (15), following a review carried out pursuant to subsection (12), the chief executive of the local authority shall decide whether the register is to continue to be maintained and where the chief executive decides that the register is to continue to be maintained, subsections (12) and (13) shall, with any necessary modifications, apply in respect of the register as so continued.
- (15) The chief executive may at any time decide that a register established under subsection (9) is no longer to be maintained and, subject to Part 5 of the Data Protection Act 2018, where the chief executive so decides, the local authority shall cease to maintain the register.
- (16) The Minister shall issue guidance for the purpose of assisting local authorities in the establishment and maintenance of a register referred to in subsection (9) and the appropriate use of the information contained in such a register and may from time to time revise or re-issue that guidance.
- (17) A local authority shall have regard to any guidance issued, revised or re-issued under subsection (16).
- (18) (a) In establishing a register referred to in subsection (9), a local authority shall consult with its data protection officer and shall ensure that a data protection impact assessment within the meaning of section 84 of the Data Protection Act 2018 is carried out in accordance with that section.
- (b) A local authority shall ensure that any such register is maintained, and the information contained therein is used, in compliance with Part 5 of the Data Protection Act 2018.
- (19) In this section—
- ‘Act of 2011’ means the Communications Regulation (Postal Services) Act 2011;
- ‘chief executive’ has the same meaning as it has in section 2 of the Local Government Act 2001;
- ‘data protection officer’ has the meaning given to it by section 88(1) of the Data Protection Act 2018;
- ‘postcode’ has the meaning given to it by section 66 of the Act of 2011;

‘postcode database’ has the meaning given to it by section 65A(1) of the Act of 2011.”

Amendment of section 73 of Act of 1996

28. Section 73 of the Act of 1996 is amended—

(a) in subsection (5C)—

(i) in paragraph (a), by the substitution of “*paragraph (n) of section 12(3) of the Act of 2022*” for “paragraph (l) of section 72(6)”, and

(ii) by the substitution of the following paragraph for paragraph (b):

“(b) *section 8(7) of the Act of 2022.*”,

and

(b) in subsection (8), by the substitution of “which regulations under *section 11(1) of the Act of 2022* may, by virtue of *paragraphs (a), (c), (d) and (i) to (n) of section 12(3) of that Act,*” for “which regulations under section 72 may, by virtue of paragraphs (a), (c), (d) and (g) to (l) of subsection (6) of that section,”.

Waste recovery levy

29. The Act of 1996 is amended by the insertion of the following section after section 73:

“**73A.** (1) The Minister may, after consultation with such other Minister of the Government, if any, as the Minister considers appropriate, make regulations providing that there shall be chargeable, leviable and payable a levy (which shall be known as, and in this section is referred to as, a ‘recovery levy’) in respect of—

(a) the carrying on of a specified class or classes of an activity referred to in the Fourth Schedule,

(b) the recovery by means of an activity referred to in the Fourth Schedule, or a specified class or classes of such activity, of a specified class or classes of waste,

(c) subject to subsection (2), the carrying on of an activity referred to in paragraph (a) and an activity referred to in paragraph (b), or

(d) the export of waste for recovery in so far as it relates to an activity referred to in any of paragraphs (a) to (c).

(2) Regulations under subsection (1)(c) shall not result in the recovery levy being payable twice in respect of a particular recovery of a particular quantity of waste.

(3) The amount of the recovery levy—

(a) shall be specified in the regulations under subsection (1),

- (b) shall not exceed an amount of €120 per tonne, and
 - (c) may be specified in respect of the amount of waste sent for recovery or the amount of waste recovered.
- (4) The Minister may—
- (a) for the purposes of promoting either or both of the following:
 - (i) the prevention of the generation of waste;
 - (ii) the reduction of the quantity of waste recovered or sent for recovery by means of an activity referred to in subsection (1),and
 - (b) subject to subsection (3)(b) and (5),
amend the amount of the recovery levy standing specified in regulations under subsection (1) once and once only in each financial year beginning with the financial year in which *section 29* of the *Act of 2022* comes into operation.
- (5) The Minister shall, when amending the amount of recovery levy standing specified in regulations under subsection (1), substitute an amount that does not exceed the amount so standing specified by €50.
- (6) Subject to subsection (3), regulations under subsection (1) may specify, in respect of the amount of the recovery levy payable under them, different amounts by reference to different activities referred to in any of paragraphs (a), (b) and (c) of subsection (1) in respect of which the recovery levy is so payable.
- (7) The recovery levy shall be payable by—
- (a) the person who carries on the waste recovery activity concerned, or
 - (b) where the waste is to be shipped for recovery, by the waste holder or such class of waste holder as may be prescribed.
- (8) Where any amount of recovery levy becomes payable in accordance with regulations made under this section and is not paid, simple interest on the amount shall be paid by the person liable to pay the recovery levy and such interest shall be calculated from the date on which the recovery levy became payable and at a rate of 0.0322 per cent for each day or part of a day during which the amount remains unpaid.
- (9) Interest due in accordance with subsection (8) shall be payable to the Circular Economy Fund in the manner specified in the regulations under subsection (1) and the provisions of those regulations relating to the levy shall apply to the interest as if it were recovery levy.

