

WAB Review of the Current Regulatory Framework for Irish Water

10 March 2022



An Coimisiún
um Rialáil Fónais
Commission for
Regulation of Utilities

CRU Role

Economic Regulator

Under Sections 39 to 43 of the Water Services (No. 2) Act 2013 (“the Act”), the CRU is tasked with the role of economic regulation of Irish Water.

Those sections of the Act set out the functions and powers of the CRU as the economic regulator of Irish Water.

The CRU’s role includes to protect the interests of water customers, ensure public water services are delivered in a safe, secure and sustainable manner and that Irish Water operates in an economic and efficient manner.



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CRU Functions

Performance of functions of Commission (Water Services (No. 2) Act 2013)

S 39.

- 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—
 - a) that the customers of Irish Water are provided with the quality of service provided for in a code of practice approved under section 32 ,
 - 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,
 - d) the conservation of water resources,
 - e) the continuity, safety, security, and sustainability of water services,
 - f) the recovery of costs of water services in accordance with Article 9 of the EU Water Framework Directive,
 - g) that Irish Water performs its functions in a manner that will enable the achievement by the State of the environmental objectives of that Directive
 - h) that Irish Water performs its functions in an open and transparent manner.



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CRU Powers

Charging

- S22('13) - Water Charges Plan – key legal instrument to charge, CRU approves with/without modification

Customer Protection

- S32('13) - Codes of Practice - CRU approves with/without modification, the Commission can direct IW to comply, IW obliged to comply. CoPs on billing, payments, communications, complaints and anything else to secure the interests of consumers.
- S8('14) – Dispute Resolution re customer complaints.
- S23(14) – Connections - Dispute resolution - CRU can apply to the High Court for an order requiring Irish Water to comply with the determination of the Commission made under this section within a period to be specified by the Court

Investment

- S34('13) - Investment Plans to be submitted to CRU.

Information

- S43('13) – Information - CRU 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. IW shall comply, as soon as reasonably practicable
- S11('99) ERA allows the CRU, for the purposes of exercising its functions, to appoint authorised officers, who may require IW to produce documents or records and provide related information - criminal offence to obstruct/impede an authorised officer or to fail to give/give misleading information to an authorised officer.

Energy Framework Comparisons

Licence

- Energy and gas utilities are licenced under the ERA for the performance of specific functions in designated activities; energy supply, gas shipping, electricity generation, energy transmission and distribution networks and interconnection.
- Legislation provides for CRU to issue licences and where the Commission grants such a licence, that licence shall be subject to such terms and conditions as may be specified in the licence, which includes information gathering.

Powers of Direction

The legislation provides for a range of areas where the CRU may issue specific directions on key areas.

Enforcement

- The ERA empowers the CRU to:
 - issue a **direction or notice** to a licensee where it considers that the licensee may have contravened, may be contravening or may be likely to contravene a condition or requirement
 - **apply to the High Court for an order** to ensure compliance with a direction and

Sanctions

- The ERA empowers the CRU to:
 - **ultimately revoke a licence** where the CRU determines it appropriate.
- The ERA empowers the CRU to impose Administrative Sanctions where a licenced entity has breached a specified Standard of Performance:



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• Minor sanction – issue a caution, warning, reprimand

• Major sanction – up to 10% turnover, and or costs

IW Framework Limitations

No Licence

- All obligations on IW defined in the legislation, CRU has no autonomy to set relevant obligations through a sector specific licence, limited prescription through Codes of Practice.

Powers of Direction

- No explicit powers of Direction available to CRU (outside of CoPS)

Information Gathering

- Weak information gathering – no compulsion on IW to comply

Enforcement

- No powers of sanction.



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