

# SEANAD ÉIREANN

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## AN BILLE UM PLEANÁIL AGUS FORBAIRT (BONNEAGAR STRAITÉISEACH) 2006 — AN COISTE PLANNING AND DEVELOPMENT (STRATEGIC INFRASTRUCTURE) BILL 2006 — COMMITTEE

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### *Leasuithe Amendments*

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*\*Government Amendments are distinguished by an asterisk.*

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#### SECTION 2

1. In page 6, between lines 1 and 2, to insert the following new definition:

“ ‘the Agency’ means the Environmental Protection Agency as established by the Environmental Protection Agency Act 1992;”.

—*Senator James Bannon.*

#### SECTION 3

2. In page 6, before section 3, but in Part 2, to insert the following new section:

“Definitions. 3.—The Principal Act is amended by inserting the following section before section 3 but in Part III:

‘32.—In this Part—

“prospective applicant” is any person who proposes to apply for any development specified in the Seventh Schedule;

“the Agency” means the Environmental Protection Agency as established by the Environmental Protection Agency Act 1992.’”.

—*Senator James Bannon.*

3. In page 6, lines 13 and 14, to delete “if the following condition is satisfied” and substitute “subject to subsection (2) of this section”.

—*Senator James Bannon.*

4. In page 6, line 16, to delete “That condition is that, following” and substitute “Following”.

—*Senator James Bannon.*

SECTION 3—*continued*

5. In page 6, line 17, to delete “serves” and substitute “shall serve,”.

—*Senator James Bannon.*

6. In page 6, line 18, to delete “applicant” and substitute “applicant,”.

—*Senator James Bannon.*

- \*7. In page 6, line 32, after “area” to insert “or areas”.

8. In page 6, line 32, to delete “situate” and substitute “situated”.

—*Senator James Bannon.*

9. In page 6, to delete lines 36 and 37.

—*Senator James Bannon.*

10. In page 6, lines 38 to 40, to delete “person who proposes to apply for permission for any development specified in the Seventh Schedule” and substitute “prospective applicant”.

—*Senator James Bannon.*

11. In page 6, to delete lines 43 to 45.

—*Senator James Bannon.*

12. In page 7, to delete lines 18 to 26 and substitute the following:

“(a) fall within one or more of paragraphs (a) to (c) of section 37A(2), or

(b) not fall within any of those paragraphs,

it shall serve a notice in writing on the prospective applicant stating that it is of that opinion.”.

—*Senator James Bannon.*

13. In page 7, to delete lines 37 to 42 and substitute the following:

“(7) In this section ‘appropriate planning authority’ means the appropriate planning authority that would have ordinarily dealt with the application referred to in that subsection, prior to the enactment of section 3 of the Planning and Development (Strategic Infrastructure) Act 2006.”.

—*Senator James Bannon.*

14. In page 8, lines 13 and 14, to delete “writing” and substitute “writing,”.

—*Senator James Bannon.*

15. In page 8, line 14, to delete “Board” and substitute “Board,”.

—*Senator James Bannon.*

16. In page 8, line 24, to delete “so as”.

—*Senator James Bannon.*

17. In page 8, line 40, after “that” to insert “either”.

—*Senator James Bannon.*

18. In page 8, line 40, to delete “permission” and substitute “permission,”.

—*Senator James Bannon.*

SECTION 3—*continued*

19. In page 8, line 41, to delete “statement” and substitute “statement,”.

—*Senator James Bannon.*

20. In page 9, between lines 9 and 10, to insert the following:

“(ii) specifying the website at which the text of the environmental impact assessment is available free of charge,”.

—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*

21. In page 9, to delete lines 10 to 19 and substitute the following:

“(ii) specifying—

(I) the times and places at which, and the period (not being less than 6 weeks) during which, a copy of the application and the environmental impact statement may be inspected,

(II) that a copy of the application and the environmental impact statement may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy), and”.

