

H1: General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026

Document Details

- Title: General Scheme, Dublin Airport (Passenger Capacity) Bill 2026
- Date: 3 February 2026
- Source: Department of Transport
- Pages: 38
- Structure: 3 Parts, 12 Heads

Structure

Part 1: Preliminary (Heads 1-3)

Standard provisions: short title, interpretation, expenses.

Part 2: Passenger Capacity (Heads 4-11)

The operative provisions.

Part 3: Exemption (Head 12)

Exemption from Climate Action Act 2015.

Key Provisions

Head 4: Planning Conditions

Head 4(1): "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 Coimisiun Pleanala shall not impose a planning condition at Dublin Airport that limits passenger numbers."

This is an absolute prohibition on future passenger caps. It overrides the normal planning powers of both the local authority and the national planning body.

Head 4(3)(b): Repeals sections 29 and 30 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 "retrospectively." These were the transitional provisions that protected existing planning conditions.

Head 4(5): Declares that the 32 million passenger cap planning condition:

- was not imposed for the purpose of mitigating a noise problem
- was imposed without having regard to the balanced approach under the Aircraft Noise Directive
- was not notified to the EU Commission as an operating restriction

The Explanatory Note states: "This provision prevents the use of a passenger cap to manage passenger capacity."

Head 4(6): "the Minister may revoke or amend a planning condition" notwithstanding the provisions of Part III of the Planning and Development Act 2000, section 4 of the Act of 2019, and Part IV of the Planning and Development Act 2024.

Head 5: Order (Ministerial Power)

Gives the Minister for Transport the power to make an order to revoke or amend any planning condition limiting passenger capacity, where the Minister is of the opinion that:

- (a) the condition is causing or will cause "serious harm" to:
 - (i) the international transport connectivity of the State
 - (ii) the economy of the State, including tourism or foreign direct investment
 - (iii) the State's ability to comply with air transport agreements
- (b) the revocation or amendment is "necessary in the public interest"

Head 5(4): The Minister "may" (not "shall") consult with: the planning authority, daa, the IAA, An Coimisiun Pleanala, or "any other person the Minister considers appropriate." Consultation is discretionary, not mandatory.

Head 5(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." The revocation takes immediate effect.

Head 5(11): The order is laid before each House of the Oireachtas and subject to annulment within 21 sitting days. However, even if annulled, it is "without prejudice to the validity of anything previously done thereunder."

Head 6: Environmental Impact Assessment

The Minister applies to An Coimisiun Pleanala for EIA screening. If screening determines significant effects are likely, a full EIA is required. The Minister is both the "applicant" and may direct daa to prepare the EIAR. An Coimisiun Pleanala is the competent authority.

Public consultation is provided for (30 days minimum). An Coimisiun Pleanala may attach conditions to the order.

However, the assessment is of "the making of an order" (i.e. the removal of the condition), not of the environmental effects of unlimited airport growth.

Head 7: Assessment under the Habitats Directive

Similar screening and assessment process for European sites. Includes provision for "imperative reasons of overriding public interest" (IROPI) derogation under Article 6(4) of the Habitats Directive.

Head 8: Assessment under the Water Framework Directive

Assessment of impacts on water body status. Similar screening and assessment structure.

Head 9: Joint Environmental Assessment

Allows An Coimisiun Pleanala to carry out multiple assessments jointly to avoid duplication.

Head 10: Noise Assessment

Following the making of an order, the Minister notifies Fingal County Council (as ANCA). ANCA "shall take any order made under Head 5 into account in the performance of its functions under section 9 of the Act of 2019."

This means ANCA must incorporate the removal of the passenger cap into its noise action planning, effectively requiring it to accept unlimited growth as a given.

Head 11: Judicial Review

Restricts legal challenges:

- Head 11(5): Proceedings must be commenced within 8 weeks
- Head 11(16): Standing limited to persons "directly or indirectly materially affected"
- Head 11(17): "The determination of the High Court ... shall be final and no appeal shall lie from the decision of that Court to the Court of Appeal."
- Head 11(18): Appeal to Supreme Court only on constitutional grounds (Article 34.5.4)
- Head 11(22): Must be determined "as expeditiously as possible"

This removes the normal right of appeal to the Court of Appeal, channelling any challenge through a single High Court hearing with appeal only to the Supreme Court on constitutional grounds.

Head 12: Exemption from Climate Action Act 2015

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

Section 15 of the Climate Action Act 2015 requires public bodies to have regard to climate action plans and carbon budgets. This exemption means the Minister's decision to remove the passenger cap need not consider Ireland's climate obligations.

Significance for the ACCC Communication

1. Head 4(1) is a prospective prohibition: no future passenger cap may ever be imposed at Dublin Airport through the planning system, regardless of environmental evidence.
2. Head 4(3)(b) retrospectively repeals the transitional protections that preserved existing planning conditions when the 2019 Act was enacted.
3. Head 5 gives the Minister (not the planning authority, not ANCA, not An Coimisiun Pleanala) the power to unilaterally revoke planning conditions, with only discretionary (not mandatory) consultation.
4. Head 6 frames the EIA as an assessment of "the making of an order" rather than of the environmental effects of unrestricted airport growth. This inverts the normal EIA process: instead of assessing the project's impact, it assesses the impact of removing a restriction.
5. Head 10 subordinates ANCA's noise functions to the Minister's order, undermining the independence required by Regulation 598/2014.
6. Head 11 restricts access to justice by eliminating the Court of Appeal and imposing a compressed 8-week timeline.
7. Head 12 exempts the entire process from climate obligations.
8. The Bill was introduced in direct response to Fingal County Council's enforcement notice on the passenger cap (June 2025), demonstrating that the State's response to enforcement of environmental conditions is to legislate to remove the conditions rather than to achieve compliance.

Source

Annex H1
PDF: H1_General_Scheme_Passenger_Capacity_Bill_2026.pdf (in annexes directory)