Changes to Legislation: as of 14 June 2024, there are changes to this Act which have not been implemented by the Revised Acts editorial team, see highlighted entries **here**. Note that some amendments may not be in force until commenced by a commencement order or other provision.

Number 30 *of* 2000

PLANNING AND DEVELOPMENT ACT 2000

REVISED

Updated to 17 May 2024

This Revised Act is an administrative consolidation of the *Planning and Development Act 2000*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Employment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Act 2024* (14/2024), enacted 9 May 2024, and all statutory instruments up to and including the *Planning and Development (Fees for Certain Applications) Regulations 2024* (S.I. No. 226 of 2024), made 17 May 2024, were considered in the preparation of this Revised Act.

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Number 30 *of* 2000

PLANNING AND DEVELOPMENT ACT 2000

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REASONS FOR THE REFUSAL OF PERMISSION WHICH EXCLUDE COMPENSATION

FIFTH SCHEDULE

CONDITIONS WHICH MAY BE IMPOSED, ON THE GRANTING OF PERMISSION TO DEVELOP LAND, WITHOUT COMPENSATION

SIXTH SCHEDULE

ENACTMENTS REPEALED

SEVENTH SCHEDULE

INFRASTRUCTURE DEVELOPMENTS FOR THE PURPOSES OF SECTIONS 37A AND 37B

EIGHTH SCHEDULE

CLASSES OF DEVELOPMENT SPECIFIED FOR PURPOSES OF CHAPTER III OF PART XXI

NINTH SCHEDULE

PART I

Relevant provisions for purposes of section 309

PART II

Relevant provisions for purposes of section 312

PART III

Relevant provisions for purposes of section 313

ACTS REFERRED TO

Acquisition of Land (Assessment of Compensation) Act, 1919	9 & 10 Geo. c. 5
Air Pollution Act, 1987	1987, No. 6
Capital Acquisitions Tax Act, 1976	1976, No. 8
Casual Trading Act, 1995	1995, No. 19
City and County Management (Amendment) Act, 1955	1955, No. 12
Civil Service Regulation Act, 1956	1956, No. 46
Companies Act, 1963	1963, No. 33
Companies Act, 1990	1990, No. 33
Companies Acts, 1963 to 1999	
County Management Acts, 1940 to 1994	
Derelict Sites Act, 1990	1990, No. 14
Dublin Docklands Development Authority Act, 1997	1997, No. 7
Environmental Protection Agency Act, 1992	1992, No. 7
Ethics in Public Office Act, 1995	1995, No. 22
European Communities Act, 1972	1972, No. 27
European Parliament Elections Act, 1997	1997, No. 2
Foreshore Act, 1933	1933, No. 12
Foreshore Acts, 1933 to 1998	
Freedom of Information Act, 1997	1997, No. 13
Harbours Act, 1946	1946, No. 9
Health Act, 1970	1970, No. 1
Holidays (Employees) Act, 1973	1973, No. 25
Housing Act, 1966	1966, No. 21
Housing Act, 1988	1988, No. 28
Housing Acts, 1966 to 1998	
Housing (Miscellaneous Provisions) Act, 1992	1992, No. 18
Housing of the Working Classes Act, 1890	53 & 54 Vict. c. 70
Housing (Traveller Accommodation) Act, 1998	1998, No. 33
Land Reclamation Act, 1949	1949, No. 25
Landlord and Tenant Acts, 1967 to 1994	
Lands Clauses Consolidation Act, 1845	8 Vict. c. 18
Local Authorities (Officers and Employees) Act, 1926	1926, No. 39
Local Government Act, 1925	1925, No. 5
Local Government Act, 1941	1941, No. 23
Local Government Act, 1946	1946, No. 24

Local Government Act, 1955	1955, No. 9
Local Government Act, 1991	1991, No. 11
Local Government Act, 1994	1994, No. 8
Local Government (Ireland) Act, 1898	61 & 62 Vict. c. 37
Local Government (No. 2) Act, 1960	1960, No. 40
Local Government (Planning and Development) Act, 1963	1963, No. 28
Local Government (Planning and Development) Act, 1976	1976, No. 20
Local Government (Planning and Development) Act, 1982	1982, No. 21
Local Government (Planning and Development) Act, 1983	1983, No. 28
Local Government (Planning and Development) Act, 1990	1990, No. 11
Local Government (Planning and Development) Act, 1992	1992, No. 14
Local Government (Planning and Development) Act, 1993	1993, No. 12
Local Government (Planning and Development) Act, 1998	1998, No. 9
Local Government (Planning and Development) Act, 1999	1999, No. 17
Local Government (Planning and Development) Acts, 1963 to 1999	
Local Government (Sanitary Services) Act, 1962	1962, No. 26
Local Government (Sanitary Services) Act, 1964	1964, No. 29
Local Government (Sanitary Services) Act, 1878 to 1995	
Local Government (Water Pollution) Act, 1977	1977, No. 1
Mines and Quarries Act, 1965	1965, No. 7
Ministers and Secretaries (Amendment) Act, 1956	1956, No. 21
National Monuments Acts, 1930 to 1994	
National Monuments (Amendment) Act, 1987	1987, No. 17
Petty Sessions (Ireland) Act, 1851	14 & 15 Vict. c. 93
Property Values (Arbitration and Appeals) Act, 1960	1960, No. 45
Public Health (Ireland) Act, 1878	41 & 42 Vict. c. 52
Registration of Title Act, 1964	1964, No. 16
Roads Act, 1993	1993, No. 14
Roads Acts, 1993 and 1998	
Roads (Amendment) Act, 1998	1998, No. 23
State Property Act, 1954	1954, No. 25
Town and Regional Planning Act, 1934	1934, No. 22
Urban Renewal Act, 1998	1998, No. 27
Vocational Education Act, 1930	1930, No. 29
Waste Management Act, 1996	1996, No. 10
Water Supplies Act, 1942	1942, No. 1
Waterworks Clauses Act, 1847	10 & 11 Vict. c. 17
Wildlife Act, 1976	1976, No. 39

Number 30 *of* 2000

PLANNING AND DEVELOPMENT ACT 2000

REVISED

Updated to 17 May 2024

AN ACT TO REVISE AND CONSOLIDATE THE LAW RELATING TO PLANNING AND DEVELOPMENT BY REPEALING AND RE-ENACTING WITH AMENDMENTS THE LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS, 1963 TO 1999; TO PROVIDE, IN THE INTERESTS OF THE COMMON GOOD, FOR PROPER PLANNING AND SUSTAINABLE DEVELOPMENT INCLUDING THE PROVISION OF HOUSING; TO PROVIDE FOR THE LICENSING OF EVENTS AND CONTROL OF FUNFAIRS; TO AMEND THE ENVIRONMENTAL PROTECTION AGENCY ACT, 1992, THE ROADS ACT, 1993, THE WASTE MANAGEMENT ACT, 1996, AND CERTAIN OTHER ENACTMENTS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH. [28*th August*, 2000]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Functions transferred and references to "Cathaoirleach" or "Cathaoirligh", "Leas-Chathaoirleach", "chief executive" and "deputy chief executive" construed (16.05.2024) by *Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024* (7/2024), ss. 10, 23, 25, 26, 28 and sch. 1 parts 1, 2, S.I. No. 207 of 2024.

Functions of Mayor

10. (1) All functions (other than functions conferred by or under an enactment specified in Part 1 of Schedule 1) that, immediately before the vesting day, vested in the Cathaoirleach of Limerick City and County Council shall, on and after that day, vest in the Mayor.

(2) All functions (other than functions conferred by or under an enactment specified in Part 2 of Schedule 1) that, immediately before the vesting day, vested in the chief executive of Limerick City and County Council shall, on and after that day, vest in the Mayor.

(3) From the vesting day, a reference in any enactment (other than an enactment specified in Part 1 of Schedule 1) to Cathaoirleach shall, in so far as the reference applies to the Cathaoirleach of Limerick City and County Council, be construed as a reference to the Mayor, or as including a reference to the Mayor, as the context requires.

(4) From the vesting day, a reference in any enactment (other than an enactment specified in Part 2 of Schedule 1) to chief executive shall, in so far as that reference applies to the chief executive of Limerick City and County Council, be construed as a reference to the Mayor, or as including a reference to the Mayor, as the context requires.

(5) This section shall apply subject to the modifications of the Principal Act specified in Schedule 3.

...

Functions of Príomh Chomhairleoir

23. (1) All functions conferred by or under an enactment specified in Part 1 of Schedule 1 that, immediately before the vesting day, vested in the Cathaoirleach of Limerick City and County Council shall, on and after that day, vest in the Príomh Chomhairleoir.

(2) From the vesting day, a reference in an enactment specified in Part 1 of Schedule 1 to Cathaoirleach or Cathaoirligh shall, in so far as that reference applies to the Cathaoirleach of Limerick City and County Council, be construed as a reference to the Príomh Chomhairleoir, or as including a reference to the Príomh Chomhairleoir, as the context may require.

(3) This section shall apply subject to the modifications of the Principal Act specified in Schedule 3.

...

Functions of Leas-Phríomh Chomhairleoir

25. (1) All functions conferred by or under any enactment that, immediately before the vesting day, vested in the Leas-Chathaoirleach of Limerick City and County Council shall, on and after that day, vest in the Leas-Phríomh Chomhairleoir.

(2) From the vesting day, a reference in any enactment to Leas-Chathaoirleach shall, in so far as that reference applies to the Leas-Chathaoirleach of Limerick City and County Council, be construed as a reference to the Leas-Phríomh Chomhairleoir, or as including a reference to the Leas-Phríomh Chomhairleoir, as the context may require.

(3) This section shall apply subject to the modifications of the Principal Act specified in Schedule 3.

Director general

26. (1) The chief executive of Limerick City and County Council shall, on and after the vesting day, be known as the director general of Limerick City and County Council and is in this Act referred to as the "director general".

(2) The person who, immediately before the vesting day, was the chief executive of Limerick City and County Council shall, on and after that day, continue in office and be referred to in accordance with subsection (1).

(3) On and after the vesting day, a reference in an enactment specified in Part 2 of Schedule 1 to chief executive shall, in so far as that reference applies to the chief executive of Limerick City and County Council, be construed as a reference to the director general, or as including a reference to the director general, as the context may require.

(4) This section shall apply subject to the modifications of the Principal Act specified in Schedule 3.

...

Deputy director general

28. (1) On and after the vesting day, a deputy chief executive appointed by the director general under section 148 of the Principal Act shall be known as the deputy director general of Limerick City and County Council and is, in this Act, referred to as the "deputy director general".

(2) The person who, immediately before the vesting day, was the deputy chief executive of Limerick City and County Council shall, on and after that day, continue in office and be referred to in accordance with subsection (1).

(3) On and after the vesting day, a reference in any enactment to deputy chief executive shall, in so far as the reference applies to the deputy chief executive of Limerick City and County Council, be construed as a reference to the deputy director general, or as including a reference to the deputy director general, as the context may require.

(4) This section shall apply subject to the modifications of the Principal Act specified in Schedule 3.

...

SCHEDULE 1

PART 1

Enactments for Purposes of Sections 10 and 23

Number and Year (1)	Provision (2)	Extent of Modification (3)
No. 37 of 2001	Local Government Act 2001	Sections 11(5)(b), 11(8), 31(4)(a), 31(5), 31(7), 31(9), 31(11), 33, 34(2)(e), 36, 37, 38, 104(7)(a), 133(6)(a), 134(4)(b), 140(8), 141(1)(b), 141(4), 142(2)(a), 142(5)(f), 143(1), 147, 148, 158(3), 174(8), 178(2)(b), 178(5), 180(3)(a), 189(9), 190(9), 216(2)(a), 219(1) and 220(1); paragraphs 3(4), 4(2), 4(3), 6(1), 6(2), 6(3), 7(9), 10, 13(5)(e), 13(6) and 16(4)(c) of Schedule 10; paragraph 3 of Schedule 14.

PART 2

Enactments for Purposes of Sections 10 and 26

Number and Year (1)	Short Title (2)	Provision (3)
...	...	...
No. 30 of 2000	Planning and Development Act 2000	Sections 5, 7, 8, 18(3), 22, 31I(3), 31AI(4), 31AW(2), 57, 59, 60, 61, 69, 70, 71 to 79, 82, 83, 87, 88, 89, 90, 96, 96B, 97, 101, 147, 148, 170, 178, 178A, 179A, 180, 182, 206, 208, 209, 216, 217, 217B, 219, 247, 248, 249, 252, 254, 261 and 261A; Part III; Chapters III and IV of Part VI; Parts VIII, X, XA, XII, XVI, XVII and XXI.
...	...	...

C2 Application of Act other than ss. 50, 50A, and 50B restricted (23.05.2023) by *European Union (Planning and Development) (Development for Accommodation of Displaced Persons) Regulations 2023* (S.I. No. 251 of 2023).

3. The Act of 2000, other than sections 50, 50A, and 50B, shall not apply to the development described in the Schedule proposed to be carried out, for the purposes of providing accommodation to displaced persons, on behalf of the Minister for Children, Equality, Disability, Integration and Youth.

SCHEDULE

Part 1

Site: Columb Barracks

Address: Ashe Road, Mullingar, Co. Westmeath.

...

C3 Application of Act other than s. 181 restricted (16.05.2023) by *Planning and Development (Section 181) Regulations 2023* (S.I. No. 243 of 2023).

3. The Planning and Development Act 2000 (other than section 181) shall not apply to the classes of development specified in the Schedule carried out by, or on behalf of, a State authority during the relevant period.

SCHEDULE

Classes of development to which Planning and Development Act 2000 (other than section 181) shall not apply:

temporary weather radar station by or on behalf of the Minister for Housing, Local Government and Heritage.

C4 Application of Act restricted (11.11.2022) by *Development (Emergency Electricity Generation) Act 2022* (35/2022), s. 3, S.I. No. 564 of 2022.

Disapplication of Planning and Development Act 2000 to designated development

3. None of the provisions of the Planning and Development Act 2000 shall apply to the designated development.

C5 Application of Act restricted (23.06.2022) by *European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulations 2022* (S.I. No. 306 of 2022), reg. 3 and sch.

3. (1) The Act of 2000 (other than sections 181A to 181C) shall not apply to the classes of development specified in the Schedule carried out by, or on behalf of, a State authority during the relevant period for the purposes of providing temporary protection to displaced persons.

(2) A reference to "proposed development" in sections 181A to 181C of the Act of 2000 shall include a reference to development of a class specified in the Schedule to which section 181A(1) of the Act of 2000 would apply if it was development of a class specified in regulations made under section 181(1)(a) of the Act of 2000.

SCHEDULE

Article 3

1. Reception and integration facilities.

2. Residential accommodation, including ancillary recreational and sporting facilities.

3. Medical and other health and social care accommodation.

4. Education and childcare facilities, including ancillary recreational and sporting facilities.

5. Emergency management coordination facilities.

6. Structures or facilities ancillary to development referred to in paragraphs 1 to 5, including administration and storage facilities.

7. Infrastructure and other works ancillary to development referred to in paragraphs 1 to 6.

C6 Application of Act restricted (27.03.2020 for relevant period) by *Planning and Development Act 2000 (Section 181) Regulations 2020* (S.I. No. 93 of 2020).

2. In these Regulations "relevant period" means the period commencing on the making of these Regulations and ending on the day on which Part 3 of the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 (No. 1 of 2020) ceases to have effect by virtue of subsection (3) of section 2 of that Act.

3. The Planning and Development Act 2000 (other than section 181) shall not apply to the classes of development specified in the Schedule carried out by, or on behalf of, a State authority during the relevant period.

SCHEDULE

Classes of development to which Planning and Development Act 2000 (other than section 181) shall not apply

acute and other health and social care accommodation

self-isolation or other Covid-19 related short stay accommodation

Covid-19 and other step down accommodation

medical testing centre or laboratory

emergency management coordination facilities

mortuary facilities

ancillary and other accommodation including storage facilities

ancillary infrastructure and other works to support the above development

C7 Application of Act extended (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 20(2), S.I. No. 403 of 2019.

Noise insulation scheme

20. ...

(2) Subject to subsection (3), on and after the relevant day, a scheme shall be deemed to be a noise mitigation measure introduced by the competent authority and the provisions of this Act and the Act of 2000 shall, with all necessary modifications, apply to the scheme accordingly.

(3) On and after the relevant day, the competent authority shall ensure that the scheme applies to all homes located within the relevant noise contours.

C8 Certain functions transferred to Cork City Council as a result of the Cork City and Council areas boundary alteration (31.01.2019) by *Local Government Act 2019* (1/2019), s. 31, S.I. No. 20 of 2019.

Planning applications and development contribution schemes

31. (1) For the purposes of the Act of 2000 or any instrument under that Act and subject to subsection (2), the county council shall, after the transfer day, be the planning authority in relation to any planning application made before the transfer day in respect of development or proposed development in the relevant area.

(2) (*a*) Subject to paragraph (b), the functions of a planning authority under the Act of 2000 shall, as respects—

(i) a decision under section 34 of that Act, or

(ii) a determination under section 37 of that Act,

made before the transfer day in relation to development or proposed development in the relevant area, be performable from that day by the city council.

(3) Any contribution—

(*a*) paid before the transfer day in accordance with section 49 of the Act of 2000 for the purpose of any public infrastructure service or project in the relevant area, and

(*b*) vested in the city council under Part 2,

shall be expended by the city council for that purpose.

(4) Any development contribution scheme under section 48 of the Act of 2000 or supplementary development contribution scheme under section 49 of that Act made by the city council shall, from the transfer day, apply to the relevant area as it applies to the rest of the functional area of the city council.

...

C9 Application of collectively cited *Planning and Development Acts 2000 to 2016* restricted (3.07.2017) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 4(1), S.I. No. 270 of 2017.

Strategic housing developments and planning applications

4. (1) Subject to *subsection (4)*, during the specified period and notwithstanding anything to the contrary contained in any other provision of the *Planning and Development Acts 2000* to *2016*—

(*a*) an application for permission for a strategic housing development shall—

(i) be made to the Board under this section and not to a planning authority, other than an application for permission, the purpose of which is as set out in section 34(3A) of the Act of 2000,

(ii) be so made only where *section 6(7)(b)* applies or, in the case that a request is made under *section 7(1)*, when the Board has complied with the request pursuant to *section 7(2)*,

(iii) be so made only where the applicant for permission has fulfilled the requirements set out in *section 8*,

(iv) be in such form and contain such information as is prescribed, and

(v) be accompanied by the appropriate fee,

and

(*b*) a copy of the application, shall be sent by the applicant to the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated.

...

C10 Certain functions of Board restricted (3.07.2017) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 11(3), S.I. No. 270 of 2017.

Strategic Housing Division

11. ...

(3) The Strategic Housing Division shall, subject to *subsections (8)*, *(9)* and *(10)*, determine any matter falling to be determined by the Board under the *Planning and Development Acts 2000 to 2016* in relation to strategic housing development other than development to which *section 4 (4)* relates.

...

C11 Act applied with modifications (8.02.2016) by *Dublin Transport Authority Act 2008* (15/2008), s. 44(6)(iii), as substituted by *Public Transport Act 2016* (3/2016), s. 1(b)(iii), commenced on enactment.

Functions of Authority in relation to public transport infrastructure

44. —...

[(6) Where —

(*a*) a decision is made by the Authority under subsection (2)(b) or (5)(a) for the performance of a particular function otherwise than through a public transport authority or statutory body, or

(*b*) the Authority is performing its function of securing the provision of public transport infrastructure in accordance with subsection (2)(e),

the following provisions have effect —

(i) the Authority shall be empowered (notwithstanding any other enactment) to perform the function, including the acquisition of land for that purpose, and to do any other thing which arises out of or is consequential on or is necessary for the purposes of or would facilitate the performance of the function,

(ii) for the purpose of paragraph (a) or (b), land may be acquired by agreement or by means of a compulsory purchase order made by the Authority in accordance with Part XIV of the Act of 2000,

(iii) the provisions of any enactment concerned apply in relation to the performance of the function subject to such modifications as may be necessary and as if the Authority was named in such enactment in each place where a public transport authority or other statutory body entitled to exercise the function is named, and

...]

C12 Functions to be performed by municipal district members and local authorities prescribed (1.06.2014) by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A parts 1-3, as inserted by *Local Government Reform Act 2014* (1/2014), s. 21(4) and sch. 3, S.I. No. 214 of 2014.

SCHEDULE 14A

Section 131 and 131A

PART 1

Reserved Functions to be Performed, Subject to Section 131A(4), by Municipal District Members

Reference No. (1)	Description of reserved function (2)	Provision under which reserved function is conferred (3)
...	...	...
30	Making, or refusing to make, or revocation or amendment of, a tree preservation order.	Section 205 of the Act of 2000.
...	...	...

PART 2

Reserved Functions that May be Performed under Section 131A(1) (b) in Respect of a Municipal District by Municipal District Members or the Local Authority

Reference No. (1)	Description of reserved function (2)	Provision under which reserved function is conferred (3)
...	...	...
11	Approving a proposal of the chief executive to grant permission for the development of land which would contravene materially the development plan or local area plan.	Section 34 (as amended by Schedule 2 to the Local Government Reform Act 2014) of the Act of 2000.
12	A decision in relation to the making, amendment or revocation of a local area plan within the meaning of the Act of 2000.	Section 20 (as amended by section 9 of the Planning and Development (Amendment) Act 2002 and section 13 of the Planning and Development (Amendment) Act 2010) of the Act of 2000.
13	The making of an addition to, or a deletion from, a record of protected structures to which Part IV of the Act of 2000 relates.	Section 54 of the Act of 2000.
14	Approving, amending or revoking a special planning control scheme.	Section 85 and 86 of the Act of 2000.
15	Deciding to vary or modify a proposed local authority own development, or deciding not to proceed with the development.	Section 179 of the Act of 2000.

16	Making, or refusing to make an order creating a public right of way over any land.	Section 207 of the Act of 2000.
17	Deciding to vary or modify, or not to proceed with, an event proposed to be carried out by a local authority.	Section 238 of the Act of 2000.
...	...	...

PART 3

Reserved Functions to be Performed by the Local Authority

Reference No. (1)	Description of reserved function (2)	Provision under which reserved function is conferred (3)
...	...	...
32	Making an order to declare an area to be an area of special amenity.	Section 202 of the Act of 2000.
33	Making, or refusing to make, or revocation or amendment of, an order designating any area or place as a landscapeconservation area.	Section 204 of the Act of 2000.
...	...	...
52	The making and amending of a scheme which determines the order of priority for allocation of affordable houses provided under Part V of the Planning and Development Act 2000 .	Section 98 of the Act of 2000.
...	...	...
69	The making of a development plan and making or refusing to make a variation of a development plan which for the time being is in force.	Sections 9, 12 and 13 of the Act of 2000.

70	The revocation or modification of a permission to develop land if the development to which the permission relates no longer conforms with the provisions of the development plan.	Section 44 of the Act of 2000.
71	Making a development contribution scheme.	Section 48 of the Act of 2000.
72	Making or amending a supplementary development contribution scheme.	Section 49 of the Act of 2000.
73	Deciding to make, subject to variations and modifications, or deciding not to make a draft planning scheme for strategic development zones.	Section 169 (as amended by section 51 of the Planning and Development (Amendment) Act 2010) of the Act of 2000.
74	Amending or revoking a planning scheme for strategic development zones.	Section 171 of the Act of 2000.
75	Adoption by a planning authority of a code of conduct for dealing with conflicts of interest and promoting public confidence in the integrity of the conduct of its business.	Section 150 of the Act of 2000.
76	Making or terminating of an agreement by two or more planning authorities for sharing the cost of performing functions under the Planning and Development Act 2000 .	Section 244 of the Act of 2000.
...	...	...

C13 References to a "sanitary authority" construed as "Irish Water" (1.01.2014) by *Water Services (No. 2) Act 2013* (50/2013), ss. 6, 7(4), S.I. No. 575 of 2013.

Transfer day

6.— The Minister shall, by order, appoint a day to be the transfer day for the purposes of this Act.

Transfer of functions from water service authorities to Irish Water

7.— ...

(4) References to a sanitary authority in any enactment or instrument under any enactment shall, on and after the transfer day, in so far as they relate to any function transferred by subsection (3), be construed as references to Irish Water.

...

C14 References to "county council", "city council", "town council" and "regional assemblies" construed (1.06.2014) by *Local Government Reform Act 2014* (1/2014), ss. 9(2), 25(2) and 62(2), S.I. No. 214 of 2014.

Cesser and amalgamation of certain local government areas

9.— ...

(2) Except where otherwise provided for by this Act, a reference, however expressed, in any enactment—

(*a*) to a county council or a city council (including a reference construed by section 3(2) of, and Schedule 2 to, the Principal Act as a reference to a county council or to a city council, as the case may be) shall, if the context permits, be read as a reference to a county council, a city council or a city and county council, and

(*b*) to a county council and a city council (including a reference so construed) shall, if the context permits, be read as a reference to a county council, a city council and a city and county council.

...

Dissolution of town councils — consequential provisions

25.— ...

(2) A function of a town council (including a reference construed by section 3(2) of, and Schedule 2 to, the Principal Act as a reference to a town council and whether of general application to town councils or otherwise under an enactment) that—

(*a*) has not been repealed or otherwise provided for by this Act, or

(*b*) is neither spent nor obsolete,

shall, if the context permits in respect of one or more than one town council concerned, be read as a reference to a function of the local authority in whose administrative area the town council so dissolved is situated.

...

Regional assemblies

62.— ...

(2) The bodies established by the Local Government Act 1991 (Regional Authorities) (Establishment) Order 1999 (S.I. No. 226 of 1999) which are subsisting at the commencement of this section shall upon such commencement continue in being until dissolved or replaced under a provision of an establishment order and be known or continue to be known, as the case may be, as regional assemblies and accordingly—

(*a*) subject to paragraph (b) that order shall continue to apply to each of them as it applied before such commencement and that order may be amended or revoked under this section,

(*b*) references in any enactment to regional authorities within the meaning of section 43 (as amended by this Act) of the Local Government Act 1991 shall, where the context admits, be read as references to regional assemblies,

...

C15 Application of Act extended (29.03.2013) by *Water Services Act 2013* (6/2013), s. 21(2), S.I. No. 108 of 2013.

Installation of pipes.

21.— ...

(2) For the avoidance of doubt, the provisions of the Planning and Development Act 2000 shall apply to a metering authority as, by virtue of subsection (12) of section 41 of the Act of 2007, they apply to a water services authority.

C16 Provision made as to costs of proceedings under Act (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), ss. 3, 4, 6, 7, S.I. No. 433 of 2011, art. 2(a).

Costs of proceedings to be borne by each party in certain circumstances.

3.— (1) Notwithstanding anything contained in any other enactment or in— ...

and subject to *subsections (2)*, *(3)* and *(4)*, in proceedings to which this section applies, each party (including any notice party) shall bear its own costs.

(2) The costs of the proceedings, or a portion of such costs, as are appropriate, may be awarded to the applicant, or as the case may be, the plaintiff, to the extent that he or she succeeds in obtaining relief and any of those costs shall be borne by the respondent, or as the case may be, defendant or any notice party, to the extent that the acts or omissions of the respondent, or as the case may be, defendant or any notice party, contributed to the applicant, or as the case may be, plaintiff obtaining relief.

(3) A court may award costs against a party in proceedings to which this section applies if the court considers it appropriate to do so—

(*a*) where the court considers that a claim or counter-claim by the party is frivolous or vexatious,

(*b*) by reason of the manner in which the party has conducted the proceedings, or

(*c*) where the party is in contempt of the court.

(4) *Subsection (1)* does not affect the court's entitlement to award costs in favour of a party in a matter of exceptional public importance and where in the special circumstances of the case it is in the interests of justice to do so.

(5) In this section a reference to "court" shall be construed as, in relation to particular proceedings to which this section applies, a reference to the District Court, the Circuit Court, the High Court or the Supreme Court, as may be appropriate.

C17 Application of Act restricted (24.12.2006) by *Energy (Miscellaneous Provisions) Act 2006* (40/2006), s. 22(4), (5) and (6), commenced on enactment.

Certain development approvals under Part XI of Planning and Development Act 2000.

22.— ...

(4) Nothing in section 182C or any other provision of the Act of 2000 shall be read as meaning that, notwithstanding the permission granted under section 34 of the Act of 2000 in respect of that terminal before such commencement, a permission—

(*a*) under section 34 or 37G of the Act of 2000, and

(*b*) granted after the commencement of the amendments of that Act made by the Act of 2006,

is required, either in circumstances generally or in the circumstances referred to in subsection (5), in respect of the terminal referred to in *subsection (6)*.

(5) The circumstances mentioned in *subsection (4)* are that an application is made under section 182C in relation to a development which, if it is carried out, will consist of the alteration or modification of the terms of the strategic gas infrastructure development referred to in *subsection (6)* other than the terms of that development that comprise the terminal referred to in that subsection.

(6) The terminal mentioned in *subsections (4)* and *(5)* is a terminal comprised in a strategic gas infrastructure development (within the meaning of the Act of 2000) the pipeline comprised in which development has been the subject of a consent referred to in *subsection (3)(iii)(I)*.

C18 Application of Act restricted by *Environmental Protection Agency Act 1992* (7/1992), s. 99F(1) as substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 15, S.I. No. 393 of 2004.

[Application of other Acts.

99F.—(1) Notwithstanding section 34 of the Act of 2000, or any other provision of that Act, where a licence or revised licence under this Part has been granted or is or will be required in relation to an activity, a planning authority or An Bord Pleanála shall not, where it decides to grant a permission under section 34 of that Act in respect of any development comprising or for the purposes of the activity, subject the permission to conditions which are for the purposes of—

(*a*) controlling emissions from the operation of the activity, including the prevention, elimination, limitation, abatement, or reduction of those emissions, or

(*b*) controlling emissions related to or following the cessation of the operation of the activity.

...**]**

C19 Powers and functions in relation to Act transferred (10.07.2002) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2002* (S.I. No. 356 of 2002), arts. 3, 4(1) and sch. part 1.

3. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 4 of this Order are transferred to the Department of the Environment and Local Government.

(2) References to the Department of Community, Rural and Gaeltacht Affairs contained in any Act or instrument made thereunder and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of the Environment and Local Government.

4. (1) The functions vested in the Minister for Community, Rural and Gaeltacht Affairs —

(*a*) by or under any of the instruments or the provisions of the enactments mentioned in Part 1 of the Schedule to this Order,

(*b*) under the Regulations mentioned in Part 2 of that Schedule, and ...

are transferred to the Minister for the Environment and Local Government.

...

Schedule Part 1

Enactments and provisions of enactments, functions under which are transferred from the Minister for Community, Rural and Gaeltacht Affairs to the Minister for the Environment and Local Government

...

Planning and Development Act 2000 (No. 30 of 2000) (in so far as it relates to or refers to the Minister for Community, Rural and Gaeltacht Affairs (except section 33 (3)(c)))

...

Part 2

Regulations, functions under which are transferred from the Minister for Community, Rural and Gaeltacht Affairs to the Minister for the Environment and Local Government

Planning and Development Regulations 2001 (S.I. No. 600 of 2001) (in so far as they relate to or refer to the Minister for Community, Rural and Gaeltacht Affairs (except Article 28 (1)(n) Article 82 (3)(m), Article 121 (1)(m) and Article 179 (2)(p)))

...

C20 Application of Act restricted (23.12.2001) by *Transport (Railway Infrastructure) Act 2001* (55/2001), s. 39(4), commenced on enactment, as substituted (1.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 49(b), S.I. No. 684 of 2006.

[Environmental impact statement.

39.— ...

(4) The European Communities (Environmental Impact Assessment) Regulations 1989 to 2005 and the Act of 2000 and any regulation made thereunder in relation to environmental impact assessment shall not apply to anything done under an order made under this Act.**]**

Editorial Notes:

E1 Act designated a relevant enactment for purposes of calculation of emergency periods in relation to specified periods in Act and power to make emergency period orders provided (19.12.2020) by *Planning and Development, and Residential Tenancies, Act 2020* (27/2020), s. 5(9)(c), commenced on enactment.

E2 Functions of Board under collectively cited *Planning and Development Acts 2000 to 2016* in relation to certain developments assigned to Strategic Housing Division (3.07.2018) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 11(3), (8), (9) and (10), S.I. No. 270 of 2017.

E3 Conditions, restrictions and other procedures in relation to the performance of reserved function by municipal district members forming part of an elected council provided (1.06.2014) by *Local Government (Performance of Reserved Functions in Respect of Municipal District Members) Regulations 2014* (S.I. No. 231 of 2014).

E4 Provision made to ensure measures are taken to secure appropriate provision for the management of waste by planning authorities and An Bord Pleanála in performing their functions under collectively cited *Planning and Development Acts 2000 to 2002* by *Waste Management Act 1996* (10/1996), s. 10D as inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 26, S.I. No. 393 of 2004.

E5 Previous affecting provision: functions under Act made subject to presumption of corruption (9.07.2001) by *Prevention of Corruption (Amendment) Act 2001* (27/2001), s. 4(1) and (2)(c), commenced on enactment; repealed (30.07.2018) by *Criminal Justice (Corruption Offences) Act 2018* (9/2018), s. 4 and sch. 2, S.I. No. 298 of 2018.

PART I

Preliminary and General

Short title.

1.—This Act may be cited as the Planning and Development Act, 2000.

F1**[**Legal acts of the European Union given effect to by this Act.

1A.—Effect or further effect, as the case may be, is given by this Act to an act specified in the Table to this section, adopted by an institution of the European Union or, where appropriate, to part of such an act.

TABLE

Council Directive 75/440 EEC of 16 June 1975[1] concerning the quality required of surface water intended for the abstraction of drinking water in the Member States

Council Directive 79/409/EEC of 2 April 1979[2] on the conservation of wild birds

Environmental Impact Assessment Directive

Council Directive 91/271/EEC of 21 May 1991[3] concerning urban waste-water treatment

Habitats Directive

[1] O.J. No. L194, 25.7.1975 p. 26-31
[2] O.J. No. L103, 25.4.1979 p. 1-18
[3] O.J. No. L135, 30.5.1991 p. 40-52

Major Accidents Directive

Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000[4] establishing a framework for Community action in the field of water policy

Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001[5] on the assessment of the effects of certain plans and programmes on the environment

Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003[6] on public access to environmental information and repealing Council Directive 90/313/EC

Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003[7] providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC

Directive 2006/11/EC of the European Parliament and of the Council of 15 February 2006[8] on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community

Birds Directive**]**

Annotations

Amendments:

F1 Inserted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 3, S.I. No. 405 of 2010.

Interpretation.

2.—(1) In this Act, except where the context otherwise requires—

"acquisition of land" shall be construed in accordance with *section 213(2)*, and cognate words shall be construed accordingly;

"the Act of 1919" means the Acquisition of Land (Assessment of Compensation) Act, 1919;

F2**[**"Act of 1933" means the Foreshore Act 1933;**]**

"the Act of 1934" means the Town and Regional Planning Act, 1934;

"the Act of 1963" means the Local Government (Planning and Development) Act, 1963;

"the Act of 1976" means the Local Government (Planning and Development) Act, 1976;

"the Act of 1982" means the Local Government (Planning and Development) Act, 1982;

"the Act of 1983" means the Local Government (Planning and Development) Act, 1983;

"the Act of 1990" means the Local Government (Planning and Development) Act, 1990;

[4] O.J. No. L327, 22.12.2000 p. 1
[5] O.J. No. L197, 21.7.2001 p. 30
[6] O.J. No. L41, 14.2.2003 p. 26
[7] O.J. No. L156, 25.6.2003 p. 17
[8] O.J. No. L64 4.3.2006 p. 52

"the Act of 1992" means the Local Government (Planning and Development) Act, 1992;

"the Act of 1993" means the Local Government (Planning and Development) Act, 1993;

"the Act of 1998" means the Local Government (Planning and Development) Act, 1998;

"the Act of 1999" means the Local Government (Planning and Development) Act, 1999;

F3**[**"Act of 2001" means the Transport (Railway Infrastructure) Act 2001;

"Act of 2006" means the Planning and Development (Strategic Infrastructure) Act 2006;

"Act of 2007" means the Water Services Act 2007;

"Act of 2008" means the Dublin Transport Authority Act 2008;

"Act of 2010" means the Planning and Development (Amendment) Act 2010;**]**

F3**[**"adaptation to climate change" means the taking of measures to manage the impacts of climate change;**]**

"advertisement" means any word, letter, model, balloon, inflatable structure, kite, poster, notice, device or representation employed for the purpose of advertisement, announcement or direction;

"advertisement structure" means any structure which is a hoarding, scaffold, framework, pole, standard, device or sign (whether illuminated or not) and which is used or intended for use for exhibiting advertisements or any attachment to a building or structure used for advertising purposes;

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and "agricultural" shall be construed accordingly;

F3**[**"allotment" means an area of land comprising not more than 1,000 square metres let or available for letting to and cultivation by one or more than one person who is a member of the local community and lives adjacent or near to the allotment, for the purpose of the production of vegetables or fruit mainly for consumption by the person or a member of his or her family;**]**

"alteration" includes—

(*a*) plastering or painting or the removal of plaster or stucco, or

(*b*) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

F3**[**"anthropogenic" in relation to greenhouse gas emissions means those emissions that result from or are produced by human activity or intervention;**]**

"appeal" means an appeal to the Board;

F3**[**"appropriate assessment" shall be construed in accordance with *section 177R*;**]**

"architectural conservation area" shall be construed in accordance with *section 81(1)*;

"area of special planning control" shall be construed in accordance with *section 85(8)*;

"attendant grounds", in relation to a structure, includes land lying outside the curtilage of the structure;

F4**[**"Birds Directive" means Directive 2009/147/EC[9] of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds;**]**

"Board" means An Board Pleanála;

"chairperson" means the chairperson of the Board,

F5**[**"chief executive", in relation to a local authority, including a local authority exercising functions as a planning authority, means the chief executive appointed under Chapter 2 of Part 14 (as amended by section 54 of the Local Government Reform Act 2014) of the Local Government Act 2001;**]**

F2**[**"coastal planning authority" has the meaning assigned to it by the Maritime Area Planning Act 2021;**]**

"Commissioners" means the Commissioners of Public Works in Ireland;

"company", except in *section 149(5)*, means a company within the meaning of section 2 of the Companies Act, 1963, or a company incorporated outside the State;

F6**[**"confirmation notice" means the confirmation notice sent pursuant to article 97B(2) of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) following the entering onto the EIA portal of the information referred to in article 97A of those Regulations to which that notice relates;**]**

F3**[**"core strategy" shall be construed in accordance with *section 10* (inserted by section 7 of the Planning and Development (Amendment) Act 2010);**]**

F7**[**...**]**

"dangerous substance" has the meaning assigned to it by the Major Accidents Directive;

"deputy chairperson" means the deputy chairperson of the Board;

"development" has the meaning assigned to it by *section 3*, and "develop" shall be construed accordingly;

"development plan" means a development plan under *section 9(1)*;

F8**[**"DTA" means the body formerly known as the Dublin Transport Authority whose name was changed with effect from 1 December 2009 to the National Transport Authority pursuant to section 30 of the Public Transport Regulation Act 2009;**]**

F9**[**"EIA portal" means the website referred to in *section 172A*;**]**

F3**[**"electronic form" means information that is generated, communicated, processed, sent, received, recorded, stored or displayed by electronic means and is capable of being used to make a legible copy or reproduction of that communicated information but does not include information communicated in the form of speech and such electronic means includes electrical, digital, magnetic, optical electro-magnetic, biometric, photonic and any other form of related technology;**]**

"endangered" means exposed to harm, decay or damage, whether immediately or over a period of time, through neglect or through direct or indirect means;

"enforcement notice" means an enforcement notice under *section 154*;

F3**[**"Environmental impact assessment" has the meaning given to it by *section 171A*;

[9] O.J.No. 20, 26.1.2010 p 7-25

F10**[**"Environmental Impact Assessment Directive" means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011[3] 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 2014[4] amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment;**]]**

F11**[**"environmental impact assessment report" means a report of the effects, if any, which proposed development, if carried out, would have on the environment and shall include the information specified in Annex IV of the Environmental Impact Assessment Directive;**]**

F4**[**"European site" has the meaning given to it by *section 177R* of *Part XAB*;**]**

F12**[**"European Union" means European Union within the meaning of the European Communities Act 1972 (No. 27 of 1972);**]**

"exempted development" has the meaning specified in *section 4*;

"exhibit", in relation to an advertisement, includes affix, inscribe, print, paint, illuminate and otherwise delineate;

"existing establishment" has the meaning that it has in the Major Accidents Directive;

"fence" includes a hoarding or similar structure but excludes any bank, wall or other similar structure composed wholly or mainly of earth or stone;

F3**[**"flood risk assessment" means an assessment of the likelihood of flooding, the potential consequences arising and measures, if any, necessary to manage those consequences;**]**

F13**[**"functional area" means, in relation to a planning authority, its administrative area for the purposes of the Local Government Acts 1925 to 2014;**]**

"functions" includes powers and duties;

F14**[**"Greater Dublin Area" ("GDA") has the meaning assigned to it by section 3 of the Dublin Transport Authority Act 2008;**]**

"habitable house" means a house which—

(*a*) is used as a dwelling,

(*b*) is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict, or

(*c*) was provided for use as a dwelling but has not been occupied;

F4**[**"Habitats Directive" means Council Directive 92/43/EEC[10] of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, amended by Corrigendum to Council Directive 92/43/EEC[11] of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora amended by Act concerning the conditions of accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded[12]; Council Directive 97/62/EC[13] of 27 October 1997 adapting to technical and scientific progress Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora; Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the

[3] OJ L26, 28.1.2012, p.1
[4] OJ L24, 25.4.2014, p.1
[10] O.J.No.L206, 22.7.1992, p. 7
[11] O.J.No.L 176, 20.7.1993, p 29-30
[12] O.J. No. C241, 29.8.1994, p 21
[13] O.J.No.L305, 8.11.1997, p 42-65

Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded[14], and Council Directive 2006/105/EC[15] of 20 November 2006 adapting Directives 73/239/EEC, 74/557/EEC and 2002/83/EC in the field of environment, by reason of the accession of Bulgaria and Romania;**]**

"house" means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

F3**[**"housing strategy" means a strategy included in a development plan under *section 94*;**]**

"integrated pollution control licence" means a licence under Part IV of the Environmental Protection Agency Act, 1992;

"land" includes any structure and any land covered with water (whether inland or coastal);

F3**[**"landscape" has the same meaning as it has in Article 1 of the European Landscape Convention done at Florence on 20 October 2000;

F15**[**"large-scale residential development" means a development that includes—

(*a*) the development of 100 or more houses,

(*b*) the development of student accommodation that includes 200 or more bed spaces,

(*c*) both the development of 100 or more houses and of student accommodation, or

(*d*) both the development of student accommodation that includes 200 or more bed spaces and of houses,

where the LRD floor space of—

(i) in the case of *paragraph (a)*, the buildings comprising the houses,

(ii) in the case of *paragraph (b)*, the student accommodation,

(iii) in the case of *paragraphs (c)* and *(d)*, the buildings comprising the houses and the student accommodation,

is not less than 70 per cent, or such other percentage as may be prescribed, of the LRD floor space of the buildings comprising the development;**]]**

"local area plan" means a local area plan under *section 18*;

F16**[**"local authority" means a local authority for the purposes of the Local Government Act 2001 (as amended by the Local Government Reform Act 2014);**]**

F15**[**"LRD" means large-scale residential development;**]**

F15**[**"LRD appeal" means an appeal against a decision of a planning authority that relates to an application for permission to which *section 32A(1)* applies;**]**

F15**[**"LRD meeting" means a meeting in accordance with *sections 32B* and *32C*;**]**

F15**[**"LRD opinion" has the meaning given to it by *section 32D*;**]**

F15**[**"LRD floor space", in relation to a building or part of a building, means the area ascertained by the internal measurement of the floor space on each floor of a building

[14] O.J. No. 236, 23.9.2003, p. 33
[15] O.J. No.L363, 20.12.2006, p 368-408 and O.J. L 059, 8.3.1996, p.63

or part of a building (including internal walls and partitions), disregarding any floor space provided for—

(*a*) the parking of vehicles by persons—

(i) occupying or using the building or the part of the building,

(ii) for a purpose incidental to the primary purpose of the building or part of the building,

and

(*b*) ancillary residential services, including gyms and child-care facilities;**]**

"major accident" has the meaning assigned to it by the Major Accidents Directive;

F4**[**"Major Accidents Directive" means Council Directive 96/82/EC of 9 December 1996[16] amended by Directive 2003/105/EC of the European Parliament and Council of 16 December 2003[17];**]**

F17**[**...**]**

F2**[**"maritime area" has the meaning assigned to it by the Maritime Area Planning Act 2021;**]**

F2**[**"maritime area consent" has the meaning assigned to it by the Maritime Area Planning Act 2021;**]**

F2**[**"maritime site" means a part of the maritime area, and includes—

(*a*) the waters of that part of the maritime area,

(*b*) the seabed in that part of the maritime area, and

(*c*) all substrata beneath the seabed in that part of the maritime area;**]**

F2**[**"maritime spatial plan" has the meaning assigned to it by the Maritime Area Planning Act 2021;**]**

F2**[**"maritime spatial planning" means—

(*a*) maritime spatial planning within the meaning of Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014[26], and

(*b*) land-sea interactions within the meaning of that Directive;**]**

F18**[**"mine" means an excavation or system of excavations made for the purpose of, or in connection with, the getting, wholly or substantially by means involving the employment of persons below ground, of minerals (whether in their natural state or in solution or suspension) or products of minerals;

"minerals" includes stone, slate, clay, gravel, sand and other natural deposits except peat;**]**

"Minister" means the Minister for the Environment and Local Government;

F2**[**"National Marine Planning Framework" has the meaning assigned to it by the Maritime Area Planning Act 2021;**]**

F2**[**"national newspaper" has the meaning assigned to it by the Maritime Area Planning Act 2021;**]**

[16] O.J. No. L10, 14.1.1997 p. 13
[17] O.J.No. L345, 31.12.2003 p.97-105
[26] OJ No. L257, 28.8.2014, p. 135

F19**[**"National Spatial Strategy" means the "National Spatial Strategy: 2002 – 2020" published by the Government on 28 November 2002, or any document published by the Government which amends or replaces that Strategy;**]**

F3**[**"Natura 2000 network" has the meaning assigned to it by Article 3, paragraph 1 of the Habitats Directive;

"Natura impact statement" shall be construed in accordance with *section 177T*;

"Natura impact report" shall be construed in accordance with *section 177T*;**]**

F2**[**"nearshore area" has the meaning assigned to it by the Maritime Area Planning Act 2021;**]**

"new establishment" has the meaning that it has in the Major Accidents Directive;

F20**[**"NTA" means the National Transport Authority, being the name to which the name of the Dublin Transport Authority was changed with effect from 1 December 2009 pursuant to section 30 of the Public Transport Regulation Act 2009;**]**

F2**[**"objectives of maritime spatial planning" means—

(*a*) those matters to which the State is required, in accordance with paragraph 1 of Article 5 of Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014, to give consideration when establishing and implementing maritime spatial planning,

(*b*) those matters to which the State is required, in accordance with paragraph 2 of the said Article 5, to aim to contribute through maritime spatial plans, and

(*c*) objectives that the State is, for the time being, seeking to pursue in accordance with the second sentence of the said paragraph 2;**]**

"occupier", in relation to a protected structure or a proposed protected structure, means—

(*a*) any person in or entitled to immediate use or enjoyment of the structure,

(*b*) any person entitled to occupy the structure, and

(*c*) any other person having, for the time being, control of the structure;

F21**[**"operator" in relation to a quarry means a person who at all material times is in charge of the carrying on of quarrying activities at a quarry or under whose direction such activities are carried out;**]**

"ordinary member" means a member of the Board other than the chairperson;

F2**[**"outer maritime area" means that part of the maritime area that is not within the nearshore area of any coastal planning authority;**]**

"owner", in relation to land, means a person, other than a mortgagee not in possession, who, whether in his or her own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let;

"party to an appeal or referral" means the planning authority and any of the following persons, as appropriate—

(*a*) the appellant,

(*b*) the applicant for any permission in relation to which an appeal is made by another person (other than a person acting on behalf of the appellant),

(*c*) in the case of a referral under *section 5*, the person making the referral, and any other person notified under *subsection (2)* of that section,

(*d*) in the case of a referral under *section 34(5)*, the applicant for the permission which was granted,

(*e*) in the case of a referral under *section 37(5)*, the person who made the application for permission which was returned by the planning authority,

(*f*) any person served or issued by a planning authority with a notice or order, or copy thereof, under *sections 44, 45, 46, 88* and *207*,

F22**[**(*ff*) in the case of a referral under section 57(8), the person making the referral,**]**

(*g*) in the case of a referral under *section 96(5)*, a prospective party to an agreement under *section 96(2)*,

(*h*) in the case of an appeal under *section 169*, the development agency,

(*i*) in the case of a referral under *section 193*, the person by whom the application for permission for erection of the new structure was made,

(*j*) the applicant for a licence under *section 254* in relation to which an appeal is made by another person (other than a person acting on behalf of the appellant),

and "party" shalcl be construed accordingly;

F23**[**"permission" means a permission granted under F24**[***section 34*, *37G*, *37N* or *293***]**, as appropriate;**]**

F24**[**"permission regulations" means regulations under *section 33*, *37P*, *172(2)*, *174* or *306*;**]**

F4**[**"planning application" means an application to a planning authority, or the Board, as the case may be, in accordance with permission regulations for permission for the development of land required by those regulations;**]**

F25**[**"planning authority" means a local authority;**]**

"prescribed" means prescribed by regulations made by the Minister and "prescribe" shall be construed accordingly;

"proposed protected structure" means a structure in respect of which a notice is issued under *section 12(3)* or under *section 55* proposing to add the structure, or a specified part of it, to a record of protected structures, and, where that notice so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition;

F15**[**"prospective LRD applicant" has the meaning given to it by *section 32A*;**]**

"protected structure" means—

(*a*) a structure, or

(*b*) a specified part of a structure,

which is included in a record of protected structures, and, where that record so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition;

"protection", in relation to a structure or part of a structure, includes conservation, preservation and improvement compatible with maintaining the character and interest of the structure or part;

"public place" means any street, road, seashore or other place to which the public have access whether as of right or by permission and whether subject to or free of charge;

"public road" has the same meaning as in the Roads Act, 1993;

F26**[**"quarry" means an excavation or system of excavations made for the purpose of, or in connection with, the getting of minerals (whether in their natural state or in solution or suspension) or products of minerals, being neither a mine nor merely a well or bore-hole or a well and bore-hole combined, and shall be deemed to include—

(i) any place on the surface surrounding or adjacent to the quarry occupied together with the quarry for the storage or removal of the minerals or for the purposes of a process ancillary to the getting of minerals, including the breaking, crushing, grinding, screening, washing or dressing of such minerals but, subject thereto, does not include any place at which any manufacturing process is carried on;

(ii) any place occupied by the owner of a quarry and used for depositing refuse from it but any place so used in connection with two or more quarries, and occupied by the owner of one of them, or by the owners of any two or more in common, shall be deemed to form part of such one of those quarries as the Minister may direct;

(iii) any line or siding (not being part of a railway) serving a quarry but, if serving two or more quarries shall be deemed to form part of such one of them as the Minister may direct;

(iv) a conveyor or aerial ropeway provided for the removal from a quarry of minerals or refuse.**]**

"record of protected structures" means the record included under *section 51* in a development plan;

F27**[**"referral" means a referral to the Board under *section 5*, *34(5)*, *37(5)*, *57*, *96(5)* or *193(2)*;**]**

F28**[**"regional assembly" means a body established in accordance with *section 43* (as amended by the Local Government Reform Act 2014) of the Local Government Act 1991;**]**

F29**[**"regional assemblies in respect of the GDA" means regional assemblies established in accordance with section 43 (as amended by the Local Government Reform Act 2014) of the Local Government Act 1991, in respect of a region or regions which includes all or part of the Greater Dublin Area for the purposes of section 3 of the Dublin Transport Authority Act 2008;**]**

F30**[**"regional spatial and economic strategy" means regional spatial and economic strategy made under *Chapter III* of *Part II*;**]**

"register" means the register kept under *section 7*;

"registering authority" means a registering authority within the meaning of the Registration of Title Act, 1964;

F31**[**"reserved function", in relation to a local authority, shall be construed in accordance with section 131 (as amended by the Local Government Reform Act 2014) of the Local Government Act 2001;**]**

"risk" has the meaning assigned to it by the Major Accidents Directive;

"road" has the same meaning as in the Roads Act, 1993;

"seashore" has the same meaning as in the Foreshore Act, 1933;

F3**[**"service connection" has the meaning given to it by section 2 of the Act of 2007;

"settlement hierarchy" has the meaning given to it by *section 10(2C)* (inserted by section 7 of the Act of 2010); **]**

"shares" includes stock and "share capital" shall be construed accordingly;

"special amenity area order" means an order confirmed under *section 203*;

"State authority" means—

(*a*) a Minister of the Government, or

(*b*) the Commissioners;

"statutory undertaker" means a person, for the time being, authorised by or under any enactment or instrument under an enactment to—

(*a*) construct or operate a railway, canal, inland navigation, dock, harbour or airport,

(*b*) provide, or carry out works for the provision of, gas, electricity or telecommunications services, or

(*c*) provide services connected with, or carry out works for the purposes of the carrying on of the activities of, any public undertaking;

F3**[**"strategic development zone" has the meaning given to it by *section 165*; **]**

F32**[**"strategic downstream gas pipeline" means any proposed gas pipeline, other than an upstream gas pipeline, which is designed to operate at 16 bar or greater, and is longer than 20 kilometres in length;

F3**[**"strategic environmental assessment" means an assessment carried out in accordance with regulations made under *section 10(5)*, *13(12)*, *19(4)*, *23(3)*, or *168(3)* as the case may be;**]**

"strategic gas infrastructure development" means any proposed development comprising or for the purposes of a strategic downstream gas pipeline or a strategic upstream gas pipeline, and associated terminals, buildings and installations, whether above or below ground, including any associated discharge pipe;

"strategic infrastructure development" means—

(*a*) any proposed development in respect of which a notice has been served under *section 37B(4)(a)*,

(*b*) any proposed development by a local authority referred to in *section 175(1)* or F33**[***subsection (3)* or *(6)* of *section 226***]**,

F34**[**(*c*) any proposed development referred to in *section 181A(1)* which has been identified as likely to have significant effects on the environment in accordance with regulations made under *section 176*,**]**

(*d*) any proposed development referred to in *section 182A(1)*,

(*e*) any proposed strategic gas infrastructure development referred to in *section 182C(1)*,

(*f*) any scheme or proposed road development referred to in *section 215*,

(*g*) any proposed railway works referred to in section 37(3) of the Transport (Railway Infrastructure) Act 2001 (as amended by the Planning and Development (Strategic Infrastructure) Act 2006), or

F35**[**(*h*) any compulsory acquisition of land referred to in *section 214*, *215A*, *215B* or *215C*, being an acquisition related to development specified in any of the preceding paragraphs of this definition;**]**

"Strategic Infrastructure Division" means the division of the Board referred to in *section 112A(1)*;

"strategic upstream gas pipeline" means so much of any gas pipeline proposed to be operated or constructed—

(*a*) as part of a gas production project, or

(*b*) for the purpose of conveying unprocessed natural gas from one or more than one such project to a processing plant or terminal or final coastal landing terminal,

as will be situate in the functional area or areas of a planning authority or planning authorities;**]**

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(*a*) where the context so admits, includes the land on, in or under which the structure is situate, and

(*b*) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in *subparagraph (i)* or *(iii)*;

F15**[**"student accommodation" means a building or part thereof used, or to be used, for the sole purpose (subject to *paragraph (b)*) of providing residential accommodation to students during academic term times, whether or not provided by a relevant provider (within the meaning of the Qualifications and Quality Assurance (Education and Training) Act 2012), and that is not used, or to be used,—

(*a*) as permanent residential accommodation, or

(*b*) as a hotel, hostel, apart-hotel or similar type accommodation other than for the purposes of providing residential accommodation to tourists or visitors outside of academic term times;**]**

F3**[**"substitute consent" has the meaning given to it by *section 177A*;**]**

"substratum of land" means any subsoil or anything beneath the surface of land required—

(*a*) for the purposes of a tunnel or tunnelling or anything connected therewith, or

(*b*) for any other purpose connected with a scheme within the meaning of the Roads Act, 1993;

F36**[**"this Act" includes a statutory instrument made thereunder;**]**

"Transboundary Convention" means the United Nations Economic Commission for Europe Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo (Finland), on 25 February, 1991;

F14**[**"transport strategy" has the meaning assigned to it by section 12 of the Dublin Transport Authority Act 2008;**]**

"traveller" means a traveller within the meaning of section 2 of the Housing (Traveller Accommodation) Act, 1998;

"unauthorised development" means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use;

"unauthorised structure" means a structure other than—

(*a*) a structure which was in existence on 1 October 1964, or

(*b*) a structure, the construction, erection or making of which was the subject of a permission for development granted under Part IV of the Act of 1963 or deemed to be such under section 92 of that Act F23**[**or under F24**[***section 34*, *37G* or *37N* or *293***]** of this Act**]**, being a permission which has not been revoked, or which exists as a result of the carrying out of exempted development (within the meaning of section 4 of the Act of 1963 or *section 4* of this Act);

"unauthorised use" means, in relation to land, use commenced on or after 1 October 1964, being a use which is a material change in use of any structure or other land and being development other than—

(*a*) exempted development (within the meaning of section 4 of the Act of 1963 or *section 4* of this Act), or

(*b*) development which is the subject of a permission granted under Part IV of the Act of 1963 F23**[**or under F24**[***section 34*, *37G*, *37N* or *293***]** of this Act**]**, being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject;

"unauthorised works" means any works on, in, over or under land commenced on or after 1 October 1964, being development other than—

(*a*) exempted development (within the meaning of section 4 of the Act of 1963 or *section 4* of this Act), or

(*b*) development which is the subject of a permission granted under Part IV of the Act of 1963 F23**[**or under F24**[***section 34*, *37G*, *37N* or *293***]** of this Act**]**, being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject;

"use", in relation to land, does not include the use of the land by the carrying out of any works thereon;

"warning letter" means a notification in writing under *section 152(1)*;

"waste licence" means a waste licence under Part V of the Waste Management Act, 1996;

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

(2) In this Act—

(*a*) a reference to a section, Schedule, Chapter or Part is to a section, Schedule, Chapter or Part of this Act, unless it is indicated that reference to some other enactment is intended, and

(*b*) a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(3) In this Act, a reference to the carrying out of development on behalf of a State authority shall, where that authority is a Minister of the Government, be construed as including a reference to the carrying out of development by the Commissioners on behalf of the Minister.

(4) A reference in this Act to contravention of a provision includes, where appropriate, a reference to refusal or failure to comply with that provision.

(5) A reference in this Act to performance of functions includes a reference to the exercise of powers and the performance of duties.

(6) A reference in this Act to any other enactment shall, except where the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

(7) The doing of anything that is required under this Act to be done by resolution shall be a reserved function.

F37**[**(8) Subject to this Act, a word or expression that is used in this Act and that is also used in the Environmental Impact Assessment Directive has, unless the context otherwise requires, the same meaning in this Act as it has in that Directive.**]**

Annotations

Amendments:

F2 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 1, S.I. No. 488 of 2022.

F3 Inserted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 4(c), S.I. No. 405 of 2010.

F4 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 4(b), S.I. No. 405 of 2010.

F5 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6 and sch. 2 ref. no. 2, S.I. No. 436 of 2018.

F6 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 6(a)(iii), in effect as per reg. 2(1).

F7 Deleted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 4(a), S.I. No. 405 of 2010.

F8 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 1, S.I. No. 214 of 2014.

F9 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 6(a)(iii), in effect as per reg. 2(1).

F10 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 6(a)(i), in effect as per reg. 2(1).

F11 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 6(a)(ii), in effect as per reg. 2(1).

F12 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 6(a)(iii), in effect as per reg. 2(1).

F13 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 2, S.I. No. 214 of 2014.

F14 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 81, S.I. No. 574 of 2009.

F15 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 2, S.I. No. 715 of 2021.

F16 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 3, S.I. No. 214 of 2014.

F17 Deleted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6 and sch. 2 ref. no. 1, S.I. No. 436 of 2018.

F18 Inserted (15.11.2011) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011* (S.I. No. 584 of 2011), reg. 3.

F19 Inserted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 6(a), S.I. No. 525 of 2006.

F20 Inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2, part 4 ref. 5, S.I. No. 214 of 2014.

F21 Inserted (15.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 16, S.I. No. 474 of 2011.

F22 Inserted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 6(a), commenced on enactment.

F23 Inserted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(a), not commenced as of date of revision.

F24 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 1, S.I. No. 488 of 2022.

F25 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 6, S.I. No. 214 of 2014.

F26 Substituted (15.11.2011) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011* (S.I. No. 584 of 2011), reg. 3.

F27 Substituted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 6(b), commenced on enactment.

F28 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 7.

F29 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4, ref. 8.

F30 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 9, S.I. No. 214 of 2014.

F31 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 10, S.I. No. 214 of 2014.

F32 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 6(b) and (c), S.I. No. 684 of 2006.

F33 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 7, S.I. No. 436 of 2018.

F34 Substituted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 3.

F35 Substituted (21.07.2009) by *Harbours (Amendment) Act 2009* (26/2009), s. 7(2)(a), commenced on enactment.

F36 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 6(a)(iii), in effect as per reg. 2(1).

F37 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 6(b), in effect as per reg. 2(1).

Modifications (not altering text):

C21 Prospective affecting provision: definitions inserted in subs. (1) by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(a), not commenced as of date of revision.

F23**[**"abstraction" has the same meaning as in the Water Environment (Abstractions and Associated Impoundments) Act 2022;**]**

F23**[**"abstraction licence" means a licence granted by the Environmental Protection Agency under Part 5 of the Water Environment (Abstractions and Associated Impoundments) Act 2022;**]**

C22 Subs. (1) construed during specified period (3.07.2017 to 31.12.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 13, S.I. No. 270 of 2017.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(*a*) the period from the commencement of this provision until 31 December 2019, and

(*b*) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of section 2 (interpretation) of Act of 2000 during specified period

13. Section 2 of the Act of 2000 shall have effect in subsection (1) during the specified period—

(*a*) as if ", or *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*" were inserted after "or *37N*" in the definition of "permission",

(*b*) as if ", or *section 12* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*" were inserted after "or *174*" in the definition of "permission regulations",

(*c*) as if the following were inserted after *subparagraph (a)* in the definition of "strategic infrastructure development":

"(aa) any proposed development referred to in *section 4* (other than development in respect of which an election has been exercised under *subsection (4)* of that section) of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,",

(*d*) as if the following definition were inserted after the definition of "structure":

" 'student accommodation'—

(*a*) means a building or part thereof used or to be used to accommodate students whether or not provided by a relevant provider (within the meaning of *Qualifications and Quality Assurance (Education and Training) Act 2012*), and that is not for use—

(i) as permanent residential accommodation, or

(ii) subject to *paragraph (b)*, as a hotel, hostel, apart-hotel or similar type accommodation,

and

(*b*) includes residential accommodation that is used as tourist or visitor accommodation but only if it is so used outside of academic term times;",

(*e*) as if "or under *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*," were inserted after "or *37N* of this Act," in subparagraph (b) of the definition of "unauthorised structure", and

(*f*) as if "or under *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*," were inserted after "or *37N* of this Act," in subparagraph (b) of the definition of "unauthorised use".

Editorial Notes:

E6 Section as in force immediately before 1 September 2018 applied to the interpretation of S.I. No. 296 of 2018 as provided (21.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 3(2), in effect as per reg. 2(1).

E7 Previous affecting provision: definition of "permission regulations" substituted (14.07.2015) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015), reg. 3; substituted (1.01.2022) as per F-note above.

E8 Previous affecting provision: definition of "manager" substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 4, S.I. No. 214 of 2014; deleted as per F-note above.

E9 Previous affecting provision: definition of "environmental impact statement" amended (31.10.2012) by *European Union (Environmental Impact Assessment) (Planning and Development Act, 2000) Regulations 2012* (S.I. No. 419 of 2012), reg. 2(a)(ii); substituted by definition of "environmental impact assessment report" as per F-note above.

E10 Previous affecting provision: definition of "quarry" inserted (15.09.2011) by *Environmental (Miscellaneous Provisions) Act 2011* (20/2011), s. 16, S.I. No. 474 of 2011; substituted as per F-note above.

E11 Previous affecting provision: definition of "Environmental Impact Assessment Directive" inserted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 4(c), S.I. No. 405 of 2010; amended (31.10.2012) by *European Union (Environmental Impact Assessment) (Planning and Development Act, 2000) Regulations 2012* (S.I. No. 419 of 2012), reg. 2(a)(i); substituted as per F-note above.

E12 Previous affecting provision: definition of "DTA" inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 81, S.I. No. 574 of 2009; substituted as per F-note above.

E13 Previous affecting provision: definition of "regional authorities within the GDA" inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 81, S.I. No. 574 of 2009; substituted as per F-note above.

E14 Previous affecting provision: definition of "permission" inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 6(b) and (c), S.I. No. 684 of 2006; substituted as per F-note above.

E15 Previous affecting provisions: definitions of "unauthorised structure", "unauthorised use" and "unauthorised works" amended (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 6(d), S.I. No. 684 of 2006; substituted as per F-note above.

Development.

3.—F38**[**(1) In this Act, except where the context otherwise requires, "development" means—

(*a*) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or

(*b*) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021).**]**

(2) For the purposes of *subsection (1)* and without prejudice to the generality of that subsection—

(*a*) where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, or

(*b*) where land becomes used for any of the following purposes—

(i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,

(ii) the storage of caravans or tents, or

(iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders' waste, rubbish or debris,

the use of the land shall be taken as having materially changed.

(3) For the avoidance of doubt, it is hereby declared that, for the purposes of this section, the use as two or more dwellings of any house previously used as a single dwelling involves a material change in the use of the structure and of each part thereof which is so used.

Annotations

Amendments:

F38 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 2, S.I. No. 488 of 2022.

F39**[**Short term lettings

3A.—(1) The use of a house or part of a house situated in a rent pressure zone for short term letting purposes is a material change in use of the house or part thereof, as the case may be.

(2) For the purposes of this section, the Minister may make regulations requiring such persons as are specified in the regulations to provide a planning authority with such information as may be so specified and at such intervals as may be so specified in relation to short term lettings in the administrative area of the planning authority.

(3) A person who contravenes a provision of regulations under this section that is described in the regulations as a penal provision shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine.

(4) This section shall not operate to abrogate or amend the law with regard to—

(*a*) lettings (including short term lettings) outside a rent pressure zone, or

(*b*) lettings (other than short term lettings) in a rent pressure zone.

(5) In this section—

"rent pressure zone" means—

(*a*) any area standing prescribed for the time being under section 24A of the Residential Tenancies Act 2004, or

(*b*) an administrative area deemed to be a rent pressure zone under section 24B of that Act;

"short term letting" means the letting of a house or part of a house for any period not exceeding 14 days, and includes a licence that permits the licensee to enter and reside in the house or part thereof for any such period in consideration of the making by any person (whether or not the licensee) of a payment or payments to the licensor.**]**

Annotations

Amendments:

F39 Inserted (1.07.2019) by *Residential Tenancies (Amendment) Act 2019* (14/2019), s. 38, S.I. No. 286 of 2019. A class A fine means a fine not greater than €5,000 as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 4(1), S.I. No. 662 of 2010.

F40 Inserted by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 3(a), not commenced as of date of revision, as provided (13.10.2022) by *European Union (Planning and Development, Maritime and Valuation (Amendment) Act 2022) (Amendment) Regulations 2022* (S.I. No. 513 of 2022), reg. 3.

F41 Substituted by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 3(b), not commenced as of date of revision, as provided (13.10.2022) by *European Union (Planning and Development, Maritime and Valuation (Amendment) Act 2022) (Amendment) Regulations 2022* (S.I. No. 513 of 2022), reg. 3.

F42 Inserted by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 3(c), not commenced as of date of revision, as provided (13.10.2022) by *European Union (Planning and Development, Maritime and Valuation (Amendment) Act 2022) (Amendment) Regulations 2022* (S.I. No. 513 of 2022), reg. 3.

Modifications (not altering text):

C23 Prospective affecting provision: subss. (1A)-(1F) inserted, subs. (2) substituted and definitions inserted into subs. (5) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 3, not commenced as of date of revision as provided (13.10.2022) by *European Union (Planning and Development, Maritime and Valuation (Amendment) Act 2022) (Amendment) Regulations 2022* (S.I. No. 513 of 2022), reg. 3.

F40**[**(1A) A person shall not, during the relevant period, advertise or cause the advertisement of a relevant property for short term letting purposes, or enter into any arrangement in respect of a relevant property for short term letting purposes, unless the use of the relevant property for those purposes—

(*a*) is in accordance with a permission granted under *Part III*, or

(*b*) is exempted development for the purposes of this Act.

(1B) A person who contravenes *subsection (1A)* shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine.

(1C) A person shall be deemed not to have contravened *subsection (1A)* in respect of a relevant property if the person produces proof, provided by a planning authority in accordance with regulations made under *subsection (2)*, of the matters set out in *paragraphs (a)* or *(b)* of that subsection in respect of the relevant property.

(1D) The relevant period may, by order of the Minister made before the expiry of that period, be extended for such period (being a period not exceeding 6 months) as is specified in the order.

(1E) An order under *subsection (1D)* shall be made by the Minister where he or she is satisfied that it is necessary in order to address an acute shortage of rental accommodation (other than for short term letting purposes) in rent pressure zones.

(1F) An order under *subsection (1D)* shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving the draft has been passed by each such House.**]**

F41**[**(2) For the purposes of this section, the Minister may make regulations—

(*a*) requiring such persons as are specified in the regulations to provide a planning authority with such information as may be specified and at such intervals as may be so specified in relation to short term lettings in the administrative area of the planning authority, and

(*b*) requiring a planning authority to provide to such persons as are specified in the regulations such proof of the matters set out in *paragraph (a)* or *(b)* of *subsection (1A)* in respect of a relevant property as may be specified in the regulations.**]**

...

(5) ...

F42**[**"relevant period" means the period of 6 months commencing on the day following the commencement of section 3 of the Planning and Development, Maritime and Valuation (Amendment) Act 2022;

"relevant property" means a house or part of a house that is not a principal private residence and is located in a rent pressure zone.**]**

Exempted development.

4.—(1) The following shall be exempted developments for the purposes of this Act—

(*a*) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

F43**[**(*aa*) development by a local authority in its functional area (other than, in the case of a local authority that is a coastal planning authority, its nearshore area);**]**

F44**[**(*ab*) development by a coastal planning authority that—

(i) owns the maritime site on which the development is proposed to be situated, or

(ii) is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development,

in its nearshore area;**]**

F45**[**(*ab*) development consisting of the carrying out of relevant works or related activities over principal burial land, ancillary burial land or ancillary land within the meaning of the Institutional Burials Act 2022;**]**

(*b*) F46**[**...**]**

(*c*) F46**[**...**]**

(*d*) F46**[**...**]**

F47**[**(*e*) development consisting of the carrying out by a local authority of any works required for the construction of a new road or the maintenance or improvement of a road;

(*f*) development carried out on behalf of, or jointly or in partnership with, a local authority, pursuant to a contract entered into by the local authority concerned, whether in its capacity as a planning authority or in any other capacity;**]**

F52**[** *(fa)* development to which *section 179A* applies;**]**

(*g*) development consisting of the carrying out by any local authority or statutory undertaker of any works for the purpose of inspecting, repairing, renewing, altering or removing any sewers, mains, pipes, cables, overhead wires, or other apparatus, including the excavation of any street or other land for that purpose;

(*h*) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

F48**[**(*i*) development consisting of the thinning, felling or replanting of trees, forests or woodlands or works ancillary to that development, but not including the replacement of broadleaf high forest by conifer species;**]**

F49**[**(*ia*) development (other than development consisting of the provision of access to a national road within the meaning of the Roads Act 1993) that consists of—

(I) the construction, maintenance or improvement of a road (other than a public road) that serves a forest or woodland, or

(II) works ancillary to such construction, maintenance or improvement;**]**

(*j*) development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such;

(*k*) development consisting of the use of land for the purposes of a casual trading area (within the meaning of the Casual Trading Act, 1995);

(*l*) development consisting of the carrying out of any of the works referred to in the Land Reclamation Act, 1949, not being works comprised in the fencing or enclosure of land which has been open to or used by the public within the ten years preceding the date on which the works are commenced F50**[**or works consisting of land reclamation or reclamation of estuarine marsh land and of callows, referred to in section 2 of that Act.**]**

F44**[**(1A) Subject to *subsection (1B)*, the following classes of development shall also be exempted development for the purposes of this Act if carried out wholly in the maritime area:

(*a*) development for the purposes of any survey for archaeological purposes;

(*b*) development for the purposes, or consisting, of—

(i) the exploration for petroleum, within the meaning of Part II of the Petroleum and Other Minerals Development Act 1960, in accordance with a licence under section 8, 9 or 19 of that Act or a lease under section 13 of that Act,

(ii) the working, within such meaning, of such petroleum, in accordance with such lease or licence, or

(iii) the restoration of the area in which such exploration or working has taken place;

(*c*) development consisting, or for the purposes, of the construction or operation, in accordance with a consent under subsection (1) of section 40 of the Gas Act 1976, of an upstream pipeline,

(*d*) development for the purposes, or consisting, of dumping within the meaning of the Dumping At Sea Act 1996;

(*e*) development authorised under section 638 of the Merchant Shipping Act 1894 or section 3 of the Merchant Shipping (Commissioners of Irish Lights) Act 1997 by the Commissioners of Irish Lights for the purposes, or consisting, of the placement of aids to navigation;

(*f*) activities that are the subject of, or require, a licence under Part 5 of the Maritime Area Planning Act 2021;

(*g*) development consisting of the use of any land or maritime site for the purposes of—

(i) the harvesting of shellfish, or

(ii) activities relating to fishing or aquaculture.

(1B) Development referred to in paragraph *paragraph (a)*, *(d)*, *(e)* or *(g)* of *subsection (1A)* shall not be exempted development if an environmental impact assessment of the development is required.

(1C) Development referred to in *paragraph (a)*, *(d)*, *(e)* or *(g)* of *subsection (1A)* shall not be exempted development if an appropriate assessment of the development is required.**]**

(2) (*a*) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or

(ii) the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).

(*b*) Regulations under *paragraph (a)* may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.

(*c*) Regulations under this subsection may, in particular and without prejudice to the generality of *paragraph (a)*, provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.

(3) A reference in this Act to exempted development shall be construed as a reference to development which is—

(*a*) any of the developments specified in F51**[***subsection (1)* or *(1A)***]**, or

(*b*) development which, having regard to any regulations under *subsection (2)*, is exempted development for the purposes of this Act.

F48**[**(4) Notwithstanding *paragraphs (a)*, *(i)*, *(ia)* and *(l)* of *subsection (1)* and any regulations under *subsection (2)*, development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

(4A) Notwithstanding *subsection (4)*, the Minister may make regulations prescribing development or any class of development that is—

(*a*) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and

(*b*) as respects which an environmental impact assessment or an appropriate assessment is required,

to be exempted development.**]**

(5) Before making regulations under this section, the Minister shall consult with any other State authority where he or she or that other State authority considers that any such regulation relates to the functions of that State authority.

Annotations

Amendments:

F43 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 3, S.I. No. 488 of 2022.

F44 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 3, S.I. No. 488 of 2022.

F45 Inserted (15.07.2022) by *Institutional Burials Act 2022* (18/2022), s. 97, S.I. No. 356 of 2022.

F46 Deleted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 11.

F47 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 12, S.I. No. 214 of 2014.

F48 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 17(a)(i) and (b), S.I. No. 474 of 2011, subject to transitional provision in s. 17(2).

F49 Substituted (8.02.2020) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 8, S.I. No. 44 of 2020.

F50 Inserted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 17(a)(iii), S.I. No. 474 of 2011, subject to transitional provision in s. 17(2).

F51 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 3, S.I. No. 488 of 2022.

F52 Inserted (8.03.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 3, S.I. No. 107 of 2023.

Modifications (not altering text):

C24 Certain developments prescribed as exempted developments (22.06.2023) by *Remediation of Dwellings Damaged by the use of Defective Concrete Blocks Act 2022* (28/2022), s. 28, S.I. No. 321 of 2023.

Exempted development

28. (1) Subject to *subsections (2)* and *(3)*, and section 4(4) of the Act of 2000, development consisting of the completion of an approved remediation option shall be exempted development within the meaning of, and for the purposes of, that Act.

(2) The development referred to in *subsection (1)* shall only be exempted development where, on its completion, it is not inconsistent with, or materially different from, the appearance and character of the relevant dwelling in respect of which the approved remediation option is to be or has been completed.

(3) Where the approved remediation option is the demolition of the relevant dwelling and the reconstruction of the dwelling and any permission granted in respect of the relevant dwelling under section 34 of the Act of 2000 is subject to conditions under that section, the conditions shall continue to apply to the relevant dwelling.

(4) In this section—

"development" has the meaning it has in the Act of 2000;

"permission" has the meaning it has in the Act of 2000.

C25 Certain developments prescribed as exempted developments (1.05.2007) by *Prisons Act 2007* (10/2007), s. 28, S.I. No. 180 of 2007.

Exemptions, etc., relating to development.

28.— (1) A development—

(*a*) is an exempted development for the purposes of the Planning and Development Acts 2000 to 2006,

(*b*) is not subject to—

(i) regulations under section 181 of the Planning and Development Act 2000 ,

(ii) the European Communities (Environmental Impact Assessment) Regulations 1989 to 2005,

(iii) the said Acts of 2000 to 2006 in so far as they relate to environmental impact assessments or any regulations under those Acts relating to such assessments, or

(iv) the Building Control Act 1990 and regulations thereunder,

and

(*c*) subject to subsections (2) and (3), shall not require a consent or licence under the National Monuments Acts 1930 to 2004 (other than a licence under section 25 of the National Monuments Act 1930) or any other consent or licence.

C26 Additional developments prescribed as exempted developments by *Dublin Transport Authority Act 2008* (15/2008), s. 44(14), as inserted (8.02.2016) by *Public Transport Act 2016* (3/2016), s. 1(b)(iv), commenced on enactment.

Functions of Authority in relation to public transport infrastructure.

44.—(1) In relation to public transport infrastructure in the GDA, the Authority shall have the following functions: ...

