

Oireachtas Library



54023001286308



**AN BILLE RIALTAIS ÁITIÚIL (PLEANÁIL AGUS FORBAIRT),
1982**

**LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT)
BILL, 1982**

Mar a tionscnaíodh

As initiated

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Limit of duration of planning permission.
3. Power to vary appropriate period.
4. Power to extend appropriate period.
5. Power to declare references, appeals and applications withdrawn.
6. Validity of certain permissions and approvals.
7. General policy directives as to planning and development.
8. Alteration of certain penalties under Principal Act or Act of 1976.
9. Certain offences may be tried summarily.
10. Fees.
11. Regulations.
12. Amendment of section 8 of Principal Act.
13. Amendment of section 80 of Principal Act.
14. Savers.
15. Repeals.
16. Short title, collective citation and construction.

ACTS REFERRED TO

- | | |
|--|--------------|
| Criminal Procedure Act, 1967. | 1967, No. 12 |
| Local Government (Planning and Development) Act, 1976. | 1976, No. 20 |
| Local Government (Planning and Development) Acts, 1963 and 1976. | |



AN BILLE RIALTAIS ÁITIÚIL (PLEANÁIL AGUS FORBAIRT),
1982

LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT)
BILL, 1982

5

BILL

entitled

AN ACT TO AMEND AND EXTEND THE LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS, 1963 AND 1976.

10 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Interpretation.

“the Act of 1976” means the Local Government (Planning and Development) Act, 1976;

15 “development certificate” means a certificate issued under section 29 of the Act of 1976;

“waiver notice” means a notice issued under section 29 of the Act of 1976.

20 2.—(1) Subject to subsection (2) of this section, a permission granted under Part IV of the Principal Act, whether before or after the passing of this Act, shall on the expiration of the appropriate period (but without prejudice to the validity of anything done pursuant thereto prior to the expiration of that period) cease to have effect as regards—

Limit of duration of planning permission.

25 (a) in case the development to which the permission relates is not commenced during that period, the entire development, and

(b) in case such development is commenced during that period, so much thereof as is not completed within that period.

(2) (a) Subsection (1) of this section shall not apply—

30 (i) to any permission for the retention on land of any structure,

- (ii) to any permission granted either for a limited period only or subject to a condition which is of a kind described in section 26 (2) (j) or 27 (2) (f) of the Principal Act,
- (iii) to any permission which is of a class or description 5 specified in regulations made by the Minister for the purposes of this section,
- (iv) in the case of a house, shop, office or other building which itself has been completed, in relation to the provision of any structure or works included in the 10 relevant permission and which are either necessary for or ancillary or incidental to the use of the building in accordance with that permission,
- (v) in the case of a development comprising a number of buildings of which only some have been completed, 15 in relation to the provision of roads, services and open spaces included in the relevant permission and which are necessary for or ancillary to such completed buildings.
- (b) Subsection (1) of this section shall not affect— 20
- (i) the continuance of any use, in accordance with a permission, of land,
- (ii) where a development has been completed (whether to an extent described in paragraph (a) of this subsection or otherwise), the obligation of any person to comply 25 with any condition attached to the relevant permission whereby something is required either to be done or not to be done.
- (3) (a) Where regulations under this section are proposed to be made, the Minister shall cause a draft thereof to be laid 30 before both Houses of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House.
- (b) Section 10 (2) of the Principal Act shall not apply in relation to regulations made under this section. 35
- (4) This section shall be deemed to have come into operation on the 1st day of November, 1981.
- (5) In this section and in *section 4* of this Act, “the appropriate period” means—
- (a) in relation to any permission which was granted before the 40 1st day of November, 1976, the period beginning on the date of such grant and ending on the 31st day of October, 1983,
- (b) in relation to any permission which was or is granted not earlier than the 1st day of November, 1976, nor later than 45 the 31st day of October, 1982—
- (i) in case in relation to the permission a period is specified pursuant to *section 3* of this Act, that period, and
- (ii) in any other case, the period ending either on the day

which is seven years after the date of such grant or the 31st day of October, 1987, whichever is the earlier,

