



**An Bille um Pleanáil agus Forbairt (Trédhearcacht agus Muinín Tomhaltóirí),
2013**

Planning and Development (Transparency and Consumer Confidence) Bill 2013

Mar a tionscnaíodh

As initiated



**AN BILLE UM PLEANÁIL AGUS FORBAIRT (TRÉDHEARCACHT AGUS MUINÍN
TOMHALTÓIRÍ), 2013
PLANNING AND DEVELOPMENT (TRANSPARENCY AND CONSUMER
CONFIDENCE) BILL 2013**

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ACTS REFERRED TO

Multi-Unit Developments Act 2011 (No. 2)

Planning and Development Act 2000 (No. 30)

Planning and Development (Amendment) Act 2010 (No. 30)

Urban Renewal Act, 1998 (No. 27)



**AN BILLE UM PLEANÁIL AGUS FORBAIRT (TRÉDHEARCACHT AGUS MUINÍN
TOMHALTÓIRÍ), 2013
PLANNING AND DEVELOPMENT (TRANSPARENCY AND CONSUMER
CONFIDENCE) BILL 2013**

Bill

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entitled

An Act to amend the Planning and Development Act 2000 and related Acts in order to better regulate and bring greater transparency to planning and development activities in the State by establishing a national planning compliance register, by introducing new requirements upon planning authorities in the consideration of permission, by ensuring the consistency of certain development plans is further strengthened and maintained in the execution by planning authorities of their established functions, by establishing an accessible national schedule of development contributions and limiting the liability of development contributions in certain instances, by further limiting the term of an extension of planning permission for certain developments, by further removing obstacles to the taking in charge of unfinished estates by local authorities, by amending the Multi-Unit Developments Act 2011, by providing for strengthened public right of appeal in cases of local authority developments, and to provide for related matters.

Be it enacted by the Oireachtas as follows:

PART 1

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PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Planning and Development (Transparency and Consumer Confidence) Act 2013.
- (2) This Act comes into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision, unless otherwise stated, and different days may be so appointed for different purposes or provisions, unless otherwise stated.

Interpretations

2. In this Act—

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

“the Board” means An Bord Pleanála;

“development” has the same definition applied to it as in section 3 of the Planning and Development Act 2000;

“local area plan” has the same definition applied to it as in section 2 of the Planning and Development Act 2000; 5

“local authority” has the same definition applied to it as in section 2 of the Local Government Act, 2001;

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

“planning authority” has the same definition applied to it as in section 2 of the Planning and Development Act 2000; 10

“the Register” means the national register of planning compliance;

“the Schedule” means the national schedule of development contributions.

Expenses

3. The expenses of the Minister incurred in the execution of this Act shall be paid out of moneys provided by the Oireachtas. 15

PART 2

NATIONAL PLANNING COMPLIANCE REGISTER

Amendment of Part 1 of the Planning and Development Act 2000

4. The Act of 2000 is amended by the insertion of the following new section after section 8: 20

“8A. (1) The Minister shall cause to be established and maintained as soon as is practicable and in accordance with this section a register to be known as the National Planning Register, referred to in this Act as ‘the Register’.

(2) The purpose of the Register is to facilitate access to information by any person or persons pertaining to decisions made by a planning authority in the execution of its functions under sections 151 to 164 of this Act, inclusive. 25

(3) The Register shall contain a record of the particulars of each enforcement notice issued by a planning authority in the State, including: 30

(a) the full name and postal address of the person to whom the enforcement notice has been issued, or, in the case of an enforcement notice which has been issued to a body or bodies corporate, the full name and postal address of the director, manager, secretary or any other person acting on behalf of the body corporate; 35

- (b) the date of issuance of the enforcement notice;
- (c) the particulars of the unauthorised development(s) to which the enforcement notice applies;
- (d) and, whensoever applicable, the resolution achieved in respect to the unauthorised development(s) in question in accordance with measures taken by a planning authority in the execution of the functions referred to in subsection (2). 5
- (4) Each planning authority in the State shall, at regular intervals not exceeding three months, furnish the Minister with a copy of all information specified in subsection (3), including relevant updated information in respect of enforcement notices previously furnished to the Minister. 10
- (5) The Minister, upon receipt of the information specified in subsection (4), shall, within one month, add all such information to the Register.
- (6) The Register shall be published electronically on the internet in an openly retrievable format and shall be updated to include information received by the Minister under subsection (4) every three months. 15
- (7) The Register, or any part or parts thereof, shall be made available by the Minister in paper format to any person or persons upon request and within two weeks of receipt of such request. 20
- (8) The Minister may by order instruct a planning authority to apply a fee to any person, persons or body corporate to whom an enforcement notice has been issued in respect of their inclusion on the Register, not exceeding €100.”.

