



Number 25 of 2026

Dublin Airport (Passenger Capacity) Act 2026



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DUBLIN AIRPORT (PASSENGER CAPACITY) ACT 2026

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*Dublin Airport
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*Dublin Airport
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[2026.]

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Number 25 of 2026

DUBLIN AIRPORT (PASSENGER CAPACITY) ACT 2026

An Act to confer a power on the Minister for Transport, in the public interest and having regard to the strategic importance of Dublin Airport in supporting international connectivity, trade, tourism, investment and the movement of persons and cargo to, from and within the State, to make an order to amend or revoke a planning condition relating to the number of passengers that may use Dublin Airport for the purpose of travelling by air to or from another airport; to enable daa, public limited company, to make an application to the Minister for Transport for that purpose; to provide, before the making of such an order, for environmental assessments to be carried out by An Coimisiún Pleanála for the purposes of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011¹ on the assessment of the effects of certain public and private projects on the environment, Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000² establishing a framework for community action in the field of water policy and Council Directive 92/43/EEC of 21 May 1992³ on the conservation of natural habitats and of wild fauna and flora; to limit, having regard to the aforementioned importance of Dublin Airport, the planning conditions that may be imposed on development at that Airport and, for that purpose, to amend the Planning and Development Act 2000 and the Planning and Development Act 2024; to amend the Aircraft Noise (Dublin Airport) Regulation Act 2019; to provide an exemption from the application of section 15 of the Climate Action and Low Carbon Development Act 2015; and to provide for related matters. [16th July, 2026]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Dublin Airport (Passenger Capacity) Act 2026.

¹ OJ No. L26, 28.1.2012, p. 1

² OJ No. L327, 22.12.2000, p. 1

³ OJ No. L206, 22.7.1992, p. 7

- (2) This Act shall come into operation on such day or days as the Minister may, by order or orders, appoint, either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes or provisions.

Definitions

2. In this Act—

“Act of 2000” means the Planning and Development Act 2000;

“Act of 2019” means the Aircraft Noise (Dublin Airport) Regulation Act 2019;

“Act of 2024” means the Planning and Development Act 2024;

“appropriate assessment” means an assessment carried out in accordance with *section 21*;

“Commission” means An Coimisiún Pleanála;

“daa” means daa, public limited company;

“environmental condition” has the meaning assigned to it by *section 15(10)*;

“environmental impact assessment” means an assessment carried out in accordance with *section 15*;

“environmental impact assessment report” means an environmental impact assessment report prepared and submitted under *section 13*;

“European site” has the meaning assigned to it by the Act of 2024;

“Habitats Directive” means Council Directive 92/43/EEC of 21 May 1992³ on the conservation of natural habitats and of wild fauna and flora, amended by Council Directive 97/62/EC of 27 October 1997⁴, Regulation (EC) No. 1882/2003 of the European Parliament and of the Council of 29 September 2003⁵, Council Directive 2006/105/EC of 20 November 2006⁶, Council Directive 2013/17/EU of 13 May 2013⁷ and Directive (EU) 2025/1237 of the European Parliament and of the Council of 17 June 2025⁸;

“Minister” means the Minister for Transport;

“mitigation measure” has the meaning assigned to it by *section 21(4)(c)*;

“Natura impact statement” means a statement prepared for the purposes of Article 6 of the Habitats Directive setting out the implications of a project, whether on its own or in combination with other plans or projects, for any European site on which the project may have significant effects, having regard to the conservation objectives in relation to that site;

“passenger capacity condition” means a condition relating to the number of passengers

4 OJ No. L305, 8.11.1997, p. 42

5 OJ No. L284, 31.10.2003, p. 1

6 OJ No. L363, 20.12.2006, p. 368

7 OJ No. L158, 10.6.2013, p. 193

8 OJ L, 2025/1237, 24.6.2025

that may use Dublin Airport for the purpose of travelling by air to or from another airport in any period;

“prescribed” means prescribed by regulations made by the Minister;

“relevant permission” means a permission for development at Dublin Airport granted under section 34 of the Act of 2000 or under Chapter 3 or Chapter 4 of Part 4 of the Act of 2024.

Regulations and order

3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.
- (2) Regulations under this Act or an order under *section 25(1)* may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations or order.
- (3) Every regulation made by the Minister under this Act or an order under *section 25(1)* shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation or order is passed by either such House within the next 21 days on which that House sits after the regulation or order is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses

4. 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, Infrastructure, Public Service Reform and Digitalisation, be paid out of moneys provided by the Oireachtas.

Service of documents

5. (1) Subject to *subsection (3)*, a notice or other document that is required or authorised by or under this Act to be served on or given to a person shall be addressed to the person concerned by name and may be so served on or given to the person in one of the following ways:
- (a) by delivering it in person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
- (d) by electronic means, in a case in which the person has given notice in writing to the person serving or giving the notice or document concerned of his or her consent to the notice or document (or notices or documents of a class to which

the notice or document belongs) being served on, or given to, him or her in that manner.

- (2) For the purposes of this section, a company registered under the Companies Act 2014 or an existing company within the meaning of that Act shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.
- (3) Where a notice or other document is required or authorised by or under this Act to be served on or given to the owner or occupier of land and the name of the owner or of the occupier cannot be ascertained by reasonable inquiry, it may be addressed to “the owner” or “the occupier”, as the case may require, without naming him, her or it.

Power of Minister to give directions to daa

6. (1) The Minister may give a direction in writing to daa for any purpose relating to this Act, including, but not limited to—
 - (a) the provision of such information as the Minister may reasonably require for the purpose of considering an application under *section 7(1)*,
 - (b) the preparation of reports or plans as may reasonably be required by the Minister or the Commission relating to an environmental impact assessment or an appropriate assessment, or
 - (c) the submission of information relating to an environmental impact assessment or an appropriate assessment.
- (2) A direction under *subsection (1)* may specify the period within which, and the form in which, such information, reports or plans are to be provided.
- (3) daa shall comply with a direction given to it by the Minister under this section.

