

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



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FORESHORE ACTS 1933 TO 2011 - GENERAL GUIDANCE NOTES

The Foreshore Acts require that before the commencement of any works or activity (including the erection of any structures) on State-owned foreshore a licence or lease must be obtained from the Minister for Agriculture, Food and the Marine for works undertaken on the foreshore which are deemed to be:

- any function in relation to a fishery harbour centre,
- any function in respect of—
 - (i) an activity which is wholly or primarily for the use, development or support of aquaculture, or
 - (ii) an activity which is wholly or primarily for the use, development or support of sea-fishing including the processing and sale of sea-fish and manufacture of products derived from sea-fish.

Such a lease or licence is subject to an annual rental payable to the Exchequer. Foreshore is the land and seabed between the high water of ordinary or medium tides (shown HWM on Ordnance Survey Maps) and the twelve-mile limit (twelve nautical miles is approximately 22.24 kilometres).

Applicants for a lease or licence are urged to consult the Department well in advance of finalising their proposals. An application for a lease or licence must be accompanied by 10 copies (15 copies if there is a possibility of significant impact on the marine environment and any project requiring an EIS) of each of the following documents and be sent to:

**Foreshore Co-ordination Unit
Aquaculture and Foreshore Management Division,
Department of Agriculture, Food and the Marine
National Seafood Centre,
Clonakilty,
Co. Cork.
P85 TX47**

1. Completed application form **one with original signature**.
2. Ordnance Survey Map of 1:2500 (latest edition) showing the precise area and the hectareage involved below the line of high water of medium tides clearly marked on the Map in distinctive colour. Applicants must certify and date all maps submitted, stating the area of foreshore involved in metric measurements (i.e. hectares or square kilometres etc). Plan, elevation and sectional drawing showing clearly the nature of the proposed works and lines and levels of high and low water of Spring tides.
3. Longitudinal section showing clearly how such works will be laid in relation to the surface of the seabed and having delineated on it the lines and levels of high and low water of Spring tides.
4. Certified copy (only 1 copy required) of the Company's Memorandum and Articles of Association and Certificate of Incorporation of a Limited Liability Company/Rule Book/Constitution for a club or Co-Operative Society as appropriate to the particular circumstance.

Additional copies or any or all documents may be requested to facilitate examination by the Department's specialist advisors.

Applicants are required to publish notice of their proposals in newspapers circulating in the area. The Department will prepare the notice and specify the newspapers in which it should be published. A four week period is allowed for representations and objections to be made to the Minister. The applicant is allowed an opportunity to comment on these before the final report is made to the Minister. The report will detail the proposal, the process that has been gone through, objections and commentary on them, and recommend whether or not to grant a lease or licence and if so under what conditions.

Certain developments are subject to the European Communities (Environmental Impact Assessment) Regulations, 1989 to 1999. An application for any development above the relevant threshold in the Regulations must include an Environmental Impact Statement (EIS). Applicants are encouraged to seek the Department's opinion at the scoping stage of the EIS. An appraisal of the environmental effects of a development below the threshold must be submitted by the applicant to allow the Minister to decide whether it is likely to have significant effects on the environment. Where the decision is "yes" an EIS is mandatory. The public consultation period for an application requiring EIS is 8 weeks and a copy of the EIS must also be provided by the applicant to the consultative bodies named in the European Communities (Foreshore) Regulations 2009 [SI N° 404 of 2009].

Developments on the foreshore require planning permission in addition to a Foreshore Lease/Licence/Permission. All Foreshore Leases, Licences and Permissions are without prejudice to the powers of the local planning authority. Applicants should, therefore, consult initially with the local planning authority

regarding their proposal. In the case of developments on foreshore for, by or on behalf of a Local Authority where an EIS is required, applications should be made to An Bord Pleanála under **Part XV, Planning and Development Act 2000**. 10 copies of any applications made under this Act must be sent to this Department at the time of application to An Bord Pleanála.