[(14) The carrying out by the Authority, on its behalf or at its direction of —

(*a*) a proposed road development (within the meaning of the Roads Act 1993) that has been approved by An Bord Pleanála under section 51 (as amended by section 9 of the Roads Act 2007) of that Act, or

(*b*) a proposed development that has been approved by An Bord Pleanála—

(i) under subsection (9) (inserted by section 34(c) of the Planning and Development (Strategic Infrastructure) Act 2006) of section 175 of the Act of 2000 pursuant to an application for approval made by the Authority under subsection (3) of that section, or

(ii) under subsection (8) of section 177AE (inserted by section 57 of the Planning and Development (Amendment) Act 2010) of the Act of 2000 pursuant to an application for approval made by the Authority under subsection (3) of that section,

shall be exempted developments for the purposes of the Act of 2000.**]**

C27 Additional developments specified as exempted developments (23.12.2001) by *Transport (Railway Infrastructure) Act 2001* (55/2001), s. 38, commenced on enactment, as substituted (1.08.2008) by *Dublin Transport Authority Act 2008* (15/2008), s. 115(6), S.I. No. 291 of 2008.

Exempted development.

[38.— (1) Each of the following shall be exempted development for the purposes of the Act of 2000:

(*a*) development consisting of the carrying out of railway works, including the use of the railway works or any part thereof for the purposes of the operation of a railway, authorised by the Board and specified in a railway order or of any incidental or temporary works connected with such development;

(*b*) development consisting of the carrying out of railway works for the maintenance, improvement or repair of a railway that has been built pursuant to a railway order. **]**

Editorial Notes:

E16 Power pursuant to subs. (2) exercised (19.07.2023) by *Planning and Development (Exempted Development) (No. 4) Regulations 2023* (S.I. No. 376 of 2023).

E17 Power pursuant to subs. (2) exercised (22.05.2023) by *Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2023* (S.I. No. 269 of 2023).

E18 Power pursuant to subs. (2) exercised (22.05.2023) by *Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2023* (S.I. No. 246 of 2023).

E19 Power pursuant to subs. (2) exercised (19.05.2023) by *Planning and Development Act (Exempted Development) Regulations 2023* (S.I. No. 250 of 2023).

E20 Power pursuant to subs. (4A) exercised (14.12.2022) by *Planning and Development Act 2000 (Exempted Development) (Number 5) Regulations 2022* (S.I. No. 664 of 2022), in effect as per reg. 1(3).

E21 Power pursuant to subs. (2) exercised (29.11.2022) by *Planning and Development (Exempted Development) (No. 4) Regulations 2022* (S.I. No. 605 of 2022).

E22 Power pursuant to subs. (2) exercised (5.10.2022) by *Planning And Development Act 2000 (Exempted Development) (No. 3) Regulations 2022* (S.I. No. 493 of 2022).

E23 Power pursuant to subs. (2) exercised (5.10.2022) by *Planning And Development (Solar Safeguarding Zone) Regulations 2022* (S.I. No. 492 of 2022).

E24 Power pursuant to subs. (2) exercised (30.03.2022) by *Planning and Development Act 2000 (Exempted Development) (Number 2) Regulations 2022* (S.I. No. 151 of 2022).

E25 Power pursuant to subs. (2) exercised (21.02.2022) by *Planning and Development Act (Exempted Development) Regulations 2022* (S.I. No. 75 of 2022).

E26 Power pursuant to subs. (2) exercised (30.04.2021) by *Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2021* (S.I. No. 208 of 2021).

E27 Power pursuant to subs. (2) exercised (16.03.2021) by *Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2021* (S.I. No. 115 of 2021).

E28 Power pursuant to subs. (2) exercised (16.03.2021) by *Planning and Development Act 2000 (Exempted Development) Regulations 2021* (S.I. No. 114 of 2021).

E29 Power pursuant to subs. (2) exercised (7.08.2020 for relevant period) by *Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2020* (S.I. No. 293 of 2020).

E30 Power pursuant to subs. (2) exercised (27.03.2020 for relevant period) by *Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2020* (S.I. No. 92 of 2020).

E31 Power pursuant to subs. (2) exercised (13.02.2020) by *Planning and Development (Amendment) Regulations 2020* (S.I. No. 46 of 2020).

E32 Power pursuant to subs. (4A) exercised (8.02.2020) by *Planning and Development Act 2000 (Exempted Development) Regulations 2020* (S.I. No. 45 of 2020), in effect as per reg. 1(3).

E33 Power pursuant to subs. (2) exercised (1.07.2019) by *Planning And Development Act 2000 (Exempted Development) (No. 2) Regulations 2019* (S.I. No. 235 of 2019), in effect as per reg. 1(3).

E34 Power pursuant to subs. (4A) exercised (25.01.2019) by *Planning And Development Act 2000 (Exempted Development) Regulations 2019* (S.I. No. 12 of 2019), in effect as per reg. 1(2).

E35 Power pursuant to subs. (2) exercised (8.02.2018) by *Planning and Development (Amendment) (No. 3) Regulations 2018* (S.I. No. 31 of 2018).

E36 Power pursuant to subs. (2) exercised (8.02.2018) by *Planning and Development (Amendment) (No. 2) Regulations 2018* (S.I. No. 30 of 2018).

E37 Power pursuant to subs. (2) exercised (8.02.2018) by *Planning and Development (Amendment) Regulations 2018* (S.I. No. 29 of 2018).

E38 Power pursuant to subs. (2) exercised (17.12.2015) by *Planning and Development (Amendment) (No. 4) Regulations 2015* (S.I. No. 582 of 2015).

E39 Power pursuant to section exercised (24.06.2013) by *Planning and Development (Amendment) Regulations 2013* (S.I. No. 219 of 2013).

E40 Power pursuant to section exercised (8.09.2011) by *Planning and Development (Amendment) (No. 2) Regulations 2011* (S.I. No. 454 of 2011).

E41 Power pursuant to section exercised (10.07.2008) by *Planning and Development (Amendment) Regulations 2008* (S.I. No. 256 of 2008).

E42 Power pursuant to section exercised (2.07.2008) by *Planning and Development Regulations 2008* (S.I. No. 235 of 2008).

E43 Power pursuant to subs. (2) exercised (28.02.2007) by *Planning and Development Regulations 2007* (S.I. No. 83 of 2007).

E44 Power pursuant to section exercised (14.07.2005) by *Planning and Development Regulations 2005* (S.I. No. 364 of 2005).

E45 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E46 Previous affecting provision: subs. (1)(aa) inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 11, S.I. No. 214 of 2014; substituted (1.10.2022) as per F-note above.

E47 Previous affecting provision: subs. (1)(ia) inserted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 17(a)(ii), S.I. No. 474 of 2011, subject to transitional provision in s. 17(2); substituted as per F-note above.

E48 Previous affecting provision: similar amendments to those made by 2011 Act made by *Planning and Development (Amendment) Act 2010* (30/2010), s. 5, not commenced; repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. No. 474 of 2011.

Declaration and referral on development and exempted development.

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

(2) (*a*) Subject to F53**[***paragraphs (b)* and *(ba)*], a planning authority shall issue the declaration on the question that has arisen and the main reasons and considerations on which its decision is based to the person who made the request under *subsection (1)*, and, where appropriate, the owner and occupier of the land in question, within 4 weeks of the receipt of the request.

(*b*) A planning authority may require any person who made a request under *subsection (1)* to submit further information with regard to the request in order to enable the authority to issue the declaration on the question and, where further information is received under this paragraph, the planning authority shall issue the declaration within 3 weeks of the date of the receipt of the further information.

F54**[**(*ba*)(i) Subject to *subparagraph (ii)*, a planning authority shall not be required to comply with *paragraph (a)* within the period referred to in that paragraph where it appears to the planning authority that it would not be possible or appropriate, because of the exceptional circumstances of the development or proposed development (including in relation to the nature, complexity, location or size of such development) identified in the request under *subsection (1)* to do so.

(ii) Where *subparagraph (i)* applies, the planning authority shall, by notice in writing served on—

(I) the person who made the request under *subsection (1)*, and

(II) each person to whom a request has been made under *paragraph (c)*,

before the expiration of the period referred to in *paragraph (a)*, inform him or her of the reasons why it would not be possible or appropriate to comply with that paragraph within that period and shall specify the date before which the authority intends that the declaration concerned shall be made.**]**

(*c*) A planning authority may also request persons in addition to those referred to in *paragraph (b)* to submit information in order to enable the authority to issue the declaration on the question.

(3) (*a*) Where a declaration is issued under this section, any person issued with a declaration under *subsection (2)(a)* may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

(*b*) Without prejudice to *subsection (2)*, in the event that no declaration is issued by the planning authority, any person who made a request under *subsection (1)* may, on payment to the Board of such fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued under *subsection (2)*.

(4) Notwithstanding *subsection (1)*, a planning authority may, on payment to the Board of such fee as may be prescribed, refer any question as to what, in any particular case, is or is not development or is or is not exempted development to be decided by the Board.

(5) The details of any declaration issued by a planning authority or of a decision by the Board on a referral under this section shall be entered in the register.

(6) (*a*) The Board shall keep a record of any decision made by it on a referral under this section and the main reasons and considerations on which its decision is based and shall make it available for purchase and inspection.

(*b*) The Board may charge a specified fee, not exceeding the cost of making the copy, for the purchase of a copy of the record referred to in *paragraph (a)*.

(*c*) The Board shall, from time to time and at least once a year, forward to each planning authority a copy of the record referred to in *paragraph (a)*.

(*d*) A copy of the said record shall, at the request of a member of a planning authority, be given to that member by the F55**[**chief executive**]** of the planning authority concerned.

(7) A planning authority, before making a declaration under this section, shall consider the record forwarded to it in accordance with *subsection (6)(c)*.

F56**[**(7A) A planning authority or the Board, as the case may be, shall, in respect of a development or proposed development specified in Part 2 of Schedule 5 to the Planning and Development Regulations 2001, specify in its declaration or decision, as the case may be, whether the development or proposed development identified in the request under *subsection (1)* or in the referral under *subsection (3)* or *(4)*, as the case may be, would be likely to have significant effects on the environment by virtue, at the least, of the nature, size or location of such development and require an environmental impact assessment.

(7B)(*a*) Where the planning authority issues its declaration on a request under *subsection (1)* or the Board makes its decision on a referral under *subsection (3)* or *(4)*, as the case may be, the following documents shall, within 3 working days, be placed on the planning authority's or Board's, as the case may be, website for inspection and be made available for inspection and purchase

by members of the public during office hours at the offices of the authority or Board, as the case may be, for at least the minimum period referred to in paragraph (*b*):

(i) a copy of the question arising as to what is or is not development or is or is not exempted development within the meaning of this Act and any information, particulars, evidence, written study or further information received or obtained from any of the following:

(I) the person making the request or referral, as the case may be;

(II) the owner or occupier of the land in question;

(III) any other person;

(ii) a copy of any submissions or observations in relation to the question arising as to what is or is not development or is or is not exempted development within the meaning of this Act;

(iii) a copy of any report prepared by or for the authority or the Board, as the case may be, in relation to the request or referral;

(iv) a copy of the declaration of the authority or the decision of the Board, as the case may be, in respect of the question identified in the request under *subsection (1)* or in the referral under *subsection (3)* or *(4)*, as the case may be.

(*b*) The minimum period for the purposes of *paragraph (a)* is 8 weeks from the date of the issue of the declaration by the planning authority or the date of the decision of the Board, as the case may be.

(7C) For the purposes of *subsection (7A)*, the Minister may, by regulations, provide for additional, consequential or supplementary matters as regards procedures in respect of a request under *subsection (1)* or a referral under *subsection (3)* or *(4)*, as the case may be, in relation to—

(*a*) the submission of information to the planning authority or the Board for those purposes,

(*b*) time limits within which such information shall be so submitted,

(*c*) notifications to persons concerned with the declaration or decision, as the case may be, referred to in that subsection,

(*d*) steps to be taken (including matters which must be regarded) in the course of the making of such declaration or decision, or

(*e*) the publication of such declaration or decision.**]**

F57**[**(8)(*a*) The Minister for Arts, Heritage and the Gaeltacht may apply to the Board under this subsection, without charge, for a determination as to whether an activity requiring the consent of that Minister—

(i) F58**[**pursuant to a notification under Regulation 4(2) of the European Communities (Natural Habitats) Regulations 1997 (S.I. No. 94 of 1997) or pursuant to a direction under Regulation 28(1) or 29(1) of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011)**]** or under regulations made under the European Communities Act 1972 for the purpose of giving further effect to the Birds Directive or the Habitats Directive by designating a site as a special area of conservation or as a special protection area, or

(ii) under section 19 of the Wildlife (Amendment) Act 2000,

comprises development which is not exempted development, and the Board shall make such determination as soon as may be and shall inform that Minister of its determination and the reasons for the determination.

(*b*) An application from the Minister for Arts, Heritage and the Gaeltacht under this subsection shall include the following:

(i) a copy of the application for consent;

(ii) any other relevant information submitted with the application for consent;

(iii) the reasons why that Minister considers that the activity may not be exempted development;

(iv) the opinion of that Minister as to whether an appropriate assessment is required, and the reasons for that opinion;

(v) the opinion of that Minister as to whether the development is likely to have significant effects on a European site or an area designated as a Natural Heritage Area under section 18 of the Wildlife (Amendment) Act 2000 and the reasons for that opinion, having regard to the purposes for which the site was designated.

(*c*) The Board may seek additional information from—

(i) the applicant for consent, or

(ii) the Minister for Arts, Heritage and the Gaeltacht,

and where this is not provided within the period specified, or any further period as may be specified by the Board, the Board shall not make a determination on the matter and the application of that Minister under this subsection shall be deemed to be withdrawn and the Board shall inform that Minister accordingly.

(*d*) In *paragraph (a)(i)* "special area of conservation" and "special protection area" have the same meaning as they have in *section 177R*.**]**

Annotations

Amendments:

F53 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 7(a)(i), in effect as per reg. 2(1).

F54 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 7(a)(ii), in effect as per reg. 2(1).

F55 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6 and sch. 2 ref. no. 3, S.I. No. 436 of 2018.

F56 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 7(b), in effect as per reg. 2(1).

F57 Inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 4.

F58 Substituted (15.11.2011) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011* (S.I. No. 584 of 2011), reg. 4.

Modifications (not altering text):

C28 Functions under subs. (8) transferred and references construed (24.06.2021) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2021* (S.I. No. 302 of 2021), arts. 2, 3 and sch. part 1, in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by this Order are transferred to the Department of Housing, Local Government and Heritage.

(2) References to the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media contained in any Act or any instrument made under an Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Housing, Local Government and Heritage.

3. (1) The functions vested in the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media–

(*a*) by or under any of the provisions of the Acts specified in Part 1 of the Schedule,

(*b*) under the Regulations specified in Part 2 of the Schedule, and

(*c*) to make a recommendation to which section 12(3)(b)(iii) of the Planning and Development Act 2000 (No. 30 of 2000) applies and to make observations to which section 12(3)(b)(iv) of that Act applies,

are transferred to the Minister for Housing, Local Government and Heritage.

(2) References to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media contained in any Act or instrument made under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Housing, Local Government and Heritage.

...

SCHEDULE

Part 1

...

Sections 5(8), 52(2), 53, 55 and 80 of the Planning and Development Act 2000 (No. 30 of 2000)

...

Editorial Notes:

E49 Previous affecting provision: subs. (8)(a)(i) inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 4, amended as per F-note above.

Power of examination, investigation and survey.

6.—A planning authority and the Board shall each have all such powers of examination, investigation and survey as may be necessary for the performance of their functions in relation to this Act or to any other Act.

Planning register.

7.—(1) A planning authority shall keep a register for the purposes of this Act in respect of all land within its functional area, and shall make all such entries and corrections therein as may be appropriate in accordance with *subsection (2)*, and the other provisions of this Act and the regulations made under this Act.

(2) A planning authority shall enter in the register—

F59**[**(*a*) particulars of any application made to it under this Act for permission for development, for retention of development, for substitute consent F60**[**...**]**, or for outline permission for development (including the name and address of the applicant, the date of receipt of the application and brief particulars of the development or retention forming the subject of the application),**]**

F59**[**(*b*) where an F61**[**environmental impact assessment report, remedial environmental impact assessment report**]**, Natura impact statement or remedial Natura impact statement was submitted in respect of an application, an indication of this fact,

F62**[**(*bb*) where applicable—

(i) a screening determination for environmental impact assessment (within the meaning of *section 176A(1)*) and the reasons therefor, or

(ii) the outcome of screening for appropriate assessment and the reasons therefor,**]]**

(*c*) where a development, to which an application relates, comprises or is for the purposes of an activity in respect of which an integrated pollution control licence or a waste management licence is required, or a licence under the Local Government (Water Pollution) Act, 1977, is required in respect of discharges from the development, a statement as to that requirement,

(*d*) where the development to which the application relates would materially affect a protected structure or is situated in an area declared to be an area of special amenity under *section 202*, an indication of this fact,

F63**[**(*e*) the complete decision of the planning authority in respect of any such application, including any conditions imposed and the date of the decision, together with such further points of detail as are agreed, or deemed to have been agreed, under *section 34(5)*, between the planning authority and the person carrying out the development,**]**

(*f*) the complete decision on appeal of the Board in respect of any such application, including any conditions imposed, and the date of the decision,

(*g*) where the requirements of *section 34(6)* in regard to the material contravention of the development plan have been complied with, a statement of this fact,

(*h*) particulars of any declaration made by a planning authority under *section 5* or any decision made by the Board on a referral under that section,

(*i*) particulars of any application made under *section 42* to extend the appropriate period of a permission,

(*j*) particulars of any decision to revoke or modify a permission in accordance with *section 44*,

(*k*) particulars under *section 45* of any order, of any decision on appeal or of any acquisition notice for compulsory acquisition of land for open space,

(*l*) particulars of any notice under *section 46* requiring removal or alteration of any structure, or requiring discontinuance of any use or the imposition of conditions on the continuance thereof, including the fact of its withdrawal, if appropriate,

(*m*) particulars of any agreement made under *section 47* for the purpose of restricting or regulating the development or use of the land,

(*n*) particulars of any declaration issued by the planning authority under *section 57*, including the details of any review of the declaration,

(*o*) particulars of any declaration issued by the planning authority under *section 87*, including the details of any review of the declaration,

(*p*) particulars of any notice under *section 88* in respect of land in an area of special planning control, including, where such notice is withdrawn, the fact of its withdrawal,

(*q*) particulars of any certificate granted under *section 97*,

(*r*) particulars of any warning letter issued under *section 152*, including the date of issue of the letter and the fact of its withdrawal, if appropriate,

(*s*) the complete decision made under *section 153* on whether an enforcement notice should issue, including the date of the decision,

F64**[**(*sa*) particulars of any enforcement notice issued under *section 177O*;**]**

(*t*) particulars of any enforcement notice issued under *section 154*, including the date of the notice and the fact of its withdrawal or that it has been complied with, if appropriate,

F65**[**(*tt*) particulars of any development referred to in *section 179(4)(b)*,**]**

(*u*) particulars of any statement prepared under *section 188* concerning a claim for compensation under this Act,

(*v*) particulars of any order under *section 205* requiring the preservation of any tree or trees, including the fact of any amendment or revocation of the order,

(*w*) particulars of any agreement under *section 206* for the creation of a public right of way over land,

(*x*) particulars of any public right of way created by order under *section 207*,

F66**[**(*xa*) particulars of any decision of the Board under *section 177K*, or direction served under *section 177J* or *177L*,**]**

(*y*) particulars of any information relating to the operation of a quarry provided in accordance with *section 261*, and

(*z*) any other matters as may be prescribed by the Minister.

(3) The planning authority shall make the entries and corrections as soon as may be after the receipt of any application, the making of any decision or agreement or the issue of any letter, notice or statement, as appropriate.

(4) The register shall incorporate a map for enabling a person to trace any entry in the register.

(5) The planning authority may keep the information on the register, including the map incorporated under *subsection (4)*, in a form in which it is capable of being used to make a legible copy or reproduction of any entry in the register.

(6) (*a*) The register shall be kept at the offices of the planning authority and shall be available for inspection during office hours.

(*b*) The Minister may prescribe additional requirements in relation to the availability for inspection by members of the public of the register.

(7) Every document purporting to be a copy of an entry in a register maintained by a planning authority under this section and purporting to be certified by an officer of the planning authority to be a true copy of the entry shall, without proof of the signature of the person purporting so to certify or that he or she was such an officer, be received in evidence in any legal proceedings and shall, until the contrary is proved, be deemed to be a true copy of the entry and to be evidence of the terms of the entry.

(8) Evidence of an entry in a register under this section may be given by production of a copy thereof certified pursuant to this section and it shall not be necessary to produce the register itself.

(9) Where an application is made to a planning authority for a copy under this section, the copy shall be issued to the applicant on payment by him or her to the planning authority of the specified fee in respect of each entry.

Annotations

Amendments:

F59 Substituted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 6(a) and (b), S.I. No. 475 of 2011.

F60 Deleted (24.07.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 4(a), commenced on enactment.

F61 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 1, in effect as per reg. 2(1).

F62 Substituted (1.01.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 27(a), S.I. No. 588 of 2018.

F63 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 9, S.I. No. 436 of 2018.

F64 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 6(c), S.I. No. 475 of 2011.

F65 Inserted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 7, S.I. No. 525 of 2006.

F66 Substituted (24.07.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 4(b), conmenced on enactment.

F67 Substituted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(b), not commenced as of date of revision.

Modifications (not altering text):

C29 Prospective affecting provision: subs. (2)(c) amended by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(b), not commenced as of date of revision.

> (*c*) where a development, to which an application relates, comprises or is for the purposes of an activity in respect of which F67**[**an integrated pollution control licence, an abstraction licence**]** or a waste management licence is required, or a licence under the Local Government (Water Pollution) Act, 1977, is required in respect of discharges from the development, a statement as to that requirement,

Editorial Notes:

E50 Previous affecting provision: subs. (2)(xa) inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 6(d), S.I. No. 475 of 2011; substituted (24.07.2022) as per F-note above.

Obligation to give information to local authority.

8.—(1) A local authority may, for any purpose arising in relation to its functions under this Act or any other enactment, by notice in writing require the occupier of any structure or other land or any person receiving, whether for himself or herself or for another, rent out of any structure or other land to state in writing to the authority, within a specified time not less than 2 weeks after being so required, particulars of the estate, interest, or right by virtue of which he or she occupies the structure or other land or receives the rent, as the case may be, and the name and address (so far as they are known to him or her) of every person who to his or her knowledge has any estate or interest in, or right over, or in respect of, the structure or other land.

(2) Every person who is required under this section to state in writing any matter or thing to a local authority and either fails so to state the matter or thing within the time appointed under this section or, when so stating any such matter or thing, makes

any statement in writing which is to his or her knowledge false or misleading in a material respect, shall be guilty of an offence.

PART II

Plans and Guidelines

Chapter I

Development Plans

Obligation to make development plan.

9.—(1) Every planning authority shall every 6 years make a development plan.

F68**[**(1A) Notwithstanding *subsection (1)*, the council of the city of Cork shall make a development plan every 6 years (or such longer period, not exceeding 7 years, as the Minister may specify by order).

(1B) Notwithstanding *subsection (1)*, the council of the county of Cork shall make a development plan every 6 years (or such longer period, not exceeding 7 years, as the Minister may specify by order).**]**

(2) Subject to *subsection (3)*, a development plan shall relate to the whole functional area of the authority.

F69**[**(3)(*a*) A planning authority may, with the agreement of one or more local authorities which are adjoining local authorities, or on the direction of the Minister shall, make a single development plan for its functional area and any environs of that area which form part of any adjoining local authorities.**]**

(*b*) Where it is proposed to make a development plan under *paragraph (a)*, the planning authorities concerned shall make whatever arrangements they see fit to prepare the plan including the carrying out of the requirements of this Chapter as a joint function of the authorities concerned (and this Chapter shall be construed accordingly) except that where decisions are reserved to the members of the planning authorities concerned the decisions must be made by the members of each authority concerned subject to any agreement which those authorities may make for the resolution of differences between any such reserved decisions.

(4) In making a development plan in accordance with this Chapter, a planning authority shall have regard to the development plans of adjoining planning authorities and shall co-ordinate the objectives in the development plan with the objectives in the plans of those authorities except where the planning authority considers it to be inappropriate or not feasible to do so.

(5) In making a development plan in accordance with this Chapter, a planning authority shall take into account any significant likely effects the implementation of the plan may have on the area of any adjoining planning authority having regard in particular to any observations or submissions made by the adjoining authority.

F70**[**(5A) (*a*) Written observations or submissions received by a planning authority under *subsection (3)* or *(4)* shall, subject to *paragraph (b)*, be published on the website of the authority within 10 working days of its receipt by that authority.

(*b*) Publication in accordance with *paragraph (a)*—

(i) does not apply where the planning authority is of the opinion that the observation or submission is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party

has not, expressly, or impliedly in the circumstances, consented to its disclosure,

(ii) does not apply where the planning authority has sought and receives, either before or after the period of 10 working days referred to in *paragraph (a)*, legal advice to the effect that it should not publish under that paragraph or should cease to so publish, as the case may be, the observations or submissions concerned,

(iii) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in *paragraph (a)*, legal advice that part of the observations or submissions concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or

(iv) does not apply where the observations or submissions relate to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the observations or submissions relate to matters prescribed by the Minister.**]**

(6) A development plan shall in so far as is practicable be consistent with such national plans, policies or strategies as the Minister determines relate to proper planning and sustainable development.

F71**[**(6A) Each planning authority within the GDA shall ensure that its development plan is consistent with the transport strategy of the DTA.**]**

(7) (*a*) The Minister may require 2 or more planning authorities to co-ordinate the development plans for their areas generally or in respect of specified matters and in a manner specified by the Minister.

(*b*) Any dispute between the planning authorities in question arising out of the requirement under *paragraph (a)* shall be determined by the Minister.

Annotations

Amendments:

F68 Inserted (31.01.2019) by *Local Government Act 2019* (1/2019), s. 37(a), S.I. No. 20 of 2019.

F69 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 13, S.I. No. 214 of 2014.

F70 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 19 and sch. 4 ref. no. 1, S.I. No. 436 of 2018.

F71 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 82, S.I. No. 574 of 2009.

Editorial Notes:

E51 Making a development plan is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 item 69 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

F72**[**Modification to operation of section 9 of Act of 2000 having regard to Covid-19

9A.—(1) Notwithstanding *subsections (1)*, *(1A)* and *(1B)* of *section 9* but subject to this section, where a review of a development plan and preparation of a new development plan referred to in *paragraph (a)*, *(aa)* or *(ab)* of *section 11(1)* (as may be modified by *section 11(1)(b)*) or *section 11B*, or both as the case may be, was commenced but was not completed before the date of the coming into operation of section 2 of the Planning and Development (Amendment) Act 2021 a planning authority may decide, having regard to the extraordinary circumstances arising from the risk to public health posed by the spread of Covid-19 and the disruption to the completion

of the review of the development plan and the preparation of a new development plan caused by restrictions introduced in response to the Covid-19 pandemic, that a further period of up to but not exceeding one year may be necessary and appropriate to complete the review and to prepare and make a new development plan for its functional area.

(2) Notwithstanding *subsections (1)*, *(1A)* and *(1B)* of *section 9* but subject to this section, where a review of a development plan and preparation of a new development plan referred to in *paragraph (a)*, *(aa)* or *(ab)* of *section 11(1)* (as may be modified by *section 11(1)(b)*) or *section 11B*, or both as the case may be, was commenced but was not completed before the date of the coming into operation of section 2 of the Planning and Development (Amendment) Act 2021 the members of a planning authority may, by simple majority, approve a resolution, having regard to the extraordinary circumstances arising from the risk to public health posed by the spread of Covid-19 and the disruption to the completion of the review of the development plan and the preparation of a new development plan caused by restrictions introduced in response to the Covid-19 pandemic, that a further period of up to but not exceeding one year may be necessary and appropriate to complete the review and to prepare and make a new development plan for its functional area and submit that resolution to the chief executive of the planning authority, together with the reasons given by the members of the authority for reaching the resolution.

(3) Notwithstanding *subsections (1)*, *(1A)* and *(1B)* of *section 9* but subject to this section and *section 11D* and having made a decision under *section 11D(9)* to extend the duration of its existing development plan or, where *section 11B* applies, existing development plans, the members of a planning authority may decide by resolution that a further period is necessary to complete the development plan review and to prepare and make a new development plan.

(4) At any time after making a decision under *subsection (3)*, a planning authority may decide, in accordance with that subsection, that a further period or periods may be necessary in addition to the period specified in the decision, but the cumulative period which the authority may decide is necessary to complete the development plan review and to prepare and make a new development plan shall not exceed one year.

(5) Where a planning authority decides, in accordance with *subsection (3)*, that a further period or periods is or are required to complete the development plan review and to prepare and make a new development plan, the planning authority concerned shall, as soon as may be after making the decision or decisions, as the case may be, notify the Office of the Planning Regulator of its decision or decisions and the planning authority shall provide to the Office of the Planning Regulator an indicative programme for the making of a new development plan within that further period or periods.

(6) In this section, "Covid-19" means a disease caused by infection with the virus SARS-CoV-2 and specified as an infectious disease in accordance with Regulation 6 of, and the Schedule to, the Infectious Diseases Regulations 1981 (S.I. No. 390 of 1981) or any variant of the disease so specified as an infectious disease in those Regulations.

(7) This section shall cease to have effect on 1 January 2024.**]**

Annotations

Amendments:

F72 Inserted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 2, S.I. No. 365 of 2021.

Editorial Notes:

E52 The section heading is taken from the amending section in the absence of one included in the amendment.

Content of development plans.

10.—(1) A development plan shall set out an overall strategy for the proper planning and sustainable development of the area of the development plan and shall consist of a written statement and a plan or plans indicating the development objectives for the area in question.

F73**[**(1A) The written statement referred to in *subsection (1)* shall include a core strategy which shows that the development objectives in the development plan are consistent, as far as practicable, with national and regional development objectives set out in the F74**[**National Planning Framework**]** and F75**[**the regional spatial and economic strategy**]** F76**[**and with specific planning policy requirements specified in guidelines under *subsection (1)* of *section 28***]**.

(1B) F77**[**...**]**

(1C) F77**[**...**]**

(1D) The written statement referred to in *subsection (1)* shall also include a separate statement which shows that the development objectives in the development plan are consistent, as far as practicable, with the conservation and protection of the environment.**]**

(2) Without prejudice to the generality of *subsection (1)*, a development plan shall include objectives for—

(*a*) the zoning of land for the use solely or primarily of particular areas for particular purposes (whether residential, commercial, industrial, agricultural, recreational, as open space or otherwise, or a mixture of those uses), where and to such extent as the proper planning and sustainable development of the area, in the opinion of the planning authority, requires the uses to be indicated;

F78**[**(*b*) the provision or facilitation of the provision of infrastructure including—

(i) transport, energy and communication facilities,

(ii) water supplies and waste water services (regard having been had to the water services strategic plan for the area made in accordance with the Water Services Act 2007),

(iii) waste recovery and disposal facilities (regard having been had to the waste management plan for the area made in accordance with the Waste Management Act 1996), and

(iv) any ancillary facilities or services;**]**

(*c*) the conservation and protection of the environment including, in particular, the archaeological and natural heritage and the conservation and protection of European sites and any other sites which may be prescribed for the purposes of this paragraph;

F73**[**(*ca*) the encouragement, pursuant to Article 10 of the Habitats Directive, of the management of features of the landscape, such as traditional field boundaries, important for the ecological coherence of the Natura 2000 network and essential for the migration, dispersal and genetic exchange of wild species;

(*cb*) the promotion of compliance with environmental standards and objectives established—

(i) for bodies of surface water, by the European Communities (Surface Waters) Regulations 2009;

(ii) for groundwater, by the European Communities (Groundwater) Regulations 2010;

which standards and objectives are included in river basin management plans (within the meaning of Regulation 13 of the European Communities (Water Policy) Regulations 2003);**]**

(*d*) the integration of the planning and sustainable development of the area with the social, community and cultural requirements of the area and its population;

(*e*) the preservation of the character of the landscape where, and to the extent that, in the opinion of the planning authority, the proper planning and sustainable development of the area requires it, including the preservation of views and prospects and the amenities of places and features of natural beauty or interest;

(*f*) the protection of structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest;

(*g*) the preservation of the character of architectural conservation areas;

F79**[**(*h*) the development and renewal of areas, identified having regard to the core strategy, that are in need of regeneration, in order to prevent—

(i) adverse effects on existing amenities in such areas, in particular as a result of the ruinous or neglected condition of any land,

(ii) urban blight and decay,

(iii) anti-social behaviour, or

(iv) a shortage of habitable houses or of land suitable for residential use or a mixture of residential and other uses;**]**

(*i*) the provision of accommodation for travellers, and the use of particular areas for that purpose;

(*j*) the preservation, improvement and extension of amenities and recreational amenities;

(*k*) the control, having regard to the provisions of the Major Accidents Directive and any regulations, under any enactment, giving effect to that Directive, of—

(i) siting of new establishments,

(ii) modification of existing establishments, and

(iii) development in the vicinity of such establishments,

for the purposes of reducing the risk, or limiting the consequences, of a major accident;

F80**[**(*l*) the provision, or facilitation of the provision, of services for the community including, in particular, schools, crèches and other education and childcare facilities;

(*m*) the protection of the linguistic and cultural heritage of the Gaeltacht including the promotion of Irish as the community language, where there is a Gaeltacht area in the area of the development plan;

(*n*) the promotion of sustainable settlement and transportation strategies in urban and rural areas including the promotion of measures to—

(i) reduce energy demand in response to the likelihood of increases in energy and other costs due to long-term decline in non-renewable resources,

F81**[**(ii) reduce anthropogenic greenhouse gas emissions and address the necessity of adaptation to climate change, taking account of the local authority climate action plan (within the meaning of section 14B of the Climate Action and Low Carbon Development Act 2015), where such a plan has been made for the area in question;**]**

(iii) F82**[**...**]**

in particular, having regard to location, layout and design of new development;

(*o*) the preservation of public rights of way which give access to seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility, which public rights of way shall be identified both by marking them on at least one of the maps forming part of the development plan and by indicating their location on a list appended to the development plan, and

(*p*) landscape, in accordance with relevant policies or objectives for the time being of the Government or any Minister of the Government relating to providing a framework for identification, assessment, protection, management and planning of landscapes and developed having regard to the European Landscape Convention done at Florence on 20 October 2000.**]**

F73**[**(2A) Without prejudice to the generality of *subsection (1A)*, a core strategy shall—

(*a*) provide relevant information to show that the development plan and the housing strategy are consistent with the F74**[**National Planning Framework**]** and F83**[**the regional spatial and economic strategy**]** F76**[**and with the specific planning policy requirements specified in guidelines under *subsection (1)* of *section 28*,**]**

(*b*) take account of any policies of the Minister in relation to national and regional population targets,

(*c*) in respect of the area in the development plan already zoned for residential use or a mixture of residential and other uses, provide details of—

(i) the size of the area in hectares, and

(ii) the proposed number of housing units to be included in the area,

(*d*) in respect of the area in the development plan proposed to be zoned for residential use or a mixture of residential and other uses, provide details of—

(i) the size of the area in hectares,

(ii) how the zoning proposals accord with national policy that development of land shall take place on a phased basis,

(*e*) provide relevant information to show that, in setting out objectives regarding retail development contained in the development plan, the planning authority

has had regard to any guidelines that relate to retail development issued by the Minister under section 28,

(*f*) in respect of the area of the development plan of a county council, set out a settlement hierarchy and provide details of—

(i) whether a city or town referred to in the hierarchy is designated as a gateway or hub for the purposes of the F74**[**National Planning Framework**]**,

(ii) other towns referred to in the hierarchy,

(iii) any policies or objectives for the time being of the Government or any Minister of the Government in relation to national and regional population targets that apply to towns and cities referred to in the hierarchy,

(iv) any policies or objectives for the time being of the Government or any Minister of the Government in relation to national and regional population targets that apply to the areas or classes of areas not included in the hierarchy,

(v) projected population growth of cities and towns in the hierarchy,

(vi) aggregate projected population, other than population referred to in subparagraph (v), in—

(I) villages and smaller towns with a population of under 1,500 persons, and

(II) open countryside outside of villages and towns,

(vii) relevant roads that have been classified as national primary or secondary roads under section 10 of the Roads Act 1993 and relevant regional and local roads within the meaning of section 2 of that Act,

(viii) relevant inter-urban and commuter rail routes, and

(ix) where appropriate, rural areas in respect of which planning guidelines relating to sustainable rural housing issued by the Minister under section 28 apply,

F84**[**(*g*) in respect of the development plan of a city, provide details of—

(i) the city centre concerned,

(ii) the areas designated for significant development during the period of the development plan, particularly areas for which it is intended to prepare a local area plan,

(iii) the availability of public transport within the catchment of residential or commercial development, and

(iv) retail centres in that city,**]**

F85**[**(*h*) in respect of the area of the development plan of a city and county council set out a settlement hierarchy and provide details of matters referred to in *paragraph (f)* and *(g)*.**]**

(2B) The information referred to in *subparagraphs (vii)* to *(ix)* of *paragraph (f)* and in *paragraph (g)* shall also be represented in the core strategy by a diagrammatic map or other such visual representation.

(2C) In *subsection (2A)(f)* " settlement hierarchy " means a rank given by a planning authority to a city or town in the area of its development plan, with a population that exceeded 1,500 persons in the census of population most recently published before the making by the planning authority of the hierarchy, and given on the basis of—

(*a*) its designation as a gateway city or town or as a hub town, as the case may be, under the F74**[**National Planning Framework**]**,

(*b*) the assessment by the planning authority of—

(i) the proposed function and role of the city or town, which assessment shall be consistent with any F86**[**regional spatial and economic strategy**]** in force, and

(ii) the potential for economic and social development of the city or town, which assessment shall be in compliance with policy directives of the Minister issued under *section 29*, have regard to guidelines issued by the Minister under *section 28*, or take account of any relevant policies or objectives of the Government, the Minister or any other Minister of the Government, as the case may be. **]**

(3) Without prejudice to *subsection (2)*, a development plan may indicate objectives for any of the purposes referred to in the *First Schedule*.

(4) The Minister may prescribe additional objectives for the purposes of *subsection (2)* or for the purposes of the *First Schedule*.

F87**[**(5) The Minister may, for the purposes of giving effect to Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (No. 2001/42/EC, O.J. No. L 197, 21 July 2001 P. 0030-0037), by regulations make provision in relation to consideration of the likely significant effects on the environment of implementing a development plan.**]**

F73**[**(5A) Where required, a strategic environmental assessment or an appropriate assessment of a draft development plan shall be carried out.**]**

(6) Where a planning authority proposes to include in a development plan any development objective the responsibility for the effecting of which would fall on another local authority, the planning authority shall not include that objective in the plan except after consultation with the other local authority.

(7) A development plan may indicate that specified development in a particular area will be subject to the making of a local area plan.

(8) There shall be no presumption in law that any land zoned in a particular development plan (including a development plan that has been varied) shall remain so zoned in any subsequent development plan.

F73**[**(9) Nothing in this section shall affect the existence or validity of any public right of way.

(10) No objective included in a development plan under this section shall be construed as affecting the power of a local authority to extinguish a public right of way under section 73 of the Roads Act 1993.**]**

Annotations

Amendments:

F73 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 7(a), (b)(i), (c), (d) and (e), S.I. No. 477 of 2010.

F74 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 18(2) and sch. 3 ref. nos. 1-3, S.I. No. 436 of 2018.

F75 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 14, S.I. No. 214 of 2014.

F76 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 10, S.I. No. 436 of 2018.

F77 Deleted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 11, S.I. No. 436 of 2018.

F78 Substituted (31.12.2007) by *Water Services Act 2007* (30/2007), s. 114(a), S.I. No. 846 of 2007.

F79 Substituted (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 28, S.I. No. 364 of 2015.

F80 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 7(b)(ii), S.I. No. 477 of 2010.

F81 Substituted (7.09.2021) by *Climate Action and Low Carbon Development (Amendment) Act 2021* (32/2021), s. 19(a), S.I. No. 468 of 2021.

F82 Deleted (7.09.2021) by *Climate Action and Low Carbon Development (Amendment) Act 2021* (32/2021), s. 19(b), S.I. No. 468 of 2021.

F83 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 17, S.I. No. 214 of 2014.

F84 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 18, S.I. No. 214 of 2014.

F85 Inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 18, S.I. No. 214 of 2014.

F86 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 19, S.I. No. 214 of 2014.

F87 Substituted (14.07.2004) by *European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004* (S.I. No. 435 of 2004), reg. 4.

Editorial Notes:

E53 Power pursuant to subs. (5) exercised (3.05.2011) by *Planning and Development (Strategic Environmental Assessment) (Amendment) Regulations 2011* (S.I. No. 201 of 2011).

E54 Power pursuant to subs. (5) exercised (21.07.2004) by *Planning and Development (Strategic Environmental Assessment) Regulations 2004* (S.I. No. 436 of 2004).

E55 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E56 Previous affecting provisions: subss. (1B), (1C) amended (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 refs. 15, 16, S.I. No. 214 of 2014; subsections deleted as per F-note above.

Preparation of draft development plan.

11.—F88**[**(1) (*a*) Not later than 4 years after the making of a development plan, a planning authority shall, subject to *paragraph (b)*, give notice of its intention to review its existing development plan and to prepare a new development plan for its area.

F89**[**(*aa*) Subject to *paragraph (b)* and notwithstanding *paragraph (a)*, the council of the city of Cork shall, not later than 4 years (or such longer period, not exceeding 5 years, as the Minister may specify by order) after the making of a development plan, give notice of its intention to review its existing development plan and to prepare a new development plan for its area.

(*ab*) Subject to *paragraph (b)* and notwithstanding *paragraph (a)*, the council of the county of Cork shall, not later than 4 years (or such longer period, not exceeding 5 years, as the Minister may specify by order) after the making of

a development plan, give notice of its intention to review its existing development plan and to prepare a new development plan for its area.**]**

(*b*) For the purpose of enabling the incorporation of the National Planning Framework and a regional spatial and economic strategy into a development plan—

(i) where notice of a development plan review to be given in accordance with F90**[***paragraph (a)*, *(aa)* or *(ab)***]** is prior to the making of the relevant regional spatial and economic strategy, then notice of the review shall be deferred until not later than 13 weeks after the relevant regional spatial and economic strategy has been made,

(ii) where a development plan review referred to in F90**[***paragraph (a)*, *(aa)* or *(ab)***]** has commenced and a draft plan has not been submitted to the members of the planning authority concerned in accordance with subsection (5)(a) prior to the making of the relevant regional spatial and economic strategy, then the review process shall be suspended until not later than 13 weeks after the making of the relevant regional spatial and economic strategy,

(iii) where notice of a development plan review to be given in accordance with F90**[***paragraph (a)*, *(aa)* or *(ab)***]** would, but for this subparagraph, be more than the period of 26 weeks after the making of the relevant regional spatial and economic strategy, then each planning authority concerned shall, within that period, either—

(I) give notice of a development plan variation in accordance with *section 13*, or

(II) give notice of a development plan review.**]**

F91**[**(1A) The review of the existing development plan and preparation of a new development plan under this section by the planning authority shall be strategic in nature for the purposes of developing—

(*a*) the objectives and policies to deliver an overall strategy for the proper planning and sustainable development of the area of the development plan, and

(*b*) the core strategy,

and shall take account of the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.**]**

(2) A notice under *subsection (1)* shall be given to the Minister F92**[**, the Office of the Planning Regulator**]**, any prescribed authorities, any adjoining planning authorities, the Board, F93**[**any relevant regional assembly and any local community development committee within the functional area of the local authority**]** and shall be published in one or more newspapers circulating in the area to which the development plan relates and shall—

(*a*) state that the planning authority intends to review the existing development plan and to prepare a new development plan,

F94**[**(*b*) indicate that submissions or observations regarding objectives and policies to deliver an overall strategy for the proper planning and sustainable development of the area of the development plan may be made in writing to the planning authority within a specified period (which shall not be less than 8 weeks),

(*bb*) indicate that children, or groups or associations representing the interests of children, are entitled to make submissions or observations under *paragraph (b)*,

(*bc*) state that the planning authority intends to review the zoning of the area of the development plan for the purposes referred to in *subsection (1A)(a)* and *(b)* and indicate that requests or proposals for zoning of particular land for any purpose shall not be considered at this stage.**]**

(*c*) indicate the time during which and the place or places where any background papers or draft proposals (if any) regarding the review of the existing plan and the preparation of the new development plan may be inspected.

(3) (*a*) As soon as may be after giving notice under this section of its intention to review a development plan and to prepare a new development plan, a planning authority shall take whatever additional measures it considers necessary to consult with the general public and other interested bodies.

F95**[**(*b*) Without prejudice to the generality of *paragraph (a)*, a planning authority—

(i) shall consult with members of the public in such manner (which shall include the holding of a public meeting or an online public meeting) as it considers appropriate, and invite submissions in writing from members of the public, in relation to a proposed development plan, and

(ii) may invite oral submissions from members of the public in relation to a proposed development plan.**]**

(*c*) In addition to *paragraphs (a)* and *(b)*, a planning authority shall take whatever measures it considers necessary to consult with the providers of energy, telecommunications, transport and any other relevant infrastructure and of education, health, policing and other services in order to ascertain any long-term plans for the provision of the infrastructure and services in the area of the planning authority and the providers shall furnish the necessary information to the planning authority.

F96**[**(3A) (*a*) Written submissions or observations received by a planning authority under *subsection (3)* or *(4)* shall, subject to *paragraph (b)*, be published on the website of the authority within 10 working days of its receipt by that authority.

(*b*) Publication in accordance with *paragraph (a)*—

(i) does not apply where the planning authority is of the opinion that the submission or observation is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure,

(ii) does not apply where the planning authority has sought and receives, either before or after the period of 10 working days referred to in paragraph (a), legal advice to the effect that it should not publish under that paragraph or should cease to so publish, as the case may be, the submission or observation concerned,

(iii) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in paragraph (a), legal advice that part of the submission or observation concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or

(iv) does not apply where the submission or observation relates to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the submission or observation relates to matters prescribed by the Minister.**]**

(4) (*a*) Not later than 16 weeks after giving notice under *subsection (1)*, the F97**[**chief executive**]** of a planning authority shall prepare a report on any submissions

or observations received under *subsection (2)* or *(3)* and the matters arising out of any consultations under *subsection (3)*.

F96**[**(*aa*) A chief executive's report prepared for the purposes of *paragraph (a)* shall be published on the website of the planning authority concerned as soon as practicable following its preparation.**]**

(*b*) A report under *paragraph (a)* shall—

(i) list the persons or bodies who made submissions or observations under this section as well as any persons or bodies consulted by the authority,

F94**[**(ii) summarise the issues raised in the submissions and during the consultations, where appropriate, but shall not refer to a submission relating to a request or proposal for zoning of particular land for any purpose.**]**

(iii) give the opinion of the F97**[**chief executive**]** to the issues raised, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area, and any relevant policies or objectives for the time being of the Government or of any Minister of the Government, and

(iv) state the F97**[**chief executive's recommendations**]** on the policies to be included in the draft development plan.

F98**[**(*bb*) In the case of each planning authority within the GDA, a report under *paragraph (a)* shall summarise the issues raised and the recommendations made by the DTA in a report prepared in accordance with *section 31B* and outline the recommendations of the F97**[**chief executive**]** in relation to the manner in which those issues and recommendations should be addressed in the draft development plan.**]**

F91**[**(*bc*) A report under *paragraph (a)* shall summarise the issues raised and recommendations made by the relevant F99**[**regional assembly**]** in a report prepared in accordance with *section 27A* (inserted by section 17 of the Act of 2010) and outline the recommendations of the F97**[**chief executive**]** in relation to the manner in which those issues and recommendations should be addressed in the draft development plan.**]**

(*c*) A report under *paragraph (a)* shall be submitted to the members of the planning authority, or to a committee of the planning authority, as may be decided by the members of the authority, for their consideration.

(*d*) Following the consideration of a report under *paragraph (c)*, the members of the planning authority or of the committee, as the case may be, may issue directions to the F97**[**chief executive**]** regarding the preparation of the draft development plan, F94**[**and any such directions shall be strategic in nature, consistent with the draft core strategy, and shall take account of**]** the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government, and the F97**[**chief executive**]** shall comply with any such directions.

(*e*) Directions under *paragraph (d)* shall be issued not later than 10 weeks after the submission of a report in accordance with *paragraph (c)*.

(*f*) In issuing directions under *paragraph (d)*, the members shall be restricted to considering the proper planning and sustainable development of the area to which the development plan relates.

(5) (*a*) The F97**[**chief executive**]** shall, not later than 12 weeks following the receipt of any directions under *subsection (4)(d)*, prepare a draft development plan

and submit it to the members of the planning authority for their consideration.

(*b*) The members of a planning authority shall, as soon as may be, consider the draft development plan submitted by the F97**[**chief executive**]** in accordance with *paragraph (a)*.

(*c*) Where the draft development plan has been considered in accordance with *paragraph (b)*, it shall be deemed to be the draft development plan, unless, within 8 weeks of the submission of the draft development plan under *paragraph (a)*, the planning authority, by resolution, amends that draft development plan.

Annotations

Amendments:

F88 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 12, S.I. No. 436 of 2018.

F89 Inserted (31.01.2019) by *Local Government Act 2019* (1/2019), s. 37(b), S.I. No. 20 of 2019.

F90 Substituted (15.07.2019) by *Local Government Rates and Other Matters Act 2019* (24/2019), s. 24, S.I. No. 355 of 2019.

F91 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 8(a) and (c)(ii), S.I. No. 477 of 2010.

F92 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. no. 1, S.I. No. 133 of 2019, art. 2(b).

F93 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 20, S.I. No. 214 of 2014.

F94 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 8(b), (c)(i) and (iii), S.I. No. 477 of 2010.

F95 Substituted (19.12.2020) by *Planning and Development, and Residential Tenancies, Act 2020* (27/2020), s. 4, commenced on enactment.

F96 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 19 and sch. 4 ref. nos. 2, 3, S.I. No. 436 of 2018.

F97 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 4-9, S.I. No. 436 of 2018.

F98 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 83, S.I. No. 574 of 2009.

F99 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 21, S.I. No. 214 of 2014.

Editorial Notes:

E57 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E58 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E59 Power pursuant to section exercised (3.06.2011) by *Planning and Development (Amendment) Regulations 2011* (S.I. No. 262 of 2011).

E60 Power pursuant to section exercised (31.03.2007) by *Planning and Development (No. 2) Regulations 2007* (S.I. No. 135 of 2007).

E61 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E62 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E63 Previous affecting provision: power pursuant to section exercised (1.11.2000) by *Planning and Development Regulations 2000* (S.I. No. 350 of 2000); revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

F100**[**Extension of certain development plans and restriction of *section 11*

11A.—(1) In this section—

"specified planning authority" means—

(*a*) in respect of its administrative area, a town council, or

(*b*) in respect of its administrative area, North Tipperary County Council, South Tipperary County Council, Limerick County Council, Limerick City Council, Waterford County Council or Waterford City Council;

"town council" means the town council of a town set out in Part 1 of Schedule 6 to the Local Government Act 2001 and to which section 11(4) of that Act relates.

(2) Except as provided for by *section 11B(2)*, *subsection (1)* of *section 11* shall not apply to a specified planning authority—

(*a*) where the specified planning authority decides not to review its development plan, or

(*b*) where a notice of intention to review its development plan has been given by the specified planning authority under that subsection and it decides by virtue of this section not to review, or not to continue to review, that plan,

and, accordingly, the development plan shall continue to have effect until such time as a development plan that includes the administrative area of the specified planning authority is made for the purposes of *section 11B*.

(3) A decision by a specified planning authority under *subsection (2)* shall not have effect unless notice of the making of the decision—

(*a*) is given in writing to the Minister,

(*b*) where the planning authority is a town council, is given in writing to the council of the county in which the town council is situated, and

(*c*) is published in a newspaper circulating in the area to which the development plan concerned relates.

(4) A notice of the making of a decision by a specified planning authority under *subsection (2)* may be published by it on the internet.**]**

Annotations

Amendments:

F100 Inserted (22.07.2013) by *Electoral, Local Government and Planning and Development Act 2013* (27/2013), s. 28, commenced on enactment.

F101**[**Development plans for new administrative areas to be provided fo

11B.—Where after the passing of the Electoral, Local Government and Planning and Development Act 2013 provision is made by law which has the effect of amalgamating the administrative areas of—

(*a*) North Tipperary County Council and South Tipperary County Council,

(*b*) Limerick County Council and Limerick City Council, or

(*c*) Waterford County Council and Waterford City Council,

then, the council for each of the areas so amalgamated shall be its planning authority and shall, within 12 months of the making of regional planning guidelines that take into account the amalgamation of the administrative areas concerned, commence the preparation of a development plan for its administrative area.

F102**[**(1A) Where a planning authority to which *subsection (1)* relates has not commenced the preparation of a development plan in accordance with this section before the initial making of the relevant regional spatial and economic strategy, then the reference in that subsection to "within 12 months of the making of regional planning guidelines that take into account the amalgamation of the administrative areas concerned" shall be read as a reference to "no later than 26 weeks after the making of the initial regional spatial and economic strategy that takes into account the amalgamation of the administrative areas concerned".**]**

(2) For the purposes of *subsection (1)* and the preparation of a development plan referred to in that subsection, this Chapter shall have effect—

(*a*) as if the reference to 6 years in *section 9(1)* were a reference to not more than 3 years after the making of the regional planning guidelines referred to in *subsection (1)*, and

(*b*) as if the reference to 4 years in *section 11(1)* were a reference to within the period of 12 months referred to in *subsection (1)*.

(3) Pending the making, by a planning authority to which *subsection (1)* relates, of its development plan consequent on the preparation of that plan, the development plans within the planning authority's administrative area (including any development plan to which *section 11C* relates) shall continue to apply to the extent provided for by each of those plans.

(4) After the making of a development plan in accordance with this section by a planning authority referred to in *subsection (1)*, the obligation under section 9 to make a development plan every 6 years, together with the prior compliance with the requirements of *section 11*, shall apply to the authority.**]**

Annotations

Amendments:

F101 Inserted (22.07.2013) by *Electoral, Local Government and Planning and Development Act 2013* (27/2013), s. 28, commenced on enactment.

F102 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 13, S.I. No. 436 of 2018.

F103**[**Development plans and dissolution of certain planning authorities

11C.—Where after the passing of the Electoral, Local Government and Planning and Development Act 2013 provision is made by law for the dissolution of town councils (being town councils within the meaning of *section 11A(1)*) then, irrespective of whether or not any relevant decision was made pursuant to *section 11A(2)*—

(*a*) the development plan for the administrative area of such a town council (in this section referred to as the "dissolved administrative area") shall continue

to have effect to the extent provided for by that plan and be read together with the development plan for the administrative area within which the dissolved administrative area is situated, and

(*b*) a development plan as so read in accordance with *paragraph (a)* shall, except where *section 11B(2)* applies, be reviewed in accordance with the requirements of *section 9* as that section applies to the development plan for the administrative area within which the dissolved administrative area is situated.**]**

Annotations

Amendments:

F103 Inserted (22.07.2013) by *Electoral, Local Government and Planning and Development Act 2013* (27/2013), s. 28, commenced on enactment.

F104**[**Modification to operation of sections 11 and 11B of Act of 2000 having regard to Covid-19

11D.—(1) Notwithstanding *paragraphs (a)*, *(aa)* and *(ab)* of *subsection (1)* of *section 11* (as may be modified by *section 11(1)(b)*) and *subsections (2)*, *(3)* and *(4)* of *section 11B* but subject to *subsections (2)* to *(9)*, where a planning authority decides in accordance with *section 9A(1)* or members of the planning authority approve a resolution under *section 9A(2)* that it may be necessary to extend the period to complete the review of the existing development plan and to prepare a new development plan for its functional area pending the making by a planning authority of its new development plan, the planning authority may decide to extend the duration of the existing development plan for its area for a further period or periods which shall not exceed one year.

(2) Before making a decision under *subsection (9)*, the planning authority shall be satisfied that—

(*a*) the effect of the proposed extension of the duration of the existing development plan for the area, when considered alone or, as appropriate, in combination with any previous extension of that plan, is not likely to have significant effects on the environment or to have a significant effect on a European site, or both, or

(*b*) a strategic environmental assessment or an appropriate assessment or both such assessments, as necessary, has or have been carried out in respect of the effect of the proposed extension of the duration of the existing development plan for the area, when considered alone or, as appropriate, in combination with any previous extension of that plan.

(3) Where a planning authority proposes to extend the duration of an existing development plan, it shall—

(*a*) give notice to the Minister, the Office of the Planning Regulator, the Board, the relevant regional assembly, and where appropriate, to any adjoining planning authority, the prescribed authorities, and any local community development committee within the area of the development plan, and

(*b*) publish notice of the proposed extension of the duration of the existing development plan in one or more newspapers circulating in that area.

(4) A notice under *subsection (3)* shall—

(*a*) state that the planning authority proposes to extend the duration of the existing development plan in order to provide a further period of time, the period of time being specified in the notice but not exceeding a period of one year, to complete the development plan review and to prepare and make a new development plan,

(*b*) state that a copy of any relevant assessment referred to in *subsection (2)* may be inspected at a stated place or places and at stated times, and on the authority's website, during a stated period of not less than 4 weeks (and that the copy will be kept for inspection accordingly), and

(*c*) indicate that a submission or observation with respect to the proposed extension of the duration of the existing development plan made to the planning authority within a specified period which shall be not less than 4 weeks from the date of the notice, will be taken into consideration before a decision is made as to whether or not to extend the duration of the existing development plan.

(5) (*a*) Not later than 8 weeks after giving notice under *subsection (3)*, the chief executive of a planning authority shall prepare a report on any submissions or observations received under that subsection and shall submit the report to the members of the authority for their consideration.

(*b*) A chief executive's report prepared for the purposes of *paragraph (a)* shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under that paragraph.

(*c*) A report under *paragraph (a)* shall—

(i) list the persons or bodies who made submissions or observations under this section,

(ii) provide a summary of the issues raised in the submissions and observations made in relation to the proposal to extend the duration of the existing development plan in accordance with this section, and

(iii) give the response of the chief executive to the issues raised.

(6) In considering whether to extend the duration of the existing development plan, the members of a planning authority shall be restricted to considering—

(*a*) the reasons referred to in *subsection (1)* or *(2)* of *section 9A* for considering that a further period may be necessary to complete the development plan review and to prepare and make a new development plan, and

(*b*) whether the effect of the proposed extension of the duration of the existing development plan, when considered alone or, as appropriate, in combination with any previous extension of that plan, is likely to have—

(i) significant effects on the environment or a significant effect on a European site, or both, or

(ii) adverse effects on the integrity of a European site.

(7) For the purposes of *subsection (2)(a)*, in considering whether or not the extension of the duration of the existing development plan, when considered alone or, as appropriate, in combination with any previous extension of that plan, would have a significant effect on a European site, a planning authority shall carry out a screening for appropriate assessment in accordance with *section 177U*.

(8) For the purposes of *subsection (2)(b)*, where necessary, a planning authority shall carry out an appropriate assessment in respect of the extension of the duration of the existing development plan, when considered alone or, as appropriate, in combination with any previous extension of that plan, in accordance with *Part XAB*.

(9) (*a*) The members of a planning authority shall consider the proposed extension of the duration of the existing development plan and the report of the chief executive under *subsection (5)*.

(*b*) The members of the authority, having considered the proposed extension of the duration of the existing development plan and the chief executive's report may decide, by a vote in favour of the resolution by a simple majority of the members of the planning authority concerned present at an ordinary or special meeting, to extend the duration of the existing development plan for a period not exceeding one year.

(10) (*a*) Where a planning authority extends the duration of the existing development plan under this section, it shall—

(i) publish a notice to this effect in at least one newspaper circulating in its area, and

(ii) notify the Minister, the Office of the Planning Regulator, the Board, the relevant regional assembly, and where appropriate, any adjoining planning authority, the prescribed authorities, and any local community development committee within the area of the development plan.

(*b*) A notice under this subsection shall state that a copy of the development plan as extended is available for inspection at a stated place or places (and the copy shall be kept available for inspection accordingly).

(11) A person shall not question the validity of the extension of the duration of a development plan by reason only that the procedures required by this section were not completed within the time required.

(12) Where the duration of an existing development plan is extended under this section, that development plan shall continue to have effect until a new development plan takes effect under *section 12*, at which time the existing development plan shall cease to have effect.

(13) Where a planning authority decides under *section 9A(3)* that a further period or periods is or are necessary to complete the review of the existing development plan and to prepare and make a new development plan, it may make a further decision in accordance with this section to extend the duration of the existing development plan but the cumulative period of any further extension or extensions of the duration of such plan shall not exceed one year.

(14) In this section, a reference to an existing development plan shall include, where *section 11B* applies, a reference to existing development plans.

(15) This section shall cease to have effect on 1 January 2024.**]**

Annotations

Amendments:

F104 Inserted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 3, S.I. No. 365 of 2021.

Editorial Notes:

E64 The section heading is taken from the amending section in the absence of one included in the amendment.

Making of development plan.

12.—(1) Where the draft development plan has been prepared in accordance with *section 11*, the planning authority shall within 2 weeks of the period referred to in *section 11(5)(c)*—

F105**[**(*a*) send notice and a copy of the draft development plan to the Minister F106**[**, the Office of the Planning Regulator**]**, the Board, the relevant regional

assembly, the prescribed authorities and any local community development committee in the area, and**]**

(*b*) publish notice of the preparation of the draft in one or more newspapers circulating in its area.

(2) A notice under *subsection (1)* shall state that—

(*a*) a copy of the draft may be inspected at a stated place or places and at stated times during a stated period of not less than 10 weeks (and the copy shall be kept available for inspection accordingly), and

(*b*) written submissions or observations with respect to the draft made to the planning authority within the stated period will be taken into consideration before the making of the plan.

F107**[**(2A) The Minister or the Office of the Planning Regulator may, in relation to a draft development plan, make such recommendations as the Minister or that Office, as the case may be, considers appropriate.**]**

(3) (*a*) Where the draft includes any provision relating to any addition to or deletion from the record of protected structures, the planning authority shall serve on each person who is the owner or occupier of the proposed protected structure or the protected structure, as the case may be, a notice of the proposed addition or deletion, including the particulars.

(*b*) A notice under *paragraph (a)* shall state—

(i) that a copy of the proposed addition or deletion may be inspected at a stated place or places and at stated times during a stated period of not less than 10 weeks (and the copy shall be kept available for inspection accordingly),

(ii) that written submissions or observations with respect to the proposed addition or deletion made to the planning authority within the stated period will be taken into consideration before the making of the addition or deletion,

(iii) whether or not the proposed addition or deletion was recommended by the Minister for Arts, Heritage, Gaeltacht and the Islands, and

(iv) that, if the proposed addition or deletion was recommended by the Minister for Arts, Heritage, Gaeltacht and the Islands, the planning authority shall forward to that Minister for his or her observations a copy of any submission or observation made under *subparagraph (ii)* (and any such observations shall be taken into consideration accordingly).

(4) (*a*) Not later than 22 weeks after giving notice under *subsection (1)* and, if appropriate, *subsection (3)*, the F108**[**chief executive**]** of a planning authority shall prepare a report on any submissions or observations received under *subsection (2)* or *(3)* and submit the report to the members of the authority for their consideration.

F109**[**(*aa*) A chief executive's report prepared for the purposes of *paragraph (a)* shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under *paragraph (a)*.**]**

(*b*) A report under *paragraph (a)* shall—

(i) list the persons or bodies who made submissions or observations under this section,

F110**[**(ii) provide a summary of—

(I) the recommendations, submissions and observations made by the Minister, where the notice under *paragraph (a)* of *subsection (2)* was sent before the establishment of the Office of the Planning Regulator,

(II) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(III) the submissions and observations made by any other persons,

in relation to the draft development plan in accordance with this section,**]**

(iii) give the response of the F108**[**chief executive**]** to the issues raised, taking account of any directions of the members of the authority or the committee under *section 11(4)*, the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives of the Government or of any Minister of the Government and, if appropriate, any observations made by the Minister for Arts, Heritage, Gaeltacht and the Islands under *subsection (3)(b)(iv)*.

F107**[**(*ba*) A report prepared and submitted in accordance with *paragraph (a)* shall contain a summary of the observations, submissions and recommendations made by the Office of the Planning Regulator under *section 31AM* to the planning authority concerned.**]**

F111**[**(*bb*) In the case of each planning authority within the GDA, a report under *paragraph (a)* shall summarise the issues raised and the recommendations made by the DTA in its written submission prepared in accordance with *section 31C* and outline the recommendations of the F108**[**chief executive**]** in relation to the manner in which those issues and recommendations should be addressed in the development plan.**]**

F112**[**(*bc*) A report under *paragraph (a)* shall summarise the issues raised and recommendations made by the relevant F113**[**regional assembly**]** in its written submission prepared in accordance with *section 27B* (inserted by *section 18* of the *Act of 2010*) and outline the recommendations of the F108**[**chief executive**]** in relation to the manner in which those issues and recommendations should be addressed in the development plan.**]**

(5) (*a*) The members of a planning authority shall consider the draft plan and the report of the F108**[**chief executive**]** under *subsection (4)*.

F112**[**(*aa*) Following consideration of the draft plan and the report of the F108**[**chief executive**]** under *paragraph (a)* where a planning authority, after considering a submission of, or observation or recommendation from the Minister made to the authority under this section F107**[**or from the Office of the Planning Regulator made to that planning authority under *section 31AM*,**]** or from a F113**[**regional assembly**]** made to the authority under *section 27B*, decides not to comply with any recommendation made in the draft plan and report, it shall so inform F107**[**the Office of the Planning Regulator and**]** the Minister or F113**[**regional assembly**]**, as the case may be, as soon as practicable by notice in writing which notice shall contain reasons for the decision.**]**

(*b*) The consideration of a draft plan and the F108**[**chief executive's report**]** under *paragraph (a)* shall be completed within 12 weeks of the submission of the F108**[**chief executive's report**]** to the members of the authority.

(6) Where, following the consideration of the draft development plan and the F108**[**chief executive's report**]**, it appears to the members of the authority that the draft should be accepted or amended, subject to *subsection (7)*, they may, by resolution, accept or amend the draft and make the development plan accordingly.

F114**[**(7) (*a*) Subject to *paragraphs (aa)* and *(ae)* in a case where the proposed amendment would, if made, be a material alteration of the draft concerned,

the planning authority shall, not later than 3 weeks after the passing of a resolution under *subsection (6)*, publish notice of the proposed amendment in at least one newspaper circulating in its area and send notice and a copy of the proposed amendment to the Minister, F106**[**the Office of the Planning Regulator,**]** the Board and the prescribed authorities.**]**

F112**[**(*aa*) The planning authority shall determine if a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, is or are required to be carried out as respects one or more than one proposed material alteration of the draft development plan.

(*ab*) The F108**[**chief executive**]**, not later than 2 weeks after a determination under *paragraph (aa)* shall specify such period as he or she considers necessary following the passing of a resolution under *subsection (6)* as being required to facilitate an assessment referred to in *paragraph (aa)*.

(*ac*) The planning authority shall publish notice of the proposed material alteration, and where appropriate in the circumstances, the making of a determination that an assessment referred to in *paragraph (aa)* is required, in at least one newspaper circulating in its area.

(*ad*) The notice referred to in *paragraph (ac)* shall state—

(i) that a copy of the proposed material alteration and of any determination by the authority that an assessment referred to in paragraph (*aa*) is required may be inspected at a stated place or places and at stated times, and on the authority's website, during a stated period of not less than 4 weeks (and that copies will be kept for inspection accordingly), and

(ii) that written submissions or observations with respect to the proposed material alteration or an assessment referred to in *paragraph (aa)* and made to the planning authority within a stated period shall be taken into account by the authority before the development plan is made.

(*ae*) The planning authority shall carry out an assessment referred to in *paragraph (aa)* of the proposed material alteration of the draft development plan within the period specified by the F108**[**chief executive**]**.**]**

F114**[**(*b*) A notice under *paragraph (a)* or *(ac)* (inserted by section 9 of the Act of 2010)**]** shall state that—

(i) a copy of the proposed amendment of the draft development plan may be inspected at a stated place and at stated times during a stated period of not less than 4 weeks (and the copy shall be kept available for inspection accordingly), and

(ii) written submissions or observations with respect to the proposed amendment of the draft made to the planning authority within the stated period shall be taken into consideration before the making of any amendment.

(8) (*a*) Not later than 8 weeks after giving notice under *subsection (7)*, the F108**[**chief executive**]** of a planning authority shall prepare a report on any submissions or observations received under that subsection and submit the report to the members of the authority for their consideration.

F109**[**(*aa*) A chief executive's report prepared for the purposes of *paragraph (a)* shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under *paragraph (a)*.**]**

(*b*) A report under *paragraph (a)* shall—

(i) list the persons or bodies who made submissions or observations under this section,

F110**[**(ii) provide a summary of—

(I) the recommendations, submissions and observations made by the Minister, where the notice under *paragraph (a)* of *subsection (2)* was sent before the establishment of the Office of the Planning Regulator,

(II) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(III) the submissions and observations made by any other persons,

in relation to the draft development plan in accordance with this section,**]**

(iii) give the response of the F108**[**chief executive**]** to the issues raised, taking account of the directions of the members of the authority or the committee under *section 11(4)*, the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

F109**[**(8A) (*a*) Written submissions or observations received by a planning authority under this section shall, subject to *paragraph (b)*, be published on the website of the authority within 10 working days of its receipt by that authority.

(*b*) Publication in accordance with *paragraph (a)*—

(i) does not apply where the planning authority is of the opinion that the submission or observation is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure,

(ii) does not apply where the planning authority has sought and receives, either before or after the period of 10 working days referred to in *paragraph (a)*, legal advice to the effect that it should not publish under that paragraph or should cease to so publish, as the case may be, the submission or observation concerned,

(iii) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in *paragraph (a)*, legal advice that part of the submission or observation concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or

(iv) does not apply where the submission or observation relates to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the submission or observation relates to matters prescribed by the Minister.**]**

(9) (*a*) The members of a planning authority shall consider the amendment and the report of the F108**[**chief executive**]** under *subsection (8)*.

(*b*) The consideration of the amendment and the F108**[**chief executive's report**]** under *paragraph (a)* shall be completed not later than 6 weeks after the submission of the F108**[**chief executive's report**]** to the members of the authority.

F114**[**(10) (*a*) The members of the authority shall, by resolution, having considered the F108**[**chief executive's report**]**, make the plan with or without the proposed amendment that would, if made, be a material alteration, except that where they decide to accept the amendment they may do so subject to

any modifications to the amendments as they consider appropriate, which may include the making of a further modification to the alteration and *paragraph (c)* shall apply in relation to any further modification.**]**

(*b*) The requirements of *subsections (7)* to *(9)* shall not apply in relation to modifications made in accordance with *paragraph (a)*.

F112**[**(*c*) A further modification to the alteration—

(i) may be made where it is minor in nature and therefore not likely to have significant effects on the environment or adversely affect the integrity of a European site,

(ii) shall not be made where it relates to—

(I) an increase in the area of land zoned for any purpose, or

(II) an addition to or deletion from the record of protected structures.**]**

(11) In making the development plan under *subsection (6)* or *(10)*, the members shall be restricted to considering the proper planning and sustainable development of the area to which the development plan relates, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or any Minister of the Government.

(12) (*a*) Where a planning authority makes a development plan, it shall publish a notice of the making of the plan in at least one newspaper circulating in its area.

(*b*) A notice under this subsection shall state that a copy of the plan is available for inspection at a stated place or places (and the copy shall be kept available for inspection accordingly).

(*c*) In addition to the requirements of *paragraphs (a)* and *(b)*, a planning authority shall send a copy of the development plan to the Minister, F106**[**the Office of the Planning Regulator,**]** the prescribed authorities, any adjoining planning authorities, the Board, F115**[**and any local community development committee**]** within its area.

(13) As soon as may be after making an addition to or a deletion from the record of protected structures under this section, a planning authority shall serve on the owner and on the occupier of the structure concerned a notice of the addition or deletion, including the particulars.

F114**[**(14) (*a*) Notwithstanding any other provision of this Part, where a planning authority fails to make a development plan within a period referred to in *paragraph (b)*, the F108**[**chief executive**]** shall make the plan provided that so much of the plan as had been agreed by the members of the planning authority shall be included as part of the plan as made by the F108**[**chief executive**]**.

(*b*) The period referred to in *paragraph (a)* is—

(i) not more than 2 years from the giving of notice under *section 11(1)*, or

(ii) where subsection (7)(*aa*) (inserted by section 9 of the Act of 2010) applies—

(I) not more than 2 years and 4 weeks, or

(II) if appropriate in the circumstances, such longer period than 2 years and 4 weeks as is specified under *subsection (7)(ab)* (inserted by section 9 of the Act of 2010) by the F108**[**chief executive**]** as being required to facilitate an assessment referred to in *subsection (7)(aa)*.**]**

F116**[**(14A) During the period beginning on the date on which section 4 of the Planning and Development (Amendment) Act 2021 comes into operation and ending on 31 December 2023, notwithstanding the expiration of the period referred to in *subsection (14)*, the chief executive shall not make the development plan under *subsection (14)(a)* if, in a case where *section 9A* applies, the planning authority makes the plan during any period extended in accordance with that *section 9A*.**]**

(15) When considering the draft development plan, or amendments thereto, a planning authority may invite such persons as it considers appropriate to make oral submissions regarding such plan or amendment.

(16) A person shall not question the validity of the development plan by reason only that the procedures as set out under *subsections (3)* to *(5)* of *section 11* and F117**[***subsections (1), (4), (5), (6), (7), (8)* and *(9)***]** of this section were not completed within the time required under the relevant subsection.

(17) A development plan made under this section shall have effect F118**[**6 weeks**]** from the day that it is made.

F119**[**(18) In this section "statutory obligations" includes—

(*a*) in relation to a local authority, the obligation to ensure that the development plan is consistent with—

(i) the national and regional development objectives specified in—

(I) the National Planning Framework, and

(II) the regional spatial and economic strategy, and

(ii) specific planning policy requirements specified in guidelines under subsection (1) of section 28, and

(*b*) in relation to a local authority that is a coastal planning authority, the obligation to ensure that the development plan is, in addition to being consistent with the obligation referred to in *paragraph (a)*, consistent with the National Marine Planning Framework.**]**

Annotations

Amendments:

F105 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 22, S.I. No. 214 of 2014.

F106 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. nos. 2, 7, 8, S.I. No. 133 of 2019, art. 2(b).

F107 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 14(a), (b)(ii), (c), S.I. No. 436 of 2018.

F108 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 10-23, S.I. No. 436 of 2018.

F109 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 19 and sch. 4 ref. nos. 4-6, S.I. No. 436 of 2018.

F110 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 14(b)(i), (d), S.I. No. 436 of 2018.

F111 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 84, S.I. No. 574 of 2009.

F112 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 9(b)(ii), (c), (d)(ii), (d)(iii) and (e)(ii), S.I. No. 477 of 2010.

F113 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 refs. 23, 24, S.I. No. 214 of 2014.

F114 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 9(a), (b)(i), (d)(i), (e)(i) and (f), S.I. No. 477 of 2010.

F115 Substituted (1.06.2014) by Local Government Reform Act 2014 (1/2014), s. 5(7) and sch. 2 part 4 ref. 25, S.I. No. 214 of 2014.

F116 Inserted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 4, S.I. No. 365 of 2021.

F117 Substituted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 7, commenced on enactment.

F118 Substituted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. no. 9, S.I. No. 133 of 2019, reg. 2(b).

F119 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 4, S.I. No. 488 of 2022.

F120 Inserted by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. nos. 4-6, not commenced as of date of revision.

Modifications (not altering text):

C30 Prospective affecting provision: subs. (18) substituted by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 4, not commenced as of date of revision.

F119**[**(18) In this section "statutory obligations" includes—

(*a*) in relation to a local authority, the obligation to ensure that the development plan is consistent with—

(i) the national and regional development objectives specified in—

(I) the National Planning Framework, and

(II) the regional spatial and economic strategy, and

(ii) specific planning policy requirements specified in guidelines under *subsection (1)* of *section 28*, and

(*b*) in relation to a local authority that is a coastal planning authority, the obligation to ensure that the development plan is, in addition to being consistent with the obligation referred to in *paragraph (a)*, consistent with the National Marine Planning Framework.**]**

C31 Prospective affecting provisions: section amended by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. nos. 3-6, not commenced as of date of revision. Note that the minor amendments in sch. 1 ref. nos. 3, 4 are rendered redundant as the provision affected, subs. (4)(b)(ii), has been substituted as per F-note above.

12.— ...

(4) ...

(*b*) ...

F110**[**(ii) provide a summary of—

(I) the recommendations, submissions and observations made by the Minister, where the notice under *paragraph (a)* of *subsection (2)* was sent before the establishment of the Office of the Planning Regulator,

F120**[**(IA) issues raised by the Office of the Planning Regulator, and**]**

...**]**

(5) ...

F112**[**(*aa*) Following consideration of the draft plan and the report of the manager under *paragraph (a)* where a planning authority, after considering a submission of, or

observation or recommendation from the Minister F120**[**, or from the Office of the Planning Regulator,**]** made to the authority under this section F107**[**or from the Office of the Planning Regulator made to that planning authority under *section 31AM***]** or from a F113**[**regional assembly**]** made to the authority under *section 27B*, decides not to comply with any recommendation made in the draft plan and report, it shall so inform F107**[**the Office of the Planning Regulator and**]** the Minister F120**[**, the Office of the Planning Regulator**]** or F113**[**regional assembly**]**, as the case may be, as soon as practicable by notice in writing which notice shall contain reasons for the decision.**]**

...

C32 Functions transferred and references construed (24.06.2021) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2021* (S.I. No. 302 of 2021), art. 3(1)(c), (2), in effect as per art. 1(2).

3. (1) The functions vested in the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media–

...

(*c*) to make a recommendation to which section 12(3)(b)(iii) of the Planning and Development Act 2000 (No. 30 of 2000) applies and to make observations to which section 12(3)(b)(iv) of that Act applies, are transferred to the Minister for Housing, Local Government and Heritage.

(2) References to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media contained in any Act or instrument made under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Housing, Local Government and Heritage.

C33 Functions in relation to making a recommendation to which *subs. (3)(b)(iii)* applies, and to making observations to which *subs. (3)(b)(iv)* applies, transferred (1.05.2011) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 192 of 2011), arts. 2, 3 and sch. Note that name of Department of and Minister for Tourism, Culture and Sport changed to Department of and Minister for Arts, Heritage and the Gaeltacht (2.06.2011) by *Tourism, Culture and Sport (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 220 of 2011).

2. (1) The administration and business in connection with the exercise, performance or execution of any powers, duties and functions transferred by this Order are transferred to the Department of Tourism, Culture and Sport.

(2) References to the Department of the Environment, Heritage and Local Government contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Tourism, Culture and Sport.

