



SEANAD ÉIREANN

**AN BILLE UM PLEANÁIL AGUS FORBAIRT (TITHÍOCHT)
AGUS UM THIONÓNTACHTAÍ CÓNAITHE, 2016
PLANNING AND DEVELOPMENT (HOUSING) AND
RESIDENTIAL TENANCIES BILL 2016**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

AN BILLE UM PLEANÁIL AGUS FORBAIRT (TITHÍOCHT) AGUS UM THIONÓNTACHTAÍ CÓNAITHE, 2016 —AN COISTE

PLANNING AND DEVELOPMENT (HOUSING) AND RESIDENTIAL TENANCIES BILL 2016 —COMMITTEE STAGE

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

SECTION 3

Section opposed.

*—Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine,
Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 4

1. In page 7, between lines 21 and 22, to insert the following:

“(2) An application for a strategic housing development under this section, other than for the alteration of an existing planning permission granted under *section 34*, may not be made by a prospective applicant who holds a planning permission for over 100 housing units for which a commencement notice has not been submitted to the relevant planning authority.”.

—Senators Grace O’Sullivan, Alice-Mary Higgins.

2. In page 7, between lines 24 and 25, to insert the following:

“(3) An order referred to in *subsection (2)* may only be made subsequent to an independent review of the operation of this Chapter to include a public consultation process, any such review to commence not later than July 2019.”.

—Senators Victor Boyhan, Grace O’Sullivan.

3. In page 7, between lines 24 and 25, to insert the following:

“(b) Prior to extending the specified period the Minister shall order the Department to undertake a policy review of strategic housing development and submit it to the Oireachtas for scrutiny.”.

*—Senators Catherine Ardagh, Jennifer Murnane O’Connor, Lorraine Clifford-Lee,
Mark Daly, Paul Daly, Aidan Davitt, Robbie Gallagher, Gerry Horkan, Terry Leyden,
Brian Ó Domhnaill, Ned O’Sullivan, Keith Swanick, Diarmuid Wilson.*

[SECTION 4]

4. In page 7, after line 38, to insert the following:

“(6) A permission granted under this Part may only be extended where it meets the conditions in section 42(1)(a)(i) of the Act of 2000 as amended.”.

—*Senators Grace O’Sullivan, Alice-Mary Higgins.*

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 5

- *5. In page 8, to delete lines 2 to 4 and substitute the following:

“(1) Subject to *subsection (2)*, a prospective applicant shall, before making the application in accordance with *section 4(1)*, make a request to the Board to enter into consultations with the Board in relation to the proposed strategic housing development and any such request shall comply with *subsection (6)*.”.

- *6. In page 8, to delete lines 5 to 10 and substitute the following:

“(2) A prospective applicant shall, prior to making a request to the Board under *subsection (1)*, have consulted the appropriate planning authority or authorities in whose area or areas the proposed development would be situated, comprising at least one meeting, as if the consultations with the planning authority or authorities concerned were for the purpose of making a planning application to it or to each of them, as the case may be, and for that purpose—”.

- *7. In page 8, to delete lines 15 to 20 and substitute the following:

“(3) Consultations under section 247 of the Act of 2000 in relation to proposed development referred to in *subsection (2)* shall be held within 4 weeks of the date of receipt by the planning authority, or planning authorities, as the case may be, of a request by the prospective applicant for such a consultation, unless the prospective applicant requests that the period be extended by a specified period, in which case—”.

8. In page 8, between lines 40 and 41, to insert the following:

“(viii) information as to what percentage of the proposed development will meet the definition of “universal design” as set out in section 52 of the Disability Act 2005, as well as plans to ensure the accessibility of any proposed development to amenities and services.”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

9. In page 9, after line 40, to insert the following:

“(i) considerations, related to sustainable development, universal design and accessibility to services as set out in section 52 of the Disability Act 2005.”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine,*

[SECTION 5]

Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.

SECTION 6

- *10. In page 11, line 7, to delete “application” and substitute “proposed strategic housing development”.
- *11. In page 11, line 8, to delete “application” and substitute “proposed development”.
- *12. In page 11, line 22, to delete “the holding of the consultation meeting” and substitute the following:

“the holding, in accordance with *subsection (5)*, of the consultation meeting or, if more than one such meeting, the last of the those meetings”.