Applicants seeking permission to lay an outfall or discharge pipe on the foreshore should also apply to the local authority or the Environmental Protection Agency for a licence under the Local Government (Water Pollution) Acts.

Developments on privately owned foreshore also require the prior permission of the relevant Minister under the Foreshore Acts.

Priority will be given to cases where emergency works are required for the preservation of human life. In such cases the Department should be contacted immediately by an application form with the required documents and drawings made available by whatever means allow for speediest arrival, with an undertaking to comply with any advice or instructions given by the Department. These completed applications would be dealt with as a priority in accordance with standard procedures, but it may be necessary for the Department to require modification of works carried out or their replacement with more permanent works of a design and nature acceptable to the Minister.

The Department of Agriculture, Food and the Marine (Aquaculture and Foreshore Management Division) will be pleased to assist with any enquiries.

Telephone: +353 23 88 59500

Fax: +353 23 88 21782

Email: foreshore@agriculture.gov.ie

Internet: www.agriculture.gov.ie



APPLICATION FOR A LEASE/LICENCE/PERMISSION UNDER THE FORESHORE ACT 1933 (AS AMENDED)*

Please read Guidance Notes before completing this form

USE BLOCK CAPITALS IN BLACK INK

For Office Use

Application Ref. No. _____

Date of receipt.

1. A. Name(s) of Applicant(s) in full

Donegal Co. Council

B. Address(es) of Applicant(s) in full

County House, Lifford, Co. Donegal, F93 Y622

Telephone 074 9153900 Mobile 087 2747097

Fax _____ E-mail info@donegalcoco.ie

RSI/PPS No./CRO No: _____ Date of Birth: _____

C. Signature of Applicant

_____ Date: _____

(where the signatory is an officer of a local authority or a company, the position held should be stated and the signatory's name should also be provided in block capitals).

D. Name of contact person if different from above

Cathal Sweeney

Address Public Services Centre, Drumlonagher,

Donegal Town, Co. Donegal F94 DK6C

Telephone 074 9724481 Mobile 087 2747097

Fax _____ E-mail cathal.sweeney@donegalcoco.ie

*** Legislation Applicable**

Foreshore Act, 1933 (No. 12); Foreshore (Amendment) Act, 1992 (No.17); Fisheries and Foreshore (Amendment) Act, 1993 (No. 54), Fisheries (Amendment) Act, 2003 (No. 21); European Communities (Environmental Impact Assessment Regulations, 1989 to 1999); European Communities (Foreshore) Regulations 2009 (No. 404); Planning and Development Act 2000 (No. 30) Part XV; Foreshore and Dumping at Sea (Amendment) Act 2009 (No. 39); Foreshore (Amendment) Act 2011(No. 11)

E. Name and Address of Applicant's Legal Advisors

(Applicants are strongly advised to seek legal assistance, prior to agreeing to accept an offer of a foreshore lease/licence/permission as all are legally binding documents. Where an offer is made of a Foreshore Lease/Licence/Permission it will be done through the Applicant's Legal Advisors)

[VP McMullin, Donegal Street, Ballybofey, Co. Donegal, F93 DE63](#)

Telephone [074 9131010](tel:0749131010) **Fax**

E-mail bfy@vpmcmullin.com

2. (A) A detailed description of the proposed works which are to be carried out on the foreshore.
(Please feel free to use additional sheets, which should be signed and dated).

Donegal County Council proposes to refurbish and reconstruct the quay wall at Portaleen pier in Glengad. A recent dive survey has indicated extensive undermining and cavities under the existing quay wall and pier. A detailed design is underway to provide a solution that will include elements of structure replacement as well as refurbishment. The work will involve underwater construction as the pier has 2m of water at LAT. Undermining has also been identified at the adjacent slipway and this will also be addressed as part of the works.