Amendment of Sections 34 and 35 of the Planning and Development Act 2000 25

5. (1) Section 34 of the Act of 2000 is amended by the insertion of the following new paragraphs after subsection (2)(b):

“(ba) In considering its decision in accordance with paragraph (a), a planning authority shall further have regard to the number of enforcement notices previously issued to an applicant under Part VIII of this Act and may cite such information in its decision to grant permission subject to conditions, or to refuse it.”. 30

- (2) Section 35 (1) of the Act of 2000 is amended by the insertion of the following new paragraph after paragraph (b):

“(ba) any information contained in the national planning compliance register,”. 35

PART 3

CONSISTENCY OF DEVELOPMENT PLANS

Amendment of section 18 of the Planning and Development Act 2000

6. Section 18 of the Act of 2000 is amended by the substitution of the following subsection for subsection (3):

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“(3A) (a) When considering an application for permission under section 34, a planning authority, or the Board on appeal, shall ensure the particulars of the permission shall fully comply with any local area plan prepared for the area to which the application relates, and the authority or the Board shall also consider any plan which has been prepared but not yet made in accordance with section 20.

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(b) When considering an application for permission under section 34, a planning authority, or the Board on appeal, shall also ensure the particulars of the permission shall fully comply with any integrated area plan (within the meaning of the Urban Renewal Act, 1998) for the area to which this application relates.”.

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PART 4

DEVELOPMENT CONTRIBUTION SCHEDULE

Amendment of Part III of the Planning and Development Act 2000

7. The Act of 2000 is amended by the insertion of the following new sections after Section 49:

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“49A. (1) The Minister shall make and cause to be established a national schedule of development contribution liabilities, in this section referred to as “the Schedule”.

(2) The purpose of the Schedule is to facilitate access to information by any person or persons pertaining to certain instances where a planning authority, when granting permission under section 34, includes a condition for requiring the payment of a contribution or contributions in respect of public infrastructure and facilities benefiting development in the area of the planning authority in accordance with this section.

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(3) The Schedule shall contain a record of the following information in respect of each planning authority in the State:

(a) in respect of industrial and commercial developments, each instance of a contribution or contributions duly determined under sections 48 and 49 by a planning authority in accordance with this section for the preceding 10 years before the coming into operation of this section (as amended by the *Planning and Development (Transparency and Consumer Confidence) Act 2013*);

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- (b) in respect of developments containing two or more dwelling places or two or more buildings intended to be used as dwelling places, and the provision of new roads, open spaces, car parks, sewers, water mains or drains, each instance of a contribution or contributions duly determined under sections 48 and 49 by a planning authority in accordance with this section for the preceding 10 years before the coming into operation of this section (as amended by the *Planning and Development (Transparency and Consumer Confidence) Act 2013*); 5
- (c) where relevant, the monetary amount of all such contribution or contributions stipulated in each case referred to in paragraphs (a) and (b); 10
- (d) where relevant, the specified improvement works to be carried out in lieu of monetary payment stipulated in each case referred to in paragraphs (a) and (b); 15
- (e) the liable person or persons, or body corporate, in each case referred to in paragraphs (a) and (b);
- (f) the local authority or local authorities to which the contribution or contributions are intended to be made in respect of in each case referred to in paragraphs (a) and (b); 20
- (g) the date or dates by which the contribution or contributions, or part thereof, fall due in each case referred to in paragraphs (a) and (b).
- (4) The Minister shall request all of the information referred to in subsection (3) from each planning authority in the State at intervals not exceeding six months. 25
- (5) A planning authority to which a request for information pursuant to subsection (4) has been made shall respond and furnish the Minister with all such information within 14 days of receipt of such a request.
- (6) The Minister shall make all the information referred to in subsection (1) available on the internet in openly retrievable electronic format within 60 days of receipt of such information. 30
- 49B. Notwithstanding any other provision of this Act, no liability for the payment of a contribution, contributions or any part thereof under sections 48 and 49 shall attach, at any time, to any other party or parties aside from the applicant who have not, in writing and witnessed by a notary public or other public officer and duly lodged with a planning authority, expressly consented to assuming such liability or liabilities.”. 35

