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**An Bille um Sheirbhísí Uisce (Uimh. 2), 2013**  
**Water Services (No. 2) Bill 2013**

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*Mar a tionscnaíodh*

*As initiated*

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**AN BILLE UM SHEIRBHÍSÍ UISCE (UIMH. 2), 2013**  
**WATER SERVICES (NO. 2) BILL 2013**

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# Bill

*entitled*

An Act to make provision for, and in relation to, the imposition of charges by Irish Water in respect of the provision by Irish Water of water services; to provide for the transfer, in part, of the functions of water services authorities under the Water Services Act 2007 to Irish Water; to repeal the Local Government (Delimitation of Water Supply Disconnection Powers) Act 1995, certain provisions of the Water Services Act 2013 and, for certain purposes, certain provisions of the Water Services Act 2007; to amend the Water Services Act 2007 and certain other enactments; and to provide for matters connected therewith. 5 10

**Be it enacted by the Oireachtas as follows:**

## PART 1

### PRELIMINARY AND GENERAL 15

#### **Short title, collective citation and commencement**

1. (1) This Act may be cited as the Water Services (No.2) Act 2013.
- (2) The Water Services Acts 2007 and 2012, the Act of 2013 and this Act may be cited together as the Water Services Acts 2007 to 2013.
- (3) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 20

#### **Definitions**

2. In this Act— 25
  - “Act of 2000” means the Planning and Development Act 2000;
  - “Act of 2001” means the Local Government Act 2001;
  - “Act of 2007” means the Water Services Act 2007;
  - “Act of 2013” means the Water Services Act 2013;

“Agency” means the Environmental Protection Agency;	
“city council” has the same meaning as it has in the Act of 2001;	
“Commission” means the Commission for Energy Regulation;	
“county council” has the same meaning as it has in the Act of 2001;	
“customer” means, in relation to the provision of water services, the occupier of the premises in respect of which the water services are provided;	5
“enactment” has the same meaning as it has in the Interpretation Act 2005;	
“EU Water Framework Directive” has the same meaning as it has in the Act of 2007;	
“excluded provision” means a provision of Part 4A or Part 6 (other than sections 91 and 92) of the Act of 2007;	10
“investment plan” has the meaning assigned to it by <i>section 27</i> ;	
“land” has the same meaning as it has in the Act of 2007;	
“local authority” means—	
(a) a city council, or	
(b) a county council;	15
“Minister” means the Minister for the Environment, Community and Local Government;	
“occupier” means, in relation to a premises, the person for the time being entitled to the occupation of the premises;	
“pipe” has the same meaning as it has in the Act of 2007;	
“planning authority” has the same meaning as it has in the Act of 2000;	20
“premises” has the same meaning as it has in the Act of 2007 and includes part of a premises;	
“property” includes—	
(a) land, equipment, pipes, sewers, structures, waterworks and waste water works, and	25
(b) moneys, stocks, shares and securities,	
but does not include storm water sewers;	
“sanitary authority” means a sanitary authority for the purposes of the Local Government (Sanitary Services) Acts 1878 to 2001;	
“sewer” has the same meaning as it has in the Act of 2007;	30
“storm water” has the same meaning as it has in the Act of 2007;	
“storm water sewer” means any pipe or other conduit used solely for the conveyance of storm water;	
“structure” has the same meaning as it has in the Act of 2007;	
“transfer day” shall be construed in accordance with <i>section 6</i> ;	35



“waste water works” has the same meaning as it has in the Act of 2007;

“water charges plan” has the meaning assigned to it by *section 17*;

“waterworks” has the same meaning as it has in the Act of 2007.

### **Expenses**

3. 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 moneys provided by the Oireachtas. 5

### **Repeals**

4. (1) Sections 17, 27, 30, 36, 37, 38, 40, 49, 52, 99, 102, 105 and 106 of the Act of 2007 are repealed. 10
- (2) Sections 12 and 20 of the Act of 2013 are repealed.
- (3) The Local Government (Delimitation of Water Supply Disconnection Powers) Act 1995 is repealed.
- (4) The repeal of the provisions of the Act of 2007 effected by *subsection (1)* shall not have effect for the purposes of the operation of an excluded provision. 15

## **PART 2**

### **TRANSFER OF FUNCTIONS, PROPERTY AND STAFF**

#### **Definitions in this Part**

5. In this Part—
- “property vesting day” has the meaning assigned to it by *section 12(1)*; 20
- “water services authority” has the same meaning as it has in the Act of 2007.

#### **Transfer day**

6. The Minister shall, by order, appoint a day to be the transfer day for the purposes of this Act.

#### **Transfer of functions from water service authorities to Irish Water** 25

7. (1) Subject to *section 10*, all functions conferred on water services authorities by the Act of 2007 (other than an excluded provision) shall, on the transfer day, stand transferred to Irish Water.
- (2) References to a water services authority or relevant water services authority in—
- (a) the Act of 2007 or in any instrument made under that Act, or 30
- (b) any other enactment (other than the Act of 2013) or instrument under any other enactment,

in so far as they relate to any function transferred by this Act, shall on and after the transfer day, be construed as references to Irish Water.

- (3) All functions of sanitary authorities deemed to be functions of a water services authority under section 39 of the Act of 2007 shall, on the transfer day, be transferred to Irish Water. 5
- (4) References to a sanitary authority in any enactment or instrument under any enactment shall, on and after the transfer day, in so far as they relate to any function transferred by *subsection (3)*, be construed as references to Irish Water.

#### **Transfer of functions under certain other enactments to Irish Water**

8. (1) The functions of a local authority under section 2 of the Local Government (Financial Provisions) (No. 2) Act 1983 shall, on the transfer day and in so far only as that section relates to the Act of 2007, stand transferred to Irish Water and, accordingly, references in that section to a local authority shall be construed as including references to Irish Water. 10
- (2) The functions of a sanitary authority under section 65A (amended by section 12 of the Local Government (Financial Provisions) Act 1997) of the Public Health (Ireland) Act 1878 shall, on the transfer day stand transferred to Irish Water and, accordingly, references in that section to a sanitary authority shall be construed as references to Irish Water. 15
- (3) This section shall cease to have effect upon the commencement of *section 16*. 20

#### **Immunity**

9. Section 29 of the Act of 2007 shall apply to Irish Water as it applies to a water services authority, and accordingly references in that section to a water services authority shall be construed as including references to Irish Water.

