



BILLE UM BAILTE AGUS LIOMATAISTI DO SHINEADH
AMACH (LEASU), 1938.

TOWN AND REGIONAL PLANNING (AMENDMENT)
BILL, 1938.

Mar do tugadh isteach
As introduced



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[No. 25 of 1938.]

ÉIRE

BILLE UM BAILTE AGUS LIOMATAISTI DO SHINEADH
AMACH (LEASU), 1938.

TOWN AND REGIONAL PLANNING (AMENDMENT)
BILL, 1938.

5

BILL

entitled

AN ACT TO AMEND THE TOWN AND REGIONAL
PLANNING ACT, 1934.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:— 10

PART I.

PRELIMINARY AND GENERAL

Short title and
citation.

1.—(1) This Act may be cited as the Town and Regional
Planning (Amendment) Act, 1938.

(2) The Principal Act and this Act may be cited together as 15
the Town and Regional Planning Acts, 1934 and 1938.

Definition and
construction.

2.—(1) In this Act the expression “ the Principal Act ” means
the Town and Regional Planning Act, 1934 (No. 22 of 1934).

(2) This Act shall be construed as one with the Principal Act
and accordingly every expression and word to which a particular 20
meaning is given by the Principal Act for the purposes of that
Act shall, in and for the purposes of this Act, have the meaning
so given.

“ Owner.”

3.—In this Act the word “ owner ” means, in relation to any
land or property, any person (other than a mortgagee not in 25
possession) who is for the time being entitled to sell or otherwise
dispose of the fee simple of such land or property or of any term
of years for the time being subsisting in respect of such land or
property of which the unexpired residue exceeds three years.

PART II.

30

MISCELLANEOUS AMENDMENTS OF THE PRINCIPAL ACT

Powers of
examination and
survey of
contiguous areas.

4.—(1) The council of a county borough, of a borough, or of
an urban district may at any time cause any portion of a county
health district contiguous to such county borough, borough, or
urban district to be examined and surveyed and the circumstances 35
and requirements thereof to be investigated for the purpose of
deciding whether such council should or should not apply to the
Minister under section 21 of the Principal Act for an order
declaring that such portion of such county health district be
added to and form part of the planning district which consists 40
of or includes such county borough, borough, or urban district.

(2) Any person authorised in that behalf in writing by the
council of a county borough, of a borough, or of an urban district

may, for the purpose of any examination, survey, or investigation which such council is authorised by that section to cause to be made, and on production of such written authority, enter between the hours of nine o'clock in the morning and six o'clock in the afternoon on any land in the portion of a county health district in relation to which such examination, survey, or investigation is being made and there do any thing which such person shall reasonably consider to be necessary for the said purpose.

(3) Every person who obstructs or interferes with any other person in the exercise by such other person of any power vested in him by virtue of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds.

5.—(1) Whenever a planning authority, by resolution under section 26 of the Principal Act, resolves to make a planning scheme for any area, the following provisions shall have effect, that is to say:—

Annulment of resolution deciding to make planning scheme.

(a) such planning authority shall, as soon as conveniently may be after the passing of such resolution, publish a notice of the passing of such resolution at least once in each of two successive weeks in three newspapers (of which at least one is a daily newspaper) circulating in such area;

(b) such notice shall be in the prescribed form, and shall contain, in addition to any other matter that may be prescribed, a statement that any owner of property in such area may apply within two months after the completion of the second publication of such notice to the High Court for the annulment of such resolution;

(c) any owner of property in such area may, before (but not after) the expiration of two months from the completion of the second publication of such notice, apply to the High Court for the annulment of such resolution and, on such application, if the High Court is of opinion that such resolution is for any reason invalid, the High Court may annul such resolution;

(d) if no application is made under the immediately preceding paragraph of this sub-section within the time limited in that behalf by that paragraph, such resolution shall be deemed always to have been valid for all purposes;

(e) if one or more applications are made to the High Court under and in accordance with the foregoing provisions of this sub-section and on the final determination of such application or applications such resolution is not annulled, such resolution shall be and be deemed always to have been valid for all purposes.