—*Senator James Bannon.*

22. In page 9, lines 23 and 24, to delete “of the proposed development”.

—*Senator James Bannon.*

23. In page 9, lines 28 and 29, to delete “of the proposed development”.

—*Senator James Bannon.*

24. In page 9, line 30, after “if” to insert “the proposed development were”.

—*Senator James Bannon.*

25. In page 9, line 51, after “if” to insert “the proposed development were”.

—*Senator James Bannon.*

26. In page 10, line 4, to delete “from the” and substitute “of”.

—*Senator James Bannon.*

27. In page 10, lines 13 and 14, to delete “in relation to a proposed development to the Board”.

—*Senator James Bannon.*

28. In page 10, line 16, to delete “the views of the members” and substitute “their views”.

—*Senator James Bannon.*

29. In page 10, lines 19 and 20, to delete “recommendations” and substitute “recommendations,”.

—*Senator James Bannon.*

SECTION 3—*continued*

30. In page 10, line 20, to delete “resolution” and substitute “resolution.”.  
—*Senator James Bannon.*
31. In page 10, line 22, to delete “decide” and substitute “decide.”.  
—*Senator James Bannon.*
32. In page 10, line 25, to delete “the” and substitute “a.”.  
—*Senator James Bannon.*
33. In page 10, between lines 35 and 36, to insert the following:  
“(8) Where a reasonable request that the Board consult with an independent health expert on the health implications of any proposed infrastructural development is received by the Board from local residents or other interested local parties, such a request shall be complied with.”.  
—*Senator James Bannon.*
34. In page 10, line 38, to delete “at its absolute discretion and”.  
—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*
35. In page 10, line 39, to delete “for permission”.  
—*Senator James Bannon.*
36. In page 10, line 43, after “indicate” to insert “where applicable”.  
—*Senator James Bannon.*
37. In page 10, lines 44 and 45, to delete “applicant for permission” and substitute “applicant’s”.  
—*Senator James Bannon.*
38. In page 10, lines 49 and 50, to delete “for permission”.  
—*Senator James Bannon.*
39. In page 11, line 4, to delete “person” and substitute “person.”.  
—*Senator James Bannon.*
40. In page 11, line 4, to delete “public” and substitute “public.”.  
—*Senator James Bannon.*
41. In page 11, lines 10 and 11, to delete “for permission”.  
—*Senator James Bannon.*
42. In page 11, line 51, after “of” to insert “a”.  
—*Senator James Bannon.*
43. In page 11, line 52, to delete “or for the purposes of an activity for which”.  
—*Senator James Bannon.*
44. In page 11, line 53, to delete “a”.  
—*Senator James Bannon.*
45. In page 12, line 1, after “licence” to insert “or, for the purposes of an activity for which one”.  
—*Senator James Bannon.*

SECTION 3—*continued*

- 46.** In page 12, line 8, to delete “application” and substitute “application,”.

—*Senator James Bannon.*

- 47.** In page 12, line 11, after “subsection (5)” to insert the following:

“, and it shall not make such a decision within that period without having either—

(i) considered the observations of the Agency,  
or

(ii) received notification from the Agency that the Agency does not intend to make a submission”.

—*Senator James Bannon.*

- 48.** In page 13, between lines 21 and 22, to insert the following:

“(3) When making a decision in respect of a proposed development for which an application is made under section 37E, the Board shall, without prejudice to the generality of subsection (1), consult with any relevant planning, local or regional authority, so that it shall be apprised of the opinions of local people and their representatives, and the Board shall—

(a) take account of such concerns and

(b) not overrule existing planning provisions

save where there is good, justifiable and stated reason not to so do.”.

—*Senator James Bannon.*

- 49.** In page 13, line 43, to delete “or for the purposes of an activity for which”.

—*Senator James Bannon.*

- 50.** In page 13, line 45, after “licence” to insert “or, for the purposes of an activity for which one”.

—*Senator James Bannon.*

- 51.** In page 14, line 13, to delete “comprises” and substitute “comprises,”.

—*Senator James Bannon.*

- 52.** In page 14, line 14, to delete “of” and substitute “of,”.

—*Senator James Bannon.*

- 53.** In page 14, line 23, to delete “situate” and substitute “situated”.

—*Senator James Bannon.*

- 54.** In page 14, line 25, after “for” to insert “a”.

—*Senator James Bannon.*

- 55.** In page 14, lines 31 and 32, to delete “subsection (3)” and substitute “subsection (3),”.

