

General Scheme

Dublin Airport (Passenger Capacity) Bill 2026

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HEAD 1 Short title, collective citation and commencement

Provide that:

(1) This Bill may be cited as the Dublin Airport (Passenger Capacity) Bill 2026.

(2) Head 4 and the Aircraft Noise (Dublin Airport) Regulation Act 2019 may be cited together as the Aircraft Noise (Dublin Airport) Regulation Act 2019 to 2026 and shall be construed together as one.

(3) This Bill shall come into operation on such day or days as the Minister 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.

Explanatory Note

Subheads (1) and (2) are standard legislative provisions and provide for the citing of the Bill and a collective citation of the Aircraft Noise (Dublin Airport) Regulation Act 2019.

Subhead (3) is another standard provision providing that the Bill will be subject to a commencement order and the Minister can commence different provisions of the Bill on different dates.

HEAD 2 Interpretation

Provide that:

In this Bill—

“Act of 2000” means the Planning and Development Act 2000 (No. 30 of 2000) (as amended);

“Act of 2015” means the Climate Action and Low Carbon Development Act 2015 (No. 46 of 2015) (as amended);

“Act of 2019” means the Aircraft Noise (Dublin Airport) Regulation Act 2019 (No. 12 of 2019);

“Act of 2024” means the Planning and Development Act 2024 (No. 34 of 2024) (as amended);

“Aircraft Noise Directive” means Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002¹ on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports;

“An Coimisiún Pleanála” means the body referred to in section 495 of the Act of 2024;

“appropriate assessment” means appropriate assessment as referred to in Article 6(3) of the Habitats Directive;

“balanced approach” has the same meaning as in Article 2 of the EU Noise Regulation;

“Birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009² on the conservation of wild birds, as amended by Council Directive 2013/17/EU of 13 May 2013³ and Regulation (EU) 2019/1010 of 5 June 2019⁴;

“Dublin Airport” has the same meaning as in section 4 of the State Airports Act 2004 (No. 32 of 2004) (as amended);

“daa” means daa public limited company, who is responsible for the management, operation and development of Dublin Airport, under section 8 of the State Airports Act 2004 (No. 32 of 2004) (as amended) and renamed under section 32 of the State Airports (Shannon Group) Act 2014 (No. 27 of 2014);

“Environmental Impact Assessment” means an assessment carried out in accordance with Head 6;

¹ OJ L 85, 28.3.2002, pp. 40–46

² OJ L 020 26.1.2010, p. 7

³ OJ L 158, 10.5.2013, p. 193

⁴ OJ L 170, 25.6.2019, p. 115

“Environmental Impact Assessment Directive” means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011⁵ on the assessment of the effects of certain public and private projects on the environment as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014⁶;

“Environmental Impact Assessment Report” means the report referred to in Article 5 of the Environmental Impact Assessment Directive;

“EU Noise Regulation” means Regulation (EU) No. 598/2014 of the European Parliament and of the Council of 16 April 2014⁷ on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach;

“European site” has the same meaning as in section 2 of the Act of 2024;

“Habitats Directive” means Council Directive 92/43/EEC of 21 May 1992⁸ on the conservation of natural habitats and of wild fauna and flora as amended by Council Directive 97/62/EC of 27 October 1997⁹, Regulation (EC) No. 1882/2003 of the European Parliament and of the Council of 29 September 2003¹⁰, Council Directive 2006/105/EC of 20 November 2006¹¹, Council Directive 2013/17/EU of 13 May 2013¹² and Directive (EU) 2025/1237 of the European Parliament and of the Council of 17 June 2025¹³;

“Irish Aviation Authority” means the body established under sections 11 and 12 of the Irish Aviation Authority Act 1993 (No. 29 of 1993) (as amended);

“Minister” means the Minister for Transport;

“Natura Impact Statement” means a statement prepared for the purposes of Article 6 of the Habitats Directive setting out the implications of a project, whether on its own or in combination with other plans or projects, for any European site on which the project may have significant effects, having regard to the conservation objectives in relation to that site;

“noise mitigation measure” has the same meaning as in section 2(1) of the Act of 2019;

“planning condition” means a condition attached to a grant of planning permission provided under the Act of 2000 or the Act of 2024 limiting passenger capacity at Dublin Airport;

“screening assessment” means an assessment for the purposes of determining whether an environmental impact assessment, an appropriate assessment or an assessment under the Water Framework Directive, as the case may be, is or is not required;

⁵ OJ L 26, 28.1.2012, pp. 1–21

⁶ OJ L 124, 25.4.2014, pp. 1–18

⁷ OJ L 173, 12.6.2014, pp. 65–78

⁸ OJ L 206, 22.7.1992, pp. 7–50

⁹ OJ L 305, 8.11.1997, pp. 42–65

¹⁰ OJ L 284, 31.10.2003, pp. 1–53

¹¹ OJ L 363, 20.12.2006, pp. 368–408

¹² OJ L 158, 10.6.2013, pp. 193–229

¹³ OJ L, 2025/1237, 24.6.2025

“Water Framework Directive” means Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000¹⁴ establishing a framework for Community action in the field of water policy, as amended by Decision No. 2455/2001/EC of the European Parliament and of the Council of 20 November 2001¹⁵, Directive 2008/32/EC of the European Parliament and of the Council of 11 March 2008¹⁶, Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008¹⁷, Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009¹⁸, Directive 2013/39/EU of the European Parliament and of the Council of 12 August 2013¹⁹, Council Directive 2013/64/EU of 17 December 2013²⁰ and Commission Directive 2014/101/EU of 30 October 2014²¹.

Explanatory Note

This is a standard legislative provision setting out definitions of commonly used terms within the General Scheme which may be amended further as drafting progresses.

¹⁴ OJ L 327, 22.12.2000, pp. 1–73

¹⁵ OJ L 331, 15.12.2001, pp. 1–5

¹⁶ OJ L 81, 20.3.2008, pp. 60–61

¹⁷ OJ L 348, 24.12.2008, pp. 84–97

¹⁸ OJ L 140, 5.6.2009, pp. 114–135

¹⁹ OJ L 226, 24.8.2013, pp. 1–17

²⁰ OJ L 353, 28.12.2013, pp. 8–12

²¹ OJ L 311, 31.10.2014, pp. 32–35

HEAD 3 Expenses of Minister

Provide that:

The expenses incurred by the Minister in the administration of this Bill shall, to such extent as may be sanctioned by the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, be paid out of monies provided by the Oireachtas.

Explanatory Note

This is a standard legislative provision for any expenses incurred by the Minister in carrying out his functions under this Bill to be paid for out of monies provided by the Oireachtas.