- (10) Interest paid in accordance with subsection (8) shall be treated as recovery levy for the purposes of—
- (a) subsection (15), in relation to provision under that subsection for recovery levy by virtue of *paragraph (n)* of *section 12(3)* of the *Act of 2022*, and
 - (b) *section 8(7)* of the *Act of 2022*.
- (11) Regulations under subsection (1) shall—
- (a) provide that the recovery levy (not being levy chargeable by virtue of those regulations on the local authority) shall be payable to the local authority in whose functional area the waste recovery activity concerned is carried on, or, where the waste recovery activity is to take place outside of the State, the levy shall be payable to Dublin City Council, and
 - (b) confer on the local authority referred to in paragraph (a) powers with respect to the collection and recovery of the levy (and, for this purpose, the regulations may adapt, with or without modifications, the provisions of any enactment relating to the estimation, collection and recovery of, or the inspection of records or the furnishing of information in relation to, any tax charged or imposed by that enactment).
- (12) Regulations under subsection (1) may, for the purpose referred to in subsection (13), restrict the extent to which a local authority may exercise a power to make a charge for the provision by it of any service in circumstances where, in the opinion of the Minister, such exercise is so as to enable the local authority to recoup amounts paid by it by way of recovery levy.
- (13) The purpose referred to in subsection (12) is that of ensuring that the exercise of the power referred to in that subsection does not result in one or more categories of person paying a disproportionate amount of the total amount of charges a local authority could reasonably be expected to make in respect of the provision of services in the circumstances concerned.
- (14) For so long as regulations under subsection (1) restrict the exercise of the power referred to in subsection (12), the enactment that confers that power shall be construed as if there were contained in it a provision the effect of which is to restrict the exercise of the power in the manner provided by the said regulations.
- (15) Regulations under subsection (1) may provide, in relation to recovery levy, for all the matters which regulations under *section 11(1)* of the *Act of 2022* may, by virtue of *paragraphs (a), (c), (d) and (i) to (n)* of *section 12(3)* of that Act, provide in relation to levy under *section 11* and those paragraphs shall, accordingly, apply for the purposes of this

section with any necessary modifications (including such modifications as will enable like provision with respect to the payment into the Circular Economy Fund of amounts received by a local authority on account of recovery levy to be made with respect to recovery levy chargeable on the local authority itself).

- (16) A person who fails—
- (a) to pay recovery levy which is due and payable by virtue of regulations under subsection (1), or
 - (b) to comply with a provision of regulations under subsection (1),
- shall be guilty of an offence.”.

Powers to make regulations in respect of end-of-waste and by-products processes

30. The Act of 1996 is amended by the insertion of the following section after section 75:

“**75A.** (1) The Minister may make regulations in relation to notifications to the Agency under Regulation 27 or 28 of the European Union (Waste Directive) Regulations 2011 (S.I. No. 126 of 2011) (in this section referred to as a “notification”) and determinations or decisions, as the case may be, further to such notifications.

- (2) Without prejudice to the generality of subsection (1), regulations under this section may provide for any or all of the following:
- (a) the form and content of a notification under the said Regulation 27 seeking a determination or under the said Regulation 28 seeking a decision and provision may be made for different forms and content for different circumstances or classes of circumstances or for different cases or classes of cases;
 - (b) the time within which a notification is to be made;
 - (c) the particulars, including, plans, documents and other information, to be submitted to the Agency for the purposes of the notification and the period within which they are to be submitted;
 - (d) requirements in relation to the submission by the person making that notification of such additional information or particulars relating to the notification to the Agency, including the period within which such additional information or particulars are to be submitted;
 - (e) the processing by the Agency of notifications;
 - (f) requirements in relation to the person making a notification defraying or contributing towards the cost of any investigation carried out, caused to be carried out, or arranged for, by the Agency in relation to the notification;

- (g) the storage, movement, disposal, or other handling or processing of any material that is the subject of a notification either before or after a determination or decision, as the case may be, is made in respect of the notification;
 - (h) the nature of materials, including restrictions on particular materials, in respect of which a notification may be made;
 - (i) the circumstances in which the Agency or other public authority or body, as the case may be, may reject or refuse to consider a notification;
 - (j) the circumstances in which the Agency may waive the requirement for a notification;
 - (k) the attachment by the Agency of conditions to a determination or decision;
 - (l) the establishment and maintenance by the Agency of a register or registers in respect of such materials or classes of materials as may be specified in the regulations, and the conditions to be satisfied in respect of those materials or classes of materials in order to be registered;
 - (m) such incidental, supplementary, consequential or transitional provisions as appear to the Minister to be necessary for the purposes or in consequence of, or to give full effect to, the regulations.
- (3) Regulations made under subsection (1) may provide for—
- (a) the payment of fees,
 - (b) exemption from the payment of fees, or
 - (c) the waiver, remission, or refund (in whole or in part) of fees,
- and different fees, exemptions, waivers, remissions or refunds may be provided for in different circumstances or classes of circumstances or for different cases or classes of cases.
- (4) Where, under regulations made under subsection (1), a fee is payable in respect of a notification, the notification shall be deemed not to have been made until the date on which the Agency receives the fee.
- (5) A person who, in relation to any matter to which regulations under this section relates, makes a statement in writing which, to his knowledge is false or misleading in a material respect, shall be guilty of an offence.
- (6) A defrayment or contribution the payment of which is required under regulations made under this section shall be payable on demand and,

in default of being so paid, shall be recoverable as a simple contract debt in any court of competent jurisdiction.”.