PART 2

APPLICATION BY DAA

Application for order under *section 25*

7. (1) daa may apply to the Minister for an order to be made in accordance with *section 25*.
- (2) An application under *subsection (1)* shall be in writing in such form as may be directed by the Minister and shall:
 - (a) include details of the passenger capacity condition and the relevant permission to which it is attached;
 - (b) propose the manner in which a passenger capacity condition attached to a relevant permission should be amended or revoked;

- (c) include the reason for making the application;
 - (d) include the information referred to in *section 12(2)*;
 - (e) refer to any of the matters mentioned in *paragraphs (a) to (f) of section 25(2)* that are relevant to the application;
 - (f) include such other matters as may be prescribed.
- (3) The Minister may consult with—
- (a) the Minister for Housing, Local Government and Heritage,
 - (b) Fingal County Council,
 - (c) the Commission,
 - (d) daa,
 - (e) the Irish Aviation Authority,
 - (f) the National Transport Authority,
 - (g) Transport Infrastructure Ireland, or
 - (h) such other person as the Minister considers appropriate.
- (4) Before issuing a notice under *subsection (5)*, the Minister may have regard to—
- (a) the application under *subsection (1)*,
 - (b) whether the passenger capacity condition the subject of the application is causing, or would be likely to cause, the serious harm referred to in any of *paragraphs (a) to (c) of section 25(1)*,
 - (c) any further information provided pursuant to a direction under *section 6(1)*, and
 - (d) the views, if any, provided by any person following consultation pursuant to *subsection (3)*.
- (5) The Minister shall give notice to daa of—
- (a) his or her intention to—
 - (i) accept or vary the proposal of daa referred to in *subsection (2)(b)*, and
 - (ii) make an order under *section 25(1)* to amend or revoke the passenger capacity condition attached to a relevant permission,or
 - (b) his or her decision to refuse the proposal.
- (6) A notice under—
- (a) *subsection (5)(a)* may direct daa to prepare and give to the Minister, in such form and within such period as may be specified, an environmental impact assessment report and a Natura impact statement for the purposes of carrying out an

environmental impact assessment and an appropriate assessment in accordance with *Part 3*, or

(b) *subsection (5)(b)* shall state the main reasons for that decision.

PART 3

ENVIRONMENTAL ASSESSMENTS

CHAPTER 1

Preliminary and General

Definitions (*Part 3*)

8. In this Part—

“Birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009⁹ on the conservation of wild birds, amended by Council Directive 2013/17/EU of 13 May 2013¹⁰ and Regulation (EU) 2019/1010 of the European Parliament and of the Council of 5 June 2019¹¹;

“enactment” means—

- (a) an Act of the Oireachtas,
- (b) a statute (or any provision thereof) that continues to have full force and effect by virtue of Article 50 of the Constitution, or
- (c) an instrument made under an Act of the Oireachtas or a statute referred to in *paragraph (b)*;

“Environmental Impact Assessment Directive” means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011¹² on the assessment of the effects of certain public and private projects on the environment, amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014¹³;

“proposal” means a proposal to make an order under *section 25(1)* amending or revoking a passenger capacity condition;

“water body” means a body of surface water or a body of groundwater;

“Water Framework Directive” means Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000¹⁴ establishing a framework for Community action in the field of water policy.

9 OJ No. L20, 26.1.2010, p. 7

10 OJ No. L158, 10.6.2013, p. 193

11 OJ No. L170, 25.6.2019, p. 115

12 OJ No. L26, 28.1.2012, p. 1

13 OJ No. L124, 25.4.2014, p. 1

14 OJ No. L327, 22.12.2000, p. 1

Joint environmental assessment of proposal by Commission

9. (1) The Commission shall use all reasonable endeavours to carry out an environmental impact assessment and an appropriate assessment of a proposal under this Part—
- (a) jointly, provided that the carrying out of both such assessments jointly would not hinder compliance with any of the requirements of this Act in relation to either such assessment, or
 - (b) simultaneously.
- (2) Where the Commission carries out an appropriate assessment and an environmental impact assessment jointly in accordance with *subsection (1)(a)*, it shall ensure that—
- (a) its determination in relation to the appropriate assessment and the reasons therefor, and
 - (b) its reasoned conclusion in relation to the environmental impact assessment,
- are separately stated and clearly distinguishable.
- (3) The Minister may, following consultation with the Minister for Housing, Local Government and Heritage, make regulations for the purposes of this section.

Priority application

10. Where the Commission receives an application for an environmental impact assessment under *section 13(1)*, or an application for an appropriate assessment under *section 19(1)*, the Commission shall, without prejudice to its functions under any other enactment—
- (a) take all necessary steps in the performance of its functions under this Part to act in an expeditious manner and to avoid any undue delays in the carrying out of an environmental impact assessment and an appropriate assessment in accordance with this Part,
 - (b) ensure that it takes such steps as are necessary and appropriate to reduce the time required for its processes relating to the assessments referred to in *paragraph (a)*, and
 - (c) allocate, as appropriate, administrative, technical and decision-making resources to facilitate the carrying out by it of its duties under this Part.

CHAPTER 2

*Environmental Impact Assessment***Interpretation (Part 3, Chapter 2)**

11. (1) A word or expression that is used in this Chapter and in the Environmental Impact Assessment Directive has the meaning in this Chapter that it has in that directive.
- (2) A word or expression that is used in this Chapter and in the Water Framework Directive has the meaning in this Chapter that it has in that directive.

- (3) This Chapter shall be construed in accordance with the Environmental Impact Assessment Directive and the Water Framework Directive.

Request for scoping opinion

12. (1) The Minister may, before applying for an environmental impact assessment of a proposal under *section 13(1)*, request the Commission to provide him or her with an opinion (in this section referred to as a “scoping opinion”) in writing on the scope and level of detail of the information that should be included in the environmental impact assessment report to be submitted with the application.
- (2) A request under *subsection (1)* shall contain information on the specific characteristics of the proposal, including its location, its technical capacity and its likely impact on the environment.
- (3) In considering a request for a scoping opinion, the Commission—
- (a) shall take into account the information referred to in *subsection (2)*,
 - (b) shall consult with—
 - (i) the Minister,
 - (ii) the Minister for Housing, Local Government and Heritage,
 - (iii) Fingal County Council,
 - (iv) Dublin City Council,
 - (v) Meath County Council,
 - (vi) the Environmental Protection Agency,
 - (vii) daa, and
 - (viii) such other person as the Commission considers appropriate,
 - and
 - (c) may take into consideration any other information or documentation available to the Commission that it considers relevant.
- (4) The Commission shall, not later than 6 weeks after it receives a request under *subsection (1)*, provide a scoping opinion to the Minister.
- (5) Any failure of the Commission to comply with *subsection (4)* shall not affect the entitlement of the Minister to make an application for an environmental impact assessment of the proposal under *section 13(1)*.
- (6) Where the Commission provides a scoping opinion to the Minister in accordance with this section, the environmental impact assessment report prepared and submitted under *section 13(1)(b)* shall be consistent with that opinion with regard to the scope and level of detail.