(c) in relation to any permission which was or is granted on or after the 1st day of November, 1982—

5 (i) in case in relation to the permission a period is specified pursuant to *section 3* of this Act, that period, and

(ii) in any other case, the period of five years beginning on the date of such grant:

Provided that where a planning authority have, before the commencement of this section, made an order under section 29 (9) of the Act of 1976 and by virtue of the order the permission to which the order relates would, if this section had not been enacted, cease to have effect on a date which is later than that on which it would, apart from this proviso, cease to have effect, then, notwithstanding the foregoing provisions of this section and *section 15* of this Act, the appropriate period in relation to the permission shall end on such later date.

(6) A planning authority in exercising, in relation to a permission referred to in *subsection (5) (b)* of this section, the power conferred on them by *section 3* of this Act shall not exercise the power so as to specify a period which is shorter than that which, by virtue of the said *subsection (5) (b)*, would apply in relation to the permission if the power were not so exercised.

3.—Without prejudice to the powers conferred on them by Part IV of the Principal Act to grant a permission to develop land for a limited period only, in deciding to grant a permission under section 26 of the Principal Act, a planning authority or the Board, as may be appropriate, may, having regard to the nature and extent of the relevant development and any other material consideration, specify the period, being a period of more than five years, during which the permission is to have effect, and in case the planning authority exercise, or refuse to exercise, the power conferred on them by this section, such exercise or refusal shall be regarded as forming part of the relevant decision of such authority under the said section 26.

Power to vary appropriate period.

35 4.—(1) On an application being made to them in that behalf, a planning authority shall, as regards a particular permission, extend the appropriate period, by such additional period as the authority consider requisite to enable the development to which the permission relates to be completed, if, and only if, each of the following requirements is complied with:

Power to extend appropriate period.

(a) the application is in accordance with such regulations under this Act as apply to it,

(b) any requirements of, or made under, such regulations are complied with as regards the application, and

45 (c) the authority are satisfied in relation to the permission that—

(i) the development to which such permission relates commenced before the expiration of the appropriate period sought to be extended, and

(ii) substantial works were carried out pursuant to such permission during such period, and

(iii) the development will be completed within a reasonable time.

(2) Where—

5

(a) an application is duly made under this section to a planning authority,

(b) any requirements of, or made under, regulations under *section 11* of this Act are complied with as regards the application, and

10

(c) the planning authority do not give notice to the applicant of their decision as regards the application within the period of two months beginning on—

(i) in case all of the aforesaid requirements referred to in paragraph (b) of this subsection are complied with on or before the day of receipt by the planning authority of the application, that day, and

15

(ii) in any other case, the day on which all of the said requirements stand complied with,

subject to *section 10* (2) of this Act, a decision by the planning authority to extend, or to further extend, as may be appropriate, the period, which in relation to the relevant permission is the appropriate period, by such additional period as is specified in the application shall be regarded as having been given by the planning authority on the last day of the said two month period.

25

(3) (a) Where a decision to extend an appropriate period is given under *subsection (1)* of this section, or, pursuant to *subsection (2)* of this section, such a decision is to be regarded as having been given, the planning authority shall not further extend the appropriate period, unless each of the following requirements is complied with:

30

(i) an application in that behalf is made to them in accordance with such regulations under this Act as apply to it,

(ii) any requirements of, or made under, such regulations are complied with as regards the application, and

35

(iii) the authority are satisfied that the relevant development has not been completed due to circumstances beyond the control of the person carrying out the development.

40

(b) An appropriate period shall be further extended under this subsection only for such period as the relevant planning authority consider requisite to enable the relevant development to be completed.

(4) Particulars of any application made to a planning authority under this section and of the decision of the planning authority in respect of such application shall be recorded on the relevant entry in the register.

(5) Where a decision to extend, or to further extend, is given under this section, or, pursuant to subsection (2) of this section, such a decision is to be regarded as having been given, section 2 of this Act shall, in relation to the permission to which the decision relates, be 5 construed and have effect subject to and in accordance with the terms of the decision.