(2) This section shall apply in respect of every resolution under section 26 of the Principal Act whether passed before or after the passing of this Act and, for the purposes of such application to resolutions under the said section 26 passed before the passing of this Act, every resolution so passed shall be deemed to have been passed one month after the date of the passing of this Act.

6.—So much of sub-section (1) of section 26 of the Principal Act as requires one month's notice of the intention to propose the resolution mentioned in that sub-section to be given to every member of the planning authority shall be construed and have effect, and be deemed always to have had effect, as requiring such notice to be given to those persons only who are or were members of the planning authority at the time when such notice is or was given and, accordingly, no such resolution shall be invalid or, in

Notice of resolution deciding to make a planning scheme.

the case of a resolution passed before the passing of this Act, ever have been invalid by reason only of the failure to give such notice to a member of the planning authority who became such member after the time when such notice is or was given.

Planning scheme for two or more adjoining areas.

7.—(1) Where a planning authority has passed, under section 26 of the Principal Act, two or more resolutions deciding to make planning schemes for two or more separate but adjoining areas, such planning authority may, by virtue of such resolutions, make one planning scheme for the whole area made up of such adjoining areas, and the making of such one planning scheme shall be a sufficient compliance with section 29 of the Principal Act. 5 10

(2) Where a planning scheme is made under this section by a planning authority for an area consisting of two or more parts in respect of each of which a separate resolution for the making of a planning scheme was passed by such planning authority, section 4 of the Principal Act shall have effect in relation to every such part as if such planning scheme were made for such part alone, and, accordingly, different days may be the relevant date in relation to each such part for the purposes of the Principal Act or of any provision of the planning scheme. 15 20

Units for regulating density of structures.

8.—(1) Whenever a planning scheme contains a limitation on the number of structures or the number of structures of a specified class which may be constructed, erected, or made within any particular area, such planning scheme may contain provisions enabling the responsible authority to divide any land in such area into units for the purpose of the application of such limitation to such units rateably in proportion to the superficial contents of such units respectively. 25

(2) Where a planning scheme contains a provision under this section enabling the responsible authority to divide land into units, such planning scheme— 30

(a) shall contain provisions enabling the owners of any land so divided to appeal to the Minister and enabling the Minister on any such appeal to confirm the division or to modify it in any manner which he thinks proper, and 35

(b) may contain provisions enabling persons of any specified class (other than owners of any land so divided) to appeal to the Minister and enabling the Minister on any such appeal to confirm the division or to modify it in any manner which he thinks proper. 40

(3) The determination by the Minister of any such appeal as is mentioned in the immediately preceding sub-section of this section shall be final. 45

(4) Where the responsible authority has duly divided, under provisions contained in a planning scheme by virtue of this section, any land into units for the purpose of the application of a limitation on the number of structures or the number of structures of a specified class which may be constructed, erected, or made within any particular area, a contravention of such limitation in respect of any of the units specified in such division or, where such division is modified on an appeal to the Minister, in such division as so modified shall be a contravention of such planning scheme. 50 55

Exemptions from particular provisions of a planning scheme.

9.—A planning scheme may contain, in relation to any particular provision of such planning scheme, a provision enabling the responsible authority, in any case in which, with the consent of the Minister and after publication (in the prescribed form and manner and at the prescribed times) of notice of their intention, 60

they think proper so to do, to grant to a particular person or in respect of any particular property a total or a partial exemption from one or more or all of the obligations imposed by such particular provision of such planning scheme.

- 5 **10.**—(1) A planning scheme may contain provisions empowering the responsible authority to determine the frontage line of buildings and other structures adjoining any road in the area to which such planning scheme relates which is constructed or improved after the making of such planning scheme and for which
10 a frontage line is not determined by such planning scheme.

Frontage line of structures on new or improved roads.

- (2) Where a planning scheme contains provisions under this section empowering the responsible authority to determine a frontage line, such planning scheme shall also contain provisions enabling any person aggrieved by any such determination to
15 appeal against such determination to the Minister and enabling the Minister on such appeal to do such of the following things as he shall think proper, that is to say:—

- (a) to annul such determination;
- (b) to confirm such determination without modification;
- 20 (c) to modify such determination in such manner as he shall think proper and confirm such determination as so modified.

