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**An Bille um Pleanáil agus Forbairt (Bearta Éigeandála Aeráide) (Leasú), 2021**  
**Planning and Development (Climate Emergency Measures) (Amendment) Bill**  
**2021**

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*Mar a tionscnaíodh*

*As initiated*

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**AN BILLE UM PLEANÁIL AGUS FORBAIRT (BEARTA ÉIGEANDÁLA AERÁIDE)  
(LEASÚ), 2021  
PLANNING AND DEVELOPMENT (CLIMATE EMERGENCY MEASURES)  
(AMENDMENT) BILL 2021**

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*Mar a tionscnaíodh*

*As initiated*

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**SCHEDULE**

**MATTERS DELETED FROM SEVENTH SCHEDULE TO THE PRINCIPAL ACT**

ACTS REFERRED TO

Climate Action and Low Carbon Development Act 2015 (No. 46)

Planning and Development Act 2000 (No. 30)

Planning and Development Acts 2000 to 2018



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**AN BILLE UM PLEANÁIL AGUS FORBAIRT (BEARTA ÉIGEANDÁLA AERÁIDE)  
(LEASÚ), 2021  
PLANNING AND DEVELOPMENT (CLIMATE EMERGENCY MEASURES)  
(AMENDMENT) BILL 2021**

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# Bill

5

*entitled*

An Act to amend the Planning and Development Act 2000 in order to restrict certain developments in fossil fuels infrastructure and high energy usage data centres, to remove some developments from listing as strategic development infrastructure projects, to revise the procedure for making applications directly to An Bord Pleanála and to ensure that regard be given to the State’s climate targets and commitments and to provide for related matters. 10

**Be it enacted by the Oireachtas as follows:**

## Definitions

1. In this Act— 15

“Bill of 2021” means the Climate Action and Low Carbon Development Amendment Bill 2021;

“Principal Act” means the Planning and Development Act 2000.

## Amendment of section 34 of Principal Act

2. Section 34 of the Principal Act is amended in subsection (1)(b), by the substitution of the following paragraph for paragraph (b): 20

“(b) all requirements of the regulations are complied with, the authority may decide to grant the permission subject to or without conditions, or to refuse it, and

(c) when such development falls within subparagraphs (i) and (ii), and the application is made during the emergency period referred to in section 37A(5), then the authority shall not grant permission— 25

(i) where the development is for a building of new or the expansion of existing infrastructure whose primary purpose is transporting, or storing, or refinement or processing of fossil fuels, 30

(ii) where the development is a facility consisting of one or more than one structure, the combined gross floor space of which

exceeds 10,000 square metres, used primarily for the storage, management and dissemination of data, and the provision of associated electricity connections infrastructure, and

- (iii) for the avoidance of doubt, subparagraph (i) does not apply to:
  - (I) improvements in the safety, efficiency or operation of existing infrastructure; 5
  - (II) infrastructure that enables the recovery or reprocessing used petroleum products;
  - (III) infrastructure that will accelerate the transition to non-fossil fuel energy sources; or 10
  - (IV) the provision of services directly to end users.”.

### **Amendment of section 37A of Principal Act**

#### **3. Section 37A of the Principal Act is amended—**

- (a) by the substitution of the following subsection for subsection (2)—

“(2) The condition is that, following consultation under section 37B, the Board serves on the prospective applicant a notice in writing under that section stating that, in the opinion of the Board, the proposed development would, if carries out— 15

- (a) fall within one or more of the following:

- (i) the development would be of strategic economic or social importance to the state or the region in which it would be situate; 20
- (ii) the development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area in which it would be situate; 25
- (iii) the development would have a significant effect on the are of more than one planning authority,

and

- (b) does not fall within a category of development in section 34(1)(c) and is consistent with the State’s climate targets and commitments, specifically; 30

- (i) the Climate Action and Low Carbon Development Act 2015

- (ii) the National Climate Objective,

- (iii) the ultimate objective specified in Article 2 of the United Nations Framework Convention on Climate Change done at New York on 9 May 1992, 35

- (iv) the steps specified in Articles 2 and 4(1) of the Agreement done at Paris on 12 December 2015.”.

and

(b) by the insertion of the following subsection after subsection (4):

“(5) In this section—

‘Act of 2015’ means the Climate Action and Low Carbon Development Act 2015; 5

‘the National Climate Objective’ has the same meaning as in the Bill of 2021;

‘emergency period’ means the period from which the Dáil has declared a climate and biodiversity emergency or in which the levels of global carbon dioxide (CO<sub>2</sub>) levels as measured at the atmospheric research facility known as Mauna Loa Observatory, situated on the island of Hawaii, United States of America, are above 350 parts per million (ppm).” 10

#### **Amendment of section 37B of Principal Act**

4. Section 37B of the Principal Act is amended— 15

(a) in subsection (3), by the substitution of the following paragraph for paragraph (a):