3. (1) The powers, duties and functions vested in the Minister for the Environment, Heritage and Local Government—

(*a*) by or under any of the Acts mentioned in Part 1 of the Schedule,

(*b*) under the Regulations mentioned in Part 2 of the Schedule, and

(*c*) to make a recommendation to which section 12(3)(b)(iii) of the Planning and Development Act 2000 (No. 30 of 2000) applies, and to make observations to which section 12(3)(b)(iv) of that Act applies,

are transferred to the Minister for Tourism, Culture and Sport.

(2) References to the Minister for the Environment, Heritage and Local Government contained in any Act or instrument made under such Act and relating to any powers, duties and functions transferred by this Order shall, on and after the commencement of this Order, be construed as references to the Minister for Tourism, Culture and Sport.

...

Schedule Part 1

Enactments, powers, duties and functions by or under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Sections 51 (2) (in so far as it relates to being consulted under that subsection), 52 (1) (in so far as it relates to the issuing of guidelines), 52 (2), 53, 55, 80 and 260 of the Planning and Development Act 2000 (No. 30 of 2000).

Part 2

Regulations, powers, duties and functions under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Regulations 13A(4)(a)(ii), 28(1)(c), 28(1)(n), 55(a), 82(3)(c), 82(3)(n), 88(2), 121(1)(c), 121(1)(n), 179(2)(g), 179(2)(j) and 213(1)(a) of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001);

...

Editorial Notes:

E65 Making a development plan is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 item 69 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

E66 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E67 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E68 Power pursuant to section exercised (3.06.2011) by *Planning and Development (Amendment) Regulations 2011* (S.I. No. 262 of 2011).

E69 Power pursuant to section exercised (31.03.2007) by *Planning and Development (No. 2) Regulations 2007* (S.I. No. 135 of 2007).

E70 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E71 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E72 Previous affecting provision: subs. (18) inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 14(e), S.I. No. 436 of 2018; substituted (1.10.2022) as per F-note above.

E73 Previous affecting provision: subs. (4)(b)(ii) substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 9(b)(i), S.I. No. 477 of 2010; substituted as per F-note above.

E74 Previous affecting provision: functions and powers in relation to *National Monuments (Amendment) Act 1994* (17/1994), ss. 5(5) and 6(2) transferred to Department of and Minister for Arts, Sport and Tourism (10.07.2002) by *National Monuments (Transfer of Departmental Administration and Ministerial Functions) Order 2002* (S.I. No. 358 of 2002).

E75 Previous affecting provision: name of Department of and Minister for Arts, Heritage, Gaeltacht and the Islands changed to Department of and Minister for Community, Rural and Gaeltacht Affairs (19.06.2002) by *Arts, Heritage, Gaeltacht and The Islands (Alteration of Name of Department and Title of Minister) Order 2002* (S.I. No. 308 of 2002).

E76 Previous affecting provision: power pursuant to section exercised (1.11.2000) by *Planning and Development Regulations 2000* (S.I. No. 350 of 2000), revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

E77 Previous affecting provision: subs. (1)(a) amended (2.10.2010, 9.10.2001) by *Planning and Development (Amendement) Act 2010* (30/2010), s. 9(a), S.I. No. 77 of 2010 and *Local Government Act 2001* (37/2001), s. 247(a), S.I. No. 458 of 2001; substituted as per F-note above.

Variation of development plan.

13.—(1) A planning authority may at any time, for stated reasons, decide to make a variation of a development plan which for the time being is in force.

F121**[**(1A) (*a*) The members of a planning authority may at any time, for stated reasons, submit a resolution to the manager of the planning authority requesting him or her to prepare a report on a proposal by them to initiate a process to consider the variation of the development plan which for the time being is in force where three quarters of the members of that authority have approved such a resolution.

(*b*) The manager of a planning authority shall submit a report further to a request under *paragraph (a)* to the elected members within four weeks of the adoption of the resolution.**]**

(2) Where a planning authority proposes to make a variation in a development plan, it shall—

F122**[**(*a*) send notice and copies of the proposed variation of the development plan F123**[**to the Minister, the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media**]**, F124**[**the Office of the Planning Regulator,**]** the Board, the relevant regional assembly, and, where appropriate, to any adjoining planning authority, the prescribed authorities, and any local community development committee within the area of the development plan,**]**

(*b*) publish notice of the proposed variation of the development plan in one or more newspapers circulating in that area.

(3) A notice under *subsection (2)* shall state—

(*a*) the reason or reasons for the proposed variation,

(*b*) that a copy of the proposed variation may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks (and the copy of the draft variation shall be kept available for inspection accordingly), and

(*c*) that written submissions or observations with respect to the proposed variation made to the planning authority within the said period will be taken into consideration before the making of the variation.

F125**[**(3A) The Minister or the Office of the Planning Regulator may, in relation to a proposed variation of a development plan, make such recommendations as the Minister or that Office, as the case may be, considers appropriate.**]**

F126**[**(3A) (*a*) Written submissions or observations received by a planning authority under this section shall, subject to *paragraph (b)*, be published on the website of the authority within 10 working days of its receipt by that authority.

(*b*) Publication in accordance with *paragraph (a)*—

(i) does not apply where the planning authority is of the opinion that the submission or observation is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure,

(ii) does not apply where the planning authority has sought and receives, either before or after the period of 10 working days referred to in

paragraph (a), legal advice to the effect that it should not publish under that paragraph or should cease to so publish, as the case may be, the submission or observation concerned,

(iii) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in *paragraph (a)*, legal advice that part of the submission or observation concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or

(iv) does not apply where the submission or observation relates to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the submission or observation relates to matters prescribed by the Minister.**]**

(4) (*a*) Not later than 8 weeks after giving notice under *subsection (2)(b)*, the F127**[**chief executive**]** of a planning authority shall prepare a report on any submissions or observations received under that subsection and shall submit the report to the members of the authority for their consideration.

F126**[**(*aa*) A chief executive's report prepared for the purposes of *paragraph (a)* shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under *paragraph (a)*.**]**

(*b*) A report under *paragraph (a)* shall—

(i) list the persons or bodies who made submissions or observations under this section,

F128**[**(ii) provide a summary of—

(I) the recommendations, submissions and observations made by the Minister, where the notice under *paragraph (a)* of *subsection (2)* was sent before the establishment of the Office of the Planning Regulator,

(II) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(III) the submissions and observations made by any other persons,

in relation to the draft development plan in accordance with this section,**]**

(iii) give the response of the F127**[**chief executive**]** to the issues raised, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

F129**[**(*bb*) In the case of each planning authority within the GDA, a report under *paragraph (a)* shall summarise the issues raised and the recommendations made by the DTA in its written submission prepared in accordance with *section 31D* and outline the recommendations of the F127**[**chief executive**]** in relation to the manner in which those issues and recommendations should be addressed in the proposed variation.**]**

F130**[**(*bc*) A report under *paragraph (a)* shall summarise the issues raised and recommendations made by the relevant F131**[**regional assembly**]** in its written submission prepared in accordance with *section 27C* (inserted by section 19 of the Act of 2010) and outline the recommendations of the F127**[**chief executive**]** in relation to the manner in which those issues and recommendations should be addressed in the development plan.**]**

(5) (*a*) The members of a planning authority shall consider the proposed variation and the report of the F127**[**chief executive**]** under *subsection (4)*.

F130**[**(*aa*) Following consideration of the proposed variation and the report of the manager under *paragraph (a)* where a planning authority, after considering a submission of, or observation or recommendation from the Minister F124**[**, or from the Office of the Planning Regulator,**]** made to the authority under this section or from a F131**[**regional assembly**]** made to the authority under *section 27C*, decides not to comply with any recommendation made in the proposed variation and report, it shall so inform the Minister F124**[**, the Office of the Planning Regulator**]** or F131**[**regional assembly**]**, as the case may be, as soon as practicable by notice in writing which notice shall contain reasons for the decision.**]**

(*b*) The consideration of the variation and the F127**[**chief executive's report**]** under *paragraph (a)* shall be completed not later than 6 weeks after the submission of the F127**[**chief executive's report**]** to the members of the authority.

F132**[**(6) (*a*) Subject to *paragraphs (aa)* and *(ae)*, the members of the authority, having considered the proposed variation and F127**[**chief executive's report**]** may, as they consider appropriate, by resolution, make the variation which would, if made, be a material alteration, with or without further modification or they may refuse to make it and *paragraph (c)* shall apply in relation to any further modification.

(*aa*) The planning authority shall determine if a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, is or are required to be carried out as respects one or more than one proposed modification that would, if made, be a material alteration of the variation of the development plan.

(*ab*) The F127**[**chief executive**]** shall, not later than 2 weeks after a determination under *paragraph (aa)*, specify such period as he or she considers necessary following the determination as being required to facilitate an assessment referred to in *paragraph (aa)*.

(*ac*) The planning authority shall publish notice of the proposed material alteration, and where appropriate in the circumstances, the making of a determination that an assessment referred to in *paragraph (aa)* is required, in at least one newspaper circulating in its area.

(*ad*) The notice referred to in *paragraph (ac)* shall state—

(i) that a copy of the proposed material alteration and of any determination by the authority that an assessment referred to in *paragraph (aa)* is required may be inspected at a stated place or places and at stated times, and on the authority's website, during a stated period of not less than 4 weeks (and that copies will be kept for inspection accordingly), and

(ii) that written submissions or observations with respect to the proposed material alteration or an assessment referred to in *paragraph (aa)* and made to the planning authority within a stated period shall be taken into account by the authority before the variation of the development plan is made.

(*ae*) The planning authority shall carry out an assessment referred to in *paragraph (aa)* of the proposed material alteration of the draft development plan within the period specified by the F127**[**chief executive**]**.**]**

(*b*) The requirements of *subsections (2)* to *(5)* shall not apply in relation to modifications made in accordance with *paragraph (a)*.

F130**[**(*c*) A further modification to the variation—

(i) may be made where it is minor in nature and therefore not likely to have significant effects on the environment or adversely affect the integrity of a European site,

(ii) shall not be made where it refers to—

(I) an increase in the area of land zoned for any purpose, or

(II) an addition to or deletion from the record of protected structures.**]**

(7) In making a variation under this section, the members of the authority shall be restricted to considering the proper planning and sustainable development of the area to which the development plan relates, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or any Minister of the Government.

(8) (*a*) Where a planning authority makes a variation in a development plan, it shall publish a notice of the making of the variation in at least one newspaper circulating in its area.

(*b*) A notice under this subsection shall state that a copy of the development plan as varied is available for inspection at a stated place or places (and the copy shall be kept available for inspection accordingly).

F133**[**(*c*) In addition to the requirements of *paragraphs (a)* and *(b)*, a planning authority shall send a copy of the variation F123**[**to the Minister, the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media**]**, F124**[**the Office of the Planning Regulator,**]** the Board, the relevant regional assembly and, where appropriate, to the prescribed authorities, any adjoining planning authorities and any local community development committee within its area.**]**

(9) When considering a variation of a development plan in accordance with this section, a planning authority may invite such persons as it considers appropriate to make oral submissions regarding the variation.

(10) A person shall not question the validity of a variation in a development plan by reason only that the procedures as set out in this section were not completed within the time required.

(11) A variation made to a development plan shall have effect from the day that the variation is made.

F134**[**(12) The Minister may, for the purposes of giving effect to Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (No. 2001/42/EC, O.J. No. L 197, 21 July 2001 P. 0030 - 0037), by regulations make provision in relation to consideration of the likely significant effects on the environment of implementing a variation of a development plan.**]**

F135**[**(13) An appropriate assessment of a draft variation of a development plan shall be carried out in accordance with *Part XAB*.**]**

F136**[**(14) In this section "statutory obligations" includes—

(*a*) in relation to a local authority, the obligation to ensure that the development plan is consistent with—

(i) the national and regional development objectives specified in—

(I) the National Planning Framework, and

(II) the regional spatial and economic strategy, and

(ii) specific planning policy requirements specified in guidelines under *subsection (1)* of *section 28*, and

(*b*) in relation to a local authority that is a coastal planning authority, the obligation to ensure that the development plan is, in addition to being consistent with the obligation referred to in *paragraph (a)*, consistent with the National Marine Planning Framework.**]**

Annotations

Amendments:

F121 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 16, S.I. No. 436 of 2018.

F122 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 26, S.I. No. 214 of 2014.

F123 Substituted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 4(a), (b), S.I. No. 279 of 2021.

F124 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. nos. 10, 13-15, S.I. No. 133 of 2019, art. 2(b).

F125 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 15(a), (c), S.I. No. 436 of 2018.

F126 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 19 and sch. 4 ref. nos. 7, 8, S.I. No. 436 of 2018.

F127 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 24-29, S.I. No. 436 of 2018.

F128 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 15(b), S.I. No. 436 of 2018.

F129 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 85, S.I. No. 574 of 2009.

F130 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 10(b)(ii), (c) and (d)(ii), S.I. No. 477 of 2010.

F131 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 27, 28, S.I. No. 214 of 2014.

F132 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 10(a), (b)(i), (d)(i) and (e), S.I. No. 477 of 2010.

F133 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 29, S.I. No. 214 of 2014.

F134 Inserted (14.07.2004) by *European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004* (S.I. No. 435 of 2004), reg. 5.

F135 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 10(f), S.I. No. 475 of 2011.

F136 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 5, S.I. No. 488 of 2022.

Modifications (not altering text):

C34 Prospective affecting provisions: section amended by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. nos. 11, 12, 16, not commenced as of date of revision. Note that the minor amendments in sch. 1 ref. nos. 11, 12 are rendered redundant as the provision affected, subs. (4)(b)(ii), has been substituted as per F-note above. The amendment made by ref. no. 16 cannot be made as the words to be substituted do not exist in subs. (11).

Editorial Notes:

E78 Varying a development plan is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 item 69 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

E79 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E80 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E81 Power pursuant to section exercised (3.06.2011) by *Planning and Development (Amendment) Regulations 2011* (S.I. No. 262 of 2011).

E82 Power pursuant to subs. (12) exercised (3.05.2011) by *Planning and Development (Strategic Environmental Assessment) (Amendment) Regulations 2011* (S.I. No. 201 of 2011).

E83 Power pursuant to section exercised (31.03.2007) by *Planning and Development (No. 2) Regulations 2007* (S.I. No. 135 of 2007).

E84 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E85 Power pursuant to subs. (12) exercised (21.07.2004) by *Planning and Development (Strategic Environmental Assessment) Regulations 2004* (S.I. No. 436 of 2004).

E86 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E87 Previous affecting provision: subs. (14) inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 15(c), S.I. No. 436 of 2018; substituted (1.10.2022) as per F-note above.

E88 Previous affecting provision: subs. (2)(a) amended (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 18, S.I. No. 474 of 2011; substituted as per F-note above.

E89 Previous affecting provision: subs. (8)(c) amended (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 18, S.I. No. 474 of 2011; substituted as per F-note above.

E90 Previous affecting provision: subs. (2)(a) amended (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 10(a), S.I. No. 477 of 2010; substituted as per F-note above.

E91 Previous affecting provision: subs. (4)(b)(ii) substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 10(b)(i), S.I. No. 477 of 2010; substituted as per F-note above.

E92 Previous affecting provision: subs. (8)(c) amended (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 10(e), S.I. No. 477 of 2010; substituted as per F-note above.

E93 Previous affecting provision: power pursuant to section exercised (1.11.2000) by *Planning and Development Regulations 2000* (S.I. No. 350 of 2000), revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

Public rights of way in development plans.

14.—(1) Where a planning authority proposes to include, for the first time, a provision in a development plan relating to the preservation of a specific public right of way, it shall serve notice (which shall include particulars of the provision and a map indicating the right of way) of its intention to do so on any owner and occupier of the land over which the right of way exists.

(2) A notice served under *subsection (1)* shall state that—

(*a*) the planning authority proposes to include a provision in the development plan relating to the preservation of the public right of way,

(*b*) written submissions or observations regarding the proposal may be made to the planning authority within a stated period of not less than 6 weeks and that the submissions or observations will be taken into consideration by the planning authority, and

(*c*) where, following consideration of any submissions or observations received under *paragraph (b)*, the planning authority considers that the provision should be adopted, or adopted subject to modifications, a right of appeal to the Circuit Court exists in relation to such provision.

(3) The members of a planning authority, having considered the proposal and any submissions or observations made in respect of it, may, by resolution as they consider appropriate, recommend the inclusion of the provision in the development plan, with or without modifications, or may recommend against its inclusion and any person on whom notice has been served under *subsection (1)* shall be notified of the recommendation accordingly and a copy of such notice shall be published in at least one newspaper circulating in the area.

(4) Any person who has been notified of the recommendation of the planning authority under *subsection (3)* may, before the expiration of the 21 days next following the notification, appeal to the Circuit Court against the inclusion in the development plan of the proposed provision, and the Court, if satisfied that no public right of way exists, shall so declare and the provision shall accordingly not be included.

(5) (*a*) The taking of an appeal under *subsection (4)* shall not prejudice the making of a development plan under *section 12* except in regard to the inclusion of the proposed provision which is before the Court.

(*b*) Where a development plan has been made under *section 12* and the Court, having considered an appeal under *subsection (4)*, decides that the public right of way exists, the proposed provision under this section shall be deemed to be part of the development plan.

(6) Where any existing development plan contains any provision relating to the preservation of a public right of way, the provision may be included in any subsequent development plan without the necessity to comply with this section.

(7) (*a*) Nothing in this section shall affect the existence or validity of any public right of way which is not included in the development plan.

(*b*) The inclusion of a public right of way in a development plan shall be evidence of the existence of such a right unless the contrary is shown.

General duty of planning authority to secure objectives of development plan.

15.—(1) It shall be the duty of a planning authority to take such steps within its powers as may be necessary for securing the objectives of the development plan.

(2) The F137**[**chief executive**]** of a planning authority shall, not more than 2 years after the making of a development plan, give a report to the members of the authority on the progress achieved in securing the objectives referred to in *subsection (1)*.

Annotations

Amendments:

F137 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. no. 30, S.I. No. 436 of 2018.

Copies of development plans.

16.—(1) A planning authority shall make available for inspection and purchase by members of the public copies of a development plan and of variations of a development plan and extracts therefrom.

(2) A planning authority shall make available for inspection and purchase by members of the public copies of a report of a F138**[**chief executive**]** of a planning authority prepared under *sections 11(4), 12(4)* and *(8)* and *13(4)* and extracts therefrom.

(3) Copies of the development plan and of variations of a development plan and reports of the F138**[**chief executive**]** referred to in *subsection (2)* and extracts therefrom shall be made available for purchase on payment of a specified fee not exceeding the reasonable cost of making a copy.

Annotations

Amendments:

F138 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 31, 32, S.I. No. 436 of 2018.

Evidence of development plans.

17.—(1) A document purporting to be a copy of a part or all of a development plan and to be certified by an officer of a planning authority as a correct copy shall be evidence of the plan or part, unless the contrary is shown, and it shall not be necessary to prove the signature of the officer or that he or she was in fact such an officer.

(2) Evidence of all or part of a development plan may be given by production of a copy thereof certified in accordance with this subsection and it shall not be necessary to produce the plan itself.

Chapter II

Local Area Plans

Local area plans.

18.—(1) F139**[**Subject to *section 19(2B)* (inserted by section 12 of the Act of 2010) a planning authority may at any time**]**, and for any particular area within its functional area, prepare a local area plan in respect of that area.

(2) Two or more planning authorities may co-operate in preparing a local area plan in respect of any area which lies within the combined functional area of the authorities concerned.

(3) (*a*) When considering an application for permission under *section 34*, a planning authority, or the Board on appeal, shall have regard to the provisions of any local area plan prepared for the area to which the application relates, and the authority or the Board may also consider any relevant draft local plan which has been prepared but not yet made in accordance with *section 20*.

(*b*) When considering an application for permission, a planning authority, or the Board on appeal, shall also have regard to any integrated area plan (within the meaning of the Urban Renewal Act, 1998) for the area to which the application relates.

(4) (*a*) A local area plan prepared under this section shall indicate the period for which the plan is to remain in force.

(*b*) A local area plan may remain in force in accordance with *paragraph (a)* notwithstanding the variation of a development plan or the making of a new development plan affecting the area to which the local area plan relates except that, where any provision of a local area plan conflicts with the provisions of the development plan as varied or the new development plan, the provision of the local area plan shall cease to have any effect.

(5) F139**[**Subject to *section 19(2B)* (inserted by section 12 of the Act of 2010) a planning authority may at any time**]** amend or revoke a local area plan.

(6) A planning authority may enter into an arrangement with any suitably qualified person or local community group for the preparation, or the carrying out of any aspect of the preparation, of a local area plan.

Annotations

Amendments:

F139 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 11, S.I. No. 477 of 2010.

Application and content of local area plans.

19.—(1) (*a*) A local area plan may be prepared in respect of any area, including a Gaeltacht area, or an existing suburb of an urban area, which the planning authority considers suitable and, in particular, for those areas which require economic, physical and social renewal and for areas likely to be subject to large scale development within the lifetime of the plan.

F140**[**(*b*) A local area plan shall be made, except for an area where a development plan of a former town council continues to have effect, in respect of an area which—

(i) is designated as a town in the most recent census of population, other than a town designated as a suburb or environs in that census,

(ii) has a population in excess of 5,000, and

(iii) is situated within the functional area of a planning authority which is a city and county council or a county council.**]**

F141**[**(*bb*) Notwithstanding *paragraph (b)*, a local area plan shall be made in respect of a town with a population that exceeded 1,500 persons (in the census of population most recently published before a planning authority makes its decision under subparagraph (i)) except where—

(i) the planning authority decides to indicate objectives for the area of the town in its development plan under *section 10(2)*, or

(ii) a local area plan has already been made in respect of the area of the town or objectives for that area have already been indicated in the development plan under *section 10(2)*.**]**

F142**[**(*c*) Subject to *paragraphs (d)* and *(e)*, notwithstanding *section 18(5)*, a planning authority shall send a notice under *section 20(3)(a)(i)* of a proposal to make, amend or revoke a local area plan and publish a notice of the proposal under *section 20(3)(a)(ii)* at least every 6 years after the making of the previous local area plan.

(*d*) Subject to *paragraph (e)*, not more than 5 years after the making of the previous local area plan, a planning authority may, as they consider appropriate, by resolution defer the sending of a notice under *section 20(3)(a)(i)* and publishing a notice under *section 20(3)(a)(ii)* for a further period not exceeding 5 years.

(*e*) No resolution shall be passed by the planning authority until such time as the members of the authority have:

(i) notified the F143**[**chief executive**]** of the decision of the authority to defer the sending and publishing of the notices, giving reasons therefor, and

(ii) sought and obtained from the F143**[**chief executive**]**—

(I) an opinion that the local area plan remains consistent with the objectives and core strategy of the relevant development plan,

(II) an opinion that the objectives of the local area plan have not been substantially secured, and

(III) confirmation that the sending and publishing of the notices may be deferred and the period for which they may be deferred.

(*f*) Notification of a resolution under *paragraph (d)* shall be published by the planning authority in a newspaper circulating in the area of the local area plan not later than 2 weeks after the resolution is passed and notice of the resolution shall be made available for inspection by members of the public during office hours of the planning authority and made available in electronic form including by placing the notice on the authority's website.**]**

F144**[**(2) A local area plan shall be consistent with the objectives of the development plan F141**[**, its core strategy, and any F145**[**regional spatial and economic strategy**]** that apply to the area of the plan**]** and shall consist of a written statement and a plan or plans which may include—

(*a*) objectives for the zoning of land for the use solely or primarily of particular areas for particular purposes, or

(*b*) such other objectives in such detail as may be determined by the planning authority for the proper planning and sustainable development of the area to which it applies, including F141**[**the objective of development of land on a phased basis and,**]** detail on community facilities and amenities and on standards for the design of developments and structures.**]**

F146**[**(2A) Each planning authority within the GDA shall ensure that its local area plans are consistent with the transport strategy of the DTA.**]**

F141**[**(2B) Where any objective of a local area plan is no longer consistent with the objectives of a development plan for the area, the planning authority shall as soon as may be (and in any event not later than one year following the making of the development plan) amend the local area plan so that its objectives are consistent with the objectives of the development plan.**]**

(3) The Minister may provide in regulations that local area plans shall be prepared in respect of certain classes of areas or in certain circumstances and a planning authority shall comply with any such regulations.

F147**[**(4) The Minister may, for the purposes of giving effect to Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (No. 2001/42/EC, O.J. No. L 197, 21 July 2001 P. 0030 - 0037), by regulations make provision in relation to consideration of the likely significant effects on the environment of implementing a local area plan.**]**

F148**[**(5) An appropriate assessment of a draft local area plan shall be carried out in accordance with *Part XAB*.

(6) There shall be no presumption in law that any land zoned in a particular local area plan shall remain so zoned in any subsequent local area plan.**]**

Annotations

Amendments:

F140 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 30, S.I. No. 214 of 2014.

F141 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 12(a)(ii), (b) and (c), S.I. No. 477 of 2010.

F142 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 12(a)(i) and (iii), S.I. No. 477 of 2010.

F143 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. no. 33, S.I. No. 436 of 2018.

F144 Substituted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 8, commenced on enactment.

F145 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 31, S.I. No. 214 of 2014.

F146 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 86, S.I. No. 574 of 2009.

F147 Substituted (14.07.2004) by *European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004* (S.I. No. 435 of 2004), reg. 6.

F148 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 12(d), S.I. No. 475 of 2011.

Editorial Notes:

E94 Power pursuant to subs. (4) exercised (3.05.2011) by *Planning and Development (Strategic Environmental Assessment) (Amendment) Regulations 2011* (S.I. No. 201 of 2011).

E95 Power pursuant to subs. (4) exercised (21.07.2004) by *Planning and Development (Strategic Environmental Assessment) Regulations 2004* (S.I. No. 436 of 2004).

Consultation and adoption of local area plans.

20.—(1) A planning authority shall take whatever steps it considers necessary to F149**[**consult the Minister F150**[**, the Office of the Planning Regulator**]** and the public before**]** preparing, amending or revoking a local area plan including consultations with any local residents, public sector agencies, non-governmental agencies, local community groups and commercial and business interests within the area.

F151**[**(1A) The Minister or the Office of the Planning Regulator may, in relation to a local area plan, make such recommendations as the Minister or that Office, as the case may be, considers appropriate.**]**

(2) A planning authority shall consult údarás na Gaeltachta before making, amending or revoking a local area plan under *subsection (3)* for an area which includes a Gaeltacht area.

(3) (*a*) The planning authority shall, as soon as may be after consideration of any matters arising out of consultations under *subsections (1)* or *(2)* but before making, amending or revoking a local area plan—

(i) send notice of the proposal to make, amend or revoke a local area F149**[**plan to the Minister, F150**[**the Office of the Planning Regulator,**]** the Board**]** and to the prescribed authorities (and, where applicable, it shall enclose a copy of the proposed plan or amended plan),

(ii) publish a notice of the proposal in one or more newspapers circulating in its area.

(*b*) A notice under *paragraph (a)* shall state—

(i) that the planning authority proposes to make, amend or revoke a local area plan,

(ii) that a copy of the proposal to make, amend or revoke the local area plan and (where appropriate) the proposed local area plan, or proposed amended plan, may be inspected at such place or places as are specified in the notice during such period as may be so stated (being a period of not less than 6 weeks),

(iii) that submissions or observations in respect of the proposal made to the planning authority during such period will be taken into consideration in deciding upon the proposal.

F152**[**(iv) that children, or groups or associations representing the interests of children, are entitled to make submissions or observations under *subparagraph (iii)*.**]**

(*c*) (i) Not later than 12 weeks after giving notice under *paragraph (b)*, the F153**[**chief executive**]** of a planning authority shall prepare a report on any submissions or observations received pursuant to a notice under that paragraph and shall submit the report to the members of the planning authority for their consideration.

F154**[**(ia) A chief executive's report prepared for the purposes of *subparagraph (i)* shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under *subparagraph (i)*.**]**

(ii) A report under *subparagraph (i)* shall—

(I) list the persons who made submissions or observations,

F155**[**(II) provide a summary of—

(A) the recommendations, submissions and observations made by the Minister, where the notice under *paragraph (a)* of *subsection (2)* was sent before the establishment of the Office of the Planning Regulator,

(B) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(C) the submissions and observations made by any other persons,

in relation to the draft local area plan in accordance with this section,**]**

(III) contain the opinion of the F153**[**chief executive**]** in relation to the issues raised, and his or her recommendations in relation to the proposed local area plan, amendment to a local area plan or revocation of a local area plan, as the case may be, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

F156**[**(*cc*) In the case of each planning authority within the GDA, a report under *subparagraph (c)(i)* shall summarise the issues raised and the recommendations made by the DTA in a report prepared in accordance with *section 31E* and outline the recommendations of the F153**[**chief executive**]** in relation to the manner in which those issues and recommendations should be addressed in the proposed local area plan.**]**

F157**[**(*d*) (i) The members of a planning authority shall consider the proposal to make, amend or revoke a local area plan and the report of the F153**[**chief executive**]** under *paragraph (c)*.

(ii) Following consideration of the manager's report under *subparagraph (i)*, the local area plan shall be deemed to be made, amended or revoked, as appropriate, in accordance with the recommendations of the F153**[**chief executive**]** as set out in his or her report, 6 weeks after the furnishing of the report to all the members of the authority, unless the planning authority, by resolution—

F149**[**(I) subject to *paragraphs (e)* to *(r)*, decides to make or amend the plan otherwise than as recommended in the F153**[**chief executive's report**]**, or**]**

(II) decides not to make, amend or revoke, as the case may be, the plan.

F149**[**(*e*) Where, following consideration of the F153**[**chief executive's report**]**, it appears to the members of the authority that the draft local area plan should be altered, and the proposed alteration would, if made be a material alteration of the draft local area plan concerned, subject to *paragraphs (f)* and *(j)*, the planning authority shall, not later than 3 weeks after the passing of a resolution under *paragraph (d)(ii)* (inserted by section 9 of the Act of 2002), publish notice of the proposed material alteration in one or more newspapers circulating in its area, and send notice of the proposed material alteration to the Minister, F150**[**the Office of the Planning Regulator,**]** the Board and the prescribed authorities (enclosing where the authority considers it appropriate a copy of the proposed material alteration).

(*f*) The planning authority shall determine if a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, is or are required to be carried out as respects one or more than one proposed material alteration of the draft local area plan.

(*g*) The F153**[**chief executive**]** shall, not later than 2 weeks after a determination under *paragraph (f)* specify such period as he or she considers necessary following the passing of a resolution under *paragraph (d)(ii)* as being required to facilitate an assessment referred to in *paragraph (f)*.

(*h*) The planning authority shall publish notice of the proposed material alteration, and where appropriate in the circumstances, the making of a determination that an assessment referred to in *paragraph (f)* is required, in at least one newspaper circulating in its area.

(*i*) The planning authority shall cause an assessment referred to in *paragraph (f)* to be carried out of the proposed alteration of the local area plan within the period specified by the F153**[**chief executive**]**.

(*j*) A notice under *paragraph (e)* or *(h)* as the case may be shall state that—

(i) a copy of the proposed material alteration of the draft local area plan may be inspected at a stated place and at stated times during a stated period of not less than 4 weeks (and the copy shall be kept available for inspection accordingly), and

(ii) written submissions or observations with respect to the proposed material alteration of the draft local area plan may be made to the planning authority within the stated period and shall be taken into consideration before the making of any material alteration.

F154**[**(*ja*) (i) Written submissions or observations received by a planning authority under this subsection shall, subject to *subparagraph (ii)*, be published on the website of the authority within 10 working days of its receipt by that authority.

(ii) Publication in accordance with *subparagraph (i)*—

(I) does not apply where the planning authority is of the opinion that the submission or observation is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure,

(II) does not apply where the planning authority has sought and receives, either before or after the period of 10 working days referred to in *subparagraph (i)*, legal advice to the effect that it should not publish under that subparagraph or should cease to so publish, as the case may be, the submission or observation concerned,

(III) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in *subparagraph (i)*, legal advice that part of the submission or observation concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or

(IV) does not apply where the submission or observation relates to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the submission or observation relates to matters prescribed by the Minister.**]**

(*k*) Not later than 8 weeks after publishing a notice under *paragraph (e)* or *(h)* as the case may be, or such period as may be specified by the F153**[**chief executive**]** under *paragraph (g)*, the F153**[**chief executive**]** shall prepare a report on any submissions or observations received pursuant to a notice under that paragraph and submit the report to the members of the authority for their consideration.

F154**[**(*ka*) A chief executive's report prepared for the purposes of *paragraph (k)* shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under *paragraph (k)*.**]**

(*l*) A report under *paragraph (k)* shall—

(i) list the persons who made submissions or observations under *paragraph (j)(ii)*,

F155**[**(ii) provide a summary of—

(I) the recommendations, submissions and observations made by the Minister, where the notice under *paragraph (a)* of *subsection (2)* was sent before the establishment of the Office of the Planning Regulator,

(II) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(III) the submissions and observations made by any other persons,

in relation to the draft local area plan in accordance with this section,**]**

(iii) contain the opinion of the F153**[**chief executive**]** in relation to the issues raised, and his or her recommendations in relation to the proposed material alteration to the draft local area plan, including any change to the proposed material alteration as he or she considers appropriate, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(*m*) The members of the authority shall consider the proposed material alteration of the draft local area plan and the report of the F153**[**chief executive**]** under *paragraph (k)*.

(*n*) Following consideration of the F153**[**chief executive's report**]** under *paragraph (m)*, the local area plan shall be made or amended as appropriate by the planning authority by resolution no later than a period of 6 weeks after the report has been furnished to all the members of the authority with all, some or none of the material alterations as published in accordance with *paragraph (e)* or *(h)* as the case may be.

(*o*) Where the planning authority decides to make or amend the local area plan or change the material alteration of the plan by resolution as provided in *paragraph (n)*—

(i) *paragraph (p)* shall apply in relation to the making of the resolution, and

(ii) *paragraph (q)* shall apply in relation to any change to the material alteration proposed.

(*p*) It shall be necessary for the passing of the resolution referred to in *paragraph (n)* that it shall be passed by not less than half of the members of the planning authority and the requirements of this paragraph are in addition to, and not in substitution for, any other requirements applying in relation to such a resolution.

(*q*) A further modification to the material alteration—

(i) may be made where it is minor in nature and therefore not likely to have significant effects on the environment or adversely affect the integrity of a European site,

(ii) shall not be made where it refers to—

(I) an increase in the area of land zoned for any purpose, or

(II) an addition to or deletion from the record of protected structures.

(*r*) When performing their functions under this subsection, the members of the planning authority shall be restricted to considering the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.**]]**

(4) The Minister may make regulations or issue guidelines in relation to the preparation of local area plans.

F152**[**(4A) A local area plan made under this section shall have effect F158**[**6 weeks**]** from the day that it is made.**]**

(5) A planning authority shall send a copy of any local area plan made under this Chapter to any bodies consulted under *subsection (1), (2)* or *(3)*, the Board and, where appropriate, any prescribed body.

F151**[**(5) In this section "statutory obligations" includes, in relation to a local authority, the obligation to ensure that the local area plan is consistent with—

(*a*) the objectives of the development plan,

(*b*) the national and regional development objectives specified in—

(i) the National Planning Framework, and

(ii) the regional spatial and economic strategy,

and

(*c*) specific planning policy requirements specified in guidelines under *subsection (1)* of *section 28*.**]**

Annotations

Amendments:

F149 Substituted and inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 13(a), (b)(i), (iii) and (iv), S.I. No. 477 of 2010.

F150 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. nos. 17-19, S.I. No. 133 of 2019, art. 2(b).

F151 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 17(a), (c), S.I. No. 436 of 2018.

F152 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 13(b)(ii) and (c), S.I. No. 477 of 2010.

F153 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 34-42, S.I. No. 436 of 2018.

F154 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 19 and sch. 4 ref. nos. 9-11, S.I. No. 436 of 2018.

F155 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 17(b)(i), (ii), S.I. No. 436 of 2018.

F156 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 87, S.I. No. 574 of 2009.

F157 Substituted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 9, commenced on enactment.

F158 Substituted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. no. 20, S.I. No. 133 of 2019, art. 2(b).

Editorial Notes:

E96 Making a decision in relation to the making, amendment or revocation of a local area plan is a reserved function of local authorities or municipal district members as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 2 item 12 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

E97 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E98 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E99 Power pursuant to section exercised (3.06.2011) by *Planning and Development (Amendment) Regulations 2011* (S.I. No. 262 of 2011).

E100 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E101 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E102 Previous affecting provision: subs. (3)(d)(ii)(I) substituted and subs. (3)(e)-(i) inserted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 9, commenced on enactment; substituted as per F-note above.

E103 Previous affecting provision: power pursuant to section exercised (1.11.2000) by *Planning and Development Regulations 2000* (S.I. No. 350 of 2000); revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

F159[Chapter IIA

National Planning Framework]

Annotations

Amendments:

F159 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 18(1), S.I. No. 436 of 2018.

F160[National Planning Framework

20A.—The National Spatial Strategy, as amended having regard to the provisions of this Chapter including any document published by the Government which amends or replaces that Strategy or such subsequent document, shall be known as the National Planning Framework.]

Annotations

Amendments:

F160 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 18(1), S.I. No. 436 of 2018.

F161[Objective of National Planning Framework

20B.—The objectives of the National Planning Framework are—

(*a*) to establish a broad national plan for the Government in relation to the strategic planning and sustainable development of urban and rural areas,

(*b*) to secure balanced regional development by maximising the potential of the regions, and support proper planning and sustainable development, and

(*c*) to secure the co-ordination of regional spatial and economic strategies and city and county development plans.]

Annotations

Amendments:

F161 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 18(1), S.I. No. 436 of 2018.

F162[Matters to be addressed in National Planning Framework

20C.—(1) Any document, published after the commencement of this Chapter, that amends or replaces the National Spatial Strategy or thereafter revises or replaces the National Planning Framework shall address the matters set out in *subsection (2)*—

(*a*) for the purposes of the objectives of the National Planning Framework, and

(*b*) in respect of a period that is not less than 10 years nor more than 20 years after such publication or in any revision or replacement of the National Planning Framework.

(2) The matters referred to in *subsection (1)* are as follows:

(*a*) the identification of nationally strategic development requirements as respects cities, towns and rural areas in relation to employment, future population change, and associated housing and commercial development requirements;

(*b*) the indication of national infrastructure priorities to address the strategic development requirements referred to in paragraph (a) as regards transportation (including public transportation), water services, waste management, energy and communications networks and the provision of educational, health care, retail, cultural and recreational facilities;

(*c*) the promotion of co-ordination of development between the terrestrial and marine sectors, having regard to Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning[4], and of any measures taken by the State to give effect to that Directive;

(*d*) the conservation of the environment and its amenities, including the landscape and archaeological, architectural and natural heritage;

(*e*) the promotion of sustainable settlement and transportation strategies in urban and rural areas including the promotion of measures to reduce anthropogenic greenhouse gas emissions and to address the necessity of adaptation to climate change;

(*f*) the documents to which *subsection (3)* relates.

(3) The National Planning Framework shall—

(*a*) have regard to the document entitled "EDSP - European Spatial Development Perspective Towards Balanced and Sustainable Development of the Territory of the European Union" which was adopted on 11 May 1999 at Potsdam at the close of an Informal Council of EU Ministers responsible for spatial planning in Member States at Potsdam, 10 and 11 May 1999, and

(*b*) shall take account of the provisions of the Regional Development Strategy 2035 published by the Northern Ireland Department for Regional Development and any document that amends or replaces a document to which this paragraph relates.

(4) The Government shall prepare and publish the National Planning Framework and keep its implementation under review.

(5) Every 6 years after the date of publication of the National Planning Framework, the Government shall either—

(*a*) revise the Framework or replace it with a new one, or

(*b*) publish a statement explaining why the Government has decided not to revise the Framework and include in the statement an indication of a date by which it will be revised or a new National Planning Framework will be published.

(6) Provision shall be made by the Minister for public consultation in the preparation of a new or revised National Planning Framework including arrangements for consultation with—

(*a*) regional assemblies,

(*b*) local authorities,

(*c*) the Board,

(*d*) bodies prescribed under planning regulations for the purposes of public consultation on plan-making, and

[4] OJ No. L257 of 28.8.2014, p. 135

(*e*) the Northern Ireland Department for Regional Development, where that Department agrees to such consultation being undertaken with it.

(7) The preparation of the National Planning Framework shall be subject to the provisions of relevant EU Environmental Directives including the Strategic Environmental Assessment (SEA) and Habitats (Appropriate Assessment) Directive.

(8) The Government shall submit the draft of the revised or new National Planning Framework, together with the Environmental Report and Appropriate Assessment Report for the approval of each House of the Oireachtas before it is published.

(9) In preparing or revising the National Planning Framework, the Government shall have regard to any resolution or report of, or of any committee of, the Oireachtas that is made, during the period for consideration, as regards the proposed strategy or, as the case may be, the Framework as proposed to be revised.**]**

Annotations

Amendments:

F162 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 18(1), S.I. No. 436 of 2018.

F163**[**Chapter III

*Regional Spatial and Economic Strategy***]**

Annotations

Amendments:

F163 Chapter substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(1), S.I. No. 214 of 2014.

Editorial Notes:

E104 Functions and powers of a regional assembly under Chapter specified (1.01.2015) by *Local Government Act 1991 (Regional Assemblies) (Establishment) Order 2014* (S.I. No. 573 of 2014), arts. 20-40, in effect as per art. 3.

F164**[**Power to make regional spatial and economic strategy

21.—(1) A regional assembly—

(*a*) may make a regional spatial and economic strategy—

(i) after consultation with the planning authorities within its region, or

(ii) in the case of the regional assemblies in respect of the GDA, after consultation with the planning authorities within their regions and the NTA,

or

(*b*) shall make a regional spatial and economic strategy, at the direction of the Minister.

(2) A regional spatial and economic strategy may be made for a whole region or for one or more parts of a region, but where there are regional assemblies in respect of the GDA shall, in the case of the GDA, be made jointly by such regional assemblies.

(3) (*a*) The Minister may direct one or more regional assemblies to make a regional spatial and economic strategy in respect of the combined area of the regional assemblies involved or in respect of any particular part or parts of the area which lie within the area of those regional assemblies.

(*b*) Where it is proposed to make a regional spatial and economic strategy pursuant to a direction under *paragraph (a)*, the regional assemblies concerned shall make whatever arrangements they see fit to prepare such strategy, including the carrying out of their functions under this Chapter as a joint function of the assemblies concerned, and this Chapter shall be construed accordingly.

(4) Notwithstanding any other provision of this Act, the regional planning guidelines prepared by a dissolved regional authority and published in respect of the period 2010 to 2022, shall continue to have effect as if made under this Part until a regional spatial and economic strategy is prepared and adopted by the regional assembly concerned.

(5) The Minister may make regulations concerning the making of regional spatial and economic strategies and related matters.**]**

Annotations

Amendments:

F164 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(1), S.I. No. 214 of 2014.

Editorial Notes:

E105 Power pursuant to section exercised (25.03.2009) by *Planning and Development (Regional Planning Guidelines) Regulations 2009* (S.I. No. 100 of 2009).

E106 Power pursuant to section exercised (1.05.2003) by *Planning and Development (Regional Planning Guidelines) Regulations 2003* (S.I. No. 175 of 2003).

E107 Previous affecting provision: subss.(1) and (2) substituted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 88, S.I. No. 574 of 2009; substituted as per F-note above.

F165**[**Co-operation of planning authorities with regional assembly

22.—(1) Where a regional assembly intends to make a regional spatial and economic strategy in accordance with *section 24*, or to review an existing strategy under *section 26*, it shall, as soon as may be, consult with all the planning authorities within the region (or part thereof, as the case may be) in order to make the necessary arrangements for making the strategy.

(2) (*a*) A planning authority shall assist and co-operate with a regional assembly in making arrangements for the preparation of a regional spatial and economic strategy and in carrying out the preparation of the strategy.

(*b*) The provision of assistance under *paragraph (a)* shall include the provision of financial assistance, the services of staff and the provision of accommodation, where necessary, and the regional assembly and planning authorities concerned shall agree on the provision of such assistance based on the proportion of the population of the area for which the regional spatial and economic strategies are prepared who are resident in the functional areas of the planning authorities concerned.

(*c*) In the absence of agreement under *paragraph (b)*, a regional assembly may request the relevant planning authorities to provide assistance under this section, and the request shall be based on the proportion of the population of the area for which the regional spatial and economic strategies is prepared

resident in the functional areas of the planning authorities concerned, and a planning authority shall not refuse a reasonable request for assistance.**]**

Annotations

Amendments:

F165 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(1), S.I. No. 214 of 2014.

F166**[**Co-operation of public bodies with regional assemblies

22A.—(1) Where a regional assembly intends to make a regional spatial and economic strategy in accordance with *section 24*, or to review an existing strategy under *section 26*, it shall, as soon as may be, consult with—

(*a*) each public body, and

(*b*) any body or bodies under the aegis of a public body in respect of which, in the opinion of the regional assembly, consultation with is of relevance for the purpose of making the regional spatial and economic strategy or reviewing an existing strategy.

(2) The public body shall assist and co-operate as far as practicable with the regional assembly in the preparation of the strategy and thereafter supporting its implementation.

(3) Each public body shall consult with the regional assemblies, as appropriate, when preparing its own strategies, plans and programmes and so as to ensure that they are consistent, as far as practicable, with national and regional objectives set out in the F167**[**National Planning Framework**]** and regional spatial and economic strategies.

(4) Where the Minister is of the opinion that consultation between a regional assembly and a body under the aegis of a public body would be of relevance—

(*a*) for the purpose of making, by the regional assembly, of the regional spatial and economic strategy or reviewing an existing strategy, or

(*b*) for the purpose of *subsection (3)*, were the body a public body,

then the Minister may so declare such body to be a public body for the purposes of consultation under this section and regulations may be made either generally or in respect of one or more than one regional assembly.

(5) In this section "public body" means—

(*a*) the Minister,

(*b*) the Minister for Finance,

(*c*) the Minister for Public Expenditure and Reform,

(*d*) the Minister for Jobs, Enterprise and Innovation,

(*e*) the Minister for Communications, Energy and Natural Resources,

(*f*) the Minister for Agriculture, Food and the Marine,

(*g*) the Minister for Transport, Tourism and Sport,

(*h*) the Minister for Health,

(*i*) the Minister for Education and Skills,

(*j*) the Minister for Foreign Affairs and Trade,

(*k*) a body under the aegis of a public body (including a public body pursuant to this paragraph) to which *subsection (4)* relates.**]**

Annotations

Amendments:

F166 Inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(1), S.I. No. 214 of 2014.

F167 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 18(2) and sch. 3 ref. no. 4, S.I. No. 436 of 2018.

F168**[**Content and objectives of regional spatial and economic strategy

23.—(1) (*a*) The objective of regional spatial and economic strategies shall be to support the implementation of the F169**[**National Planning Framework**]** and the economic policies and objectives of the Government by providing a long-term strategic planning and economic framework for the development of the region for which the strategies are prepared which shall be consistent with the F169**[**National Planning Framework**]** and the economic policies or objectives of the Government.

(*b*) The planning and economic framework referred to in *paragraph (a)* shall consider the future development of the region for which the strategy is prepared for a period of not less than 12 years and not more than 20 years.

(2) The regional spatial and economic strategy shall, for the whole of the region to which the strategy relates and in accordance with the principles of proper planning and sustainable development and the economic policies and objectives of the Government, address the following matters:

(*a*) any policies or objectives for the time being of the Government or any Minister of the Government, or any policies contained in the F169**[**National Planning Framework**]** in relation to national and regional population targets;

(*b*) in respect of regional economic strategy—

(i) enabling the conditions for creating and sustaining jobs,

(ii) enhancing overall regional economic performance by identifying regional strengths and opportunities having regard to economic and employment trends and the means of maintaining and augmenting regional economic performance,

(iii) proposals for augmenting the economic performance of the region across all relevant economic sectors including, in particular, the foreign direct investment, indigenous industry, small and medium enterprise, tourism, agriculture, forestry, marine and other natural resource sectors,

iv) enhancing regional innovation capacity, including investment in research and development capacity, technology transfer between third level education and enterprise, and up-skilling and re-skilling,

(v) identifying the regional attributes that are essential to enhancing regional economic performance, including—

(I) the quality of the environment,

(II) the qualities of cities, towns and rural areas,

(III) the physical infrastructure, and

(IV) the social, community and cultural facilities,

and

(vi) proposals to maintain or augment, or both, the attributes referred to in *subparagraph (v)* in such manner as will be implemented under the strategy through the activities of relevant public bodies, private sector investment and the community;

(*c*) in respect of regional spatial strategy and taking account of the economic dimension of the strategy—

(i) the location of employment, industrial and commercial development,

(ii) the location of retail development,

(iii) the location of housing,

(iv) the provision of transportation, including public transportation, water services, energy and communications networks and waste management facilities,

(v) the provision of educational, healthcare, sports and community facilities,

(vi) the preservation and protection of the environment and its amenities, including the archaeological, architectural and natural heritage,

(vii) landscape, in accordance with relevant policies or objectives for the time being of the Government or any Minister of the Government relating to providing a framework for identification, assessment, protection, management and planning of landscapes and developed having regard to the European Landscape Convention done at Florence on 20 October 2000, and

(viii) the promotion of sustainable settlement and transportation strategies in urban and rural areas, including the promotion of measures to reduce anthropogenic greenhouse gas emissions and address the necessity of adaptation to climate change;

(*d*) in respect of the evaluation and reporting of the regional spatial and economic strategy, the monitoring and reporting arrangements required to measure progress in addressing the matters referred to in this subsection.

(3) In preparing its regional spatial and economic strategy a regional assembly shall—

(*a*) ensure that the strategy is, in particular, consistent with—

(i) this Chapter and any regulations made under it,

(ii) national economic policy as set out in relevant government strategies,

(iii) national planning policy as set out in the F169**[**National Planning Framework**]**,

F170**[**(iiia) the National Marine Planning Framework, in circumstances where the strategy is likely to affect the maritime area,**]**

(iv) any relevant directives, policies or guidelines issued by the Minister under the *Planning and Development Acts 2000 to 2014*,

(v) any direction by the Minister in respect of such programmes, policies and guidelines of any Minister of the Government (including the Minister) requiring a regional assembly to have regard to, and

(vi) the relevant plans and strategies of public bodies to which *section 22A* relates and of any other body prescribed by the Minister for the purposes of this section,

(*b*) consult with the public bodies to which *section 22A* relates in such manner and to such extent as the Minister may direct in writing, and

(*c*) co-ordinate the development of its regional spatial and economic strategy in a manner that is, to the greatest extent possible, consistent with the policies of the public bodies to which *section 22A* relates.

(4) Where the Minister is of the opinion that the adoption of any provision of a draft regional spatial and economic strategy would be inconsistent with Government policy, then the Minister may, after consultation with such other Minister of the Government (if any) as the Minister considers necessary in the circumstances, direct a regional assembly not to adopt the draft strategy with those provisions in it or incorporate appropriate amendments to ensure consistency with the policies and objective of the Government, and the regional assembly concerned shall act accordingly.

(5) The Minister may, for the purposes of giving effect to Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment [1], by regulations make provision in relation to consideration of the likely significant effects on the environment of implementing regional spatial and economic strategies.

(6) An appropriate assessment of a draft regional spatial and economic strategy shall be carried out in accordance with *Part XAB*.

(7) (*a*) When making a regional spatial and economic strategy the regional assembly shall take account of the proper planning and sustainable development of the whole of the region to which the strategy relates, the statutory obligations of any local authority in the region and any relevant policies or objectives for the time being of the Government or of any Minister of the Government, including any national plans, policies or strategies specified by the Minister to be of relevance to the determination of strategic economic and planning policies.

(*b*) When making a regional spatial and economic strategy which affects the Gaeltacht, the regional assembly shall have regard to the need to protect the linguistic and cultural heritage of the Gaeltacht.

(*c*) When making a regional spatial and economic strategy the regional assemblies in respect of the GDA shall ensure that the strategy is consistent with the transport strategy of the NTA.

(8) Without prejudice to the generality of *subsections (2)* and *(3)*, the Minister may issue guidelines on the content of regional spatial and economic strategies and regional assemblies shall have regard to those guidelines.**]**

Annotations

Amendments:

F168 Substituted (1.06.2014) by *Local Government Reform Act 2014*, s. 63(1), S.I. No. 214 of 2014.

F169 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 18(2) and sch. 3 ref. nos. 5-7, S.I. No. 436 of 2018.

F170 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 6, S.I. No. 488 of 2022.

[1] OJ No. L197, 21.7.2001 p.30-37

Modifications (not altering text):

C35 "National Spatial Strategy: 2002—2020" declared to be of relevance to the determination of strategic planning policies under subs. (4)(a) (1.05.2003) by *Planning and Development (Regional Planning Guidelines) Regulations 2003* (S.I. No. 175 of 2003), reg. 4.

Specification of National Spatial Strategy as being of relevance to strategic planning policies.

4. In accordance with the provisions of section 23 (4)(a) of the Act, the "National Spatial Strategy: 2002 — 2020" published by Government on 28 November 2002 is hereby specified to be of relevance to the determination of strategic planning policies.

Editorial Notes:

E108 Power pursuant to subs. (3) exercised (3.05.2011) by *Planning and Development (Strategic Environmental Assessment) (Amendment) Regulations 2011* (S.I. No. 201 of 2011).

E109 Power pursuant to section exercised (25.03.2009) by *Planning and Development (Regional Planning Guidelines) Regulations 2009* (S.I. No. 100 of 2009).

E110 Power pursuant to subs. (3) exercised (21.07.2004) by *Planning and Development (Strategic Environmental Assessment) Regulations 2004* (S.I. No. 436 of 2004).

E111 Power pursuant to section exercised (1.05.2003) by *Planning and Development (Regional Planning Guidelines) Regulations 2003* (S.I. No. 175 of 2003).

E112 Previous affecting provision: subs. (1)(a) amended (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 14(a) and (b), S.I. No. 477 of 2010; substituted as per F-note above.

E113 Previous affecting provision: subs. (2)(a) amended (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 14(a) and (b), S.I. No. 477 of 2010; substituted as per F-note above.

E114 Previous affecting provision: paras. (2)(j)(k)(l) substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 14(a) and (b), S.I. No. 477 of 2010; substituted as per F-note above.

E115 Previous affecting provision: subs. (3) substituted (14.07.2004) by *European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004* (S.I. No. 435 of 2004), reg. 7; substituted as per F-note above.

E116 Previous affecting provision: subs. (3A) inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 14(c), S.I. No. 475 of 2011; substituted as per F-note above.

E117 Previous affecting provision: para (4)(c) inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 89, S.I. No. 574 of 2009; substituted as pe F-note above.

F171**[**Consultation regarding regional spatial and economic strategy

24.—(1) As soon as may be after agreeing any necessary arrangements under *section 21*, a regional assembly shall give notice of its intention to make the regional spatial and economic strategy.

(2) A notice under *subsection (1)* shall be given to the Minister, F172**[**the Office of the Planning Regulator,**]** the Board, the prescribed authorities in the area and shall be published in one or more newspapers circulating in the region for which the regional spatial and economic strategy is prepared and shall—

(*a*) state that the regional assembly intends to make a regional spatial and economic strategy,

(*b*) indicate the matters to be considered in the regional spatial and economic strategy, having regard to *section 23*,

(*c*) indicate that submissions regarding the making of the regional spatial and economic strategy may be made in writing to the regional assembly within a specified period (which shall not be less than 8 weeks).

(3) A regional assembly shall consider any submissions received under *subsection (2)* before preparing the draft regional spatial and economic strategy.

(4) When a regional assembly prepares the draft of the regional spatial and economic strategy it shall, as soon as may be—

(*a*) send notice and copies of the draft strategy to the Minister, F172**[**the Office of the Planning Regulator,**]** the Board, the prescribed authorities in its area, and

(*b*) publish notice of the preparation of the draft in one or more newspapers circulating in its area.

(5) A notice under *subsection (4)* shall state—

(*a*) that a copy of the draft strategy may be inspected at a stated place or places and at stated times during a stated period of not less than 10 weeks (and the copy shall be kept available for inspection accordingly), and

(*b*) that written submissions or observations with respect to the draft made to the regional assembly within the stated period will be taken into consideration before the regional spatial and economic strategy is adopted.

(6) When the regional assemblies in respect of the GDA prepare the draft of the regional spatial and economic strategy they shall include a statement in that draft on the actions being taken or proposed to ensure effective integration of transport and land use planning, including in particular—

(*a*) a statement explaining how the regional assemblies propose to address the matters identified in the report of the NTA prepared in accordance with *section 31F*, and

(*b*) where the regional assemblies do not propose to address, or propose to only partially address, any matter identified in the report of the NTA prepared in accordance with *section 31F*, a statement of the reasons for that course of action.

(7) When a regional assembly (other than the regional assemblies in respect of the GDA) prepares the draft of the regional spatial and economic strategy it shall include a statement in that draft on the actions being taken or proposed to ensure effective integration of transport and land use planning, including in particular—

(*a*) a statement explaining how it proposes to address the matters identified in the report of the NTA prepared in accordance with *section 31FF*, and

(*b*) where it does not propose to address, or proposes to only partially address, any matter identified in the report of the NTA prepared in accordance with *section 31FF*, a statement of the reasons for that course of action.

(8) (*a*) Subject to *paragraphs (b)* and *(e)*, following consideration of submissions or observations under *subsection (5)*, and subject to *section 25*, the regional assembly shall, subject to any amendments that it considers necessary, make the regional spatial and economic strategy.

(*b*) The regional assembly shall determine if a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, is or are required to be carried out as respects one or more than one proposed material amendment of the draft regional spatial and economic strategy.

(*c*) The director of the regional assembly, not later than 2 weeks after a determination under *paragraph (b)* shall specify such period as he or she considers necessary as being required to facilitate an assessment referred to in *paragraph (b)*.

(*d*) The regional assembly shall publish notice of any proposed material amendment, and where appropriate in the circumstances, the making of a determination that a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, is or are required, in at least one newspaper circulating in its area.

(*e*) The notice referred to in *paragraph (d)* shall state—

(i) that a copy of any proposed material amendment and of any determination by the regional assembly that an assessment referred to in *paragraph (b)* is required may be inspected at a stated place or places and at stated times, and on the assembly's website, during a stated period of not less than 4 weeks (and that copies will be kept for inspection accordingly), and

(ii) that written submissions or observations with respect to the proposed material amendment or an assessment referred to in *paragraph (b)* and made to the regional assembly within a stated period shall be taken into account by the assembly before the regional spatial and economic strategy is adopted.

(*f*) The regional assembly shall carry out an assessment referred to in *paragraph (b)* of the proposed material amendment of the draft regional spatial and economic strategy within the period specified by the director of the regional assembly.

(9) Following the consideration of submissions or observations under *subsection (8)*, and subject to *section 25*, the regional assembly shall make the regional spatial and economic strategy with or without the proposed material amendments, subject to any minor modifications considered necessary.

(10) A minor modification referred to in *subsection (9)* may be made where it is minor in nature and therefore not likely to have significant effects on the environment or adversely affect the integrity of a European site.

(11) (*a*) Where a regional assembly makes a regional spatial and economic strategy, it shall publish a notice of the making of the strategy in at least one newspaper circulating in the functional area of each planning authority in the region for which the strategy is prepared.

(*b*) A notice under this subsection shall state that a copy of the regional spatial and economic strategy is available for inspection at a stated place or places (and the copy shall be kept available for inspection accordingly).**]**

Annotations

Amendments:

F171 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(1), S.I. No. 214 of 2014.

F172 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. nos. 21, 22, S.I. No. 133 of 2019, art. 2(b).

Editorial Notes:

E118 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E119 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E120 Power pursuant to section exercised (3.06.2011) by *Planning and Development (Amendment) Regulations 2011* (S.I. No. 262 of 2011).

E121 Power pursuant to section exercised (31.03.2007) by *Planning and Development (No. 2) Regulations 2007* (S.I. No. 135 of 2007).

E122 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E123 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E124 Previous affecting provision: subs. (5A) inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 90, S.I. No. 574 of 2009; substituted as per F-note above.

E125 Previous affecting provision: subs. (5B) inserted (4.01.2010) by *Public Transport Regulation Act 2009* (37/2009), s. 44(1)(a), S.I. No. 575 of 2009; substituted as per F-note above.

E126 Subs. (6) substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 15, S.I. No. 477 of 2010; substituted as per F-note above.

E127 Subss. (6A) and (6B) inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 15, S.I. No. 477 of 2010; substituted as per F-note above.

E128 Previous affecting provision: power pursuant to section exercised (1.11.2000) by *Planning and Development Regulations 2000* (S.I. No. 350 of 2000), revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

F173[Procedure for making regional spatial and economic strategy

25.—(1) As part of the consultation between a regional assembly and the relevant planning authorities under *section 22*, the regional assembly and the planning authorities concerned shall agree on a procedure for preparing and making the regional spatial and economic strategy under *section 24*.

(2) Matters to be considered under *subsection (1)* shall include the establishment of committees to oversee and consider preparation of the strategy.

(3) The authorities and assemblies concerned shall agree on the membership of the committees under *subsection (2)* and shall also agree on the roles of those committees in preparing the draft regional spatial and economic strategy, considering submissions or observations under *section 24*, and drawing up reports in respect of the strategy.

(4) When the regional assemblies in respect of the GDA make a regional spatial and economic strategy they shall include in the strategy a statement on the actions being taken or proposed to ensure effective integration of transport and land use planning, including in particular—

(*a*) a statement explaining how the regional assemblies propose to address the matters identified in the report of the NTA prepared in accordance with *section 31G*, and

(*b*) where the regional assemblies do not propose to address, or propose only to partially address, any matter identified in the report of the NTA prepared in accordance with *section 31G*, a statement of the reasons for that course of action.

(5) When a regional assembly (other than the regional assemblies in respect of the GDA) makes a regional spatial and economic strategy it shall include in the strategy a statement on the actions being taken or proposed to ensure effective integration of transport and land use planning, including in particular—

(*a*) a statement explaining how it proposes to address the matters identified in the report of the NTA prepared in accordance with *section 31GG*, and

(*b*) where it does not propose to address, or proposes only to partially address, any matter identified in the report of the NTA prepared in accordance with *section 31GG*, a statement of the reasons for that course of action.

(6) The making of a regional spatial and economic strategy under *section 24(8)* shall be a matter for the members of the regional assembly concerned, following the consideration of any report or reports from the committees referred to in *subsection (2)*.**]**

Annotations

Amendments:

F173 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(1), S.I. No. 214 of 2014.

Editorial Notes:

E129 Previous affecting provision: subs. (3A) inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 91, S.I. No. 574 of 2009; substituted as per F-note above.

E130 Previous affecting provision: subs. (3B) inserted (4.01.2010) by *Public Transport Regulation Act 2009* (37/2009), ss. 44(1)(b), S.I. No. 575 of 2009; substituted as per F-note above.

F174**[**Reports on regional spatial and economic strategy

25A.—(1) In respect of the regional spatial and economic strategy of a regional assembly, the public bodies to which *section 22A* relate and each local authority within the regional assembly area shall, every 2 years, prepare and submit a report to the assembly setting out progress made in supporting objectives, relevant to that body, of the strategy.

(2) Each regional assembly shall, every 2 years, prepare a report (in this section referred to as a monitoring report) monitoring progress made in implementing the regional spatial and economic strategy.

(3) The monitoring report shall specify the progress made in securing the overall objectives of the regional spatial and economic strategy, including any specific actions and outcomes, including actions specific to the public bodies to which *section 22A* relates.

(4) The regional assembly concerned shall submit its monitoring report to the National Oversight and Audit Commission.

(5) The National Oversight and Audit Commission shall consider the monitoring report of each regional assembly and may make recommendations to the Minister in relation to relevant measures to further support the implementation of the regional spatial and economic strategy concerned.**]**

Annotations

Amendments:

F174 Inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(1), S.I. No. 214 of 2014.

F175[Review of regional spatial and economic strategy

26.—(1) Where a regional assembly has made a regional spatial and economic strategy, it shall, not later than 6 years after the making of such a strategy and not less than once in every period of 6 years thereafter, review such strategy and when so reviewing, it may revoke the strategy or make a new regional spatial and economic strategy.

(2) Before a regional assembly revokes a strategy referred to in *subsection (1)* (other than for the purpose of making a new regional spatial and economic strategy), it shall consult with the planning authorities within its region.

(3) Where the regional assembly makes a new regional spatial and economic strategy, it shall follow the procedures laid down in *sections 22*, *24* and *25*.

(4) Where a new strategy is made under *subsection (1)*, it shall supersede any previous regional spatial and economic strategy.**]**

Annotations

Amendments:

F175 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(1). S.I. No. 214 of 2014.

F176[Regional spatial and economic strategy and development plans

27.—(1) A planning authority shall ensure, when making a development plan or a local area plan, that the plan is consistent with any regional spatial and economic strategy in force for its area.

(2) The Minister may, by order, determine that planning authorities shall comply with any regional spatial and economic strategy in force for their area, or any part thereof, when preparing and making a development plan, or may require in accordance with *section 31* that an existing development plan comply with any regional spatial and economic strategy in force for the area.

(3) An order under *subsection (2)* may relate—

(*a*) generally to every regional spatial and economic strategy,

(*b*) to one or more than one specified strategy, or

(*c*) to specific elements of each strategy.

(4) Following the making of a regional spatial and economic strategy for its area, each planning authority shall review the existing development plan and consider whether any variation of the development plan is necessary in order to achieve the objectives of the regional spatial and economic strategy.

(5) For the purposes of this section, a planning authority may have, but shall not be obliged to have, regard to any regional spatial and economic strategy after 6 years from the making of such strategy.

(6) The Minister may make regulations concerning matters of procedure and administration to be adopted by a regional assembly in the performance of its functions relating to the preparation of a draft development plan, making of a development plan or variation of a development plan, as the case may be.**]**

Annotations

Amendments:

F176 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(1), S.I. No. 214 of 2014.

Editorial Notes:

E131 Previous affecting provision: subs. (1) amended (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 16(a), S.I. No. 477 of 2010; substituted as per F-note above.

E132 Previous affecting provision: subs. (6) inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 16(b), S.I. No. 477 of 2010; substituted as per F-note above.

F177**[**Report of regional assembly for preparation of draft development plan

27A.—(1) Where a regional assembly receives a notice from a planning authority under section 11(1) it shall prepare submissions or observations for the purposes of *section 11(2)*.

(2) Submissions or observations made by a regional assembly under *section 11(2)* shall contain a report on matters that, in the opinion of the regional assembly, require consideration by the planning authority concerned in making the development plan.

(3) The submissions or observations and report of the regional assembly shall include, but shall not be limited to, recommendations regarding each of the following matters as respects the area to which the development plan relates:

(*a*) any policies or objectives for the time being of the Government or any Minister of the Government in relation to national and regional population targets, and the best distribution of residential development and related employment development with a view to—

(i) promoting consistency as far as possible, between housing, settlement and economic objectives in the draft development plan and core strategy and the regional spatial and economic strategy, and

(ii) assisting in drafting the core strategy of the draft development plan;

(*b*) the objectives of providing physical, economic or social infrastructure in a manner that promotes F178**[**regional development through maximising the potential of the regions**]**;

(*c*) planning for the best use of land having regard to location, scale and density of new development to benefit from investment of public funds in transport infrastructure and public transport services; and

(*d*) collaboration between the planning authority and the regional assembly in respect of integrated planning for transport and land use, in particular in relation to large scale developments and the promotion of sustainable transportation strategies in urban and rural areas, including the promotion of measures to reduce anthropogenic greenhouse gas emissions and address the necessity of adaptation to climate change.

(4) One or more regional assemblies, who have been directed by the Minister to make a regional spatial and economic strategy for the purpose of *section 21(3)* in relation to a combined area of the regional assemblies or in respect of any particular part or parts of the area which lie within the area of those regional assemblies, shall make joint submissions or observations and issue a joint report for the purpose of this section, in respect of the combined area or particular part or parts of the area concerned and shall send a copy of the joint submissions or observations and joint report to the Minister.**]**

F179**[**(5) A regional assembly shall send a copy of any report under this section to the Office of the Planning Regulator.**]**

Annotations

Amendments:

F177 Substituted (1.06.2014) by *Local Government Reform Act* (1/2014), s. 63(1), S.I. No. 214 of 2014.

F178 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 18(2) and sch. 3 ref. no. 8, S.I. No. 436 of 2018.

F179 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. no. 23, S.I. No. 133 of 2019, art. 2(b).

Editorial Notes:

E133 Previous affecting provision: section inserted (30.11.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 17, S.I. No. 477 of 2010; substituted as per F-note above.

F180**[**Role of regional assembly in making of development plan

27B.—(1) Where a regional assembly receives a notice from a planning authority under *section 12(1)* it shall prepare submissions and observations for the purposes of *section 12(2)*.

(2) Submissions or observations made by the regional assembly under *subsection (1)* shall contain a report which shall state whether, in the opinion of that assembly, the draft development plan, and, in particular, its core strategy, are consistent with the regional spatial and economic strategy in force for the area of the development plan.

(3) Where the opinion of the regional assembly stated in the submissions or observations made and the report issued is that the draft development plan and its core strategy are not consistent with the regional spatial and economic strategy, the submissions, observations and report shall include recommendations as to what amendments, in the opinion of the regional assembly, are required in order to ensure that the draft development plan and its core strategy are so consistent.

(4) The regional assembly shall send a copy of the submission or observations and the report to the Minister F181**[**and the Office of the Planning Regulator**]**.

(5) One or more regional assemblies, who have been directed by the Minister to make a regional spatial and economic strategy for the purpose of *section 21(3)* in relation to a combined area of the regional assemblies or in respect of any particular part or parts of the area which lie within the area of those regional assemblies, shall make joint submissions or observations and issue a joint report for the purpose of this section, in respect of the combined area or particular part or parts of the area concerned and shall send a copy of the joint submissions or observations and joint report to the Minister.**]**

Annotations

Amendments:

F180 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(1), S.I. No. 214 of 2014.

F181 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. no. 24, S.I. No. 133 of 2019, art. 2(b).

Editorial Notes:

E134 Previous affecting provision: section inserted (30.11.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 18, S.I. No. 477 of 2010; substituted as per F-note above.

F182**[**Role of regional assembly in variation of development plan

27C.—(1) Where a regional assembly receives a notice from a planning authority under *section 13(1)* it shall prepare submissions and observations for the purposes of *section 13(2)*.

(2) Submissions or observations made by the regional assembly under *subsection (1)* shall contain a report which shall state whether, in the opinion of that assembly, the draft variation of the development plan, and, in particular, its core strategy, are consistent with the regional spatial and economic strategy in force for the area of the development plan.

(3) Where the opinion of the regional assembly stated in the submissions or observations made and the report issued is that the proposed variation of the development plan and its core strategy are not consistent with the regional spatial and economic strategy, the submissions and observations and report shall include recommendations as to what amendments, in the opinion of the regional assembly, are required in order to ensure that the proposed variation to the development plan and its core strategy are so consistent.

(4) The regional assembly shall send a copy of the report to the Minister F183**[**and the Office of the Planning Regulator**]**.

(5) One or more regional assemblies, who have been directed by the Minister to make a regional spatial and economic strategy for the purpose of *section 21(3)* in relation to a combined area of the regional assemblies or in respect of any particular part or parts of the area which lie within the area of those regional assemblies, shall make joint submissions or observations and issue a joint report for the purpose of this section, in respect of the combined area or particular part or parts of the area concerned and shall send a copy of the joint submissions or observations and joint report to the Minister.**]**

Annotations

Amendments:

F182 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(1), S.I. No. 214 of 2014.

F183 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. no. 25, S.I. No. 133 of 2019, art. 2(b).

Editorial Notes:

E135 Previous affecting provision: section inserted (30.11.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 19, S.I. No. 477 of 2010; substituted as per F-note above.

F184**[**Modification of role of regional assembly having regard to Covid-19

27D.—(1) Where a regional assembly receives a notice from a planning authority under *section 11D(3)* it shall prepare submissions and observations for the purposes of that provision.

(2) The regional assembly shall send a copy of the submissions and observations to the planning authority concerned, the Minister and the Office of the Planning Regulator.

(3) This section shall cease to have effect on 1 January 2024.**]**

Annotations

Amendments:

F184 Inserted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 5, S.I. No. 365 of 2021.

Editorial Notes:

E136 The section heading is taken from the amending section in the absence of one included in the amendment.

Chapter IV

Guidelines and Directives

Ministerial guidelines.

28.—(1) The Minister may, at any time, issue guidelines to planning authorities regarding any of their functions under this Act and planning authorities shall have regard to those guidelines in the performance of their functions.

F185**[**(1A) Without prejudice to the generality of *subsection (1)* and for the purposes of that subsection a planning authority in having regard to the guidelines issued by the Minister under that subsection, shall—

(*a*) consider the policies and objectives of the Minister contained in the guidelines when preparing and making the draft development plan and the development plan, and

(*b*) append a statement to the draft development plan and the development plan which shall include the information referred to in *subsection (1B)*.

(1B) The statement which the planning authority shall append to the draft development plan and the development plan under subsection (1A) shall include information which demonstrates—

(*a*) how the planning authority has implemented the policies and objectives of the Minister contained in the guidelines when considering their application to the area or part of the area of the draft development plan and the development plan, or

(*b*) if applicable, that the planning authority has formed the opinion that it is not possible, because of the nature and characteristics of the area or part of the area of the development plan, to implement certain policies and objectives of the Minister contained in the guidelines when considering the application of those policies in the area or part of the area of the draft development plan or the development plan and shall give reasons for the forming of the opinion and why the policies and objectives of the Minister have not been so implemented.**]**

F186**[**(1C) Without prejudice to the generality of *subsection (1)*, guidelines under that subsection may contain specific planning policy requirements with which planning authorities, regional assemblies and the Board shall, in the performance of their functions, comply.**]**

F187**[**(1D) A strategic environmental assessment or an appropriate assessment shall, as the case may require, be conducted in relation to a draft of guidelines proposed to be issued under *subsection (1)*.**]**

(2) Where applicable, the Board shall have regard to any guidelines issued to planning authorities under *subsection (1)* in the performance of its functions.

(3) Any planning guidelines made by the Minister and any general policy directives issued under section 7 of the Act of 1982 prior to the commencement of this Part and still in force immediately before such commencement shall be deemed to be guidelines under this section.

(4) The Minister may revoke or amend guidelines issued under this section.

(5) The Minister shall cause a copy of any guidelines issued under this section and of any amendment or revocation of those guidelines to be laid before each House of the Oireachtas.

(6) A planning authority shall make available for inspection by members of the public any guidelines issued to it under this section.

(7) The Minister shall publish or cause to be published, in such manner as he or she considers appropriate, guidelines issued under this section.

Annotations

Amendments:

F185 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 20, S.I. No. 477 of 2010.

F186 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 20(a), S.I. No. 436 of 2018.

F187 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 20(b), S.I. No. 436 of 2018.

Editorial Notes:

E137 Power pursuant to section exercised (2.01.2001) by *Local Government (Planning and Development) General Policy Directive (Shopping) 1998 (Revocation Order) 2001* (S.I. No. 1 of 2001).

E138 Previous affecting provision: subs. (1C) inserted (29.12.2015) by *Planning and Development (Amendment) Act 2015* (63/2015), s. 2, commenced on enactment; substituted as per F-note above.

Ministerial policy directives.

29.—(1) The Minister may, from time to time, issue policy directives to planning authorities regarding any of their functions under this Act and planning authorities shall comply with any such directives in the performance of their functions.

(2) Where applicable, the Board shall also comply with any policy directives issued to planning authorities under *subsection (1)* in the performance of its functions.

(3) The Minister may revoke or amend a policy directive issued under this section.

(4) Where the Minister proposes to issue, amend or revoke a policy directive under this section, a draft of the directive, amendment or revocation shall be laid before both Houses of the Oireachtas and the policy directive shall not be issued, amended or revoked, as the case may be, until a resolution approving the issuing, amending or revocation of the policy directive has been passed by each House.

(5) The Minister shall cause a copy of any policy directive issued under this section to be laid before each House of the Oireachtas.

(6) A planning authority shall make available for inspection by members of the public any policy directive issued to it under this section.

(7) The Minister shall publish or cause to be published, in such manner as he or she considers appropriate, policy directives issued under this section.

Limitation on Ministerial power.

F188**[30.**—(1) Notwithstanding *section 28* or *29* and subject to *subsection (2)*, the Minister shall not exercise any power or control in relation to any particular case with which a planning authority or the Board is or may be concerned F189**[**save as provided for by *sections 177X*, *177Y*, *177AB* and *177AC***]**.

F190**[**(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.**]]**

Annotations

Amendments:

F188 Substituted (3.07.2002) by *Minister For the Environment and Local Government (Performance of Certain Functions) Act 2002* (24/2002), s. 1, commenced on enactment.

F189 Inserted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 19, S.I. No. 474 of 2011.

F190 Substituted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 5, S.I. No. 279 of 2021.

Modifications (not altering text):

C36 Powers and functions in relation to Act transferred (10.07.2002) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2002* (S.I. No. 356 of 2002), arts. 3, 4(1) and sch. part 1.

3. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 4 of this Order are transferred to the Department of the Environment and Local Government.

(2) References to the Department of Community, Rural and Gaeltacht Affairs contained in any Act or instrument made thereunder and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of the Environment and Local Government.

4. (1) The functions vested in the Minister for Community, Rural and Gaeltacht Affairs —

(*a*) by or under any of the instruments or the provisions of the enactments mentioned in Part 1 of the Schedule to this Order,

(*b*) under the Regulations mentioned in Part 2 of that Schedule, and ...

are transferred to the Minister for the Environment and Local Government.

...

Schedule Part 1

Enactments and provisions of enactments, functions under which are transferred from the Minister for Community, Rural and Gaeltacht Affairs to the Minister for the Environment and Local Government

...

Planning and Development Act 2000 (No. 30 of 2000) (in so far as it relates to or refers to the Minister for Community, Rural and Gaeltacht Affairs (except section 33 (3)(c)))

...

Part 2

Regulations, functions under which are transferred from the Minister for Community, Rural and Gaeltacht Affairs to the Minister for the Environment and Local Government

Planning and Development Regulations 2001 (S.I. No. 600 of 2001) (in so far as they relate to or refer to the Minister for Community, Rural and Gaeltacht Affairs (except Article 28 (1)(n) Article 82 (3)(m), Article 121 (1)(m) and Article 179 (2)(p)))

...

Ministerial directions regarding development plans.