PART 4

AMENDMENTS TO ACT OF 1997

Amendment of section 2 of Act of 1997

31. Section 2 of the Act of 1997 is amended by the insertion of the following definitions:

“ ‘*Act of 2022*’ means the *Circular Economy and Miscellaneous Provisions Act 2022*;

‘approval’, in relation to a proposal under section 23A, means an approval given under section 23A(5) or renewed under section 23A(11) in respect of the CCTV scheme which is the subject of the proposal;

‘approved CCTV scheme’ means a CCTV scheme which is the subject of a proposal in respect of which an approval is in being;

‘authorised person’ means a person who is appointed in writing by a local authority to be an authorised person for the purposes of this Act or any provisions thereof as the local authority determines;

‘automatic number plate recognition device’ means a device which engages an automated method of recognising vehicle registration plates from a camera image;

‘biometric data’ has the meaning given to it by section 69(1) of the Data Protection Act 2018;

‘CCTV scheme’ has the meaning given to it by section 23A(1);

‘closed circuit television’ or ‘CCTV’ means a system of recording devices the signals of which are not made publicly available but are monitored, or are capable of being monitored, by a local authority;

‘code of practice’ means a code of practice approved by the Minister in accordance with section 23B and includes part of a code of practice;

‘facial recognition device’ means a device or system of devices which, through automated use of biometric data, matches or categorises facial images captured by the device;

‘operation’, in relation to closed circuit television, includes the maintenance and monitoring of closed circuit television;

‘recording device’ means a device that is capable of recording or processing, or both, visual images or audio, or both, on any medium, from which a visual image or moving visual images may be produced and includes any accompanying document, and, where only visual images or

moving visual images are concerned, includes any sound accompanying those images but does not include automatic number plate recognition devices or facial recognition devices;”.

Operation of CCTV for certain purposes

32. (1) The Act of 1997 is amended by the insertion of the following section after section 23:

“23A. (1) An authorised person may submit a proposal in accordance with subsection (4) for the installation and operation of closed circuit television in the functional area of, or any particular area within the functional area of, a local authority (in this section referred to as ‘a CCTV scheme’), for the purposes of—

- (a) deterring environmental pollution, and
- (b) facilitating the deterrence, prevention, detection and prosecution of offences under this Act.

(2) A proposal made under subsection (1) shall include—

- (a) details of the location, number and technical specification of the devices to be used in the CCTV scheme,
- (b) details of the geographical areas to be covered by the CCTV scheme,
- (c) a plan prepared for the purposes of this paragraph in accordance with subsection (3) in respect of the CCTV scheme, and
- (d) such other matters referred to in the code of practice approved under section 23B in respect of the operation of this section that relate to the installation and operation of the CCTV scheme.

(3) A plan prepared for the purposes of subsection (2)(c)—

- (a) shall contain details of the arrangements proposed in respect of—
 - (i) the monitoring, recording and disclosure of the images, sounds or documents, produced pursuant to the CCTV scheme, and
 - (ii) the preservation of recordings made and documents produced pursuant to that scheme,
- (b) shall include a data protection impact assessment in respect of the CCTV scheme carried out in accordance with section 84 of the Data Protection Act 2018, and
- (c) shall comply with—
 - (i) Part 5 of the Data Protection Act 2018, and
 - (ii) the code of practice approved under section 23B for the purposes of the operation of this section.

- (4) A proposal under subsection (1) shall be submitted to the chief executive of the local authority in whose functional area, or part thereof, the proposed CCTV scheme is to operate and he or she shall decide whether or not to approve the proposal.
- (5) Subject to subsections (6) to (8), the chief executive—
- (a) may approve, or approve, subject to such modifications, terms and conditions (if any) as he or she considers appropriate, a proposal submitted to him or her under this section, and
 - (b) where he or she approves a proposal, whether with or without modifications, terms and conditions, he or she shall specify the date on which the approval expires.
- (6) In deciding whether or not to approve a proposal under subsection (5), in considering what, if any, modifications, terms and conditions are appropriate and in specifying the date on which the approval is to expire, the chief executive shall consider the extent to which the proposal is proportionate to, and necessary for, the purposes referred to in subsection (1) and he or she shall not approve a proposal unless he or she is satisfied that the proposal is proportionate to, and necessary for, those purposes.
- (7) Where the chief executive approves a proposal under subsection (5)—
- (a) the approval shall—
 - (i) be in writing,
 - (ii) set out such modifications, terms and conditions (if any) as he or she considers appropriate, and
 - (iii) state the date on which the approval shall expire,and
 - (b) the CCTV scheme to which the approval relates shall be operated in accordance with the approval and with the code of practice approved under section 23B for the purposes of the operation of this section.
- (8) Subject to subsections (11), (12) and (13), an approval given under subsection (5) shall expire not later than the date that is 5 years from the date on which the approval was given.
- (9) The chief executive of a local authority in whose functional area, or part of whose functional area, an approved CCTV scheme is in operation—
- (a) may, at any time, and
 - (b) shall, not later than 5 years from the date on which the approval in respect of the CCTV scheme was given under subsection (5) and

thereafter at intervals of not more than 5 years from the date of the immediately preceding review,

cause a review of the operation of that scheme to be carried out by an authorised person.