(6) This section shall not be construed as precluding the extension, or the further extension, of an appropriate period by reason of the fact that the period has expired.

10 5.—(1) Where the Board is of opinion that a reference or appeal to the Board, or an application for permission or approval to which such an appeal relates, has been abandoned, the Board may serve on the person who made the reference, appeal or application, as may be appropriate, a notice stating that fact and requiring that person, within 15 a period specified in the notice (being a period of not less than fourteen days beginning on the date of service of the notice) to make to the Board a submission in writing as to why the reference, appeal or application, as the case may be, should not be regarded as having been withdrawn.

20 (2) Where a notice has been served under subsection (1) of this section the Board may, at any time after the expiration of the period specified in the notice, and after considering the submission (if any) made to the Board pursuant to the notice, declare—

- 25 (i) in case the notice refers to a reference, that the reference shall be regarded as having been withdrawn,
(ii) in case the notice refers to an application described in subsection (1) of this section, that the application shall be regarded as having been withdrawn, and
30 (iii) in case the notice refers to an appeal to the Board, that the appeal shall be regarded as having been withdrawn.

(3) Where pursuant to this section the Board declares that an application described in subsection (1) of this section is to be regarded as having been withdrawn, the following provisions shall apply as 35 regards the application:

- (a) any appeal in relation to the application shall be regarded as having been withdrawn and accordingly shall not be determined by the Board, and
40 (b) notwithstanding any previous decision under section 26 or 27 of the Principal Act by a planning authority as regards the application, no permission or approval shall be granted under either of those sections by the authority on foot of the application.

(4) Where the Board makes a declaration under this section, notwithstanding section 15 (2) of the Act of 1976, the Board may, if it thinks fit, direct that the deposit lodged in relation to the relevant appeal, or in relation to any appeal to which the relevant application relates, as may be appropriate, shall be forfeited to the Board.

50 6.—(1) A permission or approval granted on appeal under Part IV of the Principal Act prior to the 15th day of March, 1977, shall not be,

Power to declare references, appeals and applications withdrawn.

Validity of certain permissions and approvals.

and shall not be regarded as ever having been, invalid by reason only of the fact that the development concerned contravened, or would contravene, materially the development plan relating to the area of the planning authority to whose decision the appeal related.

(2) If, because of any or all of its provisions, *subsection (1)* of this section, would, but for this subsection, conflict with a constitutional right of any person, the provisions of that subsection shall be subject to such limitation as is necessary to secure that they do not so conflict but shall be otherwise of full force and effect. 5

General policy
directives as to
planning and
development.

7.—(1) The Minister shall, from time to time, issue such general 10
directives as to policy in relation to planning and development as he
considers necessary.

(2) A planning authority and the Board shall in performing its
functions have regard to any directive under this section. 15

(3) Nothing in this section shall be construed as enabling the Minister to exercise any power or control in relation to any particular case with which a planning authority or the Board is or may be concerned. 20

(4) Where the Minister gives a directive under this section, the
following provisions shall apply: 25

(a) as soon as may be the Minister shall cause a copy of the
directive to be laid before each House of the Oireachtas,

(b) the directive shall be published in the *Iris Oifigiúil*, and

(c) the Minister shall cause a copy of the directive to be sent to
each planning authority and to the Board. 25

Alteration of certain
penalties under
Principal Act or Act
of 1976.

8.—(1) A person convicted by the District Court of an offence for
which a penalty is provided in any section of the Principal Act specified
in *column (2)* of the Table to this section at any reference number
shall, in lieu of the penalty so provided, be liable to the penalty
specified in *column (3)* of the said Table at that reference number, 30
and that section shall be construed and have effect accordingly.

(2) (a) A person convicted of an offence under subsection (9) of
section 32 of the Act of 1976 shall, in lieu of so much of
the penalty specified in that subsection as consists of a
fine, be liable to a fine not exceeding £800, and the said 35
subsection (9) shall be construed and have effect
accordingly.

(b) A person convicted of an offence under subsection (10) of
section 33 of the Act of 1976 shall, in lieu of so much of
the penalty specified in that subsection as consists of a
fine, be liable to a fine not exceeding £800, and the said 40
subsection (10) shall be construed and have effect
accordingly.

