



SEANAD ÉIREANN

**AN BILLE UM PLEANÁIL AGUS FORBAIRT (LEASÚ) 2009
PLANNING AND DEVELOPMENT (AMENDMENT) BILL
2009**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

AN BILLE UM PLEANÁIL AGUS FORBAIRT (LEASÚ) 2009 —AN COISTE

PLANNING AND DEVELOPMENT (AMENDMENT) BILL 2009 —COMMITTEE STAGE

Leasuithe Amendments

*[Note Government amendments
are denoted by an asterisk]*

SECTION 1

- * 1. In page 5, subsection (2), line 15, to delete “The Planning and Development Acts 2000 to 2007” and substitute “The Planning and Development Acts 2000 to 2009”.

SECTION 3

2. In page 6, to delete lines 18 to 20.

—*Senator Paudie Coffey.*

- * 3. In page 6, between lines 28 and 29, to insert the following:

“ “flood risk assessment” means a study to assess the risk of flooding that may result from matters including current and projected future—

- (a) use of land,
- (b) development of land,
- (c) management of flood risk, and
- (d) changes in climate;”.

- * 4. In page 6, line 31, to delete “ “urban settlement hierarchy” ” and substitute “ “settlement hierarchy” ”.

SECTION 5

- *5. In page 7, to delete lines 8 to 15 and substitute the following:

“(a) by the insertion of the following subsections after subsection (1):

“(1A) The written statement referred to in subsection (1) shall include a core strategy which shows that the development objectives in the development plan are consistent, as far as practicable, with national and regional development objectives set out in the National Spatial Strategy and regional planning guidelines.

[SECTION 3]

(1B) A planning authority shall prepare a core strategy, other than where subsection (1C) applies, as soon as practicable and in any event not later than a period of one year after the making of regional planning guidelines under Chapter III which affect the area of the development plan, and shall accordingly vary the development plan under section 13 to include the core strategy.

(1C) Where a period of more than 4 years has expired since the making of the development plan when regional planning guidelines under Chapter III which affect the area of the development plan are made, the planning authority shall prepare a core strategy for inclusion in the new development plan under sections 11 and 12.”.”.

6. In page 7, lines 8 to 15, to delete paragraph (a).

—*Senator Paudie Coffey.*

7. In page 7, lines 33 to 47, page 8 and in page 9, lines 1 to 38, to delete paragraph (c).

—*Senator Paudie Coffey.*

- * 8. In page 8, lines 19 and 20, to delete “set out an urban settlement hierarchy” and substitute “set out a settlement hierarchy”.

- * 9. In page 8, between lines 35 and 36, to insert the following:

“(vi) aggregate projected population, other than population referred to in subparagraph (v), in—

(I) villages and smaller towns with a population of under 1,500 persons, and

(II) open countryside outside of villages and towns,”.

- * 10. In page 8, to delete line 36 and substitute the following:

“(vii) relevant roads that have been classified as”.

- * 11. In page 8, to delete line 41 and substitute the following:

“(viii) relevant inter-urban and commuter rail

- * 12. In page 8, to delete line 43 and substitute the following:

“(ix) where appropriate, rural areas in respect”.

- * 13. In page 9, lines 11 and 12, to delete all words from and including “referred” in line 11 down to and including “paragraph (g)” in line 12 and substitute the following:

“referred to in subparagraphs (vii)# to (ix)# of paragraph (f) and in paragraph (g)”.

[#Note: These are the correct references if amendments No.s 10 to 12 are accepted.]

- * 14. In page 9, line 15, to delete “ ‘urban settlement hierarchy’ ” and substitute “ ‘settlement hierarchy’ ”.

