



**AN BILLE COMHSHAOIL AGUS SLÁINTE POIBLÍ
(TUIRBÍNÍ GAOITHE), 2012
ENVIRONMENT AND PUBLIC HEALTH (WIND TURBINES)
BILL 2012**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Short title.
 2. Interpretation.
 3. Duty to protect human health in dwellings from noise of wind turbine.
 4. Duty to protect human health in dwellings from shadow flicker of wind turbine.
 5. Distance of wind turbine from dwelling relative to size of turbine.
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ACTS REFERRED TO

Civil Liability Act 1961	1961, No. 41
Environment (Miscellaneous Provisions) Act 2011	2011, No. 20
European Convention on Human Rights Act 2003	2003, No. 20
Planning and Development Act 2000	2000, No. 30



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BILL

entitled

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15 AN ACT TO PROTECT THE HEALTH OF PERSONS WHO
MAY BE AFFECTED BY NOISE AND SHADOW
FLICKER FROM WIND TURBINES; TO GIVE FURTHER
EFFECT TO THE CONVENTION ON ACCESS TO INFOR-
MATION, PUBLIC PARTICIPATION IN DECISION-
MAKING AND ACCESS TO JUSTICE IN ENVIRON-
MENTAL MATTERS DONE AT AARHUS, DENMARK
ON 25 JUNE 1998; AND TO PROVIDE FOR RELATED
MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—This Act may be cited as the Environment and Public Health Short title.
(Wind Turbines) Act 2012.

2.—In this Act, unless the context otherwise requires— Interpretation.

20 “the Act of 2000” means the Planning and Development Act 2000;

“the Act of 2011” means the Environment (Miscellaneous Provisions) Act 2011;

25 “curtilage”, in relation to a dwelling, means an area immediately sur-
rounding or adjacent to the dwelling which is used in conjunction
with the dwelling, other than any part of that area that is a public
place;

“dwelling” includes—

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- (a) a building or structure (whether temporary or not) which is constructed or adapted for use as a dwelling and is being so used,
 - (b) a vehicle or vessel (whether mobile or not) which is constructed or adapted for use as a dwelling and is being so used,
 - (c) a part of a dwelling, or

(d) the curtilage of a dwelling;

“Minister” means the Minister for the Environment, Community and Local Government;

“public place” means any place to which the public have access whether as of right or by permission and whether subject to or free of charge. 5

Duty to protect human health in dwellings from noise of wind turbine.

3.—(1) Every person applying for permission under the Act of 2000 to construct a wind turbine generator, and every operator of a wind turbine generator, shall ensure that the noise experienced at a dwelling from a wind turbine does not exceed the noise limits specified in the World Health Organization *Guidelines for Community Noise* (1999), or any equivalent or replacement document. 10

(2) For the purposes of *subsection (1)*, noise includes Low Frequency Noise and Amplitude Modulation.

Duty to protect human health in dwellings from shadow flicker of wind turbine.

4.—Every person applying for permission under the Act of 2000 to construct a wind turbine generator, and every operator of a wind turbine generator, shall ensure that the distance of a wind turbine from a dwelling shall be such that any shadow flicker from the turbine does not pass over the dwelling. 15

Distance of wind turbine from dwelling relative to size of turbine.

5.—(1) Subject to the duties in *section 3* and *section 4*, the minimum distance between a wind turbine generator and a dwelling shall be as set out in *subsection (3)*. 20

(2) If a number of wind turbine generators are being built as part of the same development, the minimum distance applies to each wind turbine generator individually. 25

(3) The minimum distance between a wind turbine generator and a dwelling shall be—

(a) 500 metres, where the height of the wind turbine generator is greater than 25 metres but does not exceed 50 metres,

(b) 1,000 metres, where the height of the wind turbine generator is greater than 50 metres but does not exceed 100 metres, 30

(c) 1,500 metres, where the height of the wind turbine generator is greater than 100 metres but does not exceed 150 metres, 35

(d) 2,000 metres, where the height of the wind turbine generator is greater than 150 metres.