#### **Continuance of certain functions of water service authorities** 25

10. Functions transferred to Irish Water under *section 7* shall, on and after the transfer day continue to be performable by a water services authority for the purposes of the performance of its functions under an excluded provision and, accordingly, for those purposes references in the Act of 2007 that, by virtue of *subsection (2)* of *section 7*, are to be construed as references to Irish Water shall be construed as including references to a water services authority. 30

#### **Provisions consequent upon transfer of functions to Irish Water**

11. (1) Anything commenced and not completed before the transfer day by or under the authority of a water services authority or a sanitary authority may, in so far as it relates to a function transferred to Irish Water on that day be carried on or completed on and after that day by Irish Water. 35
- (2) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by *section 7*, shall, if and in so far as it was operative immediately before the transfer day, have

effect on and after that day as if it had been granted or made by Irish Water.

- (3) References to a water services authority in the memorandum or articles of association of any company in so far as they relate to a function transferred by *section 7*, shall, on and after the transfer day, be construed as references to Irish Water.
- (4) Any money, stocks, shares or securities designated by an order under *section 12* that immediately before the property vesting day appointed by that order were standing in the name of a water services authority shall, on the request of Irish Water be transferred into its name. 5
- (5) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in Irish Water pursuant to an order under *section 12* or *14* shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes. 10

### **Transfer of property of water services authorities**

12. (1) The Minister may, on or after the transfer day, from time to time, by order, appoint a day (in this Part referred to as a “property vesting day”) for the purposes of this section and different property vesting days may be so appointed in relation to— 15
  - (a) different water services authorities, and
  - (b) different property or class or classes of property of a water services authority.
- (2) An order under this section shall designate such property or class or classes of property of a water services authority as the Minister may determine for the purposes of this section. 20
- (3) The Minister may request a water services authority to furnish him or her with such information as he or she may require for the purposes of his or her deciding whether or not to make an order under *subsection (1)*.
- (4) A water services authority shall comply with a request under *subsection (3)* not later than 3 months from its having received the request. 25
- (5) On a property vesting day any land designated by the order by which that property vesting day was appointed and all rights, powers and privileges relating to or connected with such land shall, without any conveyance or assignment, stand vested in Irish Water for all the estate or interest therein that, immediately before that day, was vested in the water services authority concerned, but subject to all trusts and equities affecting the land continuing to subsist and being capable of being performed. 30
- (6) On a property vesting day all property (other than land), including choses-in-action, designated by the order by which the property vesting day was appointed that immediately before that day, was vested in the water services authority concerned shall, without any assignment, stand vested in Irish Water. 35
- (7) Every chose-in-action vested in Irish Water by virtue of *subsection (6)* may, on and after the property vesting day concerned, be sued on, recovered or enforced by Irish Water in its own name, and it shall not be necessary for Irish Water or the water services authority concerned to give notice to any person bound by the chose-in-action of the vesting effected by that subsection. 40

- (8) Any moneys received by a planning authority in accordance with section 48 or 49 of the Act of 2000 and vested in Irish Water pursuant to an order under this section, shall be expended by Irish Water for the purposes of the provision of water services in the functional area of that planning authority.
- (9) Section 183 of the Act of 2001 shall not apply to the vesting of land under this section. 5
- (10) In this section—
  - “borough council” means a body specified in Chapter 1 of Part 1 of Schedule 6 to the Act of 2001;
  - “town council” has the same meaning as it has in the Act of 2001; 10
  - “water services authority” includes a town council and a borough council.

**Transfer of rights and certain liabilities, and continuation of leases, licences and permissions granted by water services authorities**

- 13. (1) All rights and liabilities of a water services authority—
  - (a) subsisting immediately before a property vesting day, and 15
  - (b) arising by virtue of any contract or commitment (expressed or implied) relating to any land or other property designated by the order under *section 12* that appointed that day,
 shall on that day stand transferred to Irish Water.
- (2) Every right and liability transferred by *subsection (1)* to Irish Water may, on and after the property vesting day on which the right or liability stood transferred, be sued on, recovered or enforced by or against Irish Water in its own name, and it shall not be necessary for Irish Water or the water services authority concerned to give notice of its transfer to the person whose right or liability is transferred by that subsection. 20
- (3) Every lease, licence, wayleave or permission granted by a water services authority in relation to land or other property vested in Irish Water by or under this Act, and in force immediately before the property vesting day concerned, shall continue in force as if granted by Irish Water. 25

**Transfer of other liabilities**

- 14. (1) The Minister may, from time to time, appoint a day by order for the purposes of this section, and different days may be so appointed in relation to— 30
  - (a) different water services authorities, or
  - (b) different liabilities or classes of liability.
- (2) All liabilities of a water services authority—
  - (a) subsisting immediately before such day as may be appointed by order under this section, and 35
  - (b) arising by virtue of any contract or commitment (expressed or implied) designated by that order,

shall on that day stand transferred to Irish Water.

- (3) Every liability transferred by *subsection (1)* to Irish Water may, on and after the day on which the liability stood transferred, be enforced against Irish Water in its own name, and it shall not be necessary for Irish Water or the water services authority concerned to give notice of its transfer to any person. 5

### **Transfer of staff**

- 15.** (1) A local authority may after consultation with Irish Water, designate for employment by Irish Water such members of its staff as it considers appropriate.
- (2) (a) A local authority shall, not later than 6 months before making a designation under this section in respect of a member of its staff, notify the member in writing that it proposes to make such a designation and that he or she or any trade union of which he or she is a member may, within such period as is specified in the notification, make representations to the local authority in respect of the proposal. 10
- (b) A local authority shall, before making a designation under this section in respect of a member of its staff consider any representations made in accordance with the notification under *paragraph (a)* by or on behalf of the member. 15
- (3) Irish Water shall accept into its employment on an employment transfer day each person who immediately before that day—
- (a) stood designated under this section for employment by Irish Water, and
- (b) was a member of the staff of the local authority to which that employment transfer day applies, 20
- on such terms and conditions of service relating to remuneration as (save in accordance with a collective agreement negotiated with a recognised trade union or staff association) are not less favourable than the terms and conditions of service relating to remuneration to which the person was subject immediately before that day. 25
- (4) In relation to persons accepted into the employment of Irish Water in accordance with this section, previous service with a local authority shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the Redundancy Payments Acts 1967 to 2012, the Protection of Employees (Part-Time Work) Act 2001, the Organisation of Working Time Act 1997, the Minimum Notice and Terms of Employment Acts 1973 to 2005 and the Unfair Dismissals Acts 1977 to 2007. 30
- (5) In this section “employment transfer day” means, in relation to a member of staff of a local authority to whom a designation by that local authority under this section applies, such day as may be specified in writing by the Minister.