HEAD 4 Planning Conditions

Provide that:

1. Subject to paragraph (2), and notwithstanding sections 34(4) and 37(G)(7) of the Act of 2000 and section 87 of the Act of 2024, a planning authority or An Coimisiún Pleanála shall not impose a planning condition at Dublin Airport that limits passenger numbers.
2. Subhead (1) does not apply to a planning application submitted for consideration prior to the commencement of this provision.
3. The Act of 2019 is amended:
 - (a) in subsection 2(1) by substituting for the definition of “operating restriction” the following:

“‘operating restriction’ means a noise-related action that limits access to or reduces the operational capacity of an airport, including operating restrictions aimed at the withdrawal from operations of marginally compliant aircraft at specific airports as well as operating restrictions of a partial nature, which for example apply for an identified period of time during the day or only for certain runways at the airport;”,

and
 - (b) by the repeal of section 29 and section 30 retrospectively.
4. Notwithstanding subparagraph (3)(b), planning applications submitted for consideration prior to the commencement of this provision, shall be permitted to continue through the planning process.
5. The following are not operating restrictions or noise mitigation measures for the purposes of the Act of 2019:
 - (a) a planning condition which was imposed—
 - (i) for reasons other than noise mitigation,
 - (ii) without having regard to the balanced approach as provided for in the Aircraft Noise Directive,
 - (iii) and not notified to the EU Commission as an operating restriction for the purposes of the Aircraft Noise Directive,

and
 - (b) the revocation of, or amendment to, a planning condition imposed by an order made under Head 5.

6. Notwithstanding the provisions set out in Part III of the Act of 2000, section 4 of the Act of 2019 and Part IV of the Act of 2024, the Minister may revoke or amend a planning condition.

Explanatory Note

Subhead (1) makes it clear that notwithstanding the powers of the planning authority or An Coimisiún Pleanála (ACP) to impose planning conditions as part of a planning decision under the Planning and Development Acts, it is not permitted to attach a condition to a planning decision which limits passenger numbers at Dublin airport. This provision prevents the use of a passenger cap to manage passenger capacity and therefore, the applicant in making a planning application, the planning authority, or ACP as the case may be, must find alternative means to address any future capacity issues. They will need to work closely with stakeholders to ensure both landside and airside capacity is managed effectively.

Subhead (2) clarifies that subhead (1) does not apply to any planning application submitted in advance of the commencement of this provision. This is to protect the progression of daa's live Infrastructure Application currently being considered by Fingal County Council.

In addition, this head amends the definition of “operating restriction” in the Act of 2019 to align with the definition used in EU Regulation 598/2014. This head also removes transitional arrangements which no longer apply. It also makes it clear that regardless of the deletion of the transitional arrangements, any planning applications made before the commencement of this provision can carry on through the planning process.

This head further clarifies, for the avoidance of doubt, that the 32m passenger cap imposed as a planning condition by An Bord Pleanála for the planning permission for Terminal 2 and extension works at Terminal 1 at Dublin Airport was not imposed for the purpose of mitigating a noise problem and is not an operating restriction or a noise mitigation measure within the meaning of the Aircraft Noise (Dublin Airport) Regulation Act 2019.

In addition, the revocation or amendment to a planning condition made by way of a Ministerial Order under this legislation is also not an operating restriction or noise mitigation measure for the purposes of the Act of 2019.

As stated in the decision by the Board at the time, the reason for the condition attached to the permission for Terminal 2 and extension works at Terminal 1 was to have regard to the policies and objectives of the Dublin Airport Local Area Plan 2006 and capacity constraints (transportation) at the eastern campus. This condition was not imposed for noise mitigation purposes and the balanced approach for noise-related operating restrictions as required under EU law at the time was not applied. In addition, the condition was not notified to the EU Commission as a noise-related operating restriction under the Aircraft Noise Directive.

As the 32m passenger cap planning condition is not an operating restriction within the meaning of the Act of 2019, it does not fall within the exclusive competence of Fingal County Council under section 4 of the Act of 2019 acting as the designated Competent Authority for aircraft noise under section 3 of the Act of 2019. In addition, the Minister may amend a planning condition notwithstanding the obligations set out under Part III of the Planning and Development Act 2000 and Part IV of the Planning and Development Act 2024.

HEAD 5 Order

Provide that:

- (1) The Minister may, for stated reasons, make an order to revoke or amend a planning condition where the Minister is of the opinion that—
 - (a) a planning condition is causing or will cause serious harm to:
 - (i) the international transport connectivity of the State,
 - (ii) the economy of the State, including without limitation to tourism or foreign direct investment, or
 - (iii) the State's ability to comply with obligations under any air transport agreement to which the State is a party, and
 - (b) the revocation or amendment of the planning condition is necessary in the public interest.
- (2) In making an order, the Minister shall have regard to the outcome of any assessments under Heads 6, 7 or 8 as appropriate.
- (3) An order under subhead (1) shall specify the relevant planning condition, the planning permission or permissions it is connected to and the body which imposed the planning condition.
- (4) Before making an order under subhead (1), the Minister may consult with—
 - (a) the planning authority who imposed the planning condition,
 - (b) daa,
 - (c) the Irish Aviation Authority,
 - (d) An Coimisiún Pleanála, or
 - (e) any other person the Minister considers appropriate.
- (5) An order made under subhead (1) shall specify—
 - (a) any conditions or measures to be implemented in accordance with any assessment under Heads 6, 7 or 8,
 - (b) the person that must implement those conditions or measures, and
 - (c) the timeframe within which they must be implemented.
- (6) A planning condition to which an order under this Head applies shall, upon the making of the order, stand revoked or amended in accordance with the order.
- (7) The Minister shall, as soon as practicable after the making of an order under subhead (1), give a copy of the order to the Minister for Housing, Local Government and Heritage and

to the planning authority that granted the permission to which the order relates and direct that planning authority to revoke or amend the permission in line with an order accordingly.

- (8) Following receipt of an order in accordance with subhead (7), the planning authority shall, within such period as may be specified in the order, serve a notice in writing to any person specified in the order informing them of the making of the order and directing them to implement any measures set out in the order within the timeframe specified.
- (9) The planning authority shall amend the planning register accordingly.
- (10) Notwithstanding the making of an order under subhead (1), a planning application submitted for consideration prior to the commencement of this provision, seeking to supersede, revoke, amend or replace a planning condition which is the subject of that order, shall be permitted to continue through the planning process.
- (11) Every order of the Minister made under subhead (1) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Explanatory Note

The purpose of this head is to provide the Minister for Transport with the power to make an order to revoke or amend a planning condition which limits passenger capacity at Dublin Airport, where the Minister is of the opinion that it is in the public interest. In making an order, the Minister must have regard to the outcome of any environmental assessments undertaken in accordance with Heads, 6, 7 and 8.