Application for environmental impact assessment and submission of environmental impact assessment report

13. (1) Where the Minister has given a notice to daa under *section 7(5)(a)*, he or she may—
- (a) apply to the Commission for an environmental impact assessment of the proposal, and
 - (b) submit to the Commission an environmental impact assessment report prepared by daa in relation to that proposal.
- (2) An environmental impact assessment report under *subsection (1)(b)* shall—
- (a) be prepared by a competent expert,
 - (b) contain the following information:
 - (i) a description of the proposal comprising information on the site and other relevant features of the proposal;
 - (ii) a description of the likely significant effects (if any) of the proposal on the environment;
 - (iii) a description of the features of the proposal and of measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;
 - (iv) a description of the reasonable alternatives studied by daa, which are relevant to the proposal and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposal on the environment;
 - (v) a non-technical summary of the information referred to in *subparagraphs (i) to (iv)*;
 - (vi) a description of the impact, if any, of the proposal on the status of a water body;
 - (vii) a description of the measures envisaged in order to avoid, prevent or reduce the impact of the proposal on the status of a water body affected by the proposal;
 - (viii) any additional information specified in Annex IV to the Environmental Impact Assessment Directive that is relevant to the specific characteristics of the proposal or type of proposal and to the environmental features likely to be affected;
- and
- (c) take into account the available results of other relevant assessments carried out pursuant to any act of an institution of the European Union or the European Communities or any enactment.

- (3) The Minister shall, not later than 5 days after the submission of an environmental impact assessment report to the Commission, publish on a website maintained by or on behalf of the Minister, a notice stating—
- (a) that an application has been made by daa for an order to be made under *section 25(1)*,
 - (b) that an environmental impact assessment report in relation to the proposal has been submitted to the Commission and that an environmental impact assessment will be carried out,
 - (c) the name and address of the principal office of the Commission,
 - (d) that the environmental impact assessment report and other documentation submitted by the Minister to the Commission in connection with the application under *subsection (1)* are—
 - (i) available for inspection (free of charge) by members of the public at the offices of the Commission during normal office hours, and
 - (ii) published on a website maintained by or on behalf of the Commission,and
 - (e) that any person may make submissions to the Commission in accordance with the notice published by the Commission under *section 14(1)(c)*.
- (4) Subject to *subsection (5)*, daa shall, within the period of 2 weeks before the submission of an environmental impact assessment report to the Commission, provide information relating to the proposal to the EIA portal (within the meaning of the Act of 2000) in accordance with section 172B(2) of the Act of 2000, subject to the following modifications—
- (a) a reference in that section to proposed development shall be read as a reference to a proposal,
 - (b) the reference in that section to prescribed information shall be read as a reference to the following information:
 - (i) the name of the applicant;
 - (ii) a contact name, email address and phone number for correspondence with the applicant or his or her agent;
 - (iii) the location of the proposal;
 - (iv) a location map of sufficient size and containing details of features in the vicinity such as to permit the identification of the site to which the application relates, to a scale (which shall be identified thereon) of not less than 1:1000 in built up areas and 1:2500 in all other areas, and marked so as to identify clearly the boundaries of the location in red;
 - (v) a description of the proposal,and

- (c) any other necessary modifications.
- (5) Following the repeal of section 172A of the Act of 2000, the information referred to in *subsection (4)* shall be provided by daa to the environmental impact assessment portal operated and maintained in accordance with section 241 of the Act of 2024.

Consultation on environmental impact assessment report

14. (1) The Commission shall within 5 days of receipt of an application under *section 13(1)*—

- (a) publish the environmental impact assessment report on a website maintained by it or on its behalf,
 - (b) make the environmental impact assessment report available for inspection (free of charge) at its offices by members of the public during normal office hours,
 - (c) publish a notice on that website—
 - (i) specifying where, the times at which, and the period during which, the environmental impact assessment report may be inspected in accordance with *paragraph (b)*,
 - (ii) inviting submissions by members of the public with respect to the likely significant effects (if any) of the proposal on the environment, and
 - (iii) specifying that submissions may be made during the period of 30 days commencing on the date of the notice and the manner in which such submissions may be made,
 - (d) give a copy of that application and the environmental impact assessment report to—
 - (i) the Minister for Housing, Local Government and Heritage,
 - (ii) Fingal County Council,
 - (iii) Dublin City Council,
 - (iv) Meath County Council,
 - (v) the Environmental Protection Agency, and
 - (vi) such other person as the Commission considers appropriate,and
 - (e) invite the persons referred to in *paragraph (d)* to make, during the period referred to in *subsection (1)(c)(iii)*, submissions to the Commission on the proposal and the information provided with the application.
- (2) Where the Commission considers that an environmental impact assessment report submitted to it does not comply with the requirements of *section 13(2)*, it shall, not later than 4 weeks from the date of receipt of the report, request the Minister to

provide the Commission with such information as it considers necessary to ensure compliance with the said *section 13(2)*.

- (3) For the purpose of carrying out an environmental impact assessment, the Commission may—
- (a) request, not later than 8 weeks from the date of receipt of the application under *section 13(1)*, such information, further information or clarification from the Minister as the Commission considers necessary to enable it to carry out that assessment and is required for the Commission to reach a reasoned conclusion, or
 - (b) consult with such persons as the Commission considers appropriate.
- (4) Where, pursuant to a request under *subsection (2)* or *subsection (3)(a)*, the Commission receives information from the Minister that the Commission considers to be significant additional information concerning the likely significant effects of the proposal on the environment, the Commission shall—
- (a) require the Minister to publish, on a website maintained by or on behalf of the Minister, a notice stating—
 - (i) that he or she has submitted to the Commission significant additional information concerning the likely significant effects of the proposal on the environment,
 - (ii) that that information is—
 - (I) available for inspection (free of charge) by members of the public at the offices of the Commission during normal office hours, and
 - (II) published on a website maintained by or on behalf of the Commission, and
 - (iii) that any person may, within such period (which shall not be less than 30 days from the date of the notice) as is specified by the Commission, make submissions to the Commission in relation to the information,
 - (b) publish the additional information on a website maintained by it or on its behalf,
 - (c) make the additional information available for inspection (free of charge) at its offices by members of the public during normal office hours,
 - (d) give a copy of the additional information to—
 - (i) the Minister for Housing, Local Government and Heritage,
 - (ii) Fingal County Council,
 - (iii) Dublin City Council,
 - (iv) Meath County Council,
 - (v) the Environmental Protection Agency,
 - (vi) such other person as the Commission considers appropriate, and

- (vii) any person consulted under *subsection (1)(d)*,
and
- (e) invite the persons referred to in *paragraph (d)* to make submissions to the Commission on the additional information provided within the period specified in the notice under *paragraph (a)*.