(3) A person who is guilty of an offence under section 24 (3) of the
Principal Act or section 26 (4) of the Act of 1976 shall be liable, on 45
conviction on indictment, to a fine not exceeding £10,000, or, at the
discretion of the court, to imprisonment for a term not exceeding two
years, or to both the fine and the imprisonment.

(4) (a) Where a person is convicted of an offence referred to in

5 subsection (3) of this section and there is a continuation by him of the offence after his conviction, he shall be guilty of a further offence and shall be liable, on conviction on indictment, to a fine not exceeding £1,000 for each day on which the offence is so continued or to imprisonment for a term not exceeding two years, or to both the fine and the imprisonment.

10 (b) In any proceedings for an offence under this section in which it is alleged that there was a continuation by the defendant of an offence under subsection (3) of section 24 of the Principal Act, subsection (4) of the said section 24 shall, as regards the proceedings, apply as it applies to a prosecution for an offence under that section.

15 (c) In any proceedings for an offence under this section in which it is alleged that there was a continuation by the defendant of an offence under subsection (4) of section 26 of the Act of 1976—

20 (i) subsection (7) of the said section 26 shall, in relation to the proceedings, apply as it applies in relation to proceedings mentioned in that subsection, and

(ii) subsection (8) of the said section 26 shall, as regards the proceedings, apply as it applies to a prosecution for an offence under that section.

25 (5) This section shall have effect as respects offences committed after the commencement of this section.

TABLE

Ref. No. (1)	Section of Principal Act (2)	Penalty (3)
1.	7 (5), 9 (2), 80 (4), 82 (5) (b) and 82 (7) (b) (iv).	A fine not exceeding £100.
2.	31 (8), as amended by section 38 of the Act of 1976, 34 (6), as so amended, 37 (7), as so amended and 49 (2) (b), as so amended.	A fine not exceeding £800 and, in the case of a further offence under the section, a further fine (not exceeding in all £800) not exceeding £150 for each day during which the offence is continued.
3.	51 (4), as amended by section 40 (c) of the Act of 1976, 81 (3), 83 (7) and 89 (8).	A fine not exceeding £100 and, in the case of a further offence under the section, a further fine (not exceeding in all £800) not exceeding £25 for each day during which the offence is continued.
4.	34 (1), as amended by section 38 of the Act of 1976, 35 (7), as so amended, 45 (8), as so amended and 46 (8), as so amended.	A fine not exceeding £800.
5.	34 (5), as amended by section 38 of the Act of 1976, and 35 (8), as so amended.	A fine (not exceeding in all £800) not exceeding £150 for each day during which the further offence under the section is continued.

9.—(1) A Justice of the District Court shall have jurisdiction to try summarily an offence referred to in section 8 (3) of this Act, or an offence under section 8 (4) of this Act if—

Certain offences may be tried summarily.

(a) the Justice is of opinion that the facts proved or alleged

against a defendant charged with such an offence constitute a minor offence fit to be tried summarily,

- (b) the Director of Public Prosecutions consents, and
- (c) the defendant (on being informed by the Justice of his right to be tried by a jury) does not object to being tried summarily,

and, upon conviction under this subsection, the said defendant shall be liable—

- (i) in case he is convicted of an offence so referred to, to a fine not exceeding £800, or, at the discretion of the court, to imprisonment for a term not exceeding six months, or to both the fine and the imprisonment,
- (ii) in case he is convicted of an offence under the said section 8 (4), to a fine (not exceeding £800 in all) not exceeding £150 for each day during which the offence is continued, or, at the discretion of the court, to imprisonment for a term not exceeding six months, or to both the fine and the imprisonment.

(2) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence referred to in subsection (1) of this section as if, in lieu of the penalties specified in subsection (3) of the said section 13, there were specified therein the penalty provided for by subsection (1) of this section in relation to the offence, and the reference in subsection (2) (a) of the said section 13 to the penalties provided for in the said subsection (3) shall be construed and have effect accordingly.

Fees.