PART 5

EXTENSION OF PLANNING PERMISSION

Amendment of section 42 of the Planning and Development Act 2000 (as amended by section 28 of the Planning and Development (Amendment) Act 2010)

8. (1) Section 42 of the Act of 2000 (as amended by section 28 of the Planning and Development (Amendment) Act 2010) is amended by the insertion of the following new subsection after subsection (1): 5

“(1A) The planning authority shall only consider an application under subsection (1) where it is satisfied that the provisions of Chapter 1 of Part 4 of the Planning and Development Regulations 2001 (S.I. 600 of 2001) have been complied with in respect of the application.”. 10

- (2) Section 42 of the Planning and Development Act 2000 (as amended by section 28 of the Planning and Development (Amendment) Act 2010) is amended by the insertion of the following new subsections after subsection (7):

“(7A) Notwithstanding any other provision of this section, in the case where an application for extension of the appropriate period is made in respect of a development containing two or more dwelling places or two or more buildings intended to be used as dwelling places, and the provision of new roads, open spaces, car parks, sewers, water mains or drains, a planning authority, in its absolute discretion, shall only extend the appropriate period subject to the following conditions: 15 20

(a) that where expedient to do so, the development works shall be designated in phases according to the quantity of works deemed necessary by the planning authority to complete each phase;

(b) the development shall, subject to section 180 of this Act, be taken in charge by a local authority on a phased basis once each phase referred to in paragraph (a) is completed consistent with the original planning permission; 25

(c) that all works required to complete the development, either singularly or in phases and consistent with the original planning permission, shall be completed within five years, and 30

(d) that the term of any bond or security that is a condition to which permission for a development specified in this section has been subject shall be extended to a period not exceeding five years.

(7B) For the avoidance of doubt, in this section ‘dwelling places’ shall include, but not be limited to, units occurring in a multi-unit development, the definition of which shall be the same as in section 1(1) of the Multi-Unit Developments Act 2011 (as amended by section 12 of the *Planning and Development (Transparency and Consumer Confidence) Act 2013*);”. 35 40

Amendment of Part III of the Planning and Development Act 2000

9. The Act of 2000 is amended by the insertion of the following new section after section 43:

“43A. The Minister shall, by order and within six months of the coming into operation of this Act, make regulations providing for the full transposition, where applicable, of the provisions of the United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus on 25th June 1998¹ in respect of the matters provided for in Sections 42 and 42A of this Act.”.

PART 6

BONDS

Amendment of Part IX of the Planning and Development Act 2000

10. The Act of 2000 is amended by the insertion of the following new section after section 180:

“180A. (1) Where a development for which permission is granted under Section 34 or under Part IV of the Act of 1963 includes the construction of 2 or more dwelling places or 2 or more buildings intended to be used as dwelling places, and the provision of new roads, open spaces, car parks, sewers, water mains or drains, and the permission has been granted subject to the payment of a bond or other security to be redeemable by the planning authority in the event that the development is not completed to the satisfaction of the planning authority within the appropriate period, the planning authority shall, at least 1 year in advance of the expiration date of a bond or security,

(a) stipulate an extension to the term of the bond or security to a period of time deemed sufficient for the development to be completed, not exceeding five years, or

(b) where an extension under paragraph (a) is not possible, shall immediately seek redemption, either singularly or on a phased basis, of the bond or security in question once it has been demonstrated that, in the opinion of the planning authority, there is no likelihood that the development will be completed to the satisfaction of the planning authority, and

(c) shall, as soon as is practicable once a bond or security has been redeemed under paragraph (b), complete the development consistent with the original permission and any conditions to which permission may be subject.

(2) The Minister shall, within six months of the coming into operation of this section, make regulations providing for the following:

¹ United Nations Treaty Series No. 37770, 30th October 2001.