Environmental impact assessment of proposal

- 15.** (1) The Commission shall carry out an environmental impact assessment of a proposal in respect of which an application has been made under *section 13(1)*.
- (2) An environmental impact assessment carried out under this section shall, in an appropriate manner and in the light of each individual case, identify, describe and assess the direct and indirect significant effects (if any) of the proposal concerned on—
- (a) population and human health,
 - (b) biodiversity, with particular attention given to species and habitats protected under the Habitats Directive and the Birds Directive,
 - (c) land, soil, water, air and climate,
 - (d) material assets, cultural heritage and the landscape, and
 - (e) the interaction between the factors referred to in *paragraphs (a), (b), (c) and (d)*.
- (3) The identification, description and assessment of the effects of the proposal concerned on the factors referred to in *subsection (2)* shall include the identification, description and assessment of expected effects deriving from any vulnerability of the proposal to a risk of major accident or disaster which are relevant.
- (4) The Commission shall, for the purposes of carrying out an environmental impact assessment and reaching a reasoned conclusion under this section, consider and examine—
- (a) the environmental impact assessment report prepared by daa and submitted to the Commission by the Minister under *section 13(1)*,
 - (b) any information submitted to the Commission pursuant to a request under *subsection (2) or (3)(a) of section 14*,
 - (c) any submissions made to the Commission in accordance with—
 - (i) an invitation under *section 14(1)(c)(ii)*,
 - (ii) an invitation under *section 14(1)(e)*,
 - (iii) a notice under *section 14(4)(a)(iii)*, and
 - (iv) an invitation under *section 14(4)(e)*,

- (d) the results of any consultation carried out by the Commission in accordance with *section 14*, and
 - (e) any other information provided by the Minister, or information that the Commission considers relevant.
- (5) Subject to *subsection (6)*, the Commission shall, not later than 20 weeks from the date of receipt of an environmental impact assessment report, reach a reasoned conclusion under *subsection (7)* on the significant effects (if any) of the proposal on the environment.
- (6) Where the Commission makes a request under *section 14(3)(a)*, the period referred to in *subsection (5)* shall be suspended, on one occasion only, for a period—
- (a) beginning on the date of the first such request, and
 - (b) ending on the earlier of—
 - (i) the date on which the information is provided to the Commission, or
 - (ii) the expiry of the period of 4 weeks from the date of that request, or such longer period as the Minister may determine.
- (7) The reasoned conclusion shall—
- (a) state the main reasons and considerations on which it is based,
 - (b) include a summary of—
 - (i) the outcome of any consultations that took place for the purposes of the environmental impact assessment,
 - (ii) the information collected for the purposes of the environmental impact assessment, and
 - (iii) the manner in which that outcome and that information were taken account of in reaching the reasoned conclusion.
- (8) Where an order under *section 25(1)* is not made before the expiration of 12 months from the date of the reasoned conclusion in relation to the proposal under *subsection (7)*, the Minister shall request the Commission to review the reasoned conclusion for the purpose of ensuring that it is up to date.
- (9) Where, having received a request under *subsection (8)*, the Commission considers that a reasoned conclusion reached in accordance with *subsection (7)* is not up to date, the Commission shall—
- (a) exercise such of its powers under *subsections (3) and (4) of section 14* as it considers necessary for the purpose of obtaining up to date information in relation to the proposal concerned, and
 - (b) set aside the reasoned conclusion already reached in relation to the proposal and reach a new reasoned conclusion in accordance with *subsection (7)* not later than 12 weeks from the date of receipt by the Commission of a request under *subsection (8)*.

- (10) The Commission may recommend a condition to be specified in an order under *section 25(1)* relating to features of the proposal or measures envisaged to avoid, prevent or reduce and, where possible, offset significant adverse effects on the environment and any appropriate monitoring measures that the Commission considers necessary and proportionate (in this Act referred to as an “environmental condition”).
- (11) The Commission shall—
- (a) publish on a website maintained by or on behalf of the Commission a reasoned conclusion under this section,
 - (b) make the reasoned conclusion available for inspection (free of charge) by members of the public at its offices during normal office hours, and
 - (c) by notice in writing, inform the Minister of the reasoned conclusion, any proposed environmental condition and the main reason for any such condition.

CHAPTER 3

Appropriate Assessment

Interpretation (*Part 3, Chapter 3*)

16. (1) A word or expression that is used in this Chapter and in the Habitats Directive has the meaning in this Chapter that it has in that directive.
- (2) A word or expression that is used in this Chapter and in the Birds Directive has the meaning in this Chapter that it has in that directive.
- (3) This Chapter shall be construed in accordance with the Habitats Directive and the Birds Directive.

Performance of functions by Commission

17. The Commission shall, in performing the functions conferred on it by or under this Act, take appropriate steps to avoid in a European site the deterioration of natural habitats and the habitats of species as well as the disturbance (insofar as such disturbance could be significant having regard to the objectives of the Habitats Directive) of the species for which the site has been designated.

Disapplication of regulations

18. A proposal or an order made under *section 25(1)* shall not constitute an activity or a project within the meaning of Regulation 2 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011).

Application for appropriate assessment and submission of Natura impact statement

19. (1) Where the Minister has given a notice to daa under *section 7(5)(a)*, he or she may—
- (a) apply to the Commission for an appropriate assessment of the proposal, and

- (b) submit to the Commission a Natura impact statement prepared by daa in relation to the proposal.
- (2) A Natura impact statement under *subsection (1)(b)* shall—
 - (a) be prepared by a person with the necessary competence to do so,
 - (b) specify all of the habitat types and species—
 - (i) for which the European site concerned is designated, and
 - (ii) in relation to which the likelihood of significant effects (if any) arising from the proposal cannot be excluded,
 - (c) having regard to the European site’s conservation objectives—
 - (i) identify all potential significant effects (if any) of the proposal on the European site concerned, and
 - (ii) assess the effects identified in accordance with *subparagraph (i)* and the implications of the proposal for that European site,
 - (d) identify any measures proposed to be taken for the purposes of avoiding or reducing any adverse effects (identified in accordance with *paragraph (c)*) of the proposal on the European site concerned,
 - (e) having regard to the matters identified and assessments made in accordance with *paragraphs (b), (c) and (d)* conclude—
 - (i) that the proposal may adversely affect the integrity of a European site, or
 - (ii) that the proposal will not adversely affect the integrity of a European site,and
 - (f) include such other information as may be prescribed.

Consultation on Natura impact statement

- 20.** The Commission shall within 5 days of receipt of a Natura impact statement in accordance with *section 19*—
- (a) publish the Natura impact statement on a website maintained by or on behalf of the Commission,
 - (b) make the Natura impact statement available for inspection (free of charge) at its offices by members of the public during normal office hours, and
 - (c) publish a notice on its website—
 - (i) specifying the times and places at which, and the period during which, a copy of that Natura impact statement may be inspected,
 - (ii) inviting submissions in writing by members of the public with respect to the implications of the proposal for any European site having regard to the conservation objectives relating to that site, and

- (iii) specifying that submissions may be made during the period of 30 days commencing on the date of the notice and the manner in which such submissions may be made.