10.—(1) The Minister may, with the consent of the Minister for Finance, make regulations providing for—

- (a) the payment to planning authorities of prescribed fees in relation to applications for—
- (i) permission under Part IV of the Principal Act,
- (ii) approvals required by permission regulations,
- (iii) approvals required to be obtained under a condition subject to which a permission or approval is granted under the Principal Act, or
- (iv) extensions or further extensions under section 4 of this Act,

- (b) the payment to the Board of prescribed fees in relation to appeals or references to, or determinations by, the Board,

and the regulations may provide for the payment of different fees in relation to cases of different classes or descriptions, for exemption from the payment of fees in specified circumstances, for the waiver, remission or refund (in whole or in part) of fees in specified circumstances and for the manner in which fees are to be disposed of.

(2) Where under regulations under this section a fee is payable to a planning authority by an applicant in respect of an application

referred to in subsection (1) (a) of this section, the following provisions shall have effect:

- (a) the application shall not be decided by the authority unless the authority is in receipt of the fee, and
- 5 (b) notwithstanding anything contained in section 26 (4) or 27 (3) of the Principal Act or in section 4 (2) of this Act, a decision of a planning authority shall not be regarded, pursuant to any of those sections, as having been given on a day which is earlier than that which is two months after the day on which the authority is in receipt of the fee, and the said sections 26 (4), 27 (3) and 4 (2) shall be construed subject to and in accordance with the provisions of this paragraph.

(3) Where—

- 15 (a) under regulations under this section a fee (other than a fee referred to in subsection (6) of this section) is payable to the Board by an appellant in respect of an appeal by him to the Board, and
- 20 (b) the provision of the Local Government (Planning and Development) Acts, 1963 and 1976, authorising the appeal enables the appeal only to be made within, or before the expiration of, a specified period or before a specified day, that provision shall be construed as including—
- 25 (i) a requirement that the fee is to be received by the Board within, or before the expiration of, that period, or before that day (or, if the fee is sent by post, not later than the third day after that period or day), and
- 30 (ii) a provision that if the fee is not so received, the appeal shall be invalid.

(4) Where under regulations under this section a fee is payable either to a planning authority or to the Board and the person by whom the fee is payable is not—

- 35 (a) the applicant for a permission, approval or licence, or
- (b) an appellant to the Board, or
- (c) the person making a reference to, or a request for a determination by, the Board,

40 submissions or observations made, as regards the relevant application, appeal, reference or determination, by or on behalf of the person by whom such fee is payable, shall not be considered by the planning authority or the Board, as may be appropriate, if the fee has not been received by the authority or the Board.

(5) Where under regulations under this section a fee is payable to the Board by a person making a reference to, or a request for a determination by, the Board, the relevant question or matter shall not be decided or determined by the Board unless the fee is received by the Board.

(6) Where under regulations under this section fees are payable to the Board in respect of requests for oral hearings of appeals or

references to the Board, such a request shall not be considered by the Board if the fee so payable in respect of the request is not received by the Board.

(7) The provisions of *subsection (3)* of this section are in addition to, and not in substitution for, the provisions of section 22 of the Act 5 of 1976.

Regulations.

11.—(1) The Minister may make regulations providing for any matter of procedure in relation to applications under *section 4* of this Act and making such incidental, consequential or supplementary provision as may appear to him to be necessary or proper to give full 10 effect to any of the provisions of *sections 2, 3 or 4* of this Act.

(2) In particular and without prejudice to the generality of *subsection (1)* of this section, regulations under this section may—

(a) specify the time at which applications under *section 4* of this Act may be made, the manner in which such applications 15 shall be made and the particulars they shall contain,

(b) require applicants to furnish to the planning authority any specified information with respect to their applications (including any information regarding any estate or interest 20 in or right over land),

(c) require applicants to submit to a planning authority any further information relative to their applications (including any information as to any such estate, interest or right),

(d) require the production of any evidence to verify any particulars or information given by any applicant, 25

(e) require the notification (in a prescribed manner) by planning authorities of decisions on such applications.

Amendment of
section 8 of
Principal Act.