—*Senator James Bannon.*

SECTION 3—*continued*

- 56.** In page 15, line 7, before “in” where it firstly occurs, to insert “to be specified by the Board,”.  
—*Senator James Bannon.*
- 57.** In page 15, to delete lines 11 to 17.  
—*Senator James Bannon.*
- 58.** In page 15, to delete lines 18 to 24 and substitute the following:  
“(9) In this section, ‘appropriate planning authority’ has the meaning assigned to it in section 37B(7).”  
—*Senator James Bannon.*
- 59.** In page 17, lines 3 and 4, to delete “Environmental Protection”.  
—*Senator James Bannon.*
- 60.** In page 17, line 26, to delete “18” and substitute “12”.  
—*Senator James Bannon.*
- 61.** In page 17, line 35, to delete “would” and substitute “will”.  
—*Senator James Bannon.*
- 62.** In page 17, line 42, to delete “for permission”.  
—*Senator James Bannon.*
- 63.** In page 17, line 46, to delete “would” and substitute “will”.  
—*Senator James Bannon.*
- 64.** In page 17, lines 49 and 50, to delete “that the matter shall be determined” and substitute “to determine the matter”.  
—*Senator James Bannon.*
- 65.** In page 18, line 17, after “of” to insert “a specified application or to”.  
—*Senator James Bannon.*

SECTION 4

- 66.** In page 18, line 30, to delete “or” and substitute “or,”.  
—*Senator James Bannon.*
- \*67.** In page 18, lines 47 and 48, to delete “Proposed development referred to in subsection (1)” and substitute “The proposed development”.
- 68.** In page 19, between lines 16 and 17, to insert the following:  
“(ii) specifying the website at which the text of the environmental impact assessment is available free of charge,”.  
—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*
- 69.** In page 19, to delete lines 17 to 26 and substitute the following:  
“(ii) specifying—  
(I) the times and places at which, and the period (not being less than 6 weeks) during which, a copy of the application and the environmental impact statement may be inspected,

SECTION 4—*continued*

(II) that a copy of the application and the environmental impact statement may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy), and”.

—*Senator James Bannon.*

**70.** In page 19, lines 30 and 31, to delete “of the proposed development”.

—*Senator James Bannon.*

**71.** In page 19, lines 36 and 37, to delete “of the proposed development”.

—*Senator James Bannon.*

**72.** In page 19, line 38, after “if” to insert “the proposed development were”.

—*Senator James Bannon.*

**\*73.** In page 19, line 41, after “statement to” to insert “the local authority or each local authority in whose functional area the proposed development would be situate and to”.

**74.** In page 20, line 4, after “if” to insert “the proposed development were”.

—*Senator James Bannon.*

**\*75.** In page 20, to delete lines 10 to 13 and substitute the following:

“such further information in relation to—

(i) the effects on the environment of the proposed development, or

(ii) the consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said development of such development,

as the Board may specify, or”.

**76.** In page 20, lines 16 to 19, to delete “were certain alterations (specified in the notification referred to in this paragraph) to be” and substitute “if certain alterations (specified in the notification referred to in this paragraph) were”.

—*Senator James Bannon.*

**77.** In page 20, lines 22 and 23, after “development” to insert “the”.

—*Senator James Bannon.*

**78.** In page 20, line 25, to delete “it” and substitute “the Board”.

—*Senator James Bannon.*

**79.** In page 20, line 26, to delete “it” and substitute “the Board”.

—*Senator James Bannon.*

**80.** In page 20, line 50, to delete “of such development”.

—*Senator James Bannon.*

**81.** In page 21, lines 31 to 45, to delete all words from and including “indicating” in line 31 down to and including “and” in line 45, and substitute the following:

SECTION 4—*continued*

“indicating—

- (I) the times and places at which, and the period (not being less than 6 weeks) during which, a copy of the information and the environmental impact statement referred to in paragraph (i) or (ii) may be inspected,
- (II) that a copy of the information and the environmental impact statement may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy), and
- (III) that submissions or observations in relation to that information or the environmental impact statement may be made to the Board before the expiration of the indicated period, and”.

—*Senator James Bannon.*

**\*82.** In page 22, line 25, to delete “subsection (5)” and substitute “section 182A(5)”.

**83.** In page 22, lines 30 and 31, to delete “of such development”.

—*Senator James Bannon.*

**84.** In page 24, to delete lines 5 to 12.

—*Senator James Bannon.*

**\*85.** In page 24, to delete lines 20 to 29 and substitute the following:

“require the Board to give information in respect of its decision regarding the proposed development for which approval is sought.”.

**\*86.** In page 25, to delete lines 10 and 11, and substitute the following:

“development would be situated and cognate references shall be construed accordingly.

Application  
for approval  
of strategic  
gas  
infrastructure  
development.