Appropriate assessment of proposal

- 21.** (1) The Commission shall, upon receiving an application under *section 19(1)*, carry out an appropriate assessment of the proposal to which the application relates.
- (2) For the purpose of carrying out an appropriate assessment under this section, the Commission may—
- (a) request, not later than 8 weeks from the date of receipt of the application under *section 19(1)*, such information or such further information or clarification from the Minister as the Commission considers necessary to enable it to carry out that assessment, or
 - (b) consult with such persons as the Commission considers appropriate.
- (3) The Commission shall take into account each of the following when carrying out an appropriate assessment under this section:
- (a) the Natura impact statement submitted in accordance with *section 19(1)*;
 - (b) any information obtained by the Commission pursuant to a request under *subsection (2)(a)*;
 - (c) the results of any consultation carried out by the Commission in accordance with *subsection (2)(b)*;
 - (d) any other information that the Commission considers relevant.
- (4) When carrying out an appropriate assessment of a proposal, the Commission shall, in the light of the best scientific knowledge and having regard to the conservation objectives relating to the European site concerned—
- (a) identify all likely significant effects of the proposal on the European site,
 - (b) assess the extent of those effects and their implications for the site, and
 - (c) where relevant, consider the likely effectiveness of any measures, proposed in the Natura impact statement or by the Minister to avoid or reduce potential effects to the site (in this Act referred to as a “mitigation measure”).
- (5) The Commission shall, having had regard to—
- (a) the likely significant effects identified in accordance with *subsection (4)(a)*,
 - (b) the assessment under *subsection (4)(b)*, and
 - (c) the effectiveness, or likely effectiveness, of any mitigation measure,
- make a determination as to whether or not any reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site.

- (6) Where, on the basis of an appropriate assessment under this section, the Commission concludes that no reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site, the Commission shall make a determination to that effect.
- (7) Where a determination under *subsection (6)* is based wholly or partly on the implementation of a mitigation measure, the Commission may require that the mitigation measure be specified as a condition in an order under *section 25(1)*.
- (8) Where, on the basis of an appropriate assessment under this section, the Commission concludes that a reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site, the Commission shall invite the Minister to make an assessment under *section 22*.
- (9) Subject to *subsection (10)*, the Commission shall, not later than 20 weeks from the date of receipt of an application under *section 19(1)*, make a determination under *subsection (6)* or issue an invitation under *subsection (8)*.
- (10) Where the Commission makes a request under *subsection (2)(a)*, the period referred to in *subsection (9)* shall be suspended, on one occasion only, for a period—
 - (a) beginning on the date of the first such request, and
 - (b) ending on the earlier of—
 - (i) the date on which the information or clarification is provided to the Commission, or
 - (ii) the expiry of the period of 4 weeks from the date of that request, or such longer period as the Minister may determine.

Imperative reasons of overriding public importance

- 22.** (1) Following an invitation under *section 21(8)*, the Minister may assess and determine whether or not—
- (a) there is an absence of alternative solutions to the proposal,
 - (b) imperative reasons of overriding public interest exist for the proposal, and
 - (c) any compensatory measures proposed are adequate to ensure that the overall coherence of the Natura 2000 network is protected.
- (2) For the purposes of *subsection (1)(b)*, where the European site concerned—
- (a) does not host a priority habitat or priority species, imperative reasons of overriding public interest may include those of a social or economic nature, or
 - (b) hosts a priority habitat or priority species, imperative reasons of overriding public interest include only—
 - (i) considerations relating to human health or public safety,

- (ii) considerations relating to beneficial consequences of primary importance to the environment, or
 - (iii) reasons that, in the opinion of the European Commission obtained pursuant to a request under *subsection (4)*, constitute other imperative reasons of overriding public interest.
- (3) Where the Minister decides not to carry out an assessment under *subsection (1)*, the Minister shall give notice to the Commission of that decision.
- (4) In the case of a European site referred to in *subsection (2)(b)*, the Minister may request the European Commission to provide him or her with its opinion as to whether or not other imperative reasons of overriding public interest exist in relation to the proposal.
- (5) Where the Minister is of the opinion that there are likely to be imperative reasons of overriding public interest referred to in *subsection (1)(b)*, the Minister may—
 - (a) consult with—
 - (i) the Minister for Housing, Local Government and Heritage,
 - (ii) the Commission,
 - (iii) daa, and
 - (iv) such other person as the Minister considers appropriate,
 - and
 - (b) invite the persons referred to in *paragraph (a)* to make submissions to the Minister within such period as may be specified by the Minister.
- (6) The Minister may request further information or clarification from daa for the purpose of ascertaining the feasibility or adequacy of proposed compensatory measures.
- (7) Following an assessment under *subsection (1)*, where the Minister determines that—
 - (a) there are alternative solutions to the proposal,
 - (b) imperative reasons of overriding public interest do not exist for the proposal, or
 - (c) any compensatory measures proposed are not adequate to ensure that the overall coherence of the Natura 2000 network is protected,the Minister shall make a determination to that effect and give notice to the Commission of that determination.
- (8) Following an assessment under *subsection (1)*, where the Minister determines that—
 - (a) there is an absence of alternative solutions to the proposal,
 - (b) imperative reasons of overriding public interest exist for the proposal, and
 - (c) the compensatory measures proposed are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

the Minister shall, subject to *subsection (9)*, make a determination to that effect and give notice to the Commission of that determination and the reasons therefor.

- (9) Where the Minister has made a request to the European Commission pursuant to *subsection (4)* and imperative reasons of overriding public interest referred to in *subparagraph (i)* or *(ii)* of *subsection (2)(b)* do not exist, a determination under *subsection (8)* may only be made where the Minister receives an opinion from the European Commission that states that it is satisfied that other imperative reasons of overriding public interest exist in relation to the proposal.
- (10) Where the Minister makes a determination under *subsection (8)*, the compensatory measures referred to in *paragraph (c)* of that subsection shall be included as a condition to be specified in the order under *section 25(1)*.
- (11) The Minister shall give notice to the European Commission and the Minister for Housing, Local Government and Heritage of any condition included in an order under *section 25(1)* pursuant to *subsection (10)*.

Notice of determination on appropriate assessment

23. The Commission shall as soon as practicable—

- (a) publish on its website—
 - (i) a determination under *section 21(6)*,
 - (ii) an invitation under *section 21(8)*,
 - (iii) a decision of the Minister under *section 22(3)*,
 - (iv) a determination of the Minister under *section 22(7)*, or
 - (v) a determination of the Minister under *section 22(8)*,
- (b) make a determination or decision referred to in *paragraph (a)* available for inspection (free of charge) by members of the public at its offices during normal office hours, and
- (c) give notice in writing of a determination, invitation, or decision referred to in *paragraph (a)* to—
 - (i) the Minister, in the case of a determination under *section 21(6)*, and
 - (ii) the Minister for Housing, Local Government and Heritage.

