



**AN BILLE RIALTAIS ÁITIÚIL (PLEANÁIL AGUS
FORBAIRT) (LEASÚ) (UIMH. 2), 1999
LOCAL GOVERNMENT (PLANNING AND
DEVELOPMENT (AMENDMENT) (NO. 2) BILL, 1999**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Conditions regarding reservation of land for social and affordable housing.
2. Housing strategy.
3. Effect of inclusion of provision requiring social or affordable housing.
4. Affordable housing.
5. Regulations.
6. Laying of regulations in draft.
7. Expenses.
8. Interpretation.
9. Short title, collective citation and construction.

Acts Referred to

Acquisition of Land (Assessment of Compensation) Act, 1919	9 & 10 Geo. 5. c.57
Housing Act, 1988	1988, No. 28
Housing (Miscellaneous Provisions) Act, 1992	1992, No. 18
Local Government (Planning and Development) Act, 1963	1963, No. 28
Local Government (Planning and Development) Act, 1990	1990, No. 11
Local Government (Planning and Development) Acts, 1963 to 1999	
Property Values (Arbitration and Appeals) Act, 1960	1960, No. 45



AN BILLE RIALTAIS ÁITIÚIL (PLEANÁIL AGUS FORBAIRT) (LEASÚ) (UIMH. 2), 1999
LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) (AMENDMENT) (NO. 2) BILL, 1999

BILL

entitled

AN ACT TO AMEND THE LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS, 1963 TO 1999, AND TO PROVIDE FOR RELATED MATTERS.

10 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1. — (1) Where an application for permission in relation to a residential development involving more than two dwellings is made on or after the date of publication in draft of the Bill for this Act, and has not been finally disposed of on the date of passing of this Act, it shall be lawful for the planning authority or the Board, as the case may be, if it decides to grant the application, to attach as a condition of the permission a requirement that the applicant or any other person with an interest in the land to which the application relates enter into an agreement with the planning authority concerning the development for social or affordable housing of land, which agreement may—

Conditions regarding reservation of land for social and affordable housing.

(a) provide for any of the following:

(i) the transfer to the planning authority of the ownership of up to 20 per cent. of the land concerned, to be reserved for the provision of social or affordable housing,

(ii) the making of arrangements for the applicant to provide up to 20 per cent. of the land concerned for social or affordable housing in a manner satisfactory to the planning authority, or

(iii) the payment by the applicant to the planning authority of an equivalent sum based on the value of the land with the permission less the amount of compensation which would be paid if the land were to be transferred, which sum shall be used for the purposes of a housing authority only or under this Act,

and

(b) identify the land to be transferred in accordance with *paragraph (a)*, whether in one or more parts.

(2) Each planning authority shall within 6 months from the passing of this Act take the following steps in accordance with Part III of the Principal Act as modified by *subsection (3)*—

- (a) it shall vary its development plan to insert a housing strategy in the plan in accordance with this Act; and 5
- (b) if a new development plan is under consideration by the planning authority, it shall vary the new development plan in like manner.

(3) In making the variation referred to in *subsection (2)*, the following time limits shall apply in lieu of those referred to in Part III of the Principal Act and notwithstanding anything in that Act—

- (a) notice of the proposed variation shall be given not later than two months from the date of passing of this Act;
- (b) the manager of a planning authority shall make a report on any submissions or observations received not later than two months from the giving of such notice; 15
- (c) the members of the planning authority shall complete their consideration of the proposed variation and shall make a decision thereon not later than five months from the passing of this Act; and 20
- (d) if the members of a planning authority fail to make a variation in accordance with this Act, the manager shall by order make a variation in accordance with this Act not later than six months from the passing of this Act.

(4) Without prejudice to the foregoing provisions of this section, a housing strategy shall be included in each development plan adopted after the passing of this Act (including each development plan as varied by a variation thereof adopted after the passing of this Act). 25

Housing strategy.

2.—(1) A housing strategy made under this Act by a planning authority shall— 30

- (a) provide that as a general policy a specified percentage not being more than 20 per cent. of land to be used for residential development (or a mixture of residential and other use) as provided for in the development plan shall be reserved for the provision of social or affordable housing, and 35
- (b) ensure that provision is made for the housing needs of the existing and future population of the area to which it relates in accordance with regulations made by the Minister, and in making the strategy regard shall be had to such matters as may be thereby prescribed. 40

(2) A housing strategy shall relate to the period (or remaining period) of the plan to which it relates.

3.—(1) Where a housing strategy is in force, a planning authority or the Board may require as a condition of a grant of permission that the applicant or any other person with an interest in the land to which the application relates enter into an agreement with the planning authority concerning the development for housing of land.

Effect of inclusion of provision requiring social or affordable housing.