(4) The height of the wind turbine generator is measured from the ground to the end of the blade tip at its highest point.

Duty to engage in public consultation and public participation.

6.—(1) Every person applying for permission under the Act of 2000 to construct a wind turbine generator shall, without prejudice to section 171A and section 172 of the Act of 2000, provide at the time of making the application the following information free of charge to persons occupying dwellings within the minimum distances specified in *section 5*— 40 45

- (a) a description of the site and the physical and technical characteristics of the proposed wind farm development activity,
- 5 (b) a description of the effects of the proposed development on the environment, in particular the effects on—
- (i) human beings, fauna and flora,
- (ii) soil, water, air, climate and the landscape,
- (iii) material assets and the cultural heritage, and
- (iv) the interaction between these,
- 10 (c) a description of the measures envisaged to prevent or to reduce the effects, including emissions,
- (d) a non-technical summary of the above, and
- (e) an outline of the main alternatives studied by the applicant.

15 (2) Every person applying for permission under the Act of 2000 to construct a wind turbine generator shall place an advertisement in a newspaper circulating in the area of the proposed development and on a local radio station broadcasting in the area of the proposed development to the effect that it is arranging a public meeting to be

20 held at a named convenient time and in a named convenient location near to the proposed development, at which persons occupying dwellings within the minimum distances specified in *section 5* and other members of the public may submit, in writing or verbally any comments, information, analyses or opinions that they consider relevant to the proposed development.

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(3) Every person applying for permission under the Act of 2000 to construct a wind turbine generator shall submit to the planning authority or, as the case may be, An Bord Pleanála, a report of the meeting held in accordance with *subsection (2)*.

30 (4) Section 8 of the Act of 2011 shall apply to this section, and a word or expression used in this section has the same meaning as in the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus, Denmark on 25 June 1998.

35 **7.—(1)** Every operator of a wind turbine generator shall ensure that a wind turbine generator in use or operation when this Act comes into operation shall comply with *sections 3* and *4* at the latest one year after the Act comes into operation. Transitional provisions.

(2) The operator of a wind turbine generator to which *subsection (1)* applies shall, as soon as practicable after this Act comes into operation, prepare a plan that contains the specific preparatory measures required to comply with *subsection (1)* and shall then communicate that plan without delay to—

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- 45 (a) persons occupying dwellings within the minimum distances specified in *section 5* and
- (b) the planning authority or, as the case may be, An Bord Pleanála.

Duties of planning
authorities and
Ministers.

8.—(1) Every relevant authority shall, in carrying out their duties and functions, ensure that every person applying for permission under the Act of 2000 to construct a wind turbine generator, and every operator of a wind turbine generator, complies with the duties in *sections 3 to 5* and *section 7*.

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(2) Every relevant authority shall, in carrying out their duties and functions, ensure that due account is taken of the outcome of the public participation provided for in *section 6*.

(3) In this section, “relevant authority” means—

(a) a planning authority within the meaning of the Act of 2000,

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(b) An Bord Pleanála,

(c) the Minister for the Environment, Community and Local Government, and

(d) any other Minister exercising functions in connection with any grant aid or financial assistance related to a wind turbine generator, including in connection with a Renewable Energy Feed-in Tariff Scheme (REFIT).

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Civil liability.

9.—(1) Nothing in this Act shall alter or affect any civil liability that may exist on the coming into operation of this Act concerning the use or operation of a wind turbine generator of any manufacturer, supplier, applicant for planning permission, operator, employer, or of any person having an interest in land on which such a wind turbine generator is situated.

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(2) In this section “civil liability” has the same meaning as in the Civil Liability Act 1961 and, without prejudice to this, includes any liability that may arise under any rule of law, whether common law or statutory, or by virtue of the European Convention on Human Rights Act 2003, or arising under the law of the European Communities or the European Union.

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