- (3) The determination by the Minister of any such appeal as is mentioned in the immediately preceding sub-section of this section
25 shall be final.

- (4) Where the responsible authority has duly made a determination of a frontage line under provisions contained in a planning scheme by virtue of this section and no appeal is taken under and in accordance with such planning scheme against such
30 determination or, in case such appeal is taken, such determination is not annulled, a contravention of such determination or (as the case may be) of such determination as confirmed by the Minister shall be a contravention of such planning scheme.

- (5) The Principal Act shall be construed and have effect as if
35 sub-section (1) of section 30 thereof provided that a planning scheme may, in addition to the declarations mentioned in that sub-section, contain a declaration that no compensation shall be payable under the Principal Act on account of or arising from the coming into operation of a specified provision contained under this section
40 in such planning scheme.

- 11.**—(1) Where the Minister is satisfied that reasonable grounds exist for dispensing with the giving of any notice under the Principal Act or this Act or under a regulation made under either of those Acts, he may by order dispense with the giving of
45 such notice and every such order shall have effect according to the tenor thereof.

Powers of dispensing with the giving of certain notices and publication of certain advertisements.

- (2) Where the Minister is satisfied that reasonable grounds exist for dispensing with the publication of any advertisement under the Principal Act as amended by this Act or under a regulation made under either of those Acts, he may by order dispense with the publication of such advertisement and every such order shall have effect according to the tenor thereof.
50

- (3) An order under this section may be made, in the case of an order in relation to a notice, either before or after the time
55 when such notice would, but for such order, be required to be

given and either before or after the doing of any act to which such notice would, but for such order, be a condition precedent and, in the case of an order in relation to an advertisement, either before or after the time when such advertisement would, but for such order, be required to be published and either before or after the doing of any act to which such advertisement would, but for such order, be a condition precedent. 5

Appeals to the Minister.

12.—(1) The Minister may by order make regulations prescribing the time within which and the manner in which persons may appeal under a provision of a planning scheme against a decision, requisition, determination, or other act of the responsible authority. 10

(2) Whenever an appeal is made to the Minister under the Principal Act or this Act or under any provision of a planning scheme against a decision, requisition, determination, or other act of the responsible authority, the Minister, if he so thinks proper, may on deciding such appeal direct any party to such appeal to pay to any other party to such appeal such sum as the Minister shall, in his absolute discretion, specify as reasonable compensation to such other party for the expense occasioned to such other party in relation to such appeal. 15 20

(3) Any sum which the Minister under this section directs any party to an appeal to pay to another party to such appeal shall be recoverable as if it were a simple contract debt owing by the party by whom the Minister has directed such sum to be paid to the party to whom the Minister has directed such sum to be paid. 25

Proof of contents, making, approval, and commencement of planning schemes.

13.—A document which purports to be a copy of a planning scheme or of an extract from a planning scheme and which has endorsed thereon a certificate (purporting to be signed by the chief executive officer of the planning authority by which such planning scheme purports to have been made) stating that such document is a true copy of such planning scheme or a true and correct extract therefrom and that such planning scheme was made by such planning authority and was approved of by the Minister and has come into operation shall, without proof of the signature of such chief executive officer or that he was in fact such chief executive officer, be evidence (until the contrary is proved) in every court and in all legal proceedings of such planning scheme or of such extract therefrom (as the case may be) and of the facts that such planning scheme was duly made by such planning authority and was approved of by the Minister and is lawfully in operation. 30 35 40

PART III.

ROAD PLANS 45

Definitions for the purposes of Part III.

14.—In this Part of this Act—
the word “ development ” when used without qualification means the development of land wholly or mainly by the erection of dwelling-houses or other residential buildings thereon;
references to roads or a road on particular land shall be construed as including roads or a road partly on such land and roads or a road contiguous to or in the immediate neighbourhood of such land. 50

Restricted development provisions.

15.—(1) A planning scheme may contain a provision (in this Part of this Act referred to as a restricted development provision) in relation to any specified land in the area to which such planning scheme relates that the development of such land wholly or mainly by the erection of dwelling-houses or other residential buildings thereon shall be restricted. 55

(2) Where a planning scheme contains a restricted development provision in relation to any land in the area to which such planning scheme relates, the development of such land by the erection of dwelling-houses or other residential buildings thereon shall be a contravention of such planning scheme unless a road plan is for the time being in force in relation to such land and such development is carried out in conformity with such road plan.

