



**AN BILLE UM PLEANÁIL AGUS FORBAIRT (IMEACHTAÍ
FORFHEIDHMIÚCHÁIN) 2008**
**PLANNING AND DEVELOPMENT (ENFORCEMENT
PROCEEDINGS) BILL 2008**

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

Section

1. Short title and collective citation and construction.
 2. Definition.
 3. Offences under Principal Act: choice as to summary proceedings or proceedings on indictment.
 4. Application of *sections* 5 and 6 to certain planning enforcement proceedings.
 5. Prosecution of certain offences not to be by way of summary proceedings.
 6. Enforcement proceedings: consequential restrictions following breach.
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ACTS REFERRED TO

Planning and Development Act 2000

2000, No. 30

Planning and Development Acts 2000 to 2004



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BILL

5

entitled

10 AN ACT TO ABOLISH SUMMARY PROCEEDINGS FOR
CERTAIN OFFENCES UNDER THE PLANNING AND
DEVELOPMENT ACT 2000; TO PROVIDE, IN LIMITED
CIRCUMSTANCES, FOR CONSEQUENTIAL RESTRICTI-
TIONS ON FUTURE DEVELOPMENT BY PERSONS THE
SUBJECT OF ENFORCEMENT PROCEEDINGS UNDER
THAT ACT; AND TO PROVIDE FOR CONNECTED
MATTERS.

15 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) This Act may be cited as the Planning and Development
(Enforcement Proceedings) Act 2008. Short title and
collective citation
and construction.

(2) The Planning and Development Acts 2000 to 2004 and this
Act may be cited together as the Planning and Development Acts
20 2000 to 2008 and shall be construed together as one Act.

2.—In this Act, “the Principal Act” means the Planning and
Development Act 2000. Definition.

25 3.—A person who has a function in connection with deciding
whether a prosecution for an offence under the Principal Act should
be brought by way of summary proceedings or on indictment shall
have regard to—

(a) whether the act or omission alleged to constitute the
offence was committed or omitted, as the case may be, in
the course of trade, vocation or calling, in circumstances
calculated to have resulted in a profit or the avoidance of
a cost,

(b) the nature, extent and cost of any remediation required,
arising from the act or omission alleged to constitute the
offence, and

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- (c) the need to ensure that any penalties imposed in respect of the offence are effective and proportionate and have a deterrent effect, having regard to the acts or omissions to which the alleged offence relates.

Application of sections 5 and 6 to certain planning enforcement proceedings.

4.—This section applies to— 5

- (a) proceedings for an offence under sections 58(4), 63, 151, 154 or 205 of the Principal Act, and
- (b) an application for an order under section 160 of the Principal Act,

in a case where— 10

- (i) the relevant provision of the Principal Act was contravened in the course of a business of dealing in or developing land, and
- (ii) the land the subject of the proceedings has, as a result of that contravention, increased in value (or would, but for this Act or any order made under section 160 of the Principal Act, have increased in value), by not less than €30,000. 15

Prosecution of certain offences not to be by way of summary proceedings.

5.—Summary proceedings may not be brought for an offence to which section 4 applies. 20

Enforcement proceedings: consequential restrictions following breach.

6.—(1) Where a person is convicted of an offence to which section 4 applies and the court is satisfied that the relevant provision of the Principal Act was contravened deliberately and with a view to increasing the value of the land concerned, then, during the period of five years from the date of conviction or such other period as the court, on the application of the prosecutor and having regard to all the circumstances of the case, may order— 25

- (a) a planning authority shall not grant the person permission in respect of any application for development that is made in the course of, or is connected with, the business of dealing in or developing land, 30
- (b) that person shall not be appointed or act as a director or other officer of, or be in any way, whether directly or indirectly, concerned or take part in the promotion, formation or management of, any company the business of which involves dealing in or developing land. 35

(2) Where an order under section 160 of the Principal Act to which section 4 applies is made against a person and the court is satisfied that the relevant provision of the Principal Act was contravened deliberately and with a view to increasing the value of the land concerned, then the court may, of its own motion or as a result of an application by the planning authority concerned, order that, for such period as the court sees fit— 40

- (a) a planning authority shall not grant the person permission in respect of any application for development that is made in the course of, or is connected with, the business of dealing in or developing land, 45

5 (b) the person shall not be appointed or act as a director or other officer of, or be in any way, whether directly or indirectly, concerned or take part in the promotion, formation or management of, any company the business of which involves dealing in or developing land.

(3) Where it is intended to make an application under *subsection (2)* in respect of any person, the planning authority shall give not less than ten days' notice of its intention to that person.

10 (4) A person who is subject or deemed subject to an order under this section may apply to the court for relief, either in whole or in part, from that disqualification and the court may, if it deems it just and equitable to do so, grant such relief on whatever terms and conditions it sees fit.