(B) A Statement of reason for the works

Portaleen pier is the busiest pier in Co. Donegal in terms of landings of Brown Crab with Lobster and Whelk also landed here. The local Co-Op at Malin Head has an annual turnover in excess of €5m with 60% of this attributed to Portaleen pier. Deep sea angling charters to areas around Inishtrahull and diving Charters to wrecks along the north coast also depart from here. Portaleen pier has had various upgrades in recent years including extension to the slipway, toe rails, extension and decking to boatyard, refurbishment to the pier crane and pier lighting. The community of Portaleen and Glengad are wholly dependant on their fishing industry with 30 - 40 people employed directly and indirectly.

A statement of the disturbance to the foreshore, arising from these works, should be attached covering the impact on the marine environment including the impact on coastal erosion, navigation, fishing, fisheries (various species known to inhabit the area), pleasure boating and sailing, air navigation (if appropriate).

(C) Provide the following location details in respect of the area of foreshore for which the

Lease/Licence/Permission is sought

(i) Bay **Inishtrahull**

(ii) County **Donegal**

(iii) Geographic co-ordinates in degrees, minutes and seconds **55° 19' 10.7"N_7° 10' 26.9"W**

(iv) OS Map No. **0015**

(v) Size (hectares) **0.035 ha**

(vi) Local Authority **Donegal Co. Council**

3. RECORD OF DOCUMENTS ENCLOSED WITH THIS APPLICATION (□)

An application for a lease or licence must be accompanied by 10 copies (15 copies if there is a possibility of significant impact on the marine environment and any project requiring an EIS) of all relevant documents.

- (i) **Ordnance Survey Map (Scale of 1:2500)** □
Applicants must certify and date all maps submitted, stating the area of foreshore involved in metric measurements (i.e. hectares or square kilometres etc) with the area involved clearly delineated in red thereon.
- (ii) **British Admiralty Chart (largest available scale)** □
- (iii) **Decision of planning authority or An Bord Pleanála under Planning Acts (Required)** □
Developments on the foreshore require planning permission in addition to a Foreshore Lease/Licence/Permission. All Foreshore Leases, Licences and Permissions are without prejudice to the powers of the local planning authority. Applicants should, therefore, consult initially with the local planning authority regarding their proposal.
- (iv) **Copy of licence under Section 4 of Local Government Water Pollution Act, 1977** □
- (v) **Environmental Impact Statement** □
- (vi) **Drawings of the structures to be used and/or layout** □
- (vii) **Copy of any correspondence with the Department of Culture, Heritage and the Gaeltacht (Heritage and Planning Division)** □
- (viii) **Certified copy of Company's Memorandum and Articles of Association (Only one copy is required)** □
- (ix) **Certificate of Incorporation of a Limited Liability Company/ Rule Book/Constitution for a Club or Co-Operative Society as appropriate** □
- (x) **Other (specify)** _____

(Note: It may not be necessary to include all of the above documents please refer to the accompanying "Guidance Notes".

4. Details of any previous Leases/Licences/Permissions received by the applicant for this or any adjoining sites (if appropriate)

- (i) **Date of Lease/Licence/Permission** N/A
- (ii) **Reference number(s)** _____

5. **Is all or any part of the Foreshore (the subject of this application) in private ownership?**
(This search should be carried out in the Registry of Deeds and Land Registry and copies of results, including where appropriate, folio maps should be included).

If yes, please provide details of ownership. **N/A**

Have adjacent land owners, whose properties may be affected by these works been consulted?
Please provide details/permissions as appropriate.

All Local Fishing Groups have been consulted and are supportive of the proposed refurbishment.