(3) The Principal Act shall be construed and have effect as if sub-section (1) of section 30 thereof provided that a planning scheme may, in addition to the declarations mentioned in that sub-section, contain a declaration that no compensation shall be payable under the Principal Act on account of or arising from the coming into operation of a specified restricted development provision contained in such planning scheme.

16.—(1) Where a planning scheme contains a restricted development provision, the owner of any land to which such provision relates may, if he so thinks fit, prepare and submit to the responsible authority a scheme or plan (in this Part of this Act referred to as a road plan) regulating the improvement of existing roads on such land or the construction of new roads on such land or both such improvement and such construction.

Submission and contents of road plans.

(2) The following provisions shall have effect in relation to road plans, that is to say:—

(a) a road plan which provides for the improvement of an existing road may regulate the nature of such improvement;

(b) a road plan which provides for the construction of a new road may regulate the situation and nature of such road;

(c) a road plan may prohibit the making, without the consent of the responsible authority, of any improvement at all or any particular improvement of a particular existing road on the land to which such road plan relates;

(d) a road plan may prohibit the construction, without the consent of the responsible authority, of any new road whatever or any particular new road on the land to which such road plan relates.

(3) Where a road plan provides for the construction of a new road or the improvement of an existing road on the land to which such road plan relates, such road plan may provide that, if the appropriate local authority charged with the construction and maintenance of roads so consents, such construction or improvement shall be carried out by such local authority and that thereupon a sum equal to the whole or a specified part of the cost of such construction or improvement shall be paid by the owner of such land to such local authority.

(4) Where, between the coming into operation of a planning scheme and the coming into force of a road plan, a new road has been constructed by a local authority on the land to which such road plan relates or an existing road on such land has been improved by a local authority and the development of such land has, in the opinion of the responsible authority, been facilitated or rendered less costly by such construction or improvement, such road plan may provide that a sum equal to the whole or a specified part of the cost of such construction or improvement shall be paid by the owner of such land to such local authority.

(5) The sums mentioned in the two preceding sub-sections of this section shall, in default of payment, be recoverable as simple contract debts in any court of competent jurisdiction.

Affected land notice.

17.—(1) Where a road plan is submitted to a responsible authority in respect of any land and such responsible authority is of opinion that the development of such land in conformity with such road plan would affect the development of any other land, such responsible authority shall give to the owner of such other land notice (in this Part of this Act referred to as an affected land notice) in the prescribed form of such road plan having been so submitted. 5

(2) Where an affected land notice is given by a responsible authority the following provisions shall have effect, that is to say:— 10

(a) such responsible authority shall permit the person to whom such notice was given to inspect (either personally or by an agent) the road plan to which such notice relates at all reasonable times during the prescribed period after the giving of such notice; 15

(b) such person may, during the said prescribed period, make in writing to such responsible authority such (if any) representations as he thinks proper in respect of such road plan; 20

(c) such responsible authority shall not make any decision under the next following section of this Act in respect of such road plan until the said prescribed period has expired and shall, in case such person makes any representations under and in accordance with the immediately preceding paragraph of this sub-section, have regard to such representations when making such decision. 25

(3) Section 8 of the Principal Act shall apply in relation to every affected land notice in like manner as if such notice were required to be given under the Principal Act. 30

Decision by responsible authority on road plan.

18.—(1) A responsible authority shall make one of the following decisions on every road plan submitted to them, that is to say:—

(a) assent to such road plan without modification, or 35

(b) modify (whether by addition, omission, or variation) such road plan in such manner as such responsible authority shall think proper and assent to such road plan as so modified, or

(c) refuse to assent to such road plan. 40

(2) Where a responsible authority fails to make a decision under this section on a road plan before the expiration of—

(a) in case such responsible authority gives an affected land notice in respect to such road plan to any person, three months from the date of the submission of such road plan to such responsible authority, or 45

(b) in any other case, two months from the said date,

such responsible authority shall be deemed to have decided on the last day of the said period of three months or two months (as the case may be) to assent to such road plan without modification. 50

Appeals.