## PART 3

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### WATER CHARGES

#### **Power to charge for water services**

- 16.** (1) Subject to *subsection (6)*, Irish Water shall charge each customer for the provision by

it of water services.

- (2) The amount of a charge under *subsection (1)* shall be calculated by Irish Water in accordance with the approved water charges plan.
- (3) A charge under this section shall be payable on demand by the customer concerned in such manner and in respect of such period or periods as Irish Water shall determine in accordance with the approved water charges plan. 5
- (4) Where a customer fails to pay a charge under this section, it shall be recoverable by Irish Water as a simple contract debt in any court of competent jurisdiction.
- (5) It shall be presumed, unless the contrary is proved, that the owner of a premises is also the occupier of that premises. 10
- (6) This section shall not apply to water services provided to a fire authority within the meaning of the Fire Services Act 1981.
- (7) Subject to *subsection (8)*, Irish Water may reduce or discontinue the supply of water to a premises where a charge under this section in respect of the premises remains wholly or partly unpaid for such period of time as may be specified in the approved water charges plan. 15
- (8) Irish Water shall not, by reason of a charge in respect of a dwelling being wholly or partly unpaid, discontinue the supply of water to that dwelling either temporarily or permanently.
- (9) In this section— 20
  - “approved water charges plan” means a water charges plan approved under *subsection (9)* of *section 17*;
  - “dwelling” means a premises occupied by a person as his or her place of private residence (whether or not as his or her principal private residence);
  - “owner” has the same meaning as it has in the Act of 2007. 25

### **Water charges plan**

17. (1) Irish Water may, from time to time, and shall when so directed by the Commission, prepare and submit to the Commission a plan (in this Act referred to as a “water charges plan”) for the charging of customers for the provision of water services.
- (2) A water charges plan shall apply in respect of such period as the Commission shall direct. 30
- (3) A water charges plan shall specify the manner and method by which charges under *section 16* shall be calculated.
- (4) (a) A water charges plan may, where the quantity of water supplied to a premises is measurable by a meter, make provision for charges under *section 16* to be calculated by reference to the quantity of water supplied to, and the quantity of waste water discharged from, that premises. 35
- (b) A water charges plan may, where the quantity of water supplied to a premises is not so measurable, make provision for charges under *section 16* to be calculated by reference to— 40

- (i) an assessment of the quantity of water supplied to the premises concerned, and
  - (ii) an assessment of the amount of waste water discharged from the premises concerned,
- determined by the application of such formula as is specified in the plan. 5
- (5) A water charges plan may make provision for charges under *section 16* in respect of the provision of a service connection (within the meaning of the Act of 2007) to or in respect of a premises.
- (6) A water charges plan may specify different methods as respects the calculation of charges under *section 16* in respect of different classes of customer. 10
- (7) A water charges plan may specify different methods of payment in respect of charges under *section 16*.
- (8) Irish Water shall, when preparing a water charges plan take account of the following matters:
- (a) the need to ensure that Irish Water performs its functions in a commercially viable manner; 15
  - (b) the public utility nature of its functions; and
  - (c) the need to maintain a balance between the matters referred to in *paragraphs (a) and (b)*.
- (9) The Commission may, having regard to the most recent investment plan provided to the Commission under *subsection (8) of section 27*— 20
- (a) approve a plan under this section with or without modifications, or
  - (b) refuse to approve such a plan.
- (10) For the purposes of calculating a charge under *section 16*, the amount of waste water discharged from a premises is deemed to be equal to the amount of water supplied to that premises, unless Irish Water and the customer agree otherwise. 25

## PART 4

### IRISH WATER

#### **Definitions in this Part**

- 18.** In this Part— 30
- “regional body” means a body established by order under section 43 of the Local Government Act 1991;
- “regional planning guidelines” has the same meaning as it has in the Act of 2000;
- “water services strategic plan” has the meaning assigned to it by *section 26*.

## **Memorandum of association and articles of association of Irish Water**

19. (1) Irish Water shall take such steps as may be necessary under the Companies Acts to alter its memorandum of association and articles of association for the purpose of making them consistent with this Act.
- (2) Notwithstanding anything contained in the Companies Acts, no alteration of the memorandum of association or articles of association of Irish Water shall be valid or effectual unless made with the prior approval of the Minister given with the consent of the Minister for Communications, Energy and Natural Resources and the Minister for Public Expenditure and Reform. 5

## **Directions of Minister**

20. (1) The Minister may give a direction in writing to Irish Water, in relation to the performance by Irish Water of its functions under this Act, requiring it to comply with such policies of the Government as are specified in the direction. 10
- (2) The Minister may, by direction in writing, amend or revoke a direction under this section (including a direction under this subsection). 15
- (3) The Minister shall not give a direction under this section without first consulting the Minister for Communications, Energy and Natural Resources.
- (4) Irish Water shall comply with a direction given to it under this section.