- (10) An authorised person carrying out a review pursuant to this section shall consider—
- (a) whether the approved CCTV scheme is being operated—
 - (i) in accordance with the approval in respect of the scheme, and
 - (ii) in compliance with the code of practice approved under section 23B for the purposes of the operation of this section,
 - (b) the extent to which the operation of the scheme during the period in respect of which the review is being conducted has been, and remains, successful, proportionate and necessary having regard to the purposes referred to in subsection (1), and
 - (c) such other matters that he or she considers appropriate having regard to the purposes referred to in subsection (1).
- (11) Without prejudice to subsection (12), following a review carried out under subsection (10), the chief executive shall decide whether to—
- (a) renew the approval given in respect of the scheme, subject to such modifications, terms and conditions, if any, as he or she considers appropriate, or
 - (b) revoke the approval,
- and subsections (6) to (10) shall, with any necessary modifications, apply in respect of the decision of the chief executive under this subsection and, where renewed, the approval as so renewed.
- (12) The chief executive may at any time revoke an approval where the CCTV scheme to which the approval relates has been operated otherwise than—
- (a) in accordance with the approval, or
 - (b) in accordance with the code of practice for the time being approved under section 23B for the purposes of the operation of this section.
- (13) Where, in relation to an approved CCTV scheme, it is proposed that there are to be changes to the scheme, other than repairs or modifications that do not alter the extent of the coverage of the scheme or the capability of the devices used in the scheme an authorised person shall make a proposal under subsection (1) in respect of those changes and this section shall apply, with any necessary modifications, in respect of that proposal and where an approval is given in respect of that new proposal, the existing approval shall be revoked.

- (14) Where an approval—
- (a) expires and is not renewed, or
 - (b) is revoked by the chief executive under this section,
- the local authority shall, not later than one month after the date on which the approval expired or is revoked, as the case may be, terminate the operation of the CCTV scheme concerned.
- (15) Notice of the approval, review or revocation of a proposal under this section shall be published on the website of the local authority concerned.
- (16) In this section, ‘chief executive’ has the same meaning as it has in section 2 of the Local Government Act 2001.’.
- (2) The Minister shall not make an order under *section 1(2)* for the purposes of bringing *subsection (1)* into operation until such time as a code of practice in respect of the operation of section 23A (inserted by *subsection (1)*) of the Act of 1997 has been approved by the Minister under section 23B (inserted by *section 33*) of that Act and laid before each House of the Oireachtas in accordance with that section.

Code of practice for purposes of section 23A

33. The Act of 1997 is amended by the insertion of the following section after section 23A (inserted by *section 32*):

“23B. (1) The Local Government Management Agency shall, as soon as practicable after the coming into operation of *section 33* of the *Act of 2022*, prepare and submit to the Minister for his or her approval a draft code of practice for the purposes of setting standards for the operation of section 23A.

- (2) A draft code of practice referred to in subsection (1) shall include provisions in relation to the following:
- (a) the procedures and standards to be followed in the operation of section 23A including in the installation of devices to be used in a CCTV scheme;
 - (b) confidentiality, security, storage, access to, retention, deletion and any other processing of, data gathered in accordance with section 23A;
 - (c) the circumstances in which data gathered under section 23A is to be disposed of or destroyed;
 - (d) the rights of data subjects in so far as they relate to the operation of section 23A;

- (e) such other matters, if any, related to the operation of section 23A that the Local Government Management Agency considers appropriate,
- and the code of practice may contain different provisions in relation to different types of devices or systems, in relation to different categories of persons and in relation to the different circumstances in which such devices or systems are operated.
- (3) In preparing a draft code of practice under this section, the Local Government Management Agency—
- (a) shall carry out or cause to be carried out on its behalf an assessment of the likely impact on data subjects of the types of processing of personal data contemplated by section 23A,
- (b) shall ensure that the assessment referred to in paragraph (a) contains the following:
- (i) a general description of the type of processing operations to which the assessment relates;
- (ii) an assessment of the potential risks to the rights and freedoms of data subjects as a result of that processing;
- (iii) a description of any safeguards, security measures or mechanisms proposed to be implemented by the local authority to mitigate any risk referred to in subparagraph (ii) and to ensure the protection of personal data in relation to the types of processing contemplated by section 23B,
- and
- (c) shall ensure that the draft code takes account of the assessment referred to in paragraph (a).
- (4) Before submitting a draft code of practice to the Minister under this section, the Local Government Management Agency—
- (a) shall consult with—
- (i) the Minister,
- (ii) the Minister for Housing, Local Government and Heritage,
- (iii) the Minister for Justice, and
- (iv) the Data Protection Commission,
- (b) shall provide the assessment referred to in subsection (3) to the persons referred to in paragraph (a) before consulting with those persons, and
- (c) may consult with any other person or body appearing to the Local Government Management Agency to have an interest in the

operation of section 23A and such other person that the Minister may direct.

- (5) The Minister may approve, with or without modifications, a code of practice submitted to him or her under this section.
- (6) The Local Government Management Agency shall ensure that a code of practice approved by the Minister under this section is reviewed by it on a regular basis with the first review to be not later than 5 years from the date on which the code is first approved by the Minister, and, in the case of each subsequent review, not later than 5 years from the date of the previous review.
- (7) The Local Government Management Agency shall consult with the persons referred to in subsection (4) when conducting a review under subsection (6).
- (8) The Minister shall be informed in writing of the outcome of a review under subsection (6).
- (9) The Local Government Management Agency, following a review under subsection (6) or at any other time that it considers appropriate, may submit a further draft code of practice to the Minister to amend, revoke or replace, an existing code of practice, or to create a new code of practice or may request the Minister to renew the code which was the subject of the review.
- (10) Subject to subsection (11), subsections (2) to (9) shall apply in relation to a draft code of practice submitted to the Minister under subsection (9) or to a request to renew an existing code as they apply to a draft code of practice submitted to the Minister under subsection (1).
- (11) Subsection (10) shall not apply where the amendments being made to a code of practice are minor or technical only.
- (12) A code of practice renewed or approved, as the case may be, by the Minister under this section shall be laid before each House of the Oireachtas by the Local Government Management Agency and shall be published on a website maintained by or on behalf of the Minister or the Government.”.

