



**AN BILLE UM PLEANÁIL AGUS FORBAIRT (LEASÚ)
(UIMH. 3) 2004
PLANNING AND DEVELOPMENT (AMENDMENT) (NO. 3)
BILL 2004**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The Bill proposes amendments to the law governing the preparation by planning authorities of draft development plans and the making and variation of development plans. The four areas in which change is proposed are as follows.

- The times limits that apply to the adoption of a development plan will be suspended where local elections intervene, so that incoming members have adequate time to consider the plan and proposed amendments.
- A planning authority will be enabled to reconsider — and must, if so directed by the Minister for the Environment, Heritage and Local Government — amendments to a draft development plan that are shown on the record to have received no or no adequate consideration by elected members or which are grounded on information that is false or misleading in a material respect.
- Submissions from landowners seeking rezoning of their land in the new development plan must be accompanied by site notices on the affected lands.
- Land which is the subject of an enforcement notice or of compulsory purchase proceedings cannot be the subject of a rezoning motion until the conclusion of those proceedings.

Provisions of Bill

Section 1 provides in standard form for the short title and collective citation of the Bill.

Section 2 contains a standard definition.

Section 3 deals with periods and time limits referred to in the sections of the Planning and Development Act 2000 which govern the preparation of a draft development plan and the making and variation of a development plan. It provides that, in calculating any such period or other limit, the period between the day on which an order fixing the date of local elections is made by the Minister under section 26 of the Local Government Act 2001 and the seventh day after the polling day at those elections, both days inclusive, shall be disregarded.

Section 4 amends the 2000 Act by inserting a new section 31A. The purpose of the section is to deal with cases where the members of a local authority have given inadequate consideration to the preparation and making of a development plan.

The section provides that, where either the members of a planning authority or Minister consider that the members or a committee of a planning authority have, in the performance of their functions relating to the development plan, made a decision or given a direction in respect of which—

- the proposal for the decision or direction in question received no or no adequate consideration by the members at the meeting of the planning authority or of the committee at which it was made or given, or at any prior meeting, or
- the members have received and considered information that is false or misleading in any material respect,

the members may resolve, or the Minister may direct them, to take all necessary measures to ensure that the proposal receives proper consideration by them. The authority must comply with a Ministerial direction.

Where such a decision of a planning authority or Ministerial direction necessitates a review or variation of a development plan, the authority or the Minister may specify the provisions of *Chapter I* of the Act of 2000 which are to apply in respect of that review or variation. Other provisions of that Chapter must be disregarded.

Neither the manager nor the elected members of any planning authority may exercise their powers in conflict with any direction which the Minister gives under *subsection (3)*.

The Minister to cause a copy of any direction issued under the section to be laid before each House of the Oireachtas. In addition, a planning authority must make available for inspection by members of the public any direction issued to it under the section.

Section 5 (1) provides that an owner or occupier of land who makes written submissions or observations to a planning authority under section 12 of the Act of 2000, in relation to any proposal to alter the zoning of that land, must give public notice of those submissions or observations by publication in a newspaper circulating in the district in which the land is situate or by the erection or by the fixing of a notice on the land or structure. *Subsection (2)* requires the Minister by regulations to provide for matters of procedure and administration in respect of submissions or observations to which *subsection (1)* applies.

Section 6 relates to enforcement proceedings under the Act of 2000 and also to compulsory acquisition proceedings. Where either an enforcement notice is served under section 154 of the Act of 2000, or notice has been served by any person in relation to the use of powers available to that person under any enactment for the compulsory acquisition of land, then no amendment to a draft development plan that proposes to alter the zoning of the land to which the notice relates may be made under section 12 of the Act of 2000 until either the enforcement notice is withdrawn, complied with or otherwise ceases to have effect, or the procedures for the acquisition of that land have been completed or withdrawn.

Finally, *section 7* repeals the provisions of the 2000 Planning and Development Act enabling fees to be levied on third parties for observations and submissions to a planning authority in respect of applications for planning permission.

*An Teachta Éamon Mac Giollamóir,
Samhain, 2004.*