F191**[31.**—(1) Where the Minister is of the opinion that—

F192**[**(*a*) a planning authority, in making a development plan, a variation of a development plan, a local area plan or an amendment to a local area plan (in this section referred to as a "plan") has failed to—

(i) implement a recommendation made to the planning authority by—

(I) the Minister under *section 12*, *13* or *20*, or

(II) the Office of the Planning Regulator under *section 31AM* or *31AO*,

or

(ii) take account of any submission or observation made to the planning authority by—

(I) the Minister under *section 12*, *13* or *20*, or

(II) the Office of the Planning Regulator under *section 31AM* or *31AO*,**]**

(*b*) in the case of a plan, the plan fails to set out an overall strategy for the proper planning and sustainable development of the area,

F193**[**(*ba*) a plan is not consistent with—

(i) the national and regional development objectives set out in the National Planning Framework and the regional spatial and economic strategy, F194**[**...**]**

F195**[**(ia) the National Marine Planning Framework, or**]**

(ii) specific planning policy requirements specified in guidelines issued by the Minister under *subsection (1)* of *section 28*,**]**

(*c*) the plan is not in compliance with the requirements of this Act, or

(*d*) if applicable, having received a submission prepared under *section 31C* or *31D* (inserted by section 95 of the Act of 2008) that a plan of a planning authority in the Greater Dublin Area (GDA) is not consistent with the transport strategy of the National Transport Authority,

F196**[**then, subject to compliance with the relevant provisions of *sections 31AM* and *31AN* or *sections 31AO* and *31AP*, as the case may be, the Minister may**]** in accordance with this section, for stated reasons, direct a planning authority to take such specified measures as he or she may require in relation to that plan.

(2) Where the Minister issues a direction under this section the planning authority, notwithstanding anything contained in *Chapter I* or *II* of this Part, shall comply with that direction and the F197**[**chief executive**]** or elected members shall not exercise a power or perform a function conferred on them by this Act in a manner that contravenes the direction so issued.

F196**[**(3) Before he or she issues a direction under this section, the Minister shall, no later than 6 weeks after a plan is made, issue a notice in writing to a planning authority consequent on a recommendation being made to him or her by the Office of the Planning Regulator under F198**[***section 31AM(8)* or *31AO(7)*, as the case may be.**]**

(4) The notice referred to in *subsection (3)* shall, for stated reasons, inform the planning authority of—

(*a*) the forming of the opinion referred to in *subsection (1)*,

(*b*) the intention of the Minister to issue a direction (a draft of which shall be contained in the notice) to the planning authority to take certain measures specified in the notice in order to ensure that the plan is in compliance with the requirements of this Act and F199**[**...**]** sets out an overall strategy for the proper planning and sustainable development of the area,

(*c*) those parts of the plan that by virtue of the issuing of the notice under this subsection shall be taken not to have come into effect, been made or amended under *subsection (6)*, and

(*d*) if applicable, requiring the planning authority to take measures specified in the notice to ensure that the plan is in compliance with the transport strategy of the Dublin Transport Authority.

F196**[**(5) The Minister shall furnish a copy of the notice referred to in *subsection (3)*—

(*a*) to the chief executive and to the Cathaoirleach of the planning authority concerned,

(*b*) where there is a regional spatial and economic strategy in force for the area of the planning authority, to the director of the regional assembly concerned,

(*c*) where it concerns any matter to which *Part IIB* relates, to the Office of the Planning Regulator, and

(*d*) where relevant, to the National Transport Authority.**]**

(6) (*a*) Notwithstanding *section 12(17)*, *13(11)* or *20(4A)*, a plan shall not have effect in accordance with those sections in relation to a matter contained in the plan which is referred to in a notice under *subsection (3)*.

(*b*) If a part of a plan proposed to be replaced under *section 12*, *13* or *20* contains a matter that corresponds to any matter contained in that plan which is referred to in a notice under *subsection (3)*, that part shall not, save where *subsection (17)* applies, cease to have effect in respect of that matter.

(7) No later than 2 weeks after receipt of the notice issued by the Minister under *subsection (3)*, the F197**[**chief executive**]** of the planning authority shall publish notice of the draft direction in at least one newspaper circulating in the area of the development plan or local area plan, as the case may be, which shall state—

(*a*) the reasons for the draft direction,

(*b*) that a copy of the draft direction may be inspected at such place or places as are specified in the notice during such period as may be so stated (being a period of not more than 2 weeks), and

F196**[**(*c*) that written submissions or observations in respect of the draft direction may be made to the planning authority during such period and shall be taken into consideration by the Office of the Planning Regulator before it makes a recommendation to the Minister on the matter.**]**

F196**[**(8) No later than 4 weeks after the expiry of the period referred to in *subsection (7)(b)*, the chief executive shall prepare a report on any submissions or observations received under *subsection (7)(c)* which shall be furnished to the elected members of the planning authority, the Office of the Planning Regulator F200**[**, the Minister and, where relevant, the regional assembly concerned**]**.**]**

(9) The report referred to in *subsection (8)* shall—

(*a*) summarise the views of any person who made submissions or observations to the planning authority,

(*b*) summarise the views of and recommendations (if any) made by the elected members of the planning authority,

(*c*) summarise the views of and recommendations (if any) made by the F201**[**regional assembly**]**,

(*d*) make recommendations in relation to the best manner in which to give effect to the draft direction.

F196**[**(10) In relation to the notice issued by the Minister under *subsection (3)*, the elected members of the planning authority—

(*a*) may make a submission to the Office of the Planning Regulator at any time up to the expiry of the period of time referred to in *subsection (7)(b)*, and

(*b*) where so submitted, shall send a copy of it to the Minister.**]**

(11) F202**[**...**]**

(12) F202**[**...**]**

(13) F202**[**...**]**

(14) F202**[**...**]**

(15) F202**[**...**]**

F203**[**(16) Where *paragraph (a)* of *section 31AN(4A)*, *paragraph (a)* or *(c)* of *section 31AN(9)*, *paragraph (a)* of *section 31AP(4A)* or *paragraph (a)* or *(c)* of *section 31AP(9)* applies to a matter to which this section relates, then the Minister shall issue a direction accordingly.**]**

(17) The direction issued by the Minister under *subsection (16)* is deemed to have immediate effect and its terms are considered to be incorporated into the plan, or, if appropriate, to constitute the plan.

(18) The Minister shall cause a copy of a direction issued under *subsection (16)* to be laid before each House of the Oireachtas.

(19) As soon as may be after a direction is issued to a planning authority under *subsection (16)*, the planning authority shall make the direction so issued available for inspection by members of the public, during office hours of the authority, at the offices of the authority, and may also make the direction available by placing it on the authority's website or otherwise in electronic form.

F196**[**(20) The Minister shall—

(*a*) make available on the website of the Department of Housing, Planning and Local Government a direction under *subsection (16)*, and

(*b*) otherwise publish or cause to be published in such manner as he or she considers appropriate directions issued under *subsection (16)*.**]]**

Annotations

Amendments:

F191 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 21, S.I. No. 477 of 2010.

F192 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 21(a), S.I. No. 436 of 2018.

F193 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 21(b), S.I. No. 436 of 2018.

F194 Deleted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 7, S.I. No. 488 of 2022.

F195 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 7, S.I. No. 488 of 2022.

F196 Substituted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. nos. 27-32, 35, S.I. No. 133 of 2019, art. 2(b).

F197 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 43-48, S.I. No. 436 of 2018.

F198 Substituted (24.07.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 5(a), commenced on enactment.

F199 Deleted (24.07.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 5(b), commenced on enactment.

F200 Substituted (24.07.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 5(c), commenced on enactment, subject to transitional provision in s. 41(1), not commenced as of date of revision.

F201 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 refs. 34-36, S.I. No. 214 of 2014.

F202 Deleted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. no. 33, S.I. No. 133 of 2019, art. 2(b).

F203 Substituted (24.07.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 5(d), commenced on enactment.

F204 Substituted by *Planning and Development (Amendment) Act 2018* (16/2018), s. 21(c), not commenced as of date of revision.

Modifications (not altering text):

C37 Prospective affecting provision: subs. (3) substituted by *Planning and Development (Amendment) Act 2018* (16/2018), s. 21(c), not commenced as of date of revision.

F204**[**(3) (*a*) The Minister may, following the making of a recommendation by the Office of the Planning Regulator under *subsection (9)* of *section 31AN* or *subsection (9)* of *section 31AP*, give a direction under this section to a planning authority in relation to a plan.

(*b*) The Minister shall, before giving a direction under this section to a planning authority, issue a notice in writing to the planning authority of his or her intention to give such direction and such notice shall not be issued after the expiration of 4 weeks from the making of a plan by the planning authority.**]**

Editorial Notes:

E139 Previous affecting provision: subs. (16) substituted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. no. 34, S.I. No. 133 of 2019, art. 2(b); substituted (24.07.2022) as per F-note above.

E140 Previous affecting provision: subss. (5), (8) amended (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 44, 46, S.I. No. 436 of 2018; subsections substituted as per F-note above.

E141 Previous affecting provision: subs. (13)(b), (14) amended (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 47, 48, S.I. No. 436 of 2018; subsections deleted as per F-note above.

E142 Previous affecting provision: subs. (5) amended (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 refs. 32, 33, S.I. No. 214 of 2014; subsection substituted as per F-note above.

E143 Previous affecting provision: subs. (13)(c), (14) amended (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 refs. 35, 36, S.I. No. 214 of 2014; subsections deleted as per F-note above.

E144 Previous affecting provision: subs. (1A) inserted and subs. (4) substituted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 92, S.I. No. 574 of 2009; substituted as per F-note above.

F205**[**Ministerial directions regarding regional planning strategy.

31A.—(1) Where the Minister is of the opinion that—

(*a*) a F206**[**regional assembly**]**, F206**[**or assemblies**]**, as the case may be, in making the F207**[**regional spatial and economic strategy**]** has ignored, or has not taken sufficient account of submissions or observations made by the Minister to the F206**[**regional assembly**]** F206**[** or assemblies**]** under *section 24* or *26*,

F208**[**(*b*) the regional spatial and economic strategy fails to provide a long-term strategic planning and economic framework for the development of the region or regions, as the case may be, in respect of which it is made, in accordance with the principles of proper planning and sustainable development and the economic policies and objectives of the Government,**]**

(*c*) the F209**[**regional spatial and economic strategy is**]** not in compliance with the requirements of this Act, or

(*d*) if applicable, in relation to a F210**[**regional assembly or assemblies**]** whose regional area or part thereof is in the Greater Dublin Area (GDA) that the guidelines are not consistent with the transport strategy of the National Transport Authority,

F211**[**(*e*) the Office of the Planning Regulator has issued a notice to the Minister pursuant to *section 31AQ(7)* in respect of a regional assembly or assemblies, as the case may be,**]**

F212**[**then, subject to compliance with the relevant provisions of *sections 31AQ* and *31AR*, the Minister may**]**, in accordance with this section, for stated reasons F213**[**direct a regional assembly or assemblies**]**, as the case may be, to take such specified measures as he or she may require in relation to that plan.

(2) Where the Minister issues a direction under this section the F214**[**regional assembly or regional assemblies**]**, as the case may be, notwithstanding anything contained in *Chapter III* of this Part, shall comply with that direction and the F215**[**chief executive**]** or members shall not exercise a power or perform a function conferred on them by this Act in a manner that contravenes the direction so issued.

F212**[**(3) Before he or she issues a direction under this section, the Minister shall, no later than 6 weeks after a regional spatial and economic strategy is made, issue a notice in writing to a regional assembly or regional assemblies, as the case may be, consequent on a recommendation being made to him or her by the Office of the Planning Regulator under *section 31AR(9)*.**]**

(4) The notice referred to in *subsection (3)* shall, for stated reasons, inform the F214**[**regional assembly or regional assemblies**]**, as the case may be, of—

(*a*) the forming of the opinion referred to in *subsection (1)*,

F216**[**(*b*) the intention of the Minister to issue a direction (a draft of which shall be contained in the notice) to the regional assembly, or assemblies, as the case may be, to take certain measures specified in the notice in order to ensure that the regional spatial and economic strategy is in compliance with the requirements of this Act and to provide a long-term strategic planning and economic framework for the development of the region, or regions, as the case may be, in accordance with the principles of proper planning and sustainable development and the economic policies and objectives of the Government,**]**

(*c*) the part of the F217**[**regional spatial and economic strategy**]** that by virtue of the issuing of the notice shall be taken not to have come into effect, and

(*d*) if applicable, requiring the F217**[**regional assembly or assemblies**]**, as the case may be, to take measures specified in the notice to ensure that the plan is in compliance with the transport strategy of the National Transport Authority.

F218**[**(5) The Minister shall furnish a copy of the notice referred to in subsection (3)—

(*a*) to the regional assembly or regional assemblies concerned, as the case may be,

(*b*) to the Office of the Planning Regulator, and

(*c*) to the National Transport Authority.**]**

(6) (*a*) Notwithstanding anything contained in *Chapter III*, or any matter prescribed thereunder, F219**[**a regional spatial and economic strategy**]** shall not have effect in accordance with that Chapter in relation to a matter contained in F219**[**the strategy**]** which is referred to in a notice under *subsection (3)*.

(*b*) If a part of F219**[**the strategy proposed**]** to be replaced under *section 26* contains a matter that corresponds to any matter contained in F219**[**the strategy which is**]** referred to in a notice under *subsection (3)*, that part shall not, save where *subsection (17)* applies, cease to have effect in respect of that matter.

(7) No later than 2 weeks after receipt of the notice issued by the Minister under *subsection (3)*, the director of the F220**[**regional assembly, or assemblies,**]** as the case may be, shall publish notice of the draft direction in at least one newspaper circulating in the area of the F220**[**regional assembly, or assemblies,**]** as the case may be, which shall state—

(*a*) the reasons for the draft direction,

(*b*) that a copy of the draft direction may be inspected at such place or places as are specified in the notice during such period as may be so stated (being a period of not more than 2 weeks), and

F212**[**(*c*) that written submissions or observations in respect of the draft direction may be made to the regional assembly or regional assemblies, as the case may be, during such period and shall be taken into consideration by the Office of the Planning Regulator before it makes a recommendation to the Minister on the matter.**]**

F212**[**(8) No later than 4 weeks after the expiry of the period referred to in *subsection (7)(b)*, the director shall prepare a report on any submissions or observations received under *subsection (7)(c)* which shall be furnished to the members of the regional assembly or regional assemblies, as the case may be, the Office of the Planning Regulator and the Minister.**]**

(9) The report referred to in *subsection (8)* shall—

(*a*) summarise the views of any person who made submissions or observations to the F220**[**regional assembly, or assemblies,**]** as the case may be,

(*b*) summarise the views of and recommendations (if any) made by the members of the F220**[**regional assembly, or assemblies,**]** as the case may be,

(*c*) make recommendations in relation to the best manner in which to give effect to the draft direction.

F212**[**(10) In relation to the notice issued by the Minister under *subsection (3)*, the members of the regional assembly, or assemblies, as the case may be—

(*a*) may make a submission to the Office of the Planning Regulator at any time up to the expiry of the period of time referred to in *subsection (7)(b)*, and

(*b*) where so submitted, shall send a copy of it to the Minister.**]**

(11) F221**[**...**]**

(12) F221**[**...**]**

(13) F221**[**...**]**

(14) F221**[**...**]**

(15) F221**[**...**]**

F212**[**(16) Where *paragraph (a)* or *(c)* of *section 31AR(9)* applies to a matter to which this section relates, then the Minister shall issue a direction accordingly.**]**

F222**[**(17) The direction issued by the Minister under *subsection (16)* is deemed to have immediate effect and its terms are considered to be incorporated into the regional spatial and economic strategy, or, if appropriate, to constitute the strategy.**]**

(18) The Minister shall cause a copy of a direction issued under *subsection (16)* to be laid before each House of the Oireachtas.

(19) As soon as may be after a direction is issued to a F220**[**regional assembly or assemblies**]**, as the case may be, the authority or authorities shall make the direction so issued available for inspection by members of the public, during office hours of the authority, at the offices of the authority, and may also make the direction available by placing it on the authority's website or otherwise in electronic form.

F212**[**(20) The Minister shall—

(*a*) make available on the website of the Department of Housing, Planning and Local Government a direction under *subsection (16)*, and

(*b*) otherwise publish or cause to be published in such manner as he or she considers appropriate directions issued under *subsection (16)*.**]]**

Annotations

Amendments:

F205 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 22, S.I. No. 477 of 2010.

F206 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 37, S.I. No. 214 of 2014.

F207 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 38, S.I. No. 214 of 2014.

F208 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 39, S.I. No. 214 of 2014.

F209 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 40, S.I. No. 214 of 2014.

F210 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2, part 4 ref. 41, S.I. No. 214 of 2014.

F211 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. no. 36, S.I. No. 133 of 2019, art. 2(b).

F212 Substituted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. nos. 37-42, 44, 45, S.I. No. 133 of 2019, art. 2(b).

F213 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 42, S.I. No. 214 of 2014.

F214 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 43-46, S.I. No. 214 of 2014.

F215 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. no. 49, S.I. No. 436 of 2018.

F216 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 47, S.I. No. 214 of 2014.

F217 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 48, 49, S.I. No. 214 of 2014.

F218 Substituted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. no. 39, S.I. No. 133 of 2019.

F219 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 refs. 51-54, S.I. No. 214 of 2014.

F220 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 refs. 55-60, 62, S.I. No. 214 of 2014.

F221 Deleted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 5 and sch. 1 ref. no. 43, S.I. No. 133 of 2019, art. 2(b).

F222 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 61, S.I. No. 214 of 2014.

Modifications (not altering text):

C38 Application of section restricted (15.07.2019) by *Local Government Rates and Other Matters Act 2019* (24/2019), s. 23(2), S.I. No. 355 of 2019.

Certain regional spatial and economic strategies

23. ...

(2) Section 31A (as, by virtue of subsection (1), it is deemed to operate in relation to a relevant instrument) of the Act of 2000 is amended, in so far only as it applies in relation to a relevant instrument, by—

(*a*) the substitution, in subsection (3), of "6 weeks" for "4 weeks",

(*b*) the substitution—

(i) in paragraph (a) of subsection (10), of "Minister" for "Office of the Planning Regulator", and

(ii) in paragraph (b) of subsection (10), of "Office of the Planning Regulator" for "Minister",

(*c*) in subsection (19), by the substitution of—

(i) "assembly" for "authority" in each place that it occurs,

(ii) "assemblies" for "authorities", and

(iii) "assembly's" for "authority's", and

(*d*) the insertion of the following subsection:

"(21) The Minister may, at any time, request the Office of the Planning Regulator to—

(*a*) advise him or her in relation to any matter in connection with a regional spatial and economic strategy or any report under this section, or

(*b*) prepare, and submit to the Minister, a report in relation to any such matter, and the Office of the Planning Regulator shall, within such period as the Minister shall specify, comply with that request.",

and the said section 31A as so amended in relation to a relevant instrument is set out in the Table to this section.

(3) In this section—

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

"Act of 2018" means the Planning and Development (Amendment) Act 2018;

"relevant instrument" means—

(*a*) a notice in respect of which the functions under subsection (2) of section 24 of the Act of 2000 were performed (in whole or in part) by a regional assembly before 3 April 2019,

(*b*) a notice or draft regional spatial and economic strategy in respect of which the functions under subsection (4) of the said section 24 were performed (in whole or in part) by a regional assembly before that date, or

(*c*) any regional spatial and economic strategy made before that date;

"specified amendment" means the amendment of section 31A of the Act of 2000 specified in column (3) of Schedule 1 of the Act of 2018 opposite reference numbers 36, 37, 38, 39, 40, 43, 44 and 45 specified in column (1) of that Schedule.

TABLE

31A. (1) Where the Minister is of the opinion that—

(*a*) a regional assembly, or assemblies, as the case may be, in making the regional spatial and economic strategy has ignored, or has not taken sufficient account of submissions or observations made by the Minister to the regional assembly or assemblies under section 24 or 26,

(*b*) the regional spatial and economic strategy fails to provide a long-term strategic planning and economic framework for the development of the region or regions, as the case may be, in respect of which it is made, in accordance with the principles of proper planning and sustainable development and the economic policies and objectives of the Government,

(*c*) the regional spatial and economic strategy is not in compliance with the requirements of this Act, or

(*d*) if applicable, in relation to a regional assembly or assemblies whose regional area or part thereof is in the Greater Dublin Area (GDA) that the guidelines are not consistent with the transport strategy of the National Transport Authority,

the Minister may, in accordance with this section, for stated reasons direct a regional assembly or assemblies, as the case may be, to take such specified measures as he or she may require in relation to that plan.

(2) Where the Minister issues a direction under this section the regional assembly or regional assemblies, as the case may be, notwithstanding anything contained in Chapter III of this Part, shall comply with that direction and the chief executive or members shall not exercise a power or perform a function conferred on them by this Act in a manner that contravenes the direction so issued.

(3) Before he or she issues a direction under this section, the Minister shall issue a notice in writing to a regional assembly or regional assemblies, as the case may be, no later than 6 weeks after the strategy or strategies are made.

(4) The notice referred to in subsection (3) shall, for stated reasons, inform the regional assembly or regional assemblies, as the case may be, of—

(*a*) the forming of the opinion referred to in subsection (1),

(*b*) the intention of the Minister to issue a direction (a draft of which shall be contained in the notice) to the regional assembly, or assemblies, as the case may be, to take certain measures specified in the notice in order to ensure that the regional spatial and economic strategy is in compliance with the requirements of this Act and to provide a long-term strategic planning and economic framework for the development of the region, or regions, as the case may be, in accordance with the principles of proper planning and sustainable development and the economic policies and objectives of the Government,

(*c*) the part of the regional spatial and economic strategy that by virtue of the issuing of the notice shall be taken not to have come into effect, and

(*d*) if applicable, requiring the regional assembly or assemblies, as the case may be, to take measures specified in the notice to ensure that the plan is in compliance with the transport strategy of the National Transport Authority.

(5) The Minister shall furnish a copy of the notice referred to in subsection (3) to the regional assembly, or assemblies, as the case may be, and the National Transport Authority.

(6) (*a*) Notwithstanding anything contained in Chapter III, or any matter prescribed thereunder, a regional spatial and economic strategy shall not have effect in accordance with that Chapter in relation to a matter contained in the strategy which is referred to in a notice under subsection (3).

(*b*) If a part of the strategy proposed to be replaced under section 26 contains a matter that corresponds to any matter contained in the strategy which is referred to in a notice under subsection (3), that part shall not, save where subsection (17) applies, cease to have effect in respect of that matter.

(7) No later than 2 weeks after receipt of the notice issued by the Minister under subsection (3), the director of the regional assembly, or assemblies, as the case may be, shall publish notice of the draft direction in at least one newspaper circulating in the area of the regional assembly, or assemblies, as the case may be, which shall state—

(*a*) the reasons for the draft direction,

(*b*) that a copy of the draft direction may be inspected at such place or places as are specified in the notice during such period as may be so stated (being a period of not more than 2 weeks), and

(*c*) that written submissions or observations in respect of the draft direction may be made to the regional assembly, or assemblies, as the case may be, during such period and shall be taken into consideration by the Minister before he or she directs the regional assembly, or assemblies, as the case may be, pursuant to this section.

(8) No later than 4 weeks after the expiry of the period referred to in subsection (7)(b), the director shall prepare a report on any submissions or observations received under subsection (7)(c) which shall be furnished to the Minister and the members of the regional assembly, or assemblies, as the case may be.

(9) The report referred to in subsection (8) shall—

(*a*) summarise the views of any person who made submissions or observations to the regional assembly, or assemblies, as the case may be,

(*b*) summarise the views of and recommendations (if any) made by the members of the regional assembly, or assemblies, as the case may be,

(*c*) make recommendations in relation to the best manner in which to give effect to the draft direction.

(10) In relation to the notice issued by the Minister under subsection (3), the members of the regional assembly, or assemblies, as the case may be—

(*a*) may make a submission to the Minister at any time up to the expiry of the period of time referred to in subsection (7)(b), and

(*b*) where so submitted, shall send a copy of it to the Office of the Planning Regulator.

(11) The Minister shall consider the report furnished under subsection (8) and any submissions made to him or her under subsection (10) and—

(*a*) where he or she believes that no material amendment to the draft direction is required, or that further investigation is not necessary in order to clarify any aspect of the report or submissions, he or she may decide, no later than 3 weeks after the date of receipt of the report under subsection (8), for stated reasons—

(i) to issue the direction referred to in subsection (4)(b) with or without minor amendments, or

(ii) not to issue the direction referred to in subsection (4)(b), or

(*b*) where he or she believes that—

(i) a material amendment to the draft direction may be required, or

(ii) further investigation is necessary in order to clarify any aspect of the report furnished under subsection (8) or submissions made under subsection (10), or

(iii) it is necessary for any other reason,

he or she may, for stated reasons, appoint an inspector no later than 3 weeks after the date of receipt of the report under subsection (8).

(12) The inspector appointed under subsection (11)(b) shall be a person who, in the opinion of the Minister, has satisfactory experience and competence to perform the functions required of him or her pursuant to this section and shall be independent in the performance of his or her functions.

(13) The inspector appointed under subsection (11)(b) having regard to the stated reasons for his or her appointment—

(*a*) shall review the draft direction, the report furnished under subsection (8) and submissions made under subsection (10),

(*b*) shall consult with the regional assembly, or assemblies, as the case may be,

(*c*) may consult with persons who made submissions under subsection (7)(c), and

(*d*) shall no later than 3 weeks after he or she was appointed, furnish a report containing recommendations to the Minister.

(14) Copies of the report of the inspector referred to in subsection (13)(d) shall be furnished as quickly as possible by the Minister to the regional assembly, or assemblies, as the case may be, and persons who made submissions under subsection (7)(c).

(15) The persons who have been furnished with the report of the inspector referred to in subsection (13)(d) may make a submission to the Minister in relation to any matter referred to in the report no later than 10 days after the receipt by them of the report.

(16) No later than 3 weeks (or as soon as may be during such period extending that 3 week period as the Minister may direct) after receipt of the report of the inspector referred to in subsection (13)(d), or any submissions made to him or her under subsection (15), the Minister, having considered the report, recommendations or submissions, as the case may be, shall decide for stated reasons—

(*a*) to issue the direction referred to in subsection (4)(b),

(*b*) not to issue the direction referred to in subsection (4)(b), or

(*c*) to issue the direction referred to in subsection (4)(b), which has been amended by the Minister to take account of any of the matters referred to in subparagraphs (i) or (ii) as the Minister considers appropriate:

(i) recommendations contained in the report of the inspector referred to in subsection (13)(d); or

(ii) any submissions made pursuant to subsection (15).

(17) The direction issued by the Minister under subsection (16) is deemed to have immediate effect and its terms are considered to be incorporated into the regional spatial and economic strategy, or, if appropriate, to constitute the strategy.

(18) The Minister shall cause a copy of a direction issued under subsection (16) to be laid before each House of the Oireachtas.

(19) As soon as may be after a direction is issued to a regional assembly or assemblies, as the case may be, the assembly or assemblies shall make the direction so issued available for inspection by members of the public, during office hours of the assembly, at the offices of the assembly, and may also make the direction available by placing it on the assembly's website or otherwise in electronic form.

(20) The Minister shall publish or cause to be published in such manner as he or she considers appropriate directions issued under subsection (16).

(21) The Minister may, at any time, request the Office of the Planning Regulator to—

(*a*) advise him or her in relation to any matter in connection with a regional spatial and economic strategy or any report under this section, or

(*b*) prepare, and submit to the Minister, a report in relation to any such matter,

and the Office of the Planning Regulator shall, within such period as the Minister shall specify, comply with that request.

Editorial Notes:

E145 The section heading is taken from the text of the section in the absence of one included in the amendment.

E146 Previous affecting provision: subss. (1), (3), (5), (7)(c), (8), (10) amended (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 refs. 47, 48, S.I. No. 214 of 2014; deleted as per F-note above.

E147 Previous affecting provision: subss. (13)(b), (14) amended (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 refs. 42, 44, 45, 50, 55, 56, 58, S.I. No. 214 of 2014; substituted as per F-note above.

E148 Previous affecting provision: section amended (4.01.2010) by *Public Transport Regulation Act 2009* (37/2009), s. 44(1)(c), S.I. No. 575 of 2009; substituted as per F-note above.

E149 Previous affecting provision: section inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 93, S.I. No. 574 of 2009; substituted as per F-note above.

F223[PART IIA

DTA and Land Use Provisions.

DTA role in preparation of draft development plan.

31B.—(1) Where a notice is received by the DTA under *section 11(2)* it shall prepare and submit to the relevant planning authority a report on the issues which, in its opinion, should be considered by the planning authority in the review of its existing development plan and the preparation of a new development plan.

(2) The report under *subsection (1)* shall address, but shall not be limited to—

(*a*) the transport investment priorities for the period of the development plan,

(*b*) the scope, if any, to maximise the performance of the transport system by effective land use planning,

(*c*) recommendations regarding the optimal use, location, pattern and density of new development taking account of its transport strategy, and

(*d*) recommendations on the matters to be addressed in the development plan to ensure the effective integration of transport and land use planning. **]**

Annotations

Amendments:

F223 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 95, S.I. No. 574 of 2009.

F224**[** DTA role in making of development plan.

31C.—(1) Where a notice is received by the DTA under *section 12(1)* it shall, as part of any written submission on the draft development plan, state whether, in its view, the draft development plan is—

(*a*) consistent with its transport strategy, or

(*b*) not consistent with its transport strategy and in such case what amendments to the draft plan it considers necessary to achieve such consistency.

(2) The DTA shall send copies of a submission prepared under this section to the Minister and the Minister for Transport. **]**

Annotations

Amendments:

F224 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 95, S.I. No. 574 of 2009.

F225**[** DTA role in variation of development plan.

31D.—(1) Where a notice is received by the DTA under *section 13(2)* it shall, as part of any written submission on the proposed variation, state whether, in its view, the proposed variation is—

(*a*) consistent with its transport strategy, or

(*b*) not consistent with its transport strategy and in such case what amendments to the proposed variation it considers necessary to achieve such consistency.

(2) The DTA shall send copies of a submission prepared under this section to the Minister and Minister for Transport. **]**

Annotations

Amendments:

F225 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 95, S.I. No. 574 of 2009.

F226**[**DTA role in the making, amending or revoking of local area plans by planning authorities.

31E.—(1) Where a notice is received by the DTA under *section 20(3)(a)(i)*, it shall prepare and submit to the relevant planning authority a report on the issues which, in its opinion, should be considered by the planning authority in making, amending or revoking a local area plan.

(2) The report under *subsection (1)* shall address, but shall not be limited to—

(*a*) the transport investment priorities for the period of the local area plan,

(*b*) the scope, if any, to maximise the performance of the transport system by effective land use planning,

(*c*) recommendations regarding the optimal use, location, pattern and density of new development taking account of its transport strategy, and

(*d*) recommendations on the matters to be addressed in the local area plan to ensure the effective integration of transport and land use planning.**]**

Annotations

Amendments:

F226 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 95, S.I. No. 574 of 2009.

F227**[**Co-operation of DTA with regional authorities.

31F.—F228**[**(1) Where the regional assemblies in respect of the GDA intend to make a regional spatial and economic strategy in accordance with *section 24*, or to review the existing strategy under *section 26*, they shall, as soon as may be, consult with the NTA in order to make the necessary arrangements for making the strategy.**]**

F229**[**(2) The NTA shall assist and co-operate with the regional assemblies in respect of the GDA in making arrangements for the preparation of a regional spatial and economic strategy and in carrying out the preparation of the strategy.**]**

F230**[**(3) (*a*) In carrying out its function under *subsection (2)*, the NTA shall prepare and submit to the regional assemblies, within 6 weeks of the commencement of consultation under *subsection (1)*, a report on the issues which, in its opinion, should be considered by the regional assemblies in making a regional spatial and economic strategy.**]**

(*b*) The report prepared under *paragraph (a)* shall address, but shall not be limited to—

(i) the transport investment priorities for the period of the F231**[**regional spatial and economic strategy**]**,

(ii) the scope, if any, to maximise the performance of the transport system by effective land use planning,

(iii) recommendations regarding the optimal use, location, pattern and density of new development taking account of its transport strategy, and

(iv) recommendations on the matters to be addressed in the F231**[**regional spatial and economic strategy**]** to ensure effective integration of transport and land use planning. **]**

Annotations

Amendments:

F227 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 95, S.I. No. 574 of 2009.

F228 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 63, S.I. No. 214 of 2014.

F229 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 64, S.I. No. 214 of 2014.

F230 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 65, S.I. No. 214 of 2014.

F231 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 refs. 66, 67, S.I. No. 214 of 2014.

F232[Co-operation and further provisions relating to regional spatial and economic strategy

31FF.—(1) Where a regional assembly (other than the regional assemblies in respect of the GDA) intends to make a regional spatial and economic strategy in accordance with *section 24*, or to review the existing strategy under *section 26*, it shall, as soon as may be, consult with the NTA in order to make the necessary arrangements for making the strategy.

(2) The NTA shall assist and co-operate with the regional assembly in making arrangements for the preparation of a regional spatial and economic strategy and in carrying out the preparation of the strategy.

(3) In carrying out its functions under *subsection (2)*, the NTA shall prepare and submit to the regional assembly, within 6 weeks of the commencement of consultation under *subsection (1)*, a report on the issues which, in its opinion, should be considered by the regional assembly in making a regional spatial and economic strategy.**]**

Annotations

Amendments:

F232 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(2), S.I. No. 214 of 2014.

Editorial Notes:

E150 Previous affecting provision: section inserted (4.01.2010) by *Public Transport Regulation Act 2009* (37/2009), s. 44(1)(d), S.I. No. 575 of 2005; substituted as per F-note above.

F233[DTA role in preparation of draft regional planning guidelines.

31G.—F234[(1) Where a notice is received by the NTA under *section 24(4)* it shall, as part of any written submission on the draft regional spatial and economic strategy, state whether, in its view, the draft regional spatial and economic strategy is—

(*a*) consistent with its transport strategy, or

(*b*) not consistent with its transport strategy and in such case what amendments to the draft regional spatial and economic strategy it considers necessary to achieve such consistency.**]**

(2) The DTA shall send copies of a submission prepared under this section to the Minister and Minister for Transport. **]**

Annotations

Amendments:

F233 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 95, S.I. No. 574 of 2009.

F234 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 68, S.I. No. 214 of 2014.

F235[NTA submission

31GG.—F236[(1) Where a notice is received by the NTA under *section 24(4)* from a regional assembly (other than the regional assemblies in respect of the GDA) the NTA shall, as part of any written submission on the draft regional spatial and economic strategy, state whether, in its view, the matters raised by it in its report under *section 31FF* are—

(*a*) satisfactorily addressed in the draft regional spatial and economic strategy, or

(*b*) not satisfactorily addressed in the draft regional spatial and economic strategy.**]**

F237**[**(2) Where in the context of *subsection (1) (b)* the NTA makes a submission, it shall indicate what amendments to the draft regional spatial and economic strategy it considers should be made to ensure effective integration of transport and land use planning.**]**

(3) The DTA shall send copies of a submission prepared under this section to the Minister and Minister for Transport.**]**

Annotations

Amendments:

F235 Inserted (4.01.2010) by *Public Transport Regulation Act 2009* (37/2009), s. 44(1)(e), S.I. No. 575 of 2009.

F236 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 69, S.I. No. 214 of 2014.

F237 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 70, S.I. No. 214 of 2014.

Editorial Notes:

E151 The section heading is taken from the text of the section in the absence of one included in the amendment.

F238**[**Request by DTA for Minister to issue guidelines or policy directives.

31H.—The DTA may, in relation to its functions, request the Minister to issue guidelines under *section 28* or a policy directive under *section 29* to a planning authority within the GDA.**]**

Annotations

Amendments:

F238 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 95, S.I. No. 574 of 2009.

F239**[**Requirement for transport impact assessment for certain classes of development.

31I.— (1) The Minister may, in respect of the GDA and following consultation with the DTA, make regulations specifying—

(*a*) classes of development, including strategic infrastructure development, requiring the submission of a transport impact assessment in respect of applications for development, and

(*b*) the format and content of a transport impact assessment.

(2) Regulations under *subsection (1)* may require that a transport impact assessment demonstrate that the proposed development in respect of which the assessment has been prepared would be consistent with the transport strategy of the DTA.

(3) Before granting permission for a development which requires a transport impact assessment under regulations made under *subsection (1)*, a planning authority shall satisfy itself that the applicant has demonstrated that the proposed development would be consistent with the transport strategy of the DTA.

(4) In this section "transport impact assessment" means a report outlining what additional transport impacts a particular proposed development will generate and how it will integrate into existing transport patterns.**]**

Annotations

Amendments:

F239 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 95, S.I. No. 574 of 2009.

F240[Transport strategy and planning process.

31J.—In any case in the GDA where—

F241[(*a*) a planning or local authority, a regional assembly, State authority or An Bord Pleanála is carrying out any relevant function under or transferred by *Part II*, *X*, *XI* or *XIV*, or]

(*b*) a planning authority or An Bord Pleanála is carrying out any relevant function under any other Act,

the transport strategy of the DTA shall be a consideration material to the proper planning and sustainable development of the area or areas in question.]

Annotations

Amendments:

F240 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 95, S.I. No. 574 of 2009.

F241 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 71, S.I. No. 214 of 2014.

F242[PART IIB

Office of the Planning Regulator]

Annotations

Amendments:

F242 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F243[Chapter I

Preliminary and General (Part IIB)]

Annotations

Amendments:

F243 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F244[Definitions (*Part IIB*)

31K.—In this Part—

"establishment day" means the day appointed by order under *section 31L* to be the establishment day for the purposes of this Part;

"Office" means the Office of the Planning Regulator established under *Chapter II*;

"Planning Regulator" means the person appointed under *section 31N* as the Planning Regulator.**]**

Annotations

Amendments:

F244 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F245**[**Chapter II

*Establishment, Organisation, Staffing etc.***]**

Annotations

Amendments:

F245 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F246**[**Establishment of Office of the Planning Regulator

31L.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Part.**]**

Annotations

Amendments:

F246 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

Editorial Notes:

E152 Power pursuant to section exercised (3.04.2019) by *Planning And Development Act 2000 (Part IIB) (Establishment Day) Order 2019* (S.I. No. 134 of 2019).

F247**[**Office of the Planning Regulator

31M.—(1) There is established on the establishment day a body to be known as Oifig an Rialaitheoir Pleanáil or, in the English language, Office of the Planning Regulator, to perform the functions conferred on it by this Part.

(2) The Office of the Planning Regulator shall have all such powers as are necessary for or incidental to the performance of the functions of the Office under this Act.**]**

Annotations

Amendments:

F247 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F248**[**Planning Regulator

31N.—(1) There shall be appointed in accordance with *section 31W* a chief executive of the Office, to be known as the Planning Regulator, who shall be a corporation sole with perpetual succession and an official seal and with power—

(*a*) to sue and be sued,

(*b*) to acquire, hold and dispose of land or an interest in land, and

(*c*) to acquire, hold and dispose of any other property.

(2) The Planning Regulator shall—

(*a*) perform such functions as are specified in this Part to be functions of the Office,

(*b*) be responsible for the performance by the Office of its functions under this Part, and

(*c*) otherwise carry out, manage and control generally the administration and business of the Office for the purposes of this Part.**]**

Annotations

Amendments:

F248 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F249**[**Seal of Planning Regulator

31O.—(1) The seal of the Planning Regulator (in this section referred to as the 'seal') shall be authenticated by either—

(*a*) the signature of the Planning Regulator, or

(*b*) the signatures of 2 members of the staff of the Office, at least one of whom shall be a director of the Office, and both of whom have been authorised by the Office to act in that behalf.

(2) Judicial notice shall be taken of the seal and every document purporting to be an instrument made by the Office and to be sealed with the seal (purporting to be authenticated in accordance with *subsection (1)*) shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

(3) Any contract or instrument which, if entered into or executed by an individual, would not be required to be under seal may be entered into or executed on behalf of the Office by a member of the staff of the Office or a person generally or specially authorised by the Office for that purpose.**]**

Annotations

Amendments:

F249 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F250**[**Functions of Office

31P.—(1) The functions of the Office are—

(*a*) to evaluate and assess—

(i) development plans, including draft development plans,

(ii) variations of development plans, including proposed variations,

(iii) local area plans, including the amendment or revocation of such plans, and

(iv) regional spatial and economic strategies,

during their preparation and making under *Chapters I* to *III* of *Part II* in order for the Office to provide observations and recommendations to planning authorities and regional assemblies, as appropriate, on those plans and strategies,

(*b*) in respect of any plan or strategy to which *paragraph (a)* relates, to inform the Minister if, in the opinion of the Office, any such plan or strategy is not consistent with its observations and recommendations, especially where, in its opinion, failure to be so consistent would affect the overall strategy for proper planning and sustainable development of the area concerned,

(*c*) to conduct research, including research at the request of the Minister, as to what constitutes proper planning and sustainable development,

(*d*) to conduct education and training programmes and research as provided for by *section 31Q*,

(*e*) to conduct reviews under *Chapter IV* of the performance by the Board and by planning authorities of their respective functions,

(*f*) to oversee the delivery of effective planning services to the public by planning authorities including having regard to—

(i) any relevant indicator (within the meaning of Part 12A of the Local Government Act 2001) identified by the National Oversight and Audit Commission or prescribed by the Minister under section 126C(1) of that Act, or

(ii) regulations made by the Minister under section 134A(7) of the Local Government Act 2001,

(*g*) to prepare an annual report in accordance with *section 31AH* on the performance of its own functions,

(*h*) to prepare a strategy statement for the Office in accordance with *section 31T*,

(*i*) to make such observations as it considers appropriate to the Minister, or in its annual reports or otherwise, in relation to planning legislation, including:

(i) development plans, local area plans and regional spatial and economic strategies under *Part II*;

(ii) guidelines under *section 28*;

(iii) directions under *section 31*;

(iv) codes of conduct under *section 31AL*; and

(v) in so far as relates to planning matters to which *paragraph (f)* relates,

and

(*j*) to evaluate and assess strategic transport plans made by the National Transport Authority in accordance with section 12 of the Dublin Transport Authority Act 2008 and to issue a notice as provided for by subsection (10) of that section.

(2) (*a*) The Minister may, with the consent of the Minister for Public Expenditure and Reform, by order confer on the Office such additional functions connected with the functions for the time being of the Office as the Minister determines, subject to such conditions (if any) as may be specified in the order.

(*b*) An order under *paragraph (a)* may contain such incidental, supplementary and additional provisions as may, in the opinion of the Minister, be necessary to give full effect to the order.

(3) In performing its functions, the Office shall take account of the objective of contributing to proper planning and sustainable development and the optimal functioning of planning under the *Planning and Development Acts 2000* to *2018*.**]**

Annotations

Amendments:

F250 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F251**[**Education, training and research functions

31Q.—(1) The Office shall conduct education and training programmes—

(*a*) for members of planning authorities and of regional assemblies in respect of—

(i) the role of such authorities, assemblies and their members under the *Planning and Development Acts 2000 to 2018*, including ministerial guidelines and policy directives under *Chapter IV* of *Part II*,

F252**[**(ia) the role of such members, authorities and assemblies in relation to guidelines under section 7 of the Maritime Area Planning Act 2021 and directives under section 8 of that Act,**]**

(ii) such matters relating to proper planning and sustainable development as the Minister may request, and

(iii) such other matters as the Office considers are of relevance to its functions, in particular, the functions relating to proper planning and sustainable development,

(*b*) for members of the staff of local authorities or regional assemblies in respect of—

F253**[**(i) such matters as the Minister may specify relating to—

(I) proper planning and sustainable development, and

(II) maritime spatial planning, and**]**

(ii) such other matters as the Office considers are of relevance to its functions, in particular, the functions relating to proper planning and sustainable development.

(2) The Office shall conduct research in relation to matters relevant to its functions as well as such other matters as may be requested of the Office by the Minister.

(3) The Office may enter into arrangements with any person or body that the Office considers to be suitably qualified, including any professional, educational or research organisation, to undertake the provision of such services that the Office sees fit to which *paragraph (a)* or *(b)* of *subsection (1)* or *subsection (2)* relates and that are relevant to its functions.

(4) The Office shall include in its annual report to the Minister under *section 31AH* a report on—

(*a*) education and training activities, and

(*b*) research activities,

undertaken by it in respect of the year to which that report relates.**]**

Annotations

Amendments:

F251 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F252 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 8(a), S.I. No. 488 of 2022.

F253 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 8(b), S.I. No. 488 of 2022.

F254**[**Performance of functions by Office

31R.—(1) Subject to this Part, the Office is independent in the performance of its functions.

(2) Subject to *section 31O*, the Office may perform any of its functions through any member of the staff of the Office duly authorised in that behalf—

(*a*) by the Planning Regulator, or

(*b*) to the extent provided for by the Planning Regulator under *paragraph (a)*, by a director of the Office.**]**

Annotations

Amendments:

F254 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F255**[**Office to have regard to certain policies and objectives and to requirements

31S.—(1) The Office shall, in performing its functions, have regard to—

(*a*) the policies and objectives for the time being of the Government, a State authority (including Ministerial guidelines, policy directives and directions issued under *Chapter IV* of *Part II*), F256**[**or section 7 or 8 of the Maritime Area Planning Act 2021,**]** planning authorities and any other body which is a public authority whose functions have, or may have, a bearing on the proper planning and sustainable development of cities, towns, villages or other areas, whether urban or rural, F256**[**or maritime spatial planning,**]**

(*b*) the public interest and any effect the performance of the Office's functions may have on issues of strategic, economic or social importance to the State,

(*c*) the National Planning Framework (or, where appropriate, the National Spatial Strategy) F256**[**, the National Marine Planning Framework**]** and any regional spatial and economic strategy for the time being in force, and

(*d*) the requirements of relevant acts of the European Union, in particular, those relating to—

(i) the Environmental Impact Assessment Directive,

(ii) Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment[2],

(iii) the Habitats Directive, and

[2] OJ No. L197, 21.07.2001 p. 30

(iv) the Birds Directives,

in so far as those requirements relate to planning authorities by virtue of being designated as competent authorities for the purposes of those acts.

(2) In this section "public authority" means any body established by or under statute which is for the time being declared, by regulations made by the Minister, to be a public authority for the purposes of this section.**]**

Annotations

Amendments:

F255 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F256 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 9, S.I. No. 488 of 2022.

F257**[**Corporate strategy of Office

31T.—(1) The Planning Regulator shall prepare a strategy statement for the Office within 6 months of its establishment and thereafter not earlier than 6 months before and not later than the expiration of each subsequent period of 6 years following the establishment day.

(2) The strategy statement shall be prepared on the basis of an organisational wide strategic approach encompassing the functions and principal activities of the Office and shall include:

(*a*) a statement setting out the approach taken in respect of each of the Office's functions referred to in *section 31P*;

(*b*) a statement of the principal activities of the Office;

(*c*) the objectives and priorities for each of the principal activities and strategies for achieving those objectives;

(*d*) the manner in which the Office proposes to assess its performance in respect of each such activity, taking account of indicators which shall be identified by the Office and of the need to work towards best practice in service delivery and in the general operation of the Office;

(*e*) human resources activities (including training and development) to be undertaken for the staff of the Office;

(*f*) the organisational structure of the Office, including corporate support and information technology and the improvements proposed to promote efficiency of operation and customer service and in general to support the strategy statement; and

(*g*) such other matters as the Planning Regulator considers necessary.

(3) Within 3 months of the preparation of the statement of strategy for the purposes of *subsection (1)*, the Office shall cause copies of it to be submitted to the Minister and laid before each House of the Oireachtas.

(4) In this section "principal activities" includes the following:

(*a*) any observations and recommendations issued in respect of—

(i) the review of development plans,

(ii) variations of development plans,

(iii) the preparation and amendment of local area plans, and

(iv) the preparation of regional spatial and economic strategies;

(*b*) any plans and strategies made in a manner consistent with the observations and recommendations referred to in paragraph (a);

(*c*) any recommendations issued by the Office to the Minister that the Minister uses his or her powers of direction under *section 31* or *31A* as regards—

(i) the review of a development plan,

(ii) variations of development plans,

(iii) the preparation and amendment of local area plans, and

(iv) the preparation of a regional spatial and economic strategy;

(*d*) any directions issued in a manner consistent with the recommendations of the Planning Regulator;

(*e*) the research, education and training conducted;

(*f*) the reviews undertaken of the performance of planning functions of planning authorities and the Board.**]**

Annotations

Amendments:

F257 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F258**[**Monitoring of performance of Office

31U.—(1) The Office shall conduct, at such intervals as it thinks fit or the Minister directs, reviews of its organisation and of the systems and procedures used by it in relation to the performance of its functions.

(2) The Minister may direct the Office in respect of matters referred to under *subsection (5)* where the Minister has requested information.

(3) Where the Minister gives a direction under *subsection (2)*, the Office shall—

(*a*) report to the Minister the results of the review conducted pursuant to the direction, and

(*b*) comply with any direction the Minister may give in relation to all or any of the matters which were the subject of the review.

(4) The Office may make observations or submissions to the Minister as regards any matter pertaining to its functions.

(5) The Minister may consult with the Office as regards any matter pertaining to the performance of—

(*a*) the functions of the Office, or

(*b*) the functions assigned to the Minister by or under—

(i) the *Planning and Development Acts 2000 to 2018*, or

(ii) any other enactment in so far as those functions or the exercise of those functions relate or could relate to functions of the Office.**]**

Annotations

Amendments:

F258 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F259[Consultation between Minister and Planning Regulator

31V.—The Minister and the Planning Regulator shall, from time to time, consult with each other on matters relating to the functions of the Office and of the Planning Regulator.**]**

Annotations

Amendments:

F259 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F260[Appointment and term of office of Planning Regulator

31W.—(1) Subject to this section, the Planning Regulator shall be appointed by the Minister and shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration and superannuation) as the Minister may determine with the consent of the Minister for Public Expenditure and Reform.

(2) A person shall not be appointed as the Planning Regulator unless—

(*a*) except where *subsection (3)* applies, the Public Appointments Service have, following holding a competition on behalf of the Office, selected him or her for nomination by the Minister to the Government for the purpose of approving his or her appointment as the Planning Regulator, and

(*b*) his or her appointment has upon nomination by the Minister been approved by the Government.

(3) *Subsection (2)(a)* does not apply to a person who would, if appointed, be serving a second consecutive term as the Planning Regulator.

(4) The Planning Regulator—

(*a*) shall be appointed in a wholetime capacity,

(*b*) shall be appointed for a term of office of 5 years or such shorter period where *subsection (6)(b)* applies, and

(*c*) shall not, at any time while holding office, hold any other office or employment in respect of which emoluments are made.

(5) A person shall not be appointed for a term of office as Planning Regulator more than twice, subject to any provision provided for by law relating to retirement that would apply to the person, but nothing in this paragraph shall be read as preventing a former planning regulator from being a member of the staff or, subject to the consent of the Minister for Public Expenditure and Reform where relevant, otherwise being employed by the Office.

(6) (*a*) The term of office of a person as Planning Regulator shall, except where *paragraph (b)* applies, be for the period of 5 years referred to in *subsection (4)(b)*.

(*b*) Where, within the period of 5 years from the date of appointment as Planning Regulator, the person concerned would attain the age of 65 years and he or she is neither—

(i) a new entrant (within the meaning of the Public Service Superannuation (Miscellaneous Provisions) Act 2004) appointed having been previously appointed to a position in the public service (within that meaning) on or after 1 April 2004, nor

(ii) a Scheme member within the meaning of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012,

then his or her term of office as Planning Regulator shall be such so that the term ceases upon his or her attaining the age of 65 years.

(7) As soon as practical after the appointment of a person as the Planning Regulator, the Minister shall cause a notice of the appointment to be published in Iris Oifigiúil.**]**

Annotations

Amendments:

F260 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F261**[**Transitional provisions relating to Office

31X.—(1) Before the establishment day the Minister may request the Public Appointments Service to hold a competition for the purpose of having selected a person to be nominated to the Government for its approval of the appointment of the person by the Minister as the Planning Regulator and, accordingly—

(*a*) *section 31W(2)(a)* shall be deemed to have been complied with, whether or not any steps taken pursuant to that request occur on or after the establishment day, and

(*b*) where a person has been duly selected by the Public Appointments Service before the establishment day, then—

(i) the Service shall advise the Minister accordingly, and

(ii) the Minister may before, on or after that day nominate the person to the Government for its approval of the appointment of that person by the Minister and the appointment shall take effect on whichever of the following is the last to occur:

(I) the establishment day;

(II) the date the appointment is made.

(2) If with effect from the establishment day there is no Planning Regulator then the Minister may, on an interim basis and pending the appointment, appoint in writing a person to perform some or all of the functions of the Planning Regulator.

(3) Where the Minister has appointed a person in accordance with *subsection (2)* to perform functions of the Planning Regulator and the functions performable include the function of appointing a director under *section 31Z*, then, notwithstanding *section 31Z(1)*, not more than one person shall at any time stand appointed as a director unless the Minister approves any further appointments.**]**

Annotations

Amendments:

F261 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F262**[**Resignation and removal of Regulator

31Y.—(1) A Planning Regulator may at any time resign his or her office by giving notice in writing to the Minister of his or her intention to resign and any such resignation shall take effect as of the date upon which the Minister receives notice of the resignation.

(2) The Planning Regulator may be removed from office by the Government if—

(*a*) in the opinion of the Government, the Regulator has become incapable through ill-health of effectively performing his or her functions,

(*b*) in the opinion of the Government, the Planning Regulator has committed stated misbehaviour,

(*c*) the Planning Regulator has been convicted on indictment by a court of competent jurisdiction and sentenced to imprisonment,

(*d*) the Planning Regulator is convicted of an offence involving fraud or dishonesty,

(*e*) the Planning Regulator is adjudicated bankrupt in the State or another jurisdiction and if so adjudicated, has not obtained a certificate of discharge from the bankruptcy in the State or that other jurisdiction, as appropriate, or

(*f*) the removal of the Planning Regulator appears to the Government to be necessary for the effective performance by the Office of its functions.

(3) Where the Planning Regulator is removed from office under this section, the Government shall cause to be laid before each House of the Oireachtas a statement of the reasons for the removal.**]**

Annotations

Amendments:

F262 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F263**[**Directors

31Z.—(1) For the purpose of supporting the Planning Regulator and the Office in carrying out functions under this Part, the Planning Regulator—

(*a*) may appoint up to 3 persons but shall appoint at least one person,

(*b*) subject to the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform, may appoint such number of additional persons as may be specified,

each to be a director of the Office (in this section referred to as 'director') to perform such functions as are duly assigned to each of them.

(2) A director shall be a member of staff of the Office.

(3) The Planning Regulator shall designate one director to be deputy Planning Regulator. The deputy Planning Regulator shall perform and carry out the functions of the Planning Regulator in the absence of the Planning Regulator or when there is

no Planning Regulator and references to the Planning Regulator shall be read accordingly.

(4) A director, on ceasing to be a member of the staff of the Office, shall be deemed to have vacated the position of director.**]**

Annotations

Amendments:

F263 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F264**[**Staff of Office

31AA.—The Planning Regulator shall appoint such and so many persons to be staff of the Office as the Planning Regulator, subject to the approval of the Minister, given with the consent of the Minister for Public Expenditure and Reform, as to the number —and grade of those staff, from time to time may determine, having regard to the need to ensure that an adequate number of staff are competent in the Irish language so as to enable the Office to provide service through Irish as well as English.**]**

Annotations

Amendments:

F264 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F265**[**Membership of either House of Oireachtas, European Parliament or local authority

31AB.—(1) Where the Planning Regulator or a member of the staff of the Office—

(*a*) accepts a nomination as a member of Seanad Éireann,

(*b*) is elected to be a member of either House of the Oireachtas or to be a member of the European Parliament,

(*c*) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to the European Parliament, or

(d) is elected or co-opted as a member of a local authority,

he or she shall thereupon—

(i) in the case of the Regulator, cease to be the Regulator, and

(ii) in the case of any member of the staff of the Office, stand seconded from employment by the Office and not be paid by, or be entitled to receive from, the Office any remuneration or allowances for expenses in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected or on such election or co-option, and ending when he or she ceases to be a member of either such House, a member of such Parliament or a member of the local authority.

(2) Without prejudice to the generality of *subsection (1)*, that subsection shall be construed as prohibiting the reckoning of a period therein mentioned as service with the Office for the purpose of any superannuation benefits payable.

(3) A person who is for the time being—

(*a*) entitled under the Standing Orders of either House of the Oireachtas to sit therein,

(*b*) a member of the European Parliament, or

(*c*) entitled under the Standing Orders of a local authority to sit as a member thereof,

shall, while he or she is so entitled under *paragraph (a)* or *(c)* or is such a member under *paragraph (b)*, be disqualified for being the Planning Regulator or a member of the staff of the Office.**]**

Annotations

Amendments:

F265 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F266**[**Members of staff of Office to be civil servants

31AC.—A member of the staff of the Office of the Planning Regulator shall be a civil servant (within the meaning of the Civil Service Regulation Act 1956) in the Civil Service of the State.**]**

Annotations

Amendments:

F266 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F267**[**Prohibition on disclosure of information relating to functions of Office

31AD.—(1) No person shall, without the consent of the Planning Regulator (which may be given to the person, subject to or without conditions, as regards any information, any particular information or any information of a particular class or description), disclose—

(*a*) any information obtained by him or her while serving as a member of the staff of, or consultant or adviser to, the Office or as a person whose services are availed of by the Office by virtue of *section 31AI* or *31AJ*, or

(*b*) any information so obtained relative to the business of the Office or to the performance of its functions.

(2) A person who contravenes *subsection (1)* commits an offence.

(3) Nothing in *subsection (1)* shall prevent—

(*a*) disclosure of information in a report made to the Office or in a report made by or on behalf of the Office to the Minister,

(*b*) disclosure of information by any person in the course of and in accordance with the functions of his or her office,

(*c*) disclosure of information in accordance with the Freedom of Information Act 2014, or

(*d*) disclosure of information in accordance with the European Communities Act, 1972 (Access to Information on the Environment) Regulations 1998 (S.I. No. 125 of 1998), and any regulations amending or replacing those regulations.**]**

Annotations

Amendments:

F267 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F268[Liability of Planning Regulator or member of staff for acts and omissions

31AE.—Neither—

(*a*) the Planning Regulator or a former Planning Regulator, nor

(*b*) a present or former member of the staff of the Office,

is liable for damages for anything done, anything purported to be done or anything omitted to be done by him or her in performing a function under this Act, unless the act or omission is shown to have been done in bad faith.**]**

Annotations

Amendments:

F268 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F269[Grants to Office

31AF.—There may, subject to such conditions, if any, as the Minister thinks proper, be paid to the Office in each financial year out of moneys provided by the Oireachtas a grant or grants of such amount or amounts as the Minister, with the consent of the Minister for Public Expenditure and Reform and after consultation with the Office in relation to its programme of expenditure for that year, may fix.**]**

Annotations

Amendments:

F269 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F270[Accounts and audits of Office

31AG.—(1) The Office shall—

(*a*) submit estimates of income and expenditure to the Minister in such form, in respect of such periods and at such times as may be specified by the Minister, and

(*b*) provide to the Minister any information which the Minister may require regarding those estimates and also regarding the proposals and plans of the Office in respect of a period specified by the Minister.

(2) The Office shall keep, in such form and in respect of such accounting periods as may be approved of by the Minister with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts of moneys received and spent by the Office, including an income and expenditure account and a balance sheet.

(3) (*a*) The Planning Regulator and any relevant member of the staff of the Office shall, whenever so required by the Minister, permit any person appointed by the Minister to examine the accounts of the Office in respect of any financial year or other period and shall facilitate any such examination, and the Office shall pay to the Minister such fee for the examination as may be fixed by the Minister.

(*b*) In this subsection 'relevant member of the staff' means a member of the staff of the Office to whom duties relating to those accounts have been duly assigned.

(4) (*a*) The accounts of the Office shall be approved by the Planning Regulator as soon as is practicable (but not later than 3 months after the end of the accounting period to which they relate) and submitted by it to the Comptroller and Auditor General for audit.

(*b*) A copy of the accounts and the report of the Comptroller and Auditor General on them shall be presented to the Planning Regulator and the Minister as soon as is practicable, and the Minister shall cause a copy of the accounts and report to be laid before each House of the Oireachtas.**]**

Annotations

Amendments:

F270 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F271**[**Annual report of Office

31AH.—(1) The Office shall, not later than the 30th day of June in each year, prepare an annual report, which shall include information on the performance of its functions and its principal activities during the preceding year, including any matter to which *section 31Q* relates, and such other matters as the Minister may specify to the Office in writing.

(2) The Planning Regulator shall cause a copy of the annual report to be laid before each House of the Oireachtas and shall cause a copy to be sent to the relevant Oireachtas Committee.

(3) The Planning Regulator shall, at the request in writing of the relevant Oireachtas Committee, attend before it to account for matters in relation to its annual report.

(4) In this section "relevant Oireachtas Committee" means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas to which has been duly assigned the role of examining matters relating to environment and planning (other than the Committee of Public Accounts or the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann) or a sub-committee of such a relevant Oireachtas Committee.**]**

Annotations

Amendments:

F271 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F272**[**Provision of services and resources by Minister to Office

31AI.—(1) For the purposes of enabling the Office to perform its functions, the Minister may provide services (including services of staff either on secondment or a permanent basis) to the Office on such terms and conditions (including payment for such services) as may be agreed, after consultation with the Minister for Public Expenditure and Reform, and the Office may avail of such services.

(2) The Office may provide services (including services of staff) to the Minister on such terms and conditions (including payment for such services) as may be agreed, after consultation with the Minister for Public Expenditure and Reform, and the Minister may avail of such services.

(3) Without prejudice to the generality of *subsection (1)*, the Minister may make available or cause to be made available to the Office, on a request being made by the Planning Regulator, premises, equipment, services and other resources for the purpose of the performance by the Office of its functions as the Office may determine from time to time in consultation with the Minister and the Minister for Public Expenditure and Reform.

(4) The Minister may, subject to the agreement with the relevant chief executive (by whatever name called) of any public body under the Minister's aegis, including any local authority, provide for the provision of services under *subsection (3)*.**]**

Annotations

Amendments:

F272 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F273**[**Service providers

31AJ.—(1) The Office may from time to time engage such consultants or advisers as it considers necessary for the performance of its functions and any fees due to a consultant or adviser engaged pursuant to this section shall be paid by the Office out of moneys at its disposal.

(2) The Office shall include in each report made under *section 31AH* a statement of the names of the persons (if any) engaged pursuant to this section during the year to which the report relates.**]**

Annotations

Amendments:

F273 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F274**[**Fees payable to Office

31AK.—(1) The Office of the Planning Regulator may determine fees that may be charged in relation to any matter referred to in *subsection (2)*, subject to the approval of the Minister, and a fee as so determined shall be payable to the Office by any person concerned as appropriate, and different fees may be provided for in respect of different matters.

(2) The matters in relation to which the Office of the Planning Regulator may determine fees under *subsection (1)* are in respect of reasonable costs for the provision or undertaking of—

(*a*) education and training programmes,

(*b*) research programmes, and

(*c*) any other services, subject to the approval of the Minister.

(3) Notwithstanding *subsection (2)*, the Office may, subject to the approval of the Minister, provide for the payment of different fees in relation to different matters referred to in *subsection (2)*, for exemption from the payment of fees in specified circumstances and for the waiver, remission or refund in whole or in part of fees in specified circumstances.**]**

Annotations

Amendments:

F274 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F275**[**Code of conduct

31AL.—(1) (*a*) The Office shall adopt a code of conduct for dealing with conflicts of interest and promoting public confidence in the integrity of the conduct of its business which is required to be followed by those persons referred to in *subsection (3)*.

(*b*) A code of conduct under this section shall be subject to the approval of the Minister and be adopted within one year of the establishment day.

(2) A code of conduct shall consist of a written statement setting out the policy of the Office on at least the following matters:

(*a*) disclosure of interests and relationships where the interests and relationships are of relevance to the work of the Office, as appropriate;

(*b*) membership of other organisations, associations and bodies, professional or otherwise;

(*c*) membership of, or other financial interests in, companies, partnerships or other bodies;

(*d*) undertaking work, not being work on behalf of the Office both during and after any period of employment with the Office, whether as a consultant, adviser or otherwise;

(*e*) acceptance of gifts, sponsorship, considerations or favours;

(*f*) disclosure of information concerning matters pertaining to the work of the Office, as appropriate;

(*g*) following of best practice to be adopted in relation to the functions of the Office including the procedures for the provision of observations, submissions or recommendations in accordance with this Act in relation to—

(i) the review, making and variation of development plans,

(ii) the review, making and amendment of local area plans,

(iii) the review, making and amendment of regional spatial and economic strategies, and

(iv) the disclosure by the Planning Regulator, staff of the Office or persons to whom *section 31AJ* relate of any representations relating to the work or functions of the Office made to the Planning Regulator, to any such staff member or person, whether in writing or otherwise in relation to those matters.

(3) The code of conduct adopted by the Office applies—

(*a*) to the Planning Regulator,

(*b*) to a member of the staff of the Office, or

(*c*) to the extent indicated in the code of conduct, to any person or class or classes of persons to whom *section 31AJ* relates,

and the code of conduct shall be complied with by each person to the extent that it relates to him or her or has been duly applied to him or her.**]**

Annotations

Amendments:

F275 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F276**[**Chapter III

*Evaluation and assessment carried out by Office of the Planning Regulator***]**

Annotations

Amendments:

F276 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F277**[**Evaluation and assessment by Office of matters relating to development plans

31AM.—(1) The Office shall evaluate and assess, at least at a strategic level—

(*a*) a notice given under *subsection (2)* of *section 11* by a planning authority to the Office for the purposes of that section of the intention of the planning authority to review its existing development plan,

(*b*) a notice and a copy of the draft development plan sent to the Office under *subsection (1)(a)* of *section 12* by the planning authority concerned for the purpose of that section,

(*c*) a notice given under *section 12(5)(aa)* by the planning authority concerned to the Office in respect of a draft development plan,

(*d*) a notice given to the Office by a planning authority under *section 12(7)(a)*, together with the proposed amendment that would, if made, be a material alteration of the draft development plan concerned,

(*e*) a notice sent together with the copy of any proposed variation of the development plan concerned sent to the Office under *subsection (2)(a)* of *section 13* by the planning authority concerned for the purpose of that section,

(*f*) a notice given under *section 13(5)(aa)* by the planning authority concerned to the Office in respect of a proposed variation of a development plan,

and the Office may make such observations or submissions for the purposes of the relevant provision.

(2) In assessing and evaluating any requirement to which *subsection (1)* relates, the Office shall endeavour to ensure that, where appropriate, it addresses the legislative and policy matters relating to development plans as follows:

(*a*) matters generally within the scope of *section 10* and, in particular, *subsection (2)(n)* of that section in relation to climate change;

(*b*) F278**[**consistency of the development plan with the National Planning Framework**]** (or, where appropriate, the National Spatial Strategy) F279**[**and the National Marine Planning Framework**]** and regional spatial and economic strategies;

(*c*) relevant guidelines for planning authorities made under *section 28*, including the consistency of development plans with any specific planning policy requirements specified in those guidelines;

(*d*) policy directives issued under *section 29*;

(*e*) such other legislative and policy matters as the Minister may communicate to the Office in writing, the effect of which shall be published on the website of the Office.

(3) In making observations or submissions for the purposes of the provisions referred to in *subsection (1)*, or observations or submissions in respect of any evaluation or assessment to which *subsection (2)* relates, the Office shall—

(*a*) make to the relevant planning authority such recommendations in relation to the Office's evaluation and assessments as it considers necessary to ensure effective co-ordination of national, regional and local planning requirements by the relevant planning authority in the discharge of its development planning functions, and

(*b*) send to the Minister a copy of any such observations or submissions, together with any recommendations made.

(4) The report of the chief executive of the planning authority prepared for the elected members under—

(*a*) *section 11(4)*, in respect of the preparation of a new development plan,

(*b*) *subsection (4)* or *(8)* of *section 12* in respect of a draft development plan, or

(*c*) *section 13(4)* in respect of a variation of a development plan,

shall—

(i) summarise the issues raised in the observations or submissions, including recommendations, made by the Office in relation to the Office's evaluation and assessments under *subsection (1)*,

(ii) outline the recommendations of the chief executive in relation to the manner in which those issues and recommendations should be addressed, taking account of the proper planning and sustainable development of the area, and

(iii) make the report available on the website of the planning authority as soon as practicable following submission to the members of the authority.

(5) A regional assembly shall send to the Office, a copy of—

(*a*) any observation or submissions, including recommendations, it makes to a planning authority under *section 27A(1)* in respect of the review of an existing development plan,

(*b*) any observation or submissions, including recommendations, it makes to a planning authority under *section 27B(1)* in respect of a draft development plan,

(*c*) any observation or submissions, including recommendations, it makes to a planning authority under *section 27C(1)* in respect of a proposed variation F278**[**of a development plan**]**.

(6) A planning authority shall notify the Office within 5 working days of the making of a development plan or a variation to a development plan and send a copy of the written statement and maps as duly made and where the planning authority—

(*a*) decides not to comply with any recommendations made in the relevant report of the Office, or

(*b*) otherwise make the plan in such a manner as to be inconsistent with any recommendation made by the Office,

then the chief executive shall inform the Office accordingly in writing, which notice shall state reasons for the decision of the planning authority.

(7) Where *paragraph (a)* or *(b)* of *subsection (6)* applies, the Office shall consider whether or not the development plan as made, or the variation of it, by the planning authority is, in the Office's opinion, consistent with any recommendations made by the Office.

(8) Where subsequent to any consideration for the purposes of *subsection (7)*, the Office is of the opinion that—

(*a*) the development plan or the variation of it, as the case may be, has not been made in a manner consistent with the recommendations of the Office,

(*b*) that the decision of the planning authority concerned results in the making of a development plan, or its variation, in a manner that fails to set out an overall strategy for the proper planning and sustainable development of the area concerned, and

(*c*) as a consequence of *paragraphs (a)* and *(b)*, the use by the Minister of his or her functions to issue a direction under *section 31* would be merited,

then the Office shall issue, no later than 4 weeks after the development plan or the variation to the development plan is made, a notice to the Minister containing—

(i) recommendations that the Minister exercise his or her function to take such steps as to rectify the matter in a manner that, in the opinion of the Office, will ensure that the development plan, or the development plan as varied by the planning authority, sets out an overall strategy for proper planning and sustainable development, and

(ii) a proposed draft of a direction to which *paragraph (c)* would relate.

(9) A copy of the notice issued to the Minister under *subsection (8)* shall be made available by the Office on its website.**]**

F280**[**(9A) During the period beginning on the date on which section 6 of the Planning and Development (Amendment) Act 2021 comes into operation and ending on 31 December 2023—

(*a*) *subsection (1)* shall be construed and have effect as if the following paragraph were inserted after *paragraph (a)*:

"(*aa*) a notice given under *section 11D(3)* by a planning authority to the Office for the purposes of that section of the intention of the planning authority to extend the duration of its existing development plan,",

(*b*) *subsection (4)* shall be construed and have effect as if the following paragraph were inserted after *paragraph (a)*:

"(*aa*) *section 11D(5)*, in respect of an extension of the duration of an existing development plan,", and

(*c*) *subsection (5)* shall be construed and have effect as if the following paragraph were inserted after *paragraph (c)*:

"(*d*) any observations or submissions it makes to a planning authority under *section 27D(2)* in respect of the extension of the duration of an existing development plan.".**]**

Annotations

Amendments:

F277 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F278 Substituted (24.07.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 6(a), (b), commenced on enactment.

F279 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 10, S.I. No. 488 of 2022.

F280 Inserted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 6, S.I. No. 365 of 2021.

F281[Consequential provisions to *section 31AM*

31AN.—(1) The Minister shall consider the recommendations of the Office in the notice issued under *section 31AM* and—

(*a*) where the Minister agrees with that notice, then the Minister shall proceed, pursuant to *section 31*, to issue a notice for the purposes of *subsections (3)* and *(4)* of that section having taken account of the proposed draft direction submitted by the Office, or

(*b*) where the Minister does not so agree with the Office, then the Minister shall—

(i) prepare a statement in writing of his or her reasons for not agreeing,

(ii) cause that statement to be laid before each House of the Oireachtas, and

(iii) as soon as practicable, make that statement available on the website of the Department of Housing, Planning and Local Government.

F282[(2) As soon as practicable after a statement has been prepared under *subsection (1)(b)*, the Minister shall cause a copy of it to be sent to the Office, the planning authority concerned and, where relevant, the regional assembly concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.]

(3) Where the Minister issues a notice under *section 31* for the purposes of *subsections (3)* and *(4)* of that section—

(*a*) the notice shall specify that the report of the chief executive on the submissions on the draft direction shall be made to the Office, and

(*b*) the chief executive shall act accordingly.

F282[(4) The Office shall consider the report of the chief executive on the submissions, together with any submission made under *section 31(10)*, and shall, no later than 3 weeks after receipt of that report—

(*a*) recommend to the Minister that he or she issue the direction with or without minor amendments, or

(*b*) for stated reasons, where the Office is of the opinion that—

(i) a material amendment to the draft direction may be required,

(ii) further investigation is necessary in order to clarify any aspect of the report furnished or submissions made, or

(iii) it is necessary for any other reason,

appoint a person to be an inspector.]

F283**[**(4A) The Minister shall consider a recommendation of the Office under *subsection (4)(a)* that he or she issue a direction with or without minor amendments and—

(*a*) where the Minister agrees with the recommendation, the Minister shall, no later than 6 weeks after receipt of the recommendation, subject to *subsection (16)*, issue the direction under *section 31* with or without minor amendments, or

(*b*) where the Minister does not so agree with the recommendation, then the Minister shall—

(i) prepare a statement in writing of his or her reasons for not agreeing,

(ii) cause that statement to be laid before each House of the Oireachtas, and

(iii) as soon as practicable, make that statement available on the website of the Department of Housing, Local Government and Heritage.

(4B) As soon as practicable after a statement has been prepared under *subsection (4A)(b)*, the Minister shall cause a copy of it to be sent to the Office, the planning authority concerned and, where relevant, the regional assembly concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.**]**

(5) An inspector appointed under *subsection (4)* shall—

(*a*) be a person who, in the opinion of the Office, has satisfactory experience and competence to perform the functions required of him or her under this section, and

(*b*) be independent in the performance of those functions.

(6) The inspector—

(*a*) shall review the draft direction, the report of the chief executive furnished and any submissions made,

(*b*) shall consult with the chief executive and elected members of the planning authority,

(*c*) may consult with the regional assembly and persons who made submissions, and

(*d*) shall no later than 3 weeks after he or she was appointed, furnish a report containing recommendations to the Office.

(7) Copies of the report of the inspector under *subsection (6)* shall—

(*a*) be furnished without delay by the Office to the chief executive F284**[**and the Cathaoirleach of the planning authority**]** and, where relevant, to the regional assembly, and

(*b*) be made available electronically, in such manner as the Office considers appropriate in the circumstances, to persons who made submissions.

(8) Any person to whom a copy of the report of the inspector has been furnished or made available may make a submission to the Office in relation to any matter referred to in the report no later than 10 days after—

(*a*) where *subsection (7)(a)* applies, the report was furnished to him or her, or

(*b*) where *subsection (7)(b)* applies, the report was made available to him or her.

(9) No later than 3 weeks (or as soon as may be during such period extending that 3 week period as the Office may decide) after receipt of the report of the inspector, or of any submissions made to him or her, the Office, having considered the report, recommendations or submissions, as the case may be, shall recommend to the Minister for stated reasons—

(*a*) to issue the direction,

(*b*) not to issue the direction, or

(*c*) to issue the direction, which has been amended by the Office to take account of any of the following matters as the Office considers appropriate:

(i) recommendations contained in the report of the inspector;

(ii) any submissions made,

and, where *paragraph (a)* or *(c)* applies and the Minister agrees with the recommendation, then he or she shall, subject to *subsection (16)* issue the direction under *section 31* with or without minor amendments.

F284**[**(9A) Where the Minister does not agree with a recommendation of the Office under *subsection (9)* where *paragraph (a)* or *(c)* of that subsection applies, then the Minister shall—

(*a*) prepare a statement in writing of his or her reasons for not agreeing,

(*b*) cause that statement to be laid before each House of the Oireachtas, and

(*c*) as soon as practicable, make that statement available on the website of the Department of Housing, Local Government and Heritage.

(9B) As soon as practicable after a statement has been prepared under *subsection (9A)*, the Minister shall cause a copy of it to be sent to the Office, the planning authority concerned and, where relevant, the regional assembly concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.**]**

(10) A copy of the recommendations to the Minister under *subsection (9)*, the report of the inspector and any submissions made shall be made available on the website of the Office and be sent to the relevant planning authority.

(11) From the adoption of a development plan—

(*a*) such provisions as—

(i) are required to be included in a development plan by virtue of a direction issued by the Minister under *section 3*1, and

(ii) are not so included,

shall be deemed to be included in that development plan, and

(*b*) such provisions of the development plan as do not comply with a direction so issued shall be deemed not to be included in that development plan.

(12) F285**[**...**]**

(13) F285**[**...**]**

(14) A copy of the direction issued by the Minister under *section 31* shall be copied to the Office and made available on its website.

(15) F285**[**...**]**

(16) (*a*) Where the giving of a direction by the Minister in accordance with F286**[***subsection (4A)* or *(9)***]** would require the making of a material alteration to a development plan, the Minister shall, not later than 3 weeks after the making of the recommendation by the Office under that subsection—

(i) publish a notice of the material alteration that would be so required in at least one newspaper circulating in the administrative area of the local authority that prepared the development plan, and

(ii) send a copy of that notice to the planning authority concerned, the regional assembly concerned, the Office, the Board and the prescribed authorities.

(*b*) The Minister shall, before giving a direction in accordance with F286**[***subsection (4A)* or *(9)***]**), determine—

(i) whether or not a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a development plan that would be required in order to comply with the direction, and

(ii) where he or she determines that a strategic environmental assessment or an appropriate assessment is so required, the period that it would take to carry out such strategic environmental assessment or appropriate assessment.

(*c*) Where the Minister makes a determination under *paragraph (b)* that a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a development plan that would be required in order to comply with the direction, he or she shall publish a notice of that determination in at least one newspaper circulating in the administrative area of the local authority that prepared the development plan concerned.

(*d*) A copy of the determination under *paragraph (b)* and a copy of the proposed material alteration to the development plan concerned shall, for a period of not less than 4 weeks from the date of the determination, be made available for inspection—

(i) by members of the public at such place and at such times as are specified in the notice referred to in *paragraph (c)*, and

(ii) on the internet website of the Minister and the internet website of the planning authority concerned.