Admissibility of evidence obtained under section 23A

34. The Act of 1997 is amended by the insertion of the following section after section 23B (inserted by *section 33*):

“**23C.** (1) Evidence obtained under section 23A—

- (a) may be admitted as evidence in criminal proceedings, and
- (b) shall not require the device from which it was obtained be exhibited in court proceedings.

- (2) Nothing in section 23A is to be construed as prejudicing the admissibility of information or material obtained otherwise than as a result of operating a recording device under the provisions of this Act.
- (3) Information obtained as a result of the operation of an approved CCTV scheme may be admitted as evidence in criminal proceedings notwithstanding any error or omission on the face of the approval given in respect of the scheme concerned, if the court, having regard in particular to the matters specified in subsection (4), decides that—
 - (a) the error or omission concerned was inadvertent, and
 - (b) the information ought to be admitted in the interests of justice.
- (4) The matters referred to in subsection (3) are—
 - (a) whether the error or omission concerned was serious or merely technical in nature,
 - (b) the nature of any right infringed by the manner in which the information was obtained,
 - (c) whether there were circumstances of urgency relating to the giving of the approval, or
 - (d) the probative value of the information concerned.
- (5) A failure to observe any provision of section 23A or of any code of practice approved under section 23B on the part of any local authority or authorised person, shall not (without prejudice to the power of the court to exclude evidence) of itself affect the admissibility of any evidence thereby obtained.
- (6) It shall be presumed, unless the contrary is shown, that—
 - (a) any device used in an approved CCTV scheme for the purposes of this Act is a device capable of producing accurate information or material without the necessity of proving that that device was in good working order,
 - (b) the information produced by the device, and any copies thereof, is accurate, and
 - (c) the device was operated in accordance with the relevant code of practice approved under section 23B in respect of its operation.
- (7) A person who—
 - (a) falsifies, conceals, destroys or otherwise disposes of, information gathered by a recording device while it was or is being operated under this Act,
 - (b) permits the falsification, concealment, destruction or disposal, of such information, or

- (c) knowingly causes damage to or destroys a recording device,
shall be guilty of an offence.
- (8) A person shall not be guilty of an offence under subsection (7) where he or she—
 - (a) destroys or disposes, or
 - (b) permits the destruction or disposal,
of information gathered by a recording device in accordance with a code of practice made under section 23B or otherwise in accordance with law.”.

Amendment of section 24 of Act of 1997

35. Section 24 of the Act of 1997 is amended by the substitution of “under this Act, other than under section 23C,” for “under this Act” in each place where it occurs.

Amendment of section 28 of Act of 1997

36. Section 28 of the Act of 1997 is amended in subsection (1)(b) by the substitution of “€250” for “€150”.

PART 5

NATURAL RESOURCES

CHAPTER 1

*Amendment of Minerals Development Act 1940***Amendment of section 8 of Minerals Development Act 1940**

37. Section 8 of the Minerals Development Act 1940 is amended by the insertion of the following subsection after subsection (1):

“(1A) A prospecting licence granted by the Minister under this section after the coming into operation of *section 37* of the *Circular Economy and Miscellaneous Provisions Act 2022* shall not permit prospecting for coal, lignite or oil shale.”.

CHAPTER 2

*Amendments to Minerals Development Act 2017***Amendment of section 17 of Minerals Development Act 2017**

38. Section 17 of the Minerals Development Act 2017 is amended by the insertion of the

following subsection after subsection (3):

“(4) A prospecting licence granted by the Minister under this section after the coming into operation of *section 38* of the *Circular Economy and Miscellaneous Provisions Act 2022*, shall not permit prospecting for coal, lignite or oil shale.”.

Amendment of section 65 of Minerals Development Act 2017

39. Section 65 of the Minerals Development Act 2017 is amended by the substitution of “specified minerals other than coal, lignite and oil shales” for “specified minerals”.

Amendment of section 66 of Minerals Development Act 2017

40. Section 66 of the Minerals Development Act 2017 is amended by the substitution of “additional minerals other than coal, lignite and oil shales” for “additional minerals”.

PART 6

AMENDMENT OF ENVIRONMENTAL PROTECTION AGENCY ACT 1992

Amendment of section 87 of Environmental Protection Agency Act 1992

41. Section 87 of the Environmental Protection Agency Act 1992 is amended—

- (a) in subsection (1A), in paragraph (b) of the definition of “application for permission”, by the insertion of “181(2A),” after “177AE,”,
- (b) in subsection (1B)—
 - (i) by the insertion of “or that involves development that is carried out or is proposed to be carried out by or on behalf of a Minister of the Government pursuant to an order made, or proposed to be made, under section 181(2)(a) of the Act of 2000 (in this section referred to as a ‘section 181(2)(a) order’),” after “grant of permission is required”,
 - (ii) in paragraph (a)(ii), by the insertion of “or was exempted, in accordance with that Act, from being so required” after “Act of 2000”, and
 - (iii) in paragraph (b)—
 - (I) by the insertion of “, or where a section 181(2)(a) order has been made, a copy of that order,” after “by the planning authority concerned or An Bord Pleanála”, and
 - (II) in subparagraph (ii), by the insertion of “or was exempted, in accordance with that Act, from being so required” after “Act of 2000”,
- (c) by the substitution of the following subsection for subsection (1C):

“(1C) Where an application for a licence is made to the Agency in respect of an activity referred to in subsection (1B) but the applicant does not comply with that subsection, the Agency shall refuse to consider that application and shall inform the applicant accordingly.”,

(d) in subsection (1D), by the substitution of the following paragraph for paragraph (d):