[SECTION 6]

SECTION 6

15. In page 9, lines 40 to 48 and in page 10, lines 1 to 4, to delete paragraph (a).
—*Senators Dominic Hannigan, Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik.*

SECTION 7

- * 16. In page 11, lines 27 to 43, to delete paragraphs (d) and (e) and substitute the following:

“(d) in subsection (7)—

- (i) by the substitution of the following for subsection(7)(a):

“(a) Subject to paragraphs (aa) to (ad) in a case where the proposed amendment would, if made, be a material alteration of the draft concerned, the planning authority shall, not later than 3 weeks after the passing of a resolution under subsection (6), publish notice of the proposed amendment in at least one newspaper circulating in its area and send notice and a copy of the proposed amendment to the Minister, the Board and the prescribed authorities.”,

- (ii) by the insertion of the following paragraphs after paragraph (a) of subsection (7):

“(aa) In the performance of its functions under regulations made under section 10(5), the planning authority shall determine if there is, or may be, a requirement to carry out an assessment of the effects on the environment of one or more than one of the proposed amendments that would, if made, be a material alteration of the draft development plan.

(ab) The manager, not later than 6 weeks after a determination under paragraph (aa) shall specify such a period as he or she considers necessary following the passing of a resolution under subsection (6) as being required to facilitate an assessment referred to in paragraph (aa).

(ac) The planning authority shall publish notice of the proposed amendment and where appropriate in the circumstances, the making of a determination that an assessment referred to in paragraph (aa) is required, in at least one newspaper circulating in its area.

(ad) The planning authority shall cause an assessment referred to in paragraph (aa) to be carried out within the period specified by the manager under paragraph (ab).”,

- (iii) in paragraph (b), by the substitution of “A notice under paragraph (a) or (ac) (inserted by section 7 of the Act of 2009)” for “A notice under paragraph (a)”.”.

- * 17. In page 12, lines 10 and 11, to delete “the resolution” and substitute “any resolution”.

[SECTION 7]

18. In page 12, line 11, after “paragraph (a)” to insert the following:

“(other than a resolution accepting an amendment which has been approved by the Manager)”.

—*Senators Dominic Hannigan, Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik.*

19. In page 12, lines 12 and 13, to delete “a vote of not less than two-thirds” and substitute “a majority”.

—*Senator Paudie Coffey.*

20. In page 12, line 13, to delete “two-thirds” and substitute “a majority”.

—*Senators Dominic Hannigan, Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik.*

* 21. In page 12, to delete lines 18 to 28 and substitute the following:

“(d) A further modification to the amendment—

(i) may be made where it is minor in nature,

(ii) shall not be made where it refers to—

(I) an increase in the area of land zoned for any purpose, or

(II) an addition to or deletion from the record of protected structures.”.

* 22. In page 12, lines 30 to 33, to delete paragraph (g) and substitute the following:

“(g) by the substitution of the following for subsection (14):

“(14) (a) Notwithstanding any other provision of this Part, where a planning authority fails to make a development plan within a period referred to in paragraph (b), the manager shall make the plan provided that so much of the plan as had been agreed by the members of the planning authority shall be included as part of the plan as made by the manager.

(b) The period referred to in paragraph (a) is—

(i) not more than 2 years from the giving of notice under section 11(1), or

(ii) where subsection (7)(aa)# (inserted by *section 7 of the Act of 2009*) applies—

(I) not more than 2 years and 4 months, or

(II) if appropriate in the circumstances, such longer period than 2 years and 4 months as is specified under subsection (7)(ab)# (inserted by *section 7 of the Act of 2009*) by the manager as being required to facilitate an assessment referred to in subsection (7)(aa)#.”.

[#Note: These are the correct references if amendment No. 16 is accepted.]

[SECTION 8]

SECTION 8

* 23. In page 13, paragraph (c), to delete lines 18 to 32 and substitute the following:

“(c) by the insertion of the following paragraph after subsection (5)(a):

“(aa) Following consideration of the proposed variation and the report of the manager under paragraph (a) where a planning authority, after considering a submission of, or observation or recommendation from the Minister made to the authority under this section or from a regional authority made to the authority under section 27C, decides not to comply with any recommendation made in the proposed variation and report, it shall so inform the Minister or regional authority, as the case may be, as soon as practicable by notice in writing which notice shall contain reasons for the decision.”.