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 7

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 8

- *13. In page 16, to delete lines 15 to 25 and substitute the following:

“(b) In the report referred to in *paragraph (a)* the planning authority shall—

- (i) set out the authority’s opinion as to whether the proposed strategic housing development would be consistent with the relevant objectives of the development plan or local area plan, as the case may be,
- (ii) include a statement as to whether the authority recommends to the Board that permission should be granted or refused, together with the reasons for its recommendation, and
- (iii) specify in the report—
 - (I) where the authority recommends that permission be granted, the planning conditions (if any), and the reasons and grounds for them, that it would recommend in the event that the Board decides to grant permission, or
 - (II) if appropriate in the circumstances, where the authority recommends that permission be refused, the planning conditions, and the reasons and grounds for them, that it would recommend in the event that the Board decides to grant permission.”.

- 14. In page 16, between lines 32 and 33, to insert the following:

“(6) That the Planning Authority would be required to hold a formal council meeting with their local authority elected members to brief them on a strategic housing development planning application in advance of its submission to An Bord Pleanála.”.

[SECTION 8]

—*Senators Victor Boyhan, Gerard P. Craughwell, Grace O’Sullivan, John G. Dolan, Michael McDowell.*

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 9

15. In page 17, between lines 15 and 16, to insert the following:

“(d) an assessment of housing needs of people with disabilities in the relevant area, and whether the level of universal design set out in the proposed development will appropriately increase the available housing stock for people with a disability in that area, with due regard to the Disability Act 2005.”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

***16.** In page 19, to delete lines 20 to 23 and substitute the following:

“(12) The Board shall include in each report made under section 118 of the Act of 2000 a statement of—

(a) the number of matters which the Board has determined within each of the periods referred to in *paragraphs (a) and (b) of subsection (9)*, and

(b) the number and the aggregate amount of all sums paid (if any) by the Board under *subsection (13)*,

together with such other information as to the time taken to determine such matters as the Minister may direct.”.

***17.** In page 19, lines 35 and 36, to delete “the prescribed fee paid by the applicant to the planning authority” and substitute “the fee paid by the applicant to the Board”.

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 10

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 11

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 12

***18.** In page 22, between lines 1 and 2, to insert the following:

“(a) consultations with planning authorities for the purposes of *section 5(2)*.”.

[SECTION 12]

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 13

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 14

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 15

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 16

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 17

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 18

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 19

Section opposed.

—*Senators Denis Landy, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 20

Section opposed.

—*Senator Denis Landy.*

SECTION 21

Section opposed.

—*Senator Denis Landy.*

[SECTION 22]

SECTION 22

Section opposed.

—*Senator Denis Landy.*

SECTION 23

19. In page 33, to delete lines 9 and 10.

—*Senator Grace O’Sullivan.*

20. In page 33, line 11, after “than” to insert “the first Council meeting after the expiration of”.

—*Senator Grace O’Sullivan.*

Section opposed.

—*Senator Denis Landy.*

SECTION 27

21. In page 33, between lines 25 and 26, to insert the following:

“Amendment of section 5 (“relevant date”, “landlord”, “tenant”, “lease”, etc.) of Act of 2004

27. Section 5(1) of the Act of 2004 is amended by deleting the definition of “landlord” and substituting the following:

“ ‘landlord’ means the person for the time being entitled to receive (otherwise than as agent for another person, excepting where that person is acting as receiver) the rent paid in respect of a dwelling by the tenant thereof and, where the context so admits, includes a person who has ceased to be so entitled by reason of the termination of the tenancy;”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

22. In page 33, between lines 25 and 26, to insert the following:

“Amendment of section 19 (setting of rent above market rent prohibited) of Act of 2004

27. Section 19(2)(b) of the Act of 2004 is hereby repealed.”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan, Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

23. In page 33, between lines 25 and 26, to insert the following:

“Amendment of section 19 (setting of rent above market rent prohibited) of Act of 2004