182C.—(1) Where a person (hereafter referred to in this section as the ‘undertaker’) intends to carry out a strategic gas infrastructure development (hereafter referred to in this section and section 182D as ‘proposed development’), the undertaker shall prepare, or cause to be prepared—

(a) an application for approval of the development under section 182D,

and

(b) an environmental impact statement in respect of the development,



SECTION 4—*continued*

and shall apply to the Board for such approval accordingly, indicating in the application whether the application relates to a strategic upstream gas pipeline or a strategic downstream gas pipeline.

(2) An application under subsection (1) for approval of a proposed development shall, if it will consist of or include a pipeline, be accompanied by a certificate in relation to the pipeline provided under section 26 of the Gas Act 1976, as amended, or section 20 of the Gas (Amendment) Act 2000 by—

(a) in the case of a strategic upstream gas pipeline, the Minister for Communications, Marine and Natural Resources, or

(b) in the case of a strategic downstream gas pipeline, the Commission.

(3) The proposed development shall not be carried out unless the Board has approved it with or without modifications.

(4) Before an undertaker makes an application for approval under subsection (1), it shall—

(a) publish in one or more newspapers circulating in the area or areas in which it is proposed to carry out the development a notice indicating the nature and location of the proposed development and—

(i) stating that—

(I) it proposes to seek the approval of the Board for the proposed development,

(II) an environmental impact statement has been prepared in respect of the proposed development,

(ii) specifying the times and places at which, and the period (not being less than 6 weeks) during which, a copy of the application and the environmental impact statement may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy), and

(iii) inviting the making, during such period, of submissions and observations to the Board relating to—

(I) the implications of the proposed development for proper planning and sustainable development in the area or areas concerned, and

SECTION 4—*continued*

(II) the likely effects on the environment of the proposed development,

if carried out,

and

(b) send a copy of the application and the environmental impact statement to—

(i) the local authority or each local authority in whose functional area the proposed development would be situate,

(ii) any prescribed bodies, and

(iii) where the proposed development comprises or is for the purposes of a strategic downstream gas pipeline, the Commission,

together with a notice stating that submissions or observations may, during the period referred to in paragraph (a)(ii), be made in writing to the Board in relation to—

(I) the implications of the proposed development for proper planning and sustainable development in the area concerned, and

(II) the likely effects on the environment of the proposed development,

if carried out.

(5) The Board may—

(a) if it considers it necessary to do so, require an undertaker that has applied for approval for a proposed development to furnish to the Board such further information in relation to—

(i) the effects on the environment of the proposed development, or

(ii) the consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said development of such development,

as the Board may specify, or

(b) if it is provisionally of the view that it would be appropriate to approve the proposed development were certain alterations (specified in the notification referred to in this paragraph) to be made to the terms of

SECTION 4—*continued*

it, notify the undertaker that it is of that view and invite the undertaker to make to the terms of the proposed development alterations specified in the notification and, if the undertaker makes those alterations, to furnish to it such information (if any) as it may specify in relation to the development, in the terms as so altered, or, where necessary, a revised environmental impact statement in respect of it.

(6) If an undertaker makes the alterations to the terms of the proposed development specified in a notification given to it under subsection (5), the terms of the development as so altered shall be deemed to be the proposed development for the purposes of this section and section 182D.

(7) The Board shall—

(a) where it considers that any further information received pursuant to a requirement made under subsection (5)(a) contains significant additional data relating to—

(i) the likely effect on the environment of the proposed development, and

(ii) the likely consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said development of such development,

or

(b) where the undertaker has made the alterations to the terms of the proposed development specified in a notification given to it under subsection (5)(b),

require the undertaker to do the things referred to in subsection (8).

(8) The things which an undertaker shall be required to do as aforesaid are—

(a) to publish in one or more newspapers circulating in the area or areas in which the proposed development would be situate a notice stating that, as appropriate—

(i) further information in relation to the proposed development has been furnished to the Board, or

(ii) the undertaker has, pursuant to an invitation of the Board, made alterations to the terms of the proposed development (and the nature of those alterations shall be indicated) and, if it be the case, that information in relation to

SECTION 4—*continued*

the terms of the development as so altered or a revised environmental impact statement in respect of the development has been furnished to the Board,

indicating the times at which, the period (which shall not be less than 3 weeks) during which and the place, or places, where a copy of the information or the environmental impact statement referred to in subparagraph (i) or (ii) may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy) and that submissions or observations in relation to that information or statement may be made to the Board before the expiration of the indicated period, and

(b) to send to each prescribed authority to which a notice was given pursuant to subsection (4)(b)—

(i) a notice of the furnishing to the Board of, as appropriate, the further information referred to in paragraph (a)(i) or the information or statement referred to in paragraph (a)(ii), and

(ii) a copy of that further information, information or statement,

and to indicate to the authority that submissions or observations in relation to that further information, information or statement may be made to the Board before the expiration of a period (which shall be not less than 3 weeks) beginning on the day on which the notice is sent to the prescribed authority by the undertaker.

