



**AN BILLE RIALTAIS ÁITIÚIL (PLEANÁIL AGUS FORBAIRT),
1988
LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT)
BILL, 1988**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Short title, commencement, construction and collective citation.
 2. Interpretation.
 3. Amendment of section 56 of the Principal Act.
 4. Amendment of section 27 of the Act of 1976.
 5. Amendment of section 26 of the Principal Act.
 6. Powers in respect of unfinished development.
 7. Restriction of application of the Public Health (Ireland) Act, 1878.
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ACTS REFERRED TO

Local Government (Planning and Development) Act, 1963	1963, No. 28
Local Government (Planning and Development) Act, 1976	1976, No. 20
Local Government (Planning and Development) Acts, 1963 to 1983	
Public Health (Ireland) Act, 1878	41 & 42 Vict. c. 52
Town and Regional Planning Act, 1934	1934, No. 22
Town and Regional Planning (Amendment) Act, 1939	1939, No. 11



AN BILLE RIALTAIS ÁITIÚL (PLEANÁIL AGUS FORBAIRT),
1988
LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT)
BILL, 1988

BILL

5

entitled

AN ACT TO AMEND AND EXTEND IN THE INTERESTS
OF THE COMMON GOOD THE LOCAL GOVERNMENT
(PLANNING AND DEVELOPMENT) ACTS, 1963 TO 1983,
TO RESTRICT THE EFFECT OF THE PUBLIC HEALTH
(IRELAND) ACT, 1878 AND TO MAKE PROVISION FOR
OTHER CONNECTED MATTERS. 10

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Short title,
commencement,
construction and
collective citation.

1.—(1) This Act may be cited as the Local Government (Planning
and Development) Act, 1988. 15

(2) The Local Government (Planning and Development) Acts,
1963 to 1983 and this Act may be cited together as the Local Govern-
ment (Planning and Development) Acts, 1963 to 1988.

(3) This Act shall come into operation on such day or days as the
Minister may fix by order, either generally or with reference to any
particular purpose or provision, and different days may be so fixed
for different purposes and different provisions of this Act. 20

(4) This Act and the Local Government (Planning and Develop-
ment) Acts, 1963 to 1983 shall be construed as one Act.

Interpretation.

2.—In this Act— 25

“the Principal Act” means the Local Government (Planning and
Development) Act, 1963;

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

“the Circuit Court” means the Circuit Court for the area in which the
land to which the proceedings relate (or any part thereof) is situate; 30

“the Minister” means the Minister for the Environment.

Amendment of
section 56 of the
Principal Act.

3.—Section 56 of the Principal Act is hereby amended—

(a) by the substitution for paragraphs (a) and (b) of subsection (1) of the following paragraphs:

5 “(a) in respect of the refusal of permission for any development that consists of or includes the making of any material change in the use of any structure or other land, and ‘use’ shall, for the purposes of this paragraph, include use of land for the carrying out of any works thereon,

10 (b) in respect of the refusal of permission to develop land if the reason or one of the reasons for such refusal is—

(i) that there are not any water supplies or sewerage services for the proposed development, or

15 (ii) that the water supplies or sewerage services available are inadequate for the proposed development, or

(iii) that the existing capacity in the water supplies or sewerage services is required to facilitate the development of other land in the area in accordance with an order of priority indicated by the planning authority in their development plan, or

20 (iv) that a road layout for the area or part thereof has not been indicated in the development plan or has not been approved by the planning authority or on appeal,”;

25 (b) by the insertion after paragraph (j) of subsection (1) of the following paragraph:

30 “(k) in respect of the refusal of permission or the grant of permission subject to conditions on the grounds that the proposed development is a material contravention of the development plan for the area in which the land is situate or where the conditions imposed are for the purpose of implementing any objective of that development plan.”,

35 and

(c) by the insertion of the following paragraph after paragraph (b) of subsection (2):

40 “(c) in a case where permission has been refused or any condition attached to a permission and such refusal or conditions are intended mainly to secure the use of the land for any particular purpose for which the land has been specially reserved in a development plan.”.

45 4.—The following section is hereby substituted for section 27 of the Act of 1976:

Amendment of section 27 of the Act of 1976.

“27.—(1) Where—

50 (a) development of land being development for which a permission is required under Part IV of the Principal Act, is being carried out without such a permission, or,

- (b) an unauthorised use is being made of land, or
- (c) development of land has been carried out for the purpose of making an unauthorised use of land, or,
- (d) development authorised by a permission granted under Part IV of the Principal Act has been commenced but has not been, or is not being, carried out in conformity with the permission because of non-compliance with a condition attached to the permission or for any other reason,

the High Court, or the Circuit Court for the area in which the land is situate, may on the application of a planning authority or any other person, whether or not the person has an interest in the land, by order prohibit the continuance of the development or the making or continuance of the unauthorised use, or by order require any person specified in the order to do or not to do, or to cease to do, as the case may be, anything which the Court considers necessary to ensure that, where there is no permission, the development or use is ended, or prevented, or, where there is permission, that the development is carried out in conformity with the permission, and may order such person to carry out any specified necessary works of repair, restoration or reinstatement as are reasonable in the circumstances.