- (a) the phased redemption of a bond or security which a planning authority may specify as a condition for development under section 34, and
- (b) a mechanism to enable a planning authority to index-link the redeemable value of a bond or security specified in subsection (1), subject to a demonstrable rate of inflation in goods and services commonly utilised in the construction of buildings and related ancillary works.”. 5

PART 7

TAKING IN CHARGE

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Amendment of section 180 of the Planning and Development Act 2000 (as amended by section 59 of the Planning and Development (Amendment) Act 2010)

11. Section 180 of the Act of 2000 (as amended by section 59 of the Planning and Development (Amendment) Act 2010) is amended as follows:

- (a) in subsection (3) by the substitution of “the majority of those casting votes in a plebiscite of owners of the houses involved” for “the majority of the qualified electors who are owners or occupiers of the houses involved”, 15
- (b) in subsection (2)(a) by the substitution of “two years” for “seven years”,
- (c) in subsection (2)(A)(i) by the substitution of “two years” for “seven years”,
- (d) the substitution of the following paragraph for paragraph (b) of subsection (3): 20
 - “(b) The Minister shall, within 60 days of the coming into operation of this Act, by Ministerial Order make and apply regulations prescribing the procedure to be followed by a planning authority in ascertaining the wishes of the owners of the houses involved, subject to the provisions of section 180 of the Act of 2000 (as amended by this Act).”.

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PART 8

AMENDMENT OF THE MULTI-UNIT DEVELOPMENTS ACT 2011

Amendment of section section 1 of the Multi-Unit Developments Act 2011

12. Section 1(1) of the Multi-Unit Developments Act 2011 is amended by the substitution of the following definition for “multi-unit development”: 30

“ ‘multi-unit development’ means land on which there stands erected a building which, or a part of which, subject to subsection (3), is divided into units of which not less than 5 are designed and intended for residential use under the same roof, and that as respects such units it is intended that internal amenities, facilities and services are to be 35

shared.”.

PART 9

LOCAL AUTHORITY OWN DEVELOPMENT

Amendment of Section 179 of the Planning and Development Act 2000

- 13.** Section 179 of the Act of 2000 is amended by the insertion of the following subsection 5
after subsection (2):
- “(2A) (a) Any person, persons or qualified body who, within a prescribed
period, made submissions or observations in relation to a proposed
development, may appeal to the Board against a decision taken by a
planning authority in accordance with this section. 10
 - (b) All appeals under paragraph (a) shall be made within four weeks
from the date of a decision being taken by a planning authority.
 - (c) The Board shall give due consideration to all appeals received by it
under this section and shall determine all such appeals in the same
manner as appeals received by it under section 37 of this Act.”. 15

An Bille um Pleanáil agus Forbairt
(Trédhearcacht agus Muinín Tomhaltóirí),
2013

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do leasú an Achta um Pleanáil agus Forbairt, 2000 agus Achtanna gaolmhara d'fhonn rialáil níos fearr a dhéanamh ar ghníomhaíochtaí pleanála agus forbartha sa Stát agus trédhearcacht a mhéadú i ndáil leo trí chlár náisiúnta um chomhlíonadh pleanála a bhunú; trí cheanglais nua a thabhairt isteach maidir le húdaráis phleanála do bhreithniú ceadanna; trína chinntiú go ndéantar comhréireacht pleananna forbartha áirithe a neartú tuilleadh agus a chothabháil le linn d'údaráis phleanála a bhfeidhmeanna bunaithe a fhorghníomhú; trí sceideal náisiúnta ranníocaí forbartha inrochtana a bhunú agus trí dhliteanas ranníocaí forbartha a theorannú i gcásanna áirithe; trí théarma fadaithe ar chead pleanála a theorannú tuilleadh le haghaidh forbairtí áirithe; trí na baic ar údaráis áitiúla eastáit neamhchriochnaithe a ghlacadh faoina gcúram a dhíchur tuilleadh; tríd an Acht um Fhorbairtí Ilaonad, 2011 a leasú; trí shocrú a dhéanamh maidir le ceart an phobail chun achomharc a dhéanamh a neartú i gcásanna a bhaineann le forbairtí de chuid údarás áitiúil, agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An Teachta Catherine Murphy a thug isteach,

11 Nollaig, 2013

Planning and Development (Transparency
and Consumer Confidence) Bill 2013

BILL

(as initiated)

entitled

An Act to amend the Planning and Development Act 2000 and related Acts in order to better regulate and bring greater transparency to planning and development activities in the State by establishing a national planning compliance register; by introducing new requirements upon planning authorities in the consideration of permission; by ensuring the consistency of certain development plans is further strengthened and maintained in the execution by planning authorities of their established functions; by establishing an accessible national schedule of development contributions and limiting the liability of development contributions in certain instances; by further limiting the term of an extension of planning permission for certain developments; by further removing obstacles to the taking in charge of unfinished estates by local authorities; by amending the Multi-Unit Developments Act 2011; by providing for strengthened public right of appeal in cases of local authority developments, and to provide for related matters.

Introduced by Deputy Catherine Murphy,

11th December, 2013

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