

Administrative Sanctions

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I. INTRODUCTION

The Office of Environmental Enforcement (OEE) is an office within the EPA dedicated to the implementation and enforcement of environmental legislation in Ireland. The core objectives of the Office of Environmental Enforcement are to bring about improved compliance with environmental legislation in Ireland and to ensure that those who flout environmental law and cause environmental pollution as a result of their actions are held to account. The Office of Environmental Enforcement delivers enforcement in two ways. It is directly responsible for enforcing EPA licences granted to waste, industrial and other activities. It also supervises the environmental protection activities of local authorities, through auditing their performance, providing advice and guidance, and in appropriate cases, giving binding directions. The EPA has the power to prosecute summarily at District Court level and also prepares files for the DPP in order to progress cases on indictment. While prosecution is considered to be an effective enforcement action in many cases, it may be less effective against licensees with little in the way of stakeholder interest. The pursuit of a criminal prosecution is frequently difficult and time consuming, mainly because criminal law entails particular procedural safeguards and outcomes, which are not proportionate to the harm caused, particularly where there is no “criminal” intent. It has also been argued that fines imposed by the courts can often be small compared to the economic benefits of the offence or that they do not necessarily achieve the desired outcome or a change in behavior. This has led to some public discussion on the potential use of administrative sanctions for environmental offences in Ireland.

II. ADMINISTRATIVE SANCTIONS

The terms “administrative sanction” and “civil penalty” are used interchangeably and often misused. Generally speaking, a civil penalty is one imposed by the courts applying civil rather than criminal court processes. They are often financial in nature and closely resemble fines and other punishments imposed on criminal offenders; however, the processes by which these penalties are imposed are not criminal. Administrative sanctions are broadly understood as being sanctions imposed by the regulator without intervention by a court or tribunal.

In 2000 the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL)¹ completed a review² of the use of administrative fines. It determined that the use of some form of administrative fine for environmental breaches was in place in several Member States. The report

¹ The European Union Network for the Implementation and Enforcement of Environmental Law is an informal network of the environmental authorities of EU Member States, acceding and candidate countries, and Norway. The European Commission is also a member of the network and shares the chairmanship of its plenary meetings. The network is commonly known as the IMPEL Network

² Faure, M., and Heine, G., The Criminal Enforcement of Environmental Law in the European Union, July 2000, based on information supplied by: IMPEL Working Group on Criminal Prosecution in Environmental Cases. Also available online at <http://ec.europa.eu/environment/impel/pdf/criminal.pdf>

indicated that some Member States had found administrative sanctions to be as effective as criminal sanctions.

In 2004 the Commission produced a study on measures other than criminal ones in the EU Member States.³ This study assessed the use and effectiveness of non-criminal (administrative) measures in 15 Member States for the enforcement of some EC environmental Directives, particularly in their deterrent effect and how they compared with criminal measures. The report found that there were many administrative enforcement systems in place related to different national legal systems in Member States, and that non-criminal measures and sanctions can be applied and imposed in all of them in order to enforce environmental legislation, and therefore to ensure that compliance is achieved. One of the main conclusions of the report was that the key obstacle to an efficient administrative enforcement regime was the lack of human, technical and financial resources for inspections, as well as the absence of political will to enforce environmental legislation and impose sanctions.

The authors of the Commission study found it difficult to determine the effectiveness of the administrative enforcement regime—as compared to the criminal enforcement regime—from a quantitative perspective due to the lack of statistics at national and aggregated levels that are based on a harmonized classification of infringements to environmental legislation. However, from a qualitative perspective, it was concluded that the administrative enforcement regimes could potentially be efficient for the following reasons:

- The procedure is faster and less costly as compared to criminal proceedings, the results of which are uncertain.
- The competent administrative authority can take a measure that is immediately applicable so that the environmental infringement can be tackled in the shortest delay, notwithstanding the possibility for the addressee to challenge such decision before a court.
- The administrative enforcement regime offers a great variety of measures, including accessory measures that can be applied either before or concurrently to the sanction imposed; any such measures may have either an incentive effect or a coercive nature.
- Administrative measures and sanctions are better tailored to address environmental infringements as they primarily concern the conditions under which an activity, the potential source of pollution, may be exercised.
- Administrative sanctions can be imposed to legal persons as well as to natural persons, which help overcome limitations of criminal systems where only *culpa in eligendo* or *in custodiendo* applies.
- Wherever the person exercising an activity potentially harmful to the environment is linked to the administrative competent authorities through a special relationship (permit, registration, reporting obligation), the administrative measures and sanctions can be imposed on the basis of an informed decision.