The order will specify the particular planning condition and the planning permission or permissions it is connected to. The Minister may consult with relevant parties before making an order.

Subhead (5) provides that the Minister will incorporate any necessary measures or conditions to mitigate the impact on the environment, identified on foot of any environmental assessments, into the order and specify the person that must implement those measures and the timeframe within which they must be implemented.

Subhead (6) makes it clear that a planning condition will be revoked or amended immediately upon the making of the order.

Under subheads (7) and (8), the Minister must notify the relevant planning authority who granted the planning permission to which the planning condition is connected and direct the planning authority to revoke or amend the planning condition accordingly. The planning authority must notify the body responsible for implementing any measures set out in the order and advise them of the timeframe within which they must be implemented. The Minister must also provide the Minister for Housing, Local Government and Heritage with a copy of the order for information.

Subhead (9) requires the relevant planning authority to update the planning register in accordance with the Planning and Development Acts.

Subhead (10) makes it clear that the making of an order under this head does not prevent a person from continuing with a planning application to supersede, revoke, amend or replace a planning condition which is the subject of an order.

Subhead (11) is a standard provision for the laying of an order before the Houses of the Oireachtas.

HEAD 6 Environmental Impact Assessment

Provide that:

- (1) For the purpose of the Environmental Impact Assessment Directive—
 - (a) the Minister shall be the applicant, and,
 - (b) An Coimisiún Pleanála (referred to in this Head as An Coimisiún) shall be the Competent Authority.
- (2) Where the Minister proposes to make an order under Head 5, the Minister shall apply to An Coimisiún for a screening for environmental impact assessment of the making of an order.
- (3) An Coimisiún shall, upon receiving an application under subhead (2), carry out a screening for environmental impact assessment of the making of an order concerned, within a specified timeframe, to determine whether or not the proposed order is likely to have significant effects on the environment.
- (4) An application under subhead (2) shall be accompanied by—
 - (a) details of the Minister’s intention to make an order under Head 5, and
 - (b) a description (to the extent that the information is available) of any, or any likely, significant effects on the environment.
- (5) For the purpose of carrying out a screening for environmental impact assessment under this head, An Coimisiún may request such information, further information or clarification from the Minister as An Coimisiún considers necessary to enable it to carry out that assessment or consult with such persons as An Coimisiún considers appropriate.
- (6) For the purpose of making an application under subhead (2) or complying with a request under subhead (5), the Minister may direct daa to provide such information, further information or clarification to the Minister as he or she considers necessary within a specified timeframe.
- (7) daa shall comply with a direction under subhead (6).
- (8) Where, on the basis of a screening for environmental impact assessment carried out under this head, An Coimisiún makes a determination that an order—
 - (a) has had,
 - (b) is having, or
 - (c) is likely to have,

significant effects on the environment, then an environmental impact assessment of the making of an order shall be carried out by An Coimisiún.

(9) Where, on the basis of a screening for environmental impact assessment carried out under this head, An Coimisiún makes a determination that an order—

- (a) has not had,
- (b) is not having, or
- (c) is not likely to have,

significant effects on the environment, then an environmental impact assessment of the making of an order shall not be required.

(10) An Coimisiún shall, not later than 3 days after the making of a determination under subhead (8) or subhead (9)—

- (a) give a notice in writing of the determination (including the reasons for the determination) to the Minister,
- (b) make the determination (including the reasons for the determination) available for inspection (free of charge) by members of the public at its offices during normal business hours, and
- (c) publish a notice of the determination (including the reasons for the determination) on an internet website maintained by or on behalf of An Coimisiún.

(11) Where the Minister receives a notice in accordance with subhead 10(a) that an environmental impact assessment of the making of an order is required, the Minister shall prepare and submit to An Coimisiún, an environmental impact assessment report in relation to the making of an order.

(12) An environmental impact assessment report shall—

- (a) be prepared by a person with the competence and expertise to do so,
- (b) contain the information specified in Annex IV of the Environmental Impact Assessment Directive, and
- (c) include such other information as may be prescribed.

(13) The Minister may direct daa to prepare an environmental impact assessment report in accordance with subhead (12) to be provided to the Minister within a specified timeframe.

(14) daa shall comply with a direction under subhead (13).

(15) The Minister shall, not later than 3 days after the submission of an environmental impact assessment report to An Coimisiún, publish, in a newspaper circulating within the functional area of Fingal County Council, a notice stating—

- (a) that he or she proposes to make an order under Head 5 and that an environmental impact assessment is required in relation thereto,
- (b) that an environmental impact assessment report in relation to the making of an order under Head 5 has been submitted to An Coimisiún and that an environmental impact assessment will be carried out,
- (c) the date on which a screening determination was made under subhead (8) in relation to the making of an order,
- (d) in circumstances where the environmental impact assessment report concludes that the making of an order—
 - (i) has had,
 - (ii) is having, or
 - (iii) is likely to have

significant effects on the environment, that the report so concludes,

- (e) the name and address of the principal office of An Coimisiún,
- (f) that the environmental impact assessment report and other documentation submitted by the Minister to An Coimisiún in connection with the application under subhead (2) for environmental impact assessment is—
 - (i) available for inspection (free of charge) by members of the public at the offices of An Coimisiún during normal business hours, and
 - (ii) published on an internet website maintained by or on behalf of An Coimisiún, and
- (g) that any person may, during
 - (i) the period of 30 days commencing on the date of the notice, or
 - (ii) such greater period, commencing on that date, as may be prescribed,
 make submissions to An Coimisiún in relation to the application for environmental impact assessment.

(16) An Coimisiún shall, not more than 3 days after receiving an environmental impact assessment report—

- (a) publish the environmental impact assessment report on an internet website maintained by it or on its behalf,
- (b) make the environmental impact assessment report available for inspection (free of charge) at its offices by members of the public during normal business hours, and

(c) publish a notice on its website—

- (i) specifying where, the times at which, and the period during which, the environmental impact assessment report may be inspected,
- (ii) inviting submissions by members of the public with respect to the significant effects or likely significant effects on the environment of the making of an order under Head 5, and
- (iii) specifying the period (which shall not be less than the period or greater period, as the case may be, referred to in subparagraph (g) of subhead (15), during which, and the manner in which, such submissions may be made.

(17) For the purpose of carrying out an environmental impact assessment under this head, An Coimisiún may request such information, further information or clarification from the Minister as An Coimisiún considers necessary to enable it to carry out that assessment or consult with such persons as An Coimisiún considers appropriate.