(9) In the case of a proposed development comprising or for the purposes of a strategic downstream pipeline, the Board shall request the Commission to make observations within such period (which period shall not be less than 3 weeks from the date of the request) as may be specified by the Board in relation to the proposed development, including observations in relation to any safety or operational matters.

(10) The Minister, after consultation with the Minister for Communications, Marine and Natural Resources, may make regulations to provide for matters of procedure in relation to the making of a request of the Commission under subsection (9) and the making of observations by the Commission on foot of such a request.

(11) In this section ‘Commission’ means the Commission for Energy Regulation.

SECTION 4—*continued*

Section  
182C: criteria  
for decision,  
certain  
exemptions,  
etc.

182D.—(1) Before making a decision in respect of a proposed development the subject of an application under section 182C, the Board shall consider—

- (a) the environmental impact statement submitted pursuant to section 182C(1) or (5), any submissions or observations made in accordance with section 182C(4), (8) or (9) and any other information furnished in accordance with section 182C(5) relating to—
  - (i) the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the proposed development of such development, and
  - (ii) the likely effects on the environment of the proposed development,

and

- (b) the report and any recommendations of a person conducting any oral hearing relating to the proposed development.

(2) The Board may where it is satisfied that exceptional circumstances so warrant, grant an exemption in respect of proposed development from a requirement under section 182C(1) to prepare an environmental impact statement except that no exemption may be granted in respect of proposed development where another Member State of the European Communities or a state which is a party to the Transboundary Convention has indicated that it wishes to furnish views on the effects on the environment in that Member State or state of the proposed development.

(3) The Board shall, in granting an exemption under subsection (2), consider whether—

- (a) the effects, if any, of the proposed development on the environment should be assessed in some other manner, and
- (b) the information arising from such an assessment should be made available to the members of the public,

and it may apply such requirements regarding these matters in relation to the application for approval as it considers necessary or appropriate.

(4) Notice of any exemption granted under subsection (2), of the reasons for granting the exemption, and of any requirements applied under subsection (3) shall, as soon as may be—

- (a) be published in *Iris Oifigiúil* and in at least one daily newspaper published in the State, and

SECTION 4—*continued*

(b) be given, together with a copy of the information, if any, made available to the members of the public in accordance with subsection (3), to the Commission of the European Communities.

(5) The Board may, in respect of an application under section 182C for approval of proposed development—

- (a) approve the proposed development,
- (b) make such modifications to the proposed development as it specifies in the approval and approve the proposed development as so modified,
- (c) approve, in part only, the proposed development (with or without specified modifications of it of the foregoing kind), or
- (d) refuse to approve the proposed development,

and may attach to an approval under paragraph (a), (b) or (c) such conditions as it considers appropriate.

(6) Without prejudice to the generality of the foregoing power to attach conditions, the Board may attach to an approval under subsection (5)(a), (b) or (c) a condition requiring—

- (a) the construction or the financing, in whole or in part, of the construction of a facility, or
- (b) the provision or the financing, in whole or in part, of the provision of a service,

in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Board, would constitute a gain to the community.

(7) A condition attached pursuant to subsection (6) shall not require such an amount of financial resources to be committed for the purposes of the condition being complied with as would substantially deprive the person in whose favour the approval under this section operates of the benefits likely to accrue from the grant of the approval.

(8) The Minister may, after consultation with the Minister for Communications, Marine and Natural Resources, make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of applications under section 182C for approval.

(9) Without prejudice to the generality of subsection (8), regulations under that subsection may require the Board to give information in respect of its decision regarding the proposed development for which approval is sought.

SECTION 4—*continued*

(10) In considering under subsection (1) information furnished relating to the likely consequences for proper planning and sustainable development of a proposed development in the area in which it is proposed to situate such development, the Board shall have regard to—

- (a) the provisions of the development plan for the area,
- (b) the provisions of any special amenity area order relating to the area,
- (c) if the area or part of the area is a European site or an area prescribed for the purposes of section 10(2)(c), that fact,
- (d) if the proposed development would have an effect on a European site or an area prescribed for the purposes of section 10(2)(c), that fact,
- (e) where relevant, the policies of the Government, the Minister or any other Minister of the Government, and
- (f) the provisions of this Act and regulations under this Act where relevant.