PART 4

AMENDMENT OF PLANNING CONDITION AT DUBLIN AIRPORT

Prohibition on order under *section 25*

24. (1) The Minister shall not make an order under *section 25(1)* unless—

- (a) the Commission has carried out an environmental impact assessment of the proposal and issued a reasoned conclusion in accordance with *section 15*, and
 - (b) the Commission has carried out an appropriate assessment of the proposal and—
 - (i) the Commission has made a determination in accordance with *section 21(6)*,
or
 - (ii) the Minister has made a determination in accordance with *section 22(8)*.
- (2) In this section, “proposal” has the same meaning as it has in *Part 3*.

Order to amend planning condition

- 25.** (1) Subject to *section 24*, the Minister may make an order amending or revoking a passenger capacity condition attached to a relevant permission where the Minister is of the opinion that the passenger capacity condition is causing or would be likely to cause serious harm to—
- (a) the economy of the State,
 - (b) international connectivity, or
 - (c) the international reputation of the State in respect of air transport.
- (2) In making an order under *subsection (1)*, the Minister may have regard to—
- (a) the National Planning Framework (within the meaning of the Act of 2024),
 - (b) the National Development Plan 2021-2030 published by the Government on 4 October 2021 or any document, by whatever name called, published by the Government which amends or replaces that plan,
 - (c) the development plan (within the meaning of the Act of 2024) of Fingal County Council,
 - (d) the Dublin Airport Local Area Plan made under section 20 of the Act of 2000,
 - (e) the regional spatial and economic strategy (within the meaning of the Act of 2024) for the Eastern and Midland region, or
 - (f) such other policies, plans and strategies of the Government as the Minister considers appropriate.
- (3) The Minister shall consider an environmental condition recommended by the Commission under *section 15(10)* and the reasons therefor, and may decide to—
- (a) include that condition in an order under *subsection (1)*,
 - (b) vary that condition and include the condition as varied in an order under *subsection (1)*, or
 - (c) refuse to include that condition in an order under *subsection (1)*.

- (4) Where an environmental condition or a mitigation measure is included in an order under *subsection (1)*, the Minister may specify or vary the period within which daa is required to comply with it.
- (5) In making a decision on an environmental condition pursuant to *subsection (3)*, the Minister shall take account of the reasoned conclusion of the Commission under *section 15(7)*.
- (6) The Minister may, following consultation with the Minister for Housing, Local Government and Heritage and subject to section 4(4) of the Act of 2000 or section 9(3) of the Act of 2024, as the case may be, provide in an order under *subsection (1)* that development undertaken pursuant to an environmental condition or a mitigation measure specified in that order shall be exempted development within the meaning of, and for the purposes of, the Act of 2000 or the Act of 2024, as the case may be.
- (7) The Minister may, before making an order under *subsection (1)*, consult with—
 - (a) Fingal County Council,
 - (b) the Commission,
 - (c) daa,
 - (d) the Irish Aviation Authority, or
 - (e) such other person as the Minister considers appropriate.
- (8) An order under *subsection (1)* shall—
 - (a) specify the manner in which a relevant permission is amended,
 - (b) specify any environmental condition, mitigation measure or any compensatory measure (referred to in *section 22(10)*), to be included in the relevant permission,
 - (c) specify the date on which the amendment of the relevant permission is to take effect,
 - (d) direct Fingal County Council to include the particulars of the order in the register pursuant to *subsection (13)*, and
 - (e) include in a Schedule the reasoned conclusion of the Commission under *section 15(7)*.
- (9) The Minister shall, as soon as practicable after the making of an order under *subsection (1)*, serve a copy of the order on—
 - (a) the Minister for Housing, Local Government and Heritage,
 - (b) Fingal County Council,
 - (c) the Commission, and
 - (d) daa.

- (10) Fingal County Council shall, within such period as may be specified in the order, serve a notice on—
- (a) daa, and
 - (b) any other person specified in the order,
- informing daa, or such other person, of the amendment effected by the order and the requirement to comply with the relevant permission as amended by the order.
- (11) A passenger capacity condition attached to a relevant permission to which an order under *subsection (1)* applies shall, with effect from the date specified in the order, stand amended or revoked, as the case may be, in accordance with the order.
- (12) The Minister shall, as soon as may be after the making of an order under *subsection (1)*, publish—
- (a) a notice of the making of the order in *Iris Oifigiúil*, and
 - (b) on a website maintained by or on behalf of the Minister—
 - (i) a copy of the order,
 - (ii) the main reasons and considerations on which the decision to make the order is based,
 - (iii) the reasoned conclusion of the Commission under *section 15(7)*, and
 - (iv) information on the judicial review procedures under *Part 5* by which a person may seek to question the validity of a decision by the Commission or the Minister under this Act.
- (13) Particulars of an order made under *subsection (1)* shall be entered in the register kept under section 7 of the Act of 2000 or maintained under section 382 of the Act of 2024, as the case may be, by Fingal County Council.

Effect of order under *section 25*

- 26.** (1) Subject to *subsections (4) to (7)*, an order under *section 25(1)* that amends or revokes a passenger capacity condition attached to a relevant permission shall not affect—
- (a) an application for permission made by daa to Fingal County Council to amend or revoke the same passenger capacity condition, or the decision of Fingal County Council on such an application, or
 - (b) an appeal from the decision of Fingal County Council in relation to an application referred to in *paragraph (a)*, or the decision of the Commission on such an appeal.
- (2) Subject to *subsections (4) to (7)*, a passenger capacity condition attached to a relevant permission that has been amended or revoked by an order under *section 25(1)* shall stand amended in accordance with—