(*e*) A notice to which *paragraph (c)* applies shall—

(i) state that a determination under paragraph (b) has been made for the purposes of giving a direction in accordance with F286**[***subsection (4A)* or *(9)***]**,

(ii) specify the place at which and times during which copies of the determination under *paragraph (b)* and the proposed material alteration to the development plan concerned will be made available for inspection by members of the public,

(iii) state that such copies will be available for inspection on the internet website of the Minister and the internet website of the planning authority concerned,

(iv) invite written submissions or observations with respect to the proposed material alteration or a strategic environmental assessment or appropriate assessment required to be carried out by virtue of the said determination

to be made to the Minister before the expiration of such period as specified in the notice, and

(v) that any such submissions or observations shall be taken into account by the Minister in giving a direction in accordance with F286**[***subsection (4A)* or *(9)***]**.

(*f*) The Minister shall carry out a strategic environmental assessment, appropriate assessment, or both, of the proposed material alteration of the development plan within the period determined by the Minister in accordance with *paragraph (b)*.

(*g*) The Minister shall, not later than 8 weeks after the publication of a notice under *paragraph (c)*, prepare a report on any submissions or observations received in accordance with that notice.

(*h*) A report under *paragraph (g)* shall—

(i) specify the persons who made submissions or observations in accordance with the notice under *paragraph (c)*,

(ii) provide a summary of those submissions and observations, and

(iii) set out the response of the Minister to those submissions and observations.

(*i*) The Minister shall, in setting out his or her response to submissions or observations in accordance with the notice under *paragraph (c)*, take account of the following:

(i) the proper planning and sustainable development of the area to which the proposed development plan is intended to apply,

(ii) the duties under statute of the local authority within whose administrative area the proposed development plan is intended to apply,

(iii) the necessity of ensuring that the proposed development plan will be consistent with—

(I) the national and regional development objectives set out in the National Planning Framework and the regional spatial and economic strategy,

(II) specific planning policy requirements specified in guidelines under *section 28(1)*, and

(III) policies or objectives for the time being of the Government or of any Minister of the Government.**]**

Annotations

Amendments:

F281 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F282 Substituted (24.07.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 7(a), (b), commenced on enactment, subject to transitional provision in s. 41(2), not commenced as of date of revision.

F283 Inserted (24.07.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 7(c), commenced on enactment, subject to transitional provision in s. 41(3), not commenced as of date of revision.

F284 Inserted (24.07.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 7(d), (e), commenced on enactment, subject to transitional provision in s. 41(4), not commenced as of date of revision.

F285 Deleted (24.07.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 7(f), commenced on enactment.

F286 Substituted (24.07.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 7(g), commenced on enactment.

F287**[**Evaluation and assessment by Office of matters relating to local area plans

31AO.—(1) The Office shall evaluate and assess, at least at a strategic level—

(*a*) a notice given under *subsection (3)(a)(i)* of *section 20* by a planning authority to that Office of a proposal to make, amend or revoke a local area plan for the purposes of that section,

(*b*) a notice sent to that Office under *subsection (3)(e)* of *section 20* by a planning authority relating to a material alteration to a local area plan (including, where sent, a copy of the proposed material alteration) for the purposes of that section,

and the Office may make such submissions or observations, recommendations or reports as provided for by the relevant provision.

(2) In assessing and evaluating any requirement to which *subsection (1)* relates, the Office shall endeavour to ensure that, where appropriate, it addresses the legislative and policy matters relating to the following:

(*a*) matters generally within the scope of *section 19*;

(*b*) consistency with the objectives of the relevant development plan, its core strategy, any regional spatial and economic strategy that applies to the area and the transport strategy of the National Transport Authority;

(*c*) relevant guidelines for planning authorities made under *section 28*;

(*d*) policy directives issued under *section 29*;

(*e*) such other matters as the Minister may prescribe under *section 262* or otherwise prescribe.

(3) In making observations or submissions for the purposes of the provisions referred to in *subsection (1)*, or observations or submissions in respect of any evaluation or assessment to which *subsection (2)* relates, the Office shall—

(*a*) make to the relevant planning authority such recommendations in relation to the Office's evaluation and assessments as it considers necessary to ensure effective co-ordination of national, regional and local planning requirements by the relevant planning authority in the discharge of its development planning functions, and

(*b*) send to the Minister a copy of any such observations or submissions, together with any recommendations made.

(4) The report of the chief executive of the planning authority prepared for the elected members under *section 20*, in respect of the preparation, amendment or revocation of a local area plan, shall—

(*a*) summarise the issues raised in the submissions or observations, including recommendations, made by the Office in relation to the Office's evaluation and assessments under *subsection (1)*,

(*b*) outline the recommendations of the chief executive in relation to the manner in which those issues and recommendations should be addressed, taking account of the proper planning and sustainable development of the area, and

(*c*) make the report available on the website of the planning authority following the decision of the elected members.

(5) A planning authority shall notify the Office within 5 working days of the making of a local area plan or an amendment to a local area plan and send a copy of the written statement and maps as made and where the planning authority—

(*a*) decides not to comply with any recommendations made in the relevant report of the Office, or

(*b*) otherwise make the plan in such a manner as to be inconsistent with any recommendation made by the Office,

then the chief executive shall inform the Office accordingly in writing, which notice shall state reasons for the decision of the planning authority.

(6) Where *paragraph (a)* or *(b)* of *subsection (5)* applies, the Office shall consider whether or not the local area plan as made, amended or revoked by the planning authority is, in the opinion of the Office, consistent with any recommendations made by the Office.

(7) Where subsequent to any consideration for the purposes of *subsection (6)*, the Office is of the opinion that—

(*a*) the local area plan has not been made, amended or revoked, as the case may be, in a manner consistent with the recommendations of the Office,

(*b*) that the decision of the planning authority concerned results in the making of a local area plan, or its amendment or revocation, as the case may be, in a manner that is inconsistent with the development plan of the area concerned, and

(*c*) as a consequence of *paragraphs (a)* and *(b)*, the use by the Minister of his or her functions to issue a direction under *section 31* would be merited,

then the Office shall issue, no later than 4 weeks after the local area plan has been made, amended or revoked, as the case may be, a notice to the Minister containing—

(i) recommendations that the Minister exercise his or her function to take such steps as to rectify the matter in a manner that, in the opinion of the Office, will ensure that the local area plan, or the local area plan F288**[**as amended by the planning authority**]**, sets out an overall strategy for proper planning and sustainable development, and

(ii) a proposed draft of a direction to which *paragraph (c)* would relate.

(8) A copy of the notice issued to the Minister under *subsection (7)* shall be made available by the Office on its website.**]**

Annotations

Amendments:

F287 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F288 Substituted (4.11.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 8, S.I. No. 550 of 2022.

F289**[**Consequential provisions to *section 31AO*

31AP.—(1) The Minister shall consider the recommendations of the Office in the notice issued under *section 31AO*, and—

(*a*) where the Minister agrees with that notice then the Minister shall proceed, pursuant to *section 31*, to issue a notice for the purposes of *subsections (3)* and *(4)* of that section having taken account of the proposed draft direction submitted by the Office, or

(*b*) where the Minister does not so agree with the Office, then the Minister shall—

(i) prepare a statement in writing of his or her reasons for not agreeing,

(ii) cause that statement to be laid before each House of the Oireachtas, and

(iii) as soon as practicable, make that statement available on the website of the Department of Housing, Planning and Local Government.

(2) As soon as practicable after a statement has been prepared under *subsection (1)(b)*, the Minister shall cause a copy of it to be sent to the Office and to the planning authority concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.

(3) Where the Minister issues a notice under *section 31* for the purposes of *subsections (3)* and *(4)* of that section—

(*a*) the notice shall specify that the chief executive's report on the submissions on the draft direction shall be made to the Office, and

(*b*) the chief executive shall act accordingly.

F290**[**(4) The Office shall consider the report of the chief executive on the submissions, together with any submission made under *section 31(10)*, and shall, no later than 3 weeks after receipt of that report—

(*a*) recommend to the Minister that he or she issue the direction with or without minor amendments, or

(*b*) for stated reasons, where the Office is of the opinion that—

(i) a material amendment to the draft direction may be required,

(ii) further investigation is necessary in order to clarify any aspect of the report furnished or submissions made, or

(iii) it is necessary for any other reason,

appoint a person to be an inspector.**]**

F291**[**(4A) The Minister shall consider a recommendation of the Office under *subsection (4)(a)* that he or she issue a direction with or without minor amendments and—

(*a*) where the Minister agrees with the recommendation, then the Minister shall, no later than 6 weeks after receipt of the recommendation, subject to *subsection (16)*, issue the direction under *section 31* with or without minor amendments, or

(*b*) where the Minister does not so agree with the recommendation, then the Minister shall—

(i) prepare a statement in writing of his or her reasons for not agreeing,

(ii) cause that statement to be laid before each House of the Oireachtas, and

(iii) as soon as practicable, make that statement available on the website of the Department of Housing, Local Government and Heritage.

(4B) As soon as practicable after a statement has been prepared under *subsection (4A)(b)*, the Minister shall cause a copy of it to be sent to the Office, the planning authority concerned and, where relevant, the regional assembly concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.**]**

(5) An inspector appointed under *subsection (4)* shall—

(*a*) be a person who, in the opinion of the Office, has satisfactory experience and competence to perform the functions required of him or her under this section, and

(*b*) be independent in the performance of those functions.

(6) The inspector—

(*a*) shall review the draft direction, the report of the chief executive furnished and any submissions made,

(*b*) shall consult with the chief executive and elected members of the planning authority,

(*c*) may consult with the regional assembly and persons who made submissions, and

(*d*) shall no later than 3 weeks after he or she was appointed, furnish a report containing recommendations to the Office.

(7) Copies of the report of the inspector under *subsection (6)* shall—

(*a*) without delay be furnished by the Office to the chief executive F292**[**and the Cathaoirleach of the planning authority**]** and, where relevant, to the regional assembly, and

(*b*) be made available electronically, in such manner as the Office considers appropriate in the circumstances, to persons who made submissions.

(8) Any person to whom a copy of the report of the inspector has been furnished or made available may make a submission to the Office in relation to any matter referred to in the report no later than 10 days after—

(*a*) where *subsection (7)(a)* applies, the report was furnished to him or her, or

(*b*) where *subsection (7)(b)* applies, the report was made available to him or her.

(9) No later than 3 weeks (or as soon as may be during such period extending that 3 week period as the Office may decide) after receipt of the report of the inspector, or of any submissions made to him or her, the Office, having considered the report, recommendations or submissions, as the case may be, shall recommend to the Minister for stated reasons—

(*a*) to issue the direction,

(*b*) not to issue the direction, or

(*c*) to issue the direction, which has been amended by the Office to take account of any of the following matters as the Office considers appropriate:

(i) recommendations contained in the report of the inspector;

(ii) any submissions made,

and, where *paragraph (a)* or *(c)* applies and the Minister agrees with the recommendation, then he or she shall, subject to subsection (16) issue the direction under section 31 with or without minor amendments.

F293**[**(9A) Where the Minister does not agree with a recommendation of the Office under *subsection (9)* where *paragraph (a)* or *(c)* of that subsection applies, then the Minister shall—

(*a*) prepare a statement in writing of his or her reasons for not agreeing,

(*b*) cause that statement to be laid before each House of the Oireachtas, and

(*c*) as soon as practicable, make that statement available on the website of the Department of Housing, Local Government and Heritage.

(9B) As soon as practicable after a statement has been prepared under *subsection (9A)*, the Minister shall cause a copy of it to be sent to the Office, the planning authority concerned and, where relevant, the regional assembly concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.**]**

(10) A copy of the recommendations to the Minister under *subsection (9)*, the report of the inspector and any submissions made shall be made available on the website of the Office and be sent to the relevant planning authority.

(11) From the adoption of a local area plan—

(*a*) such provisions as—

(i) are required to be included in the local area plan by virtue of a direction issued by the Minister under *section 31*, and

(ii) are not so included,

shall be deemed to be included in that local area plan, and

(*b*) such provisions of the local area plan as do not comply with a direction so issued shall be deemed not to be included in that local area plan.

(12) F294**[**...**]**

(13) F294**[**...**]**

(14) A copy of the direction issued by the Minister under *section 31* shall be copied to the Office and made available on its website.

(15) F294**[**...**]**

(16) (*a*) Where the giving of a direction by the Minister in accordance with F295**[***subsection (4A)* or *(9)***]** would require the making of a material alteration to a local area plan, the Minister shall, not later than 3 weeks after the making of the recommendation by the Office under that subsection—

(i) publish a notice of the material alteration that would be so required in at least one newspaper circulating in the administrative area of the local authority that prepared the local area plan, and

(ii) send a copy of that notice to the planning authority concerned, the regional assembly, the Office, the Board and the prescribed authorities.

(*b*) The Minister shall, before giving a direction in accordance with F295**[***subsection (4A)* or *(9)***]**, determine—

(i) whether or not a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a local area plan that would be required in order to comply with the direction, and

(ii) where he or she determines that a strategic environmental assessment or an appropriate assessment is so required, the period that it would take to carry out such strategic environmental assessment or appropriate assessment.

(*c*) Where the Minister makes a determination under *paragraph (b)* that a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a local area plan that would be required in order to comply with the direction, he or she shall publish a notice of that determination in at least one newspaper circulating in the administrative area of the local authority that prepared the local area plan concerned.

(*d*) A copy of the determination under *paragraph (b)* and a copy of the proposed material alteration to the local area plan concerned shall, for a period of not less than 4 weeks from the date of the determination, be made available for inspection—

(i) by members of the public at such place and at such times as are specified in the notice referred to in *paragraph (c)*, and

(ii) on the internet website of the Minister and the internet website of the planning authority concerned.

(*e*) A notice to which *paragraph (c)* applies shall—

(i) state that a determination under *paragraph (b)* has been made for the purposes of giving a direction in accordance with F295**[***subsection (4A)* or *(9)***]**,

(ii) specify the place at which and times during which copies of the determination under *paragraph (b)* and the proposed material alteration to the local area plan concerned will be made available for inspection by members of the public,

(iii) state that such copies will be available for inspection on the internet website of the Minister and the internet website of the planning authority concerned,

(iv) invite written submissions or observations with respect to the proposed material alteration or a strategic environmental assessment or appropriate assessment required to be carried out by virtue of the said determination to be made to the Minister before the expiration of such period as specified in the notice, and

(v) that any such submissions or observations shall be taken into account by the Minister in giving a direction in accordance with F295**[***subsection (4A)* or *(9)*)**]**.

(*f*) The Minister shall carry out a strategic environmental assessment, appropriate assessment, or both, of the proposed material alteration of the local area plan within the period determined by the Minister in accordance with *paragraph (b)*.

(*g*) The Minister shall, not later than 8 weeks after the publication of a notice under *paragraph (c)*, prepare a report on any submissions or observations received in accordance with that notice.

(*h*) A report under *paragraph (g)* shall—

(i) specify the persons who made submissions or observations in accordance with the notice under *paragraph (c)*,

(ii) provide a summary of those submissions and observations, and

(iii) set out the response of the Minister to those submissions and observations.

(*i*) The Minister shall, in setting out his or her response to submissions or observations in accordance with the notice under *paragraph (c)*, take account of the following:

(i) the proper planning and sustainable development of the area to which the proposed local area plan is intended to apply,

(ii) the duties under statute of the local authority within whose administrative area the proposed local area plan is intended to apply,

(iii) the necessity of ensuring that the proposed local area plan will be consistent with—

(I) the national and regional development objectives set out in the National Planning Framework and the regional spatial and economic strategy,

(II) specific planning policy requirements specified in guidelines under *section 28(1)*, and

(III) policies or objectives for the time being of the Government or of any Minister of the Government.**]**

Annotations

Amendments:

F289 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F290 Substituted (4.11.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 9(a), S.I. No. 550 of 2022, subject to transitional provision in s. 41(5), not commenced as of date of revision.

F291 Inserted (4.11.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 9(b), S.I. No. 550 of 2022, subject to transitional provisions in s. 41(6), (7), not commenced as of date of revision.

F292 Inserted (4.11.32022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 9(c), S.I. No. 550 of 2022.

F293 Inserted (4.11.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 9(d), S.I. No. 550 of 2022.

F294 Deleted (4.11.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 9(e), S.I. No. 550 of 2022.

F295 Substituted (4.11.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 9(f), S.I. No. 550 of 2022.

F296**[**Evaluation and assessment by Office of matters relating to regional spatial and economic strategies

31AQ.—(1) The Office shall evaluate and assess, at a strategic level—

(*a*) a notice given under *subsection (2)* of *section 24* by a regional assembly to that Office for the purposes of that section of the intention of the regional assembly to make a regional spatial and economic strategy,

(*b*) a notice and a copy of the draft of the regional spatial and economic strategy sent to the Office under *subsection (4)(a)* of *section 24* by the regional assembly concerned for the purpose of that section,

and the Office may make such submissions or observations as provided for by *section 24*.

(2) In assessing and evaluating any requirement to which *subsection (1)* relates, the Office shall endeavour to ensure that, where appropriate, it addresses the legislative and policy matters relating to the following:

(*a*) matters generally within the scope of *section 23* and, in particular, *subsection (2)(c)(viii)* of that section in relation to climate change;

(*b*) consistency with the regional spatial and economic strategies and the National Planning Framework (or, where appropriate, the National Spatial Strategy) F297**[**and the National Marine Planning Framework**]** and the long-term strategic planning framework for the development of the region or regions, as the case may be, in respect of which they are made, in accordance with the principles of proper planning and sustainable development;

(*c*) relevant guidelines for planning authorities made under *section 28*;

(*d*) policy directives issued under *section 29*;

(*e*) in respect of a regional assembly or local authorities to which the Greater Dublin Area (GDA) relates, consistency with regional spatial and economic strategies and the transport strategy of the National Transport Authority;

(*f*) such other matters as the Minister may prescribe under *section 262* or otherwise prescribe.

(3) In making observations or submissions for the purposes of the provisions referred to in *subsection (1)*, or observations or submissions in respect of any evaluation or assessment to which *subsection (2)* relates, the Office shall—

(*a*) make observations and recommendations to the regional assembly concerned in relation to the Office's evaluation and assessments as it considers necessary to ensure effective co-ordination of national, regional and local planning requirements by the relevant regional assembly, and

(*b*) send to the Minister a copy of any such observations or submissions, together with any recommendations made.

(4) The report of the director of the regional assembly prepared for the members of the regional assembly under *Chapter III* of *Part II* shall, in so far as it relates to the preparation of the draft regional spatial and economic strategy—

(*a*) summarise the issues raised in the submissions or observations, including recommendations, made by the Office in relation to the Office's evaluation and assessments under *subsection (1)*,

(*b*) outline the recommendations of the director of the regional assembly in relation to the manner in which those issues and recommendations should be addressed, taking account of—

(i) the National Planning Framework (or, where appropriate, the National Spatial Strategy) and the long-term strategic planning framework for the development of the region or regions, as the case may be, in respect of which it is made, and

(ii) the principles of proper planning and sustainable development,

and

(*c*) make the report available on the website of the regional assembly.

(5) A regional assembly shall notify the Office within 5 working days of the making of a regional spatial and economic strategy and send a copy of the strategy where the regional assembly—

(*a*) decides not to comply with any recommendations made in the relevant report of the Office, or

(*b*) otherwise make the strategy in such a manner as to be inconsistent with any recommendations made by the Office,

then the director of the regional assembly shall inform the Office accordingly in writing, which notice shall state the reasons for the decision of the regional assembly.

(6) Where *paragraph (a)* or *(b)* of *subsection (5)* applies, the Office shall consider whether or not the strategy as made by the regional assembly is, in its opinion, consistent with any recommendations made by the Office.

(7) Where subsequent to any consideration for the purposes of *subsection (6)*, the Office is of the opinion that—

(*a*) the regional and spatial economic strategy has not been made in a manner consistent with the recommendations of the Office,

(*b*) that the decision of the regional assembly concerned results in the making of a regional spatial and economic strategy that is inconsistent with the National Planning Framework (or, where appropriate, the National Spatial Strategy) and the long-term strategic planning framework for the development of the region or regions, as the case may be, in respect of which it is made, and not in accordance with the principles of proper planning and sustainable development, and

(*c*) as a consequence of *paragraphs (a)* and *(b)*, the use by the Minister of his or her functions under *section 31* would be merited,

then the Office shall issue, no later than 4 weeks after the regional spatial and economic strategy is made, a notice to the Minister containing—

(i) recommendations that the Minister exercise his or her function to take such steps as to rectify the matter in a manner that, in the opinion of the Office, will ensure the strategy is made consistent with—

(I) the National Planning Framework (or, where appropriate, the National Spatial Strategy), and

(II) the long-term strategic planning framework for the development of the region or regions, as the case may be, in respect of which it is made,

and is in accordance with the principles of proper planning and sustainable development, and

(ii) a proposed draft of a direction to which *paragraph (c)* would relate.

(8) A copy of the notice issued to the Minister under *subsection (7)* shall be made available by the Office on its website.**]**

Annotations

Amendments:

F296 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F297 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 11, S.I. No. 488 of 2022.

Modifications (not altering text):

C39 Application of section restricted (15.07.2019) by *Local Government Rates and Other Matters Act 2019* (24/2019), s. 23(1), S.I. No. 355 of 2019.

Certain regional spatial and economic strategies

23. (1) Notwithstanding paragraphs (a) and (b) of Article 2 of the Planning and Development (Amendment) Act 2018 (Commencement) Order 2019 (S.I. No. 133 of 2019)—

(*a*) sections 31AQ and 31AR (inserted by section 4 of the Act of 2018) of the Act of 2000, and

(*b*) the specified amendment,

shall, in so far only as they apply in relation to a relevant instrument, be deemed never to have come into operation.

...

(3) In this section—

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

"Act of 2018" means the Planning and Development (Amendment) Act 2018;

"relevant instrument" means—

(*a*) a notice in respect of which the functions under subsection (2) of section 24 of the Act of 2000 were performed (in whole or in part) by a regional assembly before 3 April 2019,

(*b*) a notice or draft regional spatial and economic strategy in respect of which the functions under subsection (4) of the said section 24 were performed (in whole or in part) by a regional assembly before that date, or

(*c*) any regional spatial and economic strategy made before that date;

"specified amendment" means the amendment of section 31A of the Act of 2000 specified in column (3) of Schedule 1 of the Act of 2018 opposite reference numbers 36, 37, 38, 39, 40, 43, 44 and 45 specified in column (1) of that Schedule.

F298[Consequential provisions to *section 31AQ*

31AR.—(1) The Minister shall consider the recommendations of the Office in the notice under *section 31AQ* and—

(*a*) where the Minister agrees with the opinion of the Office as expressed in the notice issued under *section 31AQ(7)*, then the Minister shall proceed, pursuant to *section 31A*, to issue a notice for the purposes of *subsections (3)* and *(4)* of that section, or

(*b*) where the Minister does not so agree with the Office, then the Minister shall—

(i) prepare a statement in writing of his or her reasons for not agreeing,

(ii) cause that statement to be laid before each House of the Oireachtas,

(iii) as soon as practicable, make that statement available on the website of the Department of Housing, Planning, and Local Government.

(2) As soon as practicable after a statement has been prepared under *subsection (1)(b)*, the Minister shall cause a copy of it to be sent to the Office and to the regional assembly concerned and the Office and that regional assembly shall, as soon as practicable thereafter, make it available on their respective websites.

(3) Where the Minister issues a notice under *section 31A* for the purposes of *subsection (3)* or *(4)* of that section—

(*a*) the notice shall specify that the report of the director of the regional assembly concerned on the submissions on the draft direction shall be made to the Office, and

(*b*) the director of the regional assembly shall act accordingly.

(4) The Office shall consider the report of the director of the regional assembly concerned on the submissions, together with any submission made under *section 31A(10)* and shall recommend to the Minister that he or she issue the direction with or without minor amendments or where the Office believes that—

(*a*) a material amendment to the draft direction may be required,

(*b*) further investigation is necessary in order to clarify any aspect of the report furnished or submissions made, or

(*c*) it is necessary for any other reason,

then the Office may, for stated reasons, appoint a person to be an inspector no later than 3 weeks after the date of receipt of the director's report.

(5) The inspector appointed, under *subsection (4)*, shall—

(*a*) be a person who, in the opinion of the Office, has satisfactory experience and competence to perform the functions required of him or her under this section, and

(*b*) be independent in the performance of those functions.

(6) The inspector—

(*a*) shall review the draft direction, the report of the director of the regional assembly furnished and any submissions made,

(*b*) shall consult with the director and members of the regional assembly,

(*c*) any persons who made submissions, and

(*d*) shall no later than 3 weeks after he or she was appointed, furnish a report containing recommendations to the Office.

(7) Copies of the report of the inspector under *subsection (6)* shall—

(*a*) be furnished without delay by the Office to the director of the regional assembly concerned, and

(*b*) be made available electronically, in such manner as the Office considers appropriate in the circumstances, to persons who made submissions.

(8) Any person to whom a copy of the report of the inspector has been furnished or made available may make a submission to the Office in relation to any matter referred to in the report no later than 10 days after—

(*a*) where *subsection (7)(a)* applies, the report was furnished to him or her, or

(*b*) where *subsection (7)(b)* applies, the report was made available to him or her.

(9) No later than 3 weeks (or as soon as may be during such period extending that 3 week period as the Office may decide) after receipt of the report of the inspector, or of any submissions made to him or her, the Office, having considered the report, recommendations or submissions, as the case may be, shall recommend to the Minister for stated reasons—

(*a*) to issue the direction,

(*b*) not to issue the direction, or

(*c*) to issue the direction, which has been amended by the Office to take account of any of the following matters as the Office considers appropriate:

(i) recommendations contained in the report of the inspector;

(ii) any submissions made,

and, where *paragraph (a)* or *(c)* applies and the Minister agrees with the recommendation, then he or she shall, subject to *subsection (16)* issue the direction under *section 31A* with or without minor amendments.

(10) A copy of the recommendations issued to the Minister under *subsection (9)*, the report of the inspector and any submissions made shall be made available on the website of the Office and be sent to the relevant regional assembly.

(11) From the adoption of a regional spatial and economic strategy—

(*a*) such provisions as—

(i) are required to be included in the regional spatial and economic strategy by virtue of a direction issued by the Minister under *section 31A*, and

(ii) are not so included,

shall be deemed to be included in that regional spatial and economic strategy, and

(*b*) such provisions of the regional spatial and economic strategy as do not comply with a direction so issued shall be deemed not to be included in that regional spatial and economic strategy.

(12) The Minister shall cause a copy of a direction issued to be laid before each House of the Oireachtas.

(13) As soon as may be after a direction is issued to a regional assembly under this section, the regional assembly shall make the direction so issued available by placing it on the website of the assembly.

(14) A copy of the direction issued by the Minister under *section 31A* shall be copied to the Office and made available on its website.

(15) The Minister shall publish a copy of the direction issued under *section 31A* on the website of the Department of Housing, Planning and Local Government.

(16) (*a*) Where the giving of a direction by the Minister in accordance with *subsection (9)* would require the making of a material alteration to a regional spatial and economic strategy, the Minister shall, not later than 3 weeks after the making of the recommendation by the Office under that subsection—

(i) publish a notice of the material alteration that would be so required in at least one newspaper circulating in the administrative areas of the local authorities to which the regional spatial and economic strategy applies, and

(ii) send a copy of that notice to the planning authorities concerned, the regional assembly concerned, the Office, the Board and the prescribed authorities.

(*b*) The Minister shall, before giving a direction in accordance with *subsection (9)*, determine—

(i) whether or not a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a regional spatial and economic strategy that would be required in order to comply with the direction, and

(ii) where he or she determines that a strategic environmental assessment or an appropriate assessment is so required, the period that it would take to carry out such strategic environmental assessment or appropriate assessment.

(*c*) Where the Minister makes a determination under *paragraph (b)* that a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a regional spatial and economic strategy that would be required in order to comply with the direction, he or she shall publish a notice of that determination in at least one newspaper circulating in the administrative areas of the local authorities to which the proposed regional spatial and economic strategy is intended to apply.

(*d*) A copy of the determination under *paragraph (b)* and a copy of the proposed material alteration to the regional spatial and economic strategy concerned shall, for a period of not less than 4 weeks from the date of the determination, be made available for inspection—

(i) by members of the public at such place and at such times as are specified in the notice referred to in *paragraph (c)*, and

(ii) on the internet website of the Minister, the internet website of the regional assembly concerned and the internet websites of the planning authorities to which the proposed regional spatial and economic strategy concerned is intended to apply.

(*e*) A notice to which *paragraph (c)* applies shall—

(i) state that a determination under *paragraph (b)* has been made for the purposes of giving direction in accordance with *subsection (9)*,

(ii) specify the place at which and times during which copies of the determination under *paragraph (b)* and the proposed material alteration to the regional spatial and economic strategy concerned will be made available for inspection by members of the public,

(iii) state that such copies will be available for inspection on the internet website of the Minister and the internet website of the planning authorities to which the proposed regional spatial and economic strategy concerned is intended to apply,

(iv) invite written submissions or observations with respect to the proposed material alteration or a strategic environmental assessment or appropriate assessment required to be carried out by virtue of the said determination to be made to the Minister before the expiration of such period as specified in the notice, and

(v) that any such submissions or observations shall be taken into account by the Minister in giving a direction in accordance with *subsection (9)*.

(*f*) The Minister shall carry out a strategic environmental assessment, appropriate assessment, or both, of the proposed material alteration of the regional spatial and economic strategy within the period determined by the Minister in accordance with *paragraph (b)*.

(*g*) The Minister shall, not later than 8 weeks after the publication of a notice under *paragraph (c)*, prepare a report on any submissions or observations received in accordance with that notice.

(*h*) A report under *paragraph (h)* shall—

(i) specify the persons who made submissions or observations in accordance with the notice under *paragraph (c)*,

(ii) provide a summary of those submissions and observations, and

(iii) set out the response of the Minister to those submissions and observations.

(*i*) The Minister shall, in setting out his or her response to submissions or observations in accordance with the notice under *paragraph (c)*, take account of the following:

(i) the proper planning and sustainable development of the administrative areas of the local authorities to which the proposed regional spatial and economic strategy is intended to apply,

(ii) the duties under statute of the local authorities within whose administrative areas the proposed regional spatial and economic strategy is intended to apply,

(iii) the necessity of ensuring that the proposed regional spatial and economic strategy will be consistent with—

(I) the national and regional development objectives set out in the National Planning Framework,

(II) specific planning policy requirements specified in guidelines under *section 28(1)*, and

(III) policies or objectives for the time being of the Government or of any Minister of the Government.**]**

Annotations

Amendments:

F298 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

Modifications (not altering text):

C40 Application of section restricted (15.07.2019) by *Local Government Rates and Other Matters Act 2019* (24/2019), s. 23(1), S.I. No. 355 of 2019.

Certain regional spatial and economic strategies

23. (1) Notwithstanding paragraphs (a) and (b) of Article 2 of the Planning and Development (Amendment) Act 2018 (Commencement) Order 2019 (S.I. No. 133 of 2019)—

(*a*) sections 31AQ and 31AR (inserted by section 4 of the Act of 2018) of the Act of 2000, and

(*b*) the specified amendment,

shall, in so far only as they apply in relation to a relevant instrument, be deemed never to have come into operation.

...

(3) In this section—

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

"Act of 2018" means the Planning and Development (Amendment) Act 2018;

"relevant instrument" means—

(*a*) a notice in respect of which the functions under subsection (2) of section 24 of the Act of 2000 were performed (in whole or in part) by a regional assembly before 3 April 2019,

(*b*) a notice or draft regional spatial and economic strategy in respect of which the functions under subsection (4) of the said section 24 were performed (in whole or in part) by a regional assembly before that date, or

(*c*) any regional spatial and economic strategy made before that date;

"specified amendment" means the amendment of section 31A of the Act of 2000 specified in column (3) of Schedule 1 of the Act of 2018 opposite reference numbers 36, 37, 38, 39, 40, 43, 44 and 45 specified in column (1) of that Schedule.

F299[Chapter IV

Review of Planning Functions]

Annotations

Amendments:

F299 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F300[Review at instigation of Office

31AS.—(1) Where the Office considers it necessary or appropriate in the circumstances, the Office may conduct a review of a planning authority or the Board in respect of the systems and procedures used by such authority or the Board in relation to the performance of its functions under this Act.

(2) An authorised person may be appointed under *section 31AW* for the purposes of a review under this section.

(3) Where a review under this section is being conducted and, before it is completed, a request is made by the Minister to the Office under *section 31AT* to conduct a review under that section and such a review would include the matters to which the review under this section relates, then, where appropriate—

(*a*) any steps taken by the Office for the purpose of the review under this section may be regarded as steps taken for the purposes of the request of the Minister under *section 31AT*,

(*b*) the appointment by virtue of *subsection (2)* of an authorised person may be deemed to be an appointment under *section 31AW* for the purposes of a review under *section 31AT*, and

(*c*) it shall not be necessary to complete the review under this section.

(4) Where a review conducted for the purposes of this section is completed, then the Office shall send a draft of the proposed report on the review together with any recommendations it makes to the planning authority concerned, the Board and the Minister, as appropriate.

(5) Within such period of time as the Office shall specify, having regard to the nature, size and complexity of a draft report and any issue of urgency associated with its finalisation, the planning authority concerned, the Board or the Minister, as the case may be, may make submissions or observations to the Office on the draft report.

(6) The Office shall review any submissions or observations made for the purposes of *subsection (5)* before finalising the report, including any recommendations, and the Office—

(*a*) shall send a copy of the report to any person to whom the draft report was sent under *subsection (4)*,

(*b*) shall publish, or cause to be published, the report on the Office's website, and

(*c*) may send a copy of the report to such other persons as it considers appropriate in the circumstances.

(7) A recommendation by the Office relating to a planning authority, which is included in a draft of a proposed report under *subsection (4)* or in a report under *subsection (6)*, may, where appropriate and without prejudice to making any other recommendation, include a recommendation that the Minister consider exercising his or her functions under any of the following:

(*a*) *section 28* to issue guidelines;

(*b*) *section 29* to issue policy directives;

(*c*) *subsection (2)* of *section 255* to give a directive under that subsection;

(*d*) *subsection (4)* of *section 255* to appoint a commissioner to carry out and have full responsibility for all or any one or more of the functions of the planning authority concerned.**]**

Annotations

Amendments:

F300 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F301**[**Review by Office at instigation of Minister

31AT.—(1) Where the Minister has formed the opinion that a planning authority—

(*a*) may not be carrying out its functions in accordance with the requirements of or under this Act,

(*b*) is not in compliance with guidelines issued under *section 28*, a policy directive issued under *section 29*, a direction issued under *section 31* or a directive issued under *section 255(2)*,

(*c*) may not be exercising its enforcement functions under *Part VIII* appropriately to ensure compliance in its administrative area with the *Planning and Development Acts 2000* to *2018*, including enforcement consequent on the issue to it of any policy directive under *section 29* for the purpose of such compliance,

(*d*) may be applying inappropriate standards of administrative practice or otherwise acting contrary to fair or sound administration in the conduct of its functions,

(*e*) may be applying systemic discrimination in the conduct of its functions,

(*f*) may be operating in a manner whereby there is impropriety or risks of corruption in the conduct of its functions, or

(*g*) may be operating in a manner whereby there are serious diseconomies or inefficiencies in the conduct of its functions,

then the Minister may request the Office to conduct a review of the organisation and the systems and procedures used in relation to the performance of functions under this Act by—

(i) the planning authority concerned, or

(ii) where relevant, the planning authority concerned and, in so far as it relates to that authority, the Board.

(2) Where a request has been made by the Minister to the Office under subsection (1), the Office shall conduct a review under this Chapter and, for that purpose, an authorised person may be appointed under *section 31AW*.

(3) Where a review conducted for the purposes of this section is completed, then the Office shall send a draft of the proposed report on the review together with any recommendations it makes to the planning authority concerned, the Board and the Minister, as appropriate.

(4) Within such period of time as the Office shall specify, having regard to the nature, size and complexity of a draft report and any issue of urgency associated with its finalisation, the planning authority concerned, the Board or the Minister, as the case may be, may make submissions or observations to the Office on the draft report.

(5) The Office shall review any submissions or observations made for the purposes of *subsection (4)* before finalising the report, including any recommendations, and the Office—

(*a*) shall send a copy of the report to any person to whom the draft report was sent under *subsection (4)*,

(*b*) shall publish, or cause to be published, the report on the Office's website, and

(*c*) may send a copy of the report to such other persons as it considers appropriate to send it to in the circumstances.

(6) A recommendation by the Office relating to a planning authority, which is included in a draft of a proposed report under *subsection (3)* or in a report under *subsection (5)*, may, where appropriate and without prejudice to making any other recommendation, include a recommendation that the Minister consider exercising his or her functions under any of the following:

(*a*) *section 28* to issue guidelines;

(*b*) *section 29* to issue policy directives;

(*c*) *subsection (2)* of *section 255* to give a directive under that subsection;

(*d*) *subsection (4)* of *section 255* to appoint a commissioner to carry out and have full responsibility for all or any one or more of the functions of the planning authority concerned.**]**

Annotations

Amendments:

F301 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F302**[**Complaint to Office in respect of planning authority

31AU.—(1) The Office may examine—

(*a*) complaints made by any person to the Office, or

(*b*) where requested by the Minister, complaints made by a person to the Minister,

in respect of a planning authority where such complaint relates to the organisation of the authority and of the systems and procedures used by it in relation to the performance of its functions under this Act.

(2) Where in respect of a complaint to which *subsection (1)* relates the Office has formed the opinion, having carried out a preliminary examination of the complaint and having regard to any relevant information, records or documents available to it, that an examination into the complaint would be warranted and that the planning authority concerned—

(*a*) may not be carrying out its functions in accordance with the requirements of or under this Act,

(*b*) is not in compliance with guidelines issued under *section 28*, a directive issued under *section 29*, or a direction issued under *section 31*,

(*c*) may be applying inappropriate standards of administrative practice or otherwise acting contrary to fair or sound administration in the conduct of its functions,

(*d*) may be applying systemic discrimination in the conduct of its functions,

(*e*) may be operating in a manner whereby there is impropriety or the risk of corruption in the conduct of its functions, or

(*f*) may be operating in a manner whereby there are serious diseconomies or inefficiencies in the conduct of its functions,

then the Office shall decide to undertake an examination or to prepare a report on the preliminary examination (including any recommendations) and, where an examination is undertaken, prepare a report on the examination (including any recommendations) and, accordingly, the Office shall as it considers it appropriate in the circumstances—

(i) submit the report concerned to the planning authority or the Minister or to both, or

(ii) submit the report concerned or complaint, including any relevant information, records or documents available to one or more of the following:

(I) the Ombudsman;

(II) the Standards in Public Office Commission;

(III) the Garda Síochána;

(IV) such other State authority as may be prescribed.

(3) A recommendation by the Office relating to a planning authority, which is included in a report under *subsection (2)* may include a recommendation that the Minister consider exercising his or her functions under any of the following:

(*a*) *section 28* to issue guidelines;

(*b*) *section 29* to issue policy directives;

(*c*) *subsection (2)* of *section 255* to give a directive under that subsection;

(*d*) *subsection (4)* of *section 255* to appoint a commissioner to carry out and have full responsibility for all or any one or more of the functions of the planning authority concerned.

(4) Where upon a preliminary examination of a complaint, the Office is of the opinion that a complaint received by it is not one to which *subsection (1)* relates, then it shall cease to examine it for the purposes of the other provisions of this section but may, if the Office considers it appropriate in the circumstances, refer it to, or refer the complainant to, the Minister or a body to which *subsection (2)(ii)* relates.

(5) The Office may—

(*a*) having carried out a preliminary examination of a complaint to which *subsection (1)* relates, decide not to carry out an examination under this section into any matter in respect of which a complaint is made, or

(*b*) decide not to conduct a preliminary examination, or to discontinue a preliminary examination, under this section into such matter if the Office forms the opinion that—

(i) the complaint cannot be substantiated or appears to the Office to be trivial or vexatious in nature,

(ii) the person making the complaint, or the person in respect of whom the complaint was made, does not appear to have any interest in the subject matter to which the complaint was made,

(iii) the person making the complaint has not taken reasonable steps to pursue the subject matter of the complaint with the planning authority concerned,

(iv) the person making the complaint has not exhausted any appeal or review procedures open to him or her in respect of the subject matter of the complaint, or

(v) legal proceedings have been instituted in respect of the subject matter of the complaint.

(6) Where the Office makes a decision under *subsection (5)* it shall in writing inform the person who made the complaint of the reasons for the Office's decision.

(7) In determining whether to initiate, continue or discontinue a review or examination under this section, the Office of the Planning Regulator shall be subject to the provisions of this section.

(8) An examination by the Office of the Planning Regulator shall not, of itself, affect the validity of the matter examined or any power or duty of the performance of the function of the planning authority or the Board under this Act to exercise further functions of the planning authority or the Board under this Act with respect to any matters the subject of the examination.

(9) The Office shall not exercise any of its functions in relation to any particular case with which a planning authority or the Board is either involved or could be involved.**]**

Annotations

Amendments:

F302 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F303**[**Information and records to be made available to Office

31AV.—(1) The Office as part of its review or examination may request from a planning authority or the Board access to such information, records or documents relating to the performance by the planning authority or the Board of its functions.

(2) Where the Office conducts a review or examination, the planning authority or the Board shall co-operate and comply with any request of the Office in relation to all or any of the matters which are the subject of the review or examination.

(3) It is the duty of each member of a planning authority or the Board, and each member of its staff, to co-operate with the Office.

(4) A public body may, for the purposes of a review or examination under *section 31AS*, *31AT* or *31AU*, disclose information, records or documents (including personal data within the meaning of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016[3]) in its possession to the Office relating to matters that are the subject of that review or examination.

(5) In this section—

"company" has the meaning assigned to it by the Companies Act 2014;

"public body" means—

(*a*) a Department of State,

(*b*) the Office of the Comptroller and Auditor General,

[3] OJ No. L119, 04.05.2016, p.1

(*c*) the Office of the Ombudsman,

(*d*) a local authority (within the meaning of the Local Government Act 1941),

(*e*) a body (other than a company) established by or under statute,

(*f*) a company established pursuant to a power conferred by or under an enactment, and financed wholly or partly by—

(i) moneys provided, or loans made or guaranteed, by a Minister of the Government, or

(ii) the issue of shares held by or on behalf of a Minister of the Government,

or

(*g*) a company, a majority of the shares in which are held by or on behalf of a Minister of the Government.**]**

Annotations

Amendments:

F303 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F304**[**Access to information (*Part IIB*)

31AW.—(1) The Office may appoint any person (in this section referred to as an "authorised person") to carry out a review or examination authorised by this Chapter.

(2) The planning authority or the Board shall supply the authorised person with such information, records, or documents relating to the performance by the planning authority or the Board of its functions as the authorised person may from time to time request.

(3) An authorised person appointed for the purposes of this section, accompanied by such other persons as he or she considers appropriate in the circumstances, is entitled at all reasonable times to enter and inspect any land or premises or structure (other than a dwelling) which is owned, used, controlled or managed by a planning authority or the Board and shall be afforded every facility and co-operation by the planning authority (its chief executive and staff) or the Board including the giving of information which he or she reasonably requires and shall have access to all documents, records, or other information which he or she may reasonably require and shall be afforded facilities to make notes from, or to take copies of, any such documents or records.**]**

Annotations

Amendments:

F304 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

F305**[**Offences (*Part IIB*)

31AX.—(1) Any person who—

(*a*) commits an offence under *section 31AD*, or

(*b*) obstructs or impedes or, without reasonable excuse, fails to comply with a request of—

(i) the Planning Regulator or a member of the staff of the Office, or

(ii) an authorised person, including any other person to whom *section 31AW(3)* relates,

acting in the exercise of functions to which *section 31AW(2)* relates commits an offence,

and is liable on summary conviction to a Class C fine or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both.

(2) Summary proceedings for an offence under this section may be brought and prosecuted by the Planning Regulator.**]**

Annotations

Amendments:

F305 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 4, S.I. No. 133 of 2019, art. 2(a).

Editorial Notes:

E153 A Class C fine means a fine not greater than €2,500 as provided (4.01.2011) by *Fines Act 2010* (8/2010), s. 3, S.I. No. 662 of 2010.

PART III

Control of Development

Annotations

Modifications (not altering text):

C41 Application of Part III restricted (7.02.2014) by *Water Services (No. 2) Act 2013* (50/2013), s. 33(10), S.I. No. 76 of 2014.

Water services strategic plan.

33.— ...

(10) An application for permission under Part III of the Act of 2000 shall not be refused by a planning authority or An Bord Pleanála solely on the ground that the development to which the application relates is not referred to in the water services strategic plan for the time being in force, provided that the planning authority or An Bord Pleanála, as the case may be, considers that the development will facilitate the achievement of the objectives of that plan.

...

C42 Application of Part III extended (31.12.2007) by *Water Services Act 2007* (30/2007), s. 55(4) and 61(5), S.I. No. 846 of 2007.

Connection to a water supply.

55.— ...

(4) Without prejudice to subsection (5), where a water services authority is also the relevant planning authority, the grant of a permission under Part III of the Act of 2000 in relation to a structure to which this section applies may, if it is indicated in the permission, include the agreement of the water services authority to the connection of that structure to its waterworks for the purposes of this section, subject to such conditions as the water services authority may require, consistent with its functions under this section.

...

Waste water connections.

61.— ...

(5) Without prejudice to subsection (6), where a water services authority is also the relevant planning authority, the grant of a permission under Part III of the Act of 2000 in relation to a structure to which this section applies may, if it is indicated in the permission, include the agreement of the water services authority to the connection of that structure to its waste water works for the purposes of this section, subject to such conditions as the water services authority may require consistent with its powers under this section.

...

C43 Provision for consideration of waste management under Part made by *Waste Management Act 1996* (10/1996), s. 22(10D) as inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 26(2)(d), S.I. No. 393 of 2004.

Waste management plans.

22.— ...

(10D) (*a*) In performing their functions under the Planning and Development Acts 2000 to 2002, and, in particular, their functions under Part III and sections 175 and 179 of the Planning and Development Act 2000, planning authorities and An Bord Pleanála shall ensure that such measures as are reasonably necessary are taken to secure appropriate provision for the management of waste (and, in particular, recyclable materials) within developments, including the provision of facilities for the storage, separation and collection of such waste (and, in particular, such materials) and the preparation by the appropriate persons of suitable plans for the operation of such facilities.

(*b*) The Minister may issue guidelines as to the steps that may be taken to comply with this subsection.

C44 Application of Part restricted by *Environmental Protection Agency Act 1992* (7/1992), s. 86(11) as substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 15, S.I. No. 393 of 2004.

Conditions attached to a licence.

86.— ...

(8) Where a permission under section 34 of the Act of 2000 has been granted or an application has been made for such permission in relation to development comprising or for the purposes of an activity, the Agency—

(*a*) may consult with the planning authority in whose functional area the activity is or will be situate in relation to any development which is necessary to give effect to any conditions to be attached to a licence or revised licence and which the Agency considers is not the subject of a permission or an application for a permission under section 34 of the Act of 2000, and

(*b*) may attach to the licence or revised licence such conditions related to the above-mentioned development as may be specified by the planning authority for the purposes of the proper planning and sustainable development of the area or stricter conditions as the Agency may consider necessary for the prevention, limitation, elimination, abatement or reduction of emissions.

...

(11) Notwithstanding the requirements of Part III of the Act of 2000, works consisting of, or incidental to, the carrying out of development referred to in paragraph (a) of subsection (8) in respect of which conditions have been attached under paragraph (b) of that subsection to the licence or revised licence concerned shall be exempted development within the meaning, and for the purposes, of the Act of 2000.

C45 Provision for consideration of development plan under Part made (8.07.2003) by *Digital Hub Development Agency Act 2003* (23/2003), s. 9(5), commenced on enactment.

Development plan.

9.— ...

(5) Dublin City Council and An Bord Pleanála shall, in deciding any application or in determining any application on appeal for permission under Part III of the Planning and Development Act 2000 in respect of development in the digital hub area, consider anything relevant contained in the development plan.

...

Editorial Notes:

E154 Application of Part III restricted by *Water Services Act 2007* (30/2007), s. 36(20), not commenced; repealed (1.01.2014) by *Water Services (No. 2) Act 2013* (50/2013), s. 4(1), S.I. No. 575 of 2013.

General obligation to obtain permission.

32.—(1) Subject to the other provisions of this Act, permission shall be required under this Part—

(*a*) in respect of any development of land, not being exempted development, and

(*b*) in the case of development which is unauthorised, for the retention of that unauthorised development.

(2) A person shall not carry out any development in respect of which permission is required by *subsection (1)*, except under and in accordance with a permission granted under this Part.

F306[Person to seek opinion of planning authority prior to application for LRD.

32A.—(1) A person who intends to apply for permission under this Part—

(*a*) for large-scale residential development,

(*b*) on land—

(i) that is not located in a strategic development zone, and

(ii) the zoning of which facilitates its use for the purposes proposed in the application,

(referred to in this Act as a "prospective LRD applicant") shall not make the application unless at that time he or she holds an LRD opinion, or written confirmation referred to in *section 247(7)*, in relation to the proposed LRD provided not more than 6 months before the date of the application.

(2) A planning authority shall refuse to consider an application for permission—

(*a*) for large-scale residential development,

(*b*) on land—

(i) that is not located in a strategic development zone, and

(ii) the zoning of which facilitates its use for the purposes proposed in the application,

unless it is satisfied that the applicant holds an LRD opinion, or written confirmation referred to in *section 247(7)*, in relation to the proposed LRD provided not more than 6 months before the date of the application.

(3) Where a planning authority refuses to consider an application for permission under *subsection (2)*, it shall return the application to the applicant, together with any fee received from the applicant in respect of the application, and shall give reasons for its decision to the applicant.]

Annotations

Amendments:

F306 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 3, S.I. No. 715 of 2021.

F307[Request for LRD meeting.

32B.—(1) A prospective LRD applicant may, once he or she has consulted the appropriate planning authority or authorities in whose area or areas the proposed LRD would be situated in accordance with *section 247*, request an LRD meeting with that planning authority or authorities.

(2) A request under *subsection (1)* shall be in writing, be accompanied by the appropriate fee and include—

(*a*) the name and address of the prospective LRD applicant,

(*b*) a site location map sufficient to identify the land on which the proposed development would be situated,

(*c*) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment,

(*d*) a draft layout plan of the proposed development,

(*e*) a brief description of any proposals to provide for water services infrastructure, including, in the case where it is proposed to connect the proposed development to a public water or wastewater network or both, evidence that Irish Water has confirmed that it is feasible to provide the appropriate service or services and that the relevant network or networks have the capacity to service the proposed development,

(*f*) details of any consultations that have taken place with prescribed bodies or the public,

(*g*) such other information, drawings or representations as the prospective LRD applicant may wish to provide or make available,

(*ga*) a statement setting out how the proposed LRD has had regard to the relevant objectives of the development plan or local area plan in whose area or areas the proposed LRD would be situated, and

(*h*) such further information as may be prescribed.

(3) Without prejudice to the generality of *subsection (2)(h)*, the Minister may, in particular, for the purposes of that paragraph, prescribe information regarding the following matters:

(*a*) the proposed types of houses and student accommodation units and their design, including proposed internal floor areas, housing density, plot ratio, site coverage, building heights, proposed layout and aspect;

(*b*) the provision of public and private open spaces, landscaping, play facilities, pedestrian permeability, vehicular access and parking provision, where relevant;

(*c*) the provision of ancillary services, where required, including child care facilities;

(*d*) any proposals to address or, where relevant, integrate the proposed development with surrounding land uses;

(*e*) road infrastructure;

(*f*) any proposals to provide for services infrastructure (including water, wastewater and cabling, including broadband provision), and any phasing proposals;

(*g*) proposals under *Part V*, where relevant;

(*h*) details of protected structures and archaeological monuments included in the Record of Monuments and Places, where relevant;

(*i*) any aspect of the proposed development likely to have significant effects on the environment or significant effects on a European site.

(4) The planning authority may, prior to the LRD meeting taking place, consult with any person who may, in the opinion of the planning authority, have information that is relevant for the purposes of the LRD meeting in relation to a proposed development.

(5) Where a planning authority consults with a person under *subsection (4)*, a written record shall be taken of such a consultation and kept by the planning authority and a copy of such record shall be placed and kept with the documents to which any application in respect of that proposed development relates.**]**

F308**[**(6) A request by a prospective LRD applicant under *subsection (1)* may include a request that the LRD meeting be treated as a meeting for the purposes of *section 32I* and such request shall comply with *section 32H(2)*.**]**

Annotations

Amendments:

F307 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 3, S.I. No. 715 of 2021.

F308 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 10, S.I. No. 645 of 2023.

Editorial Notes:

E155 Power pursuant to section exercised (17.12.2021) by *Planning and Development (Large-scale Residential Development) Regulations 2021* (S.I. No. 716 of 2021), in effect as per reg. 2.

F309**[**LRD meeting.

32C.—(1) Where the prospective LRD applicant submits a request in accordance with *section 32B*, the planning authority shall convene an LRD meeting to take place within the period of 4 weeks beginning on the date on which the request is received by the planning authority.

(2) The following persons shall attend an LRD meeting convened under *subsection (1)*:

(*a*) the planning authority;

(*b*) the prospective LRD applicant, one or more persons on his or her behalf, or both.

(3) The planning authority shall ensure that planning authority officials attending the LRD meeting on its behalf have a sufficient level of relevant knowledge and expertise in the matter concerned.

(4) The planning authority shall keep a record in writing of any LRD meeting including a copy of the request for the meeting and accompanying documents, the names of those who participated in the meeting and any explanation provided under *section 32C(7)* or *32D(4)*, and a copy of such record shall be placed and kept with the documents to which any application in respect of that proposed development relates.

(5) A record kept by a planning authority under *subsection (4)* shall only be made public when a planning application in respect of the proposed development is made in accordance with *section 34*.

(6) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of holding an LRD meeting, including—

(*a*) matters that are required to be considered at the LRD meeting,

(*b*) matters that may be considered at the LRD meeting, and

(*c*) the manner in which the LRD meeting is to be conducted.

(7) Where, on the expiry of the period specified in *subsection (1)*, the LRD meeting has not taken place, the planning authority shall proceed to convene the LRD meeting as soon as practicable, notwithstanding that the period has expired, and provide the applicant with a written explanation why the LRD meeting did not take place in the specified period.**]**

Annotations

Amendments:

F309 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 3, S.I. No. 715 of 2021.

Editorial Notes:

E156 Power pursuant to section exercsied (17.12.2021) by *Planning and Development (Large-scale Residential Development) Regulations 2021* (S.I. No. 716 of 2021), in effect as per reg. 2.

F310**[**LRD Opinion.

32D.—(1) The planning authority shall provide an opinion (referred to in this Act as an "LRD opinion") to the prospective LRD applicant, within the period of 4 weeks beginning on the date on which the LRD meeting takes place, as to whether or not the documents submitted for the purposes of the meeting constitute a reasonable basis on which to make an application for permission for the proposed LRD.

(2) Where the opinion of the planning authority is that the documents submitted for the purposes of the meeting do not constitute a reasonable basis on which to make an application for permission for the proposed LRD it shall specify in the LRD opinion—

(*a*) the areas, or the issues, in respect of which the documents submitted do not constitute a reasonable basis on which to make the application, and

(*b*) any issues that, if addressed by the relevant documents, could result in the documents constituting a reasonable basis on which to make the application.

(2A) The LRD opinion issued by a planning authority under *subsection (1)* shall be made public when a planning application in respect of the proposed development is made in accordance with *section 34*.

(3) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of the planning authority providing an LRD opinion, including the form of the LRD opinion.

(4) Where, on the expiry of the period specified in *subsection (1)*, the planning authority has failed to provide an LRD opinion, the planning authority shall proceed to do so as soon as practicable, notwithstanding that the period has expired, and

provide the applicant with a written explanation why it failed to provide the LRD opinion in the specified period.**]**

Annotations

Amendments:

F310 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 3, S.I. No. 715 of 2021.

F311**[**LRD procedure without prejudice to performance by the planning authority of other functions.

32E.—Neither the taking place of an LRD meeting nor the provision of an LRD opinion shall prejudice the performance by the planning authority of its functions under this Act or any regulations under this Act or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.**]**

Annotations

Amendments:

F311 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 3, S.I. No. 715 of 2021.

F312**[**Effect of steps not being completed within the time period.

32F.—A person shall not question the validity of any steps taken by a planning authority by reason only that the procedures set out in *section 32C(1)* or *32D(1)*, as the case may be, were not completed within the time referred to in the subsection concerned.**]**

Annotations

Amendments:

F312 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 3, S.I. No. 715 of 2021.

F313**[**Offence of taking payment, etc. in connection with LRD procedure.

32G.—A member or official of a planning authority who takes or seeks any favour, benefit or payment, direct or indirect (on his or her own behalf or on behalf of any other person or body), in connection with the provision of an LRD opinion commits an offence.**]**

Annotations

Amendments:

F313 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 3, S.I. No. 715 of 2021.

F314**[**Application for opinion under *section 32I*.

32H.—(1) A person who intends to apply for permission under *section 34* (referred to in this section and *section 32I* as a "prospective applicant") may, before making such an application (referred to in this section and section 32I as the "proposed application"), request a meeting for the purposes of *section 32I* with the planning

authority or authorities in whose functional area or areas the proposed development would be situated.

(2) A request under *subsection (1)* shall be in writing, be accompanied by the appropriate fee and include—

(*a*) the name and address of the prospective applicant,

(*b*) a site location map sufficient to identify the land on which the proposed development would be situated,

(*c*) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment,

(*d*) a draft layout plan of the proposed development,

(*e*) a description of—

(i) the details, or groups of details, of the proposed development that, owing to the circumstances set out in *subparagraph (ii)*, are unlikely to be confirmed at the time of the proposed application, and

(ii) the circumstances relating to the proposed development, including such circumstances as the Minister may prescribe in relation to any class or description of development for the purposes of this subparagraph, that indicate that it is appropriate that the proposed application be made and decided, before the prospective applicant has confirmed the details referred to in *subparagraph (i)* including, in particular, whether the prospective applicant may be able to avail of technology available after making the proposed application that is more effective or more efficient than that available at the time of the application,

(*f*) an undertaking to provide with the proposed application, either—

(i) two or more options, in respect of each detail or group of details referred to in *paragraph (e)(i)*, containing information on the basis of which the proposed application may be made and decided,

(ii) parameters within which each detail referred to in *paragraph (e)(i)* will fall and on the basis of which the proposed application may be made and decided, or

(iii) a combination of *subparagraphs (i)* and *(ii)*,

(*g*) such other information, drawings or representations as the prospective applicant may wish to provide or make available, and

(*h*) such other information as may be prescribed.

(3) A planning authority that receives a request under *subsection (1)* or *section 32B(1)* may, prior to a meeting taking place under section 32I, consult with any person who may, in the opinion of the planning authority, have information that is relevant for the purposes of the meeting in relation to a proposed development.

(4) Where a planning authority consults with a person under *subsection (3)*, a written record shall be taken of such a consultation and kept by the planning authority and a copy of such record shall be placed and kept with the documents to which any application in respect of that proposed development relates.

(5) Where a prospective applicant submits a request in accordance with *subsection (1)* or *section 32B(1)*, the planning authority shall convene a meeting to take place within the period of 4 weeks beginning on the date on which the request is received by the planning authority.

(6) The following persons shall attend a meeting convened under *subsection (5)*:

(*a*) the planning authority;

(*b*) the prospective applicant, one or more persons on his or her behalf, or both.

(7) The planning authority shall ensure that planning authority officials attending the meeting on its behalf have a sufficient level of relevant knowledge and expertise in the matter concerned.

(8) The planning authority shall keep a record in writing of any meeting convened under *subsection (5)*, including a copy of the request for the meeting and accompanying documents, the names of those who participated in the meeting and any explanation provided under *subsection (11)* or *section 32I(7)* and a copy of such record shall be placed and kept with the documents to which any application in respect of that proposed development relates.

(9) A record kept by a planning authority under *subsection (8)* shall only be made public when a planning application in respect of the proposed development is made in accordance with *section 34*.

(10) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of holding a meeting convened under subsection (5), including—

(*a*) matters that are required to be considered at the meeting,

(*b*) matters that may be considered at the meeting, and

(*c*) the manner in which the meeting is to be conducted.

(11) Where, on the expiry of the period specified in *subsection (5)*, the meeting has not taken place, the planning authority shall proceed to convene the meeting as soon as practicable, notwithstanding that the period has expired, and provide the applicant with a written explanation why the meeting did not take place in the specified period.**]**

Annotations

Amendments:

F314 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 11, S.I. No. 645 of 2023.

Editorial Notes:

E157 Power pursuant to subs. (10) exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

F315**[**Opinion as to flexibility with regard to application for permission.

32I.—(1) The planning authority shall, within the period of 4 weeks beginning on the date on which the meeting convened under *section 32H(5)* takes place, consider—

(*a*) the information included in the request for the meeting under *section 32H*, and

(*b*) any other relevant information that is made available at the meeting,

and determine if it is satisfied that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed certain details of the application.

(2) Where the planning authority determines that it is satisfied in accordance with *subsection (1)* it shall provide an opinion to that effect to the prospective applicant.

(3) Where the planning authority determines that it is not satisfied in accordance with *subsection (1)* it shall notify the prospective applicant to that effect.

(4) An opinion under *subsection (2)* shall specify—

(*a*) the details, or groups of details, of the proposed development as proposed by the prospective applicant that may be confirmed after the proposed application has been made and decided,

(*b*) the circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in *paragraph (a)*, and

(*c*) that, in respect of each detail, or group of details, referred to in *paragraph (a)*, the proposed application shall, in addition to any other requirement imposed by or under this Act, be accompanied by the information referred to in *section 32H(2)(f)*.

(5) An opinion issued by a planning authority under *subsection (2)* shall only be made public when a planning application in respect of the proposed development is made in accordance with *section 34*.

(6) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of the planning authority providing an opinion under *subsection (2)*, including the form of the opinion.

(7) Where, on the expiry of the period specified in *subsection (1)*, the planning authority has failed to provide an opinion or notification, the planning authority shall proceed to do so as soon as practicable, notwithstanding that the period has expired, and provide the prospective applicant with a written explanation why it failed to provide the opinion or notification in the specified period.**]**

Annotations

Amendments:

F315 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 11, S.I. No. 645 of 2023.

Editorial Notes:

E158 Power pursuant to subs. (6) exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

F316**[**Procedure without prejudice to performance by the planning authority of other functions.

32J.—Neither the taking place of a meeting under *section 32H* nor the provision of an opinion or notification under *section 32I* shall prejudice the performance by the planning authority of its functions under this Act or any regulations under this Act or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.**]**

Annotations

Amendments:

F316 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 11, S.I. No. 645 of 2023.

F317**[**Effect of steps not being completed within the time period.

32K.—A person shall not question the validity of any steps taken by a planning authority by reason only that the procedures set out in *sections 32H* and *32I*, were not completed within the time referred to in the sections concerned.**]**

Annotations

Amendments:

F317 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 11, S.I. No. 645 of 2023.

F318**[**Offence of taking payment, etc. in connection with *section 32H* procedure.

32L.—A member or official of a planning authority who takes or seeks any favour, benefit or payment, direct or indirect (on his or her own behalf or on behalf of any other person or body), in connection with the provision of an opinion or notification under *section 32I* commits an offence.**]**

Annotations

Amendments:

F318 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 11, S.I. No. 645 of 2023.

Regulations regarding applications for permission.

33.—(1) The Minister shall by regulations provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of applications for permission for the development of land.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision for the following—

(*a*) requiring the submission of information in respect of applications for permission for the development of land;

(*b*) requiring any applicants to publish any specified notices with respect to their applications;

(*c*) enabling persons to make submissions or observations on payment of the prescribed fee and within a prescribed period;

F319**[**(*ca*) providing for the waiving or reduction of a fee to which *paragraph (c)* would relate, or the payment of a different fee, in respect of submissions or observations made by a person in his or her capacity as a member of a local authority;**]**

(*d*) requiring planning authorities to acknowledge in writing the receipt of submissions or observations;

(*e*) requiring any applicants to furnish to any specified persons any specified information with respect to their applications;

(*f*) requiring planning authorities to—

(i) (I) notify prescribed authorities of such proposed development or classes of development as may be prescribed, or

(II) consult with them in respect thereof,

and

(ii) give to them such documents, particulars, plans or other information in respect thereof as may be prescribed;

(*g*) requiring any applicants to submit any further information with respect to their applications (including any information as to any estate or interest in or right over land) or information regarding any effect on the environment which the development may have;

F320**[**(*ga*) enabling planning authorities to request applicants to submit further information with respect to their applications, for the purposes of *paragraph (g)*, and providing for, in respect of different classes or descriptions of development, the information or type of information which may be requested and the number of requests that may be made;**]**

(*h*) enabling planning authorities to invite an applicant to submit to them revised plans or other drawings modifying, or other particulars providing for the modification of, the development to which the application relates and, in case the plans, drawings or particulars are submitted to a planning authority in response to such an invitation, enabling the authority in deciding the application to grant a permission for the relevant development as modified by all or any of the plans, drawings or particulars;

(*i*) requiring the production of any evidence to verify any particulars of information given by any applicants;

(*j*) requiring planning authorities to furnish to the Minister and to any other specified persons any specified information with respect to applications and the manner in which they have been dealt with;

(*k*) requiring planning authorities to publish or give notice of their decisions in respect of applications for permission, including the giving of notice thereof to prescribed bodies and to persons who made submissions or observations in respect of such applications;

F319**[**(*ka*) facilitating the making and processing by electronic means of—

(i) planning applications, appeals, referrals, applications for approval, submissions and consents under this Act, and

(ii) the payment of fees, the issuing of decisions and setting out of requirements to which *subparagraph (i)* relates;

(*kb*) requiring the inputting of data by planning authorities into such databases or national planning systems as may be prescribed by the Minister;**]**

(*l*) requiring an applicant to submit specified information to the planning authority with respect to development, or any class of development, carried out by a person to whom *section 35(7)* applies pursuant to a permission granted to the applicant or to any other person under this Part or under Part IV of the Act of 1963.

(3) (*a*) Regulations under this section may, for the purposes of securing the attainment of an objective included in a development plan pursuant to *section 10(2)(m)*, require any applicant for permission to provide the planning authority with such information, in respect of development (including development of a particular class) that the applicant proposes to carry out in a Gaeltacht area, as it may specify.

(*b*) A requirement to which *paragraph (a)* applies may relate to development belonging to a particular class.

(*c*) Before making regulations containing a requirement to which *paragraph (a)* applies the Minister shall consult with the Minister for Arts, Heritage, Gaeltacht and the Islands.

(4) Regulations under this section may make additional or separate provisions in regard to applications for outline permission within the meaning of *section 36*.

F321**[**(5) Regulations under this section may make different provision with respect to applications for permission for development made by the Central Bank of Ireland in cases where the disclosure of information in relation to the application concerned might prejudice the security, externally or internally, of the development or the land concerned or facilitate any unauthorised access to or from the land by any person, and such regulations may make provision modifying the operation of *section 38* in relation to applications in those cases. **]**

Annotations

Amendments:

F319 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 22(a), (b), S.I. No. 436 of 2018.

F320 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 4, S.I. No. 715 of 2021.

F321 Inserted (1.08.2013) by *Central Bank (Supervision and Enforcement) Act 2013* (26/2013), s. 90(a), S.I. No. 287 of 2013.

Modifications (not altering text):

C46 Functions under subs. (3)(c) and regulations transferred (1.06.2011) by *Irish Language, Gaeltacht and the Islands (Transfer of Departmental Administration and Ministerial Functions) (No. 2) Order 2011* (S.I. No. 216 of 2011), regs. 2 and 3.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Tourism, Culture and Sport.

(2) References to the Department of Community, Equality and Gaeltacht Affairs contained in any Act or any instrument made thereunder and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Tourism, Culture and Sport.

3. (1) The functions vested in the Minister for Community, Equality and Gaeltacht Affairs under—

(*a*) section 33 (3)(c) of the Planning and Development Act 2000 (No. 30 of 2000), and

(*b*) the Planning and Development Regulations 2001 (S.I. No. 600 of 2001),

are transferred to the Minister for Tourism, Culture and Sport.

Editorial Notes:

E159 Power pursuant to section exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

E160 Power pursuant to section exercsied (9.11.2022) by *Planning and Development (Amendment) (No. 2) Regulations 2022* (S.I. No. 565 of 2022).

E161 Power pursuant to section exercsied (17.12.2021) by *Planning and Development (Large-scale Residential Development) Regulations 2021* (S.I. No. 716 of 2021), in effect as per reg. 2.

E162 Power pursuant to section exercised (4.11.2021) by *Planning and Development (Amendment) (No. 3) Regulations 2021* (S.I. No. 588 of 2021).

E163 Power pursuant to section exercised (15.01.2021) by *Planning and Development (Amendment) Regulations 2021* (S.I. No. 9 of 2021).

E164 Power pursuant to section exercised (16.11.2018) by *Planning and Development (Fees) Regulations 2018* (S.I. No. 501 of 2018).

E165 Power pursuant to section exercised (10.09.2015) by *Planning and Development (Amendment) (No. 3) Regulations 2015* (S.I. No. 387 of 2015).

E166 Power pursuant to section exercised (16.07.2015) by *Planning and Development (Amendment) (No. 2) Regulations 2015* (S.I. No. 310 of 2015), in effect as per reg. 2.

E167 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E168 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E169 Power pursuant to section exercised (31.03.2007) by *Planning and Development (No. 2) Regulations 2007* (S.I. No. 135 of 2007).

E170 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03 2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E171 Power pursuant to section exercised (11.03.2002) by *Planning and Development Regulations 2002* (S.I. No. 70 of 2002).

E172 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

Permission for development.

34.—(1) Where—

(*a*) an application is made to a planning authority in accordance with permission regulations for permission for the development of land, and

(*b*) all requirements of the regulations are complied with,

the authority may decide to grant the permission subject to or without conditions, or to refuse it.

F322**[**(1A) Where an application to a planning authority is required to have been accompanied by an F323**[**environmental impact assessment report**]**:

(*a*) The planning authority shall cause to be published in one or more newspapers circulated in the area and/or by electronic means, a notice informing the public of such a decision of the planning authority.

(*b*) The notice shall state that the applicant and any person who made submissions or observations in writing to the planning authority in relation to the planning application in accordance with *section 37(1)* may appeal such a decision to the Board.

(*c*) The notice shall further state that a person may question the validity of any decision of the planning authority by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with *section 50*.

(*d*) The notice shall further state that a person may question the validity of any decision on an appeal by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with *section 50*.

(*e*) The notice shall identify where practical information on the appeal and review mechanisms can be found.**]**

F324**[**(1B) Where a planning authority receives an application for permission to which *section 32A(1)* applies it shall notify the elected members of the planning authority of the making of the application, of where the application is available for inspection, and of such other information as may be prescribed.**]**

(2) (*a*) When making its decision in relation to an application under this section, the planning authority shall be restricted to considering the proper planning and sustainable development of the area, regard being had to—

(i) the provisions of the development plan,

F325**[**(ia) any guidelines issued by the Minister under *section 28*,**]**

(ii) the provisions of any special amenity area order relating to the area,

(iii) any European site or other area prescribed for the purposes of *section 10(2)(c)*,

(iv) where relevant, the policy of the Government, the Minister or any other Minister of the Government,

(v) the matters referred to in *subsection (4)*, F326**[**...**]**

F327**[**(va) previous developments by the applicant which have not been satisfactorily completed,

(vb) previous convictions against the applicant for non-compliance with this Act, the Building Control Act 2007 or the Fire Services Act 1981, and**]**

(vi) any other relevant provision or requirement of this Act, and any regulations made thereunder.

F325**[**(*aa*) When making its decision in relation to an application under this section, the planning authority shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister under *section 28*.**]**

(*b*) In considering its decision in accordance with *paragraph (a)*, a planning authority shall consult with any other planning authority where it considers that a particular decision by it may have a significant effect on the area of that authority, and the authority shall have regard to the views of that other authority and, without prejudice to the foregoing, it shall have regard to the effect a particular decision by it may have on any area outside its area (including areas outside the State).

F325**[**(*ba*) Where specific planning policy requirements of guidelines referred to in *subsection (2)(aa)* differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.**]**

(*c*) F328**[**Subject to section 99F of the Environmental Protection Agency Act 1992,**]** and section 54 (as amended by *section 257* of this Act) of the Waste Management Act, 1996, where an application under this section relates to development which comprises or is for the purposes of an activity for which an integrated pollution control licence or a waste licence is required, a planning authority shall take into consideration that the control of emissions arising from the activity is a function of the Environmental Protection Agency.

F325**[**(*d*) In this subsection "specific planning policy requirements" means such policy requirements identified in guidelines issued by the Minister to support the consistent application of Government or national policy and principles by planning authorities, including the Board, in securing overall proper planning and sustainable development.**]**

(3) A planning authority shall, when considering an application for permission under this section, have regard to—

(*a*) in addition to the application itself, any information relating to the application furnished to it by the applicant in accordance with the permission regulations,

(*b*) any written submissions or observations concerning the proposed development made to it in accordance with the permission regulations by persons or bodies other than F329**[**the applicant, and**]**

F330**[**(*c*) where an application for permission relates to a residential development comprising 10 or more houses—

(i) any information available to the planning authority, or furnished to it by the applicant, concerning implementation by the applicant of any housing development in the previous 5 years, and

(ii) an assessment by the planning authority of the likelihood of the proposed development being implemented within the appropriate period sought, being the appropriate period within the meaning provided for by *section 40(3)*.**]**

F325**[**(3A) In determining an application for permission that relates to an existing planning permission for a residential multi-unit development (within the meaning of section 1 of the Multi-Unit Development Act 2011) and where the purpose of the application for permission is to take account of specific planning policy requirements (within the meaning given by *subsection (2)(d)*) of new or revised guidelines issued by the Minister under *section 28* with regard to the previously permitted development, the planning authority concerned or the Board (as the case may be) shall, notwithstanding *section 34(2)(a)*, be restricted in its determination of the application to considering the modifications proposed by the applicant.

(3B) Notwithstanding *section 37*, no appeal shall be made to the Board in respect of the determination by the planning authority concerned of an application to which *subsection (3A)* relates unless it would relate to a materially significant change to the approved external appearance of the proposed development.**]**

F324**[**(3C) In determining an application for permission that relates to a development in respect of a part of which permission has previously been granted—

(*a*) under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016, or

(*b*) on foot of an application in accordance with *section 32A*, the planning authority concerned shall, notwithstanding *section 34(2)(a)*, be restricted in its determination of the application, other than in respect of any assessment of the effects of the proposed development on the environment, to considering the modifications proposed by the applicant to the previously permitted development and for the purposes of determining such an application the reference in *subsection (6)* to "the development concerned" shall be read as a reference to "the modifications to the previously permitted development".**]**

(4) Conditions under *subsection (1)* may, without prejudice to the generality of that subsection, include all or any of the following—

F331**[**(*a*) conditions for regulating the development or use of any land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant if the imposition of such conditions appears to the planning authority—

(i) to be expedient for the purposes of or in connection with the development authorised by the permission, or

(ii) to be appropriate, where any aspect or feature of that adjoining, abutting or adjacent land constitutes an amenity for the public or a section of the public, for the purposes of conserving that amenity for the public or that section of the public (and the effect of the imposition of conditions for that purpose would not be to burden unduly the person in whose favour the permission operates);**]**

(*b*) conditions for requiring the carrying out of works (including the provision of facilities) which the planning authority considers are required for the purposes of the development authorised by the permission;

(*c*) conditions for requiring the taking of measures to reduce or prevent—

(i) the emission of any noise or vibration from any structure or site comprised in the development authorised by the permission which might give reasonable cause for annoyance either to persons in any premises in the neighbourhood of the development or to persons lawfully using any public place in that neighbourhood, or

(ii) the intrusion of any noise or vibration which might give reasonable cause for annoyance to any person lawfully occupying any such structure or site;

(*d*) conditions for requiring provision of open spaces;

(*e*) conditions for requiring the planting, maintenance and replacement of trees, shrubs or other plants or the landscaping of structures or other land;

(*f*) conditions for requiring the satisfactory completion within a specified period, not being less than 2 years from the commencement of any works, of the proposed development (including any roads, open spaces, car parks, sewers, watermains or drains or other public facilities), where the development includes the construction of 2 or more houses;

(*g*) conditions for requiring F329**[**the giving and maintaining of adequate security**]** for satisfactory completion of the proposed development;

(*h*) conditions for determining the sequence and timing in which and the time at which works shall be carried out;

(*i*) conditions for the maintenance or management of the proposed development (including the establishment of a company or the appointment of a person or body of persons to carry out such maintenance or management);

(*j*) conditions for the maintenance, until taken in charge by the local authority concerned, of roads, open spaces, car parks, sewers, watermains or drains and other public facilities or, where there is an agreement with the local authority in relation to such maintenance, conditions for maintenance in accordance with the agreement;

(*k*) conditions for requiring the provision of such facilities for the collection or storage of recyclable materials for the purposes of the proposed development;

(*l*) conditions for requiring construction and demolition waste to be recovered or disposed of in such a manner and to such extent as may be specified by the planning authority;

(*m*) conditions for requiring the provision of roads, including traffic calming measures, open spaces, car parks, sewers, watermains or drains, facilities for the collection or storage of recyclable materials and other public facilities in excess of the immediate needs of the proposed development, subject to the local authority paying for the cost of the additional works and taking them in charge or otherwise entering into an agreement with the applicant with respect to the provision of those public facilities;

(*n*) conditions for requiring the removal of any structures authorised by the permission, or the discontinuance of any use of the land so authorised, at the expiration of a specified period, and the carrying out of any works required for the re-instatement of land at the expiration of that period;

(*o*) conditions in relation to appropriate naming and numbering of, and the provision of appropriate signage for, the proposed development;

(*p*) conditions for requiring, in any case in which the development authorised by the permission would remove or alter any protected structure or any element of a protected structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest—

(i) the preservation by a written and visual record (either measured architectural drawings or colour photographs and/or audio-visual aids as considered appropriate) of that structure or element before the development authorised by the permission takes place, and

(ii) where appropriate, the architectural salvaging of any element, or the re-instatement of any element in a manner specified by the authority;

(*q*) conditions for regulating the hours and days during which a business premises may operate.