(2) An application to the High Court or Circuit Court for an order under this section shall be made by motion and the Court when considering the matter may make such interim, interlocutory, ancillary or final order as it considers appropriate. The order by which an application under this section is determined may contain such terms and conditions as to the payment of costs as the Court considers appropriate.”.

Amendment of section 26 of the Principal Act.

5.—The following paragraphs are hereby inserted in section 26 of the Principal Act after paragraph (j) of subsection (2):

- “(k) conditions for determining the sequence in which the works comprised in the development authorised by the permission shall be carried out and the duration of the works once commenced,
- (l) conditions restricting the occupation of any structures comprised in the development without the consent of the planning authority until the completion of other works comprised in the development or until compliance with any other conditions attached to the permission granted in respect of the development.”.

Powers in respect of unfinished development.

6.—(1) Where, on the application of a planning authority to the High Court or to the Circuit Court, it appears to the Court that—

- (a) development has been commenced on any land in accordance with permission granted under Part IV of the Principal Act, and
- (b) the development has not been completed in accordance with the permission, and
- (c) there are grounds to believe that it is unlikely that the development will be completed within a reasonable period, and

(d) by reason of the non-completion of the development, the amenities of the area in which the land is situate will be adversely affected, and

5 (e) that it would be just and reasonable to make an order under this section,

it shall be lawful for the Court to appoint, at the instance of the planning authority, a person (hereinafter referred to as a Planning Receiver) to take possession of the lands, or portion of the lands, on which the incomplete development is situate.

10 (2) A Planning Receiver shall have power with the consent of the Court—

(a) to carry out any works on the land to preserve the amenities of the area in which the land is situate,

15 (b) to authorise any person to carry out such works or to carry out other works for the purpose of completing the development in accordance with the permission granted,

(c) to sell, lease or dispose of any portion of the lands or any structure thereon and to apply the proceeds towards the costs of any works carried out under this section, and

20 (d) to do anything which in the view of the Court is reasonably necessary for the proper exercise of any of the foregoing powers.

(3) The balance (if any) of the proceeds of the sale, leasing or disposal of any lands or structures shall be held by the Planning
25 Receiver in trust for the person entitled otherwise to sell, lease or dispose of such lands and shall be applied as directed by the Court.

(4) The Court may join any person as a party in the proceedings who shall appear to the Court to be a person whose duty it was to complete the development and who has carried out the development
30 without completing it in accordance with the permission granted under Part IV of the Principal Act and may award the cost of carrying out any works in pursuance of this section against such party to be recovered as a simple contract debt due to the planning authority.

(5) An application to the High Court or Circuit Court for an order
35 under this section shall be made by motion and the Court when considering the matter may make such interim, interlocutory, ancillary or final order as it considers appropriate. The order by which an application under this section is determined may contain such terms and conditions as to the payment of costs as the Court considers
40 appropriate.

7.—(1) Notwithstanding the provisions of the Public Health
(Ireland) Act, 1878, or any other enactment, an owner or occupier of any land or premises may not, without the consent of the sanitary authority, connect his drains into a sewer or cause them to empty into
45 any sewer of that authority unless the drains were constructed as part of a development for which planning permission was obtained, if necessary, under the Town and Regional Planning Act, 1934, the Town and Regional Planning (Amendment) Act, 1939, or the Principal Act.

Restriction of application of the Public Health (Ireland) Act, 1878.

50 (2) It shall be lawful for a sanitary authority to make any consent

given under this section conditional on the making of such payment, levy, charge or contribution as the sanitary authority shall specify towards the costs incurred or to be incurred by the sanitary authority in connection with the provision of the sewer or disposal of the sewage carried by such sewer.

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(3) Where there is any dispute between the sanitary authority and any person in relation to the amount of any payment, levy, charge or contribution imposed by the sanitary authority, it shall be lawful for any party to such dispute to refer the matter to the Minister who shall determine the matter and whose decision shall be final.

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REPORT OF THE

COMMISSIONER OF THE LAND OFFICE

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AN BILLE RIALTAIS ÁITIÚIL (PLEANÁIL
AGUS FORBAIRT), 1988

BILLE

(*mar a tionscnaíodh*)
dá ngairtear

Acht do leasú agus do leathnú ar mhaithe le leas an phobail na nAchtanna Rialtais Áitiúil (Pleanáil agus Forbairt), 1963 go 1983, do shrianadh éifeacht an *Public Health (Ireland) Act, 1878* agus do dhéanamh socrú le haghaidh nithe comhghaolmhara eile.

An Teachta Micheál Ó Céitinn a thíolaic,
25 Aibreán, 1988

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais, Teach Sun Alliance, Sráid Theach Laighean, Baile Átha Cliath 2, nó trí aon díoltóir leabhar.

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An Act to amend and extend in the interests of the common good the Local Government (Planning and Development) Acts, 1963 to 1983, to restrict the effect of the Public Health (Ireland) Act, 1878 and to make provision for other connected matters.

Presented by Deputy Michael Keating,
25th April, 1988

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