“(d) ensure that—

(i) a grant of permission has been made or a decision has been made to refuse a grant of permission for development comprising or for the purposes of the activity to which the application for the licence relates and the period for any appeal under section 37 of the Act of 2000 has expired without an appeal being made before notifying under section 87(2), indicating its proposed determination in relation to the application for a licence, or

(ii) a section 181(2)(a) order has been made for development comprising or for the purposes of the activity to which the application for the licence relates or An Bord Pleanála has refused to grant approval under section 181(2L) of the Act of 2000 in respect of the development before notifying under section 87(2), indicating its proposed determination in relation to the application for a licence.”,

(e) in subsection (1E)—

(i) in paragraph (a)(i), by the insertion of “or by an approval granted under section 181(2L) of the Act of 2000, as the case may be,” after “referred to in subsection (1B)(b)”, and

(ii) in paragraph (a)(ii), by the insertion of “or an approval granted under section 181(2L) of the Act of 2000, as the case may be,” after “referred to in subsection (1B)(b)”,

(f) in subsection (2), by the insertion of the following paragraph after paragraph (aa):

“(ab) where a section 181(2)(a) order has been made for development comprising or for the purposes of the activity to which the application for a licence relates, the Minister who made the order”,
and

(g) in subsection (8)(a)—

(i) in subparagraph (iia), by the substitution of “An Bord Pleanála,” for “An Bord Pleanála.”, and

(ii) by the insertion of the following subparagraph after subparagraph (iia):

“(iib) where a section 181(2)(a) order has been made for development comprising or for the purposes of the activity to which the

application for a licence relates, the Minister who made the order.”.

PART 7

AMENDMENT OF ELECTRICITY REGULATION ACT 1999

Amendment of Electricity Regulation Act 1999

42. The Electricity Regulation Act 1999 is amended—

- (a) in section 11(1), by the insertion of “or a registration granted under Part IIIA” after “authorisation”;
- (b) in section 12, by the insertion of “or a registration granted under Part IIIA” after “authorisation”, and
- (c) by the insertion of the following Part after section 28:

“PART IIIA

REGISTRATION OF MARKET PARTICIPANTS THAT ARE NOT ELECTRICITY UNDERTAKINGS

Interpretation (Part IIIA)

28A. In this Part—

‘active customer’ means a final customer, or a group of jointly acting final customers, who consumes or stores electricity generated within its premises located within confined boundaries or, where so provided for in rules made by the Commission in that regard under Regulation 10 of the Regulations of 2022, within other premises, or who sells self-generated electricity or participates in flexibility or energy efficiency schemes, provided that those activities do not constitute its primary commercial or professional activity;

‘electricity activity’ means—

- (a) in relation to a relevant market participant other than a relevant market participant that is an active customer or a citizen energy community, an activity referred to in the definition of “market participant” in Article 2(25) of the 2019 Internal Electricity Market Regulation,
- (b) in relation to a relevant market participant that is an active customer, an activity referred to in the definition of “active customer” in Regulation 2(1) of the Regulations of 2022, and

- (c) in relation to a relevant market participant that is a citizen energy community, an activity referred to in paragraph (c) of the definition of “citizen energy community” in section 2(1).

‘Register’ means the register established and maintained under section 28AB;

‘registration’ means a registration granted to a relevant market participant by the Commission under section 28AE;

‘Regulations of 2022’ means the European Union (Renewable Energy) Regulations 2022 (S.I. No. 76 of 2022);

‘relevant market participant’ means a market participant that is not an electricity undertaking;

‘terms and conditions’ means terms and conditions specified in a registration for the purpose of ensuring compliance by a relevant market participant with the obligations referred to in Article 59(1)(b) of the 2019 Internal Electricity Market Directive in so far as those obligations relate to the relevant market participant.

Register of relevant market participants

- 28AB.** (1) The Commission shall establish and maintain a register of relevant market participants registered under this Part which shall, in particular, include—
- (a) the name of the relevant market participant,
 - (b) the names, addresses and contact numbers of relevant contact persons, including, in the case of a body corporate, the names, addresses and contact details of the directors of the company,
 - (c) the address of the relevant market participant or in the case of a body corporate, its registered office,
 - (d) the electricity activity that is the subject of the registration,
 - (e) the date on which the relevant market participant will commence the electricity activity that is the subject of the registration.
- (2) The Register may be in book form, electronic form or such other form as the Commission may determine.
- (3) The holder of a registration to which an entry in the Register relates, shall as soon as practicable after the holder becomes aware of any error in the entry, or any change in circumstances that is likely to have a bearing on the accuracy of the entry, give notice in writing to the Commission of the error, or change in circumstances, as the case may be.

Registration for purpose of engaging in electricity activity

- 28AC.** (1) Subject to subsection (2), a relevant market participant who wishes to engage in an electricity activity may not engage in the activity unless the relevant market participant has been registered under this Part in respect of that activity.
- (2) (a) The Commission may, by order, specify—
- (i) a class or classes of relevant market participant who are not required to be registered under this Part, or
 - (ii) a class or classes of electricity activity the engaging in which by relevant market participants does not require the relevant market participants to be registered under this Part,
- or both.
- (b) In specifying a class or classes of relevant market participant for the purposes of paragraph (a)(i), the Commission shall have regard to—
- (i) the obligations of the class or classes of relevant market participant concerned were the class or classes concerned to be required to register, and
 - (ii) the requirements of Regulations 3(2)(a) and 7(3)(b) of the Regulations of 2022.
- (c) In specifying a class or classes of electricity activity for the purposes of paragraph (a)(ii), the Commission shall specify the class or classes by reference to the scale of the class or classes of electricity activities concerned.
- (d) The Commission may by order amend or revoke an order under this subsection.
- (e) The Commission shall not make an order under this subsection unless a notice of intention to make such an order is published on its website at least one month before the making of the order.
- (f) The draft order shall be published by the Commission in such manner as it shall determine, so as to bring it to the attention of those likely to be affected by it and the notice of intention published under paragraph (e) shall state the manner in which a copy of the draft order may be obtained.
- (3) An application to be registered shall be made in accordance with section 28AD.

