

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)	PHILLIP DOHERTY
Address of Appellant	SLIEVEBAWN, MALIN HEAD CO. DONEGAL.

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) <small>* In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded.</small>	€76.18	<input type="checkbox"/>
(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

I WISH TO APPEAL THE DECISION OF
THE MINISTER NOT TO GRANT AN
AQUACULTURE + FORESHORE LICENSE
FOR T12/S40.

AQUACULTURE LICENCES
APPEALS BOARD
2 JAN 2020
RECEIVED



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.

**A report prepared for the
Appeals Board. ALAB**

Appeal against the refusal by the minister for Agriculture, Food and The Marine to grant Aquaculture and Foreshore licenses to Philip Doherty for the cultivation of oysters using bags and trestles.

Location of Site Appealed: Trawbreaga Bay Co. Donegal

Application Ref: T12/540

Appellant: Philip Doherty

The grounds for the appeal:

The reason for the refusal decision is cited:

- 1) The separation of the proposed site by a gap of approximately 18-24 meters from the band already licensed on the north shore of the bay is not appropriate.
- 2) Licensing the site would be contrary to the orderly aquaculture development in the bay.
- 3) Licensing the site would also introduce oyster aquaculture into an area of potentially greater sediment mobility than existing sites.

Source: Department Agriculture, Food and Marine December 2019

Grounds for appeal are now discussed.

1. The separation of the proposed site by a gap of approximately 18-24 meters from the band already licensed on the north shore of the bay is not appropriate.

- The original application for this area was made in 2006, T12/376.
- This was refused by engineer Paul O Sullivan, citing the area that applied for was too big.
- I reapplied and got T12/444.
- I applied again for the outstanding area and the engineer told me that it was too big and reduce the size of it. This was T/540A, where now the engineer is saying there is a gap. It was the engineer that caused this gap.
- This site refused would align with sites in the west and east side of the bay and makes more sense when we are doing the navigational plan in the bay through BIM and CLAMS.

2. Licensing the site would be contrary to the orderly aquaculture development in the bay.

- This does not make sense as this site is surrounded by licensed sites, and it's a small size as similar in the bay.

3. Licensing the site would also introduce oyster aquaculture into an area of potentially greater sediment mobility than existing sites.

- The sediment is much the same in the bay and the sites surrounding it. Other sites which have been granted in Trawbreaga bay also present these characteristics. Why this is of concern for this site?