

Annex II

Time line for the Bill

Initiated in Seanad

Fri 18 June 2021 – Order for Second Stage and Second Stage

Mon 28 June 2021 – Committee and All remaining stages – guillotined

Moves to Dáil

Tues 29 June 2021 – Second Stage

Wed 7 Jul 2021 – Committee and remaining stages – guillotined and passed.

Debate referred to available here:

<https://www.oireachtas.ie/en/debates/debate/dail/2021-07-07/31/>

Amendments proposed to assist issues;

<https://data.oireachtas.ie/ie/oireachtas/bill/2021/85/dail/3/amendment/numberedList/eng/b85a21s-dcnl.pdf>

Extracts referred to re Aarhus:

Deputy Cian O’Callaghan at Dáil Committee state on – 7th July 2021

“I refer to the Aarhus Convention. The provisions being introduced in this Bill relating to extending the duration of planning permissions will compound the issues of non-compliance of section 42 with the Aarhus Convention. Ireland was found to be in breach of Article 6.10 of the Aarhus Convention in August 2019. The State issued a commitment on 1 October 2020 to fix this breach within a few weeks by statutory instrument in correspondence to the Aarhus Convention compliance committee. It was not implemented. The same commitment was given on 10 June 2021 but it still has not been addressed. Worse still, if an adequate fix is finally implemented by statutory instrument, section 7 of this Bill will puncture that fix by providing an alternative path for planning extensions. This is totally non-compliant with both EU law and Aarhus Convention requirements. When will the planning fixes, although inadequate, with respect to the Aarhus Convention be implemented? Why are these fixes not being done by primary legislation as part of this Bill, as they should be? Does the approach taken not leave any extension granted under this Bill exposed to potential legal challenge? Has the Minister engaged with the Aarhus section of the Department of Environment, Climate and Communications and the Attorney General about this?”

Deputy Eoin O’Broin at Dáil Committee state on – 7th July 2021

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“On Committee Stage the Minister asked us to waive pre-legislative scrutiny. We did that, although we agreed to write to some independent planning authorities to seek their advice. The very least the Government should have done was to give us more than 30 minutes to do our job, scrutinise the

legislation and tease out these complex issues. Neither Deputy O'Callaghan nor I, who have shared amendments, tabled an excessive number of them. We are not looking to delay this legislation but this is not good practice, particularly in an area of law that is already so fraught."

"The second issue is the extension of planning permissions. One of the major concerns with the extension of planning permissions is if a developer is on site, has been disrupted by Covid and needs a small period of time to extend, that is a reasonable request. However, the provision in this Bill is too broad and does not allow, for example, for public participation. If somebody who is now in the 15th year of their planning permission seeks to extend that for a further two years, there is no facility for interested parties, people who may have the best interests of the community, environmental sustainability and natural wildlife at heart, from bringing issues to the attention of the planning authority for it to take into account. That is in complete contravention, in my view, of the Aarhus Convention and our legal requirements under it. As Deputy O'Callaghan rightly pointed out, we are already in significant breach and despite the fact there has been correspondence between Government and the relevant Aarhus compliance committee, to date, breaches dating as far back as 2016 and 2019 have not been addressed.

These are two fundamental problems with aspects of this legislation. If the Minister gets time to respond, I urge him to put his response to those issues on the record. We want a planning system that is compliant with our international EU obligations, gives adequate access to participation from the public and ensures that as we are developing public infrastructure, economic opportunity or residential development, we do so in a way that is consistent with good environmental practice and meeting our climate change obligations, which is something I am sure the Minister agrees with. I urge him to address those two specific concerns but also to give a commitment that we will not be in this House again this time next year, with half an hour to discuss complex and profound changes to planning that could have unintended consequences because of the lack of adequate scrutiny."

Minister D.O'Brien's response:

"Other matters have been raised with regard to the Aarhus Convention and legal advice. I assure Deputies that, as those who attended the briefings will be aware, **the Attorney General was personally involved in the drafting of this legislation.** There are other matters to which we will return in the autumn."

Leas Ceann Comhairle

"The time permitted for the debate having expired, I am required to put the following question in accordance with an order of the Dáil of 6 July: "That, in respect of each of the sections undisposed of, the section is hereby agreed to in Committee, the Preamble and the Title are hereby agreed to in Committee, the Bill is accordingly reported to the House without amendment, Fourth Stage is hereby completed and the Bill is hereby passed.""