An Bille um Pleanáil agus Forbairt, Oidhreacht agus Craolachán (Leasú), 2021

Planning and Development, Heritage and Broadcasting (Amendment) Bill 2021

Mar a tionscnaíodh

As initiated

[No. 47 of 2021]

AN BILLE UM PLEANÁIL AGUS FORBAIRT, OIDHREACHT AGUS CRAOLACHÁN (LEASÚ), 2021
PLANNING AND DEVELOPMENT, HERITAGE AND BROADCASTING (AMENDMENT) BILL 2021

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AN BILLE UM PLEANÁIL AGUS FORBAIRT, OIDHREACHT AGUS CRAOLACHÁN (LEASÚ), 2021
PLANNING AND DEVELOPMENT, HERITAGE AND BROADCASTING (AMENDMENT) BILL 2021

Bill

entitled

An Act to amend the Planning and Development Act 2000, the Wildlife Act 1976, the Wildlife (Amendment) Act 2000 and the European Communities (Birds and Natural Habitats) Regulations 2011; to make provision in relation to certain planning matters relating to heritage carried out in the performance of certain functions; to amend the Broadcasting Act 2009; and to provide for related matters.

Be it enacted by the Oireachtas as follows:

PART 1

Preliminary and General

Short title, collective citations, construction and commencement

1. (1) This Act may be cited as the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021.

(2) *Chapters 2* and *5* of *Part 2* and the Planning and Development Acts 2000 to 2020 may be cited together as the Planning and Development Acts 2000 to 2021 and shall be construed together as one.

(3) *Chapter 3* of *Part 2* and the Wildlife Acts 1976 to 2018 may be cited together as the Wildlife Acts 1976 to 2021 and shall be construed together as one.

(4) *Chapter 4* of *Part 2* and the European Communities (Birds and Natural Habitats) Regulations 2011 to 2015 may be cited together as the European Communities (Birds and Natural Habitats) Regulations 2011 to 2021 and shall be construed together as one.

(5) *Part 2* shall come into operation on such day or days as the Minister for Housing, Local Government and Heritage may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Expenses

2. The expenses incurred by the Minister for Housing, Local Government and Heritage in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.

PART 2

Provisions relating to heritage

Chapter 1

Definitions

Definitions

3. In this Part—

"Act of 2000" means the Planning and Development Act 2000;

"Minister" means the Minister for Housing, Local Government and Heritage.

Chapter 2

Amendment of Act of 2000

Amendment of section 13 of Act of 2000

4. Section 13 of the Act of 2000 is amended—

(a) in subsection (2)(a), by the substitution of "to the Minister, the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media" for "to the Minister, the Minister for Arts, Heritage and the Gaeltacht", and

(b) in subsection (8)(c), by the substitution of "to the Minister, the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media" for "to the Minister, the Minister for Arts, Heritage and the Gaeltacht".

Amendment of section 30 of Act of 2000

5. Section 30 of the Act of 2000 is amended by the substitution of the following subsection for subsection (2):

"(2) Subsection (1) shall not affect the performance by the Minister of functions transferred to him or her by the Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2020 (S.I. No. 339 of 2020) or transferred (whether before or after the coming into operation of *section 5* of the *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021*) to him or her from the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media by an order under section 6(1) of the Ministers and Secretaries (Amendment) Act 1939.".

Amendment of section 51 of Act of 2000

6. Section 51 of the Act of 2000 is amended by the substitution of the following subsection for subsection (2):

"(2) The Minister shall prescribe the form of a record of protected structures.". 5

Amendment of section 52 of Act of 2000

7. (1) Section 52 of the Act of 2000 is amended by the substitution of the following subsection for subsection (1):

"(1) The Minister shall issue guidelines to planning authorities concerning development objectives— 10

(a) for protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, and

(b) for preserving the character of architectural conservation areas,

and any such guidelines shall include the criteria to be applied when selecting proposed protected structures for inclusion in the record of protected structures.". 15

(2) Guidelines issued under section 52(1) of the Act of 2000 which are in effect immediately before the day on which this section comes into operation shall, on and after that day, continue to have the same effect as they had immediately before that day and may be revoked or amended by the Minister as if they had been issued by him or her. 20

Amendment of section 177X of Act of 2000

8. Section 177X of the Act of 2000 is amended—

(a) in subsection (2)— 25

(i) in paragraph (a), by the substitution of "consider whether" for "request the views of the Minister for Arts, Heritage and the Gaeltacht as to whether",

(ii) in paragraph (b), by the substitution of "In considering under paragraph (a) whether the compensatory measures specified in the statement of case are sufficient to ensure that the overall coherence of the Natura 2000 network is protected" for "Following receipt of the views of the Minister for Arts, Heritage and the Gaeltacht", and 30