6. **Employment Implications (if any)** **This work will support fishing, improve facilities, address safety concerns and therefore support fish handling and processing/transport employment locally.**

7. **Capital cost of proposed works (€ - Euro)** **550k**

8. **Do the proposed works involve the draw down of European Union or State funding?**

If "Yes" give details, including any time restrictions, etc. applying

The Brexit Adjustment: Local Authority Marine Infrastructure Scheme 2022-2023 administered by the Dept. of Agriculture, Food and the Marine have confirmed funding on the basis that all works are completed by November 2023

9. **Do the proposed works provide for public use, restricted use or strictly private use? (give details)**
All for public use

10. Are there public health/safety implications arising from the proposed works? (e.g. effluent disposal, removal of derelict or dangerous structures etc.) **No, all works will be carried out in a controlled manner with particular regard to the environment and sea life.**

10a. Are there public navigational safety implications arising from the proposed works? **All mariners and fishermen will be informed of the works in advance with navigation warnings also issued. The work areas will be identified and buoyed off to safeguard vessels in the vicinity.**

1. What marine activity is there in the area? **Year round fishing of shellfish from Portaleen pier mainly for brown crab but also lobster and whelk.**

2. How will the marine activity be affected by the proposed works? **There will be slight disruption during construction works, however, these works are necessary to safeguard future safe access to the pier. Access will be maintained throughout the works and measures will be taken to prevent any pollution or disruption of nearby foreshore during the works.**

3. What mitigating measures will be put in place? **Precast concrete caisson units will be used under water to prevent pollution. All plant and equipment will be monitored for leaks and will be maintained in good condition throughout the works.**

4. How will the proposed works affect Marine Navigation in the future? **There will be no long term impact on navigation as these works only involve refurbishment of existing quay wall**

11. Will the works involve the storage and/or disposal of waste? **Some construction materials may be stored on site for short periods. All construction waste will be disposed of at licensed facilities. The works will not produce any dredged material or sediment for disposal.**_____

If “Yes” please give details of the type of waste and the proposed method of storage and/or disposal (including location)

All waste will be disposed of using licensed waste disposal contractors.

**Certain developments are subject to the European Communities (Environmental Impact Assessment) Regulations, 1989 to 1999. It is the responsibility of the applicant to consult and comply with these Regulations. Where the relevant threshold in the Regulations is exceeded an application for permission under the Foreshore Acts must include an Environmental Impact Statement (EIS). Applicants are encouraged to seek the Department’s opinion at the scoping stage of the EIS.*

An appraisal of the environmental effects of a development below the threshold must be submitted by the applicant to allow the Minister to decide whether it is likely to have significant effects on the environment. Where the decision is “yes” an EIS is mandatory.

In the case of developments on foreshore for, by or on behalf of a Local Authority where an EIS is required, applications should be made to An Bord Pleanála under Part XV, Planning and Development Act, 2000. 10 copies of any applications made under this Act must be sent to this Department at the time of application to An Bord Pleanála.

Note: While every effort will be made to deal promptly with applications, priority will be given to dealing with applications involving public infrastructure, public health, public use and those having employment implications.

Data Protection Notice:

Part A:

Information applicable to all Department of Agriculture, Food and the Marine customers:

1. The Department of Agriculture, Food and the Marine is fully committed to keeping all personal data submitted by its customers, fully safe and secure during administrative processes. All necessary technical measures have been put in place to ensure the safety and security of the systems which hold this data. Department staff are also considered as customers of the Department from a Data Protection perspective and may exercise their data protection rights in the same way.

2. Transparency and openness in the use of personal data held is important to the Department and therefore we aim to fully inform all our customers about the purpose(s) for which their data will be used and why, where it may be shared elsewhere, and why and how long their data may be held by the Department. Information on the rights of customers will also be provided.

3. The current legislation for Data Protection in Ireland is the Data Protection Act 1998 as amended by the 2003 Data Protection Act. The General Data Protection Regulations (EU 2016/679) will come into effect on 25 May 2018.

4. The Data Controller for the collection and processing of all personal data in the Department of Agriculture, Food and the Marine is the Department itself, as a legal entity.