Application for registration

- 28AD.** (1) An application by a relevant market participant for registration under this Part shall—

- (a) be in writing,
 - (b) specify—
 - (i) the name of the relevant market participant proposing to engage in the electricity activity that is to be the subject of the registration, including, in the case of a body corporate, the company registration number,
 - (ii) the names, addresses and contact numbers of relevant contact persons including, in the case of a body corporate, the names, addresses and contact details of the directors of the company,
 - (iii) the address of the relevant market participant or in the case of a body corporate, the address of its registered office,
 - (iv) the electricity activity that is to be the subject of the registration,
 - (v) the date on which it is estimated that the relevant market participant will commence the electricity activity that is to be the subject of the registration,
 - (c) be in such form, contain such other information and be accompanied by such documents, if any, as the Commission shall specify on its website in accordance with subsection (3), and
 - (d) be accompanied by such fee as the Commission may determine.
- (2) The Commission may request an applicant to provide it with such additional information and documents as the Commission may reasonably request for the purpose of the application and where such a request is made the applicant shall provide such information and documents to the Commission.
- (3) The Commission shall publish on its website the procedures for making an application under this section and any other requirements relating to the making of such an application.

Consideration of application by Commission

- 28AE.** (1) The Commission shall grant an application for registration duly made in accordance with section 28AD by a relevant market participant who is required, pursuant to section 28AC, to be registered, unless the Commission is satisfied, having regard to the application and the information and documentation (if any) provided to it under section 28AD, that the relevant market participant concerned would, if registered, not be able to comply with the terms and conditions to be specified in the registration.
- (2) Where an application for registration is granted, the registration granted shall be subject to such terms and conditions as may be specified in the registration and the Commission shall—

- (a) record the appropriate particulars in the Register, and
 - (b) issue the relevant market participant with a registration permitting it to engage in the electricity activity concerned in accordance with the registration and the terms and conditions specified therein.
- (3) (a) Where the Commission proposes to refuse an application for registration it shall give a written notice of the proposal to refuse to the relevant market participant concerned and the notice shall—
- (i) state the reasons for the proposal to refuse, and
 - (ii) specify the period (being not less than 28 days from the date on which the notice is given) within which representations or objections with respect to the proposal to refuse may be made.
- (b) The Commission shall consider such representations or objections, if any, as are made under paragraph (a) and not withdrawn and shall respond in writing to the relevant market participant concerned in respect of any such representations and objections within a reasonable period of the Commission having received them.
- (c) Where the Commission, having considered such, if any, representations or objections referred to in paragraph (b), decides to refuse to grant the application, it shall give a written notice of the decision to the applicant accordingly and such notice shall state the reasons for the decision and inform the applicant that it may, within a period of 28 days from the date the notice is given, appeal the decision to the Circuit Court.
- (d) On hearing an appeal under paragraph (c) in relation to the decision of the Commission to refuse to grant the application, the Court may either confirm the decision or allow the appeal and where the appeal is allowed, the Commission shall grant the application and subsection (2) shall apply accordingly.

Modification of registration

- 28AF.** (1) Where the Commission is of the opinion that a registration granted to a relevant market participant under this Part, including any terms and conditions specified in the registration, should be modified, it may make such modification in accordance with this section.
- (2) Where the Commission proposes to make a modification under subsection (1), it shall serve a written notice of the proposal on the relevant market participant concerned and the notice shall—
- (a) state the nature of the modification,
 - (b) state the date on which it is proposed the modification is to come into effect, which date shall be stated to be subject to the making of

representations or objections or the taking of an appeal, under this section in respect of the modification,

- (c) state the reasons for the modification, and
 - (d) specify the period (being not less than 28 days from the date on which the notice is given) within which representations or objections with respect to the modification may be made.
- (3) The Commission shall consider any representations or objections which are made under subsection (2)(d) and not withdrawn and shall respond in writing to the relevant market participant concerned in respect of any such representations and objections within a reasonable period of the Commission having received them.
- (4) The Commission, having considered such, if any, representations and objections referred to in subsection (3) shall decide whether or not to make the modification proposed under subsection (2), and, where representations or objections are made and the Commission considers, on foot of those representations or objections, that a modification other than that proposed should be made, it may decide to make that other modification.
- (5) The Commission shall give the relevant market participant a written notice of its decision under subsection (4) and, where its decision is to make the modification proposed under subsection (2) or to make, in accordance with subsection (4), a modification other than that modification, the notice shall state the reasons for that decision and shall inform the relevant market participant of the matters set out in subsections (6) to (8).
- (6) A modification under this section shall come into effect on the day that is 28 days after the date on which the notice referred to in subsection (5) is given, unless an appeal is made under subsection (7), in which case the modification shall not come into effect unless confirmed in accordance with that subsection in which case it shall come into effect in accordance with subsection (8).
- (7) A relevant market participant may, not later than 28 days from the date on which a notice is given under subsection (5), appeal to the Circuit Court and on hearing an appeal under this subsection the Court may confirm or vary the modification or allow the appeal and cancel the modification.
- (8) Where an appeal is taken under subsection (7), the modification shall, unless cancelled by the Court, come into effect on the day next following the day on which the modification is confirmed or varied, on appeal or the appeal is withdrawn, or on such day as is specified by the Court, whichever is later.