## **Staff**

21. (1) Irish Water may appoint such and so many persons to be members of its staff as it may from time to time determine. 20
- (2) The terms and conditions of service of the staff of Irish Water appointed under this section shall be such as may be determined from time to time by Irish Water.
- (3) There shall be paid by Irish Water to the members of its staff appointed under this section such remuneration and allowances as, from time to time, Irish Water determines. 25
- (4) Irish Water shall, in determining the remuneration or allowances for expenses to be paid to members of its staff appointed under this section or the other terms or conditions subject to which such members hold or are to hold their employment, have regard to Government or nationally agreed guidelines that are for the time being extant and to Government policy concerning remuneration and conditions of employment which is so extant and, in addition to the foregoing, Irish Water shall comply with any directives with regard to such remuneration, allowances, terms or conditions which the Minister may give to Irish Water with the consent of the Minister for Public Expenditure and Reform. 30
- (5) In this section “remuneration” includes superannuation. 35

## **Superannuation**

22. (1) As soon as may be after the commencement of this section, Irish Water shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation



- benefits to or in respect of persons who were accepted into the employment of Irish Water in accordance with *section 15*.
- (2) Every such scheme shall fix the time and conditions of retirement for all persons to, or in respect of whom, superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons. 5
  - (3) Irish Water may at any time prepare and submit to the Minister a scheme amending or revoking a scheme previously submitted and approved under this section.
  - (4) A scheme or amending scheme submitted to the Minister under this section shall, if approved by the Minister with the consent of the Minister for Public Expenditure and Reform, be carried out by Irish Water in accordance with its terms. 10
  - (5) (a) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit pursuant to a scheme under this section, such dispute shall be submitted to such person and determined in such manner as may be specified in the scheme.
  - (b) A scheme under this section shall make provision for an appeal from a determination of a person referred to in *paragraph (a)* to such other person as may be specified in the scheme. 15
  - (6) A superannuation benefit shall not be granted by Irish Water to or in respect of any persons who are members of a scheme under this section and no other arrangement shall be entered into for the provision of any superannuation benefit to such persons on their ceasing to hold office, other than in accordance with such scheme or schemes submitted and approved under this section or an arrangement approved by the Minister and the Minister for Public Expenditure and Reform. 20
  - (7) (a) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association and approved by the Minister with the consent of the Minister for Public Expenditure and Reform, a scheme under this section shall as respects a person accepted into the employment of Irish Water in accordance with *section 15*, provide for the granting to or in respect of him or her of superannuation benefits upon and subject to such terms and conditions as are not less favourable and not more favourable to him or her than the terms and conditions in relation to the grant of such benefits that applied to him or her immediately before he or she was so accepted into the employment of Irish Water. 25
  - (b) Any period of service by a person as an officer of the Minister that was a period of reckonable service for the purposes of a scheme for the granting of superannuation benefits to or in respect of officers of the Minister shall be regarded as a period of reckonable service for the purposes of any scheme under this section. 30
  - (c) Any period of service by a person as a member of the staff of a local authority that was a period of reckonable service for the purposes of a scheme for the granting of superannuation benefits to or in respect of members of the staff of a local authority shall be regarded as a period of reckonable service for the purposes of any scheme under this section. 35
  - (8) Where, in the period beginning on the date on which a person was accepted into the employment of Irish Water in accordance with *section 15* and ending immediately

before the commencement of a scheme under this section, a superannuation benefit falls due for payment to or in respect of a person so accepted into the employment of Irish Water, the benefit shall be calculated and paid by Irish Water in accordance with such scheme, arrangements or enactments in relation to superannuation, as applied to the person immediately before the said date and, for that purpose, his or her pensionable service with Irish Water shall be aggregated with his or her previous pensionable service. 5

- (9) The Minister shall cause every scheme submitted and approved under this section to be laid before each House of the Oireachtas as soon as may be after it is approved, and if either such House, within the next 21 days on which that House sits after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to anything previously done thereunder. 10

### **Payments to Irish Water in respect of superannuation**

23. (1) The Minister shall, for the purposes of defraying the cost to Irish Water of paying superannuation benefits to or in respect of members of the staff of a local authority accepted into the employment of Irish Water in accordance with *section 15*, pay to Irish Water a sum equal to the cost that the local authority would incur were it liable to pay superannuation benefits to or in respect of those members of staff upon their retirement from Irish Water or death and calculated on the basis that their pensionable service and pensionable remuneration upon retirement or death remained the same as their pensionable service with the local authority immediately before the date of their being so accepted into the employment of Irish Water. 15 20
- (2) The Minister shall, for the purposes of defraying the cost to Irish Water of paying superannuation benefits to or in respect of officers of the Minister accepted into the employment of Irish Water in accordance with *section 15*, pay to Irish Water a sum equal to the cost that the Minister would incur were he or she liable to pay superannuation benefits to or in respect of those persons upon their retirement from Irish Water or death and calculated on the basis that their pensionable service and pensionable remuneration upon retirement or death remained the same as their pensionable service as officers of the Minister immediately before the date of their being so accepted into the employment of Irish Water. 25 30
- (3) A sum payable to Irish Water under *subsection (1) or (2)* may be paid in such instalments and at such intervals—
- (a) as may be agreed by the Minister with Irish Water, or
- (b) in the absence of an agreement under *paragraph (a)*, as may be determined by the Minister. 35

### **Performance of functions by local authorities on behalf of Irish Water**

24. (1) Irish Water may make an agreement with a local authority for the performance on behalf of Irish Water by that local authority of such functions of Irish Water as may be specified in the agreement. 40
- (2) The Minister may, by direction in writing, require Irish Water and a local authority to make an agreement with one another for the performance on behalf of Irish Water by

- that local authority of such functions of Irish Water as may be specified in the direction.
- (3) Both Irish Water and a local authority to whom a direction under *subsection (2)* is given shall comply with that direction.
  - (4) Irish Water and a local authority may make a further agreement in respect of any period after the expiration of an agreement between them first made under *subsection (1)*. 5
  - (5) Irish Water and each local authority with whom it has made an agreement to which *subsection (1)* or *(2)* applies shall—
    - (a) not later than 2 years after the making of the agreement conduct a review of the operation of the agreement, and 10
    - (b) not later than 7 years after the making of the agreement conduct a further review of the operation of the agreement.
  - (6) Without prejudice to the generality of *subsections (1), (2)* and *(4)* an agreement to which any of those subsections applies may include provision in relation to the following: 15
    - (a) the reimbursement of the local authority by Irish Water in respect of expenditure incurred by the local authority in the performance of functions pursuant to the agreement;
    - (b) standards that the local authority shall meet in the performance of those functions; 20
    - (c) the resolution of disagreements between the local authority concerned and Irish Water in relation to the performance of those functions; and
    - (d) the performance by a local authority of functions of Irish Water in, or in relation to, the administrative area of another local authority. 25
  - (7) The functions of Irish Water shall be performable on behalf of Irish Water by a local authority with whom it has made an agreement under *subsection (1)* or *(4)* or pursuant to a direction under *subsection (2)*—
    - (a) in accordance with that agreement (including any limitations specified in the agreement as to the area, period in which, or extent to which the local authority shall perform those functions), and 30
    - (b) for the period only in respect of which the agreement remains in effect.
  - (8) A provision of or under this Act or any other enactment (whether passed or made before or after the passing of this Act) that vests functions in Irish Water or regulates the manner in which any function is to be performed shall have effect, for the purposes of the performance of that function by the local authority in accordance with *subsection (7)*, and references in any such provision to Irish Water shall for the purposes of the performance of the function by the local authority be construed as including references to the local authority. 35

