



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

EXPLANATORY MEMORANDUM

Purpose of Bill

This Bill is an omnibus amending bill designed to address a number of issues in current planning law, in particular areas of the law where greater transparency, accountability and consumer & citizen protection is clearly required.

Part 1

Section 1 of the bill provides for the short title and commencement matters, section 2 provides for interpretations, and section 3 provides for the expenses of the Minister in the operation of the bill.

Part 2

Part 2 provides for the establishment of a national planning compliance register composed of information relating to enforcement notices issued by every planning authority in the State. The intention of the register is to allow far greater transparency than presently exists in the area of compliance, and to facilitate access to essential information about past failures to comply. The bill provides that the register be made publicly available and be updated at regular intervals.

Section 4 amends Part 1 of the Planning and Development Act, 2000 to insert a new section (section 8A) which provides for the establishment, purpose, content and operation of the national planning compliance register.

Section 5 amends Sections 34 and 35 of the Planning and Development Act, 2000 to introduce consideration of the information contained in the register into the statutory decision making process which planning authorities must undertake in consideration of an application for permission.

Part 3

Part 3 of the bill provides for stronger language in relation to the consistency of proposed developments with the local area plan (or integrated area plan) in which a development is intended to be sited.

Section 6 amends section 18 of the Planning and Development Act, 2000 (concerning Local Area Plans and Integrated Area Plans)

to require that applications made under Section 34 of the 2000 Act be fully compliant with those plans.

Part 4

Part 4 of the bill seeks to bring greater transparency and accountability to development contributions which have been agreed as part of permission for certain classes of development. A centralised, national schedule of agreed development contributions is established under the Part and the information contained therein is required to be made publically accessible by the Minister.

The schedule is intended to only contain enforcement notices arising from the industrial and commercial developments, and developments consisting of traditional housing estates and apartment buildings, and not to smaller developments like house extensions. Conditions for the former developments frequently include sizeable development contributions and there is a public benefit to bringing greater scrutiny and traceability in the form of a publically accessible schedule.

Section 7 amends Section 49 of the Planning and Development Act, 2000 to insert provisions establishing the national schedule of development contribution liabilities, providing for the operation of the schedule, laying certain requirements upon the Minister and Local Authorities in respect of same and providing for public access.

Section 7 also introduces a new requirement to ensure that persons who are not original parties to permission that is subject to payment of a development contribution (or contributions) must provide clear, written and witnessed consent before assuming liability for payment of the contribution(s) or part thereof. This provision is intended to severely restrict the practice whereby some local authorities have attempted to extract payment for development contributions from residents of a housing estate where the original developer is no longer solvent or in a position to pay.

Part 5

Part 5 of the bill tightens the procedure surrounding the extension of the appropriate period of a planning permission, often referred to as 'rollover permission'. The bill seeks to introduce the full range of requirements which are currently placed upon planning applications made in the first instance to any extension of permission sought, including public observation and appeal to An Bord Pleanála. The bill also seeks to introduce specific circumstances in which an extension of an appropriate period may only be granted for developments consisting of traditional housing estates and/or apartment complexes. Furthermore, the bill in this part places a requirement upon the Minister to effectively transpose the provision of the Aarhus Convention in respect of Sections 42 and 42a of the 2000 Act.

Section 8 amends Section 42 of the Planning and Development Act, 2000 to introduce the several provisions of Chapter 1 of Part 4 of the Planning and Development Regulations 2001 (S.I. 600/2000) into the application process for extension of the appropriate period.

Section 8 further amends Section 42 of the 2000 Act to detail several new requirements upon planning authorities when considering an application for extension of the appropriate period (for housing estates and/or apartment complexes) to allow for the works to be constructed in phases, to be taken in charge by a local

authority in phases, that works are carried out fully consistent with the original planning permission, and that, where bonds or securities are in place, the relevant term is also extended to match the extension of the appropriate period granted.

Section 9 requires the Minister to issue an order transposing the relevant provisions of the Aarhus Convention in respect of Sections 42 and 42A of the Act of 2000.

Part 6

Part 6 of the Bill places new requirements upon planning authorities where permission for housing estates and/or apartment complexes has been granted subject to the payment of a bond or securities in the event of non-completion. This part seeks to eliminate any case where a bond may expire before a local authority has a chance to redeem it, which it is hoped will in effect provide an early warning system for the expiration of a bond or security. The part also requires the Minister to make regulations describing how local authorities may insist upon a bond that may be redeemed in phases and may be index-linked to the inflation rate in the construction sector.

Section 10 requires local authorities to, within 1 year of the expiration of a bond or security, to seek an extension of the relevant period of validity or, if that is not possible, to seek the immediate redemption of the bond where it is satisfied that there is no likelihood that the development will be completed to its satisfaction. In cases where the bond is redeemed under this section, a local authority shall complete the development consistent with the original planning permission.

Section 10 also requires the Minister to make regulations describing how local authorities may insist upon a bond that may be redeemed in phases and may be index-linked to the inflation rate in the construction sector.

Part 7

Section 11 in this Part makes a number of amendments to Section 180 of the Planning and Development Act, 2000 relating to the taking in charge of estates. The section seeks to define those residents who may petition a local authority to take an estate in charge as a majority of those casting votes in a plebiscite of the owners of the houses involved. The section also seeks to reduce the amount of time before an estate may be taken in charge by a local authority from seven years to two years.

Part 8

Section 12 in this Part amends the definition of “multi-unit development” contained in Section 1(1) of the Multi-Unit Developments Act, 2011 to eliminate conflicts in interpretations of the law where it is contrary to established county development plans.

Part 9

Section 13 in this Part amends Section 179 of the Planning and Development Act, 2000 to make it possible for a person, persons or a body to appeal decisions of a planning authority for developments undertaken by the authority, also known as ‘Part 8 developments’ (in accordance with Part 8 of the Planning and Development Regulations, 2001 (S.I. 600 of 2000)), to An Board Pleanála. The

section requires An Bord Pleanála to consider and determine such appeals as if they were appeals under Section 37 of the Act of 2000.

Nollaig, 2013.

Wt. —. 622. 12/13. Clondalkin. (41851). Gr. 30-15.