(18) For the purpose of complying with a request under subhead (17), the Minister may direct daa to provide such information, further information or clarification to the Minister as he or she considers necessary within a specified timeframe to be determined by the Minister.

(19) daa shall comply with a direction under subhead (18).

(20) An Coimisiún shall carry out an environmental impact assessment under this head within a specified timeframe, which shall identify, describe and assess the direct and indirect significant effects of the making of an order under Head 5 on—

- (a) population and human health,
- (b) biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive,
- (c) land, soil, water, air and climate,
- (d) the interaction between the factors referred to in paragraphs (a) to (c).

(21) An Coimisiún shall, for the purposes of carrying out an environmental impact assessment and reaching a reasoned conclusion under this head, consider and examine—

- (a) the environmental impact assessment report prepared and submitted to An Coimisiún by the Minister under subhead (11),
- (b) any information submitted to An Coimisiún pursuant to a request under subhead (17),

(c) any submissions made to An Coimisiún pursuant to an invitation in a notice under subhead 16(c)(ii), and

(d) any other information An Coimisiún considers relevant.

(22) An Coimisiún shall, following its examination under subhead (21)—

(a) identify, describe and assess the direct and indirect significant effects of the making of an order under Head 5 on the environment that—

(i) have occurred,

(ii) are occurring, or

(iii) could reasonably be expected to occur,

by reason of the making of an order,

(b) consider any measures already taken to remedy, mitigate, reduce or offset any significant effects on the environment that may have already occurred by reason of making of an order,

(c) consider any measures that the Minister proposes to take in the future, or any condition that An Coimisiún considers should be specified in an order to be made under Head 5 for the purpose of avoiding, preventing, remedying, mitigating, reducing or offsetting significant adverse effects on the environment that—

(i) have occurred,

(ii) are occurring, or

(iii) could reasonably be expected to occur,

by reason of the making of an order.

(23) An Coimisiún shall reach a reasoned conclusion, within a specified timeframe, on the significant effects (if any) of the making of an order on the environment.

(24) An Coimisiún may require any of the following conditions to be specified in an order to be made under Head 5—

(a) conditions requiring the implementation of any measures proposed by the Minister for the purpose of avoiding, preventing, reducing, or offsetting any, or any likely, significant adverse effects of the making of an order on the environment,

- (b) conditions requiring the taking of such specified measures as An Coimisiún considers necessary or appropriate for the purpose of avoiding, preventing, reducing or offsetting any, or any likely, significant adverse effects of the making of an order on the environment.

(25) An Coimisiún shall—

- (a) publish on an internet website maintained by it or on its behalf, a reasoned conclusion and any conditions referred to in subhead (24),
- (b) make the reasoned conclusion and any such conditions available for inspection (free of charge) by members of the public at its offices during normal business hours, and
- (c) by notice in writing, inform the Minister of the reasoned conclusion and any such conditions.

Explanatory Note

The purpose of this head is to provide that before making an order under Head 5, the Minister for Transport will apply to An Coimisiún Pleanála (ACP) for screening for environmental impact assessment, to be undertaken within a specified timeframe, to determine if an environmental impact assessment is required. The Minister shall provide details of his intention to make an order along with any information considered necessary to assist ACP in making a determination. ACP may seek further information if necessary. The Minister may direct daa to provide, within a specified timeframe, information to assist in making an application for screening or to respond to a request for further information from ACP.

Where an environmental impact assessment is necessary, the Minister must arrange for an Environmental Impact Assessment Report to be prepared and sent to ACP, who will publish the report and seek submissions from the public. ACP may seek further information and again the Minister may direct daa to provide such information.

Any environmental impact assessment will be carried out in accordance with the Directive within a specified timeframe, and will include consideration of the Environmental Impact Assessment Report, any information provided to ACP on foot of a request for further information or clarification, any consultations ACP have with any party, submissions made in relation to the Environmental Impact Assessment Report and any other matters deemed relevant.

Where an environmental impact assessment concludes that an order to be made under Head 5 may have significant effects on the environment, ACP may state in its reasoned conclusion what, if any, conditions or measures must be included in an order to avoid, prevent, reduce or offset any impact on the environment.

HEAD 7 Assessment under the Habitats Directive

Provide that:

- (1) Where the Minister proposes to make an order under Head 5, the Minister shall apply to An Coimisiún Pleanála (in this head referred to as An Coimisiún) for a screening for appropriate assessment of the making of an order.
- (2) An Coimisiún shall, upon receiving an application under subhead (1), carry out a screening for appropriate assessment of the making of an order concerned, within a specified timeframe, for the purpose of determining whether or not the making of an order is likely to have a significant effect on a European site having regard to the conservation objectives of that European site.
- (3) An application under subhead (1) shall be accompanied by—
 - (a) details of the Minister’s intention to make an order under Head 5, and
 - (b) a description (to the extent that the information is available) of any, or any likely, significant effects on a European site.
- (4) For the purpose of carrying out of a screening for appropriate assessment under this head, An Coimisiún may request such information, further information or clarification from the Minister as An Coimisiún considers necessary to enable it to carry out that assessment or consult with such persons as An Coimisiún considers appropriate.
- (5) For the purpose of making an application under subhead (1) and complying with a request under subhead (4), the Minister may direct daa to provide such information, further information or clarification to the Minister as he or she considers necessary within a specified timeframe.
- (6) daa shall comply with a direction under subhead (5).
- (7) Where, on the basis of a screening for appropriate assessment carried out under this head, An Coimisiún makes a determination—
 - (a) that the making of an order has had, or is having, significant effects on a European site, or
 - (b) the likelihood of the making of an order having significant effects on a European site cannot be excluded,then an appropriate assessment of the making of an order shall be carried out by An Coimisiún.
- (8) Where, on the basis of a screening for appropriate assessment carried out under this head, An Coimisiún makes a determination—

- (a) that the making of an order has not had, or is not having, significant effects on a European site, or
- (b) the likelihood of the making of an order having significant effects on a European site can be excluded,

then an appropriate assessment of the making of an order shall not be required.

- (9) An Coimisiún shall, not later than 3 days after the making of a determination under subhead (7) or subhead (8)—

- (a) give a notice in writing of the determination (including the reasons for the determination) to the Minister,
- (b) make the determination (including the reasons for the determination) available for inspection (free of charge) by members of the public at its offices during normal business hours, and
- (c) publish a notice of the determination (including the reasons for the determination) on an internet website maintained by or on behalf of An Coimisiún.

- (10) Where the Minister receives a notice in accordance with subhead (9)(a) that an appropriate assessment of the making of an order is required, the Minister shall prepare and submit to An Coimisiún, (if not already provided to An Coimisiún) a Natura Impact Statement in relation to the making of an order.