- (a) the decision of Fingal County Council on the application referred to in *subsection (1)(a)*, or
 - (b) the decision of the Commission, in the case of an appeal referred to in *subsection (1)(b)*.
- (3) Where, on an application referred to in *subsection (1)(a)*, the passenger capacity condition is not amended or revoked by the decision of Fingal County Council, the relevant permission, as amended by the order under *section 25(1)*, shall, notwithstanding the decision of Fingal County Council, subject to the bringing of an appeal referred to in *subsection (1)(b)* and *subsections (4) to (7)*, continue to have effect until the passenger capacity condition is amended or revoked following a separate application for permission or by a further order under *section 25(1)*.
- (4) Subject to *subsection (5)*, on the bringing of an appeal referred to in *subsection (1)(b)*, the relevant permission, as amended by the order under *section 25(1)*, shall continue to have effect until the decision of the Commission on that appeal.
- (5) Where, on an appeal referred to in *subsection (1)(b)*, the passenger capacity condition is not amended or revoked by the decision of the Commission, the relevant permission, as amended by the order under *section 25(1)*, shall, notwithstanding the decision of the Commission, continue to have effect until the passenger capacity condition is amended or revoked following a separate application for permission or by a further order under *section 25(1)*.
- (6) Subject to *subsection (7)*, if, on an application for judicial review, the High Court makes an order staying the decision of Fingal County Council referred to in *subsection (1)(a)*, or the decision of the Commission referred to in *subsection (1)(b)*, as the case may be, the relevant permission, as amended by the order under *section 25(1)*, shall continue to have effect until the determination of the application for judicial review.
- (7) If, on an application for judicial review, the High Court decides to quash the decision of Fingal County Council referred to in *subsection (1)(a)*, or the decision of the Commission referred to in *subsection (1)(b)*, as the case may be, the relevant permission, as amended by the order under *section 25(1)*, shall continue to have effect until—
- (a) the further decision of Fingal County Council or the Commission, as the case may be, if the Court directs that the matter should be remitted for reconsideration, or
 - (b) the passenger capacity condition attached to the relevant permission is amended or revoked following a separate application for permission or by a further order under *section 25(1)*, as the case may be, if the matter is not so remitted by the Court.
- (8) In this section—
- “application for permission” means an application for a relevant permission or an application to modify, alter or extend a relevant permission;

“decision of Fingal County Council” means a decision to grant or refuse planning permission under section 34 of the Act of 2000, or section 98 of the Act of 2024, as the case may be;

“decision of the Commission” means a decision to grant or refuse planning permission under section 37 of the Act of 2000, or section 109 of the Act of 2024, as the case may be;

“judicial review” means judicial review brought in accordance with section 50 of the Act of 2000, or Part 9 judicial review (within the meaning of Part 9 of the Act of 2024), as the case may be.

PART 5

JUDICIAL REVIEW

Definitions (*Part 5*)

27. In this Part—

“legal practitioner” has the meaning it has in the Legal Services Regulation Act 2015;

“Order 84” means Order 84 of the Rules of the Superior Courts;

“relevant body” means—

- (a) the Minister, or
- (b) the Commission;

“Rules of the Superior Courts” means the Rules of the Superior Courts (S.I. No. 15 of 1986).

Application of Part

28. A person shall not—

- (a) question the validity of any decision made or act done in the performance, or purported performance, of any function under this Act by a relevant body, or
- (b) question the alleged failure of a relevant body to perform a function referred to in *paragraph (a)*,

otherwise than by way of an application for judicial review brought in accordance with Order 84 and this Part.

Application for leave

29. (1) An application for leave to apply for judicial review shall—

- (a) be made by motion on notice (grounded in the manner specified in Order 84 in respect of an *ex parte* motion for leave) to the Minister and any party that the applicant intends to name as a respondent in the application, and
 - (b) not be made after the expiry of the period of 8 weeks beginning on the date when the grounds for the application first arose.
- (2) The High Court may extend the period provided for in *subsection (1)(b)* within which an application for leave may be made but shall only do so if it is satisfied that—
 - (a) there is good and sufficient reason for doing so, and
 - (b) the circumstances that resulted in the failure to make the application for leave within the period so provided were outside the control of the party applying for the extension and the legal practitioners advising that party in relation to the application.
- (3) The Court shall not grant leave unless it is satisfied that—
 - (a) there are substantial grounds for contending that—
 - (i) the decision or act concerned is invalid or ought to be quashed, or
 - (ii) the failure to perform the function concerned is unlawful,and
 - (b)
 - (i) the applicant has a sufficient interest in the matter which is the subject of the application, or
 - (ii) the decision or act concerned relates to a project that is likely to have significant effects on the environment or on a European site and the applicant—
 - (I) is a body or organisation (other than a State authority, a public authority or governmental body or agency) the aims or objectives of which relate to the promotion of environmental protection, and
 - (II) has, during the period of 12 months preceding the date of the application, pursued those aims or objectives.

Conduct of judicial review

- 30.** (1) Subject to *subsection (2)*, an applicant shall not rely on a ground in judicial review proceedings under this Part other than the grounds set out in the statement included in the notice which grounded the application for leave referred to in *section 29(1)(a)*.
- (2) An applicant shall not be entitled to amend the statement included in the notice referred to in *subsection (1)* without applying to the High Court, on notice to all respondents and notice parties, for leave to do so, and such leave shall not be granted unless the Court is satisfied that—
- (a) there is good and sufficient reason for allowing the applicant to do so, and

- (b) the circumstances that resulted in the failure to include the matter to which the amendment relates in the original statement were outside the control of—
 - (i) the applicant, and
 - (ii) the legal practitioners advising the applicant in relation to the application.
- (3) The Court shall, in determining an application for leave or an application for judicial review on foot of such leave, act as expeditiously as possible consistent with the administration of justice.

Stays on judicial review

31. Where judicial review proceedings relate—

- (a) in whole or in part, to the decision, act or alleged failure of a relevant body, and
 - (b) to a matter for the time being before the relevant body or any other relevant body,
- the Minister or the relevant body concerned may, by motion on notice (grounded in the manner specified in Order 84), apply to the High Court to stay the proceedings pending the making of a decision by the relevant body referred to in *paragraph (b)* in relation to the matter concerned.

Appeals

- 32. (1)** The determination by the High Court of an application for leave pursuant to *section 29*, or an application for judicial review under this Part, and any order made by the High Court in judicial review proceedings under this Part, shall be final and no appeal shall lie from a decision of that Court to the Court of Appeal.
- (2) No appeal to the Supreme Court shall lie from a determination or order of the High Court referred to in *subsection (1)* save on the basis of an application for leave to appeal under Article 34.5.4° of the Constitution.
- (3) *Subsection (2)* shall not apply to a determination of the High Court in so far as it involves a question as to the validity of any law having regard to the provisions of the Constitution.