12.—Paragraph (c) of section 8 (4) of the Principal Act is hereby amended by the substitution of “the prescribed fee” for “a fee of ten 30 shillings”, and the said paragraph (c), as so amended, is set out in the Table to this section.

TABLE

(c) Where application is made to a planning authority for a copy under this section, the copy shall be issued to the applicant 35 on payment by him to the planning authority of the prescribed fee in respect of each entry.

Amendment of
section 80 of
Principal Act.

13.—Section 80 of the Principal Act is hereby amended by the insertion of “summarily” after “prosecuted” in subsection (1), and the said subsection (1), as so amended, is set out in the Table to this 40 section.

TABLE

(1) An offence under this Act may be prosecuted summarily by the planning authority in whose area the offence is committed.

~~CHAPTER II~~ 14.—(1) Neither section 15 nor the proviso to section 2 (5) of this Act shall be construed as affecting the exercise by the Circuit Court or the Board, in relation to any application referred to in section 15 (4) (b) of this Act, of any power conferred on it by section 29 of the 5 Act of 1976.

(2) Where before the commencement of this section an application was made to a planning authority for a permission or for an approval, a decision of the authority as regards the application shall not, by reason only of the enactment of section 2 of this Act, be regarded, 10 pursuant to section 26 (4) or 27 (3) of the Principal Act, as having been given.

15 15.—(1) In subsection (3) of section 24 of the Principal Act all the words between “guilty of an offence” and the end of the subsection are hereby repealed.

(2) Subject to subsection (3) of this section, the following provisions of the Act of 1976 are hereby repealed:

(a) sections 6, 15 (1), 26 (5) and 38,

(b) subsections (1), (2), (3), (4), (7) and (9) of section 29,

(c) “and shall be liable on summary conviction to a fine not exceeding two hundred and fifty pounds” in section 26 (4).

(3) This section, in so far as it repeals section 15 (1) of the Act of 1976, shall come into operation on such day as the Minister shall fix by order.

(4) Notwithstanding subsection (2) of this section—

25 (a) any waiver notice or any development certificate shall continue in force and to have effect,

(b) a planning authority may after the commencement of this section issue a waiver notice or a development certificate if, but only if, an application made to them in that behalf has been received by them before such commencement.

16.—(1) This Act may be cited as the Local Government (Planning and Development) Act, 1982.

Short title,
collective citation
and construction.

(2) The Local Government (Planning and Development) Acts, 1963 and 1976, and this Act may be cited together as the Local 35 Government (Planning and Development) Acts, 1963 to 1982.

(3) This Act and the Local Government (Planning and Development) Acts, 1963 and 1976, shall be construed together as one Act.

AN BILL RIALTAIS ÁITIÚIL (PLEANÁIL
AGUS FORBAIRT), 1982

BILLE

(*mar a tionscnaíodh*)

dá ngairtear

Acht do leasú agus do leathnú na nAchtanna
Rialtais Áitiúil (Pleanál agus Förbairt), 1963
agus 1976.

*An tAire Comshaoil a thíolaic,
15 Meitheamh, 1982*

BAILE ÁTHA CLIATH:
ARNA FHOILSIU AG OIFIG AN ISOLÁTHAIR

Le ceannach díreach ón Oifig Díolta Foilseachán Rialtais,
An Stuara, Ard Oifig an Phoist, Baile Átha Cliath, nó trí
aon dfoltóir leabhar.

Clóbhualte ag CAHILL PRINTERS LIMITED.

67p

Wt. 134478/F/6. 1,625. 6/82. Cahill. (6842). G.16.

LOCAL GOVERNMENT (PLANNING AND
DEVELOPMENT) BILL, 1982

BILL

(*as initiated*)

entitled

An Act to amend and extend the Local Govern-
ment (Planning and Development) Acts, 1963
and 1976.

*Presented by the Minister for the Environment,
15th June, 1982*

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE

To be purchased through any bookseller, or directly
from the Government Publications Sale Office,
G.P.O. Arcade, Dublin.

Printed by CAHILL PRINTERS LIMITED.

67p