



**An Bille um Aerfort Bhaile Átha Cliath (Toilleadh ó
thaobh Líon Paisinéirí), 2026**

Dublin Airport (Passenger Capacity) Bill 2026

Meabhrán Mínitheach
Explanatory Memorandum



**AN BILLE UM AERFORT BHAILE ÁTHA CLIATH
(TOILLEADH Ó THAOBH LÍON PAISINÉIRÍ), 2026
DUBLIN AIRPORT (PASSENGER CAPACITY) BILL 2026**

EXPLANATORY MEMORANDUM

Purpose of the Bill:

The main purpose of the Bill is to empower the Minister for Transport to make an order to amend or revoke the Dublin Airport passenger cap planning condition. This power is conferred on the Minister for Transport in the public interest and having regard to the strategic importance of Dublin Airport in supporting international connectivity, trade, tourism, investment and the movement of persons and cargo to, from and within the State.

The legislation enables daa as the operator of Dublin Airport to make an application to the Minister for the making of an order to amend or revoke the passenger cap planning condition. Before making an order, the Minister will ensure that any potential environmental impacts are independently assessed by An Coimisiún Pleanála, who will undertake a public consultation as part of that assessment process.

In making an order the Minister for Transport will take account of the outcome of the environmental assessments and may include any conditions considered necessary in an order to mitigate any environmental impacts. The Minister will also consider whether the passenger cap planning condition is causing or is likely to cause serious harm to the economy of the State, international connectivity and Ireland's international reputation in respect of air transport. An order made by the Minister to amend or revoke the passenger cap planning condition will remain in effect until it is superseded by a planning decision relating to the same planning condition. The Bill also prevents Fingal County Council and An Coimisiún Pleanála from imposing a passenger cap as a planning condition in the future.

The Bill will ensure that international connectivity and employment is maintained at Dublin Airport and allow for the sustainable development and the future growth of the Airport, having regard to any potential environmental impacts.

Provisions of the Bill

Part 1

Preliminary and General

Section 1 Short title and commencement

This section is a standard provision setting out the short title of the Bill and commencement provisions allowing for different provisions to be commenced at different stages.

Section 2 Definitions

This section sets out the main definitions used throughout the Bill. The key definition in this section is “passenger capacity condition” which means a condition relating to the number of passengers that may use Dublin Airport for the purpose of travelling by air to or from another airport in any period. The Minister’s power to make an order is limited to an amendment or revocation of a passenger capacity condition.

Section 3 Regulations and order

This is a general regulation making power for any matter in the Bill that may be prescribed. This section also allows for the Minister to provide for any incidental or supplemental issues in an order or any regulations made under the Bill. Any regulation or the order made under the Bill must be laid before the Houses.

Section 4 Expenses

This is a general provision setting out that any expenses incurred by the Minister in carrying out a function under the Bill will be paid out of monies provided by the Oireachtas.

Section 5 Service of documents

This is a standard provision setting out how any notice or document required under the Bill may be served or given to a person (e.g. registered post, electronically etc.).

Section 6 Power of the Minister to give directions to daa

This section provides the Minister with a general power of direction for any purpose relating to the Bill. This includes but is not limited to the provision of information in relation to an application by daa, the provision of reports for the environmental assessments or such further information in relation to the environmental assessments. A direction given by the Minister can specify the period and form in which it must be complied with. daa have a legal obligation to comply with a direction of the Minister.

Part 2

Application by daa

Section 7 Application for an order under section 25

This section provides that daa may apply to the Minister for Transport for the making of an order to amend or revoke the passenger cap planning condition. An application must include details of the particular planning condition referred to, the manner in which the passenger cap is to be amended or revoked, reasons for the application, a summary of the environmental impacts (if any) and may reference any plan or policy of the Government that supports an application.