- (11) The Minister may direct daa to prepare a Natura Impact Statement in accordance with subhead (13) to be provided to the Minister within a specified timeframe.

- (12) daa shall comply with a direction under subhead (11).

- (13) A Natura Impact Statement under subhead (10) shall—

- (a) be prepared by a person with the competence and expertise to do so,
- (b) specify all of the habitat types and species—
 - (i) for which the European site concerned is designated, and
 - (ii) in relation to which the likelihood of significant effects arising from the making of an order under Head 5 cannot be excluded,
- (c) having regard to the European site's conservation objectives—
 - (i) identify all potential significant effects of the making of an order under Head 5 on the European site concerned, and

- (ii) assess the effects identified in accordance with subparagraph (i) and the implications of the making of an order for the European site,
 - (d) identify any measures proposed to be taken for the purposes of avoiding or reducing any adverse effects (identified in accordance with paragraph (c)) of the making of an order under Head 5 on the European site concerned,
 - (e) having regard to the matters identified and assessments made in accordance with paragraphs (b), (c) and (d), conclude, in the case of an application for appropriate assessment of the making of an order under Head 5, either—
 - (i) that the making of an order may adversely affect the integrity of a European site, or
 - (ii) that the making of an order will not adversely affect the integrity of a European site,
 - (f) include such other information as may be prescribed.
- (14) Where An Coimisiún receives a Natura Impact Statement prepared and submitted in accordance with subheads (10) and (13), it shall—
- (a) publish the Natura Impact Statement on an internet website maintained by it or on its behalf,
 - (b) make the Natura Impact Statement available for inspection (free of charge) at its offices by members of the public during normal business hours, and
 - (c) publish a notice on that internet website—
 - (i) specifying where, the times at which, and the period during which, the Natura Impact Statement may be inspected,
 - (ii) inviting submissions by members of the public with respect to the implications of the making of an order under Head 5 for any European site having regard to the conservation objectives relating to that site, and
 - (iii) specifying the period during which, and the manner in which, such submissions may be made.
- (15) Following the public consultation under subhead (14), An Coimisiún shall carry out an appropriate assessment of the making of an order under Head 5, within a specified timeframe.
- (16) For the purpose of carrying out an appropriate assessment under this head, An Coimisiún may request such information, further information or clarification from the Minister as An Coimisiún considers necessary to enable it to carry out that assessment or consult with such persons as An Coimisiún considers appropriate.

(17) For the purpose of complying with a request under subhead (16), the Minister may direct daa to provide such information, further information or clarification to the Minister as he or she considers necessary within a specified timeframe to be determined by the Minister.

(18) daa shall comply with a direction under subhead (17).

(19) An Coimisiún shall take into account each of the following when carrying out an appropriate assessment under this head:

(a) the Natura Impact Statement,

(b) any information obtained by An Coimisiún pursuant to a request under subhead (16),

(c) the results of any consultation carried out by An Coimisiún in accordance with subhead (16),

(d) any submissions made to An Coimisiún pursuant to an invitation in a notice under subhead (14)(c)(ii), and

(e) any other information that An Coimisiún considers relevant.

(20) When carrying out an appropriate assessment of the making of an order under Head 5, An Coimisiún shall, based on the best scientific knowledge and having regard to the conservation objectives relating to the European site concerned—

(a) identify all likely significant effects of the making of an order on a European site,

(b) assess the extent of those effects and their implications for the European site, and

(c) consider the likely effectiveness of any measures—

(i) proposed by the Minister, or

(ii) that An Coimisiún considers it appropriate to require the Minister to take in accordance with a condition to be specified in the order under Head 5,

for the purpose of avoiding or reducing potential effects on the European site.

(21) An Coimisiún shall—

(a) having complied with subhead (20), and

(b) having had regard to the effectiveness of, or likely effectiveness, of any measures referred to in subparagraph (20)(c),

make a determination, within a specified timeframe, as to whether or not any reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site.

(22) Where, on the basis of an appropriate assessment under this head, An Coimisiún concludes that no reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site, An Coimisiún shall make a determination to that effect.

(23) Where a determination under subhead (22) is based wholly or partly on the implementation of measures referred to in subhead (20)(c), An Coimisiún shall require that a condition setting out those measures be specified in an order to be made under Head 5.

(24) Where, on the basis of an appropriate assessment under this head, An Coimisiún concludes that a reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site, An Coimisiún shall make a determination to that effect.

(25) As soon as may be after making a determination in relation to an appropriate assessment under this head in relation to the making of an order under Head 5, An Coimisiún shall—

(a) give a notice in writing of the determination (including the reasons for the determination) to the Minister,

(b) make the determination (including the reasons for the determination) available for inspection (free of charge) by members of the public at its offices during normal office hours, and

(c) publish the determination (including the reasons for the determination) on an internet website maintained by it or on its behalf.

(26) Where An Coimisiún makes a determination in accordance with subhead (24), the Minister may revert to An Coimisiún with a statement—

(a) containing an explanation of the reasons why the Minister believes there are no alternative solutions to the making of order under Head 5,

(b) that there are imperative reasons of overriding public interest for the making of an order, and

(c) the compensatory measures that the Minister will take for the purpose of ensuring that the overall coherence of the Natura 2000 network is protected.

- (27) An Coimisiún shall carry out a public consultation, in the same manner as the steps provided for in subhead (14), in relation to the Minister's statement received under subhead (26).
- (28) Having regard to the statement of the Minister, any submissions received on foot of the public consultation and the Natura Impact Statement, An Coimisiún shall make a determination, within a specified timeframe, as to whether or not—
- (a) there is an absence of alternative solutions to the making of order under Head 5,
 - (b) imperative reasons of overriding public interest exist for the making of an order, and
 - (c) the compensatory measures proposed by the Minister are adequate to ensure that the overall coherence of the Natura 2000 network is protected.
- (29) Where An Coimisiún concludes—
- (a) there is an absence of alternative solutions to the making of order under Head 5, and
 - (b) imperative reasons of overriding public interest exist for the making of an order,
- but is not satisfied that the compensatory measures proposed by the Minister are adequate to ensure that the overall coherence of the Natura 2000 network is protected, it may consult with the Minister for the purpose of ascertaining the feasibility and adequacy of alternative compensatory measures.
- (30) Following a determination under subhead (28) or a conclusion under subhead (29), An Coimisiún shall confirm to the Minister the compensatory measures that must be put in place to ensure the overall coherence of the Natura 2000 network and the minister shall include those measures as conditions in an order to be made under Head 5.