(iii) in paragraph (c), by the deletion of "consultations with the Minister for Arts, Heritage and the Gaeltacht and",

(b) by the substitution of the following subsection for subsection (3): 35

"(3) Having considered the compensatory measures proposed by the competent authority, the Minister shall, as soon as possible—

(a) after consultations (if any) under paragraphs (b) and (c) of subsection (2), and

(b) after having considered revised or modified compensatory measures (if any) submitted under subsection (2)(b),

form an opinion as to whether the compensatory measures, or revised or modified compensatory measures, as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.",

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

"(4) The Minister, when forming his or her opinion under subsection (3), may also give further consideration to whether imperative reasons of overriding public interest exist and shall form an opinion as to whether such reasons exist before he or she issues a notice under subsection (5) or (6).",

(d) in subsection (5), by the substitution of "Where the Minister forms the opinion that imperative reasons of overriding public interest exist and that" for "Where the Minister forms the opinion that imperative reasons of overriding public interest exist, and the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that", and

(e) in subsection (6), by the substitution of "Where the Minister forms the opinion that imperative reasons of overriding public interest do not exist or that" for "Where the Minister forms the opinion that imperative reasons of overriding public interest do not exist, or the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that".

Amendment of section 177Y of Act of 2000

9. Section 177Y of the Act of 2000 is amended—

(a) in subsection (3)—

(i) in paragraph (a), by the substitution of "consider whether" for "request the views of the Minister for Arts, Heritage and the Gaeltacht as to whether",

(ii) in paragraph (b), by the substitution of "In considering under paragraph (a) whether the compensatory measures specified in the statement of case are sufficient to ensure that the overall coherence of the Natura 2000 network is protected" for "Following receipt of the views of the Minister for Arts, Heritage and the Gaeltacht", and

(iii) in paragraph (c), by the deletion of "consultations with the Minister for Arts, Heritage and the Gaeltacht and",

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

"(4) Having considered the compensatory measures proposed by the competent authority, the Minister shall, as soon as possible—

(a) after consultations (if any) under paragraphs (b) and (c) of subsection (3), and

(b) after having considered revised or modified compensatory measures (if any) submitted under subsection (3)(b),

form an opinion as to whether the compensatory measures, or revised or modified compensatory measures, as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.",

(c) by the substitution of the following subsection for subsection (5):

"(5) The Minister, when forming his or her opinion under subsection (4), may also give further consideration to whether imperative reasons of overriding public interest exist and shall form an opinion as to whether such reasons exist before he or she issues a notice under subsection (6), (7) or (8).",

(d) in subsection (6), by the substitution of "Where the Minister forms the opinion that imperative reasons of overriding public interest comprising only a reason or reasons set out in section 177W(4)(a) to (c) exist and that" for "Where the Minister forms the opinion that imperative reasons of overriding public interest comprising only a reason or reasons set out in section 177W(4)(a) to (c) exist, and the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that",

(e) in subsection (7)(c), by the substitution of "the Minister forms the opinion that" for "the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that", and

(f) in subsection (8)(c), by the substitution of "the Minister forms the opinion that" for "the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that".

Amendment of section 177AB of Act of 2000

10. Section 177AB of the Act of 2000 is amended—

(a) in subsection (1)—

(i) in paragraph (a), by the substitution of "consider whether" for "request the views of the Minister for Arts, Heritage and the Gaeltacht as to whether",

(ii) in paragraph (b), by the substitution of "In considering under paragraph (a) whether the compensatory measures specified in the statement of case are sufficient to ensure that the overall coherence of the Natura 2000 network is protected" for "Following receipt of the views of the Minister for Arts, Heritage and the Gaeltacht", and

(iii) in paragraph (c), by—

(I) the deletion of "consultations with the Minister for Arts, Heritage and the Gaeltacht and", and

(II) the substitution of "compensatory measures or any modified or alternative proposed compensatory measures" for "compensatory measures or any alternative proposed compensatory measures",

(b) by the substitution of the following subsection for subsection (2):

"(2) Having considered the compensatory measures proposed by the competent authority, the Minister shall, as soon as possible—

(a) after consultations (if any) under paragraphs (b) and (c) of subsection (1), and

(b) after having considered modified or alternative proposed compensatory measures (if any) submitted under subsection (1)(b),

form an opinion as to whether the compensatory measures, or modified or alternative proposed compensatory measures, as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.",

(c) in subsection (3)—

(i) by the substitution of "Where the Minister forms the opinion that the compensatory measures, or modified or alternative proposed compensatory measures, as the case may be" for "Where the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that the compensatory measures, or revised or modified compensatory measures, as the case may be", and

(ii) by the substitution of "as soon as possible after forming the opinion" for "as soon as possible following the receipt of the opinion",

(d) in subsection (4)—

(i) by the substitution of "Where the Minister forms the opinion that the compensatory measures, or modified or alternative proposed compensatory measures, as the case may be" for "Where the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that the compensatory measures, or revised or modified compensatory measures, as the case may be", and

(ii) by the substitution of "as soon as possible after forming the opinion" for "as soon as possible following the receipt of the opinion".