The Minister may consult with any person in relation to an application and will consider whether the passenger cap planning condition is causing or is likely to cause serious harm to the economy of the State, international connectivity or the international reputation of the State in

respect of air transport. Having considered the application and undertaken any consultation, the Minister will issue a notice to daa stating his or her intention to make an order to amend or revoke the passenger cap planning condition or to refuse daa's application. Where the Minister intends to make an order to amend or revoke the passenger cap planning condition, he or she may direct daa to prepare and submit to the Minister an environmental impact assessment report and Natura Impact Statement.

Part 3

Environmental Assessments

Chapter 1

Preliminary and General

Section 8 Definitions – Environmental Assessments

This section sets out the definitions particular to the environmental assessments. Of note the term “proposal” is defined here which means a proposal to make an order under section 25 to amend or revoke the passenger cap planning condition.

Section 9 Joint environmental assessments of proposal by Commission

Under this section, An Coimisiún Pleanála (the Commission) are required to use all reasonable endeavours to carry out the environmental impact assessment and Appropriate Assessment jointly or simultaneously. However, the reasoned conclusion from the environmental impact assessment and determination from the Appropriate Assessment must be stated separately and be clearly distinguishable.

Section 10 Priority Application

This section provides that where the Commission receives an application from the Minister for the environmental assessments, that the Commission will perform its functions in an expeditious manner, reduce the time required insofar as possible and ensure that it affords appropriate resources.

Chapter 2

Environmental Impact Assessment

Section 11 Interpretation (Part 3, Chapter 2)

This section provides that any word or expression used in this Chapter of the Bill that is also used in the Environmental Impact Assessment Directive or the Water Framework Directive has the same meaning and shall be construed in accordance with those directives.

Section 12 Request for scoping opinion

The Minister for Transport has the power to seek an opinion from the Commission as to the scope and level of detail needed to be included in the environmental impact assessment report. The Commission will consult with the Minister, the National Parks and Wildlife Service through the Minister for Housing, Local Government and Heritage, Fingal County Council, Dublin City Council, Meath County Council, the Environmental Protection Agency, daa and any other body it considers necessary. The Commission must provide a scoping opinion within 6 weeks, and the environmental impact assessment report submitted for assessment needs to be consistent with what is set out in that opinion.

Section 13 Application for environmental impact assessment and submission of environmental impact assessment report

Under this section the Minister for Transport applies to the Commission for an environmental impact assessment of the making of an order to amend or revoke the passenger cap planning condition and submits the environmental impact assessment report prepared by daa. The environmental impact assessment report will cover the status of water bodies to ensure compliance with the Water Framework Directive. Once submitted, the Minister must publish a notice on the Department's website stating that he or she proposes to make an order to amend or revoke the passenger cap planning condition, that it is subject to an environmental impact assessment, that the Commission are carrying out the assessment, and that any person may make a submission to the Commission within 30 days of the environmental impact assessment report being published.

Before the environmental impact assessment report is submitted, daa will engage with the Department of Housing, Local Government and Heritage and inform that Department of the proposed submission of the environmental impact assessment report for the purposes of the environmental impact assessment portal.

Section 14 Consultation on environmental impact assessment report

Within 5 days of receiving an environmental impact assessment report from the Minister, the Commission must publish the environmental impact assessment report along with a notice and invite the public to make submissions in relation to the environmental impact assessment report. The environmental impact assessment report will also be provided to Fingal County Council, Dublin City Council, Meath County Council, the Environmental Protection Agency and the Minister for Housing, Local Government and Heritage for consideration and any other party that the Commission considers necessary. The public consultation is for a period of 30 days.

The Commission has 8 weeks from receipt of the environmental impact assessment report in which to make a request for further information and daa has a maximum of 4 weeks to respond to that request. However, the Minister for Transport has discretion to extend that period if necessary. Where the further information provided is substantive, the Commission will publish that substantive information and have a further round of public consultation for 30 days.

Section 15 environmental impact assessment of proposal

In line with the requirements of the Environmental Impact Assessment Directive, the Commission will carry out an environmental impact assessment in relation to the making of an order by the Minister for Transport to amend or revoke the passenger cap planning condition. The Commission will consider the information provided by the Minister, the environmental impact assessment report, submissions from the public, submissions from the prescribed bodies and the response to any request for further information. The Commission has 20 weeks in which to carry out its assessment. This timeframe can be paused on one occasion for a maximum of 4 weeks to allow for a request for further information.