Explanatory Note

The purpose of this head is to provide that before making an order under Head 5, the Minister for Transport will apply to An Coimisiún Pleanála (ACP) for screening for appropriate assessment, to be undertaken within a specified timeframe, to determine if such an assessment is required in accordance with the Habitats Directive. The Minister shall provide details of his intention to make an order under Head 5, along with any information considered necessary to assist ACP in making a determination. ACP may seek further information if necessary. The Minister may direct daa to provide information within a specified timeframe, to support the making of an application or to respond to a request for further information.

Where an appropriate assessment is necessary, the Minister must arrange for a Natura Impact Statement to be prepared and submitted to ACP. The Minister may direct daa to prepare this statement. On receipt of the Natura Impact Statement, ACP will publish it and seek submissions from the public. ACP may seek further information and again the Minister may direct daa to provide such information.

Any appropriate assessment will be carried out by ACP in accordance with the Habitats Directive, within a specified timeframe, and will include consideration of the Natura Impact Statement, any information received from or consultations with any party, submissions made in relation to the Natura Impact Statement and any other matters deemed relevant.

Where, following an appropriate assessment, ACP determines that measures can be put in place to prevent or reduce the impact on a European site, it may state this in its determination and the Minister in making an order will place conditions in the order in line with the determination by ACP.

Where ACP determines that the making of an order will have significant effects on a European site, the Minister may engage with ACP where he or she is of the view that there are imperative reasons of overriding public interest to make the order in any case and to put in place compensatory measures to ensure the overall coherence and protection of the Natura 2000 network.

HEAD 8 Assessment under the Water Framework Directive

Provide that:

- (1) Where the Minister proposes to make an order under Head 5, the Minister shall apply to An Coimisiún Pleanála (in this head referred to as An Coimisiún) for a screening for assessment under the Water Framework Directive.
- (2) An Coimisiún shall, upon receiving an application under subhead (1), carry out a screening for assessment of the making of an order concerned, within a specified timeframe, for the purpose of determining whether the making of an order under Head 5 would cause a deterioration in the status of water bodies under the Water Framework Directive.
- (3) An application under subhead (1) shall be accompanied by—
 - (a) details of the Minister’s intention to make an order under Head 5, and
 - (b) a description (to the extent that the information is available) of any, or any likely, deterioration in the status of water bodies.
- (4) For the purpose of carrying out of a screening for assessment under this head, An Coimisiún may request such information, further information or clarification from the Minister as An Coimisiún considers necessary to enable it to carry out that assessment or consult with such persons as An Coimisiún considers appropriate.
- (5) For the purpose of making an application under subhead (1) or complying with a request under subhead (4), the Minister may direct daa to provide such information, further information or clarification to the Minister as he or she considers necessary within a specified timeframe.
- (6) daa shall comply with a direction under subhead (5).
- (7) Where, on the basis of a screening for assessment carried out under this head, An Coimisiún makes a determination—
 - (a) that the making of an order has contributed to, or is contributing to, the deterioration in the status of water bodies, or
 - (b) the likelihood of the making of an order contributing to the deterioration in the status of water bodies cannot be excluded,then an assessment of the making of an order shall be carried out by An Coimisiún.
- (8) Where, on the basis of a screening for assessment carried out under this head, An Coimisiún makes a determination—

- (a) that the making of an order has not contributed to, or is not contributing to, the deterioration in the status of water bodies, or
- (b) the likelihood of the making of an order contributing to the deterioration in the status of water bodies can be excluded,

then an assessment of the making of an order shall not be required.

- (9) An Coimisiún shall, not later than 3 days after the making of a determination under subhead (7) or subhead (8)—

- (a) give a notice in writing of the determination (including the reasons for the determination) to the Minister,
- (b) make the determination (including the reasons for the determination) available for inspection (free of charge) by members of the public at its offices during normal business hours, and
- (c) publish a notice of the determination (including the reasons for the determination) on an internet website maintained by or on behalf of An Coimisiún.

- (10) Where the Minister receives a notice in accordance with subhead 9(a) that an assessment of the making of an order under the Water Framework Directive is required, the Minister shall prepare and submit a report to An Coimisiún in relation to the making of an order and any potential impact on the status of water bodies.

- (11) A report under subhead (10) shall—

- (a) be prepared by a person with the competence and expertise to do so,
- (b) contain information required in accordance with the Water Framework Directive, and
- (c) include such other information as may be prescribed.

- (12) The Minister may direct daa to prepare a report in accordance with subhead (11) to be provided to the Minister within a specified timeframe.

- (13) daa shall comply with a direction under subhead (12).

- (14) The Minister shall, not later than 3 days after the submission of a report to An Coimisiún, publish, in a newspaper circulating within the functional area of Fingal County Council, a notice stating—

- (a) that he or she proposes to make an order under Head 5 and that an assessment under the Water Framework Directive is required in relation thereto,

- (b) that a report in relation to the making of an order under Head 5 has been submitted to An Coimisiún and that an assessment under the Water Framework Directive will be carried out,
- (c) the date on which a screening determination was made under subhead (7) in relation to the making of an order,
- (d) in circumstances where the report concludes that the making of an order—
 - (i) has contributed to,
 - (ii) is contributing to, or
 - (iii) is likely to contribute to,

the deterioration in the status of water bodies, that the report so concludes,

- (e) the name and address of the principal office of An Coimisiún,
- (f) that the report and other documentation submitted by the Minister to An Coimisiún in connection with the application under subhead (1) for assessment under the Water Framework Directive is—
 - (i) available for inspection (free of charge) by members of the public at the offices of An Coimisiún during normal business hours, and
 - (ii) published on an internet website maintained by or on behalf of An Coimisiún, and
- (g) that any person may, during
 - (i) the period of 30 days commencing on the date of the notice, or
 - (ii) such greater period, commencing on that date, as may be prescribed,
 make submissions to An Coimisiún in relation to the application for assessment under the Water Framework Directive.