27. The Act of 2004 is amended by the insertion of the following new section after section 19:

“**19A.** Any subsequent increases in the level of rent under the tenancy of a dwelling shall not be greater than the rate of inflation, as provided for by

[SECTION 27]

the Consumer Price Index as issued by the Central Statistics Office.”.”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

24. In page 33, between lines 25 and 26, to insert the following:

“Amendment of section 19 (setting of rent above market rent prohibited) of Act of 2004

27. The Act of 2004 is amended by the insertion of the following new section after section 19:

“19A. (1) Any subsequent increases in the level of rent under the tenancy of a dwelling shall not be greater than the rate of inflation, as provided for by the Consumer Price Index as issued by the Central Statistics Office.

(2) The provision outlined in subsection (1) will remain in effect until 31 December 2019 at which point the Minister may by order extend the specified period which this section will continue to apply.”.”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

25. In page 33, between lines 25 and 26, to insert the following:

“27. The Act of 2004 is amended by the insertion of the following new section after section 19:

“19A. Any subsequent setting of the rent under the tenancy by way of a review of that rent shall not be greater or less than the level of inflation as indicated in the Consumer Price Index as calculated by the Central Statistics Office at the time of the rent review.”.”.

—*Senators Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 28

26. In page 33, between lines 28 and 29, to insert the following:

“28. The Act of 2004 is amended in section 28(2)(a) by the substitution of “for an indefinite period from” for “for the period of 4 years”.”.

—*Senators Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

Section opposed.

—*Senators Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 29

27. In page 33, after line 31, to insert the following:

“29. The Act of 2004 is amended in section 34 by the insertion of the following in paragraph 3 of the Table:

“This provision shall not be available to any landlord whose property was purchased with a buy-to-let mortgage or whose property benefited from

[SECTION 29]

any section 23 tax relief or where the landlord is a professional landlord with three or more properties with tenancies registered with the Residential Tenancies Board.”.”.

—*Senators Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

28. In page 33, after line 31, to insert the following:

“29. The Act of 2004 is amended in section 34 by the deletion of Paragraph 3 of the Table.”.

—*Senators Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

Section opposed.

—*Senators Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 30

29. In page 34, between lines 21 and 22, to insert the following:

“Restriction on termination of certain tenancies by landlords

30. Section 34 (“Grounds for termination by landlord”) of the Act of 2004 is amended in the Table to the section by deleting paragraph 3.”.

—*Senator Denis Landy.*

[*Acceptance of this amendment involves the deletion of section 30 of the Bill.*]

30. In page 34, line 41, to delete “20 or more” and substitute “5 or more”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan, Catherine Ardagh, Jennifer Murnane O’Connor, Lorraine Clifford-Lee, Mark Daly, Paul Daly, Aidan Davitt, Robbie Gallagher, Gerry Horkan, Terry Leyden, Brian Ó Domhnaill, Ned O’Sullivan, Keith Swanick, Diarmuid Wilson.*

31. In page 34, line 41, to delete “20 or more” and substitute “10 or more”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

32. In page 35, to delete lines 3 to 18.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

33. In page 35, line 7, to delete “20 per cent” and substitute “40 per cent”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

34. In page 35, line 7, to delete “20 per cent” and substitute “30 per cent”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

35. In page 35, to delete lines 9 to 13.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

[SECTION 30]

36. In page 35, line 12, to delete “undue unfairness to, or”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

37. In page 35, line 15, after “amount” to insert “as determined by a state body”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

38. In page 35, line 15, after “amount” to insert “as determined by an independent, non-commercial expert body”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

39. In page 35, between lines 18 and 19, to insert the following:

“(c) Where a landlord has successfully received exemption from subsection (2), the landlord intending to transfer to another for full consideration their interest will be required to pay, as compensation, to any affected tenants, an amount equivalent to two weeks of current rent for every year of occupancy.”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane, Grace O’Sullivan.*

Section opposed.