F332**[**(4A) Notwithstanding *subsection (1)*, where a planning authority grants permission for a development on foot of an application accompanied by an opinion provided by the planning authority under *section 32I(2)* the permission shall include a condition in respect of any detail of the development that was not confirmed at the time of the application requiring—

(*a*) the actual detail of the development to fall within specified options, parameters or a combination of options and parameters, and

(*b*) the applicant to notify the planning authority in writing, by such date prior to the commencement of the development, or prior to the commencement of the part of the development to which the detail relates, as the Minister may prescribe, of the actual detail of the development.**]**

F333**[**(5) The conditions under *subsection (1)* may provide that points of detail relating to a grant of permission be agreed between the planning authority and the person carrying out the development and, accordingly—

(*a*) where for that purpose that person has submitted to the planning authority concerned such points of detail, then that authority shall, within 8 weeks of those points being so submitted, or such longer period as may be agreed between them in writing, either—

(i) reach agreement with that person on those points, or

(ii) where that authority and that person cannot so agree on those points, that authority may—

(I) advise that person accordingly in writing, or

(II) refer the matter to the Board for its determination,

and, where *clause (I)* applies, that person may, within 4 weeks of being so advised, refer the matter to the Board for its determination,

or

(*b*) where none of the events referred to in *subparagraph (i)* or in *clause (I)* or *(II)* of *subparagraph (ii)* occur within those 8 weeks or such longer period as may have been so agreed, then that authority shall be deemed to have agreed to the points of detail as so submitted.**]**

(6) (*a*) In a case in which the development F334**[**concerned would contravene materially the development plan or local area plan**]**, a planning authority may, notwithstanding any other provision of this Act, decide to grant permission under this section, provided that the following requirements are complied with before the decision is made, namely—

(i) notice in the prescribed form of the intention of the planning authority to consider deciding to grant the permission shall be published in at least one daily newspaper circulating in its area and the notice shall specifically state which objective of the development plan F327**[**or local area plan, as the case may be,**]** would be materially contravened by granting this permission,

F334**[**(ii) copies of the notice shall be given to each of the following—

(I) the applicant,

F327**[**(IA) the regional assembly for the area in which the planning authority is situated,**]**

(II) a prescribed body which has been notified of the application by the planning authority, and

(III) any person who has made a submission or observation in writing in relation to the development to which the application relates,**]**

(iii) any submission or observation as regards the making of a decision to grant permission and which is received by the planning authority not later than 4 weeks after the first publication of the notice shall be duly considered by the F334**[**authority**]**

F335**[**(iiia) not later than 6 weeks from the publication of the notice under *subparagraph (i)*, the chief executive shall prepare a report for the members of the planning authority—

(I) stating the main reasons and considerations on which the proposal to grant permission is based,

(II) summarising the issues raised in any submissions or observations in accordance with *subparagraph (iii)*, and

(III) advising the members of his or her opinion regarding the compliance or otherwise of the proposed development with any relevant Ministerial guidelines under *section 28* or any relevant policies or objectives of the Government or Minister of the Government or with any regional spatial and economic strategy,

and the report shall be considered by the members before a resolution is passed under *subparagraph (iv)*, and

(iv) a resolution shall be passed by the planning authority approving the proposal of the chief executive to grant permission.**]**

(*b*) It shall be necessary for the passing of a resolution referred to in *paragraph (a)* that the number of the members of the planning authority voting in favour of the resolution is not less than three-quarters of the total number of the members of the planning authority or where the number so obtained is not a whole number, the whole number next below the number so obtained shall be sufficient, and the requirement of this paragraph is in addition to and not in substitution for any other requirement applying in relation to such a resolution.

F336**[**(*ba*) Where a resolution referred to in *paragraph (a)* has been passed by a planning authority in accordance with *paragraph (b)*, the planning authority shall—

(i) send to the regional assembly for the area and the Office of the Planning Regulator a copy of the notice under *paragraph (a)* that relates to the resolution, and

(ii) at the same time, inform the regional assembly for the area and the Office of the Planning Regulator in writing that the resolution was passed.**]**

(*c*) F337**[**...**]**

(*d*) F337**[**...**]**

(7) F337**[**...**]**

(8) (*a*) Subject to *paragraphs (b), (c), (d)* and *(e)*, where—

(i) an application is made to a planning authority in accordance with the permission regulations for permission under this section, and

(ii) any requirements of those regulations relating to the application are complied with,

a planning authority shall make its decision on the application within the period of 8 weeks beginning on the date of receipt by the planning authority of the application.

F338**[**(*b*) Where a planning authority, within 8 weeks of the receipt of a planning application, serves notice in accordance with the permission regulations requiring the applicant to give to the authority further information or to produce evidence in respect of the application, the authority shall make its decision on the application as follows:

(i) within 4 weeks of the notice being complied with, or

(ii) F339**[**if, within the period specified in *subparagraph (i)*, in relation to further information**]** given or evidence produced in compliance with the notice, the planning authority—

(I) considers that it contains significant additional data which requires the publication of a notice by the applicant in accordance with the permission regulations, and

(II) gives notice accordingly to the applicant,

within 4 weeks beginning on the day on which notice of that publication is given by the applicant to the planning authority.

(*c*) Where, in the case of a planning application accompanied by an F340**[**environmental impact assessment report**]** or a Natura impact statement, a planning authority serves a notice referred to in *paragraph (b)*, the authority shall make its decision as follows:

(i) within 8 weeks of the notice being complied with, or

(ii) F339**[**if, within the period specified in *subparagraph (i)*, in relation to further information**]** given or evidence produced in compliance with the notice, the planning authority—

(I) considers that it contains significant additional data which requires the publication of a notice by the applicant in accordance with the permission regulations, and

(II) gives notice accordingly to the applicant,

within 8 weeks beginning on the day on which notice of that publication is given by the applicant to the planning authority,**]**

F341**[**(*ca*) F342**[**Where an environmental impact assessment report**]** is submitted to a planning authority under *section 172(1C)*, or where a Natura impact

statement is submitted to a planning authority under *section 177T (5)*, the planning authority shall make its decision on the application as follows—

(i) within 8 weeks commencing on the date on which the F343**[**environmental impact assessment report**]** or Natura impact statement, as the case may be, and a copy of the relevant public notice required in accordance with regulations under this Act, is received by the planning authority, or

(ii) where a planning authority, within 8 weeks of the receipt of an F344**[**environmental impact assessment report submitted**]** under *section 172(1C)* or a Natura impact statement under *section 177T(5)*, serves notice in accordance with regulations under this Act requiring the applicant to give to the authority further information in relation F345**[**to the environmental impact assessment report**]** or Natura impact statement, as the case may be—

(I) F346**[**within 8 weeks, in the case of further information in relation to the environmental impact assessment report, and within 4 weeks, in the case of further information in relation to the Natura impact statement,**]** of the notice being complied with, or

(II) F339**[**if, within the period specified in *clause (I)*, in relation to further information**]** given, the planning authority considers that it contains significant additional data which requires the publication of a notice by the applicant in accordance with regulations under this Act, and gives notice accordingly to the applicant, F347**[**within 8 weeks, in the case of such further information given in relation to the environmental impact assessment report, and within 4 weeks, in the case of such further information given in relation to the Natura impact statement,**]** beginning on the day on which notice of that publication is given by the applicant to the planning authority.**]**

(*d*) Where a notice referred to in *subsection (6)* is published in relation to the application, the authority shall make its decision within the period of 8 weeks beginning on the day on which the notice is first published.

(*e*) Where, in the case of an application for permission for development that—

(i) would be likely to increase the risk of a major accident, or

(ii) is of such a nature as to be likely, if a major accident were to occur, and, having regard to all the circumstances, to cause there to be serious consequences,

a planning authority consults, in accordance with the permission regulations, with a prescribed authority for the purpose of obtaining technical advice regarding such risk or consequences, the authority shall make a decision in relation to the application within 4 weeks beginning on the day on which the technical advice is received.

F348**[**(*f*) (i) Where a planning authority has failed to make a decision in relation to an application within the period specified in *paragraph (a)*, *(b)*, *(c)*, *(d)* or *(e)* as appropriate (referred to in this paragraph as the "first period") and becomes aware, whether through notification by the applicant or otherwise, that it has so failed, the authority shall proceed to make the decision notwithstanding that the first period has expired.

(ii) Where a planning authority fails to make a decision within the first period, it shall pay the appropriate sum to the applicant.

(iii) Where a planning authority fails to make a decision within a period of 12 weeks after the expiry of the first period a decision (referred to in this paragraph as the "deemed decision") of the planning authority to grant

the permission shall be regarded as having been given on the last day of that period of 12 weeks.

(iv) Any person, who has made submissions or observations in writing in relation to the planning application to the planning authority, may at any time within the period of 4 weeks after the expiry of the period of 12 weeks referred to in *subparagraph (iii)*, appeal the deemed decision.

(v) *Subparagraphs (i)* to *(iv)* shall not apply where there is a requirement under *Part X* or *Part XAB* to carry out an environmental impact assessment, a determination whether an environmental impact assessment is required, or an appropriate assessment, in respect of the development relating to which the authority has failed to make a decision.

(vi) Where the planning authority has failed to make a decision in relation to development where an environmental impact assessment, a determination whether an environmental impact assessment is required, or an appropriate assessment is required within the first period and becomes aware, whether through notification by the applicant or otherwise, that it has so failed—

(I) the authority shall proceed to make the decision notwithstanding that the first period has expired,

(II) where a planning authority fails to make a decision within the first period, it shall pay the appropriate sum to the applicant,

(III) provided that no notice under *paragraph (b)* or *(c)* was served on the applicant prior to the expiry of the first period, where a planning authority proceeds to make a decision under *clause (I)* in relation to an application, it may serve notice on the applicant, requiring the applicant to give to the authority further information or to produce evidence in respect of the application under *paragraph (b)* or *(c)*, and *paragraph (b)* or *(c)* shall apply to such notice subject to any necessary modifications,

(IV) subject to service of a notice under *paragraph (b)* or *(c)* in accordance with *clause (III)*, where a planning authority fails to make a decision before the expiry of the period of 12 weeks beginning on the day immediately after the day on which the first period expires, the authority shall, subject to *clause (V)*, pay the appropriate sum to the applicant, and shall pay a further such sum to the applicant where it fails to make a decision before the expiry of each subsequent period of 12 weeks beginning immediately after the preceding 12 week period,

(V) not more than 5 payments of the appropriate sum shall be made by a planning authority to an applicant in respect of the failure by the authority to make a decision in relation to an application,

(VI) where a planning authority makes a decision in relation to an application more than one year after the expiration of the first period the authority, before making the decision—

(A) notwithstanding that notice has been previously published in relation to the application, shall require the applicant to publish additional such notice concerning the planning application in accordance with the permission regulations (and the planning authority shall refund the costs of so publishing to the applicant),

(B) notwithstanding that notice of the application has previously been given to prescribed bodies, shall give additional such notice in accordance with the permission regulations, and

(C) notwithstanding anything contained in *paragraph (b)* or *(c)*, or that the authority has previously been given further information or evidence under those paragraphs may require the applicant to give to the authority further information or to produce evidence in respect of the application as the authority requires and *paragraph (b)* or *(c)*, as appropriate, shall apply to such additional request subject to any necessary modifications,

and the planning authority shall consider any submissions made in accordance with the Regulations following on such additional notices, or additional further information or evidence produced under this clause.

(vii) Any payment or refund due to be paid under this paragraph shall be paid as soon as may be and in any event not later than 4 weeks after it becomes due.

(viii) In this paragraph, "appropriate sum" means a sum which is equal to the lesser amount of 3 times the prescribed fee paid by the applicant to the planning authority in respect of his or her application for permission or €10,000.**]**

(9) Where, within the period of 8 weeks beginning on the date of receipt by the planning authority of the application, the applicant for a permission under this section gives to the planning authority in writing his or her consent to the extension of the period for making a decision under *subsection (8)*, the period for making the decision shall be extended for the period consented to by the applicant.

(10) (*a*) F349**[**Subject to *paragraph (c)* and without prejudice to *section 172(1I)*, a decision**]** given under this section or *section 37* and the notification of the decision shall state the main reasons and considerations on which the decision is based, and where conditions are imposed in relation to the grant of any permission the decision shall state the main reasons for the imposition of any such conditions, provided that where a condition imposed is a condition described in *subsection (4)*, a reference to the paragraph of *subsection (4)* in which the condition is described shall be sufficient to meet the requirements of this subsection.

(*b*) Where a decision by a planning authority under this section or by the Board under *section 37* to grant or to refuse permission is different, in relation to the granting or refusal of permission, from the recommendation in—

(i) the reports on a planning application to the F350**[**chief executive**]** (or such other person delegated to make the decision) in the case of a planning authority, or

(ii) a report of a person assigned to report on an appeal on behalf of the Board,

a statement under *paragraph (a)* shall indicate the main reasons for not accepting the recommendation in the report or reports to grant or refuse permission.

F351**[**(*c*) Where, in the case of an application for planning permission accompanied by an environmental impact assessment report, a decision by a planning authority under this section or by the Board under *section 37*, as the case may be—

(i) to impose a condition (being an environmental condition which arises from the consideration of the environmental impact assessment report) in relation to the grant of permission is materially different, in relation to the terms of such condition, from the recommendation in—

(I) the reports on a planning application to the chief executive (or such other person delegated to make the decision) in the case of a planning authority, or

(II) a report of a person assigned to report on an appeal on behalf of the Board,

as the case may be, a statement under *paragraph (a)* shall indicate the main reasons for not accepting, or for varying, as the case may be, the recommendation in the reports or report in relation to such condition referred to in *clause (I)* or *(II)*, as the case may be,

(ii) to grant, subject to or without conditions, permission, such permission shall include or refer to a statement that the planning authority or the Board, as the case may be, is satisfied that the reasoned conclusion on the significant effects on the environment of the development was up to date at the time of the taking of the decision, and

(iii) shall include a summary of the results of the consultations that have taken place and information gathered in the course of the environmental impact assessment and, where appropriate, the comments received from an affected Member State of the European Union or other party to the Transboundary Convention, and specify how those results have been incorporated into the decision or otherwise addressed.**]**

(11) (*a*) Where the planning authority decides under this section to grant a permission—

(i) in case no appeal is taken against the decision, it shall make the grant as soon as may be after the expiration of the period for the taking of an appeal,

(ii) in case an appeal or appeals is or are taken against the decision, it shall not make the grant unless, as regards the appeal or, as may be appropriate, each of the appeals—

(I) it is withdrawn, or

(II) it is dismissed by the Board pursuant to *section 133* or *138*, or

(III) in relation to it a direction is given to the authority by the Board pursuant to *section 139*, and, in the case of the withdrawal or dismissal of an appeal or of all such appeals, as may be appropriate, it shall make the grant as soon as may be after such withdrawal or dismissal and, in the case of such a direction, it shall make the grant, in accordance with the direction, as soon as may be after the giving by the Board of the direction.

(*b*) Where the Board decides on appeal under *section 37* to grant a permission, it shall make the grant as soon as may be after the decision.

F334**[**F352**[**(12) A planning authority shall refuse to consider an application to retain unauthorised development of land where it decides that either or both of the following was required or is required in respect of the development:

(*a*) an environmental impact assessment;

(*b*) an appropriate assessment.**]**

(12A) For the purposes of *subsection (12)*, F353**[**an application in respect of the following development shall be deemed not to have required, and not to require, a determination as to whether an environmental impact assessment is required**]**:

(*a*) development within the curtilage of a dwelling house, for any purpose incidental to the enjoyment of the dwelling house as a dwelling house;

(*b*) modifications to the exterior of a building.

(12B) Where a planning authority refuses to consider an application for permission under *subsection (12)* it shall return the application to the applicant, together with any fee received from the applicant in respect of the application, and shall give reasons for its decision to the applicant.

(12C) Subject to *subsections (12)* and *(12A)*, an application for development of land in accordance with the permission regulations may be made for the retention of unauthorised development, and this section shall apply to such an application, subject to any necessary modifications.**]**

(13) A person shall not be entitled solely by reason of a permission under this section to carry out any development.

Annotations

Amendments:

F322 Inserted (13.07.2010) by *European Communities (Public Participation) Regulations 2010* (S.I. No. 352 of 2010), reg. 10(a).

F323 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 2, in effect as per reg. 2(1).

F324 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 5(a), (b), S.I. No. 715 of 2021.

F325 Inserted (29.12.2015) by *Planning and Development (Amendment) Act 2015* (61/2015), s. 3(a)-(e), commenced on enactment.

F326 Deleted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 23(1), S.I. No. 436 of 2018.

F327 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 23(1), (5)(a), (b), S.I. No. 436 of 2018.

F328 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 61, S.I. No. 393 of 2004.

F329 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 23(2), (3), S.I. No. 436 of 2018.

F330 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 23(2), S.I. No. 436 of 2018.

F331 Substituted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 8(1), S.I. No. 525 of 2006.

F332 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 12(a), S.I. No. 645 of 2023.

F333 Substituted (17.12.2021) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 23(4), S.I. No. 714 of 2021.

F334 Substituted (23.03.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 23(a)(i)-(iii) and (c), S.I. No. 132 of 2011.

F335 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 72, S.I. No. 214 of 2014.

F336 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 23(5)(c), S.I. No. 133 of 2019, art. 2(c).

F337 Deleted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 refs. 73, 74, S.I. No. 214 of 2014.

F338 Substituted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 23(b)(i), S.I. No. 475 of 2011.

F339 Substituted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 5(c), S.I. No. 715 of 2021.

F340 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table item ref. no. 3, in effect as per reg. 2(1).

F341 Inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 5.

F342 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 4, in effect as per reg. 2(1).

F343 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 5, in effect as per reg. 2(1).

F344 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 6, in effect as per reg. 2(1).

F345 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 7, in effect as per reg. 2(1).

F346 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 8(a)(i), in effect as per reg. 2(1).

F347 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 8(a)(ii), in effect as per reg. 2(1).

F348 Substituted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 23(b)(ii), S.I. No. 475 of 2011.

F349 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 8(b)(i), in effect as per reg. 2(1).

F350 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 23(6), S.I. No. 436 of 2018.

F351 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 8(b)(ii), in effect as per reg. 2(1).

F352 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 12(b), S.I. No. 645 of 2023, subject to transitional provision in s. 41(8).

F353 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 12(c), S.I. No. 645 of 2023, subject to transitional provision in s. 41(8).

F354 Inserted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(c), not commenced as of date of revision.

Modifications (not altering text):

C47 Prospective affecting provision: subs. (2)(ca) inserted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(c), not commenced as of date of revision.

F354**[**(*ca*) Where an application under this section relates to development which comprises or is for the purposes of an activity for which an abstraction licence is required, a planning authority shall take into consideration that the control of abstractions is a function of the Environmental Protection Agency.**]**

C48 Application of section restricted (3.07.2017) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 10(5)(a), S.I. No. 270 of 2017.

Supplemental provisions to *section 9*

10. ...

(5)(*a*) No permission under section 34 of the Act of 2000 shall be required for any development in respect of which approval has been granted under *section 9*.

...

C49 Certain functions transferred to Cork City Council as a result of the Cork City and Council areas boundary alteration (31.01.2019) by *Local Government Act 2019* (1/2019), s. 31, S.I. No. 20 of 2019.

Planning applications and development contribution schemes

31. (1) For the purposes of the Act of 2000 or any instrument under that Act and subject to subsection (2), the county council shall, after the transfer day, be the planning authority in relation to any planning application made before the transfer day in respect of development or proposed development in the relevant area.

(2) (*a*) Subject to paragraph (b), the functions of a planning authority under the Act of 2000 shall, as respects—

(i) a decision under section 34 of that Act, or

(ii) a determination under section 37 of that Act,

made before the transfer day in relation to development or proposed development in the relevant area, be performable from that day by the city council.

(3) Any contribution—

(*a*) paid before the transfer day in accordance with section 49 of the Act of 2000 for the purpose of any public infrastructure service or project in the relevant area, and

(*b*) vested in the city council under Part 2,

shall be expended by the city council for that purpose.

(4) Any development contribution scheme under section 48 of the Act of 2000 or supplementary development contribution scheme under section 49 of that Act made by the city council shall, from the transfer day, apply to the relevant area as it applies to the rest of the functional area of the city council.

...

C50 Effect of grant of permission under section clarified (24.12.2015) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), section 28(2), commenced on enactment.

Applications under section 34 of Act of 2000

28. (1) Where a development to which a certificate relates was substantially commenced or at a more advanced stage of completion on the dissolution day, but was not completed on that date, an application may be made to the Council for permission under section 34 of the Act of 2000 for so much of the development as was not completed on that date.

(2) Where a permission is granted under section 34 of the Act of 2000 in respect of a development in relation to which an application was made under *subsection (1)*, without prejudice to anything validly done in accordance with the certificate concerned prior to the grant of permission, that grant of permission shall have effect, and the certificate shall cease to have effect, in respect of so much of the development as was not completed on the dissolution day.

C51 Construction of reference to 'planning authority' under subs. (4)(m) extended (31.12.2007) by *Water Services Act 2007* (30/2007), s. 55(5)(b), S.I. No. 846 of 2007.

Connection to a water supply.

55. — ...

(5) ...

(*b*) For the purposes of the application of section 34(4)(m) of the Act of 2000 to this subsection, a reference to a planning authority shall be deemed to include a reference to a water services authority.

...

C52 Construction of reference to 'planning authority' under subs. (4)(m) extended (31.12.2007) by *Water Services Act 2007* (30/2007), s. 61(6)(b), S.I. No. 846 of 2007.

Waste water connections.

61. — ...

(6) ...

(*b*) For the purposes of the application of section 34(4)(m) of the Act of 2000 to this subsection, a reference to a planning authority shall be deemed to include a reference to a water services authority.

...

C53 Application of section restricted and matters to be considered provided (27.09.2007) by *Waste Water Discharge (Authorisation) Regulations 2007* (S.I. No. 684 of 2007), regs. 41(1) and 43(1).

Limitation of Act of 2000

41. (1) Subject to Regulation 42(2), and notwithstanding sections 34, 37, 37E, 175 and 226 of the Act of 2000, or any other provision of that Act, where, under these Regulations, an authorisation has been granted in respect of a waste water discharge from a waste water works—

(*a*) a planning authority, or An Bord Pleanála, where it decides to grant a permission under section 34, 37 or 37E on appeal or otherwise, as the case may be, of the said Act, or

(*b*) An Bord Pleanála, where it decides to grant an approval under section 175 or 226 of the said Act,

in respect of a proposed development that involves a waste water discharge from a waste water works, shall not subject the permission or approval, as the case may be, to conditions which are for the purposes of controlling the waste water discharge.

(2) Where a permission or approval under the Act of 2000 has been subjected to conditions, other than conditions as referred to in paragraph (3)(b), that are for the purposes of controlling discharges from a development as described in paragraph (1), those conditions shall cease to have effect upon the granting of an authorisation under these Regulations in respect of the waste water discharges concerned.

...

Consideration of proposals by planning authorities and An Bord Pleanála

43. (1) Where a planning authority or An Bord Pleanála is considering an application for permission, an appeal or an application for approval under section 34, 37, 37E, 175 or 226 of the Act of 2000 for development being development which involves the disposal of waste water to a waste water works, or is considering such a development under section 179 of the Act of 2000, the planning authority or the Board, as the case may be, shall consider whether the discharge of waste water from the proposed development, in conjunction with existing discharges to the receiving waters, would cause non-compliance with the combined approach or, in situations where there is existing non-compliance, would result in a significant breach of the combined approach.

...

C54 Application of subs. (8) restricted (11.07.2007) by *Roads Act 2007* (34/2007), s. 8(4), commenced on enactment.

Declaration of motorways.

8. — ...

(4) Notwithstanding any other enactment, neither a planning authority or An Bord Pleanála shall decide to grant or grant planning permission nor shall a decision by such be regarded as having been given under section 34(8) of the Planning and Development Act 2000 in respect of the developments referred to in section 46 of the Principal Act in respect of a national road or a proposed road development for the construction of a national road declared to be a motorway under subsection (1).

C55 Planning authority enabled to attach conditions to certain applications under section as provided (7.12.2005) by *European Communities (Waste Water Treatment) (Prevention of Odours and Noise) Regulations 2005* (S.I. No. 787 of 2005), reg. 5.

5. A planning authority shall, where granting permission for a development in accordance with section 34 of the Act of 2000 consisting of the provision of a waste water treatment plant, attach such conditions to the permission as may be in the opinion of the authority and having regard to the function of the Agency under Article 4 of these Regulations, necessary to ensure that the plant is so operated and maintained as to ensure that it avoids causing nuisance through odours or noise.

C56 Application of section restricted by *Environmental Protection Agency Act 1992* (7/1992), s. 99F(1) and (9) as inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 15, S.I. No. 393 of 2004 and as amended (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 79, S.I. No. 475 of 2011.

Appliction of other Acts.

99F.—(1) Notwithstanding section 34 of the Act of 2000, or any other provision of that Act, where a licence or revised licence under this Part has been granted or is or will be required in relation to an activity, a planning authority or An Bord Pleanála shall not, where it decides to grant a permission under section 34 **[**or substitute consent, within the meaning of *section 177A***]**, of that Act in respect of any development comprising or for the purposes of the activity, subject the permission to conditions which are for the purposes of—

(*a*) controlling emissions from the operation of the activity, including the prevention, elimination, limitation, abatement, or reduction of those emissions, or

(*b*) controlling emissions related to or following the cessation of the operation of the activity.

...

(9) Without prejudice to the preceding subsections, where a licence or revised licence under this Part is granted in relation to an activity and—

(*a*) a permission under section 34 of the Act of 2000, or

...

has been granted in respect of the same activity or in relation to development for the purposes of it, any conditions attached to that permission or contained in that lease, as the case may be, shall, so far as they are for the purposes of the prevention, elimination, limitation, abatement or reduction of emissions to the environment, cease to have effect.

C57 Application of subss. (6) and (8) restricted by *Waste Management Act 1996* (10/1996), s. 22(10B) as inserted (17.07.2001) by *Waste Management (Amendment) Act 2001* (36/2001), s. 4, commenced on enactment.

Waste management plans.

22.— ...

(10B) (*a*) Where a planning authority proposes to grant permission under Part III of the Planning and Development Act, 2000, for development which is consistent with the provisions (including any objectives contained therein) of, and is necessary for the proper implementation of, the waste management plan in force in relation to the authority's functional area, but, in the opinion of the manager of the authority, would contravene materially any other objective of the development plan in force in relation to that area, the manager shall—

(i) publish notice of the intention of the authority to grant the permission in one or more newspapers circulating in that area,

(ii) give a copy of the notice to the applicant for permission and to any person who has made a submission or observation in writing in relation to the development to which the application relates in accordance with any regulations made under the Planning and Development Act, 2000.

(*b*) Any submission or observation in writing in relation to the making of a decision to grant the permission concerned which is received by the planning authority not later than 4 weeks after the publication of the notice in accordance with *paragraph (a)* shall be considered by the manager of the authority.

(*c*) Following consideration of any submissions or observations received in accordance with paragraph (b), the manager of the planning authority may, subject to, and in accordance with, the provisions of the Planning and Development Act, 2000 (apart from the amendments of them effected by this section), decide to grant the permission, with or without conditions, or to refuse the permission.

(*d*) Section 34(6) of the Planning and Development Act, 2000, shall not apply to applications for permission referred to in *paragraph (a)*.

(*e*) Notwithstanding section 34(8) of the Planning and Development Act, 2000, where a notice referred to in *paragraph (a)* is published in relation to an application for permission for development, the manager of the planning authority concerned shall make his or her decision in relation to the application within the period of 8 weeks beginning on the day on which the notice is first published.

...

Editorial Notes:

E173 Power pursuant to subs. (4A)(b) exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

E174 In subs. (10), the replacement of "manager" by "chief executive" (above) is duplicated (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. no. 50, S.I. No. 436 of 2018.

E175 Approving a proposal of the chief executive to grant permission for the development of land which would contravene materially the development plan or local area plan under section is a reserved function of local authorities or municipal district members as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 2 ref. 11 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 21(3), (4) and sch. 3, S.I. No. 214 of 2014.

E176 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E177 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E178 Previous affecting provision: subs. (5) amended (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 8(2), S.I. No. 525 of 2006; subs. (5) substituted (17.12.2021) as per F-note above.

E179 Previous affecting provision: subs. (7) amended (1.01.2002) by *Local Government Act 2001* (37/2001), s. 5(3) and sch. 4, S.I. No. 588 of 2001; deleted as per F-note above.

E180 Previous affecting provision: subs. (7)(c) amended (1.01.2002) by *Local Government Act 2001* (37/2001), s. 5(3) and sch. 4, S.I. No. 588 of 2001; deleted as per F-note above.

F355[Interpretation - *sections 34B, 34C, 37R* and *37S*

34A.—(1) Section 2 (other than section 2 (3) (b)) of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall apply to the interpretation of this section and *sections 34B, 34C, 37R* and *37S*, *paragraph 20C* of the *Fourth Schedule*, and *paragraph 17A* of the *Fifth Schedule*, as such section 2 applies to the interpretation of that Act.

(2) In *sections 34B* and *34C*, "noise mitigation measures" includes land-use planning and management measures, measures to reduce noise at source and noise abatement operational measures (other than operating restrictions) that do not restrict the capacity of the airport.**]**

Annotations

Amendments:

F355 Inserted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 11, S.I. No. 403 of 2019.

F356**[**Supplementary provisions relating to proposed development at Dublin Airport

34B.—(1)(*a*)(i) Where the planning authority receives an application under *section 34* for development at the airport, it shall, as soon as is practicable after such receipt—

(I) give a copy of the application to the competent authority, and

(II) enter into consultations with the competent authority for the purposes of giving such assistance as the competent authority may require in order to enable the competent authority, within 4 weeks of the competent authority receiving such copy, to either form the opinion referred to in *subparagraph (iii)* or to conclude that it is not of that opinion.

(ii) The competent authority shall, where it concludes that it is not of the opinion referred to in *subparagraph (iii)*, as soon as is practicable after it so concludes, give notice in writing of that conclusion to the planning authority.

(iii) The following provisions of this section apply where the competent authority, in considering the application, forms the opinion that the development—

(I) contains a proposal requiring the assessment for the need for a noise-related action, or

(II) indicates that a new operating restriction may be required.

(*b*) Subsections (1) to (3) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to the performance by the competent authority of its functions under this section.

(*c*) Subsections (4) to (7) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to measures and restrictions referred to in this section as those subsections apply to measures and restrictions referred to in those subsections.

(2) The competent authority shall, as soon as is practicable after it forms the opinion referred to in *subsection (1)(a)(iii)*, give notice in writing to the planning authority of that opinion and the planning authority shall, as soon as is practicable after receiving the notice, consult with the competent authority in relation to, as appropriate, one or more of the following matters:

(*a*) any aspect of the development relating to noise that may arise in the operation of the development if it is carried out (including any such aspect relating to appropriate assessment or environmental impact assessment);

(*b*) any noise problem that would arise from the carrying out of the development as proposed, taking account of any noise mitigation measures or operating restrictions (if any), or any combination thereof, proposed in the application and any further information subsequently sought by the relevant authority

from the applicant in relation to those matters and given by the applicant to the planning authority and the competent authority;

(*c*) where a noise problem would arise from the carrying out of the development as proposed—

(i) any information on the application of the Balanced Approach to the consideration of the inclusion of noise mitigation measures or operating restrictions (if any), or any combination thereof, in the application and any further information subsequently sought by the relevant authority from the applicant in relation to those matters and given by the applicant to the planning authority and the competent authority,

(ii) whether noise mitigation measures or operating restrictions (if any), or any combination thereof, not proposed in the application are or is required and any information or plans subsequently sought by the relevant authority from the applicant in relation to such measures or restrictions, or combination thereof, as the case may be, and given by the applicant to the planning authority and the competent authority,

(iii) any information subsequently sought by the relevant authority from the applicant in relation to the application of the Balanced Approach to the noise mitigation measures or operating restrictions, or combination thereof, referred to in *subparagraph (ii)* and given by the applicant to the planning authority and the competent authority, and

(iv) subject to *subsection (4)*, whether permission could, in so far as noise-related issues are concerned, be granted for the development subject to conditions specified by the competent authority relating to noise mitigation measures or operating restrictions (if any), or any combination thereof.

(3) (*a*) In *subsection (2)* and *paragraph (b)*, 'relevant authority' means the planning authority or the competent authority.

(*b*) Where the applicant gives any information or plans referred to in *subsection (2)* to one relevant authority, the applicant shall, on the same date (or as soon as is practicable thereafter), give copies of such information or plans, as the case may be, to the other relevant authority.

(4) Notwithstanding any other provision of this Act, the planning authority shall neither decide to refuse permission for the development nor decide to grant such permission subject to or without conditions until it receives a notice under *subsection (5)* or *(14)(a)(ii)* from the competent authority in respect of the application.

(5) (*a*) *Paragraph (b)* applies where the competent authority is satisfied that permission should not be granted for the development for the reason that inadequate provision has been made in the application (or in any plans or further information, or both, subsequently given by the applicant to the planning authority and the competent authority) to deal with the noise problem that would arise from the carrying out of the development as proposed.

(*b*) The competent authority shall, as soon as is practicable after it is so satisfied, give a notice in writing to the planning authority, stating the competent authority's reasons why it is so satisfied, and directing the planning authority to refuse permission for the development.

(*c*) The planning authority shall comply with a direction given to it under paragraph (b) as soon as is practicable after it receives the notice concerned referred to in that paragraph and shall incorporate such notice in its decision to refuse permission for the development.

(*d*) Notwithstanding that a refusal referred to in *paragraph (c)* arises from a direction given by the competent authority to the planning authority, such

refusal and the reasons for it shall, for the purposes of *section 37* as read with *section 37S*, be treated as the decision, or part of the decision, as appropriate, of the planning authority on the application, and the other provisions of this Act shall be construed accordingly.

(6) *Subsection (7)* applies where the competent authority has applied the Balanced Approach to the noise problem referred to in *subsection (2)* and, in accordance with the Balanced Approach, assessed the noise mitigation measures or operating restrictions (if any), or any combination thereof, that may be required to be introduced as part of the development, and whether or not such measures or restrictions, or combination thereof, as the case may be, are or is in addition to, or in replacement of, one or more—

(*a*) noise mitigation measures or operating restrictions (if any), or any combination thereof, proposed in the application, or

(*b*) existing noise mitigation measures or operating restrictions (if any), or any combination thereof.

(7) The competent authority shall, as soon as it is practicable for it to do so, by notice in writing given to the applicant and copied to the planning authority—

(*a*) inform the applicant of the noise mitigation measures or operating restrictions (if any), or combination thereof, proposed to be required in a decision (if any) to grant permission for the development and its reasons for so proposing, and

(*b*) stating that the applicant may, within the period specified in the notice (being a period of not less than 4 weeks), make submissions or observations on such noise mitigation measures or operating restrictions (if any), or combination thereof, as the case may be, and on such reasons, including counterproposals, by notice in writing given to the competent authority and copied to the planning authority.

(8) The competent authority shall apply the Balanced Approach to its consideration of the counterproposals (if any) given to it by the applicant before the expiration of the period specified in the notice under *subsection (7)* concerned.

(9) Subject to *subsection (10)*, the competent authority shall, as soon as is practicable after it complies with *subsection (7)* and, if applicable, *subsection (8)* and (at its discretion) having consulted with the applicant or any other person that it wishes to, in accordance with the Aircraft Noise Regulation and the Aircraft Noise (Dublin Airport) Regulation Act 2019, make, and publish on its website, a draft regulatory decision—

(i) on the noise mitigation measures or operating restrictions (if any), or combination thereof, that it proposes to direct the planning authority to include as conditions of the planning authority's decision (if any) to grant permission for the development, or

(ii) that no such conditions are required to be included in the planning authority's decision (if any) to grant permission for the development.

(10) The competent authority shall prepare, and publish on its website on the same date as the draft regulatory decision, a report in relation thereto which shall state the competent authority's reasons for such decision and include therein, as appropriate:

(*a*) a summary of the data examined (including any data relating to appropriate assessment or environmental impact assessment);

(*b*) the noise abatement objective;

(*c*) the measures considered to address any noise problem;

(*d*) an evaluation of the cost-effectiveness of the various measures considered;

(*e*) the application of the Balanced Approach;

(*f*) the identification of additional or alternative measures (other than those proposed in the draft regulatory decision) that have been considered;

(*g*) particulars of any proposed noise mitigation measures and operating restrictions (if any) to be introduced;

(*h*) if applicable, the reasons for the proposed introduction of any noise mitigation measures and operating restrictions (if any);

(*i*) the relevant technical information in relation to any proposed noise mitigation measures and operating restrictions (if any) to be introduced;

(*j*) a non-technical summary of such of the matters concerned referred to in *paragraphs (a)* to *(i)*.

(11) The competent authority shall, as soon as is practicable after it complies with *subsections (9)* and *(10)*, publish, in a national newspaper, a notice—

(*a*) stating that the competent authority has—

(i) made a draft regulatory decision under *subsection (9)*, and

(ii) prepared the related report under *subsection (10)*,

(*b*) stating particulars of how persons may view or otherwise have access to the draft regulatory decision and related report (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the competent authority during office hours),

(*c*) inviting persons to make submissions or observations in writing (and to provide a return address with such submissions or observations) in the specified form (if any) on the draft regulatory decision or related report, or both, before the expiration of 14 weeks beginning on the date of publication of the notice in the national newspaper, and

(*d*) stating particulars of the addresses (which shall include an electronic address) to which such submissions or observations may be sent.

(12) (*a*) The competent authority shall, as soon as is practicable after it complies with *subsections (9)* and *(10)*, give each of the applicant, the airport authority and the planning authority copies of the draft regulatory decision that it made under *subsection (9)* and the related report that it prepared under *subsection (10)*.

(*b*) For the avoidance of doubt, it is hereby declared that the applicant, the airport authority and the planning authority may each make submissions or observations referred to in *subsection (11)(c)* in accordance with that subsection.

(13) The competent authority shall, as soon as is practicable after the expiration of the 14 weeks referred to in *subsection (11)(c)* and having regard to the submissions and observations (if any) referred to in that subsection received by it within such 14 weeks—

(*a*) make a regulatory decision consisting of the adoption by it of the draft regulatory decision made by it under *subsection (9)* without any amendments or with such amendments as it considers appropriate, and

(*b*) revise the related report prepared under *subsection (11)* to take into account such submissions and observations (if any) and such adoption and to state the competent authority's reasons for such regulatory decision.

(14) The competent authority shall—

(*a*) as soon as is practicable after it complies with *subsection (13)*—

(i) publish on its website the regulatory decision it has adopted under *subsection (13)(a)* and the related report it has revised under *subsection (13)(b)*, and

(ii) send a copy of such decision, together with a copy of the notice referred to in *paragraph (b)* (whether before or after the notice is published), to the applicant, the airport authority, the planning authority, the elected members of FCC, the elected members of Dáil Éireann in whose constituencies the airport is located and the return addresses of the persons who have made submissions or observations referred to in *subsection (11)(c)* in accordance with that subsection on the draft regulatory decision or related report concerned,

and

(*b*) as soon as is practicable after it complies with *paragraph (a)(i)*, publish, in a national newspaper, a notice stating—

(i) that the competent authority has adopted a regulatory decision under *subsection (13)(a)*,

(ii) that the competent authority has revised the related report under *subsection (13)(b)*,

(iii) particulars of how persons may view or otherwise have access to such regulatory decision and such related report (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the competent authority during office hours), and

(iv) that a right of appeal to the Board against the regulatory decision exists under *section 37* as read with *section 37R*.

(15) (*a*) The planning authority shall incorporate the competent authority's regulatory decision under *subsection (13)(a)*, the subject of the notice given to the planning authority under *subsection (14)(a)(ii)*, and the competent authority's reasons for such decision in the planning authority's decision on the application and shall do so regardless of whether the planning authority's decision is to refuse permission for the development or to grant permission for the development.

(*b*) Notwithstanding that a regulatory decision referred to in *paragraph (a)* is made by the competent authority, such decision and the reasons for it shall, for the purposes of *section 37* as read with *section 37R*, be treated as the decision, or part of the decision, as appropriate, of the planning authority on the application, and the other provisions of this Act shall be construed accordingly.

(*c*) The planning authority shall make its decision on the application as soon as is practicable after it receives, pursuant to *subsection (14)(a)(ii)*, a copy of the competent authority's regulatory decision under *subsection (13)(a)*.

(16) Subject to *subsection (17)*, a noise mitigation measure to be introduced by virtue of a regulatory decision adopted under *subsection (13)(a)* shall—

(*a*) if no appeal under *section 37* as read with *section 37R* is made, within the appropriate period referred to in *section 37(1)*, against the planning authority's decision on the application, come into effect on the expiration of such appropriate period, and

(*b*) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(17) The competent authority may, by notice published on its website on the same date as the regulatory decision adopted under *subsection (13)(a)* is, pursuant to *subsection (14)(a)*, also so published—

(*a*) authorise, for reasons stated in the notice, a lead in time for the coming into effect of a noise mitigation measure to be introduced by virtue of that decision, and

(*b*) specify the date, or the occurrence of the event, on which such noise mitigation measure shall come into effect.

(18) Subject to section 26 (b) of the Aircraft Noise (Dublin Airport) Regulation Act 2019, the competent authority shall, in relation to an operating restriction to be introduced by virtue of a regulatory decision adopted under *subsection (13)(a)*, take such steps as it considers appropriate to cause Article 8 of the Aircraft Noise Regulation to be complied with as soon as is practicable after it applies to such restriction.

(19) Subject to *subsection (20)*, an operating restriction referred to in *subsection (18)* shall—

(*a*) come into effect on the day immediately following the day on which the operation of Article 8 of the Aircraft Noise Regulation ceases to further prevent the coming into effect of the operating restriction, and

(*b*) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(20) The competent authority may, by notice published on its website at any time before the day first-mentioned in *subsection (19)(a)*—

(*a*) authorise, for reasons stated in the notice, a lead in time for the coming into effect of the operating restriction referred to in *subsection (18)*, and

(*b*) specify the date, or the occurrence of the event, on which such operating restriction shall come into effect.

(21) *Subsection (6)* of *section 34* shall not apply where the competent authority forms the opinion that a noise problem that would arise from the carrying out of the development as proposed would contravene materially the development plan or local area plan.**]**

Annotations

Amendments:

F356 Inserted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 11, S.I. No. 403 of 2019.

F357[Supplementary provisions relating to operating restriction included in planning permission

34C.—(1) (*a*) The person in whose favour a relevant permission operates may, by virtue of this subsection and notwithstanding any other provision of this Act (including *section 34*), make an application under *section 34* to the planning authority where the application is only for a relevant action to be taken.

(*b*) *Section 34* and the other provisions of this Act shall be read with all necessary modifications to take account of the relevant application.

(*c*) Subsections (4) to (7) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to measures and restrictions referred to in this section as those subsections apply to measures and restrictions referred to in those subsections.

(2) The planning authority shall give the competent authority a copy of the relevant application and consult with the competent authority in relation to, as appropriate, one or more of the following matters:

(*a*) any noise problem that would arise from taking the relevant action as proposed (including any implications that would arise therefrom in relation to appropriate assessment or environmental impact assessment matters) and any further information subsequently sought by the relevant authority from the applicant in relation to such action and given by the applicant to the planning authority and the competent authority;

(*b*) where a noise problem would arise from taking the relevant action as proposed—

(i) any information in the relevant application on the application of the Balanced Approach to the relevant action and any further information or plans subsequently sought by the relevant authority from the applicant in relation to the relevant action or Balanced Approach and given by the applicant to the planning authority and the competent authority,

(ii) whether noise mitigation measures or operating restrictions (if any), or any combination thereof, not proposed in the relevant application are or is required and any information or plans subsequently sought by the relevant authority from the applicant in relation to such measures or restrictions, or combination thereof, as the case may be, and given by the applicant to the planning authority and the competent authority,

(iii) any information subsequently sought by the relevant authority from the applicant in relation to the application of the Balanced Approach to the noise mitigation measures or operating restrictions, or combination thereof, referred to in *subparagraph (ii)* and given by the applicant to the planning authority and the competent authority, and

(iv) subject to *subsection (4)*, whether permission could be granted for the taking of the relevant action subject to conditions specified by the competent authority relating to noise mitigation measures or operating restrictions (if any), or any combination thereof.

(3) (*a*) In *subsection (2)* and *paragraph (b)*, 'relevant authority' means the planning authority or the competent authority.

(*b*) Where the applicant gives any information or plans referred to in *subsection (2)* to one relevant authority, it shall, on the same date (or as soon as is practicable thereafter), give copies of such information or plans, as the case may be, to the other relevant authority.

(4) Where this section applies and notwithstanding any other provision of this Act, the planning authority shall neither decide to refuse the relevant application nor grant the relevant application subject to or without conditions until it receives a notice under *subsection (5)* or *(15)(a)(ii)* from the competent authority in respect of the relevant application.

(5) (*a*) *Paragraph (b)* applies where the competent authority is satisfied that permission should not be granted for the relevant application for the reason that inadequate provision has been made in the application (or in any plans or further information, or both, subsequently given by the applicant to the planning authority and the competent authority) to deal with the noise problem that would arise from the carrying out of the relevant action as proposed.

(*b*) The competent authority shall, as soon as is practicable after it is so satisfied, give a notice in writing to the planning authority, stating the competent authority's reasons why it is so satisfied, and directing the planning authority to refuse the relevant application.

(*c*) The planning authority shall comply with a direction given to it under *paragraph (b)* as soon as is practicable after it receives the notice referred to in that paragraph and shall incorporate such notice in its decision to refuse the relevant application.

(*d*) Notwithstanding that a refusal referred to in *paragraph (c)* arises from a direction given by the competent authority to the planning authority, such refusal and the reasons for it shall, for the purposes of *section 37* as read with *section 37S*, be treated as the decision of the planning authority on the relevant application, and the other provisions of this Act shall be construed accordingly.

(6) The planning authority shall, in determining the relevant application, consider whether taking the relevant action requires the reconsideration of any other aspect of the relevant permission and, after having consulted with the competent authority, may, in accordance with regulations made under *section 33*, request and consider further information from the applicant in that regard.

(7) *Subsection (8)* applies where the competent authority has applied the Balanced Approach to the noise problem referred to in *subsection (2)* and, in accordance with the Balanced Approach, assessed the noise mitigation measures or operating restrictions (if any), or any combination thereof, that may be required to be introduced, and whether or not such measures or restrictions, or combination thereof, as the case may be, are or is in addition to, or in replacement of, one or more—

(*a*) noise mitigation measures or operating restrictions (if any), or any combination thereof, proposed in the relevant action, or

(*b*) existing noise mitigation measures or operating restrictions, or combination thereof.

(8) The competent authority shall, as soon as it is practicable for it to do so, by notice in writing given to the applicant and copied to the planning authority—

(*a*) inform the applicant of the noise mitigation measures or operating restrictions (if any), or combination thereof, proposed to be required in a decision (if any) to grant the relevant application and its reasons for so proposing, and

(*b*) stating that the applicant may, within the period specified in the notice (being a period of not less than 4 weeks), make submissions or observations on such noise mitigation measures or operating restrictions (if any), or combination thereof, as the case may be, and on such reasons, including counterproposals, by notice in writing given to the competent authority and copied to the planning authority.

(9) The competent authority shall apply the Balanced Approach to its consideration of the counterproposals (if any) given to it by the applicant before the expiration of the period specified in the notice under *subsection (8)* concerned.

(10) Subject to *subsection (11)*, the competent authority shall, as soon as is practicable after it complies with *subsection (8)* and, if applicable, *subsection (9)* and

(at its discretion) having consulted with the applicant or any other person that it wishes to, in accordance with the Aircraft Noise Regulation and the Aircraft Noise (Dublin Airport) Regulation Act 2019, make, and publish on its website, a draft regulatory decision—

(i) on the noise mitigation measures or operating restrictions (if any), or combination thereof, that it proposes to direct the planning authority to include as conditions of the planning authority's decision (if any) to grant the relevant application, or

(ii) that no such conditions are required to be included in the planning authority's decision (if any) to grant the relevant application.

(11) The competent authority shall prepare, and publish on its website on the same date as the draft regulatory decision, a report in relation thereto which shall state the planning authority's reasons for such decision and include therein, as appropriate:

(*a*) a summary of the data examined (including any data relating to appropriate assessment or environmental impact assessment);

(*b*) the noise abatement objective;

(*c*) the measures considered to address any noise problem;

(*d*) an evaluation of the cost-effectiveness of the various measures considered;

(*e*) the application of the Balanced Approach;

(*f*) the identification of additional or alternative measures (other than those proposed in the draft regulatory decision) that have been considered;

(*g*) particulars of any proposed noise mitigation measures and operating restrictions (if any);

(*h*) if applicable, the reasons for the proposed introduction of any noise mitigation measures and operating restrictions (if any);

(*i*) the relevant technical information in relation to any proposed noise mitigation measures and operating restrictions (if any);

(*j*) a non-technical summary of such of the matters concerned referred to in *paragraphs (a)* to *(i)*.

(12) The competent authority shall, as soon as is practicable after it complies with *subsections (10)* and *(11)*, publish, in a national newspaper, a notice—

(*a*) stating that the competent authority has—

(i) made a draft regulatory decision under *subsection (10)*, and

(ii) prepared the related report under *subsection (11)*,

(*b*) stating particulars of how persons may view or otherwise have access to the draft regulatory decision and related report (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the competent authority during office hours),

(*c*) inviting persons to make submissions or observations in writing (and to provide a return address with such submissions or observations) in the specified form (if any) on the draft regulatory decision or related report, or both, before the expiration of 14 weeks beginning on the date of publication of the notice in the national newspaper, and

(*d*) stating particulars of the addresses (which shall include an electronic address) to which such submissions or observations may be sent.

(13) (*a*) The competent authority shall, as soon as is practicable after it complies with *subsections (10)* and *(11)*, give each of the applicant, the airport authority and the planning authority copies of the draft regulatory decision that it made under *subsection (10)* and the related report that it prepared under *subsection (11)*.

(*b*) For the avoidance of doubt, it is hereby declared that the applicant, the airport authority and the planning authority may each make submissions or observations referred to in *subsection (12)(c)* in accordance with that subsection.

(14) The competent authority shall, as soon as is practicable after the expiration of the 14 weeks referred to in *subsection (12)(c)* and having regard to the submissions and observations (if any) referred to in that subsection received by it within such 14 weeks—

(*a*) make a regulatory decision consisting of the adoption by it of the draft regulatory decision made by it under *subsection (10)* without any amendments or with such amendments as it considers appropriate, and

(*b*) revise the related report prepared under *subsection (11)* to take into account such submissions and observations (if any) and such adoption and to state the competent authority's reasons for such regulatory decision.

(15) The competent authority shall—

(*a*) as soon as is practicable after it complies with *subsection (14)*—

(i) publish on its website the regulatory decision it has adopted under *subsection (14)(a)* and the related report it has revised under *subsection (14)(b)*, and

(ii) send a copy of such decision, together with a copy of the notice referred to in paragraph (b) (whether before or after the notice is published), to the applicant, the airport authority, the planning authority, the elected members of FCC, the elected members of Dáil Éireann in whose constituencies the airport is located and the return addresses of the persons who have made submissions or observations referred to in *subsection (12)(c)* in accordance with that subsection on the draft regulatory decision or related report concerned,

and

(*b*) as soon as is practicable after it complies with *paragraph (a)(i)*, publish, in a national newspaper, a notice stating—

(i) that the competent authority has adopted a regulatory decision under *subsection (14)(a)*,

(ii) that the competent authority has revised the related report under *subsection (14)(b)*,

(iii) particulars of how persons may view or otherwise have access to such regulatory decision and such related report (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the competent authority during office hours), and

(iv) that a right to appeal to the Board against the regulatory decision exists under *section 37* as read with *section 37R*.

(16) (*a*) The planning authority shall—

(i) incorporate the competent authority's regulatory decision under *subsection (14)(a)*, the subject of the notice given to the planning authority under *subsection (15)(a)(ii)*, and the competent authority's reasons for such decision in the planning authority's decision on the application and shall do so regardless of whether the planning authority's decision is to refuse the relevant application or to grant the relevant application, and

(ii) notwithstanding any other provision of this Act, if necessary, revoke, revoke and replace, or amend the terms of, a condition of the relevant permission in order to make the relevant permission compatible with that regulatory decision.

(*b*) Notwithstanding that a regulatory decision referred to in *paragraph (a)* is a decision made by the competent authority, such decision and the reasons for it shall, for the purposes of *section 37* as read with *section 37R*, be treated as the decision of the planning authority on the relevant application, and the other provisions of this Act shall be construed accordingly.

(*c*) The planning authority shall make its decision on the application as soon as is practicable after it receives, pursuant to *subsection (15)(a)(ii)*, a copy of the competent authority's regulatory decision under *subsection (14)(a)*.

(17) Subject to *subsection (18)*, a noise mitigation measure to be introduced by virtue of a regulatory decision adopted under *subsection (14)(a)* shall—

(*a*) if no appeal under *section 37* as read with *section 37R* is made, within the appropriate period referred to in *section 37(1)*, against the planning authority's decision on the application, come into effect on the expiration of such appropriate period, and

(*b*) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(18) The competent authority may, by notice published on its website on the same date as the regulatory decision adopted under *subsection (14)(a)* is, pursuant to *subsection (15)(a)*, also so published—

(*a*) authorise, for reasons stated in the notice, a lead in time for the coming into effect of a noise mitigation measure to be introduced by virtue of that decision, and

(*b*) specify the date, or the occurrence of the event, on which such noise mitigation measure shall come into effect.

(19) Subject to section 26 (b) of the Aircraft Noise (Dublin Airport) Regulation Act 2019, the competent authority shall, in relation to an operating restriction to be introduced by virtue of a regulatory decision adopted under *subsection (14)(a)*, take such steps as it considers appropriate to cause Article 8 of the Aircraft Noise Regulation to be complied with as soon as is practicable after it applies to such restriction.

(20) Subject to *subsection (21)*, an operating restriction referred to in *subsection (19)* shall—

(*a*) come into effect on the day immediately following the day on which the operation of Article 8 of the Aircraft Noise Regulation ceases to further prevent the coming into effect of the operating restriction, and

(*b*) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(21) The competent authority may, by notice published on its website at any time before the day first-mentioned in *subsection (20)(a)*—

(*a*) authorise, for reasons stated in the notice, a lead in time for the coming into effect of the operating restriction referred to in *subsection (19)*, and

(*b*) specify the date, or the occurrence of the event, on which such operating restriction shall come into effect.

(22) In this Part, health aspects shall be assessed in accordance with Environmental Noise Directive and the European Communities (Environmental Noise) Regulations 2018 (S.I. No. 549 of 2018).

(23) In this section—

"relevant action", in relation to a relevant operating restriction the subject of a relevant application, means—

(*a*) to revoke the operating restriction,

(*b*) to amend the terms of the operating restriction in the manner specified in the application,

(*c*) to replace the operating restriction with the alternative operating restriction specified in the application,

(*d*) to take an action referred to in *paragraph (a)*, *(b)* or *(c)* together with introducing new noise mitigation measures or revoking, revoking and replacing, or amending the terms of, existing noise mitigation measures, or a combination thereof,

(*e*) if the relevant application relates to 2 or more relevant operating restrictions, to take any combination of any of the actions referred to in *paragraphs (a)* to *(d)*, or

(*f*) to take an action referred to in *paragraph (a)*, *(b)*, *(c)*, *(d)* or *(e)* together with revoking, revoking and replacing, or amending the terms of, a condition of the relevant permission;

"relevant application" means an application referred to in *subsection (1)(a)*;

"relevant operating restriction", in relation to a relevant permission, means an operating restriction included in that permission;

"relevant permission" means a permission granted under *section 34*—

(*a*) for development at the airport, and

(*b*) that includes an operating restriction.**]**

Annotations

Amendments:

F357 Inserted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 11, S.I. No. 403 of 2019.

Refusal of planning permission for past failures to comply.

F358**[35.**—(1) Where, having regard to—

(*a*) any information furnished pursuant to regulations made under *section 33(2)(l)*,

(*b*) any information available to the planning authority concerning development carried out by a person to whom this section applies pursuant to a permission (in this section referred to as a "previous permission") granted to the applicant or to any other person under this Part or Part IV of the Act of 1963,

(*c*) any information otherwise available to the planning authority concerning a substantial unauthorised development, or

(*d*) any information concerning a conviction for an offence under this Act,

the planning authority is satisfied that a person to whom this section applies is not in compliance with a previous permission or with a condition to which the previous permission is subject, has carried out a substantial unauthorised development, or has been convicted of an offence under this Act, the authority may form the opinion—

(i) that there is a real and substantial risk that the development in respect of which permission is sought would not be completed in accordance with such permission if granted or with a condition to which such permission if granted would be subject, and

(ii) that accordingly planning permission should not be granted to the applicant concerned in respect of that development. **]**

(2) In forming its opinion under *subsection (1)*, the planning authority shall only consider those failures to comply with any previous permission, or with any condition to which that permission is subject, that are of a substantial nature.

(3) An opinion under this subsection shall not be a decision on an application for permission for the purposes of this Part.

F359**[**F358**[**(4) If the planning authority considers that there are good grounds for its being able to form the opinion under *subsection (1)* in relation to an application for permission in respect of the development concerned and, accordingly, to exercise the power under *subsection (5)* to refuse that permission, it shall serve a notice in writing on the applicant to that effect and that notice shall—

(*a*) specify the non compliance with a previous permission or condition of a previous permission, substantial unauthorised development, or conviction for an offence under this Act, as the case may be, that the authority intends to take into consideration with regard to the proposed exercise of that power, and

(*b*) invite the applicant to make submissions to the authority within a period specified in the notice as to why the applicant considers that the authority should not exercise that power (whether because the applicant contends that the views of the authority in relation to the failure to comply by the applicant or any other person to whom this section applies with any previous permission, or any condition to which it is subject, the carrying out of substantial unauthorised development or conviction for an offence under this Act, as the case may be, are incorrect or that there are not good grounds for forming the opinion under *subsection (1)*).**]**

(5) If the planning authority, having considered any submissions made to it in accordance with a notice under *subsection (4)*, proceeds to form the opinion under *subsection (1)* in relation to the application concerned it shall decide to refuse to grant the permission concerned and notify the applicant accordingly.

(6) The applicant may, within 8 weeks from the receipt of that notification, notwithstanding *sections 50* and *50A*, apply, by motion on notice to the planning authority, to the High Court for an order annulling the planning authority's decision and, on the hearing of such application, the High Court may, as it considers appropriate, confirm the decision of the authority, annul the decision and direct the authority to consider the applicant's application for planning permission without reference to the provisions of this section or make such other order as it thinks fit.

(6A) If, in pursuance of *subsection (6)*, the High Court directs the planning authority to consider the applicant's application for planning permission without reference to the provisions of this section, the planning authority shall make its decision on the application within the period of 8 weeks from the date the order of the High Court

in the matter is perfected but this subsection is subject to the provisions of *section 34(8)* as applied to the foregoing case by *subsection (6B)*.

(6B) For the purposes of the foregoing case the provisions of *section 34(8)* shall apply with the following modifications:

(*a*) in *paragraph (a)* of *section 34(8)*, after "paragraphs (*b*), (*c*), (*d*) and (*e*)", there shall be inserted "and section 35(6A)";

(*b*) for the reference in *paragraph (b)* of *section 34(8)* to "8 weeks of the receipt of a planning application" there shall be substituted "8 weeks of the date the order of the High Court in the matter is perfected";

(*c*) in paragraph (*f*) of *section 34(8)*, after "paragraph (*a*), (*b*), (*c*), (*d*) or (*e*)", there shall be inserted ", the period specified in section 35(6A) or, as the case may be, the period specified in paragraph (*b*), (*c*), (*d*) or (*e*) as that paragraph is applied by virtue of section 35(6B)"; and

(*d*) any other necessary modifications.

(6C) No appeal shall lie to the Board from a decision of a planning authority to refuse to grant planning permission under *subsection (5)*.**]**

(7) In this section, "a person to whom this section applies" means—

(*a*) the applicant for the permission concerned,

(*b*) any information available to the planning authority concerning development carried out by a person to whom this section applies pursuant to a permission (in this section referred to as a "previous permission") granted to the applicant or to any other person under F360**[**this Part or *Chapter III* of *Part XXI*,**]** or Part IV of the Act of 1963,

F361**[**(*ba*) a registered society under the Industrial and Provident Societies Acts 1893 to 2014 that—

(i) carried out a development pursuant to a previous permission,

(ii) carried out a substantial unauthorised development, or

(iii) has been convicted of an offence under this Act,

or, during any period to which *subparagraph (i)* or *(ii)* relates or to which any conviction under *subparagraph (iii)* relates, the registered society was, during that period, controlled by the applicant—

(I) where, pursuant to section 15 of the Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Act 2014, 'control' has the same meaning as in section 220(5) of the Companies Act 2014, or

(II) as a shadow director within the meaning of section 2(1) of the Companies Act 2014,**]**

(*c*) in the case where the applicant for permission is a company—

(i) the company concerned is related to a company (within the meaning of section 140(5) of the Companies Act, 1990) which F358**[**carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act,**]** or

(ii) the company concerned is under the same control as a company which carried out a development referred to in *subsection (1)(b)*, where "control" has the same meaning as in section 26(3) of the Companies Act, 1990,

or

(*d*) a company which F358**[**carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act,**]** which company is controlled by the applicant—

(i) where "control" has the same meaning as in section 26(3) of the Companies Act, 1990, or

(ii) as a shadow director within the meaning of section 27(1) of the Companies Act, 1990.

Annotations

Amendments:

F358 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 24(a), (b), S.I. No. 477 of 2010.

F359 Substituted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 9, S.I. No. 525 of 2006.

F360 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 12, S.I. No. 488 of 2022.

F361 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 24, S.I. No. 436 of 2018.

Editorial Notes:

E181 Previous affecting provision: subs. (1)(b) amended (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 24, S.I. No. 477 of 2010; substituted (1.10.2022) as per F-note above.

E182 Previous affecting provision: subs. (4) inserted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 9, S.I. No. 525 of 2006, substituted as per F-note above.

Outline permission.

36.—(1) An application under *section 34* may be made to a planning authority in accordance with the permission regulations for outline permission for the development of land.

(2) Where outline permission is granted under *section 34*, that permission shall not operate to authorise the carrying out of any development to which the outline permission relates until a subsequent permission has been granted under that section.

(3) (*a*) Where outline permission has been granted by a planning authority, any subsequent application for permission must be made not later than 3 years beginning on the date of the grant of outline permission, or such longer period, not exceeding 5 years, as may be specified by the planning authority.

(*b*) The outline permission shall cease to have effect at the end of the period referred to in *paragraph (a)* unless the subsequent application for permission is made within that period.

(*c*) *Sections 40, 41* and *42* shall not apply to the grant of an outline permission.

(4) Where an application for permission is made to a planning authority consequent on the grant of outline permission, the planning authority shall not refuse to grant permission on the basis of any matter which had been decided in the grant of outline permission, provided that the authority is satisfied that the proposed development is within the terms of the outline permission.

(5) No appeal may be brought to the Board under *section 37* against a decision of a planning authority to grant permission consequent on the grant of outline permission in respect of any aspect of the proposed development which was decided in the grant of outline permission.

(6) In this section, "outline permission" means permission granted in principle under *section 34* for the development of land subject to a subsequent detailed application for permission under that section.

Appeal to Board.

37.—(1) (*a*) An applicant for permission and any person who made submissions or observations in writing in relation to the planning application to the planning authority in accordance with the permission regulations and on payment of the appropriate fee, may, at any time before the expiration of the appropriate period, appeal to the Board against a decision of a planning authority under *section 34*.

(*b*) Subject to *paragraphs (c)* and *(d)*, where an appeal is brought against a decision of a planning authority and is not withdrawn, the Board shall determine the application as if it had been made to the Board in the first instance and the decision of the Board shall operate to annul the decision of the planning authority as from the time when it was given; and *subsections (1)*, *(2)*, F362**[***(3), (4),* and *(4A)***]** of *section 34* shall apply, subject to any necessary modifications, in relation to the determination of an application by the Board on appeal under this subsection as they apply in relation to the determination under that section of an application by a planning authority.

(*c*) *Paragraph (b)* shall be construed and have effect subject to *sections 133, 138* and *139*.

(*d*) In *paragraph (a)* and *subsection (6)*, "the appropriate period" means the period of four weeks beginning on the day of the decision of the planning authority.

(2) (*a*) Subject to *paragraph (b)*, the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

(*b*) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that—

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to F363**[**regional spatial and economic strategy**]** for the area, guidelines under *section 28*, policy directives under *section 29*, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

(*c*) Where the Board grants a permission in accordance with *paragraph (b)*, the Board shall, in addition to the requirements of *section 34(10)*, indicate in its decision the main reasons and considerations for contravening materially the development plan.

(3) Subject to *section 141(2)*, the provisions of *subsection (1)* authorising appeals to be made before the expiration of the appropriate period within the meaning of that subsection shall be construed as including a provision that an appeal received by the Board after the expiration of the appropriate period shall be invalid as not having been made in time.

(4) (*a*) Notwithstanding *subsection (1)*, where in accordance with the permission regulations any prescribed body is entitled to be given notice of any planning application, that body shall be entitled to appeal to the Board before the expiration of the appropriate period within the meaning of that subsection where the body had not been sent notice in accordance with the regulations.

(*b*) The Board may dismiss any appeal made under *paragraph (a)* where it considers the body concerned was not entitled to be sent notice of the planning application in accordance with the permission regulations.

F364**[**(*c*) Notwithstanding *subsection (1)*, a body or organisation referred to in *paragraph (d)* shall be entitled to appeal to the Board against a decision by a planning authority on an application for development (being development in respect of which an F365**[**environmental impact assessment report**]** was required to be submitted to the planning authority in accordance with *section 172*) before the expiration of the appropriate period within the meaning of that subsection.

(*d*) The body or organisation mentioned in *paragraph (c)* is a body or organisation (not being a State authority, a public authority or a governmental body or agency)—

(i) the aims or objectives of which relate to the promotion of environmental protection,

(ii) which has, during the period of 12 months preceding the making of the appeal, pursued those aims or objectives, and

(iii) which satisfies such additional requirements (if any) as are prescribed under *paragraph (e).*

(*e*) The Minister may prescribe additional requirements which a body or organisation of the foregoing kind must satisfy in order to make an appeal under *paragraph (c)*, being requirements of a general nature and for the purposes of promoting transparency and accountability in the operation of such organisations, including requirements—

(i) in relation to its membership,

(ii) that the pursuit of its aims or objectives be otherwise than for profit,

(iii) in relation to the possession of a specified legal personality and the possession of a constitution or rules,

(iv) that the area of environmental protection to which its aims or objectives relate is relevant to the class of matter into which the decision, the subject of the appeal, falls.

(*f*) The Board may dismiss any appeal made under *paragraph (c)* where it considers that the body or organisation concerned does not satisfy the requirements of *paragraph (d)(i)*, *(ii)* or *(iii)*.**]**

(5) (*a*) No application for permission for the same development or for development of the same description as an application for permission for development which is the subject of an appeal to the Board under this section shall be made before—

(i) the Board has made its decision on the appeal,

(ii) the appeal is withdrawn, or

(iii) the appeal is dismissed by the Board pursuant to *section 133* or *138*.

(*b*) Where an application for permission referred to in *paragraph (a)* is made to a planning authority, the planning authority shall notify the applicant that the application cannot be considered by the planning authority and return the application and any other information submitted with the application in accordance with the permission regulations, and any fee paid.

(*c*) A dispute as to whether an application for permission is for the same development or is for development of the same description as an application for permission which is the subject of an appeal to the Board may be referred to the Board for determination.

(6) (*a*) Notwithstanding *subsection (1)(a)*, a person who has an interest in land adjoining land F366**[**in respect of which a decision to grant permission has been made**]** may, within the appropriate period and on payment of the appropriate fee, apply to the Board for leave to appeal against a decision of the planning authority under *section 34*.

(*b*) An application under *paragraph (a)* shall state the name and address of the person making the application, the grounds upon which the application is made, and a description of the person's interest in the land.

(*c*) The Board shall, within one week from the receipt of an application under *paragraph (a)*, require, by notice in writing, the planning authority concerned to submit to the Board copies of the materials referred to in *subparagraph (i)* of *section 128(a)*, the report referred to in *subparagraph (ii)* of that section, and the decision and notification referred to in *subparagraph (iii)* of that section and the planning authority shall comply with such requirement within one week from the date of receiving the notice.

(*d*) The Board, or any member or employee of the Board duly authorised by the Board in that behalf, shall, where an applicant under this subsection shows that—

(i) the development F366**[**in respect of which a decision to grant permission has been made**]** will differ materially from the development as set out in the application for permission by reason of conditions imposed by the planning authority to which the grant is subject, and

(ii) that the imposition of such conditions will materially affect the applicant's enjoyment of the land or reduce the value of the land,

within 4 weeks from the receipt of the application grant the applicant leave to appeal against the decision of the planning authority under *subsection (1)*.

(*e*) The Board shall notify in writing the applicant and the planning authority of a decision to grant or refuse an application under this subsection within 3 days from its making.

(*f*) A person to whom leave to appeal has been granted under this subsection shall bring the appeal within 2 weeks from the receipt of the notification under *paragraph (e)*.

(*g*) Notwithstanding *section 34(11)(a)(i)*, where an application is made under this subsection a planning authority shall not make a grant of permission unless the application is refused.

(*h*) Where leave to appeal is granted under this subsection, *subsection (2)* of *section 126* shall apply subject to the modification that the reference therein to 18 weeks shall be construed as a reference to 14 weeks.

(*i*) Where leave to appeal is granted under this section, a planning authority that has complied with *paragraph (c)* shall, in respect of the appeal, be deemed to have complied with the requirements of *section 128*.

F367**[**(7) Subject to the modification referred to in *subsection (8)*, and any other necessary modifications, *subsections (12)* and *(12A)* of *section 34* apply to the consideration by the Board of an application on appeal under *subsection (1)* against a decision of the planning authority.

(8) The modification is that the reference in *section 34(12)* to the planning authority shall be construed as a reference to the Board.

(9) Where the Board refuses under *section 34(12)*, as applied by *subsection (7)*, to consider an application on appeal—

(*a*) it shall give the reasons for the refusal to the person who made the appeal,

(*b*) the application on appeal shall be deemed to have been withdrawn by the applicant for permission, and

(*c*) the refusal shall operate to annul the decision of the planning authority as from the time when that decision was given.**]**

Annotations

Amendments:

F362 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 13(a), S.I. No. 645 of 2023.

F363 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 75, S.I. No. 214 of 2014.

F364 Inserted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 10, S.I. No. 525 of 2006.

F365 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 8, in effect as per reg. 2(1).

F366 Substituted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 10, commenced on enactment.

F367 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 13(b), S.I. No. 645 of 2023.

Modifications (not altering text):

C58 Certain functions transferred to Cork City Council as a result of the Cork City and Council areas boundary alteration (31.01.2019) by *Local Government Act 2019* (1/2019), s. 31, S.I. No. 20 of 2019.

Planning applications and development contribution schemes

31. (1) For the purposes of the Act of 2000 or any instrument under that Act and subject to subsection (2), the county council shall, after the transfer day, be the planning authority in relation to any planning application made before the transfer day in respect of development or proposed development in the relevant area.

(2) (*a*) Subject to *paragraph (b)*, the functions of a planning authority under the Act of 2000 shall, as respects—

(i) a decision under section 34 of that Act, or

(ii) a determination under section 37 of that Act,

made before the transfer day in relation to development or proposed development in the relevant area, be performable from that day by the city council.

(3) Any contribution—

(*a*) paid before the transfer day in accordance with section 49 of the Act of 2000 for the purpose of any public infrastructure service or project in the relevant area, and

(*b*) vested in the city council under Part 2,

shall be expended by the city council for that purpose.

(4) Any development contribution scheme under section 48 of the Act of 2000 or supplementary development contribution scheme under section 49 of that Act made by the city council shall, from the transfer day, apply to the relevant area as it applies to the rest of the functional area of the city council.

...

C59 Application of section restricted and matters to be considered provided (27.09.2007) by *Waste Water Discharge (Authorisation) Regulations 2007* (S.I. No. 684 of 2007), regs. 41(1) and 43(1).

Limitation of Act of 2000

41. (1) Subject to Regulation 42(2), and notwithstanding sections 34, 37, 37E, 175 and 226 of the Act of 2000, or any other provision of that Act, where, under these Regulations, an authorisation has been granted in respect of a waste water discharge from a waste water works—

(*a*) a planning authority, or An Bord Pleanála, where it decides to grant a permission under section 34, 37 or 37E on appeal or otherwise, as the case may be, of the said Act, or

(*b*) An Bord Pleanála, where it decides to grant an approval under section 175 or 226 of the said Act,

in respect of a proposed development that involves a waste water discharge from a waste water works, shall not subject the permission or approval, as the case may be, to conditions which are for the purposes of controlling the waste water discharge.

(2) Where a permission or approval under the Act of 2000 has been subjected to conditions, other than conditions as referred to in paragraph (3)(b), that are for the purposes of controlling discharges from a development as described in paragraph (1), those conditions shall cease to have effect upon the granting of an authorisation under these Regulations in respect of the waste water discharges concerned.

...

Consideration of proposals by planning authorities and An Bord Pleanála

43. (1) Where a planning authority or An Bord Pleanála is considering an application for permission, an appeal or an application for approval under section 34, 37, 37E, 175 or 226 of the Act of 2000 for development being development which involves the disposal of waste water to a waste water works, or is considering such a development under section 179 of the Act of 2000, the planning authority or the Board, as the case may be, shall consider whether the discharge of waste water from the proposed development, in conjunction with existing discharges to the receiving waters, would cause non-compliance with the combined approach or, in situations where there is existing non-compliance, would result in a significant breach of the combined approach.

...

F368**[**Board's jurisdiction in relation to certain planning applications.

37A.—(1) F369**[**Subject to *Part XXI*, an application for permission**]** for any development specified in the Seventh Schedule (inserted by the Planning and Development (Strategic Infrastructure) Act 2006) shall, if the following condition is satisfied, be made to the Board under *section 37E* and not to a planning authority.

(2) That condition is that, following consultations under *section 37B*, the Board serves on the prospective applicant a notice in writing under that section stating that, in the opinion of the Board, the proposed development would, if carried out, fall within one or more of the following paragraphs, namely—

(*a*) the development would be of strategic economic or social importance to the State or the region in which it would be situate,

(*b*) the development would contribute substantially to the fulfilment of any of the objectives in the F370**[**National Planning Framework**]** or in any F371**[**regional spatial and economic strategy**]** in force in respect of the area or areas in which it would be situate,

(*c*) the development would have a significant effect on the area of more than one planning authority.

(3) In *subsection (2)* "prospective applicant" means the person referred to in *section 37B(1)*.**]**

F372**[**(4) (*a*) Notwithstanding *subsection (1)*, where an application for permission is being made in relation to a development specified in the Seventh Schedule that is located in a strategic development zone, the applicant may elect to make the application to the planning authority under *section 34* and regulations made thereunder.

(*b*) *Section 170* shall apply to an application made under *paragraph (a)*.

(*c*) *Section 37B* shall not apply to an application made under *paragraph (a)*.**]**

Annotations

Amendments:

F368 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 3, S.I. No. 684 of 2006.

F369 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 13, S.I. No. 488 of 2022.

F370 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 18(2) and sch. 3 ref. no. 9, S.I. No. 436 of 2018.

F371 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 76, S.I. No. 214 of 2014.

F372 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 25, S.I. No. 477 of 2010.

F373**[**Discussions with Board before making of application.

37B.—(1) A person who proposes to apply for permission for any development specified in the Seventh Schedule shall, before making the application, enter into consultations with the Board in relation to the proposed development.

(2) Such a person is referred to subsequently in this section and in *sections 37C* and *37D* as a "prospective applicant".

(3) In any consultations under *subsection (1)*, the Board may give advice to the prospective applicant regarding the proposed application and, in particular, regarding—

(*a*) whether the proposed development would, if carried out, fall within one or more of *paragraphs (a)* to *(c)* of *section 37A(2)*,

(*b*) the procedures involved in making a planning application and in considering such an application, and

(*c*) what considerations, related to proper planning and sustainable development or the environment, may, in the opinion of the Board, have a bearing on its decision in relation to the application.

(4) Where, following consultations under this section, the Board is of the opinion that the proposed development would, if carried out—

(*a*) fall within one or more of *paragraphs (a)* to *(c)* of *section 37A(2)*, it shall serve a notice in writing on the prospective applicant stating that it is of that opinion, or

(*b*) not fall within any of those paragraphs, it shall serve a notice in writing on the prospective applicant stating that it is of that opinion.

(5) A notice under *subsection (4)(b)* shall include a statement that the prospective applicant's application for permission, if it is proceeded with, must be made to the appropriate planning authority (and such an application, if it is proceeded with, shall be made to that planning authority accordingly).

(6) The Board shall serve a copy of a notice under *subsection (4)(a)* or *(b)*, as the case may be, on the appropriate planning authority.

(7) No application for permission in respect of a development referred to in *subsection (1)* shall be made to a planning authority unless or until a notice is served under *subsection (4)(b)* in relation to the development.

(8) In this section "appropriate planning authority" means whichever planning authority would, but for the enactment of section 3 of the Planning and Development (Strategic Infrastructure) Act 2006, be the appropriate planning authority to deal with the application referred to in *subsection (1)*.**]**

Annotations

Amendments:

F373 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 3, S.I. No. 684 of 2006.

Modifications (not altering text):

C60 Application of section restricted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 18(2)-(4), S.I. No. 403 of 2019.

Amendment of Seventh Schedule to Act of 2000 and related transitional provisions

18. ...

(2) Where, before the relevant day, a person has entered into consultations with the Board under section 37B of the Act of 2000 in relation to a relevant development but no notice under subsection (4)(a) of that section has been served on such person following such consultations, such consultations shall, on and after the relevant day and by virtue of this subsection, cease and, on an after the relevant day, no such notice shall be served on such person.

(3) (*a*) *Paragraphs (b)* and *(c)* apply where, before the relevant day, a notice has been served on a person under section 37B(4)(a) of the Act of 2000 in relation to a relevant development on a person but no related application has been made under section 37E of that Act.

(*b*) On and after the relevant day, the notice that has been served under section 37B(4)(a) of the Act of 2000 shall, by virtue of this subsection, be deemed to be withdrawn by the Board and—

(i) accordingly, the related application may not be made under section 37E of that Act or, if made, the Board shall refuse to deal with it, and

(ii) the Board shall, as soon as is practicable on or after the relevant day, give notice in writing to the person on whom such notice was served that he or she may not make the related application under section 37E of that Act and the reasons for that.

(*c*) This subsection shall not be construed as preventing the related application from being proceeded with by way of being made to the appropriate planning authority.

(4) (*a*) Paragraphs (b) and (c) apply where, before the relevant day, an application has been made under section 37E of the Act of 2000 in relation to a relevant development, but has not yet been determined by, the Board.

(*b*) On and after the relevant day, the notice that has been served under section 37B(4)(a) of the Act of 2000 that gave rise to the application shall, by virtue of this subsection, be deemed to be withdrawn by the Board and—

(i) accordingly, the Board shall refuse to further deal with the application,

(ii) the Board shall return the application to the person who made it together with any fee that accompanied the application, and

(iii) the Board shall, as soon as is practicable on or after the relevant day, give notice in writing to the person who made the application, and any other person who has made submissions or observations on the application, that the Board will no longer deal with the application and the reasons for that.