## Codes of practice

25. (1) Irish Water shall, as soon as practicable after the transfer day, prepare and submit to the Commission a code or codes of practice in accordance with this section.
- (2) A code of practice under this section shall make provision in relation to the following:
- (a) standards in relation to the performance by Irish Water of its functions; 5
  - (b) billing by Irish Water of persons in respect of water services provided;
  - (c) methods of payment of water charges;
  - (d) the provision of information to customers of Irish Water for the purposes of enabling customers to communicate with Irish Water;
  - (e) the making of complaints to Irish Water by customers in relation to the provision of water services, the standards of such services or the contesting of the amount of a charge; 10
  - (f) the recording of matters to which *paragraph (e)* relates including retention of records to which that paragraph relates;
  - (g) any other matters that the Commission considers necessary and appropriate to secure the interests of customers of Irish Water. 15
- (3) The Commission may—
- (a) approve a code of practice under this section with or without modification, or
  - (b) refuse to approve such a code of practice.
- (4) Irish Water shall publish a code of practice approved under this section on the internet. 20
- (5) The Commission may direct Irish Water to comply with a code of practice approved under this section or a provision of a code of practice so approved.
- (6) Irish Water shall comply with a direction under *subsection (5)*.

## Water services strategic plan

25

26. (1) Irish Water shall—
- (a) after consultation with the Commission, the Agency, each local authority and each regional body, and
  - (b) not later than such date as the Minister may direct,
- prepare and submit to the Minister a plan (in this Part referred to as a “water services strategic plan”) in accordance with this section. 30
- (2) Irish Water may—
- (a) after consultation with the Commission, the Agency, each local authority and each regional body, and
  - (b) at any time during the period to which a water services strategic plan approved under this section relates, 35

prepare and submit to the Minister a plan (in this Part also referred to as a “water services strategic plan”) amending or replacing the first-mentioned water services strategic plan.

- (3) A water services strategic plan shall be in such form as the Minister shall direct.
- (4) A water services strategic plan shall state the objectives of Irish Water in relation to the provision by it of water services in respect of the period of 25 years following the approval of the plan by the Minister under this section and the means by which it proposes to achieve those objectives, including in relation to—
- (a) drinking water quality,
  - (b) the prevention or abatement of risks to human health or the environment relating to the provision of water services,
  - (c) the existing and projected demand for water services,
  - (d) existing and planned arrangements for the provision of water services by Irish Water,
  - (e) existing and reasonably foreseeable deficiencies in the provision of water services by Irish Water,
  - (f) existing and planned water conservation measures,
  - (g) the management of the property of Irish Water.
- (5) Irish Water shall, when preparing a water services strategic plan—
- (a) ensure, as far as practicable, that the plan is consistent with—
    - (i) the National Spatial Strategy,
    - (ii) regional planning guidelines, and
    - (iii) any river basin management plans under regulation 13 of the European Communities (Water Policy) Regulations 2003 (S.I. No. 722 of 2003) for the time being in force,and
  - (b) have regard to—
    - (i) proper planning and sustainable development,
    - (ii) housing strategies made under section 94 of the Act of 2000,
    - (iii) special amenity area orders within the meaning of the Act of 2000,
    - (iv) strategic development zones within the meaning of Part IX of the Act of 2000,
    - (v) water quality management plans under section 15 of the Local Government (Water Pollution) Act 1977,
    - (vi) waste management plans under section 22 of the Waste Management Act 1996, and
    - (vii) such other matters as the Minister may direct.

- (6) The Minister shall, not later than 3 months after a water services strategic plan is submitted to him or her under this section—
  - (a) approve the plan (with or without modification), or
  - (b) refuse to approve the plan and require Irish Water to submit to him or her a revised water services strategic plan within such period as he or she directs. 5
- (7) The Minister shall, as soon as practicable after he or she has approved (with or without modification) a water services strategic plan cause a copy of it to be laid before each House of the Oireachtas.
- (8) As soon as practicable after the Minister has approved a water services strategic plan, Irish Water shall publish the plan on the internet. 10
- (9) Where a water services strategic plan is approved under this section, Irish Water shall—
  - (a) not later than 5 years after the approval, and
  - (b) not later than 5 years after the most recent review under this subsection, conduct a review of the implementation and operation of the plan. 15
- (10) An application for permission under Part III of the Act of 2000 shall not be refused by a planning authority or An Bord Pleanála solely on the ground that the development to which the application relates is not referred to in the water services strategic plan for the time being in force, provided that the planning authority or An Bord Pleanála, as the case may be, considers that the development will facilitate the achievement of the objectives of that plan. 20
- (11) In considering a proposed development under section 179 of the Act of 2000 a local authority shall not decide that the development should not be proceeded with solely on the grounds that the said development is not specifically referred to in the water services strategic plan in force if the authority considers the development will facilitate the achievement of the objectives of the water services strategic plan. 25
- (12) In this section “National Spatial Strategy” has the same meaning as it has in the Act of 2000.

**Investment plans**

- 27. (1) Irish Water shall— 30
  - (a) not later than 4 weeks after the transfer day, and
  - (b) before the end of the year in which the most recent investment plan expires, make a plan (in this Act referred to as an “investment plan”) in accordance with this section.
- (2) The investment plan first made after the transfer day shall apply in respect of the period of two years commencing on the first day of January of the year immediately following the year in which the plan was made. 35
- (3) Each investment plan made subsequent to the investment plan first made after the transfer day shall apply in respect of such period as the Commission determines.