24. In page 13, line 50, after “paragraph (a)” to insert the following:

“(other than a resolution accepting an amendment which has been approved by the Manager)”.

—*Senators Dominic Hannigan, Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik.*

25. In page 13, line 51, and in page 14, line 1, to delete “a vote of not less than two-thirds” and substitute “a majority”.

—*Senator Paudie Coffey.*

26. In page 14, line 1, to delete “two-thirds” and substitute “a majority”.

—*Senators Dominic Hannigan, Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik.*

* 27. In page 14, to delete lines 7 to 16 and substitute the following:

“(d) a further modification to the variation—

(i) may be made where it is minor in nature,

(ii) shall not be made where it refers to—

(I) an increase in the area of land zoned for any purpose, or

(II) an addition to or deletion from the record of protected structures.”.

SECTION 10

* 28. In page 15, line 10, to delete “last made a local area plan” and substitute “last made that local area plan”.

* 29. In page 15, line 27, to delete “of the development plan” and substitute

“of the development plan.”, and

(e) by the insertion of the following subsection after subsection (4):

“(5) There shall be no presumption in law that any land zoned in a particular local area plan shall remain so zoned in any subsequent local area plan.”.

Section opposed.

—*Senator Paudie Coffey.*

SECTION 11

* **30.** In page 15, lines 29 to 34, to delete paragraph (a) and substitute the following:

“(a) in subsection (1) by the substitution of “including consultations with the Minister, any local residents” for “including consultations with any local residents”,”.

* **31.** In page 15, to delete lines 39 to 46 and in page 16, to delete lines 1 to 41 and substitute the following:

“(ii) by the substitution of the following for subparagraph (I) of paragraph (d)(ii):

“(I) subject to paragraphs (e) to (q), decides to make or amend the plan otherwise than as recommended in the manager’s report, or”, and

(iii) by the substitution of the following for paragraphs (e), (f), (g), (h) and (i):

“(e) Where, following the consideration of the manager’s report, it appears to the members of the authority that the draft local area plan should be altered, and the proposed alteration would, if made, be a material alteration of the draft local area plan concerned, the planning authority shall, not later than 3 weeks after the passing of a resolution under paragraph (d)(ii) (inserted by section 9 of the Act of 2002), publish notice of the proposed material alteration in one or more newspapers circulating in its area, and send notice of the proposed material alteration to the Minister, the Board and to the prescribed authorities (enclosing where the authority considers it appropriate a copy of the proposed material alteration).

(f) Notwithstanding paragraph (e), in the performance of its functions under regulations made under section 10(5), a planning authority shall determine if there is, or may be, a requirement to carry out an assessment of the effects on the environment of one or more than one of the proposed alteration that would, if made, be a material alteration of the draft local area plan.

(g) The manager, not later than 6 weeks after a determination under paragraph (e) shall specify such a period as he or she considers necessary following the passing of a resolution under paragraph (d)(ii) as being required to facilitate an assessment referred to in that paragraph.

[SECTION 11]

- (h) The planning authority shall publish notice of the proposed alteration, and where appropriate in the circumstances, the making of a determination that an assessment referred to in paragraph (f) is required in at least one newspaper circulating in its area.
- (i) The planning authority shall cause an assessment referred to in paragraph (f) to be carried out of the proposed alteration of the local area plan within the period specified by the manager.
- (j) A notice under paragraph (e) or (h) as the case may be shall state that—
 - (i) a copy of the proposed material alteration of the draft local area plan may be inspected at a stated place and at stated times during a stated period of not less than 4 weeks (and the copy shall be kept available for inspection accordingly), and
 - (ii) written submissions or observations with respect to the proposed material alteration of the draft local area plan may be made to the planning authority within the stated period and shall be taken into consideration before the making of any material alteration.
- (k) Not later than 8 weeks after publishing a notice under paragraph (e) or (h) as the case may be, or such period as may be specified by the manager under paragraph (g), the manager shall prepare a report on any submissions or observations received pursuant to a notice under that paragraph and submit the report to the members of the authority for their consideration.
- (l) A report under paragraph (k) shall—
 - (i) list the persons who made submissions or observations under paragraph (j)(ii),
 - (ii) summarise the issues raised by the persons in the submissions or observations,
 - (iii) contain the opinion of the manager in relation to the issues raised, and his or her recommendations in relation to the proposed material alteration to the draft local area plan, including any change to the proposed material alteration as he or she considers appropriate, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.
- (m) The members of the authority shall consider the proposed material alteration of the draft local area plan and the report of the manager under paragraph (k).