19.—(1) Within the prescribed time after a responsible authority has made or is deemed to have made a decision on a road plan submitted to them, any person aggrieved by such decision may appeal in the prescribed manner against such decision to the Minister, and thereupon the Minister shall either confirm or annul such decision. 55

(2) Where, on an appeal under this section, the Minister annuls the decision of the responsible authority, the Minister shall make such decision on the road plan to which such appeal relates as he shall think proper and could have been made under this Part
5 of this Act by such responsible authority.

(3) The determination by the Minister of an appeal under this section shall be final.

20 **20.**—(1) Where a road plan is assented to (with or without modification) or is deemed to be assented to by the responsible authority to whom it is submitted and no appeal to the Minister consequent upon such assent is taken within the prescribed time and in the prescribed manner, such road plan, as assented to or as deemed to be assented to by such responsible authority, shall come into force upon the expiration of the said prescribed time. Coming into force of road plan.

15 (2) Where the Minister, on an appeal in respect of a road plan, assents (either by confirmation of the assent of the responsible authority to whom such road plan was submitted or by his own decision and either with or without modification) to such road plan, such road plan, as assented to by him, shall come into force on the
20 day after the day on which such assent is given.

25 **21.**—(1) If, by reason of circumstances arising after a road plan (including a road plan prepared under this section) has come into force, such road plan requires to be changed, the owner of the land to which such road plan relates may prepare another road plan in relation to such land in substitution for such first-mentioned road plan. Changes in road plan.

(2) This Part of this Act shall apply to a road plan prepared under this section in relation to any land in like manner as if it were the first road plan prepared in relation to such land.

30 (3) When a road plan prepared under this section comes into force, the road plan which was in force immediately previously in relation to the same land shall cease to be in force.

35 **22.**—(1) Every road plan for the time being in force shall be retained in the prescribed manner by the responsible authority to whom it was submitted and shall be kept open by such responsible authority for the inspection of persons interested therein at the prescribed times and places. Retention, registration and supply of copies of road plan.

40 (2) Where a road plan has come into force or has ceased to be in force, an entry to that effect shall be made in the register by the responsible authority to whom such road plan was submitted.

45 (3) A copy of any road plan for the time being in force shall be supplied to any person interested therein by the responsible authority to whom such road plan was submitted on payment of such fee not exceeding five shillings as such responsible authority thinks reasonable.