The study also concluded that the efficiency of administrative enforcement regimes may be undermined because of the following reasons:

- There is great discretion left to competent authorities with regard to the decision to sanction or not. In addition, there is no immediate control over the administration's appreciation of the situation.

³ Study on measures other than criminal ones in cases where environmental Community law has not been respected in the EU Member States, Summary Report, September 20, 2004, Milieu Ltd and Huglo Lepage Associates, B4 3040A/2003/369724/MAR/A.3. Also available online at http://ec.europa.eu/environment/legal/crime/pdf/ms_summary_report.pdf

- In most Member States, sanctions can only be imposed after “warnings” have been addressed, thus giving more place to negotiations rather than punishment.
- The proximity between competent authorities and local companies may affect the margin of manoeuvre of the competent authority in a way that leads to bargaining to achieve compliance rather than to a deterrent punishment, thus giving priority to some private vested economic interests instead of protecting the environment.
- The lack of transparency in the decision making process leaves aside the public and NGOs, creating some obscurantism in particular when enforcement tasks are not differentiated from other administrative duties such as permitting.
- Administrative enforcement procedures are not implemented in an integrated manner (except for IPPC installations). Administrative measures and sanctions are rarely designed in a coherent and integrated manner, which leads to a fragmented regime where some sanctions may be stricter in case of certain infringements than for others. This is problematic, not only because this situation may be an incentive for operators to shift pollution from one media to another depending on the level of sanctions but also in case there are different competent authorities, which do not always coordinate their actions and which may compete in using their powers of police.
- Administrative sanctions are not aggravated in the case of recidivism of infringements.
- There is little or no social blame associated to administrative sanctions.
- The most common enforcement measures applied are fines which are usually fixed at a level closer to minimum allowed by the law.
- There is no systematic obligation to restore the environment whenever damage occurs.

The report concluded that in terms of effectiveness, both criminal and administrative regimes present advantages and disadvantages and that the two regimes should not be opposed to each other. On the contrary, effectiveness of enforcement can be maximised if synergies are created in order to reconcile prevention (through the control exercised by the administration), compliance, dissuasion of infringements (deterrent effect), and punishment (sanction).

In 2005 Peter Hampton⁴ produced his report, *Reducing administrative burdens: effective inspection and enforcement*, and recommended that the UK Government establish a comprehensive review of regulators’ penalty regimes. The Hampton Review, in particular, stated the principle that the few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions. The review went on to state that regulatory penalty regimes can be cumbersome and ineffective, and identified the following features as shortcomings:

- penalties handed down by courts are not seen as an adequate deterrent to regulatory non-compliance as the level of financial penalty can often fail to reflect the financial gain of non-compliance with regulatory obligations; and
- the range of enforcement tools available to many regulators is limited, giving rise to disproportionate use of criminal sanctions, which can be a costly, time-consuming and slow process.

The UK Government appointed Professor Richard B. Macrory⁵ to conduct a review of regulators’ penalty regimes and to make recommendations; these were subsequently published in 2006. Professor Macrory made a number of recommendations to the UK Government, including the following:

⁴ Hampton, P., *Reducing administrative burdens: Effective inspection and enforcement*, HM Treasury, March 2005, Recommendation 8. Also available online at <http://www.hm-treasury.gov.uk/d/bud05hamptonv1.pdf>

⁵ Macrory, R., *Regulatory Justice: Making Sanctions effective*, November 2006.

- to examine the way in which it formulates criminal offences relating to regulatory non-compliance;
- to introduce schemes of Fixed and Variable Monetary Administrative Penalties, available to those regulators who are Hampton compliant,⁶ with an appeal to an independent tribunal rather than the criminal courts;
- to introduce enforceable undertakings as an alternative to criminal prosecution;
- to strengthen the system of statutory notices backed up by administrative financial penalties and appeal to a regulatory tribunal;
- to introduce pilot schemes involving restorative justice techniques; and
- to introduce alternative sentencing options in the criminal courts for cases related to regulatory non-compliance such as a Profit order, Publicity Orders and Corporate Rehabilitation Orders.