(11) No permission under section 34 or 37G shall be required for any development which is approved under this section.

(12) Without prejudice to the generality of section 18(a) of the Interpretation Act 2005, a reference, however expressed, in this section to the area in which the proposed development would be situated includes, if the context admits, a reference to the 2 or more areas in which the proposed development would be situated and cognate references shall be construed accordingly.

Procedures in advance of seeking approval under section 182B or 182D.

182E.—(1) A person (a ‘prospective applicant’) who proposes to apply for approval under section 182B or 182D shall, before making the application, enter into consultations with the Board in relation to the proposed development.

(2) In any consultations under subsection (1), the Board may give advice to the prospective applicant regarding the proposed application and, in particular, regarding—

- (a) the procedures involved in making such an application, and
- (b) what considerations, related to proper planning and sustainable development, may, in the opinion of the Board, have a bearing on its decision in relation to the application.

(3) A prospective applicant may request the Board to give to him or her an opinion in writing prepared by

SECTION 4—*continued*

the Board on what information will be required to be contained in an environmental impact statement in relation to the proposed development; on receipt of such a request the Board shall comply with it as soon as is practicable.

(4) A prospective applicant shall, for the purposes of—

(a) consultations under subsection (1), and

(b) the Board's complying with a request under subsection (3),

supply to the Board sufficient information in relation to the proposed development so as to enable the Board to assess the proposed development.

(5) Neither—

(a) the holding of consultations under subsection (1), nor

(b) the provision of an opinion under subsection (3),

shall prejudice the performance by the Board of any other of its functions under this Act or regulations under this Act, or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

(6) The Board shall keep a record in writing of any consultations under this section in relation to a proposed development, including the names of those who participated in the consultations, and a copy of such record shall be placed and kept with the documents to which any application in respect of the proposed development relates.”.

*Amendment to Amendment*

1. In the inserted section 182C(4)(a), after subparagraph (i) to insert the following new subparagraph:

“(ii) specifying the website at which the text of the environmental impact assessment is available free of charge.”.

—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*

SECTION 5

\*87. In page 25, line 37, after “or more” to insert “, but excluding any proposed development referred to in section 182A(1)”.

\*88. In page 25, to delete lines 43 to 48.

89. In page 25, line 45, to delete “and” and substitute “or”.

—*Senator James Bannon.*



SECTION 5—*continued*

- 90.** In page 26, line 19, to delete “50” and substitute “10”.  
—*Senator James Bannon.*
- \*91.** In page 26, line 21, after “installation” to insert “, whether above or below ground,”.
- \*92.** In page 26, line 25, after “installation” to insert “, whether above or below ground,”.
- 93.** In page 26, line 33, to delete “comprising” and substitute “comprising,”.  
—*Senator James Bannon.*
- 94.** In page 26, line 34, to delete “of” and substitute “of,”.  
—*Senator James Bannon.*
- 95.** In page 27, line 6, to delete “20” and substitute “10”.  
—*Senator James Bannon.*
- 96.** In page 28, line 31, to delete “30” and substitute “15”.  
—*Senator James Bannon.*
- 97.** In page 28, line 34, to delete “10” and substitute “5”.  
—*Senator James Bannon.*

SECTION 6

- \*98.** In page 29, paragraph (c), to delete lines 17 to 38 and substitute the following:

“ “strategic downstream gas pipeline” means any proposed gas pipeline, other than an upstream gas pipeline, which is designed to operate at 16 bar or greater, and is longer than 20 kilometres in length;

“strategic gas infrastructure development” means any proposed development comprising or for the purposes of a strategic downstream gas pipeline or a strategic upstream gas pipeline, and associated terminals, buildings and installations, whether above or below ground, including any associated discharge pipe;

“strategic infrastructure development” means—

- (a) any proposed development in respect of which a notice has been served under section 37B(4)(a),
- (b) any proposed development by a local authority referred to in section 175(1) or 226(6),
- (c) any proposed development referred to in section 182A(1),
- (d) any proposed strategic gas infrastructure development referred to in section 182C(1),
- (e) any scheme or proposed road development referred to in section 215,
- (f) any proposed railway works referred to in section 37(3) of the Transport (Railway Infrastructure) Act 2001

SECTION 6—*continued*

(as amended by the *Planning and Development (Strategic Infrastructure) Act 2006*), or

- (g) any compulsory acquisition of land referred to in section 214 or 215A, being an acquisition related to development specified in any of the preceding paragraphs of this definition;

“Strategic Infrastructure Division” means the division of the Board referred to in section 112A(1);

“strategic upstream gas pipeline” means so much of any gas pipeline proposed to be operated or constructed—

- (a) as part of a gas production project, or
- (b) for the purpose of conveying unprocessed natural gas from one or more than one such project to a processing plant or terminal or final coastal landing terminal,

as will be situate in the functional area or areas of a planning authority or planning authorities;”.