Amendment of section 177AC of Act of 2000

11. Section 177AC of the Act of 2000 is amended—

(a) in subsection (1)—

(i) in paragraph (a), by the substitution of "consider whether" for "request the views of the Minister for Arts, Heritage and the Gaeltacht as to whether",

(ii) in paragraph (b), by the substitution of "In considering under paragraph (a) whether the compensatory measures specified in the statement of case are sufficient to ensure that the overall coherence of the Natura 2000 network is protected" for "Following receipt of the views of the Minister for Arts, Heritage and the Gaeltacht", and

(iii) in paragraph (c), by the deletion of "consultations with the Minister for Arts, Heritage and the Gaeltacht and into",

(b) by the substitution of the following subsection for subsection (3):

"(3) Having considered the compensatory measures proposed by the competent authority, the Minister shall, as soon as possible—

(a) after consultations (if any) under paragraphs (b) and (c) of subsection (1), and

(b) after having considered modified or alternative proposed compensatory measures (if any) submitted under subsection (1)(b),

form an opinion as to whether the compensatory measures, or modified or alternative proposed compensatory measures, as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.",

(c) in subsection (4), by the substitution of "and that the compensatory measures, or the modified or alternative proposed compensatory measures, as the case may be" for "and the Minister for Arts, Heritage and the Gaeltacht has furnished an opinion that the compensatory measures, or revised or modified compensatory measures as the case may be",

(d) in subsection (5)(c), by the substitution of "the Minister forms the opinion that the compensatory measures, or modified or alternative proposed compensatory measures, as the case may be" for "the Minister for Arts, Heritage and the Gaeltacht has given an opinion that the compensatory measures, or revised or modified compensatory measures as the case may be",

(e) in subsection (6)(b), by the substitution of "the Minister forms the opinion that" for "the Minister for Arts, Heritage and the Gaeltacht has given as his or her opinion that", and

(f) in subsection (8), by the substitution of "subsection (4), (5) or (6)" for "subsection (6), (7) or (8)".

Chapter 3

Amendment of Wildlife Acts

Amendment of section 59 of Wildlife Act 1976

12. (1) Section 59 of the Wildlife Act 1976 is amended by the substitution of the following subsection for subsection (3):

"(3) Regulations under this section which apply to foreshore shall regulate access to or use of such foreshore to such extent as the Minister considers necessary for the conservation of wildlife or of a wildlife habitat or of geological or geomorphological features, as the case may be, and shall be made—

(a) after consultation with the Commissioners,

(b) with the consent of the Minister for Public Expenditure and Reform, and

(c) where the regulations relate to foreshore in relation to which functions are vested in a Minister of the Government, other than

the Minister, with the consent of that other Minister of the Government.".

(2) Regulations made under subsection (3) of section 59 of the Wildlife Act 1976 which are in force immediately before the day on which this section comes into operation shall, on and after that day, continue in force as if they were regulations made under that section, as amended by *subsection (1)*, and may be amended or revoked accordingly.

Amendment of section 16 of Wildlife (Amendment) Act 2000

13. (1) Section 16 of the Wildlife (Amendment) Act 2000 is amended, in subsection (2), by the substitution of the following paragraph for paragraph (a):

"(a) seek the observations of such other Minister of the Government as the Minister considers appropriate in the circumstances, the Commissioners and any planning authority in whose functional area the land is situate, and".

(2) The amendment effected by *subsection (1)* shall not affect the validity of any notice published or served under section 16 of the Wildlife (Amendment) Act 2000 before the coming into operation of this section.