(15) An Coimisiún shall, not more than 3 days after receiving a report—

- (a) publish the report on an internet website maintained by it or on its behalf,
- (b) make the report available for inspection (free of charge) at its offices by members of the public during normal business hours, and
- (c) publish a notice on its website—
 - (i) specifying where, the times at which, and the period during which, the report may be inspected,

- (ii) inviting submissions by members of the public with respect to the deterioration or likely deterioration on the status of water bodies as a result of the making of an order under Head 5, and
 - (iii) specifying the period (which shall not be less than the period or greater period, as the case may be, referred to in subparagraph (g) of subhead (14), during which, and the manner in which, such submissions may be made.
- (16) For the purpose of carrying out an assessment under this head, An Coimisiún may request such information, further information or clarification from the Minister as An Coimisiún considers necessary to enable it to carry out that assessment or consult with such persons as An Coimisiún considers appropriate.
- (17) For the purpose of complying with a request under subhead (16), the Minister may direct daa to provide such information, further information or clarification to the Minister as he or she considers necessary within a specified timeframe to be determined by the Minister.
- (18) daa shall comply with a direction under subhead (17).
- (19) An Coimisiún shall carry out an assessment under this head, within a specified timeframe, which shall identify, describe and assess the direct and indirect significant effects of the making of an order under Head 5 on the status of water bodies.
- (20) An Coimisiún shall, for the purposes of carrying out an assessment and reaching a reasoned conclusion under this head, consider and examine—
 - (a) the report prepared and submitted to An Coimisiún by the Minister under subhead (10),
 - (b) any information submitted to An Coimisiún pursuant to a request under subhead (16),
 - (c) any submissions made to An Coimisiún pursuant to an invitation in a notice under subhead 15(c)(ii), and
 - (d) any other information An Coimisiún considers relevant.
- (21) An Coimisiún shall, following its examination under subhead (20)—
 - (a) identify, describe and assess the direct and indirect significant effects that—
 - (i) have occurred,
 - (ii) are occurring, or
 - (iii) could reasonably be expected to occur,

resulting in the deterioration or likely deterioration of the status of water bodies by reason of the making of an order,

(b) consider any measures already taken to remedy, mitigate, reduce or offset any significant effects on the status of water bodies that may have already occurred by reason of making of an order,

(c) consider any measures that the Minister proposes to take in the future, or any condition that An Coimisiún considers should be specified in an order to be made under Head 5 for the purpose of avoiding, preventing, remedying, mitigating, reducing or offsetting significant adverse effects on the status of water bodies that—

(i) have occurred,

(ii) are occurring, or

(iii) could reasonably be expected to occur,

by reason of the making of an order.

(22) An Coimisiún shall reach a reasoned conclusion, within a specified timeframe, on the significant effects (if any) of the making of an order on the status of water bodies.

(23) An Coimisiún may require any of the following conditions to be specified in an order to be made under Head 5—

(a) conditions requiring the implementation of any measures proposed by the Minister for the purpose of avoiding, preventing, reducing, or offsetting any, or any likely, significant adverse effects of the making of an order on the status of water bodies,

(b) conditions requiring the taking of such specified measures as An Coimisiún considers necessary or appropriate for the purpose of avoiding, preventing, reducing or offsetting any, or any likely, significant adverse effects of the making of an order on the status of water bodies.

(24) An Coimisiún shall—

(a) publish on an internet website maintained by it or on its behalf, a reasoned conclusion and any conditions referred to in subhead (23),

(b) make the reasoned conclusion and any such conditions available for inspection (free of charge) by members of the public at its offices during normal business hours, and

(c) by notice in writing, inform the Minister of the reasoned conclusion and any such conditions.

Explanatory Note

The purpose of this head is to provide that before making an order under Head 5, the Minister for Transport will apply to An Coimisiún Pleanála (ACP) for screening for an assessment under the Water Framework Directive, to be undertaken within a specified timeframe. The Minister shall provide details of his intention to make an order under Head 5 along with any information considered necessary to assist ACP in making a determination. ACP may seek further information if necessary. The Minister may direct daa to provide information to support the making of application for assessment or in response to a request for further information within a specified timeframe.

Where an assessment under the Water Framework Directive is necessary, the Minister must arrange for a report to be prepared and sent to ACP. The Minister may direct daa to prepare such a report. On receipt of the report, ACP will publish it and seek submissions from the public. ACP may seek further information and again the Minister may direct daa to provide such information.

Any assessment will be carried out in accordance with the Water Framework Directive, within a specified timeframe, and will include consideration of the report, any information provided to ACP on foot of a request or consultations undertake by ACP with any party, submissions made in relation to the report and any other matters deemed relevant.

Where an assessment concludes that an order to be made under Head 5 may have significant effects on the status of water bodies, ACP may state in its reasoned conclusion what, if any, conditions must be included in an order to avoid, prevent, reduce or offset any impact on the status of water bodies.

HEAD 9 Joint environmental assessment

Provide that:

(1) Where in relation to the making of an order under Head 5—

- (a) an environmental impact assessment is required to be carried out in accordance with Head 6,
- (b) an appropriate assessment is required to be carried out in accordance with Head 7, or
- (c) an assessment under the Water Framework Directive is required to be carried out in accordance with Head 8,

An Coimisiún may, for the purpose of avoiding unnecessary duplication of effort, carry out all such assessments or any two of those assessments jointly, provided that the carrying of all such assessments or two such assessments jointly would not hinder compliance with any of the requirements of this Bill in relation to any such assessment.

(2) Where An Coimisiún carries out an appropriate assessment, an environmental assessment or an assessment under the Water Framework Directive jointly in accordance with subhead (1), it shall ensure that its—

- (a) reasoned conclusion in relation to the environmental impact assessment,
- (b) determination in relation to the appropriate assessment, and
- (c) reasoned conclusion in relation to the assessment under the Water Framework Directive.

are separately stated and clearly distinguishable.

Explanatory Note

This head provides that any environmental impact assessment required under Head 6 may be carried out jointly with an appropriate assessment, if required, under Head 7 and an assessment under the Water Framework Directive under Head 8, if required. This is to avoid any unnecessary duplication in carrying out the environmental assessments.

This head also makes it clear where the environmental assessments are carried out jointly, that the determination or reasoned conclusion in each case, is set out separately to ensure complete clarity and that each outcome is distinguishable from one another.

HEAD 10 Noise Assessment

Provide that:

- (1) Following the making of an order under Head 5, the Minister shall notify Fingal County Council as the designated Competent Authority for aircraft noise (in this head referred to as “the Authority”).
- (2) The Authority shall take any order made under Head 5 into account in the performance of its functions under section 9 of the Act of 2019.

Explanatory Note

Under this Head, the Minister for Transport must notify Fingal County Council if and when an order under Head 5 has been made. Fingal County Council in their role as the Aircraft Noise Competent Authority under section 3 of the Aircraft Noise (Dublin Airport) Regulation Act 2019, must take any order into account when carrying out its functions under that Act.