The Commission must come to a reasoned conclusion in relation to the environmental impacts and may recommend to the Minister for Transport any condition for inclusion in an order to prevent, reduce or offset any environmental impacts. The reasoned conclusion is valid for a period of 12 months. The Commission must inform the Minister in writing of the reasoned conclusion and must publish a copy on its website.

Chapter 3

Appropriate Assessment

Section 16 Interpretation (Part 3, Chapter 3)

This section provides that any word or expression used in this Chapter of the Bill that is also used in the Habitats Directive or the Birds Directive has the same meaning and shall be construed in accordance with those directives.

Section 17 Performance of functions by Commission

This is a general provision which aligns with Article 6.2 of the Habitats Directive. It provides that the Commission, in carrying out its functions under the Bill, takes the necessary steps to avoid the deterioration of natural habitats and the habitats of species.

Section 18 Disapplication of Regulations

As this Bill is setting out specific steps for an Appropriate Assessment under the Habitats Directive in relation to the making of an order to amend or revoke the passenger cap planning condition, the requirements applied to the Minister for Transport under the 2011 Birds and Habitats Regulations have been disapplied.

Section 19 Application for appropriate assessment and submission of Natura Impact Statement

Under this section the Minister applies to the Commission for an Appropriate Assessment of the making of an order to amend or revoke the passenger cap planning condition and submits the Natura Impact Statement prepared by daa. The Natura Impact Statement will identify the potential effects (if any) of the making of an order on a European Site and any measures proposed to be taken for the purposes of avoiding or reducing such effects. Based on those considerations, the Natura Impact Statement must conclude whether or not the making of an order to amend or revoke the passenger cap planning condition will adversely affect the integrity of a European Site.

Section 20 Consultation on Natura Impact Statement

Within 5 days of receiving a Natura Impact Statement from the Minister, the Commission must publish the Natura Impact Statement along with a notice and invite the public to make submissions in relation to the Natura Impact Statement. The public consultation is for a period of 30 days.

Section 21 Appropriate assessment of proposal

The Commission must carry out an Appropriate Assessment of the making of an order to amend or revoke the passenger cap planning condition. Within 8 weeks of receiving a Natura Impact Statement, the Commission may make a request for further information. Where a request for further information is made, daa has a maximum of 4 weeks to provide the information to the Minister. However, the Minister has the discretion to extend this period if necessary. In carrying out an Appropriate Assessment, the Commission will consider information provided by the Minister, the Natura Impact Statement, submissions from the public, any consultations undertaken and responses received to any request for further information.

The Commission will consider any likely effects on a European site and their implications, along with any measures proposed by the Minister to mitigate those effects. The Commission will make a determination as to whether or not there is likely to be significant adverse effects on a

European Site. The Commission has 20 weeks to carry out the assessment and make its determination.

Where the Commission determines that there are no significant adverse effects based on the mitigation measures proposed by the Minister, those measures must be included in an order.

Where the Commission determines that there are significant adverse effects, it will invite the Minister to make an assessment (under section 22) as to any imperative reasons of overriding public interest.

Section 22 Imperative reasons of overriding public interest

Where the Commission has determined that the making of an order would result in significant adverse effects to a European Site, under this section the Minister can assess and determine if there are other solutions available, whether there are imperative reasons of overriding public interest and whether any compensatory measures he or she proposes are adequate to ensure the overall coherence of the Natura 2000 network is protected.

Where the European Site does not host a priority site the reasons may be of a social or economic nature. Where the site does host a priority site, the reasons may only be for human health, public safety or of primary importance to the environment or in the opinion of the EU Commission there are other imperative reasons of overriding public interest.