[SECTION 11]

- (n) Following consideration of the manager’s report under paragraph (m), the local area plan shall be made or amended as appropriate by the planning authority by resolution no later than a period of 6 weeks after the report has been furnished to all the members of the authority with all, some or none of the material alterations as published in accordance with paragraph (e) or (h) as the case may be.
- (o) Where the planning authority decides to make or amend the local area plan or change the material alteration of the plan by resolution as provided in paragraph (n)—
 - (i) paragraph (p) shall apply in relation to the making of the resolution, and
 - (ii) paragraph (q) shall apply in relation to any change to the material alteration proposed.
- (p) It shall be necessary for the passing of the resolution referred to in paragraph (n) that it shall be passed by not less than half of the members of the planning authority and the requirements of this paragraph are in addition to, and not in substitution for, any other requirements applying in relation to such a resolution.
- (q) A change to the material alteration—
 - (i) may be made where it is minor in nature,
 - (ii) shall not be made where it refers to—
 - (I) an increase in the area of land zoned for any purpose, or
 - (II) an addition to or deletion from the record of protected structures.
- (r) When performing their functions under this subsection, the members of the planning authority shall be restricted to considering the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.”.”.

32. In page 16, line 15, after “paragraph (g)(ii)” to insert the following:

“(other than a resolution accepting an amendment which has been approved by the Manager)”.

—*Senators Dominic Hannigan, Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik.*

33. In page 16, lines 16 and 17, to delete “two-thirds” and substitute “a majority”.

—*Senators Dominic Hannigan, Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik.*

[SECTION 12]

SECTION 12

34. In page 17, between lines 3 and 4, to insert the following:

“(a) The National Spatial Strategy shall be approved by the Houses of the Oireachtas.”.

—*Senator Paudie Coffey.*

35. In page 17, paragraph (a), to delete lines 4 to 10.

—*Senator Paudie Coffey.*

36. In page 17, paragraph (b), to delete lines 12 to 17.

—*Senator Paudie Coffey.*

SECTION 13

* **37.** In page 17, before section 13, to insert the following new section:

“Amendment of section 27 of Principal Act.

13.—Section 27 of the Principal Act is amended by the substitution of the following subsection for subsection (1):

“(1) A planning authority shall ensure, when making a development plan or a local area plan, that the plan is consistent with any regional planning guidelines in force for its area.”.

[*Acceptance of this amendment involves the deletion of section 13 of the Bill.*]

SECTION 14

Section opposed.

—*Senator Paudie Coffey.*

SECTION 15

Section opposed.

—*Senator Paudie Coffey.*

SECTION 16

Section opposed.

—*Senator Paudie Coffey.*

SECTION 17

Section opposed.

—*Senator Paudie Coffey.*

SECTION 18

* **38.** In page 21, lines 33 and 34, to delete “(inserted by *section 11(c)*)” and substitute “(inserted by *section 11(c)* of the *Act of 2009*)”.

39. In page 23, to delete lines 5 to 9.

—*Senator Paudie Coffey.*

* **40.** In page 23, to delete lines 15 to 18 and substitute the following:

[SECTION 18]

“(b) shall consult with the manager and elected members of the planning authority,

(c) may consult with the regional authority and persons who made submissions under subsection (7)(c), and”.