HEAD 11 Judicial Review

Provide that:

- (1) A person shall not—
 - (a) question the validity of an order made under Head 5, or
 - (b) question the alleged failure of the Minister to perform a function under this Bill,otherwise than by way of an application for judicial review brought in accordance with this head and the applicable Rules of the Superior Courts.
- (2) Judicial review proceedings shall be commenced by making an application to the High Court by originating notice of motion in accordance with the applicable Rules of the Superior Courts.
- (3) No later than the day on which judicial review proceedings are issued, the person making the application under subhead (2) shall notify the Minister, any other person that the person intends to name as a respondent in the application and each notice party.
- (4) The application referred to in subhead (2) shall not be accepted by the High Court unless—
 - (a) the motion is grounded upon a statement in accordance with the applicable Rules of the Superior Courts,
 - (b) the applicant has complied with subhead (3),
 - (c) the motion is accompanied by an affidavit, prepared in accordance with the applicable Rules of the Superior Courts, that—
 - (i) is sworn by or on behalf of the applicant which verifies all of the facts relied upon in the statement referred to in paragraph (a), and
 - (ii) exhibits a copy of each of the required notifications referred to in subhead (3),
 - (d) is made within the timeframe specified in subhead (5).
- (5) Subject to subheads (6) and (8), judicial review proceedings under this head shall not be commenced after the expiry of the period of 8 weeks beginning on the date of—
 - (a) the making of an order to which the proceedings relate, or would relate if the proceedings were commenced, or

- (b) the failure to perform the function to which the proceedings relate, or would relate if the proceedings were commenced,

as the case may be.

- (6) A party may, by motion on notice (grounded in the manner specified in the applicable Rules of the Superior Courts) apply to the High Court for an order granting an extension of time to commence judicial review proceedings outside of the period referred to in subhead (5).

- (7) The High Court may grant an order under subhead (6) and make such consequential orders as it considers appropriate in the circumstances, if it is satisfied that—

- (a) there is a good and sufficient reason for doing so, and

- (b) the circumstances that resulted in—

- (i) the proceedings being brought outside the period referred to in subhead (5), and

- (ii) the delay, if any, between the expiry of the period referred to in subhead (5) and the proceedings being brought,

were outside the control of the person applying for the extension and the legal practitioners advising that person in relation to the application.

- (8) Without prejudice to applicable Rules of the Superior Courts, where the period within which judicial review proceedings must be taken expires on a day that is a Saturday, a Sunday or a public holiday, the period shall be deemed to expire on the next day, following that day, that is not a Saturday, a Sunday or a public holiday.

- (9) Subject to subhead (10), an applicant shall not rely on a ground in judicial review proceedings other than the grounds set out in the statement referred to in subhead (4)(a).

- (10) An applicant shall not be entitled to amend the statement referred to in paragraph (4)(a) after judicial review proceedings have commenced without applying to the High Court, on notice to all respondents and notice parties, for leave to do so, and such leave shall not be granted unless the Court is satisfied that—

- (a) there is good and sufficient reason for allowing the applicant to do so, and

- (b) the circumstances that resulted in the failure to include the matter to which the amendment relates in the original statement were outside the control of—

- (i) the applicant, and

- (ii) the legal practitioners advising that person in relation to the application.

(11) A party to judicial proceedings under this head may, by motion on notice (grounded in the manner specified in the applicable Rules of the Superior Courts), apply to the High Court at any time for an order striking out the proceedings for any number of the following reasons:

- (a) the applicant does not have a sufficient interest in the grounds pleaded in the judicial review proceedings;
- (b) the proceedings were not brought in the period referred to in subhead (5) or ordered under subhead (7);
- (c) the grounds pleaded by the applicant disclose no arguable case or are bound to fail.

(12) The High Court may make an order striking out judicial review proceedings to which an application under subhead (11) relates where it is satisfied that at least one of the reasons referred to in paragraphs (a) to (c) of that subhead apply to the proceedings.

(13) Without prejudice to paragraph (12), where—

- (a) a party applies for an order under subhead (11) for the reason that an applicant does not have a sufficient interest in a matter to which a ground pleaded in the judicial review proceedings relates, and
- (b) the High Court is satisfied that some, but not all, of the applicants in the proceedings do not have such a sufficient interest, or that an applicant has such a sufficient interest in some, but not all, of the matters to which a ground pleaded in the judicial review proceedings relates,

the Court may do one or more of the following as it sees fit:

- (i) without striking out the proceedings in their entirety, strike out the proceedings as against any applicant it is satisfied does not have such a sufficient interest;
- (ii) direct that an applicant shall not continue the proceedings in relation to a specified matter in respect of which the Court is satisfied that the applicant does not have a sufficient interest;
- (iii) make orders consequential on, or necessary to give effect to, a decision under paragraph (i) or (ii).

(14) Without prejudice to subhead (12), where—

- (a) a party applies for an order under subhead (11) for the reason that the grounds pleaded by an applicant disclose no arguable case or are bound to fail, and
- (b) the High Court is satisfied that some, but not all, such grounds disclose no arguable case or are bound to fail,

the Court may—

- (i) without striking out the proceedings, direct that an applicant shall not continue the proceedings in relation to a ground or grounds that it considers to disclose no arguable case or to be bound to fail, and
 - (ii) make orders consequential on, or necessary to give effect to, such direction.
- (15) A person shall not be permitted to plead a ground in judicial review proceedings unless the person has a sufficient interest in the matter to which the ground relates.
- (16) An applicant shall not be regarded as having sufficient interest in a matter to which a ground pleaded in judicial review proceedings relates unless the applicant is, or may be, directly or indirectly materially affected by the matter.
- (17) The determination of the High Court of judicial review proceedings under this head, and any order made by the High Court in such proceedings, shall be final and no appeal shall lie from the decision of that Court to the Court of Appeal.
- (18) No appeal to the Supreme Court shall lie from the determination of the High Court in judicial review proceedings under this head, save on the basis of an application for leave to appeal under Article 34.5.4° of the Constitution.
- (19) Subhead (18) shall not apply to a determination of the High Court in so far as it involves a question as to the validity of any law having regard to the provisions of the Constitution.
- (20) Leave of the High Court shall not be required in order to make an application for judicial review under this head.
- (21) A reference in this head to the date on which judicial review proceedings are commenced shall be read as the date on which a notice of motion is issued from the High Court in respect of an application under subhead (2).
- (22) Judicial review proceedings under this head and an appeal from such proceedings, shall be determined by a court dealing with such matters as expeditiously as possible consistent with the administration of justice.

Explanatory Note

This head sets out the ability for a person with a sufficient interest to take judicial review proceedings. Such proceedings may be taken to question the validity of an order made under Head 5 or question the failure of the Minister to perform a function under the Bill. Such proceedings must be taken within 8 weeks.

HEAD 12 Exemption from the Act of 2015

Provide that:

Any function or exercise undertaken under this Act shall be exempt from the provisions of section 15 of the Act of 2015.

Explanatory Note

This Head provides that the provisions of section 15 of the Climate Action and Low Carbon Development Act 2015 do not apply to any functions or exercises undertaken under this Bill.