The Minister may consult with the prescribed bodies which includes the Department of Housing, Local Government and Heritage and any person the Minister considers appropriate, which may include expert consultants. The Minister will make a determination as to whether or not there is overriding public interest and whether compensatory measures are adequate to ensure the overall coherence of the Natura 2000 network. The Minister must consult with the EU Commission in relation to a priority habitat. Where the Minister makes a determination that compensatory measures are sufficient to mitigate any impact on the site, those conditions must be included in an order.

Section 23 Notice of a determination on appropriate assessment

Where the Commission makes a determination that there are no significant effects on a European Site, or the Minister makes a determination under section 22, the Commission will publish a notice on its website of the relevant determination and notify the prescribed bodies.

Part 4

Amendment of planning condition at Dublin Airport

Section 24 Prohibition on an order under section 25

The Minister is not permitted to make an order under section 25 to amend or revoke the passenger cap planning condition unless the Commission has carried out an environmental impact assessment and Appropriate Assessment and reached a reasoned conclusion or determination as appropriate, or where necessary, the Minister has reached a determination under section 22 as to imperative reasons of overriding public interest.

Section 25 Order to amend planning condition

This section empowers the Minister for Transport to make an order to amend or revoke the passenger cap planning condition where he or she is of the opinion that the cap is causing or likely to cause serious harm to the economy, international connectivity or Ireland's international reputation in respect of air transport. The Minister may have regard to

various Government plans and policies and may consult with any person including the prescribed bodies listed.

The Minister is required to consider the environmental conditions recommended by the Commission following the environmental impact assessment, and has the power to accept, vary or refuse those recommendations. The Minister may also determine the timing of the implementation of any conditions whether on foot of the environmental impact assessment or Appropriate Assessment. The Minister may consult with the Minister for Housing, Local Government and Heritage in relation to the conditions to consider whether any may be specified as exempted development in the order. However, any conditions that would separately be subject to an environmental impact assessment or Appropriate Assessment cannot be specified as exempted development.

The Ministerial order will specify how the cap is to be amended or revoked, any conditions on foot of the environmental impact assessment or Appropriate Assessment, include the reasoned conclusion arising from the environmental impact assessment in a schedule and specify the date the order takes effect. An order will also direct Fingal County Council to update the planning register.

This section also specifies the notifications to be undertaken and the notice to be published by the Minister following the making of an order to amend or revoke the passenger cap planning condition along with the details to be included in the order.

Section 26 Effect of order under section 25

This section sets out how an order will have effect in relation to planning applications regarding the same planning condition.

Subsection 1 allows for a planning application, that proposes to amend or revoke a planning condition that is the subject of an order, to continue through the planning process notwithstanding the making of an order. This subsection protects daa's live Infrastructure Application, which is currently being considered by Fingal County Council, to allow it to proceed to decision.

Subsection 2 provides that a Ministerial order to amend or revoke the passenger cap planning condition will be superseded by a planning decision in relation to the same planning condition that is the subject of the order. In short, any Ministerial order to amend or revoke the passenger cap planning condition will be superseded by a planning decision in relation to daa's Infrastructure Application.

Subsection 3 provides that an order to amend or revoke the passenger cap planning condition will remain in effect if the passenger cap planning condition is not amended on foot of the planning decision by Fingal County Council (i.e. if the Council refuse the application to amend the passenger cap planning condition).

Subsection 4 provides that an order will remain in effect where the planning decision by Fingal County Council on the passenger cap planning condition is appealed to An Coimisiún Pleanála.

Subsection 5 provides that an order to amend or revoke the passenger cap planning condition will remain in effect if the passenger cap planning condition is not amended on foot of the planning decision by An Coimisiún Pleanála (if the Commission refuse the application to amend the passenger cap planning condition).

Subsection 6 sets out that the order will remain in effect if a decision by An Coimisiún Pleanála on the planning application to amend the passenger cap planning condition is Judicially Reviewed.

Subsection 7 provides that an order will remain in effect where the planning decision has been quashed by the court.

Part 5

Judicial Review

Section 27 Definitions (Part 5)

This section sets out the definitions relevant to Part 5 of the Bill in relation to Judicial Review.