Amendments of decisions or documents subject to judicial review

- 33. (1)** This section applies to judicial review proceedings under this Part in which an order of certiorari is sought and where—
 - (a) an applicant succeeds on at least one ground and the High Court is satisfied that—
 - (i) the ground concerned is based on an error with a decision or act, including an error on the face of the record, of a relevant body,

- (ii) making an amendment to a decision or document would address the ground, render the ground moot in whole or in part, or act as a satisfactory remedy in respect of the ground, and
 - (iii) it is within the jurisdiction of the relevant body to make the amendment referred to in *subparagraph (ii)*,or
 - (b) in relation to a ground pleaded concerning an error, including an error on the face of the record, of a relevant body that is a respondent or notice party in the proceedings—
 - (i) the relevant body—
 - (I) admits or acknowledges that it made the error so pleaded, and
 - (II) pleads that the error is one in which it is appropriate for the High Court to exercise its powers under this section,and
 - (ii) the High Court is satisfied that the error is one in which it is appropriate for it to exercise its powers under this section.
- (2) Where this section applies, the High Court may, instead of granting an order of certiorari—
- (a) order the relevant body to give effect to the amendment referred to in *subsection (1)(a)(ii)* within such period as it may direct, which period shall be no longer than is necessary in order to give effect to the amendment,
 - (b) order an adjournment of the judicial review proceedings in order for the relevant body to perform a function or exercise a power, or
 - (c) make such orders consequential on, or necessary to give effect to, a decision under this section as it sees fit.
- (3) The power of the Court under *subsection (2)* is without prejudice to its power to—
- (a) award any remedy within its jurisdiction, other than an order of certiorari, in respect of the ground concerned, and
 - (b) award any remedy within its jurisdiction in respect of a ground to which *subsection (1)* does not apply.
- (4) Where the High Court is satisfied that, after any period of adjournment referred to in *subsection (2)(b)*—
- (a) the relevant body has given effect to an order under that subsection, and
 - (b) doing so has addressed the ground to which such an order relates, or rendered it moot in whole or in part,
- it may make an order striking out the ground.

Declarations of invalidity

34. Where the High Court considers that a decision, failure or act by a relevant body subject to judicial review under this Part is invalid or ought to be quashed, it may, where it considers it appropriate to do so and without prejudice to the power of the Court to grant any other remedy, take any number of the following actions:
- (a) declare to be invalid or quash any particular, provision or aspect of such decision, failure or act, without declaring invalid or quashing the remainder of the decision, failure or act;
 - (b) remit a matter to the relevant body in light of its order accompanied by, where the Court considers it appropriate, a direction to that body to take such additional steps, or refrain from taking such steps, as the Court may specify;
 - (c) make orders consequential on, or necessary to give effect to, any matter referred to in *paragraph (a) or (b)*.

Costs in judicial review

35. (1) Notwithstanding section 169 of the Legal Services Regulation Act 2015 and Order 99 of the Rules of the Superior Courts, and subject to *subsections (2) and (3)*, each party (including a notice party) to judicial review proceedings under this Part shall bear its own costs.
- (2) The costs of judicial review proceedings, or a portion of such costs, as are appropriate, may be awarded to the applicant in such proceedings to the extent that the applicant succeeds in obtaining relief, and any of those costs shall be borne by the respondent or notice party, or both of them, to the extent that the actions or omissions of the respondent or notice party, or both of them, contributed to the applicant obtaining relief.
- (3) A court may order such costs as it considers reasonable to be paid by a party in judicial review proceedings to another party in such proceedings where the court considers it appropriate to do so—
- (a) because the court considers that a claim or counterclaim by the party is frivolous or vexatious,
 - (b) because the court considers that the proceedings are brought for the sole purpose of—
 - (i) delaying the making of an order under *section 25(1)*, or
 - (ii) securing the payment of money, gifts, consideration or other inducement, by any person to any other person,
 - (c) because of the manner in which the party has conducted the proceedings, or
 - (d) where the party is in contempt of court.

PART 6

AMENDMENTS TO OTHER ACTS

Amendment of Act of 2000

36. The Act of 2000 is amended—

(a) by the insertion, in section 34, of the following subsection after subsection (4A):

“(4B) (a) Notwithstanding subsection (1) and subject to paragraph (b), where a planning authority grants permission for development at Dublin Airport, it shall not impose a condition relating to the number of passengers that may use Dublin Airport for the purpose of travelling by air to or from another airport in any period.

(b) Paragraph (a) does not apply to—

- (i) a condition that is an operating restriction incorporated by the planning authority into its decision pursuant to section 34B(15) or 34C(16), or
- (ii) the decision of Fingal County Council on the planning application submitted by daa with the planning reference number F23A/0781.”,

and

(b) by the insertion, in section 37, of the following subsection after subsection (1):

“(1A) (a) Subject to paragraph (b), An Coimisiún Pleanála shall not, in determining an appeal under this section, impose a condition relating to the number of passengers that may use Dublin Airport for the purpose of travelling by air to or from another airport in any period.

(b) Paragraph (a) does not apply to—

- (i) a condition that is an operating restriction which is accepted or introduced by An Coimisiún Pleanála in its decision on an appeal to which section 37R or section 37S applies, or
- (ii) an appeal from the decision of Fingal County Council on the planning application submitted by daa with the planning reference number F23A/0781.”.

Amendment of Act of 2024

37. The Act of 2024 is amended—

(a) by the insertion, in section 87, of the following subsection after subsection (8):

“(8A) (a) Notwithstanding subsection (1) and subject to paragraph (b), where a planning authority or the Commission decides to grant permission under this Part for development at Dublin Airport, or decides to grant a material alteration of permission for development at Dublin Airport under Chapter 5, it shall not attach to that permission a condition relating to the number of passengers that may use Dublin Airport for the purpose of travelling by air to or from another airport in any period.

(b) Paragraph (a) does not apply to—

- (i) a condition that is an operating restriction incorporated by the planning authority into its decision pursuant to subsection (16) of section 191 or subsection (17) of section 192, or
- (ii) a condition that is an operating restriction which is accepted or introduced by the Commission in its decision on an appeal to which section 193 or section 194 applies.”,

and

- (b) in Schedule 7, by the deletion of the amendments to sections 29 and 30 of the Act of 2019, specified at reference number 51 of column (1).

Amendment of Act of 2019

38. The Act of 2019 is amended—

- (a) by the substitution, in section 2(1), of the following definition for the definition of “operating restriction”:

“ ‘operating restriction’ means a noise-related action that limits access to or reduces the operational capacity of the airport, including operating restrictions aimed at the withdrawal from operations of marginally compliant aircraft at the airport, as well as operating restrictions of a partial nature;”,

- (b) by the repeal of sections 29 and 30, and

- (c) by the insertion of the following section after section 30:

“Operating restrictions under section 30

30A. (1) A relevant condition to which section 30(2) applied, immediately before its repeal, shall not be an operating restriction unless it is a noise-related operating restriction to which Article 14 of the Aircraft Noise Regulation applies.

- (2) In this section, ‘relevant condition’ has the meaning assigned to it by section 30, notwithstanding the repeal of that section by *section 38(b)* of the *Dublin Airport (Passenger Capacity) Act 2026*.”.

PART 7

MISCELLANEOUS

Modification of application of section 15 of Climate Action and Low Carbon Development Act 2015

- 39.** The Minister and the Commission, in performing their functions under this Act, shall not be subject to the requirements referred to in section 15(1) of the Climate Action and Low Carbon Development Act 2015, having regard to the likely consequences for the economy of the State and for international connectivity if an order is not made by the Minister under *section 25(1)*.