In 2008 the UK Government accepted Professor Macrory recommendations in full and took forward four of the main recommendations with the enactment of the Regulatory Enforcement and Sanctions Act 2008. Part three of the said Act commenced in October 2008 and introduced new civil sanctions as a possible alternative to criminal prosecution for relevant offences for a wide range of regulators including the Environment Agency, Financial Services Authority, HSE and others. The new sanctions introduced include fixed monetary penalties, discretionary requirements (compliance notice, restoration notice and variable monetary penalties), stop notices and enforcement undertakings.

Professor Macrory⁷ advocated strongly for the need to have access to an effective and quick appeal route when referring to administrative penalties and this has been adopted in the new UK regime. This new two-tier appeals system allows for appeals to be heard at a first-tier tribunal or another statutory tribunal and requires that detailed grounds for appeal are set out for each sanction.

In Ireland, fines and administrative sanctions are used by enforcement authorities in other sectors for minor offences such as littering or driving offences. There is also provision under the Health and Safety Act 2005 for use of fines for minor health and safety breaches. Farmers may also be subject to fines for non-compliance with the code of good farming practice under the EU farm payments regulations.

In 2007 the EPA'S Office of Environmental Enforcement commissioned a study⁸ on the use of civil/administrative sanctions relevant specifically to environmental protection and the control of pollution legislation used by the EPA and local authorities. The study reviewed the use of administrative sanctions for environmental offences in a number of comparable countries and examined any impediments, legal or otherwise to their possible introduction in Ireland. The drivers for the study from a regulatory point of view were:

- The burden of proof and the resource requirement to use the current criminal code for regulatory offences.
- The lack of options between the maximum District Court sanction of €3,000 and the maximum Circuit Court sanction of €15 million.
- To try and address the economic benefits gained from non-compliance.
- The lack of criminal intent for many of the regulatory breaches prosecuted by the Agency.

⁶ Hampton Compliant regulators are regulators who have reduced the administrative burden of regulation, while maintaining or even improving regulatory outcomes. To do this they must direct their efforts, inspections and data requirements on regulated facilities on the basis of risk.

⁷ Macrory, R., *Regulatory Justice: Sanctioning in a Post Hampton World*, Consultation Document, May 2006.

⁸ *A Study on the Use of Administrative Sanctions for Environmental Offences in other comparable countries and assessment of their possible use in Ireland.*

For the purposes of the study commissioned by the OEE, administrative sanctions were defined as those measures, which regulatory authorities have available to them, to enforce environmental law without resort to criminal or civil court proceeding, although in many instances they will be a precursor to court proceedings. Such sanctions include warning letters, fixed administrative penalties and clean-up notices. Judicial sanctions are those remedies which a court has available to it in civil proceedings to enforce environmental law. Such sanctions include injunctions, publicity orders and environmental services orders. Criminal sanctions are those penal sanctions, which a criminal court has available to it, where an offender has been successfully prosecuted. Such sanctions include fines and imprisonment. Civil sanctions are seen as a hybrid type of sanction. They are a civil “fine” intended to compensate for the environmental harm done as well as punish the wrongful conduct of the offender. Civil penalties are available in two main forms: administrative civil penalties and judicial civil penalties. Administrative penalties enable the regulator to negotiate the amount of the civil penalty with the offender. Judicial civil penalties enable the court to determine civil penalties on the basis of the lower civil standard “balance of probabilities” rather than the criminal standard “beyond all reasonable doubt”.

III. CURRENT USE OF ADMINISTRATIVE SANCTIONS

The OEE study considered that practice in the UK, USA, Germany and Australia should be reviewed for the purposes of the comparative study. These countries were chosen to provide a suitably broad coverage across the spectrum of different approaches taken in different jurisdictions, ranging from the higher value, comprehensive application model of civil penalties used in the US, to the lower value minor offence administrative penalties model used in Germany. All non-criminal sanctions (i.e. both civil and administrative sanctions) in the four jurisdictions were assessed. The following schedule lists the 20 non-criminal sanctions used in these countries and sets out a brief description of what the sanction is, how effective they have tended to be in those countries, and whether Ireland already has such a sanction.

