



SEANAD ÉIREANN

**AN BILLE UM RIALÚ FOIRGNÍOCHTA 2005
BUILDING CONTROL BILL 2005**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

AN BILLE UM RIALÚ FOIRGNÍOCHTA 2005 —AN CHOISTE

BUILDING CONTROL BILL 2005 —COMMITTEE

*Leasuithe
Amendments*

**Government amendments are distinguished by an asterisk.*

SECTION 2

1. In page 5, subsection (1), line 30, to delete “11,”.

—*Senator James Bannon.*

2. In page 5, subsection (1), line 30, after “40,” to insert the following:

“or the Architects’ Council of Ireland established under *section 11*,”.

—*Senator James Bannon.*

- *3. In page 6, subsection (1), to delete lines 21 to 23.

4. In page 6, subsection (1), lines 21 and 22, to delete “(principally *section 20*)” and substitute the following:

“(as described principally in *sections 12* and *20*)”.

—*Senator James Bannon.*

5. In page 6, subsection (1), line 23, after “means” to insert the following:

“and acknowledging their established right to practice, without formal qualifications, prior to the enactment of this Act”.

—*Senator James Bannon.*

- *6. In page 6, subsection (1), between lines 43 and 44, to insert the following:

“ “practical experience assessment procedures” means the procedures under, as the context requires—

(a) *sections 19(4)* and *(5)* and *20*,

(b) *section 34*, or

(c) *section 48*;”.

SECTION 8

- *7. In page 14, before section 8, to insert the following new section:

8.—Section 8(4) of the Act of 1990 is amended—

- (a) in paragraph (b), by substituting “that may be required by the notice;” for “that may be required by the notice.”, and

“Amendment of section 8 (enforcement notice) of Act of 1990.

[SECTION 8]

(b) by adding the following after paragraph (b):

“(c) require a person on whom the notice is served to pay to the building control authority the costs and expenses reasonably incurred by the authority in relation to the investigation and detection of the matters, the subject of the notice, the service of the notice and the preparation and giving of any warnings before the service of the notice, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers,

and, as regards the costs and expenses referred to in paragraph (c), in default of their payment, the authority may, subject to section 9 and without prejudice to subsection (8), recover the costs and expenses as a simple contract debt in any court of competent jurisdiction.”.

*8. In page 14, before section 8, to insert the following new section:

“Amendment of section 9 (application to District Court in relation to enforcement notice) of Act of 1990.

9.—Section 9 of the Act of 1990 is amended by inserting the following after subsection (3):

“(3A) If the court makes a determination to which subsection (3)(a) or (b) applies, it shall, unless it is satisfied that there are special and substantial reasons for not doing so, order the applicant to pay to the building control authority concerned the costs and expenses, as measured by the court, incurred by the authority—

(a) in appearing and adducing evidence at the hearing, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers, and

(b) in so far as they have not been recouped pursuant to the provision (if any) of the enforcement notice referred to in section 8(4)(c), in relation to the investigation and detection of the matters to which the application relates, including costs incurred in respect of remuneration and expenses as aforesaid.”.

*9. In page 14, paragraph (c), line 45, to delete “where” and substitute “when”.

*10. In page 14, between lines 46 and 47, to insert the following:

“(d) by inserting the following after subsection (2):

“(2A) If the High Court or the Circuit Court makes an order under this section providing for any of the matters referred to in subsection (1) or (1A), it shall, unless it is satisfied that there are special and substantial reasons for not doing so, order the person against whom the order is made to pay to the building authority concerned the costs and expenses, as measured by the court, incurred by the authority—

(a) in relation to the application under this section, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers, and

[SECTION 8]

- (b) in so far as they have not been recouped by any other means provided under this Act, in relation to the investigation and detection of the matters to which the application relates and the preparation and giving of any warnings before the making of the application, including costs incurred in respect of remuneration and expenses as aforesaid.”.”.

SECTION 9

- *11. In page 15, paragraph (b), line 41, to delete “ “€25,000” ” and substitute “ “€50,000” ”.

SECTION 10

- *12. In page 16, between lines 13 and 14, to insert the following:

“Costs of
prosecution, etc.

17B.—On convicting a person of an offence under this Act in proceedings brought by a building control authority, the court shall, unless it is satisfied that there are special and substantial grounds for not doing so, order the person to pay to the authority the costs and expenses, as measured by the court, incurred by the authority in relation to the investigation, detection and prosecution of the offence, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers.”.

- *13. In page 16, to delete line 14 and substitute the following:

“17C.—In any proceedings under this Act, a”.