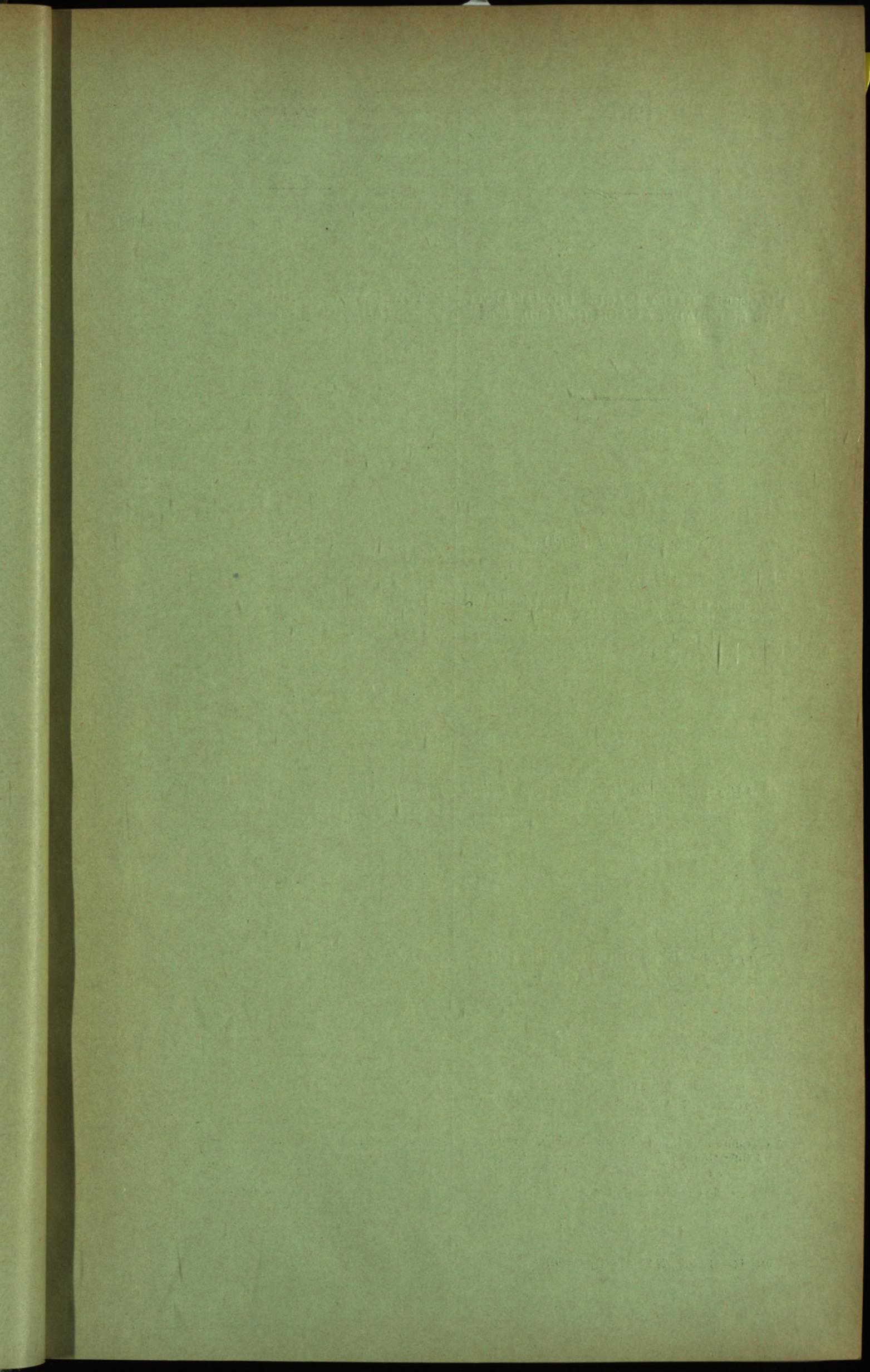
50 **23.**—A local authority charged with the construction and maintenance of roads may, in pursuance of a road plan and at the cost of the owner of the land to which such road plan relates, construct any new road or improve any existing road (whether it is or is not a public road) on such land, and such road shall not be deemed to be a public road by reason only of such construction or improvement. Construction and improvement of private roads by local authority.

55 **24.**—A document which purports to be a copy of a road plan or of an extract from a road plan and which has endorsed thereon a certificate (purporting to be signed by the chief executive officer Proof of the contents and operation of road plans.

of the planning authority to which such road plan was submitted) stating that such document is a true copy of such road plan or a true and correct extract therefrom and that such road plan was in force on the date of such certificate shall, without proof of the signature of such chief executive officer or that he was in fact 5 such chief executive officer, be evidence (until the contrary is proved) in every court and in all legal proceedings of such road plan or of such extract therefrom (as the case may be) and of the fact that such road plan is in force.

Repeal of
paragraph 5 of
Part I of the
Second Schedule
to the
Principal Act.

25.—Paragraph 5 of Part I of the Second Schedule to the 10
Principal Act is hereby repealed.



Éire

BILLE UM BAILTE AGUS LIOMATAISTI
DO SHINEADH AMACH (LEASU), 1938.

BILLE

(mar do tugadh isteach)

dá ngairmtear

Acht chun an Achta um Bailte agus Líomatáistí
do Shíneadh Amach, 1934, do leasú.

*An tAire Riaghaltais Aiteamhail agus Sláinte
Poiblidhe do thug isteach.*

*Do hordúidh, ag Dáil Eireann, do chló-
bhualadh, 20adh Iúil, 1938.*

BAILE ATHA CLIATH:
FOILLSITHE AG OIFIG AN tSOLATHAIR.

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Éire

TOWN AND REGIONAL PLANNING
(AMENDMENT) BILL, 1938.

BILL

(as introduced)

entitled

An Act to amend the Town and Regional
Planning Act, 1934.

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and Public Health.*

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