



SEANAD ÉIREANN

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

**LEASUITHE TUARASCÁLA
REPORT AMENDMENTS**

SEANAD ÉIREANN

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

PLANNING AND DEVELOPMENT (HOUSING) AND RESIDENTIAL TENANCIES BILL 2016 —REPORT

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

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 in the same local authority area or in an adjoining local authority area for which a commencement notice has not been submitted to the relevant planning authority, unless the Board is satisfied that there were considerations of a commercial, economic or technical nature beyond the control of the applicant which substantially militated against the commencement of development pursuant to the planning permission.”.

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

2. 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 in the same local authority area for which a commencement notice has not been submitted to the relevant planning authority, unless the Board is satisfied that there were considerations of a commercial, economic or technical nature beyond the control of the applicant which substantially militated against the commencement of development pursuant to the planning permission.”.

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

3. 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, unless the Board is satisfied that there were

considerations of a commercial, economic or technical nature beyond the control of the applicant which substantially militated against the commencement of development pursuant to the planning permission.”.

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

4. 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 in the same local authority area or in an adjoining local authority area for which a commencement notice has not been submitted to the relevant planning authority.”.

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

5. 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 in the same local authority area for which a commencement notice has not been submitted to the relevant planning authority.”.

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

*6. In page 7, to delete lines 22 to 24 and substitute the following:

“(2) (a) Not later than 30 October 2019, the Minister shall—

- (i) review the operation and effectiveness of this Chapter, and
- (ii) lay before each House of the Oireachtas a report of his or her conclusions from the review.

(b) The Minister may, by order made before the expiry of the specified period, extend such period during which this section shall continue to apply but—

- (i) no such order shall be made before *paragraph (a)* has been complied with, and
- (ii) any such extension shall not be made in respect of a period after 31 December 2021.”.

7. 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.*

*8. In page 15, after line 40, to insert the following:

- “(4) (a) In this subsection and *subsection (5)*# “relevant elected members” means—
- (i) in the case of a local authority referred to in *paragraph (b)*, the elected members of the Area Committee or Area Committees (established under section 50(1) of the Local Government Act 2001) in respect of the local electoral area or areas, as the case may be, in which the proposed strategic housing development would be situated;
 - (ii) in the case of any other local authority, the elected members for the municipal district or districts, as the case may be, in which the proposed strategic housing development would be situated.
- (b) The local authorities referred to in *paragraph (a)(i)* are as follows:
- (i) Cork City Council;
 - (ii) Dublin City Council;
 - (iii) Dun Laoghaire-Rathdown County Council;
 - (iv) Fingal County Council;
 - (v) Galway City Council;
 - (vi) South Dublin County Council.
- (c) On receipt, under *subsection (1)(b)(i)*, of a copy of the application and any environmental impact statement or Natura impact statement, or both of those statements, the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated shall—
- (i) notify the relevant elected members of the making of that application, the information specified for the purposes of *subsection (1)(a)(iii)* and the information provided for the purposes of *subsection (1)(a)(vii)*, and
 - (ii) at the next meeting of each Area Committee concerned, or each municipal district concerned, as appropriate, inform the relevant elected members of—
 - (I) the details of the application,
 - (II) the consultations that have taken place in relation to the proposed development under *sections 5(2)* and *6(5)*,
 - (III) the notice issued by the Board under *section 6(7)*, and
 - (IV) where the meeting concerned takes place after the expiry of the period specified in *subsection (1)(a)(iii)(II)*—
 - (A) information relating to the matters referred to in *subsection (5)(a)(i)*#, and
 - (B) where the Chief Executive has formed the views referred to in *subsection (5)(a)(ii)*#, such views.”.

[# *These are the appropriate references if this amendment is accepted.*]

*9. In page 16, to delete lines 5 to 12 and substitute the following:

- “(i) a summary of the points raised in the submissions or observations received as a consequence of *subsection (1)(a)(vii)*,
- (ii) the Chief Executive’s views on the effects of that proposed development on the proper planning and sustainable development of the area of the authority and on the environment, having regard in particular to—
 - (I) the matters specified in section 34(2) of the Act of 2000, and
 - (II) submissions and observations duly received by the Board as a consequence of *subsection (1)(a)(vii)*,and
- (iii) where the meeting or meetings referred to in *subsection (4)(c)(ii)#* has or have taken place, a summary of the views of the relevant elected members on that proposed development as expressed at such meeting or meetings.”.

[# *This is a reference to the subsection proposed to be inserted by amendment 8.*]

*10. In page 16, to delete lines 39 to 41.

11. In page 33, to delete lines 17 to 23 and substitute the following:

- “(c) Where the development in question is a housing development, for a resolution to have effect under paragraph (b)—
 - (i) it has to be adopted by a majority of the members of the local authority,
 - (ii) it has to be passed not later than 6 weeks after the receipt of the manager’s report, and
 - (iii) in the case of a resolution not to proceed with a proposed development, it shall state the reasons for such resolution.
- (d) Where the development in question is not a housing development, for a resolution to have effect under paragraph (b)—
 - (i) it has to be passed not later than the first Council meeting after 6 weeks after the receipt of the manager’s report, and
 - (ii) in the case of a resolution not to proceed with a proposed development, it shall state the reasons for such resolution.”.

—*Senators Grace O’Sullivan, Victor Boyhan.*

12. In page 33, after line 34, 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.*

13. In page 33, after line 34, 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.*

14. In page 34, between lines 3 and 4, to insert the following:

“Amendment of section 28 of Act of 2004

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 from”.”.

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

15. In page 34, to delete lines 4 to 6.

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

16. In page 34, between lines 6 and 7, to insert the following:

“Amendment of section 34 of Act of 2004

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.*

17. In page 34, between lines 6 and 7, to insert the following:

“Amendment of section 34 of Act of 2004

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 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.*

18. In page 34, to delete lines 7 to 27.

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

19. In page 34, line 18, to delete “section 35A(3)(a)(i)” and substitute “section 35A(3)(a)”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane.*

20. In page 34, line 22, to delete “20 per cent” and substitute “40 per cent”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane.*

21. In page 34, line 22, to delete “20 per cent” and substitute “30 per cent”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane.*

22. In page 34, line 24, to delete “where section 35A(3)(a)(ii) applies,”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane.*

23. In page 34, line 27, to delete “undue unfairness to or”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane.*

24. In page 34, to delete lines 28 to 39, and in page 35, to delete lines 1 to 35.

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

25. In page 35, line 8, to delete “20 or more” and substitute “5 or more”.

—*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, Alice-Mary Higgins, Colette Kelleher, Lynn Ruane.*

26. In page 35, line 8, to delete “20 or more” and substitute “10 or more”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane.*

27. In page 35, to delete lines 11 to 26.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane.*

28. In page 35, line 12, after “Board” to insert “, them also having due regard to perspective of the tenants and other independent sources”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane.*

29. In page 35, line 15, to delete “20 per cent” and substitute “40 per cent”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane.*

30. In page 35, line 15, to delete “20 per cent” and substitute “30 per cent”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane.*

31. In page 35, line 16, to delete “or” and substitute “and”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane.*

32. In page 35, line 20, to delete “undue unfairness to, or”.

—*Senators Alice-Mary Higgins, Colette Kelleher, Lynn Ruane.*

33. In page 35, between lines 35 and 36, 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.*

34. In page 36, to delete lines 10 to 13.

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

35. In page 36, line 22, 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.*

36. In page 38, between lines 22 and 23, 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.*

37. In page 38, between lines 22 and 23, 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.*

38. In page 38, between lines 22 and 23, 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 for 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.*