* 41. In page 23, to delete line 19 and substitute the following:

“(d) shall no later than 3 weeks after he or she was”.

42. In page 24, line 12, after “public” to insert “within 7 days of receiving such direction”.

—*Senator Paudie Coffey.*

43. In page 24, line 13, after “authority” to insert the following:

“for a specified period of time which shall be not less than 2 weeks”.

—*Senator Paudie Coffey.*

44. In page 24, between lines 17 and 18, to insert the following:

“(21) This section shall apply with any necessary modifications to the giving of notice, no later than 4 weeks after the commencement of *section 18* of the *Planning and Development (Amendment) Act 2009*, in respect of a development plan, a variation of a development plan, or a local area plan, in being as of the date of such commencement, only if the Minister is of opinion that the plan or variation would be so significantly contrary to proper planning and development as to warrant the giving of such notice.”.

—*Senators Dominic Hannigan, Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik.*

SECTION 19

* 45. In page 24, before section 19, to insert the following new section:

“Amendment of section 34 of Principal Act.

19.—Section 34(6) of the Principal Act is amended in paragraph (a):

(a) by the substitution of “concerned would contravene materially the development plan or local area plan” for “concerned would contravene materially the development plan”,

(b) in subparagraph (iii) by the substitution of “authority,” for “authority, and”, and

(c) by the insertion of the following subparagraph after subparagraph (iii):

“(iii*a*) not later than 6 weeks from the publication of the notice under subparagraph (i), the manager shall prepare a report for the planning authority advising the authority of his or her opinion regarding the compliance or otherwise of the proposed development with any relevant Ministerial guidelines under section 28 or any relevant policies or objectives of the Government or Minister of the Government or with any regional planning guidelines and the report shall be considered by the authority before a resolution is passed under subparagraph (iv), and”.

[SECTION 19]

[Acceptance of this amendment involves the deletion of section 19 of the Bill.]

46. In page 24, lines 21 and 22, to delete “a vote of not less than two-thirds” and substitute “a majority”.

—Senator Paudie Coffey.

SECTION 20

47. In page 24, line 38, after “other” to insert “connected”.

—Senator Paudie Coffey.

48. In page 24, line 38, after “person” to insert “or body corporate”.

—Senator Paudie Coffey.

49. In page 24, line 43, to delete “any”.

—Senator Paudie Coffey.

50. In page 25, line 2, to delete “substantial”.

—Senator Paudie Coffey.

51. In page 25, paragraph (a), line 3, after “development,” to insert “has failed to complete a development.”

—Senators Dominic Hannigan, Alex White, Michael McCarthy, Brendan Ryan,
Phil Prendergast, Ivana Bacik.

52. In page 25, line 11, before “planning” to insert “, on that basis,”.

—Senator Paudie Coffey.

SECTION 21

Section opposed.

—Senator Paudie Coffey.

SECTION 23

53. In page 27, line 12, to delete “each of”.

—Senator Paudie Coffey.

54. In page 27, to delete lines 24 to 30 and substitute the following:

“(ii) the authority is satisfied that either—

(I) there were considerations of a commercial, economic or technical nature beyond the control of the applicant which mitigated against either the commencement of the development or carrying out of substantial works pursuant to the planning permission, or

(II) the proposed use of the development would lead to the creation of at least 10 full-time jobs,”.

—Senator Paudie Coffey.

55. In page 28, line 13, after “register” to insert “within one week of such application or decision”.

—Senator Paudie Coffey.

SECTION 24

56. In page 28, paragraph (b), between lines 39 and 40, to insert the following:

[SECTION 24]

“(i) the provision of facilities for physical activity to promote a healthy lifestyle.”.

—*Senator Feargal Quinn.*

SECTION 27

Section opposed.

—*Senator Paudie Coffey.*

SECTION 28

Section opposed.

—*Senator Paudie Coffey.*

SECTION 29

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

“Standardisation of
planning
enforcement.