SECTION 11

- 99.** In page 32, line 27, to delete “to 2003” and substitute “and 2003”.

—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffey.*

SECTION 12

- \*100.** In page 32, before section 12, to insert the following new section:

“Amendment of section 41 of Principal Act. 12.—Section 41 of the Principal Act is amended—

- (a) by substituting ‘section 34, 37 or 37G’ for ‘sections 34 and 37’ in each place where those words occur, and
- (b) by inserting ‘or the Board’ after ‘planning authority’ where those words secondly occur.”.

- \*101.** In page 33, lines 28 and 29, to delete “(other than one falling within subsection (7))”.

- 102** In page 35, line 38, after “Court”, to insert “and to make only such order in the proceedings as follows from such determination”.

—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffey.*

SECTION 14

- 103.** In page 37, to delete lines 19 to 22.

—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffey.*

SECTION 18

\*104. In page 38, line 17, to delete “*section 17*” and substitute “*section 18*”.

SECTION 20

105. In page 39, lines 35 and 36, to delete “in its absolute discretion,”.

—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*

106. In page 40, line 10, after “Board” to insert “, provided that a public representative who makes submissions or requests an oral hearing on a planning application or appeal shall not be liable for any fee”.

—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*

SECTION 21

\*107. In page 42, line 12, to delete “(1) and (2):” and substitute “(1) to (3):”

\*108. In page 43, to delete lines 10 and 11 and substitute the following:

“of justice to allow the person to be heard.

(3) A person conducting an oral hearing of any appeal, application or referral may require any officer of a planning authority or a local authority to give to him or her any information in relation to the appeal, application or referral which he or she reasonably requires for the purposes of the appeal, application or referral, and it shall be the duty of the officer to comply with the requirement.’  
and ”.

\*109. In page 43, line 12, to delete “(3),”.

SECTION 24

110 In page 49, between lines 35 and 36, to insert the following:

“(ii) specifying the website at which the text of the environment impact assessment is available free of charge,”.

—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*

\*111. In page 50, line 9, after “prescribed form” to insert “to the local authority or each local authority in whose functional area the proposed development would be situate and”.

SECTION 28

\*112. In page 54, to delete lines 30 to 33 and substitute the following:

“furnish to the Board such further information in relation to—

(I) the effects on the environment of the proposed development, or

SECTION 28—*continued*

- (II) the consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development of such development,

as the Board may specify, or”.

SECTION 29

\*113. In page 57, before section 29, to insert the following new section:

“Transfer of certain Ministerial functions to Board.

29.—The following section is inserted after section 215 of the Principal Act:

“Transfer of certain Ministerial functions under Gas Act 1976 to Board. 215A.—(1) The functions of—

- (a) the Minister for Communications, Marine and Natural Resources,  
(b) any other Minister of the Government,

or

- (c) the Commission for Energy Regulation,

under sections 31 and 32 of, and the Second Schedule to, the Gas Act 1976, as amended, in relation to the compulsory acquisition of land in respect of a strategic gas infrastructure development are transferred to, and vested in, the Board, and relevant references in that Act to the Minister for Communications, Marine and Natural Resources, any other Minister of the Government or the Commission for Energy Regulation shall be construed as references to the Board and any connected references shall be construed accordingly.

(2) The transfer of the functions of the Minister for Communications, Marine and Natural Resources, any other Minister of the Government or the Commission for Energy Regulation to the Board in relation to the compulsory acquisition of land in accordance with subsection (1) shall include the transfer of all necessary ancillary powers in relation to deviation limits, substrata of land, easements, rights over land (including wayleaves and public rights of way), rights of access to land, the revocation or modification of planning permissions or other such functions as may be necessary in order to ensure that the Board can fully carry out its functions in relation to the enactments referred to in subsection (1).

SECTION 29—*continued*

(3) Article 5 of the Second Schedule to the Gas Act 1976 shall not apply in respect of the function of compulsory acquisition transferred to the Board under subsection (1).’.”.