Sanction	Description	UK	Australia	USA	Germany	Ireland
<u>Civil Administrative</u>						
Persuasion / verbal caution	Informal warning, advice or support from the regulator to the offender.	Used extensively.	Authority may convene a conference.	Warnings rarely issued without prior consultation.	Used extensively.	Informally used.
Information Notice	To provide records, documents or evidence regarding a suspected / actual regulatory breach.	Used regularly.	Sanction available to Authority.	Used regularly, often when applying for permits.	Used effectively.	Sanction available in Ireland.
Mandatory Environmental Audit	Where the regulator compels a company to carry out an audit of its activities.	No general statutory provision, but often a condition of issuing a permit.	Sanction available.	Used in lieu of other penalties and fines.	Effectively used.	Sanction available in Ireland.
Enforcement Undertakings / Agreement	Where the offender provides written undertakings to the regulator to remedy the harm done in a certain way and by a certain time and can be enforceable in court.	No equivalent sanction in the UK.	Used effectively.	No equivalent sanction in the USA.	No equivalent sanction in Germany.	No equivalent sanction in Ireland.
Warning Letter	Notification of a regulatory breach without taking further immediate action.	Commonly used in this jurisdiction.	Issued to advise an occupier of non-compliance with an Agreement Notice.	Rarely issued without taking further immediate action.	Effectively used.	Sanction available in Ireland under the Planning and Development Act 2000.
Fixed Administrative Financial Penalty	Payment of a specified monetary amount by the offender to discharge or compensate for the breach.	Typically used to deal with minor offences.	Used in relation to waste discharges in excess of permitted amounts.	Permits may stipulate surcharges for discharges in excess of permitted amounts.	Utilised successfully under the relevant Regulations.	No equivalent sanction in Ireland.
Variable & Discretionary Administrative Penalties	Payment of a variable amount to be determined at the discretion of the regulator to discharge or compensate for the breach.	No equivalent sanction in the UK.	No equivalent sanction in Australia.	No equivalent sanction in the USA.	No equivalent sanction in Germany.	No equivalent sanction in Ireland.

Sanction	Description	UK	Australia	USA	Germany	Ireland
Enforcement Notice, Order or Direction	Served where a breach of regulatory consent, licence or legislation has occurred and specifies steps to rectify the breach and timescale.	Issued effectively under specific legislation.	Used in limited circumstances.	Used very commonly.	Effectively used.	Sanction available in Ireland.
Clean Up / Pollution Notice or Order	Requires the offender to take specific action (e.g. to remedy any environmental harm or to prevent or mitigate further harm).	Environmental regulators frequently issue these types of sanctions.	Used quite extensively in this jurisdiction.	Several programs implemented to remedy known environmental harm.	The EU “Polluter Pays Principle” is applied in Germany and is effectively enforced.	Sanction available in Ireland.
Regulator Step-In and Recovery of Costs Order	Where the offender has failed to take corrective measures, the regulator can step-in and remedy the breach itself and recover its costs from the offender.	Used very extensively by the environmental regulators.	Sanction available to the Authority.	Joint and several liability for clean up costs are applied to the offending party.	Authorities typically avoid taking direct action.	Sanction available in Ireland.
Financial Security	Retention of security lodged as a condition of permits, licences or approvals or remediate any harm caused by a breach.	No equivalent sanction in the UK.	Utilised in this jurisdiction.	Required under Federal Hazardous Waste Rules.	No equivalent sanction in Germany.	Sanction available in Ireland.
Licence Amendment, Suspension or Revocation	Where the regulator revokes, amends or suspends all or parts of a licence or disqualifies or debar the offender from contracting with government agencies.	Under utilised. Suspension / Revocation only used in the event of very serious cases of non-compliance.	Used successfully.	This sanction is rarely (if ever) implemented.	Very rarely enforced in practice.	Sanction available to a limited extent in Ireland.
Entry Powers	Powers of the Authority and authorised officers to enter premises and may do any act that is deemed necessary.	No known sanction.	Used successfully.	No known sanction.	No known sanction.	Sanction available in Ireland.