(*c*) This subsection shall not be construed as preventing the application from being proceeded with by way of being made to the appropriate planning authority.

(5) Sections 146B and 146C of the Act of 2000 shall, on and after the relevant day, cease to apply to a decision of the Board to grant permission under section 37G of that Act to a relevant development.

(6) In this section—

"planning authority" means a local authority within the meaning of section 2 of the Act of 2001;

"relevant day" means the day on which *subsection (1)* comes into operation;

"relevant development" means the development deleted, by *subsection (1)*, from paragraph 2 of the Seventh Schedule to the Act of 2000.

F374[*Section 37B*: supplemental provisions.

37C.—(1) A prospective applicant shall, for the purposes of consultations under *section 37B*, supply to the Board sufficient information in relation to the proposed development so as to enable the Board to assess the proposed development.

(2) The holding of consultations under *section 37B* shall not prejudice the performance by the Board of any other of its functions under this Act or regulations under this Act and cannot be relied upon in the formal planning process or in legal proceedings.

(3) The Board shall keep a record in writing of any consultations under *section 37B* in relation to a proposed development, including the names of those who participated in the consultations, and a copy of such record shall be placed and kept with the documents to which any planning application in respect of the proposed development relates.

(4) The Board may consult with any person who may, in the opinion of the Board, have information which is relevant for the purposes of consultations under *section 37B* in relation to a proposed development.**]**

Annotations

Amendments:

F374 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 3, S.I. No. 684 of 2006.

F375[Application for opinion under *section 37CD*

37CC.—(1) A person who proposes to apply for permission for any development specified in the *Seventh Schedule* (referred to in this section and *section 37CD* as a "prospective applicant") may request a meeting with the Board for the purposes of *section 37CD* as part of consultations referred to in *section 37B(1)*.

(2) A request under *subsection (1)* shall be in writing, be accompanied by the appropriate fee and include—

(*a*) the name and address of the prospective applicant,

(*b*) a site location map sufficient to identify the land on which the proposed development would be situated,

(*c*) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment,

(*d*) a draft layout plan of the proposed development,

(*e*) a description of—

(i) the details, or groups of details, of the proposed development that, owing to the circumstances set out in *subparagraph (ii)*, are unlikely to be confirmed at the time of the proposed application, and

(ii) the circumstances relating to the proposed development, including such circumstances as the Minister may prescribe in relation to any class or description of development for the purposes of this subparagraph, that indicate that it is appropriate that the proposed application be made and decided, before the prospective applicant has confirmed the details referred to in *subparagraph (i)* including, in particular, whether the prospective applicant may be able to avail of technology available after making the proposed application that is more effective or more efficient than that available at the time of the application,

(*f*) an undertaking to provide with the proposed application, either—

(i) two or more options, in respect of each detail or group of details referred to in *paragraph (e)(i)*, containing information on the basis of which the proposed application may be made and decided,

(ii) parameters within which each detail referred to in *paragraph (e)(i)* will fall and on the basis of which the proposed application may be made and decided, or

(iii) a combination of *subparagraphs (i)* and *(ii)*,

(*g*) such other information, drawings or representations as the prospective applicant may wish to provide or make available, and

(*h*) such other information as may be prescribed.

(3) Where a prospective applicant submits a request in accordance with *subsection (1)* the Board shall convene a meeting for the purposes of *section 37CD*.

(4) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of holding a meeting convened under *subsection (3)*, including—

(*a*) matters that are required to be considered at the meeting,

(*b*) matters that may be considered at the meeting, and

(*c*) the manner in which the meeting is to be conducted.**]**

Annotations

Amendments:

F375 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 14, S.I. No. 645 of 2023.

Editorial Notes:

E183 Power pursuant to subs. (4) exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

F376[Opinion as to flexibility with regard to certain applications

37CD.—(1) The Board shall, as soon as practicable after a meeting convened under *section 37CC(3)* takes place, consider—

(*a*) the information included in the request for the meeting under *section 37CC*, and

(*b*) any other relevant information that is made available at the meeting,

and determine if it is satisfied that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed certain details of the application.

(2) Where the Board serves a notice under *section 37B(4)(a)* it shall, where it determines that it is satisfied in accordance with *subsection (1)*, serve an opinion to that effect with such notice.

(3) Where the Board serves a notice under *section 37B(4)(a)* it shall, where it determines that it is not satisfied in accordance with *subsection (1)*, notify the prospective applicant to that effect.

(4) An opinion under *subsection (2)* shall specify—

(*a*) the details, or groups of details, of the proposed development that may be confirmed after the proposed application has been made and decided,

(*b*) the circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in *paragraph (a)*, and

(*c*) that, in respect of each detail, or group of details, referred to in *paragraph (a)*, the proposed application shall, in addition to any other requirement imposed by or under this Act, be accompanied by the information referred to in *section 37CC(2)(f)*.

(5) A meeting held, and any opinion issued, for the purposes of this section shall be part of consultations held under *section 37B*.

(6) An opinion issued by the Board under *subsection (2)* shall only be made public when a planning application in respect of the proposed development is made in accordance with *section 37E*.

(7) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of the Board providing an opinion under *subsection (2)*, including the form of the opinion.**]**

Annotations

Amendments:

F376 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 14, S.I. No. 645 of 2023.

Editorial Notes:

E184 Power pursuant to subs. (7) exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

F377**[**Offence of taking payment, etc. in connection with *section 37CD* procedure

37CE.—A member or official of the Board who takes or seeks any favour, benefit or payment, direct or indirect (on his or her own behalf or on behalf of any other person or body), in connection with the provision of an opinion or notification under *section 37CD* commits an offence.**]**

Annotations

Amendments:

F377 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 14, S.I. No. 645 of 2023.

F378**[**Opinion by Board on information to be contained in environmental impact statement.

37D.—(1) Where a notice has been served under *section 37B(4)(a)* in relation to proposed development, a prospective applicant may request the Board to give to him or her an opinion in writing prepared by the Board on F379**[**the scope and level of detail of the information to be included**]** in an F380**[**environmental impact assessment report**]** in relation to the development.

(2) On receipt of such a request the Board shall—

(*a*) consult with the requester and such bodies as may be specified by the Minister for the purpose, and

(*b*) F381**[**after taking into account the information provided by the prospective applicant, in particular on the specific characteristics of the proposed development, including its location and technical capacity, and its likely impact on the environment,**]** comply with the request as soon as is practicable.

(3) A prospective applicant shall, for the purposes of the Board's complying with a request under this section, supply to the Board sufficient information in relation to the proposed development so as to enable the Board to assess the proposed development.

F382**[**(3A) Where an opinion referred to in *subsection (2)* has been provided, the environmental impact assessment report shall be based on that opinion, and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects on the environment of the proposed development, taking into account current knowledge and methods of assessment.**]**

(4) The provision of an opinion under this section shall not prejudice the performance by the Board of any other of its functions under this Act or regulations under this Act and cannot be relied upon in the formal planning process or in legal proceedings.**]**

Annotations

Amendments:

F378 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 3, S.I. No. 684 of 2006.

F379 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 9(a), in effect as per reg. 2(1).

F380 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 9, in effect as per reg. 2(1).

F381 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 9(b), in effect as per reg. 2(1).

F382 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 9(c), in effect as per reg. 2(1).

Modifications (not altering text):

C61 Transitional arrangements provided (21.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 3(1)(b)(i), in effect as per reg. 2(1).

Transitional arrangements

3. (1) Subject to *paragraph (3)*, the Act of 2000 and the Regulations of 2001, as in force immediately before 1 September 2018, shall continue to apply to development or proposed development, as the case may be, in the following cases: ...

(*b*) a request has been made, before 16 May 2017—

(i) under section 37D (1), 173(2)(*a*) or (3)(*a*), 181C(3)(*b*) or 182E(3) of the Act of 2000, as so in force, for an opinion to be given or provided by the planning authority or the Board, as the case may be, on the information required to be contained in an environmental impact statement relating to such development, or

...

(2) Section 2 of the Act of 2000, as in force immediately before 1 September 2018, shall apply to the interpretation of this Regulation as that section applies to the interpretation of that Act.

(3) The Act of 2000 and the Regulations of 2001, as in force on or after 1 September 2018, shall not apply to a case referred to in *paragraph (1)* unless otherwise specified in a provision of that Act or those Regulations, as the case may be.

(4) In this Regulation—

"Act of 2000" means the Planning and Development Act 2000 (No. 30 of 2000);

"Regulations of 2001" means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

Editorial Notes:

E185 Power pursuant to section exercised (3.06.2011) by *Planning and Development (Amendment) Regulations 2011* (S.I. No. 262 of 2011).

E186 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

F383**[**Application to Board.

37E.—(1) An application for permission for development in respect of which a notice has been served under *section 37B(4)(a)* shall be made to the Board and shall be accompanied by an F384**[**environmental impact assessment report**]** in respect of the proposed development.

(2) The Board may refuse to deal with any application made to it under this section where it considers that the application for permission or the F385**[**environmental impact assessment report**]** is inadequate or incomplete, having regard in particular to the permission regulations and any regulations made under *section 177* or to any consultations held under *section 37B*.

(3) Before a person applies for permission to the Board under this section, he or she shall—

(*a*) publish in one or more newspapers circulating in the area or areas in which it is proposed to carry out the development a notice indicating the nature and location of the proposed development and—

(i) stating that—

(I) the person proposes to make an application to the Board for permission for the proposed development,

(II) an F386**[**environmental impact assessment report**]** has been prepared in respect of the proposed development, and

(III) where relevant, the proposed development is likely to have significant effects on the environment of a Member State of the European Communities or other party to the Transboundary Convention,

(ii) specifying the times and places at which, and the period (not being less than 6 weeks) during which, a copy of the application and the F387**[**environmental impact assessment report**]** may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy),

(iii) inviting the making, during such period, of submissions and observations to the Board relating to—

(I) the implications of the proposed development for proper planning and sustainable development, and

(II) the likely effects on the environment of the proposed development,

if carried out, and

(iv) specifying the types of decision the Board may make, under *section 37G*, in relation to the application,

(*b*) send a prescribed number of copies of the application and the F388**[**environmental impact assessment report**]** to the planning authority or authorities in whose area or areas the proposed development would be situated,

(*c*) send a prescribed number of copies of the application and the F389**[**environmental impact assessment report**]** to any prescribed authorities together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(ii)*, be made in writing to the Board in relation to—

(i) the implications of the proposed development for proper planning and sustainable development, and

(ii) the likely effects on the environment of the proposed development,

if carried out, and

(*d*) where the proposed development is likely to have significant effects on the environment of a Member State of the European Communities or a state which is a party to the Transboundary Convention, send a prescribed number of copies of the application and the F390**[**environmental impact assessment report**]** to the prescribed authority of the relevant state or states together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(ii)*, be made in writing to the Board.

(4) The planning authority for the area (or, as the case may be, each planning authority for the areas) in which the proposed development would be situated shall, within 10 weeks from the making of the application to the Board under this section (or such longer period as may be specified by the Board), prepare and submit to the

Board a report setting out the views of the authority on the effects of the proposed development on the environment and the proper planning and sustainable development of the area of the authority, having regard in particular to the matters specified in *section 34(2)*.

(5) The F391**[**chief executive**]** of a planning authority shall, before submitting any report in relation to a proposed development to the Board under *subsection (4)*, submit the report to the members of the authority and seek the views of the members on the proposed development.

(6) The members of the planning authority may, by resolution, decide to attach recommendations specified in the resolution to the report of the authority; where the members so decide those recommendations (together with the meetings administrator's record) shall be attached to the report submitted to the Board under *subsection (4)*.

(7) In *subsection (6)* 'the meetings adminis trator's record' means a record prepared by the meetings administrator (within the meaning of section 46 of the Local Government Act 2001) of the views expressed by the members on the proposed development.

(8) In addition to the report referred to in *subsection (4)*, the Board may, where it considers it necessary to do so, require the planning authority or authorities referred to in that subsection or any planning authority or authorities on whose area or areas it would have a significant effect to furnish to the Board such information in relation to the effects of the proposed development on the proper planning and sustainable development of the area concerned and on the environment as the Board may specify.**]**

Annotations

Amendments:

F383 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 3, S.I. No. 684 of 2006.

F384 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 10, in effect as per reg. 2(1).

F385 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 11, in effect as per reg. 2(1).

F386 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 12, in effect as per reg. 2(1).

F387 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 13, in effect as per reg. 2(1).

F388 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 14, in effect as per reg. 2(1).

F389 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 15, in effect as per reg. 2(1).

F390 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 16, in effect as per reg. 2(1).

F391 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. no. 51, S.I. No. 436 of 2018.

Modifications (not altering text):

C62 Application of section restricted and matters to be considered provided (27.09.2007) by *Waste Water Discharge (Authorisation) Regulations 2007* (S.I. No. 684 of 2007), regs. 41(1) and 43(1).

Limitation of Act of 2000

41. (1) Subject to Regulation 42(2), and notwithstanding sections 34, 37, 37E, 175 and 226 of the Act of 2000, or any other provision of that Act, where, under these Regulations, an authorisation has been granted in respect of a waste water discharge from a waste water works—

(*a*) a planning authority, or An Bord Pleanála, where it decides to grant a permission under section 34, 37 or 37E on appeal or otherwise, as the case may be, of the said Act, or

(*b*) An Bord Pleanála, where it decides to grant an approval under section 175 or 226 of the said Act,

in respect of a proposed development that involves a waste water discharge from a waste water works, shall not subject the permission or approval, as the case may be, to conditions which are for the purposes of controlling the waste water discharge.

(2) Where a permission or approval under the Act of 2000 has been subjected to conditions, other than conditions as referred to in paragraph (3)(b), that are for the purposes of controlling discharges from a development as described in paragraph (1), those conditions shall cease to have effect upon the granting of an authorisation under these Regulations in respect of the waste water discharges concerned.

...

Consideration of proposals by planning authorities and An Bord Pleanála

43. (1) Where a planning authority or An Bord Pleanála is considering an application for permission, an appeal or an application for approval under section 34, 37, 37E, 175 or 226 of the Act of 2000 for development being development which involves the disposal of waste water to a waste water works, or is considering such a development under section 179 of the Act of 2000, the planning authority or the Board, as the case may be, shall consider whether the discharge of waste water from the proposed development, in conjunction with existing discharges to the receiving waters, would cause non-compliance with the combined approach or, in situations where there is existing non-compliance, would result in a significant breach of the combined approach.

...

Editorial Notes:

E187 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E188 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

F392**[***Section 37E*: supplemental provisions.

37F.—(1) Before determining any application for permission under *section 37E* the Board may, at its absolute discretion and at any time—

(*a*) require the applicant for permission to submit further information, including a revised F393**[**environmental impact assessment report**]**,

(*b*) indicate that it is considering granting permission, subject to the applicant for permission submitting revised particulars, plans or drawings in relation to the development,

(*c*) request further submissions or observations from the applicant for permission, any person who made submissions or observations, or any other person who

may, in the opinion of the Board, have information which is relevant to the determination of the application,

(*d*) without prejudice to *subsections (2)* and *(3)*, make any information relating to the application available for inspection, notify any person or the public that the information is so available and, if it considers appropriate, invite further submissions or observations to be made to it within such period as it may specify, or

(*e*) hold meetings with the applicant for permission or any other person—

(i) where it appears to the Board to be expedient for the purpose of determining the application, or

(ii) where it appears to the Board to be necessary or expedient for the purpose of resolving any issue with the applicant for permission or any disagreement between the applicant and any other party, including resolving any issue or disagreement in advance of an oral hearing.

(2) Where an applicant submits a revised F394**[**environmental impact assessment report**]** to the Board in accordance with *subsection (1)(a)* or otherwise submits further information or revised particulars, plans or drawings in accordance with *subsection (1)*, which, in the opinion of the Board, contain significant additional information on the effect of the proposed development on the environment to that already submitted, the Board shall—

(*a*) make the information, particulars, plans or drawings, as appropriate, available for inspection,

(*b*) give notice that the information, particulars, plans or drawings are so available, and

(*c*) invite further submissions or observations to be made to it within such period as it may specify.

(3) Where the Board holds a meeting in accordance with *subsection (1)(e)*, it shall keep a written record of the meeting and make that record available for inspection.

(4) The Board, or an employee of the Board duly authorised by the Board, may appoint any person to hold a meeting referred to in *subsection (1)(e)*.

(5) Before making a decision under *section 37G* in respect of proposed development comprising or for the purposes of an activity for which an integrated pollution control licence or a waste licence is required, the Board may request the Environmental Protection Agency to make observations within such period (which period shall not in any case be less than 3 weeks from the date of the request) as may be specified by the Board in relation to the proposed development.

(6) When making its decision under *section 37G* on the application the Board shall have regard to the observations, if any, received from the Environmental Protection Agency within the period specified under *subsection (5)*.

(7) The Board may, at any time after the expiration of the period specified in a notice under *section 37E(3)(a)* for making submissions or observations, make its decision under *section 37G* on the application.

(8) The making of observations by the Environmental Protection Agency under this section shall not prejudice any other function of the Agency.**]**

Annotations

Amendments:

F392 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 3, S.I. No. 684 of 2006.

F393 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 17, in effect as per reg. 2(1).

F394 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 18, in effect as per reg. 2(1).

F395 Substituted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(d), not commenced as of date of revision.

Modifications (not altering text):

C63 Propsective affecting provision: subs. (5) amended by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(d), not commenced as of date of revision.

(5) Before making a decision under *section 37G* in respect of proposed development comprising or for the purposes of an activity for which F395**[**an integrated pollution control licence, an abstraction licence**]** or a waste licence is required, the Board may request the Environmental Protection Agency to make observations within such period (which period shall not in any case be less than 3 weeks from the date of the request) as may be specified by the Board in relation to the proposed development.

F396**[**Decision by Board on application under *section 37E*.

37G.—(1) When making a decision in respect of a proposed development for which an application is made under *section 37E*, the Board may consider any relevant information before it or any other matter to which, by virtue of this Act, it can have regard.

(2) Without prejudice to the generality of *subsection (1)*, the Board shall consider—

(*a*) the F397**[**environmental impact assessment report**]** submitted under *section 37E(1)*, any submissions or observations made, in response to the invitation referred to in *section 37E(3)*, within the period referred to in that provision, the report (and the recommendations and record, if any, attached to it) submitted by a planning authority in accordance with *section 37E(4)*, any information furnished in accordance with *section 37F(1)* and any other relevant information before it relating to—

(i) the likely consequences of the proposed development for proper planning and sustainable development in the area in which it is proposed to situate the development, and

(ii) the likely effects on the environment of the proposed development,

(*b*) any report or recommendation prepared in relation to the application in accordance with *section 146*, including the report of the person conducting any oral hearing of the proposed development and the written record of any meeting referred to in *section 37F(3)*,

(*c*) the provisions of the development plan or plans for the area,

(*d*) the provisions of any special amenity area order relating to the area,

(*e*) if the area or part of the area is a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact,

(*f*) if the proposed development would have an effect on a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact,

(*g*) the matters referred to in *section 143*,

(*h*) any relevant provisions of this Act and of any regulations made under this Act.

(3) The Board may, in respect of an application under *section 37E* for permission—

(*a*) decide—

(i) to grant the permission, or

(ii) to make such modifications to the proposed development as it specifies in its decision and grant permission in respect of the proposed development as so modified, or

(iii) to grant permission in respect of part of the proposed development (with or without specified modifications of it of the foregoing kind),

or

(*b*) decide to refuse to grant the permission,

and a decision to grant permission under *paragraph (a)(i)*, *(ii)* or *(iii)* may be subject to or without conditions.

(4) Where an application under *section 37E* relates to proposed development which comprises or is for the purposes of an activity for which an integrated pollution control licence or a waste licence is required, the Board shall not, where it decides to grant permission, subject that permission to conditions which are for the purposes of—

(*a*) controlling emissions from the operation of the activity, including the prevention, limitation, elimination, abatement or reduction of those emissions, or

(*b*) controlling emissions related to or following the cessation of the operation or the activity.

(5) Where an application under *section 37E* relates to proposed development which comprises or is for the purposes of an activity for which an integrated pollution control licence or a waste licence is required, the Board may, in respect of that development, decide to refuse a grant of permission under this section, where the Board considers that the development, notwithstanding the licensing of the activity, is unacceptable on environmental grounds, having regard to the proper planning and sustainable development of the area in which the development will be situated.

(6) The Board may decide to grant a permission for development, or any part of a development, under this section even if the proposed development, or part thereof, contravenes materially the development plan relating to any area in which it is proposed to situate the development.

(7) Without prejudice to the generality of the Board's powers to attach conditions under *subsection (3)* the Board may attach to a permission for development under this section—

(*a*) a condition with regard to any of the matters specified in *section 34(4)*,

(*b*) a condition requiring the payment of a contribution or contributions of the same kind as the appropriate planning authority could require to be paid under *section 48* or *49* (or both) were that authority to grant the permission (and the scheme or schemes referred to in *section 48* or *49*, as appropriate, made by that authority shall apply to the determination of such contribution or contributions),

(*c*) a condition requiring the applicant to submit further information to it or any other local or state authority, as the Board may specify before commencing development, or

(*d*) a condition requiring—

(i) the construction or the financing, in whole or in part, of the construction of a facility, or

(ii) the provision or the financing, in whole or in part, of the provision of a service,

in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Board, would constitute a substantial gain to the community.

F398**[**(7A) Notwithstanding *subsection (3)*, where the Board grants permission for a development on foot of an application accompanied by an opinion issued by the Board under *section 37CD(2)* the permission shall include a condition in respect of any detail of the development that was not confirmed at the time of the application requiring—

(*a*) the actual detail to fall within specified options, parameters or a combination of options and parameters, and

(*b*) the applicant to notify the planning authority in whose functional area or areas the development is situated in writing, by such date prior to the commencement of the development, or prior to the commencement of the part of the development to which the detail relates, as the Minister may prescribe, of the actual detail of the development.**]**

(8) A condition attached pursuant to *subsection (7)(d)* shall not require such an amount of financial resources to be committed for the purposes of the condition being complied with as would substantially deprive the person in whose favour the permission operates of the benefits likely to accrue from the grant of the permission.

(9) In *subsection (7)(b)* 'appropriate planning authority 'means whichever planning authority would, but for the enactment of *section* 3 of the Planning and Development (Strategic Infrastructure) Act 2006, be the appropriate planning authority to grant the permission referred to in this section.

(10) The conditions attached under this section to a permission may provide that points of detail relating to the grant of the permission may be agreed between the planning authority or authorities in whose functional area or areas the development will be situate and the person carrying out the development; if that authority or those authorities and that person cannot agree on the matter the matter may be referred to the Board for determination.

(11) Without prejudice to the generality of section 18(*a*) of the Interpretation Act 2005, a reference, however expressed, in this section or *sections 37H* to *37J* to the area in which the proposed development would be situated includes, if the context admits, a reference to the 2 or more areas in which the proposed development would be situated and cognate references shall be construed accordingly.**]**

Annotations

Amendments:

F396 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 3, S.I. No. 684 of 2006.

F397 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 19, in effect as per reg. 2(1).

F398 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 15, S.I. No. 645 of 2023.

F399 Inserted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(e)(i), not commenced as of date of revision.

F400 Substituted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(e)(ii), not commenced as of date of revision.

Modifications (not altering text):

C64 Prospective affecting provision: subs. (4A) inserted and subs. (5) amended by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(a), not commenced as of date of revision.

F399**[**(4A) Where an application under *section 37E* relates to proposed development which comprises or is for the purposes of an activity for which an abstraction licence is required, the Board shall not, where it decides to grant permission, subject that permission to conditions which are for the purposes of controlling the abstraction related to the operation of the activity.**]**

(5) Where an application under *section 37E* relates to proposed development which comprises or is for the purposes of an activity for which F400**[**an integrated pollution control licence, an abstraction licence**]** or a waste licence is required, the Board may, in respect of that development, decide to refuse a grant of permission under this section, where the Board considers that the development, notwithstanding the licensing of the activity, is unacceptable on environmental grounds, having regard to the proper planning and sustainable development of the area in which the development will be situated.

Editorial Notes:

E189 Power pursuant to subs. (7A)(b) exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

F401**[***Section 37G*: supplemental provisions.

37H.—(1) The Board shall send a copy of a decision under *section 37G* to the applicant, to any planning authority in whose area the development would be situated and to any person who made submissions or observations on the application for permission.

F402**[**(1A) (*a*) The Board shall cause to be published F403**[**as soon as may be**]** in one or more newspapers circulated in the area a notice informing the public of a decision under *section 37G*.

(*b*) The notice shall state that a person may question the validity of any such decision by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with *section 50*.

(*c*) The notice shall identify where practical information on the review mechanism can be found.**]**

(2) A decision given under *section 37G* and the notification of the decision shall state—

(*a*) F404**[**subject to *paragraph (ba)*,**]** the main reasons and considerations on which the decision is based,

(*b*) F405**[**subject to *paragraph (bb)*,**]** where conditions are imposed in relation to the grant of any permission, the main reasons for the imposition of any such conditions, F406**[**...**]**

F407**[**(*ba*) in relation to the granting or refusal of any permission, where a decision (being a decision which arises from the consideration of the environmental impact assessment report concerned) by the Board to grant or refuse permission is different from the recommendation in a report of a person assigned to report on the application on behalf of the Board, the main reasons for not accepting the recommendation in the last-mentioned report to grant or refuse permission,

(*bb*) where a decision to impose a condition (being an environmental condition which arises from the consideration of the environmental impact assessment report concerned) in relation to the grant of any permission is materially different, in relation to the terms of such condition, from the recommendation in a report of a person assigned to report on the application for permission on behalf of the Board, the main reasons for not accepting, or for varying, as the case may be, the recommendation in the last-mentioned report in relation to such condition,

(*bc*) in relation to the granting or refusal of any permission, subject to or without conditions, that the Board is satisfied that the reasoned conclusion on the significant effects on the environment of the development was up to date at the time of the taking of the decision, and**]**

F408**[**(*c*) the sum due to be paid to the Board towards the costs incurred by the Board of—

(i) conducting consultations entered into by an applicant under *section 37B*,

(ii) compliance by the Board with a request by an applicant for an opinion of the Board under *section 37D*, or

(iii) determining an application under *section 37E*,

and, in such amount as the Board considers to be reasonable, state the sum to be paid and direct the payment of the sum to any planning authority that incurred costs during the course of consideration of that application and to any other person as a contribution to the costs incurred by that person during the course of consideration of that application (each of which sums the Board may, by virtue of this subsection, require to be paid).**]**

F409**[**(2A) A decision given under *section 37G* and the notification of the decision shall include a summary of the results of the consultations that have taken place and information gathered in the course of the environmental impact assessment and, where appropriate, the comments received from an affected Member State of the European Union or other party to the Transboundary Convention, and specify how those results have been incorporated into the decision or otherwise addressed.**]**

(3) A reference to costs in *subsection (2)(c)* shall be construed as a reference to such costs as the Board in its absolute discretion considers to be reasonable costs, but does not include a reference to so much of the costs there referred to as have been recovered by the Board by way of a fee charged under *section 144*.

(4) A grant of permission under *section 37G* shall be made as soon as may be after the making of the relevant decision but shall not become operative until any requirement made under *subsection (2)(c)* in relation to the payment by the applicant of a sum in respect of costs has been complied with.

(5) Where an applicant for permission fails to pay a sum in respect of costs in accordance with a requirement made under *subsection (2)(c)* the Board, the authority or any other person concerned (as may be appropriate) may recover the sum as a simple contract debt in any court of competent jurisdiction.

(6) A person shall not be entitled solely by reason of a permission under *section 37G* to carry out any development.**]**

Annotations

Amendments:

F401 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 3, S.I. No. 684 of 2006.

F402 Inserted (13.07.2010) by *European Communities (Public Participation) Regulations 2010* (S.I. No. 352 of 2010), reg. 10(b).

F403 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 10(a), in effect as per reg. 2(1).

F404 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 10(b)(i), in effect as per reg. 2(1).

F405 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 10(b)(ii)(I), in effect as per reg. 2(1).

F406 Deleted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 10(b)(ii)(II), in effect as per reg. 2(1).

F407 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 10(b)(iii), in effect as per reg. 2(1).

F408 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 26, S.I. No. 405 of 2010.

F409 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 10(c), in effect as per reg. 2(1).

Editorial Notes:

E190 Previous affecting provision: subs. (2)(c) inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 3, S.I. No. 684 of 2006; substituted (19.08.2010) as per F-note above.

F410**[**Regulations.

37I.—(1) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of—

(*a*) consultations under *section 37B*,

(*b*) the giving of an opinion under *section 37D*,

(*c*) applications for permission under *section 37E* F411**[**including applications accompanied by an opinion under *section 37CD(2)*]**]**, and

(*d*) decisions under *section 37G*.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may—

(*a*) make provision for matters of procedure in relation to the making of an application under *section 37E*, including the giving of public notice and the making of applications in electronic form, and

(*b*) make provision for matters of procedure relating to the making of observations by the Environmental Protection Agency under *section 37F(5)* and matters connected therewith.**]**

Annotations

Amendments:

F410 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 3, S.I. No. 684 of 2006.

F411 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 16, S.I. No. 645 of 2023.

Editorial Notes:

E191 Power pursuant to subs. (1)(c) exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

E192 Power pursuant to section exercised (4.11.2021) by *Planning and Development (Amendment) (No. 3) Regulations 2021* (S.I. No. 588 of 2021).

E193 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E194 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E195 Power pursuant to section exercised (31.03.2007) by *Planning and Development (No. 2) Regulations 2007* (S.I. No. 135 of 2007).

E196 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

F412[Objective of the Board in relation to applications under *section 37E*.

37J.—(1) It shall be the duty of the Board, having regard to the special importance of applications relating to development that may fall within *section 37A(2)*, to ensure that—

(*a*) consultations held on foot of a request under *section 37B* are completed, and

(*b*) a decision under *section 37G* on an application made under *section 37E* is made,

as expeditiously as is consistent with proper planning and sustainable development and, for that purpose, to take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the holding of those consultations or the making of that decision.

(2) Without prejudice to the generality of *subsection (1)* and subject to *subsections (3)* to *(6)*, it shall be the objective of the Board to ensure that a decision under *section 37G* on an application made under *section 37E* is made—

(*a*) within a period of 18 weeks beginning on the last day for making submissions or observations in accordance with the notice referred to in *section 37E(3)(a)*, or

(*b*) within such other period as the Minister may prescribe either generally or in respect of a particular class or classes of matter.

(3) Where it appears to the Board that it would not be possible or appropriate, because of the particular circumstances of the matter with which the Board is concerned, to determine the matter within the period referred to in *paragraph (a)* or *(b)* of *subsection (2)* as the case may be, the Board shall, by notice in writing served on the applicant for permission, any planning authority involved and any other person who submitted submissions or observations in relation to the matter before the expiration of that period, inform the authority and those persons of the reasons why it would not be possible or appropriate to determine the matter within that period

and shall specify the date before which the Board intends that the matter shall be determined.

(4) Where a notice has been served under *subsection (3)*, the Board shall take all such steps as are open to it to ensure that the matter is determined before the date specified in the notice.

(5) The Minister may by regulations vary the period referred to in *subsection (2)(a)* either generally or in respect of a particular class or classes of applications referred to in *section 37E*, where it appears to him or her to be necessary, by virtue of exceptional circumstances, to do so and, for so long as the regulations are in force, this section shall be construed and have effect in accordance therewith.

(6) Where the Minister considers it to be necessary or expedient that a certain class or classes of application under *section 37E* that are of special strategic, economic or social importance to the State be determined as expeditiously as is consistent with proper planning and sustainable development, he or she may give a direction to the Board that priority be given to the determination of applications of the class or classes concerned, and the Board shall comply with such a direction.

(7) The Board shall include in each report made under *section 118* a statement of the number of matters which the Board has determined within a period referred to in *paragraph (a)* or *(b)* of *subsection (2)* and such other information as to the time taken to determine such matters as the Minister may direct.**]**

Annotations

Amendments:

F412 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 3, S.I. No. 684 of 2006.

F413**[**Nuclear installations: no development in respect of them authorised.

37K.—Nothing in this Act shall be construed as enabling the authorisation of development consisting of an installation for the generation of electricity by nuclear fission.**]**

Annotations

Amendments:

F413 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 3, S.I. No. 684 of 2006.

F414**[**Quarry substitute consent applications — Board's jurisdiction in relation to simultaneous applications for further development

37L.—F415**[**(1) Where a person applies for substitute consent in respect of development of land under *section 177E*, the person may also apply for permission for the following:

(*a*) development of the land the subject of the application for substitute consent;

(*b*) development of land adjoining the land the subject of the application for substitute consent.**]**

(2) An application for permission F416**[**...**]** under *subsection (1)* shall be made to the Board.

F415**[**(3) Development referred to in *paragraph (a)* or *(b)* of *subsection (1)* is not required to be the same as, or of the same description as, the development the subject of the application for substitute consent referred to in that subsection.**]**

(4) Subject to *subsections (5)* and *(6)*, an application under *subsection (1)* may be made not later than 6 weeks after the date of receipt by the Board of the application for substitute consent.

F415**[**(5) Where prior to the date of the coming into operation of section 17 of the Planning and Development, Maritime and Valuation (Amendment) Act 2022 an application for substitute consent has been made under *section 177E*, but no decision has been made by the Board in respect of that application prior to or on that date, an application for permission may be made under *subsection (1)* as substituted by that section 17, within 6 months of that date.**]**

F415**[**(6) An application may not be made under *subsection (1)*, as substituted by section 17 of the Planning and Development, Maritime and Valuation (Amendment) Act 2022, where a decision has been made by the Board in respect of the application for substitute consent referred to in *subsection (1)* as so substituted, prior to or on the date of the coming into operation of that section 17.**]**

F415**[**(7) Where—

(*a*) *subsection (5)*, as substituted by section 17 of the Planning and Development, Maritime and Valuation (Amendment) Act 2022, applies, and

(*b*) the applicant for substitute consent informs the Board by notice in writing prior to it making its decision in respect of the application for substitute consent, in this subsection referred to as the "first application", that he or she intends to submit an application for permission under *subsection (1)*, as substituted by that section 17, in this subsection referred to as the "second application",

the Board shall, notwithstanding *section 177P(1)*, not make its decision on the first application prior to—

(i) the date that is 6 months after the date of the coming into operation of that section 17,

(ii) the date the second application is received by the Board, or

(iii) the date the applicant for substitute consent informs the Board by notice in writing that he or she no longer intends to submit a second application,

whichever is the earlier.**]**

(8) Where the Board receives an application for permission under *subsection (1)* F416**[**...**]**, it shall consider that application in conjunction with the application for substitute consent F417**[**referred to in *subsection (1)***]** and it shall be the duty of the Board to take all such steps as are open to it to ensure that the decision under *section 37N* is made as soon as possible after the decision on the application for substitute consent.

(9) The Board, at its own discretion and at the request of a person intending to make an application under *subsection (1)*, may enter into consultations with the person before that person makes an application under *subsection (1)*.

(10) On receipt of an application under *subsection (1)*, the Board shall send a copy of the application and, where relevant, any F417**[**environmental impact assessment report**]** or Natura impact statement to the planning authority or authorities in whose functional area or areas the proposed development would be situated.

(11) Where the Board considers that the proposed development is likely to have significant effects on the environment of a Member State of the European Union or a state which is a party to the Transboundary Convention, it shall send a copy of the application and, where relevant, any F417**[**environmental impact assessment report**]** or Natura impact statement to the prescribed authority of the relevant state or states

together with a notice stating that submissions or observations may be made in writing to the Board within the period specified in that notice.

(12)(*a*) Where requested to do so by the Board, the planning authority for the functional area (or, as the case may be, each planning authority for the functional areas) in which the proposed development would be situated shall, within 6 weeks from the making of the request, prepare and submit to the Board a report setting out the views of the authority on the effects of the proposed development on the environment and the proper planning and sustainable development of the functional area of the authority, having regard in particular to the matters specified in *section 34(2)* to which a planning authority is to have regard.

(*b*) The Board may agree to extend the period specified in F417**[***paragraph (a)***]**, provided that such period of extension shall not exceed 6 weeks.

(*c*) The Board may make a decision under *section 37N(3)* notwithstanding that a planning authority has failed to submit a report requested under *paragraph (a)* within the time specified in that paragraph or within such period of extension as may have been agreed under *paragraph (b)*.

(13) In addition to the report referred to in *subsection (12)*, the Board may, where it considers it necessary to do so, require the planning authority or authorities referred to in that subsection or any planning authority or authorities on whose functional area or areas the proposed development would have a significant effect to furnish to the Board such information in relation to the effects of the proposed development on the proper planning and sustainable development of the functional area concerned and on the environment as the Board may specify.**]**

Annotations

Amendments:

F414 Inserted (14.07.2015) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015), reg. 4.

F415 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 17(a), (c)-(f), S.I. No. 645 of 2023, subject to transitional provision in s. 41(9).

F416 Deleted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 17(b), (g)(i), S.I. No. 645 of 2023, subject to transitional provision in s. 41(9).

F417 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 17(g)(ii), (h)-(j), S.I. No. 645 of 2023.

F418**[***Section 37L*: supplemental provisions

37M.—(1) Before making a decision in relation to an application for permission under *section 37L* the Board may, at its absolute discretion and at any time—

(*a*) require the applicant for permission to submit further information, including a revised F419**[**environmental impact assessment report**]** or Natura impact statement,

(*b*) indicate that it is considering granting permission, subject to the applicant for permission submitting revised particulars, plans or drawings in relation to the development,

(*c*) request submissions or observations from the applicant for permission, any person who made written submissions or observations concerning the proposed development to it in accordance with the permission regulations, or any other person who may, in the opinion of the Board, have information which is relevant to the making of the decision in relation to the application, or

(*d*) make any information relating to the application available for inspection, notify any person or the public that the information is so available and, if it considers appropriate, invite further submissions or observations to be made to it within such period as it may specify.

(2) The Board may, at any time after the expiration of the period specified in a notice issued under the permission regulations for making submissions or observations, make its decision under *section 37N* on the application.**]**

Annotations

Amendments:

F418 Inserted (14.07.2015) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015), reg. 4.

F419 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 18, S.I. No. 645 of 2023.

F420**[**Decision by Board on application under *section 37L*

37N.—(1) When making a decision in relation to an application under *section 37L*, the Board shall consider all information relating to the application provided to it under this Act and any matter to which, by virtue of this Act, it can have regard.

(2) Without prejudice to the generality of *subsection (1)*, the Board shall consider—

(*a*)(i) any F421**[**environmental impact assessment report**]** or Natura impact statement submitted,

(ii) any submissions or observations made to it,

(iii) any report submitted by a planning authority in accordance with *section 37L(12)*,

(iv) any information furnished in accordance with *section 37L(13)*,

(v) any information furnished in accordance with *section 37M(1)*, and

(vi) any other relevant information before it relating to—

(I) the likely consequences of the proposed development for proper planning and sustainable development in the area in which it is proposed to situate the development, and

(II) the likely effects on the environment of the proposed development,

(*b*) any report or recommendation prepared in relation to the application in accordance with *section 146*, including any report of a person conducting an oral hearing of the proposed development,

(*c*) the provisions of the development plan or plans for the area,

(*d*) the provisions of any special amenity area order relating to the area,

(*e*) if the area or part of the area is a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact,

(*f*) if the proposed development would have an effect on a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact, and

(*g*) the matters referred to in *section 143*.

(3) The Board may, in respect of an application under *section 37L* for permission, decide to grant the permission, subject to or without conditions, or to refuse it.

(4) The Board may decide to grant a permission for development, or any part of a development, under this section even if the proposed development, or part thereof, contravenes materially the development plan relating to any area in which it is proposed to situate the development where it considers that—

(*a*) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(*b*) permission for the proposed development should be granted having regard to guidelines under *section 28* or any relevant policy of the Government, the Minister or any Minister of the Government.

(5) Where the Board grants a permission in accordance with *subsection (4)(b)*, the Board shall, in addition to the requirements of *section 37O(4)*, indicate in its decision the main reasons and considerations for contravening materially the development plan.

(6) Without prejudice to the generality of the Board's powers to attach conditions under *subsection (3)* the Board may attach to a permission for development under this section—

(*a*) a condition with regard to any of the matters specified in *section 34(4)*,

(*b*) a condition requiring the payment of a contribution or contributions of the same kind as the appropriate planning authority could require to be paid under *section 48* or *49* (or both) were that authority to grant the permission (and the scheme or schemes referred to in *section 48* or *49*, as appropriate, made by that authority shall apply to the determination of such contribution or contributions in the same way as if the authority were to impose the condition), or

(*c*) a condition requiring the applicant to submit further information to it or any other local or state authority, as the Board may specify before commencing development.

(7) In *subsection (6)(b)* 'appropriate planning authority' means whichever planning authority would, but for the operation of *section 37L*, be the appropriate planning authority to grant the permission referred to in this section or, where the development is situated in the functional area of more than one planning authority, the planning authority in whose functional area the largest portion of the development, as determined by the Board by reference to area, is situated.

(8) The conditions attached under this section to a permission may provide that points of detail relating to the grant of the permission may be agreed between the planning authority or authorities in whose functional area or areas the development will be situate and the person carrying out the development; if that authority or those authorities and that person cannot agree on the point of detail, the point of detail may be referred to the Board for determination.

(9) The Board shall not grant a permission in respect of an application under *section 37L* that—

(*a*) is not made in accordance with, or

(*b*) does not comply with the requirements of,

the permission regulations.**]**

Annotations

Amendments:

F420 Inserted (14.07.2015) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015), reg. 4.

F421 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 19, S.I. No. 645 of 2023.

F422**[***Section 37N*: supplemental provisions

37O.—(1) The Board shall send a copy of a decision under *section 37N*, as soon as may be after the making of the decision, to—

(*a*) the applicant,

(*b*) any planning authority in whose functional area the development would be situated, and

(*c*) any person who made submissions or observations on the application for permission under *section 37L* to which the decision relates.

(2) A planning authority referred to in *subsection (1)* shall enter the details of the decision under *section 37N* in the register.

(3)(*a*) Where an F423**[**environmental impact assessment report**]** was submitted with the application for permission under *section 37L* to which the decision relates, the Board shall cause to be published on its website a notice informing the public of the decision under *section 37N*.

(*b*) The notice under *paragraph (a)* shall state that a person may question the validity of the decision by the Board to which the notice relates by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with *section 50*.

(*c*) The notice under *paragraph (a)* shall identify where practical information on the review mechanism can be found.

(4) A decision given under *section 37N* and a notice of the decision required to be given under *subsection (3)* shall state—

(*a*) the main reasons and considerations on which the decision is based,

(*b*) where conditions are imposed in relation to the grant of any permission, the main reasons for the imposition of any such conditions, F424**[**...**]**

F425**[**(*ba*) where a decision to impose a condition (being an environmental condition which arises from the consideration of an environmental impact assessment report) is materially different, in relation to the terms of the condition, from a recommendation in a report of a person assigned to report on the application for permission on behalf of the Board, the main reasons for not accepting or for varying the recommendation in relation to such condition,

(*bb*) in relation to the grant or refusal of any permission, subject to or without conditions, that the Board is satisfied, where an environmental impact assessment was carried out, that the reasoned conclusion on the significant effects on the environment of the development was up to date at the time of the taking of the decision,

(*bc*) in summary form, the results of the consultations that have taken place and information gathered in the course of the environmental impact assessment and, where appropriate, the comments received from an affected Member State of the European Union or other party to the Transboundary Convention,

and how those results have been incorporated into the decision or otherwise addressed, and**]**

(*c*) where a decision by the Board under *section 37N* F425**[**(being a decision which arises from the consideration of the environmental impact assessment report concerned)**]** to grant or to refuse permission is different, in relation to the granting or refusal of permission, from the recommendation in a report of a person assigned to report on the application on behalf of the Board, the main reasons for not accepting the recommendation in the report to grant or refuse permission.

(5) A grant of permission under *section 37N* shall be made as soon as may be after the making of the relevant decision.

(6) A person shall not be entitled solely by reason of a permission under *section 37N* to carry out any development.**]**

Annotations

Amendments:

F422 Inserted (14.07.2015) by *European Union (Environmental@newline@Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2014), reg. 4.

F423 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 20(a), S.I. No. 645 of 2023.

F424 Deleted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 20(b)(i), S.I. No. 645 of 2023.

F425 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 20(b)(ii), (iii), S.I. No. 645 of 2023.

F426**[**Regulations **37P.**—F427**[**(1) The Minister shall make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of applications for permission under *section 37L* and decisions under *section 37N*.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may—

(*a*) make provision for the payment of fees to the Board, and

(*b*) make provision for matters of procedure in relation to the making of an application under *section 37L*, including the giving of public notice and the making of applications in electronic form.**]]**

Annotations

Amendments:

F426 Inserted (14.07.2015) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015), reg. 4.

F427 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 21(1), S.I. No. 645 of 2023, subject to transitional provisions in subss. (2)-(4).

Modifications (not altering text):

C65 SIs made under section continued in force (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 21(2)-(4), S.I. No. 645 of 2023.

(2) All regulations made under section 37P of the Principal Act and in force immediately before the date of the coming into operation of *subsection (1)* shall be deemed on and after that date to have been made under section 37P of the Principal Act as amended by *subsection (1)*.

(3) Every act done, or purporting to have been done, under the regulations referred to in *subsection (2)* before the date of the coming into operation of *subsection (1)* shall on and after that date be, and be deemed always to have been, valid and effectual for all purposes.

(4) If *subsection (2)* or *(3)* would, but for this subsection, conflict with a constitutional right of any person, the operation of the subsection shall be subject to such limitation as is necessary to secure that it does not so conflict but shall be otherwise of full force and effect.

Editorial Notes:

E197 Power pursuant to subs. (1) exercised (16.12.2023) by *Planning and Development (Amendment) (No. 4) Regulations 2023* (S.I. No. 648 of 2023).

E198 Power pursuant to section exercised (10.09.2015) by *Planning and Development (Amendment) (No. 3) Regulations 2015* (S.I. No. 387 of 2015).

E199 Power pursuant to section exercised (16.07.2015) by *Planning and Development (Amendment) (No. 2) Regulations 2015* (S.I. No. 310 of 2015), in effect as per reg. 2.

F428**[**Objective of the Board in relation to applications under *section 37L*

37Q.—(1) It shall be the duty of the Board to ensure that a decision under *section 37N* on an application made under *section 37L* is made as expeditiously as is consistent with proper planning and sustainable development and, for that purpose, to take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the making of that decision.

(2) Without prejudice to the generality of *subsection (1)* and subject to *subsections (3)* to *(5)*, it shall be the objective of the Board to ensure that a decision under *section 37N* on an application made under *section 37L* is made within a period of 18 weeks beginning on the later of—

(*a*) the date of receipt of the application, or

(*b*) where a report requested under *section 37L(12)(a)* is received within the time specified in that paragraph or within such period of extension as may have been agreed under *section 37L(12)(b)*, the date of receipt of that report.

(3) Where it appears to the Board that it would not be possible or appropriate, because of the particular circumstances of the matter with which the Board is concerned, to determine the matter within the period referred to in *subsection (2)*, the Board shall, by notice in writing served on the applicant for permission, any planning authority involved and any other person who submitted submissions or observations in relation to the matter before the expiration of that period, inform the authority and those persons of the reasons why it would not be possible or appropriate to determine the matter within that period and shall specify the date before which the Board intends that the matter shall be determined.

(4) Where a notice has been served under *subsection (3)*, the Board shall take all such steps as are open to it to ensure that the matter is determined before the date specified in the notice.

(5) The Board shall include in each report made under *section 118* a statement of the number of matters which the Board has determined within the period referred to in *subsection (2)* and such other information as to the time taken to determine such matters as the Minister may direct.**]**

Annotations

Amendments:

F428 Inserted (14.07.2015) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015), reg. 4.

F429[Supplementary provisions relating to decisions on applications referred to in *section 34B(1)* or *34C(1)* which were not refused by virtue of *section 34B(5)* or *34C(5)*

37R.—(1) (*a*) This section applies in addition to *section 37* in the case of an appeal under *section 37* against a decision of the planning authority under *section 34* where, pursuant to *section 34B(15)* or *34C(16)*, that decision incorporates a regulatory decision of the competent authority under *section 34B(13)(a)* or *34C(14)(a)*, as the case may be.

(*b*) The competent authority shall be a party to the appeal notwithstanding *section 34B(15)(b)* or *34C(16)(b)*.

(2) For the purposes of a relevant appeal, the reference in *section 37(1)* to 'any person who made submissions or observations in writing in relation to the planning application to the planning authority' includes any person who made submissions or observations in writing referred to in *section 34B(11)(c)* or *34C(12)(c)* to the competent authority in relation to the draft regulatory decision or related report referred to in *section 34B(9)* or *(10)*, as the case may be, or *section 34C(10)* or *(11)*, as the case may be.

(3) (*a*) Subsections (1) to (3) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to the Board's consideration of the relevant appeal as if any reference to the competent authority in those subsections were a reference to the Board.

(*b*) Subsections (4) to (7) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to measures and restrictions forming part of the Board's consideration of the relevant appeal as those subsections apply to measures and restrictions referred to in those subsections.

(*c*) The Board may, in its decision on the relevant appeal and its related report (*subsection (7)(a)*), accept or reject all or any part of either or both—

(i) the relevant regulatory decision the subject of the appeal, or

(ii) the report prepared under *section 34B(10)* and revised under *section 34B(13)(b)*, or prepared under *section 34C(11)* and revised under *section 34C(14)(b)*, as appropriate, which relates to such relevant regulatory decision.

(4) (*a*) *Paragraphs (b)* and *(c)* apply where the Board is considering, in its determination of the relevant appeal in so far as the appeal relates to the relevant regulatory decision, adopting noise mitigation measures or operating restrictions (if any), or a combination thereof, which were not, during the process that gave rise to the relevant regulatory decision, the subject of previous consultation conducted by the competent authority pursuant to *section 34B* or *34C*, as the case may be.

(*b*) Subsection (12) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to the Board and the decision it is minded to make on the relevant appeal as if any reference to the competent authority in that subsection were a reference to the Board and as if any reference in that subsection to the draft regulatory decision were a reference to the decision that the Board is minded to make on the relevant appeal.

(*c*) The Board shall—

(i) publish on its website a draft of the decision it is minded to make on the relevant appeal in so far as the decision relates to the relevant regulatory decision—

(I) identifying all the noise mitigation measures and operating restrictions (if any) proposed to be adopted by the Board and not just such measures and restrictions (if any) referred to in *paragraph (a)*, and

(II) stating, at a minimum, the Board's reasons for the draft decision and having annexed to it the related report (*subsection (4)(b)*),

and

(ii) on the same date as complying with *subparagraph (i)* (or as soon as is practicable thereafter), publish a notice on its website and in a national newspaper—

(I) stating that the Board has made a draft decision under *paragraph (c)(i)* on the relevant appeal in so far as the appeal relates to the relevant regulatory decision and prepared the related report (*subsection (4)(b)*),

(II) stating particulars of how persons may view or otherwise have access to the draft decision and related report (*subsection (4)(b)*) (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the Board during office hours),

(III) inviting persons to make submissions or observations in writing (and to provide a return address with such submissions or observations) in the specified form (if any) on the draft decision (including any annex thereto) before the expiration of 14 weeks beginning on the date on which the notice was so published in the national newspaper, and

(IV) stating particulars of the addresses (which shall include an electronic address) to which such submissions or observations may be sent.

(5) (*a*) The Board shall, as soon as is practicable after it complies with *subsection (4)*, give each of the appellant and the other parties to the relevant appeal a copy of the draft decision referred to in *subsection (4)(c)(i)*.

(*b*) For the avoidance of doubt, it is hereby declared that the appellant and the other parties to the relevant appeal may each make submissions or observations referred to in *subsection (4)(c)(ii)(II)* in accordance with that subsection.

(6) (*a*) Where *subsection (4)* applies, the Board shall, as soon as is practicable after it complies with *paragraph (c)* of that subsection, by notice in writing direct the airport authority to—

(i) engage in discussions with the Irish Aviation Authority and operators of aircraft in the airport concerning the technical feasibility of, and other alternatives to, the noise mitigation measures or operating restrictions (if any), or the combination thereof, the subject of the draft decision referred to in *subsection (4)(c)(i)*, and

(ii) inform the Board of the outcome of those discussions before the expiration of the 14 weeks referred to in *subsection (4)(c)(ii)(II)*.

(*b*) The airport authority shall comply with a direction given to it under *paragraph (a)*.

(7) The Board shall, as soon as is practicable after it makes a decision on the relevant appeal in so far as the appeal relates to the relevant regulatory decision—

(*a*) publish on its website the first-mentioned decision, in so far as it so relates, to which is annexed a report prepared by the Board in relation to such decision stating the Board's reasons for such decision and including therein—

(i) such of the matters referred to in *paragraphs (a)* to *(j)* of *subsection (10)* of *section 34B* or *paragraphs (a)* to *(j)* of *subsection (11)* of *section 34C*, as the case may be, as are appropriate (which inclusion may be achieved, at the Board's discretion, by the adoption by it of any part of the report concerned referred to in *subsection (3)(c)(ii)*), and

(ii) if *subsection (4)* applies, the related report (*subsection (4)(b)*) revised by the Board to take into account all documents, submissions or observations (if any), and such other information, given to it pursuant to a provision of this section and to take into account the first-mentioned decision in so far as it so relates,

(*b*) on the same date as complying with *paragraph (a)* (or as soon as is practicable thereafter), publish a notice on its website and in a national newspaper stating—

(i) that it has made a decision on the relevant appeal in so far as the appeal relates to the relevant regulatory decision,

(ii) particulars of how persons may view or otherwise have access to such decision (including any annex thereto) in so far as it so relates (which shall include being able to view the decision, or purchase a copy of the decision at a reasonable cost, at the offices of the Board during office hours), and

(iii) that a person may question the validity of the Board's decision on the relevant appeal (including such decision in so far as it relates to the relevant regulatory decision) by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with *section 50*,

(*c*) send a copy of such decision (whether with or without any annex thereto), together with the notice referred to in *paragraph (b)* (whether before or after the notice is published), to the appellant, the other parties to the relevant appeal and (if the airport authority is neither the appellant nor another party to the relevant appeal) the airport authority, and

(*d*) if *subsection (4)* applied, send a copy of such decision (whether with or without any annex thereto), together with the notice referred to in *paragraph (b)* (whether before or after the notice is published), to the return addresses of the persons who have made submissions or observations referred to in *subsection (4)(c)(ii)(II)* in accordance with that subsection on the draft decision concerned.

(8) Where the Board has failed to make a decision under *section 37* as read with this section in relation to the relevant appeal within the period it is required to do so by a provision of this Act and becomes aware, whether through notification by the appellant or otherwise, that it has so failed, the Board shall nevertheless proceed to make such decision and the decision so made shall be considered to have been made under *section 37* notwithstanding such failure.

(9) Subject to *subsection (10)*, a noise mitigation measure to be introduced by virtue of a decision on the relevant appeal in so far as the decision relates to the relevant regulatory decision shall—

(*a*) come into effect on the day immediately following the day on which, pursuant to *subsection (7)*, that first-mentioned decision is published on the website of the Board, and

(*b*) after coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the Board.

(10) The Board may, by notice published on its website on the same date as the decision first-mentioned in *subsection (9)* is, pursuant to *subsection (7)*, also so published—

(*a*) authorise, for reasons stated in the notice, a lead in time for the coming into effect of a noise mitigation measure to be introduced by virtue of that decision, and

(*b*) specify the date, or the occurrence of the event, on which such noise mitigation measure shall come into effect.

(11) Subject to section 26 (b) of the Aircraft Noise (Dublin Airport) Regulation Act 2019, the Board shall, in relation to an operating restriction to be introduced by virtue of a decision on the relevant appeal in so far as the decision relates to the relevant regulatory decision, take such steps as it considers appropriate to cause Article 8 of the Aircraft Noise Regulation to be complied with as soon as is practicable after it applies to such restriction.

(12) Subject to *subsection (13)*, an operating restriction to which *subsection (11)* applies shall—

(*a*) come into effect on the day immediately following the day on which the operation of Article 8 of the Aircraft Noise Regulation ceases to further prevent the coming into effect of the operating restriction, and

(*b*) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(13) The Board may, by notice published on its website at any time before the day first-mentioned in *subsection (12)(a)*—

(*a*) authorise, for reasons stated in the notice, a lead in time for the coming into effect of the operating restriction to which *subsection (12)* applies, and

(*b*) specify the date, or the occurrence of the event, on which such operating restriction shall come into effect.

(14) In this section—

"related report (*subsection (4)(b)*)" means the report (if any) prepared by the Board pursuant to *subsection (4)(b)*;

"related report (*subsection (7)(a)*)" means the report prepared by the Board pursuant to *subsection (7)(a)*;

"relevant appeal" means an appeal referred to in *subsection (1)(a)*;

"relevant regulatory decision", in relation to a relevant appeal, means the relevant regulatory decision referred to in *subsection (1)* which is incorporated into the planning authority's decision under *section 34* that is the subject of the relevant appeal.**]**

Annotations

Amendments:

F429 Inserted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 12, S.I. No. 403 of 2019.

F430[Supplementary provisions relating to decisions on applications referred to in *section 34B(1)* or *34C(1)*

37S.—(1) (*a*) This section applies in addition to *section 37* in the case of an appeal under *section 37* against a decision of the planning authority under *section 34* where—

(i) pursuant to *section 34B(1)(a)*, the competent authority concludes that it is not of the opinion referred to in *section 34B(1)(a)(iii)*, or

(ii) pursuant to *section 34B(5)* or *34C(5)*, that decision is to refuse the application concerned.

(*b*) The competent authority shall be a party to the appeal notwithstanding *section 34B(5)(d)* or *34C(5)(d)*.

(2) Without prejudice to the generality of the Board's powers under *section 37*, or under *section 37* as read with any other provision of this Act, the Board shall, in determining the appeal—

(*a*) where *subsection (1)(a)(i)* applies, take into account such of the provisions of *section 34B* following *subsection (1)* of such *section 34B*, and of section 26 (b) (with all necessary modifications) of the Aircraft Noise (Dublin Airport) Regulation Act 2019, as are, in the Board's opinion, relevant to the appeal,

(*b*) where the refusal referred to in *subsection (1)(a)(ii)* arises from the operation of *section 34B(5)*, take account of such of the provisions of *section 34B* following *subsection (5)* of such *section 34B*, and of section 26(b) (with all necessary modifications) of the Aircraft Noise (Dublin Airport) Regulation Act 2019, as are, in the Board's opinion, relevant to the appeal, or

(*c*) where the refusal referred to in *subsection (1)(a)(ii)* arises from the operation of *section 34C(5)*, take account of such of the provisions of *section 34C* following *subsection (5)* of such *section 34C*, and of section 26(b) (with all necessary modifications) of the Aircraft Noise (Dublin Airport) Regulation Act 2019, as are, in the Board's opinion, relevant to the appeal.

(3) Subsections (1) to (3) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to—

(*a*) the Board's consideration of the appeal in so far as such consideration relates to—

(i) a conclusion referred to in *subsection (1)(a)(i)*, or

(ii) a refusal referred to in *subsection (1)(a)(ii)*,

and

(*b*) the Board's determination of the appeal in so far as it so relates as referred to in *paragraph (a)*,

as if any reference to the competent authority in those subsections (1) to (3) of that section 9 were a reference to the Board.

(4) Subsections (4) to (7) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to measures and restrictions forming part of the Board's consideration of the appeal as those subsections apply to measures and restrictions referred to in those subsections.

(5) Subsection (12) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to—

(*a*) the Board and the decision it is minded to make on the appeal in so far as such decision relates to—

(i) a conclusion referred to in *subsection (1)(a)(i)*, or

(ii) a refusal referred to in *subsection (1)(a)(ii)*,

and

(*b*) the Board's determination of the appeal in so far as it so relates as referred to in *paragraph (a)*,

as if any reference to the competent authority in such *subsection (12)* were a reference to the Board and as if any reference in such *subsection (12)* to the draft regulatory decision were a reference to the decision that the Board is minded to make on such appeal.**]**

Annotations

Amendments:

F430 Inserted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 12, S.I. No. 403 of 2019.

Availability of documents relating to planning applications.

38.—F431**[**(1) Where a planning authority gives its decision in respect of a planning application the following documents shall be made available by the authority within 3 working days by placing the documents on its website, and may also make available such documents both in electronic form and for inspection and purchase by members of the public during office hours:**]**

(*a*) a copy of the planning application and of any particulars, evidence, F432**[**environmental impact assessment report**]**, other written study or further information received or obtained by the authority from the applicant in accordance with regulations under this Act;

(*b*) a copy of any submissions or observations in relation to the planning application which have been received by the authority;

(*c*) a copy of any report prepared by or for the authority in relation to the planning application;

(*d*) a copy of the decision of the authority in respect of the planning application and a copy of the notification of the decision given to the applicant; and

(*e*) a copy of any documents relating to a contribution or other matter referred to in *section 34 (5)*.

F433**[**(1A) Details of any telephone numbers of the applicant or addresses for communication with the applicant in electronic form provided by or on behalf of the applicant shall be taken not to be part of the planning application and shall not be made available by a planning authority to members of the public.**]**

(2) Without prejudice to the Freedom of Information Act, 1997, and the European Communities Act, 1972 (Access to Information on the Environment) Regulations, 1998 (S.I. No. 125 of 1998), and any regulations amending those regulations, F434**[**...**]** the documents referred to under *subsection (1)* shall be available for inspection for a period of not less than 7 years after the making of the decision by the authority.

F435**[**(3)(*a*) Where a planning application is not accompanied by an environmental impact assessment report, any other document referred to in *subsection (1)(a)* or *(b)* which is received or obtained by a planning authority shall be made available for inspection and purchase by members of the public during office hours of the authority from as soon as may be after receipt of the document until a decision is made on the application and may also be made available by the authority by placing the document on the authority's website for inspection or in other electronic form.

(*b*) Where a planning application is accompanied by an environmental impact assessment report—

(i) a document referred to in *subsection (1)(a)* which is received or obtained by a planning authority shall be placed on its website for inspection and be made available for inspection and purchase by members of the public during office hours of the authority from as soon as may be after receipt of the document and may also be made available for inspection by the authority in other electronic form,

(ii) a document referred to in *subsection (1)(b)* which is received or obtained by a planning authority shall be made available for inspection and purchase by members of the public during office hours of the authority from as soon as may be after receipt of the document until a decision is made on the application and may also be made available by the authority for inspection by placing the document on the authority's website or in other electronic form, and

(iii) a document referred to in *subsection (1)(c)*, *(d)* or *(e)* which is received or obtained by a planning authority shall be placed on its website for inspection within 3 working days of the giving of the decision in respect of the application.**]**

F436**[**(3A) Without prejudice to the Freedom of Information Act 2014, and the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, and any regulations amending those regulations, and the Data Protection Acts 1988 to 2018, the documents placed on the planning authority's website pursuant to *subsection (3)(b)* shall be maintained and available for inspection thereon in perpetuity.**]**

(4) Copies of documents under this section shall be available for purchase on payment of a specified fee not exceeding the reasonable cost of making such a copy.

(5) At the end of the period for the availability of documents referred to in *subsection (2)*, a planning authority shall retain at least one original copy of each of those documents in a local archive in accordance with section 65 of the Local Government Act, 1994.

(6) The Minister may prescribe additional requirements in relation to the availability for inspection by members of the public of documents relating to planning applications.

(7) This section shall apply in respect of any application made to a planning authority after the commencement of this section.

Annotations

Amendments:

F431 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 25, S.I. No. 436 of 2018.

F432 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 20, in effect as per reg. 2(1).

F433 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 27(b), S.I. No. 477 of 2010.

F434 Deleted (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 191, S.I. No. 174 of 2018.

F435 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 11(b), in effect as per reg. 2(1).

F436 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 11(b), in effect as per reg. 2(1).

Modifications (not altering text):

C66 Application of section and regulations made thereunder restricted (1.05.2007) by *European Communities (Access to Information on the Environment) Regulations 2007* (S.I. No. 133 of 2007), reg. 4(2)(a).

Scope

4. (1) These Regulations apply to environmental information other than, subject to sub-article (2), information that, under any statutory provision apart from these Regulations, is required to be made available to the public, whether for inspection or otherwise.

(2) Notwithstanding—

(*a*) section 38 of the Planning and Development Act 2000 (No. 30 of 2000) and any regulations made thereunder,

...

environmental information held by, or on behalf of, a public authority shall be made available in accordance with these Regulations.

Editorial Notes:

E200 Power pursuant to subs. (6) exercised (22.05.2020) by *Planning and Development Act 2000 (Section 38) Regulations 2020* (S.I. No. 180 of 2020).

E201 Previous affecting provision: subs. (1) amended (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 11(a), in effect as per reg. 2(1); subsection substituted as per F-note above.

E202 Previous affecting provision: subs. (1) substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 27(a), S.I. No. 477 of 2010; substituted as per F-note above.

E203 Previous affecting provision: subs. (2) amended (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 11, S.I. No. 525 of 2006; amendment deleted as per F-note above.

Supplemental provisions as to grant of permission.

39.—(1) Where permission to develop land or for the retention of development is granted under this Part, then, except as may be otherwise provided by the permission, the grant of permission shall enure for the benefit of the land and of all persons for the time being interested therein.

(2) Where permission is granted under this Part for a structure, the grant of permission may specify the purposes for which the structure may or may not be used, and in case the grant specifies use as a dwelling as a purpose for which the structure may be used, the permission may also be granted subject to a condition specifying that the use as a dwelling shall be restricted to use by persons of a particular class or description and that provision to that effect shall be embodied in an agreement under *section 47*.

(3) (*a*) Where permission to develop land is granted under this Part for a limited period only, nothing in this Part shall be construed as requiring permission to be obtained thereunder for the resumption, at the expiration of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.

(*b*) In determining for the purposes of this subsection the purposes for which land was normally used before the grant of permission, no account shall be taken of any use of the land begun in contravention of this Part.

(4) Notwithstanding anything in this Part, permission shall not be required under this Part, in the case of land which, on 1 October, 1964, was normally used for one purpose and was also used on occasions, whether at regular intervals or not, for any other purpose, for the use of the land for that other purpose on similar occasions after 1 October, 1964.

Limit of duration of permission.

40.—(1) Subject to *subsection (2)*, a permission granted under F438**[**this Part or *Part XXI*, shall on the expiration of the appropriate period (but without prejudice to the validity of anything done pursuant thereto prior to the expiration of that period) cease to have effect as regards—

(*a*) in case the development to which the permission relates is not commenced during that period, the entire development, and

(*b*) in case the development is commenced during that period, so much of the development as is not completed within that period.

(2) (*a*) *Subsection (1)* shall not apply—

(i) to any permission for the retention on land of any structure,

(ii) to any permission granted either for a limited period only or subject to a condition which is of a kind described in *section 34(4)(n)*,

(iii) in the case of a house, shop, office or other building which itself has been completed, in relation to the provision of any structure or works included in the relevant permission and which are either necessary for or ancillary or incidental to the use of the building in accordance with that permission, or

(iv) in the case of a development comprising a number of buildings of which only some have been completed, in relation to the provision of roads, services and open spaces included in the relevant permission and which are necessary for or ancillary or incidental to the completed buildings.

(*b*) *Subsection (1)* shall not affect—

(i) the continuance of any use, in accordance with a permission, of land,

(ii) where a development has been completed (whether to an extent described in *paragraph (a)* or otherwise), the obligation of any person to comply with any condition attached to the relevant permission whereby something is required either to be done or not to be done.

(3) F437**[**In this section and *sections 42* and *42A*,**]**, "the appropriate period" means—

(*a*) in case in relation to the permission a period is specified pursuant to *section 41*, that period, and

(*b*) in any other case, the period of five years beginning on the date of the grant of permission.

Annotations

Amendments:

F437 Substituted (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 238 and sch. 3, part 8, item 1, S.I. No. 545 of 2009.

F438 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 14, S.I. No. 488 of 2022.

F439**[**Power to vary appropriate period.

41.—(1) Without prejudice to the powers conferred on them by F440**[**this Part and *Part XXI*] to grant a permission to develop land for a limited period only, in deciding to grant a permission under F440**[***section 34*, *37*, *37G*, *37N* or *293*], a planning authority or the Board, as may be appropriate, may, having regard to the nature and extent of the relevant development and any other material consideration, specify the period during which the permission is to have effect, being a period—

(*a*) in the case of all development requiring permission, of not less than 2 years, and

(*b*) in the case of residential development requiring permission, of not more than 10 years,

and where the planning authority or the Board exercises, or refuses to exercise, the power conferred on it by this section, the exercise or refusal shall be regarded as forming part of the relevant decision of the authority or the Board under F440**[***section 34*, *37*, *37G*, *37N* or *293*].

(2) Where an application for permission relates to a residential development comprising 10 or more houses—

(*a*) material considerations in *subsection (1)* may include any information available to the planning authority or furnished to it by the applicant concerning implementation by the applicant of any housing development in the previous 5 years, and

(*b*) an assessment by the planning authority of the likelihood of the proposed development being implemented within the appropriate period sought, being the appropriate period within the meaning provided for by *section 40(3)*.**]**

Annotations

Amendments:

F439 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 26(1), S.I. No. 436 of 2018.

F440 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 15, S.I. No. 488 of 2022.

Modifications (not altering text):

C67 Section construed during specified period (3.07.2017 to 31.12.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 14, S.I. No. 270 of 2017.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(*a*) the period from the commencement of this provision until 31 December 2019, and

(*b*) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of section 41 (power to vary appropriate period) of Act of 2000 during specified period

14. Section 41 of the Act of 2000 has effect during the specified period—

(*a*) as if "or under *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016,*" were inserted after "or *37N*," where it first occurs, and

(*b*) as if ", or under *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*" were inserted after "or *37N*" where it last occurs.

Editorial Notes:

E204 Previous affecting provision: section amended (14.07.2015) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015), reg. 5; section substituted as per F-note above.

E205 Previous affecting provision: section amended (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 12(a), S.I. No. 684 of 2006; substituted as per F-note above.

E206 Previous affecting provision: section amended (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 12(b), S.I. No. 684 of 2006; section substituted as per F-note above.

Power to extend appropriate period.

F441**[42.**—(1) F442**[**On application to it in that behalf, but subject to *subsection (8),***]** a planning authority shall, as regards a particular permission, extend the appropriate period by such additional period not exceeding 5 years as the authority considers requisite to enable the development to which the permission relates to be completed provided that each of the following requirements is complied with:

F443**[**(*a*) (i) the authority is satisfied that—

(I) the development to which the permission relates was commenced before the expiration of the appropriate period sought to be extended,

(II) F444**[**...**]**

(III) substantial works were carried out pursuant to the permission during that period, and

(IV) the development will be completed within a reasonable time,**]**

(*b*) the application is in accordance with such regulations under this Act as apply to it,

(*c*) any requirements of, or made under those regulations are complied with as regards the application, and

(*d*) the application is duly made prior to the end of the appropriate period.

(2) In extending the appropriate period under *subsection (1)* a planning authority may attach conditions requiring the giving of adequate security for the satisfactory completion of the proposed development, and/or may add to or vary any conditions to which the permission is already subject under *section 34(4)(g)*.

(3) (*a*) Where an application is duly made under this section to a planning authority and any requirements of, or made under, regulations under *section 43* are complied with as regards the application, the planning authority shall make its decision on the application as expeditiously as possible.

(*b*) Without prejudice to the generality of *paragraph (a)*, it shall be the objective of the planning authority to ensure that it shall give notice of its decision on an application under this section within the period of 8 weeks beginning on—

(i) in case all of the requirements referred to in *paragraph (a)* are complied with on or before the day of receipt by the planning authority of the application, that day, and

(ii) in any other case, the day on which all of those requirements stand complied with.

F443**[**(4) A decision to extend the appropriate period of a permission shall be made not more than twice under this section and a planning authority shall not further

extend the appropriate period. Where a second decision to extend an appropriate period is made under this section, the combined duration of the 2 extensions of the appropriate period shall not exceed 5 years.**]**

(5) Particulars of any application made to a planning authority under this section and of the decision of the planning authority in respect of the application shall be recorded on the relevant entry in the register.

(6) Where a decision to extend is made under this section, *section 40* shall, in relation to the permission to which the decision relates, be construed and have effect, subject to, and in accordance with, the terms of the decision.

(7) Notwithstanding *subsection (1)* or *(4)*, where a decision to extend an appropriate period has been made by a planning authority prior to the coming into operation of this section, the planning authority, where an application is made to it in that behalf prior to the expiration of the period by which the appropriate period was extended, may further extend the appropriate period provided that each of the following requirements is complied with—

(i) an application is made in that behalf in accordance with regulations under *section 43*,

(ii) any requirements of, or made under, the regulations are complied with as regards the application, and

(iii) the authority is satisfied that the relevant development has not been completed due to circumstances beyond the control of the person carrying out the development.**]**

F446**[**(8) A planning authority shall not extend the appropriate period under this section in relation to a permission if an environmental impact assessment or an appropriate assessment would be required in relation to the proposed extension concerned.**]**

Annotations

Amendments:

F441 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 28, S.I. No. 405 of 2010.

F442 Substituted (9.09.2021) by *European Union (Planning) (Habitats, Birds and Environmental Impact) Regulations 2021* (S.I. No. 456 of 2021), reg. 2(a)(i), in effect as per reg. 1(2).

F443 Substituted (9.09.2021) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 28(1), S.I. No. 455 of 2021, as substituted (19.07.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 57(1), commenced on enactment as per subs. (2).

F444 Deleted (9.09.2021) by *European Union (Planning) (Habitats, Birds and Environmental Impact) Regulations 2021* (S.I. No. 456 of 2021), reg. 2(a)(ii), in effect as per reg. 1(2).

F445 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 77, S.I. No. 214 of 2014.

F446 Inserted (9.09.2021) by *European Union (Planning) (Habitats, Birds and Environmental Impact) Regulations 2021* (S.I. No. 456 of 2021), reg. 2(c), in effect as per reg. 1(2).

F447 Inserted (9.09.2021) by *European Union (Planning) (Habitats, Birds and Environmental Impact) Regulations 2021* (S.I. No. 456 of 2021), reg. 2(b)(i), (ii), in effect as per reg. 1(2).

Modifications (not altering text):

C68 Section construed (23.12.2016 (date of enactment) for period to 31.12.2021) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 28(2)(a), S.I. No. 341 of 2017, as substituted (19.07.2017) by *Planning and Development (Amendment) Act 2017* (20/2017), s. 1, commenced on enactment; and further construed (23.12.2016 (date of enactment) for period to 31.12.2021) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 28(2)(b), (c), S.I. No. 341 of 2017.

Amendment, etc., of section 42 (power to extend appropriate period) of Act of 2000

28. ...

(2) During the period from the passing of this Act until 31 December 2021, *section 42* of the Act of 2000 has effect—

[(*a*) as if the following subsection were inserted after *subsection (1)*:

'(1A) (a) "F447**[**Notwithstanding anything to the contrary in *subsection (1)* or *(4)* but subject to *subsection (8)*" for "Notwithstanding anything to the contrary in *subsection (1)* or *(4)*"**]**, a planning authority shall—

F447**[**(i) in relation to permission for development consisting of the construction of not less than 20 houses,**]**

(ii) upon application being duly made to the authority setting out the reasons why the development cannot be reasonably completed within the appropriate period,

further extend the appropriate period by such additional period not exceeding 5 years, or until 31 December 2021, whichever first occurs, but the authority shall only so extend that period where the authority—

(I) considers it requisite to enable the development to which the permission relates to be completed,

(II) is satisfied that the application is in accordance with such regulations under the Planning and Development Acts 2000 to 2016 as apply to the application,

(III) is satisfied that any requirements of, or made under those regulations are complied with as regards the application,

(IV) is satisfied that the development to which the permission relates was—

(A) commenced, and

(B) substantial works were carried out,

before the expiration of the appropriate period or any extension of that period, and

(V) is satisfied that in the case of a permission—

(A) where the expiry of the appropriate period as extended occurred or occurs during the period from 19 July 2016 to the day preceding the day that section 28(2) of the Planning and Development (Housing) and Residential Tenancies Act 2016 comes into operation, the application is duly made within 6 months of the said commencement date, or

(B) where the appropriate period as extended expires on or after the date of commencement of section 28(2) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the application is duly made within the period prescribed for the purposes of section 43(2).'**]**

(*b*) as if in subsection (2) there were substituted "subsection (1) or (1A)" for "subsection (1)", and

(*c*) as if in subsection (4) there were substituted "Except where subsection (1A) applies, a decision" for "A decision".

Editorial Notes:

E207 Previous affecting provision: subs. (1)(a)(ii)(II) amended (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 77, S.I. No. 214 of 2014; substituted as per F-note above.

F448**[**Power to extend appropriate period on application of NAMA.

42A.—F449**[**...**]]**

Annotations

Amendments:

F448 Inserted (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 238 and sch. 3 part 8 item 2, S.I. No. 545 of 2009.

F449 Repealed (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 26(2), S.I. No. 436 of 2018.

Editorial Notes:

E208 Previous affecting provision: subs. (1) amended (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 78, S.I. No. 214 of 2014; section repealed as per F-note above.

E209 Previous affecting provision: subss. (1), (2) substituted and subs. (8) inserted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 29(a)- (c), S.I. No. 405 of 2010; section repealed as per F-note above.

E210 Previous affecting provision: subss. (1) and (2) substituted (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 238 and sch. 3, part 8, item 2, S.I. No. 545 of 2009; substituted as per E-note above.