**\*114.** In page 57, line 47, delete to “section 214” and substitute “section 214 or 215A”.

SECTION 30

**\*115.** In page 58, before section 30, to insert the following new section:

“Amendment of section 218 of Principal Act. 30.—Section 218 of the Principal Act is amended—

(a) by substituting the following subsection for subsection (1):

‘Where, as a result of the transfer of functions under section 214, 215 or 215A, the Board would otherwise be required to hold a local inquiry, public local inquiry or oral hearing, that requirement shall not apply to the Board but the Board may, at its absolute discretion, hold an oral hearing in relation to the matter, the subject of the function transferred.’, and

(b) in subsection (4), by substituting ‘sections 214, 215 and 215A’ for ‘sections 214 and 215.’.”.

*[Acceptance of this amendment involves the deletion of section 30 of the Bill]*

*Amendment to Amendment*

1. In the inserted new section 30, to delete paragraph (a).

—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*

*Section opposed.*

—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*

SECTION 31

**\*116.** In page 58, to delete lines 46 to 51 and substitute the following:

“219.—(1) Where the Board has made a decision in the performance of any functions transferred under section 214, 215 or 215A, it may at its absolute discretion direct the payment of such sum as it considers reasonable by the local authority concerned or, in the case of section 215A, the person who applied for the acquisition order (hereafter in this section referred to as the ‘applicant’)—”.

SECTION 31—*continued*

*Amendment to Amendment*

1. In the inserted section 219(1) to delete “absolute”.  
—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*
- 117.** In page 58, line 49, to delete “absolute”.  
—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*
- \*118.** In page 59, line 25, after “local authority” to insert “or applicant, as appropriate,”.
- \*119.** In page 59, line 30, after “local authority” to insert “or applicant, as appropriate,”.
- \*120.** In page 59, line 33, after “authority” to insert “or applicant, as appropriate,”.

SECTION 32

- \*121.** In page 59, before section 32, to insert the following new section:

“Amendment of section 221 of Principal Act. 32.—Section 221 of the Principal Act is amended—

(a) in subsections (1) and (7), by substituting ‘section 214, 215 or 215A’ for ‘sections 214 and 215’, and

(b) in subsections (2) and (5), by substituting ‘section 214, 215 or 215A’ for ‘section 214 or 215’.

- \*122.** In page 59, before section 32, to insert the following new section:

“Amendment of section 223 of Principal Act. 3.—Section 223 of the Principal Act is amended—

(a) in subsection (1), by substituting ‘section 214, 215 or 215A to the Minister, any other Minister of the Government or the Commission for Energy Regulation’ for ‘section 214 or 215 to the Minister’, and

(b) in subsection (2), by substituting ‘section 214, 215 or 215A’ for ‘section 214 or 215’.”.

SECTION 34

- \*123.** In page 60, line 2, after “47” to insert “(as amended by the Railway Safety Act 2005)”.
- 124.** In page 63, line 33, after “inspected” to insert “and the website at which the draft order and those documents may be assessed free of charge”.  
—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*
- 125.** In page 65, line 46, to delete “absolute”.  
—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*

SECTION 34—*continued*

- 126.** In page 69, line 34, after “as” to insert the following “references to the Minister for the Environment, Heritage and Local Government, and”.

—*Senator James Bannon.*

- 127** In page 69, between lines 41 and 42, to insert the following:

“(2) The Agency or CIE shall not acquire land compulsorily under this section without first engaging in bona fide reasonable efforts to acquire the land by agreement.”.

—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*

- 128.** In page 70, line 12, to delete “therein” and substitute “therein,”.

—*Senator James Bannon.*

- 129.** In page 70, line 34, to delete “then” and substitute “than”.

—*Senator James Bannon.*

- 130.** In page 70, line 54, after “be” to insert “either”.

—*Senator James Bannon.*

- 131.** In page 70, line 55, after “Board” to insert “, or the date on which a copy of relevant extracts from the railway order and the plan referred to therein was served on every (if any) occupier and every (if any) owner of land referred to in the railway order, pursuant to section 46(b)”.

—*Senator James Bannon.*

- 132.** In page 71, line 22, to delete “ex parte” and substitute “*ex parte*”

—*Senator James Bannon.*

- 133.** In page 72, line 44, after “Court”, to insert “and to make only such order in the proceedings as follows from such determination”.

—*Senators Michael McCarthy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy.*