Sanction	Description	UK	Australia	USA	Germany	Ireland
<u>Civil Judicial</u>						
Civil Penalty	A civil monetary penalty.	Available in limited circumstances but are seldom used.	Used extensively.	Frequently issued by regulatory agencies.	Sanction is available in Germany but it is under utilised.	No equivalent sanction in Ireland.
Publicity Order / Name and Shame by Regulator	Publicity by the regulator or offending company of the offence, the environmental / other consequences and the penalties / other orders imposed.	No equivalent statutory sanction in the UK.	Used extensively.	Utilised in this jurisdiction.	No equivalent sanction in this jurisdiction.	In general, used by regulators informally.
Environmental Services Order	Requires the offender to carry out a specified project for restoration / enhancement of the environment in a public place or for public benefit. Normally used in conjunction with Publicity Orders.	No equivalent civil sanction in the UK.	Used successfully.	Used successfully.	No equivalent sanction in Germany.	No equivalent sanction in Ireland.
Monetary Benefits Penalty Order	Made on its own or as part of a Civil Penalty whenever the regulator can quantify the benefit obtained and the offender has sufficient funds to pay all or a significant proportion of the benefit obtained.	No equivalent sanction in the UK.	No such sanction known.	Entities are routinely required to pay such penalties.	Sanction is under utilised.	No equivalent sanction in Ireland.
Compensation Order	To compensate either the regulator or a third party for costs or expenses incurred in taking action to deal with damage to the environment resulting from the offence. This order can be made on its own or as part of a Civil Penalty.	No equivalent sanction in the UK.	Cleanup costs may be recovered from the offending party.	Sanction applied successfully in the US.	Authorities typically avoid taking direct action.	No equivalent sanction in Ireland.
Costs Order	To pay all, or part of, the costs of proceedings.	Almost always utilised.	The Court can only use this sanction in limited circumstances.	Sanction applied successfully in the US.	Effectively used.	Sanction available in Ireland.
Injunction	Court order requiring someone to do or refrain	Injunctions can be sought.	Available to the Authority through	Sanction available in this	Sanction is available in	Sanction available in Ireland.

Sanction	Description	UK	Australia	USA	Germany	Ireland
	from doing something		the Supreme Court.	jurisdiction.	Germany but it is under-utilised.	

IV. ADMINISTRATIVE SANCTIONS IN IRELAND

It is apparent from the schedule that Ireland already has a number of non-criminal sanctions available to regulators by virtue of existing legislation. In addition, regulators use some sanctions without any formal statutory basis, e.g. warning letters, the “name and shame” process, and verbal warnings. In total, Ireland has access already to 11 of the 20 non-criminal sanctions identified. There are nine non-criminal sanctions that Ireland either does not have, or does not have a legislative basis for. These are:

1. **Enforcement undertaking:** Written undertakings to remedy the harm done that can be enforceable in court
2. **Warning letters:** Notification of a regulatory breach without taking further immediate action.
3. **Fixed penalties:** (On the spot fines or infringement notices) Payment of a specified monetary amount to discharge or compensate for the breach.
4. **Variable/discretionary penalties:** Payment of a variable amount determined by regulator to discharge or compensate for the breach.
5. **Civil penalty:** (US and Australia) A civil monetary penalty—“balance of probabilities”.
6. **Environmental or community services order:** (Supplemental Environment Projects (SEPs) in US). Offender to carry out a specified project for public benefit. Examples include community medical treatment, recycling facilities, training conservation/remediation work/studies, education, etc.
7. **Monetary benefits penalty order:** Made on its own or as part of a civil penalty whenever benefit can be quantified.
8. **Compensation order:** Compensate regulator/ third party for costs incurred in taking action. Can be made on its own or part of a civil penalty.
9. **Name and shame or publicity orders:** Order requiring publicity, environmental consequences, penalties etc. This is informally used by the EPA and on an ad hoc basis by local authorities.

V. STEPS TO IMPLEMENTATION

The study determined that for any proposed implementation of additional administrative or civil sanctions, Regulatory Impact Analysis (RIA) should be considered. RIA has been described by the Irish Government as a “Tool used to assess the likely effects of a proposed new regulation”.⁹ It is designed to clarify relevant factors for decision makers by using a comprehensive and systematic compilation of information. It is intended that this should encourage policymakers to make balanced decisions when they consider legislative action against the wider economic goals. In particular the White Paper, *Regulating*

⁹ *RIA Guidelines: How to Conduct a Regulatory Impact Analysis*, Department of the Taoiseach, Government Buildings, Dublin 2, October 2005, at 6. Available online at <http://www.betterregulation.ie/eng/Publications/RIAguidelines.pdf>

Better, issued by the Taoiseach's office, set out six principles of good regulation namely, necessity, effectiveness, proportionality, transparency, accountability and consistency.

