

An Bord Achomhairc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board



John Cronin O'Reilly

Site T6/378 & 391

Appeal

NOTICE OF APPEAL UNDER SECTION 40(1) OF
FISHERIES (AMENDMENT) ACT 1997 (NO. 23)



Appeal Form

**Please note that this form will only be accepted by REGISTERED POST
or handed in to the ALAB offices**

Name of Appellant (block letters)	John Cronin O'Reilly		
Address of Appellant	Cromane Lower, Killorglin, Co. Kerry.		
Phone:		Email:	
Mobile:		Fax:	

Fees		
Fees must be received by the closing date for receipt of appeals	Amount	Tick
Appeal by licence applicant	€380.92	<input checked="" type="checkbox"/>
Appeal by any other individual or organisation	€152.37	<input type="checkbox"/>
Request for an Oral Hearing * (fee payable in addition to appeal fee)	€76.18	<input checked="" type="checkbox"/>
* In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded.		
(Cheques Payable to the Aquaculture Licences Appeals Board in accordance with the Aquaculture Licensing Appeals (Fees) Regulations, 1998 (S.I. No. 449 of 1998))		
Electronic Funds Transfer Details	IBAN: IE89AIBK93104704051067	BIC: AIBKIE2D

Subject Matter of the Appeal
Refusal of applications Aquaculture Licences and Foreshore Licences
I am requesting an appeal and oral hearing with the Board

Site Reference Number:- (as allocated by the Department of Agriculture, Food and the Marine)	T06/378A & T06/391A
Appellant's particular interest in the outcome of the appeal:	
<p>I am sixth generation fisherman and in an effort to maintain this tradition I have spent the last 10 years in oyster farming. After returning home from working in Cork and after a very short period of time on unemployment assistance I went, as an apprentice, with one of the local oyster farmers and learned the intricacies of the business. From that, I was awarded the 'Back to Work' scheme which allowed me to develop my own oyster operation within his licensed oyster ground. Over the past five years I have invested over €85,000 in my business. As I could not remain indefinitely within this fisherman's ground I applied for my own two areas, totaling five hectares, over six years ago and it has taken the Department this long to access my applications.</p>	
Outline the grounds of appeal (and, if necessary, on additional page(s) give full grounds of the appeal and the reasons, considerations and arguments on which they are based):	
<p>My appeal is based largely on the following points which are outlined in detail in the attached letter</p> <ol style="list-style-type: none"> 1. The Departments decision was based on outdated and erroneous information 2. The decision does not stand up to scrutiny 3. Licencing process is not managed correctly and is unfair 4. Management of the oyster ground in Castlemaine Harbour by the Department has been negligent from the beginning 5. As a native and a fisherman in Castlemaine I believe that I am being discriminated against simply because I have come along at this time. Had I been of age 10 years ago I would have been able to get any amount of licences and ground. 	
Signed by appellant: <u>John Cronin Reilly</u> Date: <u>29/10/12</u>	
Please note that this form will only be accepted by REGISTERED POST or handed in to the ALAB offices	
Fees must be received by the closing date for receipt of appeals	

This notice should be completed under each heading and duly signed by the appellant and be accompanied by such documents, particulars or information relating to the appeal as the appellant considers necessary or appropriate and specifies in the Notice.

Extracts from Act

40.—(1) A person aggrieved by a decision of the Minister on an application for an aquaculture licence or by the revocation or amendment of an aquaculture licence may, before the expiration of a period of one month beginning on the date of publication in accordance with this Act of that decision, or the notification to the person of the revocation or amendment, appeal to the Board against the decision, revocation or amendment, by serving on the Board a notice of appeal.

(2) A notice of appeal shall be served—

(a) by sending it by **registered post** to the Board,

(b) by leaving it at the office of the Board, during normal office hours, with a person who is apparently an employee of the Board, or

(c) by such other means as may be prescribed.

(3) The Board shall not consider an appeal notice of which is received by it later than the expiration of the period referred to in subsection (1)

41.—(1) For an appeal under *section 40* to be valid, the notice of appeal shall—

(a) be in writing,

(b) state the name and address of the appellant,

(c) state the subject matter of the appeal,

(d) state the appellant's particular interest in the outcome of the appeal,

(e) state in full the grounds of the appeal and the reasons, considerations and arguments on which they are based, and

(f) be accompanied by such fee, if any, as may be payable in respect of such an appeal in accordance with regulations under *section 63*, and

shall be accompanied by such documents, particulars or other information relating to the appeal as the appellant considers necessary or appropriate.