- (4) An investment plan shall set out and particularise the investment in water services infrastructure that Irish Water considers necessary for the effective performance by it of its functions.
- (5) Irish Water shall, in making an investment plan, take account of—
- (a) the water services strategic plan, 5
  - (b) any river basin management plans under regulation 13 of the European Communities (Water Policy) Regulations 2003 (S.I. No. 722 of 2003) for the time being in force,
  - (c) any local area plans under section 18 of the Act of 2000 for the time being in force, 10
  - (d) any development plans within the meaning of the Act of 2000,
  - (e) any regional planning guidelines, and
  - (f) any strategic development zones within the meaning of Part IX of the Act of 2000 to which the plan relates.
- (6) Irish Water shall, before preparing an investment plan, consult with— 15
- (a) the Agency,
  - (b) each regional body in respect of whose functional area the investment plan is likely to apply, and
  - (c) each planning authority in respect of whose functional area the investment plan is likely to apply. 20
- (7) Irish Water shall, for the purposes of enabling the Minister to make a decision in relation to the making of a grant under *section 29*, provide the Minister with the most recent investment plan.
- (8) Irish Water shall, when submitting a water charges plan to the Commission under *section 17*, provide the Commission with the most recent investment plan. 25
- (9) Irish Water shall, as soon as practicable after the approval of a water charges plan under *section 17*, provide a copy of the most recent investment plan to each regional body and each planning authority in respect of whose functional area the investment plan applies.
- (10) In this section “functional area” has, in relation to a planning authority, the same meaning as it has in the Act of 2000. 30

### **Borrowing by Irish Water**

28. (1) (a) Irish Water may, for the purposes of this Act and with the consent of the Minister, the Minister for Communications, Energy and Natural Resources, the Minister for Finance and the Minister for Public Expenditure and Reform, borrow money (including money in a currency other than the currency of the State) from such persons as it considers appropriate, whether by means of the issue of debentures (or other debt security) or otherwise. 35
- (b) The aggregate of moneys standing borrowed under this subsection at any one

time shall not exceed €2 billion.

- (2) For the purposes of this section, moneys borrowed in a currency other than the currency of the State shall be deemed to be the equivalent in the currency of the State of the actual moneys borrowed, such equivalent being calculated at the rate of exchange prevailing at the time of the borrowing for that currency and the currency of the State. 5
- (3) This section is in addition to and not in substitution for section 23 of the Gas Act 1976.

### **Grants by Minister**

29. (1) The Minister may, for the purposes of this Act and subject to such conditions as he or she may determine, make grants out of moneys provided by the Oireachtas to— 10
- (a) Irish Water, or
  - (b) the Commission.
- (2) The Minister shall, before deciding—
- (a) whether or not to make a grant under this section to Irish Water, or 15
  - (b) the amount of such grant,
- consider the investment plan provided to him or her in accordance with *subsection (7) of section 27*.

## **PART 5**

### **ECONOMIC REGULATION 20**

#### **Performance of functions of Commission**

30. (1) The Commission shall perform its functions in a manner that best serves the interests of customers of Irish Water.
- (2) The Commission shall, in the performance of its functions under this Act, have regard to the need to ensure— 25
- (a) that the customers of Irish Water are provided with the quality of service provided for in a code of practice approved under *section 25*,
  - (b) that water services are provided by Irish Water in an economical and efficient manner,
  - (c) that Irish Water operates in a commercially viable manner, 30
  - (d) the conservation of water resources,
  - (e) the continuity, safety, security, and sustainability of water services,
  - (f) that Irish Water can meet all reasonable demands for water both current and foreseeable,
  - (g) the recovery of costs of water services in accordance with Article 9 of the EU 35



Water Framework Directive,

- (h) that Irish Water performs its functions in a manner that will enable the achievement by the State of the environmental objectives of that Directive,
- (i) that Irish Water performs its functions in an open and transparent manner.

### **Advisory role of Commission**

5

31. The Commission shall advise the Minister in relation to the development and delivery of water services.

### **Strategy statement**

32. (1) The Commission shall—

- (a) not later than 6 months after the commencement of this section, prepare and submit to the Minister a strategy statement in respect of the period of 3 years immediately following the year in which the strategy statement is so submitted, and 10
  - (b) not later than 3 months before each third anniversary of the submission to the Minister in accordance with this subsection of the strategy statement for the time being in effect, prepare and submit to the Minister a strategy statement in respect of the period of 3 years immediately following the year in which it is so submitted. 15
- (2) The Minister shall, as soon as practicable after a strategy statement has been submitted to him or her under *subsection (1)*, cause a copy thereof to be laid before each House of the Oireachtas. 20
- (3) The Commission shall, as soon as practicable after copies of a strategy statement are laid before both Houses of the Oireachtas in accordance with *subsection (2)*, arrange for the strategy statement to be published on the internet.
- (4) In this section “strategy statement” means a statement that— 25
- (a) specifies the key objectives, outputs and related strategies, including use of resources, of the Commission in relation to the performance of its functions under this Act, and
  - (b) is prepared in a form and manner that is in accordance with any directions issued from time to time by the Minister. 30

### **Directions to Commission**

33. (1) The Minister may, from time to time and after having considered any representations made to him or her in accordance with an invitation under *subsection (4)*, give to the Commission such direction of a general policy nature as he or she considers appropriate. 35
- (2) The Commission shall comply with a direction under this section.
- (3) The Commission shall, upon the request of the Minister, provide the Minister with a report in writing of the measures (including the expenditure incurred by it as a result

of such measures) that it has taken to comply with a direction under this section.