Section 28 Application of Part

This section provides that the only way in which a person may question the validity of an order made by the Minister for Transport under section 25 of the Bill, or the alleged failure of a person to perform a function under the Bill, is by way of an application for Judicial Review.

Section 29 Application for leave

Under this section a person must make an application for leave to take a Judicial Review in line with the rules of the Superior Courts and that application must be made within 8 weeks from when the grounds for the application first arose. The court has the ability to extend that period if deemed necessary. A person must have sufficient interest to seek leave to take a Judicial Review.

Section 30 Conduct of Judicial Review

Under this section a person must rely on the grounds set out in their statement of claim which grounded the application they made and that statement may not be amended unless they are granted leave to do so by the High Court.

Section 31 Stays on Judicial Review

This section allows the Minister to seek a stay on proceedings pending the making of a decision by a relevant body under the Bill.

Section 32 Appeals

This section provides that a decision of the Court will be final and it shall not be subject to appeal except on the basis of an application for leave to appeal under Article 34.5.4 of the Constitution.

Section 33 Amendments of decisions or documents subject to Judicial Review

This section applies where an applicant succeeds on at least one ground and the court is satisfied that making an amendment to a decision or document would address the ground and provide a satisfactory remedy. It also applies where a person acknowledges that an error was made and the High Court is satisfied it can exercise its powers in relation to such an error. In those circumstances, the High Court can order the relevant person to make the necessary amendment or correct the error within a specified timeframe. Where the amendment has been undertaken by the person which renders the grounds moot, the High Court may strike out the ground.

Section 34 Declarations of invalidity

This section sets out the power of the High Court to declare a decision invalid or quash a decision, remit the decision back to the relevant body with a direction to take additional steps or refrain from taking steps.

Section 35 Costs in Judicial Review

Under this section each party to a Judicial Review bears their own costs. However, the costs or a portion of the costs may be awarded to the extent that an applicant obtains relief. The Court has the power to order a party to pay such costs as the Court considers reasonable due to a frivolous or vexatious claim or where the Court considers the proceedings were brought to delay the making of an order, or is not satisfied with the manner in which the proceedings were conducted or the party is in contempt of Court.

Part 6

Amendments to other Acts

Section 36 Amendment to the Act of 2000

This section provides for an amendment to the Planning and Development Act 2000 to preclude Fingal County Council and An Coimisiún Pleanála from imposing a passenger cap on Dublin Airport in the future. This provision does not apply in relation to daa's live planning application nor to a decision by the Aircraft Noise Competent Authority that is permitted to impose operating restrictions in line with EU Regulation 598/2014 following a noise assessment using the Balanced Approach and as a last resort. EU Regulation 598/2014 establishes the rules and procedures with regard to the introduction of noise-related operating restrictions at European Union airports within a Balanced Approach.

Section 37 Amendment to the Act of 2024

This section provides for an amendment to the Planning and Development Act 2024 to preclude Fingal County Council and An Coimisiún Pleanála from imposing a passenger cap on Dublin Airport in the future. This provision does not apply to a decision by the Aircraft Noise Competent Authority that is permitted to impose operating restrictions in line with EU Regulation 598/2014 following a noise assessment using the Balanced Approach and as a last resort.

Section 38 Amendment to the Act of 2019

This section amends the Aircraft Noise (Dublin Airport) Regulation Act 2019 to align the definition of "operating restriction" in that Act with the definition in EU Regulation 598/2014. It also deletes two transitional provisions that no longer apply. Finally, a provision has been inserted to make it clear that the passenger cap is not an operating restriction for the purposes of EU Regulation 598/2014.

Section 39 Modification of application of section 15 of the Climate Action and Low Carbon Development Act 2015

The Minister for Transport and An Coimisiún Pleanála are provided with a derogation from their obligations under section 15(1) of the 2015 Act. The reason for this is that the passenger cap planning condition is not a targeted climate action measure and international aviation emissions are outside the scope of the climate action plan.

An Roinn Iompair

Meitheamh, 2026.