5. The Data Protection Officer can be contacted as follows:

Data Protection Officer
Data Protection Unit, Corporate Affairs
Department of Agriculture, Food and the Marine
Grattan Business Park, Dublin Road,
Portlaoise, Co Laois.
Email: dataprotectionofficer@agriculture.gov.ie

6. Personal data processed by the Department will only be used for the specific purpose(s) as outlined when the data is collected, or in later communications, and will only be used in accordance with the Data Protection legislation in force.

7. Rights of the individual in relation to personal data held by the Department:

When you, as a customer, provide personal data to the Department you have certain rights available to you in relation to that data. These rights are outlined below and can be exercised by contacting the Data Protection Officer, as detailed above, indicating which right(s) you wish to exercise:

Currently our customers have the following rights (up to 24 May 2018):

- access to their data
- rectification of their data
- erasure of their data
- right to lodge a complaint with the Supervisory Authority

From 25 May 2018 onwards all Department customers will also have the following additional rights:

- restriction of processing
- data portability
- objection to processing
- withdraw consent if they previously gave it in relation to processing of their personal data
- relating to automated decision making, including profiling.

Part B – Information specific to the personal data being collected

The following data is specific information in relation to the personal data processed for a *Foreshore Licence application*:

8. Specified purpose:

The personal data sought from you, the applicant, is required for the purpose of making an application for a Foreshore lease/licence/permission. Failure to provide all the personal data required to facilitate the processing of the application, including data testing, will result in the Department being unable to process the application.

9. Legal basis:

Foreshore Act 1933-2011

EU Habitats Directive of 92/43/EEC

EU Birds Directive 79/409/EEC

Consolidated Environmental Impact Assessment Directive 2011/92/EU and Directive 2014/52/EU

Public Participation Directive (Aarhus Convention)

10. Recipients:

If an Environmental Impact Assessment (EIA) Screening is required, the following agencies will participate and are provided with details of your application as part of this process:

- Bord Iascaigh Mhara
- Marine Institute.

The following consultees are contacted by the Department to provide observations on your application for a foreshore lease/licence/permission:

- Bord Iascaigh Mhara
- Marine Institute
- the Minister for Housing, Planning and Local Government
- the Minister for Culture, Heritage and the Gaeltacht
- Sea Fisheries Protection Authority
- Inland Fisheries Ireland (IFI)
- Marine Survey Office of the Minister for Transport, Tourism and Sport

The Valuation Office is contacted to provide a valuation of the area of foreshore pertaining to lease/licence/permission application.

The Chief State Solicitor's Office is involved in drafting a commercial contract covering your use of the foreshore.

Details pertaining to your application and the foreshore lease/licence/permission (if granted) are published in local newspapers, Iris Oifigiúil, and on the Department's website, as required under the Public Participation Directive (Aarhus Convention).

11. Transferred outside the EU:

Not applicable.

12. Retention Period:

The data collected for this purpose will be held by the Department only as long as there is a business need to do so in line with the purpose(s) for which it was collected. After this time it will be marked for destruction and will be destroyed in line with internal guidelines or guidelines for destruction received from the National Archives Office or associated permissions received from them.

13. Data provision being statutory or contractual obligation:

The data provided for this purpose is requested under the requirements of the following legislation:

Foreshore Act 1933-2011

EU Habitats Directive of 92/43/EEC

EU Birds Directive 79/409/EEC

Public Participation Directive (Aarhus Convention)

The client is obliged to provide this information to enable the Aquaculture and Foreshore Management Division to process an application for a Foreshore licence.

If the customer chooses not to provide this information the application for a Foreshore licence cannot proceed.

14. Automated Decision Making:

Not applicable.

15. Information from Third Party:

Personal data in relation to an Aquaculture and Foreshore licence application is obtained from the applicant in line with this Department's requirement to process your application. In circumstances where this Department did not gather your personal data you are still entitled to exercise your rights in relation to this personal data and the details on how to exercise individuals rights are detailed above.

16. Technical information on data collected:

Technical information on the cookies used on our Department's website is available at the following link: <https://www.agriculture.gov.ie/legalnotices/privacy/>