CHAPTER 4

Amendment of European Communities (Birds and Natural Habitats) Regulations 2011

Amendment of European Communities (Birds and Natural Habitats) Regulations 2011

14. (1) The European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011) are amended—

(a) in Regulation 12(1), by—

(i) the deletion of subparagraphs (i) to (iv), and

(ii) the insertion of the following subparagraph before subparagraph (v):

"(iva) such other Minister or Ministers of the Government as he or she considers should be notified,",

(b) in Regulation 14—

(i) in paragraph (2)(a), by—

(I) the deletion of clauses (i) to (iv), and

(II) the insertion of the following clause before clause (v):

"(iva) such other Minister or Ministers of the Government as he or she considers should be notified,",

and

(ii) in paragraph (3), by—

(I) the deletion of subparagraphs (a) to (d), and

(II) the insertion of the following subparagraph before subparagraph (e):

"(da) such other Minister or Ministers of the Government as he or she considers should be sent such notice,",

(c) in Regulation 15(4), by—

(i) the deletion of subparagraphs (a) to (d), and

(ii) the insertion of the following subparagraph before subparagraph (e):

"(da) such other Minister or Ministers of the Government as he or she considers should be sent a copy of the particulars,",

(d) in Regulation 16(6), by—

(i) the deletion of subparagraphs (a) to (d), and

(ii) the insertion of the following subparagraph before subparagraph (e):

"(da) such other Minister or Ministers of the Government as he or she considers should be sent a copy of the particulars or any modifications thereof,",

(e) in Regulation 18—

(i) in paragraph (3)(a), by—

(I) the deletion of clauses (i) to (iv), and

(II) the insertion of the following clause before clause (v):

"(iva) such other Minister or Ministers of the Government as he or she considers should be notified,",

and

(ii) in paragraph (6), by—

(I) the deletion of subparagraphs (a) to (d), and

(II) the insertion of the following subparagraph before subparagraph (e):

"(da) such other Minister or Ministers of the Government as he or she considers should be sent such notice,",

and

(f) in Regulation 28(3), by—

(i) the deletion of subparagraphs (a) to (d), and

(ii) the substitution of the following subparagraph for subparagraph (e):

"(e) such other Minister or Ministers of the Government as he or she considers should be sent a copy of the Direction,".

(2) The amendments effected by *subsection (1)* shall not affect the validity of anything done, before the coming into operation of this section, under a provision of the European Communities (Birds and Natural Habitats) Regulations 2011 referred to in that subsection.

Chapter 5

Planning matters in relation to heritage

Planning matters in relation to heritage

15. (1) Nothing in section 30(1) of the Act of 2000 shall be construed as preventing the Minister from doing all or any of the following when he or she is performing a relevant function: 5

(a) making a planning application to a planning authority pursuant to the provisions of Part III or XV of that Act;

(b) making an appeal pursuant to the provisions of that Act;

(c) making a request for a declaration, a referral for a decision or applying for a determination pursuant to the provisions of section 5 of that Act; 10

(d) doing any act or thing pursuant to the provisions of that Act relating to a matter specified in *paragraph (a)*, *(b)* or *(c)*.

(2) In this section, "relevant function" means—

(a) a function transferred to the Minister by the Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2020 (S.I. No. 339 of 2020), or 15

(b) a function transferred (whether before or after the coming into operation of this section) to the Minister from the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media by an order under section 6(1) of the Ministers and Secretaries (Amendment) Act 1939. 20

PART 3

Amendment of Broadcasting Act 2009

Amendment of section 127 of Broadcasting Act 2009

16. Section 127 of the Broadcasting Act 2009 is amended, in subsection (6), by the deletion of "the Minister for Arts, Sport and Tourism". 25

Amendment of section 162 of Broadcasting Act 2009

17. Section 162 of the Broadcasting Act 2009 is amended, in subsection (5), by the substitution of "such Minister or Ministers of the Government as he or she considers appropriate" for "the Minister for Arts, Sport and Tourism".

An Bille um Pleanáil agus Forbairt, Oidhreacht agus Craolachán (Leasú), 2021

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do leasú an Achta um Pleanáil agus Forbairt, 2000, an Achta um Fhiadhúlra, 1976, an Achta um Fhiadhúlra (Leasú), 2000 agus Rialacháin na gComhphobal Eorpach (Éin agus Gnáthóga Nádúrtha), 2011; do dhéanamh socrú i ndáil le nithe áirithe pleanála a bhaineann le hoidhreacht a dhéantar i gcomhlíonadh feidhmeanna áirithe; do leasú an Achta Craolacháin, 2009; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An tAire Tithíochta, Rialtais Áitiúil agus Oidhreachta a thíolaic,

16 *Aibreán,* 2021

Planning and Development, Heritage and Broadcasting (Amendment) Bill 2021

BILL

(as initiated)

entitled

An Act to amend the Planning and Development Act 2000, the Wildlife Act 1976, the Wildlife (Amendment) Act 2000 and the European Communities (Birds and Natural Habitats) Regulations 2011; to make provision in relation to certain planning matters relating to heritage carried out in the performance of certain functions; to amend the Broadcasting Act 2009; and to provide for related matters.

Presented by the Minister for Housing, Local Government and Heritage,

16*th April,* 2021

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Le ceannach díreach ó
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