“(a) whether the proposed development would, if carried out, fall within one or more of the subparagraphs (i) to (iii) of section 37A(2)(a) and be consistent with subparagraphs (i) to (iv) of section 37A (2) (b)”, 20

(b) by the substitution of the following subsection for subsection (4):

“(4) Where, following consultations under this section, the Board is of the opinion that the proposed development, if carried out—

(a) would fall within one or more of the subparagraphs (i) to (iii) of section 37A(2)(a) and be consistent with subparagraphs (i) to (vi) of section 37A(2)(b), then it shall serve a notice in writing on the prospective applicant stating it is of that opinion, or 25

(b) would not fall within any of those subparagraphs, then it shall serve a notice in writing on the prospective applicant stating that it is of that opinion.” 30

and

(c) by the insertion of the following subsection after subsection (4):

“(4A) Before serving a notice under paragraph (a) or (b) of subsection (4), as the case may be, the Board shall consult with the Environmental Protection Agency as to whether the proposed development is consistent with subparagraphs (i) to (vi) of section 37A(2)(b).” 35

**Amendment of section 182C of Principal Act**

5. Section 182C of Principal Act is amended—

- (a) in subsection (1), by the substitution of “within paragraphs (a) and (b) of section 37A(2)” for “within paragraphs (a), (b) or (c) of section 37A(2)”,
- (b) in subsection (5)(a)(ii) by the substitution of “of such development, or” for “of such development,”, and
- (c) in subsection (5)(a) by the insertion of the following subparagraphs after subparagraph (ii):
  - “(iii) whether the proposed development falls within the category of development covered by section 34(1)(c) and if application for permission is made during the emergency period as defined in section 37A(5),
  - (iv) whether the proposed development, if carried out is consistent with subparagraphs (i) to (iv) of section 37A(2)(b).”

**Amendment of Seventh Schedule of Principal Act**

6. The Seventh Schedule to the Principal Act is amended in paragraph 1 by the deletion of the matters set out in the second column of the *Schedule* to this Act.

**Short title, collective citation, construction and commencement**

- 7. (1) This Act may be cited as the Planning and Development (Climate Emergency Measures) (Amendment) Act 2021.
- (2) This Act and the Planning and Development Acts 2000 to 2018 may be cited together as the Planning and Development Acts 2000 to 2021 and shall be construed together.
- (3) This Act comes into operation on such day or days as the Minister for Housing, Local Government and Heritage may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.



SCHEDULE  
MATTERS DELETED FROM SEVENTH SCHEDULE TO THE PRINCIPAL ACT

*Section 5*

Ref No. (1)	Matters deleted (2)	
1	– An installation for the onshore extraction of petroleum or natural gas.	5
2	– A crude oil refinery (excluding an undertaking manufacturing only lubricants from crude oil) or an installation for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.	
3	– An oil pipeline and any associated terminals, buildings and installations, where the length of the pipeline (whether as originally provided or as extended) would exceed 20 kilometres.	10
4	– An installation for surface storage of natural gas, where the storage capacity would exceed 200 tonnes.	
5	– An installation for the surface storage of oil or coal, where the storage capacity would exceed 100,000 tonnes.	15
6	– An onshore terminal, building or installation, whether above or below ground, associated with a natural gas storage facility, where the storage capacity would exceed 1mscm.	
7	– An onshore terminal, building or installation, whether above or below ground, associated with an LNG facility and, for the purpose of this provision, ‘LNG facility’ means a terminal which is used for the liquefaction of natural gas or the importation, offloading and re-gasification of liquefied natural gas, including ancillary services.	20

An Bille um Pleanáil agus Forbairt (Bearta  
Éigeandála Aeráide) (Leasú), 2021

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# BILLE

*(mar a tionscnaíodh)*

*dá ngairtear*

Acht do leasú an Achta um Pleanáil agus Forbairt, 2000 d'fhonn forbairtí áirithe i mbonneagar breoslaí iontaise agus i lárionaid sonraí ardúsáide fuinnimh a shrianadh, do chur deireadh le roinnt forbairtí a bheith á liostú mar thionscadail bonneagair forbartha straitéisí, d'athchóiriú an nós imeachta chun iarratais a dhéanamh go díreach chuig an mBord Pleanála agus dá chinntiú go dtabharfar aird ar spriocanna agus gealltanais an Stáit maidir leis an aeráid agus do dhéanamh socrú i dtaobh nithe gaolmhara.

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*Na Teachtaí Bríd Nic Gabhann, Gino Ó Cionaoith,  
Risteard Buíd Bairéid agus Pól Ó Murchú a thug  
isteach,*

*16 Meitheamh, 2021*

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Planning and Development (Climate  
Emergency Measures) (Amendment) Bill  
2021

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# BILL

*(as initiated)*

*entitled*

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*Introduced by Deputies Bríd Smith, Gino Kenny,  
Richard Boyd Barrett and Paul Murphy,*

*16th June, 2021*

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