- (4) The Minister shall, before giving a direction under this section—
- (a) give a draft of the proposed direction to—
    - (i) the Commission, and
    - (ii) the Joint Committee referred to in paragraph 26 of Schedule 1 to the Electricity Regulation Act 1999,and invite those persons to make representations, in writing, in relation thereto within such period (being not less than 30 days from the giving of the draft to the Commission or publication of the draft under *paragraph (b)*, whichever occurs later) as is specified in the notice referred to in *paragraph (b)*, and
  - (b) publish—
    - (i) the draft and the reasons for the Minister’s proposing to give the direction concerned in *Iris Oifigiúil*, and
    - (ii) a notice inviting the making of representations by interested persons in relation to the draft within such period (being not less than 30 days from the giving of the draft to the Commission under *paragraph (a)* or publication of the draft under this paragraph, whichever occurs later) as is specified in the notice.
- (5) Where the Minister proposes to give a direction under this section, he or she may consult in relation thereto with such other Ministers of the Government as he or she considers appropriate.
- (6) The Minister shall arrange for the publication in *Iris Oifigiúil* of each direction given by him or her under this section.

### **Information and cooperation**

34. (1) The Commission may, from time to time, request Irish Water to provide the Commission with such information as the Commission may reasonably require to enable it to perform its functions under this Act.
- (2) Irish Water shall, as soon as reasonably practicable, comply with a request under *subsection (1)*.
- (3) The Commission shall, in so far as is consistent with the proper performance of its functions, endeavour to secure administrative cooperation between it and the Agency and for that purpose, the Commission shall enter into an arrangement with the Agency for the purposes of—
- (a) facilitating cooperation between the Commission and the Agency in the performance of their respective functions in so far as they relate to water services,
  - (b) avoiding duplication of activities by the Commission and the Agency,
  - (c) ensuring, as far as practicable, that the Commission and the Agency cooperate in a manner that best promotes the interests of consumers and the efficient provision of water services, and

- (d) ensuring, as far as practicable, consistency between decisions made or measures taken by the Commission and the Agency in relation to water services.
- (4) An arrangement under this section shall not operate to bind the Commission or the Agency.
- (5) The Commission and the Agency may make an arrangement varying the terms of an arrangement under this section (including an arrangement under this subsection). 5
- (6) The Commission shall give the Minister a copy of an arrangement under this section.
- (7) An arrangement under this section shall not operate to require a party to the arrangement to provide information to the other party to the arrangement if the disclosure of that information by the first-mentioned party is prohibited by law. 10

## PART 6

### AMENDMENT OF CERTAIN ENACTMENTS

#### **Amendment of Act of 1999**

- 35.** (1) Section 11 of the Act of 1999 is amended—
- (a) in subsection (1) by substituting “, or Bord Gáis Éireann or Irish Water.” for “or Bord Gáis Éireann.”, 15
  - (b) in subsection (4)—
    - (i) after “its functions under this Act” by inserting “, the *Water Services (No.2) Act 2013*”, and
    - (ii) in paragraph (bb) after “this Act” by inserting “, the *Water Services (No.2) Act 2013*”. 20
- (2) Section 13 of the Act of 1999 is amended in subsection (1A) by substituting “the Gas (Interim) (Regulation) Act 2002 or the *Water Services (No.2) Act 2013*.” for “or the Gas (Interim) Regulation Act, 2002.”.
- (3) Schedule 1 to the Act of 1999 is amended— 25
- (a) in paragraph 1, by substituting “as the Minister, following consultation with the Minister for the Environment, Community and Local Government may fix,” for “as the Minister may fix,”,
  - (b) by inserting the following paragraph after paragraph 10:
    - “10A. The Minister shall, where he or she receives a request from the Commission in relation to staffing or other resources required by the Commission in relation to the performance of its functions under the *Water Services (No.2) Act 2013*, consult with the Minister for the Environment, Community and Local Government.”, 30
  - (c) by inserting the following paragraph after paragraph 16: 35
    - “16A. For the purposes of meeting expenses properly incurred by the Commission in the discharge of its functions under the *Water Services*

- (No.2) Act 2013 the Commission may make an order (in this Act referred to as a ‘levy order’) imposing such levy to be paid each year by Irish Water as may be specified by the Commission in the order.”,
- (d) in paragraph 18, by substituting “paragraph 16 or 16A” for “paragraph 16”,
- (e) in paragraph 19, by substituting “paragraph 16 or 16A” for “paragraph 16”, 5
- (f) by inserting the following paragraph after paragraph 21:
- “21A. The Minister for the Environment, Community and Local Government may from time to time, with the consent of the Minister for Finance and the Minister for Public Expenditure and Reform, advance to the Commission out of moneys provided by the Oireachtas such sums as the Minister for the Environment, Community and Local Government may determine for the purposes of expenditure by the Commission in the performance of its functions under the *Water Services (No.2) Act 2013*.”, 10
- (g) in paragraph 22, by substituting “paragraphs 21 and 21A” for “paragraph 21”, 15
- (h) by inserting the following paragraph after paragraph 23:
- “23A. Paragraph 23 shall apply to advances made to the Commission by the Minister for the Environment, Community and Local Government under paragraph 21A as if those advances had been made by the Minister under paragraph 21.”, 20
- (i) by substituting the following paragraph for paragraph 24:
- “24. (a) The Commission may, for the purpose of the performance of its functions, borrow money, but shall not do so without the consent of the Minister and the Minister for Public Expenditure and Reform. 25
- (b) The Minister shall consult with the Minister for the Environment, Community and Local Government, prior to giving his or her consent under subparagraph (a) in relation to a proposal to borrow money for the performance of the Commission’s functions under the *Water Services (No.2) Act 2013*.”, 30
- and
- (j) in paragraph 25—
- (i) by substituting the following subparagraph for subparagraph (aa): 35
- “(aa) ensure, as far as is reasonably practicable, that such accounts identify separately in regard to the gas, LPG, electricity, water and petroleum sectors all elements of cost and revenue, with the basis of their calculation and the detailed attribution methods used, related to the discharge of the Commission’s functions under this Act and the *Water Services (No.2) Act* 40

2013.”,

and

(ii) by substituting the following subparagraph for subparagraph (c):

“(c) not later than 30 November in each year make a report to the Minister and the Minister for the Environment, Community and Local Government in relation to its proposed work programme for the following year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas as soon as practicable.” 5

(4) In this section “Act of 1999” means the Electricity Regulation Act 1999. 10

### **Amendment of Act of 2007**

**36.** (1) Section 9 of the Act of 2007 is amended—

(a) in subsection (1) by deleting “(whether or not the offence is committed in its functional area)”, and

(b) by deleting subsection (2). 15

(2) Section 11 of the Act of 2007 is amended—

(a) in subsection (1) by deleting—

(i) “which brought the prosecution, or person specified under regulations made under section 9(2) as the case may be”, and

(ii) “or other person”, 20

and

(b) in subsection (2) by deleting “or person specified under regulations made under section 9(2)”.