Cromane Lower,

Killorglin,

Co. Kerry

29th October 2018

The Aquaculture Licences Appeals Board,

Kilminchy Court,

Portlaoise,

Co. Laois,

Re: T6/378A & T6/391A

Appeal to Refusal for Aquaculture Licences in Castlemaine Harbour

Dear Sirs,

I refer to letter of 5th October from Mr. Oisín O'Kelly of Department of Agriculture, Food and the Marine advising of the refusal of the Minister for Agriculture, Food and the Marine to grant my licence application for the above two sites.

I am formally appealing this decision based on the following points and am requesting a meeting with the Minister to discuss same as it is his decision that I am appealing. I am also advising the Department that, should my appeal be unsuccessful, I will be exercising my right to apply for judicial review to the highest courts within Ireland and the Europe Union.

The grounds for my appeal are outlined below, which were, by in large, contained in my letter of observation which seems to have been ignored by the Department:

1. On the Marine Institutes own admission the two sites I have applied for and the activity to be carried on therein would have little or no impact on the general environment as they have a 'B' classification.
2. The Departments Appropriate Assessment Report has based it's conclusions on outdated and erroneous data. It concluded that the proposed increase in the spatial area arising from the new licence applications would pose a risk to seston depletion and impact on the carrying capacity of the harbour. If the Department were up to date in their information they would be aware that there has been very little mussel cultivation in the harbour for a number of years. The majority of the mussel boats are currently for sale. Mussel seed is not being produced or settling due to the change in tidal currents following the erosion of Rossbeigh Creek. I have commissioned my sister, Sorcha Cronin O Reilly, Marine Scientist currently undergoing her PhD in Harbour Management, to investigate the current status of the harbour in conjunction with the Department of the Maine's studies.
3. The Department of the Marine have a responsibility to manage and maintain the harbour for the benefit of all – fishermen, residents and occasional users. I don't believe that the current framework being employed by the Department is fair or transparent and is subject to abuse when the Department are not fully aware of the activities in Castlemaine Harbour.

Within the current licence applications there are a number of serious issues that need to be addressed:

- (a) It has been suggested to me that the areas where the five licences are being considered are not compatible with the farming of oysters because they are within deep water areas. It would greatly concern me where these oysters would eventually be cultivated.
- (b) One application for 830 hectares, an area larger than Tralee town, by one individual is totally unacceptable. This individual is also one of the five licences being considered for the amendments. I am certainly of the opinion that this application was submitted to distort the overall total licencing ground being applied for.
- (c) Within the Departments Assessment Report concern is expressed about the quality of the oysters being produced and this concern is justified when you see one individual, with previously licenced ground, being grant aided to the tune of over €100,000 this year alone to pack the area with an additional 3,000 trestles and over 20,000 oyster bags. This over cultivation will be of more detrimental effect to the area than my simple 5 hectare sites. This very same company has been earmarked for two of the five amendments recommended.
- (d) The Departments current management of the harbour has allowed for unrealistic applications for oyster cultivation areas within mouths of rivers and inside deep water channels. It is the responsibility of the Department to oversee the application process and evaluate each application on an individual basis and with scientific clarity and surety about the viability of each area.

On a personal basis, as I am passionate about my way of life, I am sure that this is and will be mine and my family's future. I am sixth generation fisherman and in an effort to maintain this tradition I have spent the last 10 years in oyster farming. After returning home from working in Cork and after a very short period of time on unemployment assistance I went, as an apprentice, with one of the local oyster farmers and learned the intricacies of the business. From that, I was awarded the 'Back to Work' scheme which allowed me to develop my own oyster operation within his licenced oyster ground. Over the past five years I have invested over €85,000 in my business. As I could not remain indefinitely within this fisherman's ground I applied for my own two areas, totalling five hectares, over six years ago and it has taken the Department this long to access my applications.

With my oyster ground, I hope to live locally with my partner and our 10 month old son, to pay my taxes and contribute to our beautiful country. And in time to come, I would hope to pass on my skills and knowledge to the next generation.

Yours sincerely,

John Cronin O Reilly

