



AN BILLE UM PLEANÁIL AGUS FORBAIRT (LEASÚ) 2010
PLANNING AND DEVELOPMENT (AMENDMENT) BILL
2010

EXPLANATORY MEMORANDUM

Purpose of Bill.

Under the Planning and Development Act 2000 and the Regulations made under that Act, a change made in the class of goods sold by a shop is not a material change of use and so does not require planning permission. In other words, a shoe shop can become a sweet shop without permission being given by the planning authority.

Equally, a shoe shop can become a head shop or a sex shop and, again, planning permission is not required.

The purpose of this Bill is to change this rule so that a change of use of premises (including a change from previous use as any other type of shop premises) to use as either a head shop or a sex shop is a material change of use and planning permission is required.

Provisions of Bill.

Section 1 provides that, for the purposes of sections 3 and 4 of the Planning and Development Act 2000, and notwithstanding any regulations made under that Act, a change in the use of a structure from any other use to use as a head shop or a sex shop involves a material change in the use of the structure and is not an exempted development.

Certain definitions are provided, in subsection (2) of the section:

- A “head shop” is a structure used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating, or otherwise making accessible or available to the public, goods or services concerned with or for use in connection with the consumption of psychoactive drugs or the use of paraphernalia related to consumption of psychoactive drugs, or both.
- A “psychoactive drug”, whether psychopharmaceutical or psychotropic, is defined as a chemical substance that acts primarily upon the central nervous system to alter brain function, resulting in changes in perception, mood, consciousness or behaviour, and consumed primarily for recreational purposes, so as to alter consciousness.
- A “sex shop” is a structure used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating, or otherwise making accessible or

available to the public, goods or services concerned with or for use in connection with sexual activity, including acts of force or restraint which are associated with sexual activity.

However, the definitions of head shop and sex shop:

- do not apply to a structure used as a hospital or in connection with the provision of services by or on behalf of the Health Services Executive or by a person who is a medical practitioner, pharmaceutical chemist, nurse or midwife and who is registered under the enactments governing his or her profession, or who is a member of a designated profession within the meaning of the Health and Social Care Professionals Act 2005; and
- do not apply to a structure by reason only of the fact that the structure is a licensed premises (within the meaning of section 2 of the Intoxicating Liquor Act 2003), or is used as a business in which goods are available for retail sale and upon which a duty of excise is charged in accordance with law.

Section 2 provides for the short title and collective citation and construction of the Bill.

*Deputies Jan O'Sullivan and Joe Costello,
Feabhra, 2010.*