Functions of Commission for purpose of ensuring compliance by relevant market participant with registration

- 28AG.** (1) The Commission shall monitor, in accordance with this Act, the compliance by relevant market participants with registrations granted to them and any terms and conditions specified in those registrations (in this section referred to as ‘obligations’).
- (2) If, in the opinion of the Commission, a relevant market participant may not be, or is likely to not be, complying with its obligations, the Commission may give a written notice in accordance with subsection (3) to the relevant market participant concerned.
- (3) A notice under subsection (2) shall—
- (a) specify the acts or omissions that in the opinion of the Commission, may constitute, or would be likely to constitute, a failure to comply with the registration concerned, and
- (b) specify the period (being not less than 28 days from the date on which the notice is given) within which representations or objections may be made.
- (4) The Commission shall consider any representations or objections which are made under subsection (3) and not withdrawn.
- (5) The Commission, having considered any representations or objections, referred to in subsection (4), may make a determination that a relevant market participant is not complying with its obligations.
- (6) The Commission may issue a direction to a relevant market participant where it has made a determination under subsection (5) that a relevant market participant is not complying with its obligations.
- (7) A direction issued under subsection (6) shall specify the acts or omissions that in the opinion of the Commission constitute the failure by the relevant market participant to comply with its obligations and shall direct the relevant market participant to take, within the period of time specified in the direction, such remedial actions as are specified in the direction.
- (8) As soon as practicable after giving a direction under subsection (6), the Commission shall give a written notice of the direction to the relevant market participant concerned.
- (9) A relevant market participant may make representations or objections to the Commission in respect of a direction issued to it under subsection (6) within a period of 28 days from the date on which the notice of the direction is given.
- (10) The Commission shall consider any representations or objections made to it in accordance with subsection (9) and shall respond in

writing to the relevant market participant concerned in respect of any such representations or objections within a reasonable period of the Commission having received them.

- (11) The Commission may withdraw a direction and where it does so it shall give a written notice of the withdrawal to the relevant market participant concerned that sets out the effect of the withdrawal.
- (12) A relevant market participant that is aggrieved by a direction issued to it under subsection (6) may—

- (a) if no representations or objections are made under subsection (9), within the period of 28 days from the date on which the notice of the direction is given, or
- (b) if representations or objections are made under subsection (9), within the period of 28 days from the date of the response of the Commission in respect of those representations or objections,

appeal to the Circuit Court against the direction, and in determining the appeal, the Court may make such order as it considers appropriate, including to confirm, vary or revoke the direction.

- (13) Where a relevant market participant fails to comply in full or in part with a direction issued under subsection (6) within the period specified in the direction or fails to cooperate with the Commission with regard to the direction, and the period within which an appeal may be made under subsection (12) has passed, the Commission may apply to the Circuit Court for an order directing the relevant market participant to comply with the direction.
- (14) Where a direction is issued to a relevant market participant under subsection (6) (in this subsection referred to as the ‘current direction’) and a direction under this section has previously been issued to the market participant concerned (in this subsection referred to as the ‘previous direction’) in circumstances where—
- (a) the previous direction was not withdrawn or revoked by the Circuit Court under this section, or
- (b) an appeal in respect of the previous direction is not awaiting determination by the Circuit Court under this section,

the Commission may, where it considers it necessary to do so, temporarily suspend the registration of the relevant market participant concerned in accordance with this section until the non-compliance with the obligations which is the subject of the current direction has been rectified, and where it does so the Commission shall give a written notice, in accordance with this section, to the relevant market participant of the temporary suspension and the relevant market

participant shall not engage in the activity during the period of the temporary suspension.

- (15) Where the Commission proposes to temporarily suspend a registration, it shall give a written notice to the relevant market participant concerned of the proposal and the notice shall—
 - (a) state the reasons for the proposed temporary suspension, and
 - (b) specify the period (being not less than 28 days from the date on which the notice is given) within which representations or objections with respect to the proposal may be made.
- (16) The Commission shall consider such representations or objections, if any, as are made under subsection (15)(b) and shall respond in writing to the relevant market participant concerned in respect of any such representations and objections within a reasonable period of the Commission having received them.
- (17) Where the Commission, having considered such, if any, representations or objections as are made under subsection (15)(b), decides to temporarily suspend a registration, it shall give a written notice to the relevant market participant concerned of the decision and that notice shall state the reasons for the decision.
- (18) Where the Commission decides to temporarily suspend a registration, the relevant market participant concerned may, not later than 28 days from the date of the notice referred to in subsection (17) is given, appeal to the Circuit Court.
- (19) On hearing an appeal under subsection (18), the Circuit Court may either confirm or vary the decision of the Commission or allow the appeal and annul the decision.
- (20) Where an appeal is taken under subsection (18), the decision of the Commission under subsection (17) shall, unless cancelled by the Circuit Court, take effect on the day following the day on which the decision is confirmed on appeal or the appeal is withdrawn, or on such day as is specified by the Circuit Court, whichever is later.
- (21) Where no appeal is made under subsection (18), the decision of the Commission under subsection (17) shall take effect on the day on which the time allowed for an appeal has elapsed.
- (22) Any decision of the Circuit Court on an appeal under subsection (18) shall be final, save that, an appeal from the decision may be made to the High Court on a specified point of law.
- (23) Sections 23 to 26 shall not apply in respect of the holder of a licence or an authorisation in respect of the obligations of such a person that arise by reason of holding a registration granted under this Part.”.