29.—The Principal Act is amended by the insertion of the following section after section 151—

“151A.—A planning authority shall put in place procedures to ensure that a consistent approach to planning enforcement is taken throughout the functional area of the authority.”.

—*Senators Dominic Hannigan, Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik.*

* **58.** In page 30, lines 6 to 8, to delete all words from and including ““£1,500”,” in line 6 down to and including ““£400”.” in line 8 and substitute the following:

““£1,500”,

(e) in subsection (5) by the substitution of “€1,500” for “£400”, and

(f) by the substitution of the following for subsection (8)—

“(8) Where a person is convicted of an offence under section 154, the Court in addition to imposing a penalty referred to in subsection (1) or (2) as the case may be, may order the person so convicted to take all or any steps specified in the relevant enforcement notice within such period as the court considers appropriate.”.

SECTION 31

Section opposed.

—*Senators Dominic Hannigan, Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik.*

SECTION 32

59. In page 31, to delete lines 19 to 47 and in page 32, to delete lines 1 and 2.

—*Senator Paudie Coffey.*

SECTION 33

60. In page 32, to delete lines 13 to 45.

—Senator Paudie Coffey.

SECTION 34

* **61.** In page 32, before section 34, to insert the following new section:

“Amendment of section 191 of Principal Act.

34.—Section 191(2) of the Principal Act is amended by the substitution of “the making of a new development plan under section 12 or the preparing, making, amending or revoking of a local area plan under section 18 or 20.” for “the making of a new development plan under section 12.”.”.

62. In page 33, line 7, to delete “creation, management, restoration or”.

—Senator Paudie Coffey.

SECTION 36

* **63.** In page 34, before section 36, but in Part 2, to insert the following new section:

“Calculation of appropriate period and other time limits over holidays.

36.—Section 251 of the Principal Act is amended by the substitution of the following for the section:

“251.—Where calculating any appropriate period or other time limit referred to in this Act or in any regulations made under this Act, the period between the 24th day of December and the first day of January, both days inclusive, shall be disregarded.”.”.

* **64.** In page 34, before section 36, but in Part 2, to insert the following new section:

“Amendment of section 253 of Principal Act.

37.—Section 253 of the Principal Act is amended—

(a) in subsection (1), by the substitution of “enter a premises or on land” for “enter any premises”,

(b) in subsection (3)—

(i) by the substitution of “enters a premises or on land” for “enters any premises”, and

(ii) by the substitution of the following for paragraph (a):

“(a) require from an occupier of the premises or land or any person employed on the premises or land or any other person on the premises or land such information, or”

(c) in subsection (4)—

(i) in paragraph (a) by the substitution of—

(I) “prevented from entering a premises or on land” for “prevented from entering any premises”,

(II) “present in a premises or on land” for “present in any premises”, and

[SECTION 36]

(III) “by the authorised person in the premises or on the land” for “by the authorised person in the premises”,

(ii) in paragraph (b) by the substitution of—

(I) “prevented from entering a premises or on land” for “prevented from entering a premises”,

(II) “to enter the premises or on the land concerned, if need be by force” for “to enter, if need be by force, the premises concerned”.”.

* 65. In page 34, before section 36, but in Part 2, to insert the following new section:

“Amendment of
First Schedule to
Principal Act.

38.—Part I of the First Schedule to the Principal Act is amended—

(a) by the substitution of the following for paragraph 6:

“6. Carrying out flood risk assessment for the purpose of regulating, restricting, and controlling development in areas at risk of flooding (whether inland or coastal).”, and

(b) by the insertion of the following paragraph after paragraph 11:

“12. Regulating, restricting and controlling development in areas at risk of erosion and other natural hazards.”.”.

66. In page 34, to delete lines 15 to 33.

—*Senator Paudie Coffey.*

67. In page 34, lines 36 to 39, to delete all words from and including “but” in line 36 down to and including “with” in line 39.

—*Senator Paudie Coffey.*

68. In page 34, to delete lines 40 to 44.

—*Senator Paudie Coffey.*