SECTION 11

14. In page 16, subsection (1), line 27, to delete “The” and substitute “Subject to subsection (3), the”.

—*Senator James Bannon.*

15. In page 16, subsection (3), line 31, to delete “Admissions Board” and substitute the following:

“Architects’ Council of Ireland to act as an admissions board (in this Part referred to as the “Council”)

—*Senator James Bannon.*

16. In page 16, between lines 32 and 33, to insert the following subsection:

“(4) The Council shall be independent from the Royal Institute of Architects of Ireland in its functions and decision-making capacity.”.

—*Senator James Bannon.*

17. In page 16, subsection (4), line 33, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

18. In page 16, subsection (5), line 40, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

[SECTION 12]

SECTION 12

- *19. In page 18, subsection (2), lines 16 to 20, to delete paragraph (h) and substitute the following:

“(h) a person who has been assessed as eligible for registration by the Technical Assessment Board in accordance with the practical experience assessment procedures;”.

SECTION 13

20. In page 20, subsection (2), line 32, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

21. In page 20, subsection (3), lines 36 and 37, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

22. In page 20, subsection (5), line 42, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

SECTION 14

23. In page 21, subsection (1), lines 21 and 22, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

24. In page 21, subsection (2), line 25, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

25. In page 21, subsection (3), lines 33 and 34, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

26. In page 21, subsection (4), line 38, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

27. In page 21, subsection (5), line 40, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

28. In page 22, subsection (7), line 2, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

29. In page 22, subsection (8)(a), line 4, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

30. In page 22, subsection (8)(b), line 9, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

31. In page 22, subsection (8)(b)(iv)(II), line 35, to delete “Admissions Board” and substitute “Council”.

[SECTION 14]

—*Senator James Bannon.*

- 32.** In page 22, subsection (9), line 39, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

- 33.** In page 22, subsection (10), line 42, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

- 34.** In page 23, subsection (11), line 9, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

- 35.** In page 23, subsection (12), line 15, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

- 36.** In page 23, subsection (13)(a), line 21, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

- 37.** In page 23, subsection (13)(a), line 30, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

- 38.** In page 23, subsection (13)(b), line 32, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

SECTION 16

- 39.** In page 25, subsection (5)(a), line 7, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

- 40.** In page 25, subsection (5)(b), line 12, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

SECTION 17

- 41.** In page 25, subsection (4), line 42, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

SECTION 18

- 42.** In page 26, subsection (2), line 18, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

SECTION 19

- *43.** In page 26, subsection (1), lines 38 and 39, to delete “*paragraphs (a) to (f)*” and substitute “*paragraphs (a) to (g) and (i)*”.

[SECTION 20]

SECTION 20

44. In page 28, subsection (7), line 14, before “Technical” to insert the following:

“method of assessment used by the Technical Assessment Board in relation to persons in the grandfather category shall be in line with and consistent with that applied to the category of persons referred to in *section 12(2)(d)* and the”.

—*Senator James Bannon.*

45. In page 28, subsection (7), lines 22 to 24, to delete paragraph (c) and substitute the following:

“(c) whether or not the applicant can demonstrate that he or she has acquired the competencies specified in Article 46 of the Directive, and in so assessing under the grandfather clause, due regard shall be taken of the skills acquired by experience and practical means, as demonstrated by the work performed by the applicant in the field of architecture and where applicable, skills acquired through formal training;”.

—*Senator James Bannon.*

46. In page 28, subsection (8)(a), line 36, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

SECTION 23

47. In page 29, subsection (1), line 35, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

SECTION 25

48. In page 31, subsection (1), line 33, to delete “Admissions Board” and substitute “Council”.

—*Senator James Bannon.*

SECTION 27

***49.** In page 34, subsection (2), lines 18 to 21, to delete paragraph (l) and substitute the following:

“(l) a person who has been assessed as eligible for registration by the Technical Assessment Board in accordance with the practical experience assessment procedures.”.

SECTION 33

***50.** In page 40, subsection (1), lines 21 and 22, to delete “*paragraphs (a) to (l)*” and substitute “*paragraphs (a) to (k)*”.

SECTION 41

***51.** In page 47, subsection (2), lines 4 to 7, to delete paragraph (k) and substitute the following:

“(k) a person who has been assessed as eligible for registration by the Technical Assessment Board in accordance with the practical experience assessment procedures.”.

[SECTION 47]

SECTION 47

*52. In page 53, subsection (1), lines 9 and 10, to delete “*paragraphs (a) to (i)*” and substitute “*paragraphs (a) to (j)*”.

SECTION 54

*53. In page 58, subsection (3)(b), line 19, to delete “Committee” and substitute “registration body”.

SECTION 69

*54. In page 67, lines 43 to 46, to delete subsection (5) and substitute the following:

“(5) The quorum for such a meeting shall be—

(a) 6 members in the case of a Professional Conduct Committee, or

(b) 4 members in any other case,

of which, subject to *subsection (6)*, the majority shall be members who were nominated for appointment as members of the board or committee, as the case may be, by the Minister.”.