By conducting a RIA, a number of options are likely to arise. For example, the identification of costs, benefits and impacts, impacts on national competitiveness, impacts on the socially excluded or vulnerable groups and whether the proposal will involve a significant compliance burden. Clear guidelines and coherent policies would have to be published in any rollout of a new civil and administrative sanction regime. The Hampton Report¹⁰ highlights that businesses are very concerned about the cumulative burden of regulation. In particular, businesses spoke of multiple inspections and overlapping data requirements. Moreover, that Report states that regulators are often failing to communicate their requirements simply and effectively to businesses.

VI. POTENTIAL BARRIERS TO IMPLEMENTATION

The study identified that the implementation of any new civil and administrative sanctions regime must consider and address a number of potential issues under the Irish Constitution and the European Convention of Human Rights Act 2003.¹¹ Ireland is a common law jurisdiction with a written constitution, which contains a Bill of Rights. It is a member of the European Union and is bound by European Union legislation and the decisions of the European Court of Justice. The European Convention of Human Rights Act 2003 gives effect to the European Convention of Human Rights ("the Convention") in Irish law. Article 6(2) and 6(3) of the Convention confirms that everyone "charged with a criminal offence" shall have the benefit of the presumption of innocence and certain other "minimum rights", including to be informed promptly of the charge; to allow adequate time and facilities to prepare a defence; to have legal assistance; to examine witnesses; and to have an interpreter if necessary.

The European Court of Human Rights has established the following criteria to be followed in determining whether or not proceedings should be labelled as criminal or civil. The proceedings are to be regarded as criminal if they are: (a) brought by a civil authority and *either*; (b) have a requirement to show some kind of culpability (wilful or neglectful) *or*; (c) have the potential for severe consequences such as imprisonment. The emphasis is on the true nature of the proceedings rather than their form.

The study highlighted a number of Articles of the Irish Constitution that may be invoked in the event of the imposition of any process that is deemed unfair or unjust; the imposition of unjust or excessive monetary penalties on specific sectors of the regulated community (unequal impact upon small businesses whose operations are generally more vulnerable to monetary penalties); the imposition by the court, without the adoption of fair procedures, of any name and shame orders that impact on one's right to a good name. These Articles relate to the quasi-judicial role exercised by the regulator in the implementation of administrative sanctions. These articles are:

- Article 40.1 – "All citizens as human persons shall be equal before the law".
- Article 40.3.2 – "The State shall in particular by its laws protect as best it may from unjust attack and in the case of injustice done, vindicate the life, person, good name and property rights of every citizen".
- Article 34.1 – "Justice shall be administered in courts established by law by judges appointed in the manner provided by this Constitution, and, save in such special and limited cases as may be prescribed by law, shall be administered in public".

¹⁰ Hampton, P., *Reducing administrative burdens: effective inspection and enforcement*, HM Treasury, March 2005.

¹¹ European Convention of Human Rights Act 2003 (No. 20 of 2003).

The study noted that with greater sanctioning powers there is a greater responsibility and a need for accountability. How administrative penalties are calculated would need to be transparent and have a quick and effective appeal mechanism for the successful operation of such sanctions.

VII. CONCLUSIONS

The study concluded that there are potential benefits to the introduction of administrative sanctions, these included the following:

- The regulator is in a better position to match their response to the realities of enforcement.
- They increase the ability of the court to take account of the actual damage caused to the environment.
- They are considered a more sophisticated and flexible model of environmental enforcement, which makes the goal of improved compliance more viable.

However, it was apparent from the study that a number of hurdles that exist would need to be addressed before such sanctions could be introduced. These included the following:

- There is very little information or research available on whether the use of these administrative sanctions secure real environmental benefits on the ground or lead to faster changes of behaviour or more effective use of the regulators resources, (i.e. minimising the administrative burden of operating such a system).
- There are constitutional (Arts 34 & 40.1), Human Rights and legislative issues that would have to be satisfactorily addressed.
- Any issues arising out of a Regulatory Impact Analysis (RIA) would need consideration, particularly issues such as the identification of costs, benefits and impacts, impacts on national competitiveness, impacts on socially excluded or vulnerable groups and whether there would be a significant compliance burden involved.
- A quick, effective and transparent appeals mechanism would be required.

It is anticipated that this study funded by the Office of Environmental Enforcement, which is available on www.epa.ie, will add to the better regulation debate and in its turn assist in the enforcement of environmental law that is risk based and outcome driven.