(2) An agreement under this section may—

(a) provide for any of the following:

(i) the transfer to the planning authority of the ownership of up to 20 per cent. of the land concerned, to be reserved for the provision of social or affordable housing,

(ii) the making of arrangements for the applicant to provide up to 20 per cent. of the land concerned for social or affordable housing in a manner satisfactory to the planning authority, or

(iii) the payment by the applicant to the planning authority of an equivalent sum based on the value of the land with the permission less the amount of compensation which would be paid if the land were to be transferred, which sum shall be used for the purposes of a housing authority only or under this Act,

and

(b) identify the land to be transferred in accordance with *paragraph (a)*, whether in one or more parts.

(3) For the purposes of a transfer under *section 1* or this section, the planning authority shall have regard to—

(a) the proper planning and sustainable development of the area to which the application relates;

(b) the need to ensure the overall coherence of the development to which the application relates;

(c) the development plan; and

(d) such other matters as may be prescribed by the Minister.

(4) Any dispute under *section 1* or this section may be referred to the Board for determination.

(5) Where ownership of land is transferred to a planning authority under *section 1* or this section, the planning authority shall by way of compensation pay to the owner of the land the greater of—

(a) an amount representing the value of the land based on the existing use of that land disregarding the provisions of the development plan or any previous development plan; or

(b) where the land was purchased, or an option to purchase was secured, by the applicant for permission before the 25th day of August, 1999, the actual price paid or amount agreed to be paid under the option (and interest charges that have been incurred).

(6) (a) Subject to *paragraph (b)*, the compensation payable under *subsection (5)* shall in default of agreement be fixed by a property arbitrator nominated under the Property Values (Arbitration and Appeals) Act, 1960, under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919 (the “Act of 1919”). 5

(b) Section 2(2) of the Act of 1919 shall not apply to such an assessment, which shall be made in accordance with *subsection (5)*.

(c) Section 8 of the Local Government (Planning and Development) Act, 1990, shall apply to any compensation payable under this section. 10

(7) Where ownership of land is transferred to a planning authority under this section, the authority may—

(a) provide or arrange for the provision of houses on that land for persons requiring social or affordable housing, 15

(b) make sites available to such persons for the development of houses by them for their own occupation, or

(c) make land available to a body approved of for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992, for the provision of houses on that land for such persons. 20

(8) This section shall not apply to applications for permission for—

(a) the carrying out of works to construct one or 2 dwellings on a site of 0.2 hectare or less; 25

(b) the change of use of an existing structure to create 2 or more dwellings;

(c) the carrying out of works to restore or reconstruct an existing house.

Affordable housing. 4.—(1) Affordable housing may be sold or leased only to persons referred to in the definition of that term in *section 8*, in accordance with a scheme in that behalf which shall be made by each planning authority. 30

(2) The Minister shall by regulations make provision in relation to a scheme to be made under this section and the conditions for the sale and lease of property and the resale thereof. 35

Regulations. 5.—The Minister may make such regulations as are necessary for the purpose of giving full effect to this Act and for prescribing anything referred to as prescribed or to be prescribed.

Laying of regulations in draft. 6.—Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas in draft and shall not be made unless a resolution approving the draft is passed by each such House within the next subsequent 21 days on which that House has sat after the regulation is laid before it. 40

7.—The expenses incurred in the administration of this Act shall, Expenses.
to such extent as may be sanctioned by the Minister for Finance, be
paid out of moneys provided by the Oireachtas.

8.—(1) In this Act—

Interpretation.

5 “Act of 1919” shall be construed in accordance with *section 3(6)(a)*;

“affordable housing” means housing for any person whose maximum
borrowing limit assessed in accordance with normal lending criteria
would be inadequate to obtain a sufficient mortgage to purchase in
the area of the development plan on the open market any newly
10 built house which meets his or her accommodation needs and who
requires housing suitable for his or her needs;

“housing strategy” means a strategy included in a development plan
in accordance with this Act;

15 “Minister” means the Minister for the Environment and Local
Government;

“prescribed” means prescribed by regulations made in that behalf
by the Minister;

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

20 “social housing” means housing for persons with particular housing
needs specified in section 9(2) of the Housing Act, 1988.

(2) In this Act—

25 (a) a reference to a section is a reference to a section of this
Act, unless it is indicated that reference to some other
enactment is intended;

(b) a reference to a subsection is a reference to the subsection
of the provision in which the reference occurs, unless it
is indicated that reference to some other provision is
intended;

30 (c) a reference to any enactment shall be construed as a refer-
ence to that enactment as amended, adapted or extended
by or under any subsequent enactment including this Act.

9.—(1) This Act may be cited as the Local Government (Planning and Development) (Amendment) (No. 2) Act, 1999. Short title,
collective citation
and construction.

35 (2) This Act shall be included in the collective citation “the Local
Government (Planning and Development) Acts, 1963 to 1999” and
this Act and those Acts shall be construed together as one.