(3) Section 31 of the Act of 2007 is amended—

(a) in subsection (2)— 25

(i) by deleting “Subject to regulations made under subsection (3),” and “in its functional area”, and

(ii) in paragraph (a) by deleting “in its functional area”,

(b) in subsection (5) by deleting “in part or all of its functional area”,

(c) in subsection (12) by deleting— 30

(i) “other than with a group water services scheme or another water services authority”, and

(ii) paragraph (b),

and

(d) by deleting subsections (1), (3), (7), (9), (11), (13), (14), (15), (16), (17), (18) and (20). 35

- (4) Section 32 of the Act of 2007 is amended—
- (a) in subsection (1)—
    - (i) by deleting “, and shall when directed by the Minister,” and “, whether within or outside its functional area,”,
    - (ii) in paragraph (j) by deleting “in part or all of its functional area or elsewhere as appropriate”, and
    - (iii) in paragraph (l) by deleting “within its functional area”,
 and
  - (b) by deleting subsections (2), (3), (4), (5), (7), (8), (9), (10), (11) and (12).
- (5) Section 42 of the Act of 2007 is amended— 10
- (a) in paragraph (b) of subsection (1) by deleting “in the functional area of the authority”, and
  - (b) in paragraph (b) of subsection (2) by deleting “in the functional area of the authority”.
- (6) Section 44 of the Act of 2007 is amended in subsection (1) by deleting “in the functional area of a water services authority” and “of that area”. 15
- (7) Section 50 of the Act of 2007 is amended in subsection (2) by deleting “in its functional area”.
- (8) Section 54 of the Act of 2007 is amended in subsection (3) by deleting “, and shall on request from an authorised provider of water services or a person providing water services jointly with or on behalf of a water services authority or an authorised provider of water services in relation to a matter affecting a waterworks under his or her control,”. 20
- (9) Section 56 of the Act of 2007 is amended in subsection (16) by deleting “in all or part of its functional area”. 25
- (10) Section 58 of the Act of 2007 is amended in subsection (1)—
- (a) in paragraph (a) by deleting “serving any part of its functional area,”, and
  - (b) by deleting paragraph (b).
- (11) Section 63 of the Act of 2007 is amended by deleting subsection (13).
- (12) Section 65 of the Act of 2007 is amended in subsection (3) by deleting “that granted it”. 30
- (13) Section 68 of the Act of 2007 is amended by deleting subsection (3).
- (14) Section 69 of the Act of 2007 is amended in subsection (5) by deleting “by which it was made”.
- (15) Section 70 of the Act of 2007 is amended in subsection (5) by substituting “when a leak” for “in whose functional area a leak”. 35
- (16) Section 73 of the Act of 2007 is amended by deleting subsection (2).

- (17) Section 92 of the Act of 2007 is amended by deleting subsection (3).
- (18) Section 93 of the Act of 2007 is amended in paragraph (a) of subsection (2) by deleting “to its functional area”.
- (19) Section 95 of the Act of 2007 is amended—
- (a) in subsection (1) by deleting “whether or not it is situated in its functional area,” 5
  - (b) in paragraph (a) of subsection (2) by deleting “whether within or outside its functional area”, and
  - (c) by deleting subsection (3).
- (20) Section 97 of the Act of 2007 is amended by deleting subsection (6).
- (21) Section 98 of the Act of 2007 is amended in subsection (3) by deleting “in whose 10 functional area the relevant pipes or accessories are situated”.
- (22) Section 104 of the Act of 2007 is amended by deleting subsection (10).
- (23) The amendments of the Act of 2007 effected by this section shall not have effect for the purposes of the operation of an excluded provision.

**Amendment of Act of 2013**

15

37. Section 18 of the Act of 2013 is amended by inserting “and the *Water Services (No.2) Act 2013*” after “under this Act”.

An Bille um Sheirbhísí Uisce (Uimh. 2),  
2013

# BILLE

*(mar a tionscnaíodh)*

*dá ngairtear*

Acht do dhéanamh socrú maidir le hUisce Éireann d'fhorchur muirear i leith soláthar seirbhísí uisce ag Uisce Éireann agus i ndáil leis an gcéanna; do dhéanamh socrú maidir le feidhmeanna údarás seirbhísí uisce faoin Acht um Sheirbhísí Uisce, 2007 a aistriú, go páirteach, chuig Uisce Éireann; d'aisghairm an Achta Rialtais Áitiúil (Cumhachtaí Dichónasctha Soláthair Uisce a Theorannú), 1995, forálacha áirithe den Acht um Sheirbhísí Uisce, 2013 agus, chun críoch áirithe, forálacha áirithe den Acht um Sheirbhísí Uisce, 2007; do leasú an Achta um Sheirbhísí Uisce, 2007 agus achtacháin áirithe eile; agus do dhéanamh socrú i dtaobh nithe a bhaineann leis an méid sin.

*An Seanadóir Muiris Ó Cuimín a thíolaic thar ceann  
an Aire Comhshaoil, Pobail agus Rialtais Áitiúil,*

28 Samhain, 2013

Water Services (No. 2) Bill 2013

# BILL

*(as initiated)*

*entitle*

An Act to make provision for, and in relation to, the imposition of charges by Irish Water in respect of the provision by Irish Water of water services; to provide for the transfer, in part, of the functions of water services authorities under the Water Services Act 2007 to Irish Water; to repeal the Local Government (Delimitation of Water Supply Disconnection Powers) Act 1995, certain provisions of the Water Services Act 2013 and, for certain purposes, certain provisions of the Water Services Act 2007; to amend the Water Services Act 2007 and certain other enactments; and to provide for matters connected therewith.

*Presented by Senator Maurice Cummins on behalf  
of the Minister for the Environment, Community and  
Local Government,*

28th November, 2013

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2.  
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