—*Senators Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 31

40. In page 35, between lines 27 and 28, to insert the following:

- “31. (1) Receivers appointed to mortgaged properties and lenders who have initiated repossession proceedings are regarded as the landlord in relation to existing tenancies.
- (2) Where appointed, the receiver of the property shall be under the same tenancy obligations as landlords as specified in Part 2 of the Residential Tenancies Act 2004 and associated regulations.
- (3) Where appointed, a receiver of the property shall be responsible for promptly refunding the tenancy deposit, subject to conditions in section 12(4) of the Residential Tenancies Act 2004.”.

—*Senators Catherine Ardagh, Jennifer Murnane O’Connor, Lorraine Clifford-Lee, Mark Daly, Paul Daly, Aidan Davitt, Robbie Gallagher, Gerry Horkan, Terry Leyden, Brian Ó Domhnaill, Ned O’Sullivan, Keith Swanick, Diarmuid Wilson.*

SECTION 33

- *41. In page 36, line 6, to delete “10 days” and substitute “10 working days”.

Section opposed.

—*Senators Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

[SECTION 34]

SECTION 34

42. In page 36, line 16, to delete “one member” and substitute “two members”.

—*Senators Trevor Ó Clochartaigh, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile, Fintan Warfield.*

SECTION 38

43. In page 38, between lines 16 and 17, to insert the following:

“Amendment of section 151 of Residential Tenancies Act 2004

38. The Residential Tenancies Act 2004 is amended in section 151(2) by the insertion of the following new paragraph:

“(b) The Board shall publish performance statistics to include average waiting times and other user statistics that may be prescribed by the Minister, on a quarterly basis in relation to the performance of its functions as prescribed by subsection (1)(a).”.

—*Senators Catherine Ardagh, Jennifer Murnane O’Connor, Lorraine Clifford-Lee, Mark Daly, Paul Daly, Aidan Davitt, Robbie Gallagher, Gerry Horkan, Terry Leyden, Brian Ó Domhnaill, Ned O’Sullivan, Keith Swanick, Diarmuid Wilson.*

44. In page 38, between lines 16 and 17, to insert the following:

“Amendment of section 174 of Residential Tenancies Act 2004

38. The Residential Tenancies Act 2004 is amended in section 174 by the substitution of “The Minister shall” for “The Minister may”.

—*Senators Catherine Ardagh, Jennifer Murnane O’Connor, Lorraine Clifford-Lee, Mark Daly, Paul Daly, Aidan Davitt, Robbie Gallagher, Gerry Horkan, Terry Leyden, Brian Ó Domhnaill, Ned O’Sullivan, Keith Swanick, Diarmuid Wilson.*

45. In page 38, between lines 16 and 17, to insert the following:

“38. (1) An Institute of Technology may borrow money by means of bank overdraft or otherwise and may guarantee or underwrite a loan taken or borrowing undertaken by a person or a body of persons.

(2) Borrowing, guaranteeing and underwriting under *subsection (1)* shall be in accordance with a framework which shall be agreed from time to time between the groups of Institutes of Technology, whose memberships shall be specified by the Minister for Education and Skills, and the Department of Education and Skills, following consultation by the Department of Education with the Minister of Education and Skills and the Minister for Finance.”.

—*Senators Catherine Ardagh, Jennifer Murnane O’Connor, Lorraine Clifford-Lee, Mark Daly, Paul Daly, Aidan Davitt, Robbie Gallagher, Gerry Horkan, Terry Leyden, Brian Ó Domhnaill, Ned O’Sullivan, Keith Swanick, Diarmuid Wilson.*

[SCHEDULE]

SCHEDULE

*46. In page 41, to delete lines 23 to 26 and substitute the following:

“

8	Section 123 Subsection (5)	Substitute “direct the Director” for “direct the Board”.
9	Subsection (5)	Substitute “the Director shall cancel” for “the Board shall cancel”.
10	Subsection (6)	Substitute “Director” for “Board” in each place where it occurs.
11	Subsection (7)	Substitute in paragraph (a) “issued by the Director” for “issued by it”.
12	Section 125(2)	Insert “direct the Director to” after “The powers mentioned in subsection (1) are to”.
13	Section 159(1)	Delete “, 121”.
14	Section 176(3)	Delete in paragraph (b) “sealed and”.

”