F450**[**Modification to operation of section 42 of Act of 2000 having regard to Covid-19

42B.—During the period beginning on the date on which section 7 of the Planning and Development (Amendment) Act 2021 comes into operation and ending on 31 December 2023, *section 42* shall be construed and have effect—

(*a*) as if the following subsection were inserted after *subsection (1A)*:

"(1B) Notwithstanding anything to the contrary in *subsection (1)*, *(1A)* or *(4)* a planning authority shall—

(*a*) as regards a particular permission in respect of a development, and

(*b*) upon application being duly made to the authority setting out the reasons why the development cannot be reasonably completed within the appropriate period,

further extend the appropriate period, as extended or further extended, by such additional period not exceeding 2 years or until 31 December 2023, whichever first occurs, but the authority shall only so extend that period where the authority—

(i) is satisfied that an environmental impact assessment or an appropriate assessment would not be required in relation to the proposed extension of the appropriate period,

(ii) considers that the extension is required to enable the development to which the permission relates to be completed,

(iii) is satisfied that the application is in accordance with such regulations under the Planning and Development Acts 2000 to 2021 as apply to the application,

(iv) is satisfied that any requirements of, or made under, those regulations are complied with as regards the application,

(v) is satisfied that the development to which the permission relates was—

(I) commenced, and

(II) substantial works were carried out, before the expiration of the appropriate period, as extended or further extended, and

(vi) is satisfied that in the case of a permission—

(I) where the expiry of the appropriate period as extended or further extended occurred or occurs during the period beginning on 8 January 2021 and ending on the day before the date on which section 7 of the Planning and Development (Amendment) Act 2021 comes into operation, the application is duly made within 6 months of the date on which the said section 7 comes into operation, or

(II) where the appropriate period, as extended or further extended, expires on or after the date on which section 7 of the Planning and Development (Amendment) Act 2021 comes into operation, the application is duly made within the period prescribed for the purposes of section 43(2).",

(*b*) as if in *subsection (2)*—

(i) during the period beginning on the date on which section 7 of the Planning and Development (Amendment) Act 2021 comes into operation and ending on the date on which the amendments to *section 42* effected by section 28 (2) of the Planning and Development (Housing) and Residential Tenancies Act 2016 cease to have effect, there were substituted "*subsection (1)*, *(1A)* or *(1B)*" for "*subsection (1)* or *(1A)*", and

(ii) during the period beginning on the date that is the day after the date on which the amendments to *section 42* effected by section 28(2) of the Planning and Development (Housing) and Residential Tenancies Act 2016 cease to have effect, there were substituted "*subsection (1)* or *(1B)*" for "*subsection (1)*", and

(*c*) as if in *subsection (4)*—

(i) during the period beginning on the date on which section 7 of the Planning and Development (Amendment) Act 2021 comes into operation and ending on the date on which the amendments to *section 42* effected by section 28 (2) of the Planning and Development (Housing) and Residential Tenancies Act 2016 cease to have effect, there were substituted "Except where *subsection (1A)* or *(1B)* applies, a decision" for "Except where *subsection (1A)* applies, a decision", and

(ii) during the period beginning on the date that is the day after the date on which the amendments to *section 42* effected by section 28 (2) of the Planning and Development (Housing) and Residential Tenancies Act 2016 cease to have effect, there were substituted "Except where *subsection (1B)* applies, a decision" for "A decision".**]**

Annotations

Amendments:

F450 Inserted (9.09.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 7, S.I. No. 458 of 2021.

Regulations regarding *sections 40, 41* and *42*.

43.—(1) The Minister may make regulations providing for any matter of procedure in relation to applications under *section 42* and making such incidental, consequential or supplementary provision as may appear to him or her to be necessary or proper to give full effect to any of the provisions of *section 40*, *41* or *42*.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may—

(*a*) specify the time at which applications under *section 42* may be made, the manner in which those applications shall be made and the particulars they shall contain,

(*b*) require applicants to furnish to the planning authority any specified information with respect to their applications (including any information regarding any estate or interest in or right over land),

(*c*) require applicants to submit to a planning authority any further information relevant to their applications (including any information as to any such estate, interest or right),

(*d*) require the production of any evidence to verify any particulars or information given by any applicant, and

(*e*) require the notification (in a prescribed manner) by planning authorities of decisions on applications.

Annotations

Editorial Notes:

E211 Power pursuant to section exercised (9.09.2021 to 31.12.2021) by *Planning and Development (Amendment) (No. 3) Regulations 2021* (S.I. No. 459 of 2021), in effect as per reg. 2(1), (2).

E212 Power pursuant to section exercised (9.08.2017) by *Planning and Development (Amendment) Regulations 2017* (S.I. No. 342 of 2017), in effect as per reg. 2(1).

E213 Power pursuant to section exercised (19.08.2010) by *Planning and Development Regulations 2010* (S.I. No. 406 of 2010).

E214 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

Revocation or modification of permission.

44.—(1) If the planning authority considers that it is expedient that any permission to develop land granted under F451**[**this Part or *Part XXI***]** should be revoked or modified, it may serve a notice in accordance with *subsection (3)* on the applicant and on any other person who, in its opinion, will be materially affected by the revocation or modification.

(2) A planning authority shall neither revoke nor modify a permission under this section unless the development to which the permission relates no longer conforms with the provisions of the development plan.

(3) The notice referred to in *subsection (1)* shall—

(*a*) refer to the permission concerned,

(*b*) specify the provisions of the development plan to which the permission no longer conforms, and

(*c*) invite the person or persons served with the notice to make written submissions or observations to the planning authority within the period specified in the notice (being not less than 4 weeks from the service of the notice) concerning the proposed revocation or modification.

(4) A planning authority may decide to revoke or modify a permission and, when making its decision, shall have regard to any submissions or observations made under *subsection (3) (c)*.

(5) Where a planning authority decides to revoke or modify a permission under *subsection (4)*, it shall specify in the decision the provisions of the development plan to which the permission no longer conforms, and the main reasons and considerations on which the decision is based.

(6) A person served with a notice under *subsection (1)* may, at any time within 4 weeks of the date of the decision, appeal to the Board against the decision.

(7) Where an appeal is brought under this section against a decision, the Board may confirm the decision with or without modifications, or annul the decision, and it shall specify the main reasons and considerations for its decision.

(8) The power conferred by this section to revoke or modify permission to develop land may be exercised—

(*a*) where the permission relates to the carrying out of works, at any time before those works have been commenced or, in the case of works which have been commenced and which, consequent on the making of a variation in the development plan, will contravene the plan, at any time before those works have been completed,

(*b*) where the permission relates to a change of the use of any land, at any time before the change has taken place,

but the revocation or modification of permission for the carrying out of works shall not affect so much of the works as have been previously carried out.

(9) A planning authority may at any time, for stated reasons, by notice in writing withdraw a notice served under this section.

(10) Particulars of a decision made under this section shall be entered in the register.

(11) The revocation or modification under this section of a permission shall be a reserved function.

Annotations

Amendments:

F451 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 16, S.I. No. 488 of 2022.

Editorial Notes:

E215 The revocation or modification of a permission to develop land if the development to which the permission relates no longer conforms with the provisions of the development plan is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 item 70 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

F452[Revocation or modification of planning permission for certain reasons

44A.—(1) The Minister may, upon the request of the Minister for Justice and Equality, the Minister for Foreign Affairs and Trade or the Minister for Defence and with the approval of the Government, make an order revoking or modifying a grant of permission under this Act if he or she is satisfied that—

(*a*) the carrying out of the development to which the grant of permission relates is likely to be harmful to—

(i) the security or defence of the State, or

(ii) the State's relations with other states,

and

(*b*) the revocation or modification concerned is necessary in the public interest.

(2) The Minister may, before making an order under this section, consult with—

(*a*) the planning authority that granted the permission concerned,

(*b*) the person to whom the permission was granted, or

(*c*) any other person who, in the opinion of the Minister, is likely to be materially affected by the making of such order,

but shall not so consult if he or she considers that to do so would be harmful to the security or defence of the State or to the State's relations with other states.

(3) This section shall apply to permissions whether granted before, on or after the passing of the Planning and Development (Amendment) Act 2018.

(4) Where an order is made under this section, the planning authority that granted the permission to which the order relates shall, within such period as may be specified in the order, serve—

(*a*) a notice in writing on—

(i) the person to whom the permission concerned was granted, and

(ii) any other person specified in the order,

informing him or her of the revocation or modification effected by the order, and

(*b*) a notice in writing—

(i) in the case of development commenced but not completed, on any person carrying out the development in respect of which the permission was granted, or on whose behalf such development is being carried out, requiring him or her to cease the development and restore the land, on which the development concerned is being carried out, to the condition it was in before the development commenced, or

(ii) in the case of development completed, on any person who carried out the development, or on whose behalf the development was carried out, requiring him or her to restore the land, on which the development concerned was carried out, to the condition it was in before the development was commenced.

(5) A person on whom a notice is served under *paragraph (b)* of *subsection (4)* shall comply with the notice.

(6) (*a*) The Minister shall, as soon as practicable after the making of an order under this section, give a copy of the order to the planning authority that granted the permission to which the order relates.

(*b*) A planning authority shall, as soon as practicable after the copy of an order has been given to it in accordance with *paragraph (a)*, give a copy of the order to—

(i) the person to whom the permission to which the order applies was granted, and

(ii) any other person the Minister may direct.

(7) A permission to which an order under this section applies shall, upon the making of the order, stand revoked or modified, as may be appropriate, in accordance with the order.

(8) Any development carried out in contravention of an order under this section shall be an unauthorised development.

(9) Where the Minister makes an order revoking an order under this section—

(*a*) the second-mentioned order shall, for all purposes, be deemed never to have been made, and the register shall be amended accordingly, and

(*b*) the period between the making of the second-mentioned order and the first-mentioned order shall not be reckonable for the purpose of calculating the period since the granting of the permission.

(10) The Minister shall not, in relation to a permission, make an order under this section if the period since the grant of the permission exceeds 5 years.

(11) The making of an order under this section shall be recorded in the register as soon as may be after it is made.

(12) (*a*) Any proceedings before a court relating to an order under this section shall be heard *in camera*.

(*b*) A court before which proceedings relating to an order under this section are heard shall take all reasonable precautions to prevent the disclosure—

(i) to the public, or

(ii) where the court considers it appropriate, to any party to the proceedings,

of any evidence given or document submitted for the purposes of the proceedings, the disclosure of which, could reasonably be considered to be harmful to the security or defence of the State or to the State's relations with other states.

(*c*) Without prejudice to the generality of *paragraph (b)*, precautions referred to in that paragraph may include—

(i) the prohibition of the disclosure of such evidence or documentation as the Court may determine, and

(ii) the hearing, in the absence of any person or persons including any party to the proceedings, of any evidence or the examination of any witness or document that, in the opinion of the Court, could reasonably be considered to be harmful to the security or defence of the State or to the State's relations with other states.**]**

Annotations

Amendments:

F452 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 27, S.I. No. 436 of 2018.

Editorial Notes:

E216 The section heading is taken from the amending section in the absence of one included in the amendment.

Acquisition of land for open spaces.

45.—(1) Where—

(*a*) development is being or has been carried out pursuant to a permission under *section 34*,

(*b*) (i) a condition requiring the provision or maintenance of land as open space, being open space to which this section applies, was attached to the permission, or

(ii) it was either explicit or implicit in the application for the permission that land would be provided or maintained as such open space,

(*c*) the planning authority has served on the owner of the land a written request that, within a period specified in the request (being a period of not less than 8 weeks commencing on the date of the request), he or she will provide, level, plant or otherwise adapt or maintain the land in a manner so specified, being a manner which in its opinion would make it suitable for the purpose for which the open space was to be provided, and

(*d*) the owner fails to comply or to secure compliance with the request within the period so specified,

the planning authority may, if it thinks fit, publish in a newspaper circulating in the district a notice (an "acquisition notice") of its intention to acquire the land by order under this section and the acquisition notice shall specify a period (being a period of not less than 4 weeks commencing on the date on which the notice is published) within which an appeal may be made under this section.

(2) Where a planning authority publishes an acquisition notice, it shall serve a copy of the notice on the owner of the land to which the notice relates not later than 10 days after the date of the publication.

(3) Any person having an interest in the land to which an acquisition notice relates may within the period specified in the notice appeal to the Board.

(4) Where an appeal is brought under this section the Board may—

(*a*) annul the acquisition notice to which the appeal relates, or

(*b*) confirm the acquisition notice, with or without modification, in respect of all or such part of the relevant land as the Board considers reasonable.

(5) If a planning authority publishes an acquisition notice and either—

(*a*) the period for appealing against the notice has expired and no appeal has been taken, or

(*b*) an appeal has been taken against the notice and the appeal has been withdrawn or the notice has been confirmed whether unconditionally or subject to modifications,

the planning authority may make an order in the prescribed form which order shall be expressed and shall operate to vest the land to which the acquisition notice, or, where appropriate, the acquisition notice as confirmed, relates in the planning authority on a specified date for all the estate, term or interest for which immediately before the date of the order the land was held by the owner together with all rights and liabilities which, immediately before that date, were enjoyed or incurred in

connection therewith by the owner together with an obligation to comply with the request made under *subsection (1)(c)*.

(6) Where a planning authority has acquired by an order under this section land which is subject, either alone or in conjunction with other land, to a purchase annuity, payment in lieu of rent, or other annual sum (not being merely a rent under a contract of tenancy) payable to the Minister for Agriculture. Food and Rural Development or to the Commissioners, the authority shall become and be liable, as from the date on which the land is vested in them by the vesting order, for the payment to that Minister or to the Commissioners, as the case may be, of the annual sum or such portion thereof as shall be apportioned by that Minister or by the Commissioners, on the land as if the land had been transferred to the authority by the owner thereof on that date.

(7) When a planning authority makes an order under this section in relation to any land, it shall send the order to the registering authority under the Registration of Title Act, 1964, and thereupon the registering authority shall cause the planning authority to be registered as owner of the land in accordance with the order.

(8) Where a claim is made for compensation in respect of land to which an order under this section relates, the claim shall, in default of agreement, be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act, 1919, in the like manner in all respects as if such claim arose in relation to the compulsory acquisition of land, but subject to the proviso that the arbitrator shall have jurisdiction to make a nil award and to the following provisions:

(*a*) the arbitrator shall make a nil award, unless it is shown by or on behalf of the owner that an amount equal to the value of the land to which the relevant permission under *section 34* relates, being that value at the time when the application for the permission was made, as a result of the development has not been recovered and as a further such result will not in the future be recoverable by disposing of the land which is land to which the permission relates and which is not land to which the order relates, and

(*b*) in the assessment of the value of the land to which the order relates, no regard shall be had to its value for use other than as open space and a deduction shall be made in respect of the cost of carrying out such works as may be necessary to comply with the request made pursuant to *subsection (1)(c)*.

(9) A planning authority shall enter in the register—

(*a*) particulars of any acquisition notice published by it,

(*b*) the date and effect of any decision on appeal in relation to any such notice, and

(*c*) particulars of any order made under this section,

and every entry shall be made within the period of 7 days commencing on the day of publication, receipt of notification of the decision or the making of the order, as may be appropriate.

(10) This section applies to any form of open space (whether referred to as open space or by any other description in the relevant application for a permission or in a condition attached to the relevant permission), being land which is not described in the application or condition either as private open space or in terms indicating that it is not intended that members of the public are to have resort thereto without restriction.

Annotations

Editorial Notes:

E217 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

Requiring removal or alteration of structure or discontinuance of use.

46.—(1) If a planning authority decides that, in exceptional circumstances—

(*a*) any structure should be demolished, removed, altered or replaced,

(*b*) any use should be discontinued, or

(*c*) any conditions should be imposed on the continuance of a use,

the planning authority may serve a notice on the owner and on the occupier of the structure or land concerned and on any other person who, in its opinion, will be affected by the notice.

(2) *Subsection (1)* shall not apply to any unauthorised development unless the notice under this section is served after seven years from the commencement of the unauthorised development.

(3) A notice referred to in *subsection (1)* shall—

(*a*) specify the location of the structure or land concerned,

(*b*) specify the steps that will be required to be taken within a specified period, including, where appropriate—

(i) the demolition, removal, alteration or replacement of any structure, or

(ii) the discontinuance of any use or the continuance of any use subject to conditions,

and

(*c*) invite any person served with the notice to make written submissions or observations to the planning authority in respect of the matters referred to in the notice within a specified period (being not less than 4 weeks from the date of service of the notice).

(4) A planning authority may, having regard to any submissions or observations made in accordance with *subsection (3) (c)*, decide to confirm the notice, with or without modifications, or not to confirm the notice.

(5) A planning authority, in deciding whether to confirm a notice pursuant to this section, shall consider—

(*a*) the proper planning and sustainable development of the area,

(*b*) the provisions of the development plan,

(*c*) the provisions of any special amenity area order, any European site or other area designated for the purposes of *section 10(2) (c)* relating to the area, and

(*d*) any other relevant provision of this Act and any regulations made thereunder.

(6) Where a notice is confirmed by a planning authority under *subsection (4)*, any person served with the notice may, within 8 weeks of the date of service of the notice, appeal to the Board against the notice.

(7) Where an appeal is brought under this section against a notice, the Board may confirm the notice with or without modifications or annul the notice, and the provisions of *subsection (5)* shall apply, subject to any necessary modifications, to the deciding of an appeal under this subsection by the Board, as they apply to the making of a decision by the planning authority.

(8) A notice under this section (other than a notice which is annulled) shall take effect—

(*a*) in case no appeal against it is taken, on the expiration of the period for taking an appeal, or

(*b*) in case an appeal or appeals are taken against it and not withdrawn, when the appeal or appeals have been either withdrawn or decided.

(9) If, within the period specified in a notice under this section, or within such extended period as the planning authority may allow, any demolition, removal, alteration or replacement required by the notice has not been effected, the planning authority may enter the structure and may effect such demolition, removal, alteration or replacement as is specified in the notice.

(10) Where a notice under this section is complied with, the planning authority shall pay to the person complying with the notice the expenses reasonably incurred by the person in carrying out the demolition, removal, alteration or replacement specified in the notice, less the value of any salvageable materials.

(11) Where any person served with a notice under this section fails to comply with the requirements of the notice, or causes or permits the failure to comply with the requirements, he or she shall be guilty of an offence.

(12) Particulars of a notice served or confirmed under this section shall be entered in the register.

(13) (*a*) A planning authority may, for stated reasons, by notice in writing withdraw a notice served under this section.

(*b*) Where a notice is withdrawn pursuant to this subsection by a planning authority, the fact that the notice was withdrawn shall be recorded by the authority in the register.

Agreements regulating development or use of land.

47.—(1) A planning authority may enter into an agreement with any person interested in land in their area, for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be specified by the agreement, and any such agreement may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the planning authority to be necessary or expedient for the purposes of the agreement.

(2) A planning authority in entering into an agreement under this section may join with any body which is a prescribed authority for the purposes of *section 11*.

(3) An agreement made under this section with any person interested in land may be enforced by the planning authority, or any body joined with it, against persons deriving title under that person in respect of that land as if the planning authority or body, as may be appropriate, were possessed of adjacent land, and as if the agreement had been expressed to be made for the benefit of that land.

(4) Nothing in this section, or in any agreement made thereunder, shall be construed as restricting the exercise, in relation to land which is the subject of any such agreement, of any powers exercisable by the Minister, the Board or the planning authority under this Act, so long as those powers are not exercised so as to contravene materially the provisions of the development plan, or as requiring the exercise of any such powers so as to contravene materially those provisions.

(5) Particulars of an agreement made under this section shall be entered in the register.

Development contributions.

48.—(1) A planning authority may, when granting a permission under *section 34*, include conditions for requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority and that is provided, or that it is intended will be provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities).

(2) (*a*) Subject to *paragraph (c)*, the basis for the determination of a contribution under *subsection (1)* shall be set out in a development contribution scheme made under this section, and a planning authority may make one or more schemes in respect of different parts of its functional area.

(*b*) A scheme may make provision for payment of different contributions in respect of different classes or descriptions of development.

(*c*) A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

(3) (*a*) A scheme shall state the basis for determining the contributions to be paid in respect of public infrastructure and facilities, in accordance with the terms of the scheme.

(*b*) In stating the basis for determining the contributions in accordance with *paragraph (a)*, the scheme shall indicate the contribution to be paid in respect of the different classes of public infrastructure and facilities which are provided or to be provided by any local authority and the planning authority shall have regard to the actual estimated cost of providing the classes of public infrastructure and facilities, except that any benefit which accrues in respect of existing development may not be included in any such determination.

(*c*) A scheme may allow for the payment of a reduced contribution or no contribution in certain circumstances, in accordance with the provisions of the scheme.

F453**[**(3A) Where a permission which includes conditions referred to in *subsection (1)* has been granted under *section 34* in respect of a development and the basis for the determination of the contribution under *subsection (1)* has changed—

(*a*) where the development is one to which Part II of the Building Control Regulations 1997 (S.I. No. 496 of 1997) applies and a commencement notice within the meaning of that Part in respect of the development has not been lodged, or

F454**[**(*b*) where the development comprises houses and one or more of those houses has not been rented, leased, occupied or sold,**]**

the planning authority shall apply that change to the conditions of the permission where to do so would reduce the amount of the contribution payable.

F454**[**(3B) Where a development referred to in *subsection (3A)* comprises houses one or more of which has not been rented, leased, occupied or sold the planning authority shall apply the change in the basis for the determination of the contribution referred to in that subsection only in respect of any house or houses that have not been rented, leased, occupied or sold.**]**

(3C) Where the planning authority applies a change in the basis for the determination of a development contribution under *subsection (3A)* it may amend a condition referred to in *subsection (1)* in order to reflect the change.**]**

(4) Where a planning authority proposes to make a scheme under this section, it shall publish in one or more newspapers circulating in the area to which the scheme relates, a notice—

(*a*) stating that a draft scheme has been prepared,

(*b*) giving details of the proposed contributions under the draft scheme,

(*c*) indicating the times at which, the period (which shall be not less than 6 weeks) during which, and the place where, a copy of the draft scheme may be inspected, and

(*d*) stating that submissions or observations may be made in writing to the planning authority in relation to the draft scheme, before the end of the period for inspection.

(5) (*a*) In addition to the requirements of *subsection (4)*, a planning authority shall send a copy of the draft scheme to the Minister.

(*b*) The Minister may make recommendations to the planning authority regarding the terms of the draft scheme, within 6 weeks of being sent the scheme.

(6) (*a*) Not later than 4 weeks after the expiration of the period for making submissions or observations under *subsection (4)*, the F455**[**chief executive**]** of a planning authority shall prepare a report on any submissions or observations received under that subsection, and submit the report to the members of the authority for their consideration.

(*b*) A report under *paragraph (a)* shall—

(i) list the persons or bodies who made submissions or observations under this section,

(ii) summarise the issues raised by the persons or bodies in the submissions or observations, and

(iii) give the response of the F455**[**chief executive**]** to the issues raised, taking account of the proper planning and sustainable development of the area.

(7) The members of the planning authority shall consider the draft scheme and the report of the F455**[**chief executive**]** under *subsection (6)*, and shall have regard to any recommendations made by the Minister under *subsection (5)*.

(8) (*a*) Following the consideration of the F455**[**chief executive's report**]**, and having had regard to any recommendations made by the Minister, the planning authority shall make the scheme, unless it decides, by resolution, to vary or modify the scheme, otherwise than as recommended in the F455**[**chief executive's report**]**, or otherwise decides not to make the scheme.

(*b*) A resolution under *paragraph (a)* must be passed not later than 6 weeks after receipt of the F455**[**chief executive's report**]**.

(9) (*a*) Where a planning authority makes a scheme in accordance with *subsection (8)*, the authority shall publish notice of the making, or approving, of the scheme, as the case may be, in at least one newspaper circulating in its area.

(*b*) A notice under *paragraph (a)* shall—

(i) give the date of the decision of the planning authority in respect of the draft scheme,

(ii) state the nature of the decision, and

(iii) contain such other information as may be prescribed.

(10) (*a*) Subject to *paragraph (b)*, no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with a scheme made under this section.

(*b*) An appeal may be brought to the Board where an applicant for permission under *section 34* considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the planning authority.

(*c*) Notwithstanding *section 34(11)*, where an appeal is brought in accordance with *paragraph (b)*, and no other appeal of the decision of a planning authority is brought by any other person under *section 37*, the authority shall make the grant of permission as soon as may be after the expiration of the period for the taking of an appeal. provided that the person who takes the appeal in accordance with *paragraph (b)* furnishes to the planning authority security for payment of the full amount of the contribution as specified in the condition.

(11) Where an appeal is brought to the Board in respect of a refusal to grant permission under this Part, and where the Board decides to grant permission, it shall, where appropriate, apply as a condition to the permission the provisions of the contribution scheme for the time being in force in the area of the proposed development.

(12) Where payment of a special contribution is required in accordance with *subsection (2) (c)*, the following provisions shall apply—

(*a*) the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates,

(*b*) where the works in question—

F456**[**(i) are not commenced within 5 years of the date of payment to the authority of the contribution (or final instalment thereof, if paid by phased payment under *subsection (15)(a)*),

(ii) have commenced, but have not been completed within 7 years of the date of payment to the authority of the contribution (or final instalment thereof, if paid by phased payment under *subsection (15)(a)*), or**]**

(iii) where the local authority decides not to proceed with the proposed works or part thereof.

the contribution shall, subject to *paragraph (c)*, be refunded to the applicant together with any interest that may have accrued over the period while held by the local authority,

(*c*) where under *subparagraph (ii)* or *(iii)* of *paragraph (b)*, any local authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out.

(13) (*a*) Notwithstanding *sections 37* and *139*, where an appeal received by the Board after the commencement of this section relates solely to a condition dealing with a special contribution, and no appeal is brought by any other person under *section 37* of the decision of the planning authority under that section, the Board shall not determine the relevant application as if it had been made to it in the first instance, but shall determine only the matters under appeal.

(*b*) Notwithstanding *section 34(11)*, where an appeal referred to in *paragraph (a)* is received by the Board, and no appeal is brought by any other person under *section 37*, the authority shall make the grant of permission as soon as may be after the expiration of the period for the taking of an appeal, provided that the person who takes the appeal furnishes to the planning authority, pending the decision of the Board, security for payment of the full amount of the special contribution as specified in the condition referred to in *paragraph (a)*.

(14) (*a*) Money accruing to a local authority under this section shall be accounted for in a separate account, and shall only be applied as capital for public infrastructure and facilities.

(*b*) A report of a local authority under section 50 of the Local Government Act, 1991, shall contain details of monies paid or owing to it under this section and shall indicate how such monies paid to it have been expended by any local authority.

(15) (*a*) A planning authority may facilitate the phased payment of contributions under this section, and may require the giving of security to ensure payment of contributions.

(*b*) Where a contribution is not paid in accordance with the terms of the condition laid down by the planning authority, any outstanding amounts due to the planning authority shall be paid together with interest that may have accrued over the period while withheld by the person required to pay the contribution.

(*c*) A planning authority may recover, as a simple contract debt in a court of competent jurisdiction, any contribution or interest due to the planning authority under this section.

(16) (*a*) A planning authority shall make a scheme or schemes under this section within 2 years of the commencement of this section.

(*b*) Notwithstanding the repeal of any enactment by this Act, the provisions of section 26 of the Act of 1963, in relation to requiring contributions in respect of expenditure by local authorities on works which facilitate development, shall continue to apply pending the making of a scheme under this section, but shall not apply after two years from the commencement of this section.

(17) In this section—

"public infrastructure and facilities" means—

(*a*) the acquisition of land,

(*b*) the provision of open spaces, recreational and community facilities and amenities and landscaping works,

F454**[**(*c*) the provision of roads, car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure,**]**

(*d*) the provision of bus corridors and lanes, bus interchange facilities (including car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures,

F456**[**F454**[**(*e*) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, surface water sewers, flood relief work and ancillary infrastructure,**]**

(*f*) the provision of high-capacity telecommunications infrastructure, such as broadband,

(*g*) the provision of school sites, and

(*h*) any matters ancillary to *paragraphs (a)* to *(g)*.**]**

"scheme" means a development contribution scheme made under this section;

"special contribution" means a special contribution referred to in *subsection (2)(c)*.

Annotations

Amendments:

F453 Inserted (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 29, S.I. No. 364 of 2015.

F454 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 28(1), (2)(a), (b), S.I. No. 436 of 2018.

F455 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 52-54, S.I. No. 436 of 2018.

F456 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 30, S.I. No. 477 of 2010.

Modifications (not altering text):

C69 Certain functions transferred to Cork City Council as a result of the Cork City and Council areas boundary alteration (31.01.2019) by *Local Government Act 2019* (1/2019), s. 31, S.I. No. 20 of 2019.

Planning applications and development contribution schemes

31. (1) For the purposes of the Act of 2000 or any instrument under that Act and subject to subsection (2), the county council shall, after the transfer day, be the planning authority in relation to any planning application made before the transfer day in respect of development or proposed development in the relevant area.

(2) (*a*) Subject to paragraph (b), the functions of a planning authority under the Act of 2000 shall, as respects—

(i) a decision under section 34 of that Act, or

(ii) a determination under section 37 of that Act,

made before the transfer day in relation to development or proposed development in the relevant area, be performable from that day by the city council.

(3) Any contribution—

(*a*) paid before the transfer day in accordance with section 49 of the Act of 2000 for the purpose of any public infrastructure service or project in the relevant area, and

(*b*) vested in the city council under Part 2,

shall be expended by the city council for that purpose.

(4) Any development contribution scheme under section 48 of the Act of 2000 or supplementary development contribution scheme under section 49 of that Act made by the city council shall, from the transfer day, apply to the relevant area as it applies to the rest of the functional area of the city council.

...

Editorial Notes:

E218 Making a development contribution scheme is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 item 71 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

E219 Previous affecting provision: subs. (17)(c) amended (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 30, S.I. No. 477 of 2010; substituted as per F-note above.

Supplementary development contribution schemes.

49.—F457**[**(1) A planning authority may, when granting a permission under *section 34*, include conditions requiring the payment of a contribution in respect of any public infrastructure service or project—

(*a*) specified in a scheme made by the planning authority (in this section referred to as a "supplementary development contribution scheme"),

(*b*) provided or carried out or proposed to be provided or carried out—

(i) by a planning authority,

(ii) where the provision of the infrastructure concerned is an objective in the development plan of a planning authority, or of a planning scheme of the Dublin Docklands Development Authority under section 25 of the Dublin Docklands Development Act 1997, by a public authority, or, pursuant to an agreement entered into by a public authority with any other person, by that person, or

(iii) pursuant to an agreement entered into by a local authority with any other person, by that person,

and

(*c*) that will benefit the development to which the permission relates when carried out.

(1A) In this section, "public authority" means any body established by or under statute which is for the time being declared, by regulations made by the Minister, to be a public authority for the purposes of this section. **]**

(2) (*a*) The amount, and manner of payment, of a contribution under *subsection (1)* shall be determined in accordance with a supplementary development contribution scheme.

(*b*) A supplementary development contribution scheme shall specify—

(i) the area or areas within the functional area of the planning authority, and

(ii) the public infrastructure project or service,

to which it relates, and more than one such scheme may be made in respect of a particular area.

(*c*) A supplementary development contribution scheme may make provision for the payment of different contributions in respect of different classes or descriptions of development.

(3) *Subsections (3), (4), (5), (6), (7), (8), (9), (10), (11)* and *(15)* of *section 48* shall apply to a scheme subject to—

(*a*) the modification that references in those subsections to a scheme shall be construed as references to a supplementary development contribution scheme,

(*b*) any other necessary modifications, and

(*c*) the provisions of this section.

F458**[**(3A) Notwithstanding *subsection (3)* and *section 48(10)*, the Board shall consider an appeal brought to it by an applicant for permission under *section 34*, in relation to a condition requiring the payment of a contribution in respect of a public infrastructure service or project specified in a supplementary development contribution scheme, where the applicant considers that the service or project will not benefit the development to which the permission relates and *section 48(13)* shall apply to such an appeal.**]**

F459**[**(3AA) *Subsections (3A)*, *(3B)* and *(3C)* of *section 48* shall apply where the basis for the determination of a contribution under *subsection (1)* has changed subject to—

(*a*) the modification that references in those subsections to a contribution shall be construed as references to a contribution to a supplementary development contribution scheme,

(*b*) any other necessary modifications, and

(*c*) the provisions of this section.**]**

(4) (*a*) A planning authority may enter into an agreement with any person in relation to the carrying out, or the provision, as may be appropriate, of a public infrastructure project or service.

(*b*) Without prejudice to the generality of *paragraph (a)*, an agreement may make provision for—

(i) the manner in which the service or project is to be provided or carried out, as the case may be, including provision relating to construction or maintenance of any infrastructure or operation of any service or facility,

(ii) arrangements regarding the financing of the project or service and the manner in which contributions paid or owed to a planning authority pursuant to a condition under *subsection (1)* may be applied in respect of that project or service,

(iii) the entry into such further agreements as may be necessary with any other person regarding the financing and provision of such service or carrying out of such project,

(iv) the entry into force, duration and monitoring of the agreement (including the resolution of disputes).

(5) A planning authority shall not, pursuant to a condition under *subsection (1)*, require the payment of a contribution in respect of a public infrastructure project or service where the person concerned has made a contribution under *section 48* in respect of public infrastructure and facilities of which the said public infrastructure project or service constituted a part.

(6) A planning authority may, at any time, by resolution, amend a supplementary development contribution scheme for the purpose of modifying the manner of determining a contribution pursuant to a condition under *subsection (1)* where the cost of carrying out or providing, as the case may be, the public infrastructure project or service is less than the cost that was estimated when the planning authority first determined the amount of the contribution.

(7) In this section, "public infrastructure project or service" means—

(*a*) the provision of particular rail, light rail or other public transport infrastructure, including car parks and other ancillary development,

(*b*) the provision of particular new roads,

F460**[**(*c*) the provision of new surface water sewers and ancillary infrastructure,**]**

F457**[**(*d*) the provision of new schools and ancillary infrastructure.**]**

Annotations

Amendments:

F457 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 31(a), (c), S.I. No. 477 of 2010.

F458 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 31(b), S.I. No. 477 of 2010.

F459 Inserted (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 30, S.I. No. 364 of 2015.

F460 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 28(3), S.I. No. 436 of 2018.

Modifications (not altering text):

C70 Certain functions transferred to Cork City Council as a result of the Cork City and Council areas boundary alteration (31.01.2019) by *Local Government Act 2019* (1/2019), s. 31, S.I. No. 20 of 2019.

Planning applications and development contribution schemes

31. (1) For the purposes of the Act of 2000 or any instrument under that Act and subject to subsection (2), the county council shall, after the transfer day, be the planning authority in relation to any planning application made before the transfer day in respect of development or proposed development in the relevant area.

(2) (*a*) Subject to paragraph (b), the functions of a planning authority under the Act of 2000 shall, as respects—

(i) a decision under section 34 of that Act, or

(ii) a determination under section 37 of that Act,

made before the transfer day in relation to development or proposed development in the relevant area, be performable from that day by the city council.

(3) Any contribution—

(*a*) paid before the transfer day in accordance with section 49 of the Act of 2000 for the purpose of any public infrastructure service or project in the relevant area, and

(*b*) vested in the city council under Part 2,

shall be expended by the city council for that purpose.

(4) Any development contribution scheme under section 48 of the Act of 2000 or supplementary development contribution scheme under section 49 of that Act made by the city council shall, from the transfer day, apply to the relevant area as it applies to the rest of the functional area of the city council.

...

C71 Dublin Docklands Authority construed (1.03.2016, dissolution day) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), s. 7(2), commenced on enactment, S.I. No. 114 of 2016. The Council referred to is Dublin City Council (see s. 2).

Transfer of functions

7. (1) All functions that, immediately before the dissolution day, were vested in the Authority under subsections (1) (with the exception of functions vested under subparagraphs (i), (ii) and (iii) of paragraph (b)), (2), (3), (5) and (6) of section 18 of the Act of 1997 shall on that day stand transferred to the Council.

(2) References in any enactment (other than this Act) or instrument under an enactment to the Authority shall, to the extent that such references relate to a function transferred to the Council under this section, on and after the dissolution day, be construed as references to the Council.

Editorial Notes:

E220 Making or amending a supplementary development contribution scheme is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 item 72 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

E221 Previous affecting provision: subs. (7)(c) substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 31(a) and (c), S.I. No. 477 of 2010; substituted as per F-note above.

E222 Previous affecting provision: subs. (7)(c) amended (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 11, commenced on enactment; substituted as per E-note above.

F461**[** Judicial review of applications, appeals, referrals and other matters.

50.—(1) Where a question of law arises on any matter with which the Board is concerned, the Board may refer the question to the High Court for decision.

(2) A person shall not question the validity of any decision made or other act done by—

(*a*) a planning authority, a local authority or the Board in the performance or purported performance of a function under this Act,

(*b*) the Board in the performance or purported performance of a function transferred under F462**[***Part XIV*,**]**

(*c*) a local authority in the performance or purported performance of a function conferred by an enactment specified in *section 214* relating to the compulsory acquisition of F462**[**land, or**]**

F463**[**(*d*) without prejudice to the right of appeal referred to in *section 37* as read with *section 37R*—

(i) the competent authority (within the meaning of the Aircraft Noise (Dublin Airport) Regulation Act 2019), or

(ii) the Board in its capacity as the appeal body from decisions of such competent authority,**]**

otherwise than by way of an application for judicial review under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) (the "Order").

(3) *Subsection (2)(a)* does not apply to an approval or consent referred to in *Chapter I* or *II* of *Part VI*.

(4) A planning authority, a local authority or the Board may, at any time after the bringing of an application for leave to apply for judicial review of any decision or other act to which *subsection (2)* applies and which relates to a matter for the time being before the authority or the Board, as the case may be, apply to the High Court to stay the proceedings pending the making of a decision by the authority or the Board in relation to the matter concerned.

(5) On the making of such an application, the High Court may, where it considers that the matter before the authority or the Board is within the jurisdiction of the authority or the Board, make an order staying the proceedings concerned on such terms as it thinks fit.

(6) Subject to *subsection (8)*, an application for leave to apply for judicial review under the Order in respect of a decision or other act to which *subsection (2)(a)* applies shall be made within the period of 8 weeks beginning on the date of the decision or, as the case may be, the date of the doing of the act by the planning authority, the local authority or the Board, as appropriate.

(7) Subject to *subsection (8)*, an application for leave to apply for judicial review under the Order in respect of a decision or other act to which *subsection (2)(b)* or *(c)* applies shall be made within the period of 8 weeks beginning on the date on which notice of the decision or act was first sent (or as may be the requirement under the

relevant enactment, functions under which are transferred under *Part XIV* or which is specified in *section 214*, was first published).

(8) The High Court may extend the period provided for in *subsection (6)* or *(7)* within which an application for leave referred to in that subsection may be made but shall only do so if it is satisfied that—

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

(*b*) the circumstances that resulted in the failure to make the application for leave within the period so provided were outside the control of the applicant for the extension.

(9) References in this section to the Order shall be construed as including references to the Order as amended or replaced (with or without modification) by rules of court.**]**

Annotations

Amendments:

F461 Substituted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 13, S.I. No. 525 of 2006.

F462 Substituted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 13(a), (b), S.I. No. 403 of 2019.

F463 Inserted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 13(c), S.I. No. 403 of 2019.

Modifications (not altering text):

C72 Application of section extended (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 10(17), S.I. No. 403 of 2019.

Appeal to Board against relevant regulatory decision

10. ...

(17) Sections 50, 50A and 50B of the Act of 2000 shall, with all necessary modifications, apply to a decision of the Board under *subsection (8) (a)* on the appeal as those sections apply to a decision of the Board under section 37 of that Act on an appeal referred to in section 37R(1) of that Act.

...

C73 Section applied with modifications by *Industrial Development Act 1986* (9/1986), s. 16D(2)(b) as inserted (19.09.2018) by *Industrial Development (Amendment) Act 2018* (19/2018), s. 7, S.I. No. 361 of 2018.

Functions of Bord Pleanála

16D. (1) The Board shall have the same functions in relation to a compulsory purchase order made by IDA by virtue of subsection (2) of section 16C as it has under Part XIV of the Act of 2000 in relation to a compulsory acquisition of land by a local authority under the Act of 1966, and for that purpose, a reference (howsoever expressed) in the Act of 2000 to the functions transferred to the Board under that Part shall include a reference to the performance of those functions by the Board in relation to such an order.

(2) Without prejudice to the generality of subsection (1)—

(*a*) sections 216(1), 217(3), (5), (6), (6A) and (7), 217A, 217C(1), 218(1), (3) and (4), 219 and 221(1), (2), (3), (5), (7) and (8) of the Act of 2000 shall, with any necessary modifications, apply in relation to a compulsory purchase order made by virtue of subsection (2) of section 16C as if references in that Act to a local authority were to IDA, and

(*b*) sections 50 and 50A of the Act of 2000 shall, with any necessary modifications, apply in respect of the performance by the Board of its functions under subsection (1) in the

same manner as those sections apply in respect of the performance by the Board of a function transferred under Part XIV of that Act.

(3) In this section—

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

"Board" means An Bord Pleanála.

Editorial Notes:

E223 Previous affecting provision: section amended (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 12, commenced on enactment; substituted as per F-note above.

F464**[***Section 50*: supplemental provisions.

50A.—(1) In this section—

"Court", where used without qualification, means the High Court (but this definition shall not be construed as meaning that *subsections (2)* to *(6)* and *(9)* do not extend to and govern the exercise by the Supreme Court of jurisdiction on any appeal that may be made);

"Order" shall be construed in accordance with *section 50*;

"*section 50* leave" means leave to apply for judicial review under the Order in respect of a decision or other act to which *section 50(2)* applies.

F465**[**(2) (*a*) An application for *section 50* leave shall be made by motion *ex parte* and shall be grounded in the manner specified in the Order in respect of an *ex parte* motion for leave.

(*b*) The Court hearing the *ex parte* application for leave may decide, having regard to the issues arising, the likely impact of the proceedings on the respondent or another party, or for other good and sufficient reason, that the application for leave should be conducted on an *inter partes* basis and may adjourn the application on such terms as it may direct in order that a notice may be served on that person.

(*c*) If the Court directs that the leave hearing is to be conducted on an *inter partes* basis it shall be by motion on notice (grounded in the manner specified in the Order in respect of an *ex parte* motion for leave)—

(i) if the application relates to a decision made or other act done by a planning authority or local authority in the performance or purported performance of a function under this Act, to the authority concerned and, in the case of a decision made or other act done by a planning authority on an application for permission, to the applicant for the permission where he or she is not the applicant for leave,

(ii) if the application relates to a decision made or other act done by the Board on an appeal or referral, to the Board and each party or each other party, as the case may be, to the appeal or referral,

(iii) if the application relates to a decision made or other act done by the Board on an application for permission or approval, to the Board and to the applicant for the permission or approval where he or she is not the applicant for leave,

(iv) if the application relates to a decision made or other act done by the Board or a local authority in the performance or purported performance of a function referred to in *section 50(2)(b)* or *(c)*, to the Board or the local authority concerned, and

(v) to any other person specified for that purpose by order of the High Court.

(*d*) The Court may—

(i) on the consent of all of the parties, or

(ii) where there is good and sufficient reason for so doing and it is just and equitable in all the circumstances,

treat the application for leave as if it were the hearing of the application for judicial review and may for that purpose adjourn the hearing on such terms as it may direct.**]**

(3) The Court shall not grant *section 50* leave unless it is satisfied that—

(*a*) there are substantial grounds for contending that the decision or act concerned is invalid or ought to be F466**[**quashed,**]**

(*b*) (i) the applicant has a F467**[**sufficient interest**]** in the matter which is the subject of the application, or

(ii) where the decision or act concerned relates to a development identified in or under regulations made under *section 176*, for the time being in force, as being development which may have significant effects on the environment, the applicant—

(I) is a body or organisation (other than a State authority, a public authority or governmental body or agency) the aims or objectives of which relate to the promotion of environmental protection,

(II) has, during the period of 12 months preceding the date of the application, pursued those aims or objectives, and

(III) satisfies such requirements (if any) as a body or organisation, if it were to make an appeal under *section 37(4)(c)*, would have to satisfy by virtue of *section 37(4)(d)(iii)* (and, for this purpose, any requirement prescribed under *section 37(4)(e)(iv)* shall apply as if the reference in it to the class of matter into which the decision, the subject of the appeal, falls were a reference to the class of matter into which the decision or act, the subject of the application for *section 50* leave, F466**[**falls), and**]**

F468**[**(*c*) the applicant has exhausted any available appeal procedures or any other administrative remedy available to him or her in respect of the decision or act concerned.**]**

(4) A F467**[**sufficient interest**]** for the purposes of *subsection (3)(b)(i)* is not limited to an interest in land or other financial interest.

(5) If the court grants *section 50* leave, no grounds shall be relied upon in the application for judicial review under the Order other than those determined by the Court to be substantial under *subsection (3)(a)*.

(6) The Court may, as a condition for granting section 50 leave, require the applicant for such leave to give an undertaking as to damages.

(7) The determination of the Court of an application for *section 50* leave or of an application for judicial review on foot of such leave shall be final and no appeal shall lie from the decision of the Court to the Supreme Court in either case save with leave of the Court which leave shall only be granted where the Court certifies that its decision involves a point of law of exceptional public importance and that it is desirable in the public interest that an appeal should be taken to the Supreme Court.

(8) *Subsection (7)* shall not apply to a determination of the Court in so far as it involves a question as to the validity of any law having regard to the provisions of the Constitution.

(9) If an application is made for judicial review under the Order in respect of part only of a decision or other act to which *section 50(2)* applies, the Court may, if it thinks fit, declare to be invalid or quash the part concerned or any provision thereof without declaring invalid or quashing the remainder of the decision or other act or part of the decision or other act, and if the Court does so, it may make any consequential amendments to the remainder of the decision or other act or the part thereof that it considers appropriate.

F468**[**(9A) If, on an application for judicial review under the Order, the Court decides to quash a decision or other act to which *section 50(2)* applies, made or done on an application for permission or approval, the Court shall, if requested by the applicant for permission or approval, remit the matter to the planning authority, the local authority or the Board, as may be appropriate, for reconsideration, subject to such directions as the Court considers appropriate, unless the Court considers, having regard to the circumstances of the case, that it would not be lawful to do so.**]**

(10) The Court shall, in determining F469**[**an application for *section 50* leave, an application for judicial review on foot of such leave or an application for leave under *subsection (7)***]**, act as expeditiously as possible consistent with the administration of justice.

(11) On an appeal from a determination of the Court in respect of an application referred to in *subsection (10)*, the Supreme Court shall—

(*a*) have jurisdiction to determine only the point of law certified by the Court under *subsection (7)* (and to make only such order in the proceedings as follows from such determination), and

(*b*) in determining the appeal, act as expeditiously as possible consistent with the administration of justice.

(12) Rules of court may make provision for the expeditious hearing of applications for *section 50* leave and applications for judicial review on foot of such leave.**]**

F470**[**(13) For the avoidance of doubt, where—

(*a*) the Court has granted leave to appeal its decision in accordance with *subsection (7)*, or

(*b*) an appeal has been brought to the Court of Appeal in accordance with *subsection (8)*,

any party to the appeal may, at any time thereafter prior to the determination of such appeal, without any prior application to the Court of Appeal, apply to the Supreme Court under Article 34.5.4° of the Constitution to determine the appeal.

(14) Where the Supreme Court grants an application referred to in *subsection (13)*, the Court of Appeal shall, in respect of the proceedings before it in relation to the appeal, provide by order for the discontinuance of those proceedings, which order of discontinuance shall be confined to the grounds upon which the Supreme Court granted leave to appeal, whether or not any application in relation to the appeal has been made to the Court of Appeal.

(15) The Supreme Court shall act as expeditiously as possible consistent with the administration of justice in determining any application referred to in *subsection (13)* and, where the Supreme Court grants the application, any appeal.**]**

Annotations

Amendments:

F464 Inserted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 13, S.I. No. 525 of 2006.

F465 Substituted (28.09.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 32, S.I. No. 451 of 2010.

F466 Substituted (20.10.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 22(a)(i), (ii), S.I. No. 523 of 2022.

F467 Substituted (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 20, S.I. No. 433 of 2011.

F468 Inserted (20.10.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 22(a)(iii), (b), S.I. No. 523 of 2022.

F469 Substituted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 6(a), S.I. No. 715 of 2021.

F470 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 6(b), S.I. No. 715 of 2021.

Modifications (not altering text):

C74 Application of section extended (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 10(17), S.I. No. 403 of 2019.

Appeal to Board against relevant regulatory decision

10. ...

(17) Sections 50, 50A and 50B of the Act of 2000 shall, with all necessary modifications, apply to a decision of the Board under *subsection (8) (a)* on the appeal as those sections apply to a decision of the Board under section 37 of that Act on an appeal referred to in section 37R(1) of that Act.

...

C75 Section applied with modifications by *Industrial Development Act 1986* (9/1986), s. 16D(2)(b) as inserted (19.09.2018) by *Industrial Development (Amendment) Act 2018* (19/2018), s. 7, S.I. No. 361 of 2018.

Functions of Bord Pleanála

16D. (1) The Board shall have the same functions in relation to a compulsory purchase order made by IDA by virtue of subsection (2) of section 16C as it has under Part XIV of the Act of 2000 in relation to a compulsory acquisition of land by a local authority under the Act of 1966, and for that purpose, a reference (howsoever expressed) in the Act of 2000 to the functions transferred to the Board under that Part shall include a reference to the performance of those functions by the Board in relation to such an order.

(2) Without prejudice to the generality of subsection (1)—

(*a*) sections 216(1), 217(3), (5), (6), (6A) and (7), 217A, 217C(1), 218(1), (3) and (4), 219 and 221(1), (2), (3), (5), (7) and (8) of the Act of 2000 shall, with any necessary modifications, apply in relation to a compulsory purchase order made by virtue of subsection (2) of section 16C as if references in that Act to a local authority were to IDA, and

(*b*) sections 50 and 50A of the Act of 2000 shall, with any necessary modifications, apply in respect of the performance by the Board of its functions under subsection (1) in the same manner as those sections apply in respect of the performance by the Board of a function transferred under Part XIV of that Act.

(3) In this section—

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

"Board" means An Bord Pleanála.

F471**[**Costs in environmental matters.

50B.—(1) This section applies to proceedings of the following kinds:

(*a*) proceedings in the High Court by way of judicial review, or of seeking leave to apply for judicial review, of—

(i) any decision or purported decision made or purportedly made,

(ii) any action taken or purportedly taken, F472**[**...**]**

(iii) any failure to take any action,

pursuant to a F473**[**statutory provision**]** that gives effect to—

(I) a provision of Council Directive 85/337/EEC of 27 June 1985 to which Article 10a (inserted by Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directive 85/337/EEC and 96/61/EC) of that Council Directive applies,

(II) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment, or

(III) a provision of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control to which Article 16 of that Directive F473**[**applies, or**]**

F474**[**(IV) paragraph 3 or 4 of Article 6 of the Habitats Directive; or**]**

(*b*) an appeal (including an appeal by way of case stated) to the Supreme Court from a decision of the High Court in a proceeding referred to in *paragraph (a)*;

(*c*) proceedings in the High Court or the Supreme Court for interim or interlocutory relief in relation to a proceeding referred to in *paragraph (a)* or *(b)*.

F475**[**(2) Notwithstanding anything contained in Order 99 of the Rules of the Superior Courts (S.I. No. 15 of 1986) and subject to *subsections (2A)*, *(3)* and *(4)*, in proceedings to which this section applies, each party to the proceedings (including any notice party) shall bear its own costs.**]**

F476**[**(2A) The costs of proceedings, or a portion of such costs, as are appropriate, may be awarded to the applicant to the extent that the applicant succeeds in obtaining relief and any of those costs shall be borne by the respondent or notice party, or both of them, to the extent that the actions or omissions of the respondent or notice party, or both of them, contributed to the applicant obtaining relief.**]**

(3) The Court may award costs against a party in proceedings to which this section applies if the Court considers it appropriate to do so—

(*a*) because the Court considers that a claim or counterclaim by the party is frivolous or vexatious,

(*b*) because of the manner in which the party has conducted the proceedings, or

(*c*) where the party is in contempt of the Court.

(4) *Subsection (2)* does not affect the Court's entitlement to award costs in favour of a party in a matter of exceptional public importance and where in the special circumstances of the case it is in the interests of justice to do so.

(5) In this section a reference to "the Court" shall be construed as, in relation to particular proceedings to which this section applies, a reference to the High Court or the Supreme Court, as may be appropriate.**]**

F474**[**(6) In this section "statutory provision" means a provision of an enactment or instrument under an enactment.**]**

Annotations

Amendments:

F471 Inserted (28.09.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 33, S.I. No. 451 of 2010.

F472 Deleted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 29(a)(ii), S.I. No. 436 of 2018.

F473 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 29(a)(i), (iii), S.I. No. 436 of 2018.

F474 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 29(a)(iv), (b), S.I. No. 436 of 2018.

F475 Substituted (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 21(a), S.I. No. 433 of 2011.

F476 Inserted (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 21(b), S.I. No. 433 of 2011.

Modifications (not altering text):

C76 Prospective affecting provision: section applied with modifications by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023), s. 41(6), not commenced as of date of revision.

Judicial review

41. ...

(6) The provisions of section 50B of the Act of 2000 shall, with all necessary modifications, apply to the questioning of a decision, act or omission referred to in this section which has been subjected to an EIA or an AA or both an EIA and an AA.

...

C77 Section applied with modifications (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 10(17), S.I. No. 403 of 2019.

Appeal to Board against relevant regulatory decision

10. ...

(17) Sections 50, 50A and 50B of the Act of 2000 shall, with all necessary modifications, apply to a decision of the Board under *subsection (8) (a)* on the appeal as those sections apply to a decision of the Board under section 37 of that Act on an appeal referred to in section 37R(1) of that Act.

...

C78 Section applied with modifications (8.09.2011) by *European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011* (S.I. No. 456 of 2011), reg. 22.

Costs in certain civil proceedings

22. Section 50B (inserted by section 33 of the Planning and Development (Amendment) Act 2010 (No. 30 of 2010)) as amended by section 21 of the Environmental Miscellaneous Provisions Act 2011 (No. 20 of 2011) of the Planning and Development Act 2000 applies *mutatis mutandi* to these Regulations.

Editorial Notes:

E224 Previous affecting provision: application of section extended (14.10.2010) by *European Communities (Forest Consent and Assessment) Regulations 2010* (S.I. No. 558 of 2010), reg. 22; revoked (24.05.2017) by *Forestry Regulations 2017* (S.I. No. 191 of 2017), reg. 23(1)(a), in effect as per reg. 1(2).

E225 Previous affecting provision: subs. (2) substituted (28.09.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 33, S.I. No. 451 of 2010; substituted as per F-note above.

PART IV

Architectural Heritage

Annotations

Modifications (not altering text):

C79 Application of Part restricted with retrospective effect by *Transport (Railway Infrastructure) Act 2001* (55/2001), s. 38(2), as inserted (1.08.2008) by *Dublin Transport Authority Act 2008* (15/2008), s. 115(6), S.I. No. 291 of 2008.

Exempted development.

[38.—(1) Each of the following shall be exempted development for the purposes of the Act of 2000:

(*a*) development consisting of the carrying out of railway works, including the use of the railway works or any part thereof for the purposes of the operation of a railway, authorised by the Board and specified in a railway order or of any incidental or temporary works connected with such development;

(*b*) development consisting of the carrying out of railway works for the maintenance, improvement or repair of a railway that has been built pursuant to a railway order.

(2) Part IV of the Act of 2000 does not apply and is deemed never to have applied to developments specified in *subsection (1)*.**]**

Chapter I

Protected Structures

Record of protected structures.

51.—(1) For the purpose of protecting structures, or parts of structures, which form part of the architectural heritage and which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, every development plan shall include a record of protected structures, and shall include in that record every structure which is, in the opinion of the planning authority, of such interest within its functional area.

F477**[**(2) The Minister shall prescribe the form of a record of protected structures.**]**

(3) Subject to any additions or deletions made to the record, either under this Part or in the course of a review of the development plan under *Part II*, a record of protected structures shall continue to be part of that plan or any variation or replacement of the plan.

Annotations

Amendments:

F477 Substituted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 6, S.I. No. 279 of 2021.

Modifications (not altering text):

C80 Functions in relation to section transferred (1.05.2011) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 192 of 2011), arts. 2, 3 and sch. Note that name of Department of and Minister for Tourism, Culture and Sport changed to Department of and Minister for Arts, Heritage and the Gaeltacht (2.06.2011) by *Tourism, Culture and Sport (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 220 of 2011).

2. (1) The administration and business in connection with the exercise, performance or execution of any powers, duties and functions transferred by this Order are transferred to the Department of Tourism, Culture and Sport.

(2) References to the Department of the Environment, Heritage and Local Government contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Tourism, Culture and Sport.

3. (1) The powers, duties and functions vested in the Minister for the Environment, Heritage and Local Government—

(*a*) by or under any of the Acts mentioned in Part 1 of the Schedule,

(*b*) under the Regulations mentioned in Part 2 of the Schedule, and

(*c*) to make a recommendation to which section 12 (3)(b)(iii) of the Planning and Development Act 2000 (No. 30 of 2000) applies, and to make observations to which section 12(3)(b)(iv) of that Act applies,

are transferred to the Minister for Tourism, Culture and Sport.

(2) References to the Minister for the Environment, Heritage and Local Government contained in any Act or instrument made under such Act and relating to any powers, duties and functions transferred by this Order shall, on and after the commencement of this Order, be construed as references to the Minister for Tourism, Culture and Sport.

...

Schedule Part 1

Enactments, powers, duties and functions by or under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Sections 51 (2) (in so far as it relates to being consulted under that subsection), 52 (1) (in so far as it relates to the issuing of guidelines), 52 (2), 53, 55, 80 and 260 of the Planning and Development Act 2000 (No. 30 of 2000).

Part 2

Regulations, powers, duties and functions under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Regulations 13A(4)(a)(ii), 28(1)(c), 28(1)(n), 55(a), 82(3)(c), 82(3)(n), 88(2), 121(1)(c), 121(1)(n), 179(2)(g), 179(2)(j) and 213(1)(a) of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001);

...

Editorial Notes:

E226 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E227 Previous affecting provision: functions and powers in relation to *National Monuments (Amendment) Act 1994* (17/1994), ss. 5(5) and 6(2) transferred to Department of and Minister for Arts, Sport and Tourism (10.07.2002) by *National Monuments (Transfer of Departmental Administration and Ministerial Functions) Order 2002* (S.I. No. 358 of 2002).

E228 Previous affecting provision: name of Department of and Minister for Arts, Heritage, Gaeltacht and the Islands changed to Department of and Minister for Community, Rural and Gaeltacht Affairs (19.06.2002) by *Arts, Heritage, Gaeltacht and The Islands (Alteration of Name of Department and Title of Minister) Order 2002* (S.I. No. 308 of 2002).

Guidelines by Minister for Arts, Heritage, Gaeltacht and the Islands.

52.—F478**[**(1) The Minister shall issue guidelines to planning authorities concerning development objectives—

(*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.**]**

(2) The Minister for Arts, Heritage, Gaeltacht and the Islands may, after consulting with the authorities of any religious denominations which he or she considers necessary, issue guidelines to planning authorities concerning—

(*a*) the issue of declarations under *section 57* in respect of protected structures which are regularly used as places of public worship, and

(*b*) the consideration by planning authorities of applications for development affecting the interior of such protected structures.

(3) In considering development objectives, a planning authority shall have regard to any guidelines issued under this section.

(4) In this section, "development objective" means an objective which, under *section 10*, a planning authority proposes to include in its development plan.

Annotations

Amendments:

F478 Substituted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 7(1), S.I. No. 279 of 2021, with provision in subs. (2) for continuation in force of any existing guidelines.

Modifications (not altering text):

C81 Functions under subs. (2) transferred and references construed (24.06.2021) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2021* (S.I. No. 302 of 2021), arts. 2, 3 and sch. part 1, in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by this Order are transferred to the Department of Housing, Local Government and Heritage.

(2) References to the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media contained in any Act or any instrument made under an Act and relating to any administration and business

transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Housing, Local Government and Heritage.

3. (1) The functions vested in the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media–

(*a*) by or under any of the provisions of the Acts specified in Part 1 of the Schedule,

(*b*) under the Regulations specified in Part 2 of the Schedule, and

(*c*) to make a recommendation to which section 12(3)(b)(iii) of the Planning and Development Act 2000 (No. 30 of 2000) applies and to make observations to which section 12(3)(b)(iv) of that Act applies,

are transferred to the Minister for Housing, Local Government and Heritage.

(2) References to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media contained in any Act or instrument made under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Housing, Local Government and Heritage.

...

SCHEDULE

Part 1

...

Sections 5(8), 52(2), 53, 55 and 80 of the Planning and Development Act 2000 (No. 30 of 2000)

...

C82 Functions in relation to section transferred (1.05.2011) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 192 of 2011), arts. 2, 3 and sch. Note that name of Department of and Minister for Tourism, Culture and Sport changed to Department of and Minister for Arts, Heritage and the Gaeltacht (2.06.2011) by *Tourism, Culture and Sport (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 220 of 2011).

2. (1) The administration and business in connection with the exercise, performance or execution of any powers, duties and functions transferred by this Order are transferred to the Department of Tourism, Culture and Sport.

(2) References to the Department of the Environment, Heritage and Local Government contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Tourism, Culture and Sport.

3. (1) The powers, duties and functions vested in the Minister for the Environment, Heritage and Local Government—

(*a*) by or under any of the Acts mentioned in Part 1 of the Schedule,

(*b*) under the Regulations mentioned in Part 2 of the Schedule, and

(*c*) to make a recommendation to which section 12 (3)(b)(iii) of the Planning and Development Act 2000 (No. 30 of 2000) applies, and to make observations to which section 12(3)(b)(iv) of that Act applies,

are transferred to the Minister for Tourism, Culture and Sport.

(2) References to the Minister for the Environment, Heritage and Local Government contained in any Act or instrument made under such Act and relating to any powers, duties and functions transferred by this Order shall, on and after the commencement of this Order, be construed as references to the Minister for Tourism, Culture and Sport.

...

Schedule Part 1

Enactments, powers, duties and functions by or under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Sections 51 (2) (in so far as it relates to being consulted under that subsection), 52 (1) (in so far as it relates to the issuing of guidelines), 52 (2), 53, 55, 80 and 260 of the Planning and Development Act 2000 (No. 30 of 2000).

Part 2

Regulations, powers, duties and functions under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Regulations 13A(4)(a)(ii), 28(1)(c), 28(1)(n), 55(a), 82(3)(c), 82(3)(n), 88(2), 121(1)(c), 121(1)(n), 179(2)(g), 179(2)(j) and 213(1)(a) of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001);

...

Editorial Notes:

E229 Previous affecting provision: functions and powers in relation to *National Monuments (Amendment) Act 1994* (17/1994), ss. 5(5) and 6(2) transferred to Department of and Minister for Arts, Sport and Tourism (10.07.2002) by *National Monuments (Transfer of Departmental Administration and Ministerial Functions) Order 2002* (S.I. No. 358 of 2002).

E230 Previous affecting provision: name of Department of and Minister for Arts, Heritage, Gaeltacht and the Islands changed to Department of and Minister for Community, Rural and Gaeltacht Affairs (19.06.2002) by *Arts, Heritage, Gaeltacht and The Islands (Alteration of Name of Department and Title of Minister) Order 2002* (S.I. No. 308 of 2002).

Recommendations to planning authorities concerning specific structures.

53.—(1) The Minister for Arts, Heritage, Gaeltacht and the Islands may, in writing, make recommendations to a planning authority concerning the inclusion in its record of protected structures of any or all of the following—

(*a*) particular structures;

(*b*) specific parts of particular structures;

(*c*) specific features within the attendant grounds of particular structures.

(2) A planning authority shall have regard to any recommendations made to it under this section.

(3) A planning authority which, after considering a recommendation made to it under this section, decides not to comply with the recommendation, shall inform the Minister for Arts, Heritage, Gaeltacht and the Islands in writing of the reason for its decision.

Annotations

Modifications (not altering text):

C83 Functions under section transferred and references construed (24.06.2021) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2021* (S.I. No. 302 of 2021), arts. 2, 3 and sch. part 1, in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by this Order are transferred to the Department of Housing, Local Government and Heritage.

(2) References to the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media contained in any Act or any instrument made under an Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Housing, Local Government and Heritage.

3. (1) The functions vested in the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media–

(*a*) by or under any of the provisions of the Acts specified in Part 1 of the Schedule,

(*b*) under the Regulations specified in Part 2 of the Schedule, and

(*c*) to make a recommendation to which section 12(3)(b)(iii) of the Planning and Development Act 2000 (No. 30 of 2000) applies and to make observations to which section 12(3)(b)(iv) of that Act applies,

are transferred to the Minister for Housing, Local Government and Heritage.

(2) References to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media contained in any Act or instrument made under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Housing, Local Government and Heritage.

...

SCHEDULE

Part 1

...

Sections 5(8), 52(2), 53, 55 and 80 of the Planning and Development Act 2000 (No. 30 of 2000)

...

C84 Functions in relation to section transferred (1.05.2011) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 192 of 2011), arts. 2, 3 and sch. Note that name of Department of and Minister for Tourism, Culture and Sport changed to Department of and Minister for Arts, Heritage and the Gaeltacht (2.06.2011) by *Tourism, Culture and Sport (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 220 of 2011).

2. (1) The administration and business in connection with the exercise, performance or execution of any powers, duties and functions transferred by this Order are transferred to the Department of Tourism, Culture and Sport.

(2) References to the Department of the Environment, Heritage and Local Government contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Tourism, Culture and Sport.

3. (1) The powers, duties and functions vested in the Minister for the Environment, Heritage and Local Government—

(*a*) by or under any of the Acts mentioned in Part 1 of the Schedule,

(*b*) under the Regulations mentioned in Part 2 of the Schedule, and

(*c*) to make a recommendation to which section 12 (3)(b)(iii) of the Planning and Development Act 2000 (No. 30 of 2000) applies, and to make observations to which section 12(3)(b)(iv) of that Act applies,

are transferred to the Minister for Tourism, Culture and Sport.

(2) References to the Minister for the Environment, Heritage and Local Government contained in any Act or instrument made under such Act and relating to any powers, duties and functions transferred by this Order shall, on and after the commencement of this Order, be construed as references to the Minister for Tourism, Culture and Sport.

...

Schedule Part 1

Enactments, powers, duties and functions by or under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Sections 51 (2) (in so far as it relates to being consulted under that subsection), 52 (1) (in so far as it relates to the issuing of guidelines), 52 (2), 53, 55, 80 and 260 of the Planning and Development Act 2000 (No. 30 of 2000).

Part 2

Regulations, powers, duties and functions under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Regulations 13A(4)(a)(ii), 28(1)(c), 28(1)(n), 55(a), 82(3)(c), 82(3)(n), 88(2), 121(1)(c), 121(1)(n), 179(2)(g), 179(2)(j) and 213(1)(a) of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001);

...

Editorial Notes:

E231 Previous affecting provision: functions and powers in relation to *National Monuments (Amendment) Act 1994* (17/1994), ss. 5(5) and 6(2) transferred to Department of and Minister for Arts, Sport and Tourism (10.07.2002) by *National Monuments (Transfer of Departmental Administration and Ministerial Functions) Order 2002* (S.I. No. 358 of 2002).

E232 Previous affecting provision: name of Department of and Minister for Arts, Heritage, Gaeltacht and the Islands changed to Department of and Minister for Community, Rural and Gaeltacht Affairs (19.06.2002) by *Arts, Heritage, Gaeltacht and The Islands (Alteration of Name of Department and Title of Minister) Order 2002* (S.I. No. 308 of 2002).

Additions to and deletions from record of protected structures.

54.—(1) A planning authority may add to or delete from its record of protected structures a structure, a specified part of a structure or a specified feature of the attendant grounds of a structure, where—

(*a*) the authority considers that—

(i) in the case of an addition, the addition is necessary or desirable in order to protect a structure, or part of a structure, of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, whether or not a recommendation has been made under *section 53*, or

(ii) in the case of a deletion, the protection of the structure or part is no longer warranted,

and

(*b*) the addition or deletion is made when making a development plan under *Part II* or in accordance with *section 55*.

(2) The making of an addition to, or a deletion from, a record of protected structures shall be a reserved function.

Annotations

Editorial Notes:

E233 Making an addition to, or a deletion from, a record of protected structures is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 2 item 13 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

Procedure for making additions for deletions.

55.—(1) A planning authority which proposes, at any time other than in the course of making its development plan under *Part II*, to make an addition to or a deletion from its record of protected structures shall—

(*a*) serve on each person who is the owner or occupier of the proposed protected structure or the protected structure, as the case may be, a notice of the proposed addition or deletion, including the particulars,

(*b*) send particulars of the proposed addition or deletion to the Minister for Arts, Heritage, Gaeltacht and the Islands and to any other prescribed bodies, and

(*c*) cause notice of the proposed addition or deletion to be published in at least one newspaper circulating in its functional area.

(2) A notice under *paragraph (a)* or *(c)* of *subsection (1)* shall state the following—

(*a*) that particulars of the proposed addition or deletion may be inspected at a specified place, during a specified period of not less than 6 weeks;

(*b*) that, during such period, any person may make written submissions or observations, with respect to the proposed addition or deletion, to the planning authority, and that any such submissions or observations will be taken into consideration before the making of the addition or deletion concerned;

(*c*) whether or not the proposed addition or deletion was recommended by the Minister for Arts, Heritage, Gaeltacht and the Islands;

(*d*) that, if the proposed addition or deletion was recommended by the Minister for Arts, Heritage, Gaeltacht and the Islands, the planning authority shall forward to that Minister for his or her observations a copy of any submission or observation made under *paragraph (b)*.

(3) Before making the proposed addition or deletion, the planning authority shall—

(*a*) consider any written submissions or observations received under *subsection (2) (b)*, and

(*b*) have regard to any observations received from the Minister for Arts, Heritage, Gaeltacht and the Islands, concerning those submissions or observations, within 4 weeks after the receipt by that Minister of a copy of the submissions or observations.

(4) Within 12 weeks after the end of the period allowed under *subsection (2)(a)* for inspection, the planning authority shall decide whether or not the proposed addition or deletion should be made.

(5) Within 2 weeks after making an addition to or a deletion from the record of protected structures, a planning authority shall serve on the owner and on the occupier of the structure concerned a notice of the addition or deletion, including the particulars.

Annotations

Modifications (not altering text):

C85 Functions under section transferred and references construed (24.06.2021) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2021* (S.I. No. 302 of 2021), arts. 2, 3 and sch. part 1, in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by this Order are transferred to the Department of Housing, Local Government and Heritage.

(2) References to the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media contained in any Act or any instrument made under an Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Housing, Local Government and Heritage.

3. (1) The functions vested in the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media–

(*a*) by or under any of the provisions of the Acts specified in Part 1 of the Schedule,

(*b*) under the Regulations specified in Part 2 of the Schedule, and

(*c*) to make a recommendation to which section 12(3)(b)(iii) of the Planning and Development Act 2000 (No. 30 of 2000) applies and to make observations to which section 12(3)(b)(iv) of that Act applies,

are transferred to the Minister for Housing, Local Government and Heritage.

(2) References to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media contained in any Act or instrument made under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Housing, Local Government and Heritage.

...

SCHEDULE

Part 1

...

Sections 5(8), 52(2), 53, 55 and 80 of the Planning and Development Act 2000 (No. 30 of 2000)

...

C86 Functions in relation to section transferred (1.05.2011) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 192 of 2011), arts. 2, 3 and sch. Note that name of Department of and Minister for Tourism, Culture and Sport changed to Department of and Minister for Arts, Heritage and the Gaeltacht (2.06.2011) by *Tourism, Culture and Sport (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 220 of 2011).

2. (1) The administration and business in connection with the exercise, performance or execution of any powers, duties and functions transferred by this Order are transferred to the Department of Tourism, Culture and Sport.

(2) References to the Department of the Environment, Heritage and Local Government contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Tourism, Culture and Sport.

3. (1) The powers, duties and functions vested in the Minister for the Environment, Heritage and Local Government—

(*a*) by or under any of the Acts mentioned in Part 1 of the Schedule,

(*b*) under the Regulations mentioned in Part 2 of the Schedule, and

(*c*) to make a recommendation to which section 12 (3)(b)(iii) of the Planning and Development Act 2000 (No. 30 of 2000) applies, and to make observations to which section 12(3)(b)(iv) of that Act applies,

are transferred to the Minister for Tourism, Culture and Sport.

(2) References to the Minister for the Environment, Heritage and Local Government contained in any Act or instrument made under such Act and relating to any powers, duties and functions transferred by this Order shall, on and after the commencement of this Order, be construed as references to the Minister for Tourism, Culture and Sport.

...

Schedule Part 1

Enactments, powers, duties and functions by or under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Sections 51 (2) (in so far as it relates to being consulted under that subsection), 52 (1) (in so far as it relates to the issuing of guidelines), 52 (2), 53, 55, 80 and 260 of the Planning and Development Act 2000 (No. 30 of 2000).

Part 2

Regulations, powers, duties and functions under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Regulations 13A(4)(a)(ii), 28(1)(c), 28(1)(n), 55(a), 82(3)(c), 82(3)(n), 88(2), 121(1)(c), 121(1)(n), 179(2)(g), 179(2)(j) and 213(1)(a) of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001);

...

Editorial Notes:

E234 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E235 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E236 Previous affecting provision: functions and powers in relation to *National Monuments (Amendment) Act 1994* (17/1994), ss. 5(5) and 6(2) transferred to Department of and Minister for Arts, Sport and Tourism (10.07.2002) by *National Monuments (Transfer of Departmental Administration and Ministerial Functions) Order 2002* (S.I. No. 358 of 2002).

E237 Previous affecting provision: name of Department of and Minister for Arts, Heritage, Gaeltacht and the Islands changed to Department of and Minister for Community, Rural and Gaeltacht Affairs (19.06.2002) by *Arts, Heritage, Gaeltacht and The Islands (Alteration of Name of Department and Title of Minister) Order 2002* (S.I. No. 308 of 2002).

Registration under Registration of Title Act, 1964.

56.—Where a structure, a specified part of a structure or a specified feature within the attendant grounds of a structure is included in the record of protected structures, its inclusion may be registered under the Registration of Title Act, 1964, in the appropriate register maintained under that Act, as a burden affecting registered land (within the meaning of that Act).

Works affecting character of protected structures or proposed protected structures.

57.—(1) F479**[**Notwithstanding *section 4(1)(a), (h), (i),* F480**[***(ia)***]** *(j), (k),* or *(l)* and any regulations made under *section 4(2),***]** the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of—

(*a*) the structure, or

(*b*) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

(2) An owner or occupier of a protected structure may make a written request to the planning authority, within whose functional area that structure is situated, to issue a declaration as to the type of works which it considers would or would not materially affect the character of the structure or of any element, referred to in *subsection (1)(b)*, of that structure.

(3) Within 12 weeks after receiving a request under *subsection (2)*, or within such other period as may be prescribed, a planning authority shall issue a declaration under this section to the person who made the request.

(4) Before issuing a declaration under this section, a planning authority F481**[**or the Board**]** shall have regard to—

(*a*) any guidelines issued under *section 52*, and

(*b*) any recommendations made to the authority under *section 53*.

(5) If the declaration relates to a protected structure that is regularly used as a place of public worship, the planning authority F481**[**or the Board**]**

(*a*) in addition to having regard to the guidelines and recommendations referred to in *subsection (4)*, shall respect liturgical requirements, and

(*b*) for the purpose of ascertaining those requirements shall—

(i) comply with any guidelines concerning consultation which may be issued by the Minister for Arts, Heritage, Gaeltacht and the Islands, or

(ii) if no such guidelines are issued, consult with such person or body as the planning authority F481**[**or the Board**]** considers appropriate.

(6) When considering an application for permission for the development of land under *section 34* which—

(*a*) relates to the interior of a protected structure, and

(*b*) is regularly used as a place of public worship,

the planning authority, and the Board on appeal, shall, in addition to any other requirements of the Act, respect liturgical requirements.

(7) A planning authority may at any time review a declaration issued under this section but the review shall not affect any works carried out in reliance on the declaration prior to the review.

F482**[**(8) Any person to whom a declaration under *subsection (3)*, or a declaration reviewed under *subsection (7)* has been issued, may, on payment to the Board of such fee as may be prescribed, refer the declaration for review by the Board within 4 weeks from the date of the issuing of the declaration, or the declaration as reviewed, as the case may be.

(9) A planning authority shall cause—

(*a*) the details of any declaration issued by that authority, or of a decision by the Board on a referral, to be entered on the register kept by the authority under *section 7*, and

(*b*) a copy of the declaration or decision, as appropriate, to be made available for inspection by members of the public, during office hours, at the office of the authority, following the issue of the declaration or decision.**]**

(10) (*a*) For the avoidance of doubt, it is hereby declared that a planning authority or the Board on appeal—

(i) in considering any application for permission in relation to a protected structure, shall have regard to the protected status of the structure, or

(ii) in considering any application for permission in relation to a proposed protected structure, shall have regard to the fact that it is proposed to add the structure to a record of protected structures.

(*b*) A planning authority, or the Board on appeal, shall not grant permission for the demolition of a protected structure or proposed protected structure, save in exceptional circumstances.

Annotations

Amendments:

F479 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 34, S.I. No. 477 of 2010.

F480 Inserted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 22(1), S.I. No. 474 of 2011, subject to transitional provision in subs. (2).

F481 Inserted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s.13(a) and (b), commenced on enactment.

F482 Substituted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s.13(c), commenced on enactment.

Duty of owners and occupiers to protect structures from endangerment.

58.—(1) Each owner and each occupier shall, to the extent consistent with the rights and obligations arising out of their respective interests in a protected structure or a proposed protected structure, ensure that the structure, or any element of it which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, is not endangered.

(2) The duty imposed by *subsection (1)* in relation to a proposed protected structure arises at the time the owner or occupier is notified, under *section 55* or under *Part II*, of the proposal to add the structure to the record of protected structures.

(3) Neither of the following shall be considered to be a breach of the duty imposed on each owner and each occupier under this section—

(*a*) development in respect of which permission under *section 34* has been granted;

(*b*) development consisting only of works of a type which, in a declaration issued under *section 57(3)* to that owner or occupier, a planning authority has declared would not materially affect the character of the protected structure or any element, referred to in *subsection (1)* of this section, of that structure.

(4) Any person who, without lawful authority, causes damage to a protected structure or a proposed protected structure shall be guilty of an offence.

(5) Without prejudice to any other defence that may be available, it shall be a good defence in any proceedings for an offence under *subsection (4)* to prove that the damage to the structure resulted from works which were—

(*a*) urgently required in order to secure the preservation of the structure or any part of it,

(*b*) undertaken in good faith solely for the purpose of temporarily safeguarding the structure, and

(*c*) unlikely to permanently alter the structure or any element of it referred to in *subsection (1)*.

Notice to require works to be carried out in relation to endangerment of protected structures.

59.—(1) Where, in the opinion of the planning authority, it is necessary to do so in order to prevent a protected structure situated within its functional area from becoming or continuing to be endangered, the authority shall serve on each person who is the owner or occupier of the protected structure a notice—

(*a*) specifying the works which the planning authority considers necessary in order to prevent the protected structure from becoming or continuing to be endangered, and

(*b*) requiring the person on whom the notice is being served to carry out those works within a specified period of not less than 8 weeks from the date the notice comes into effect under *section 62*.

(2) After serving notice under *subsection (1)* on a person, a planning authority may—

(*a*) at its discretion, assist the person in carrying out the works required under the notice, and

(*b*) provide such assistance in any form it considers appropriate, including advice, financial aid, materials, equipment and the services of the authority's staff.

(3) Any person on whom a notice under *subsection (1)* has been served may, within 4 weeks from the date of service of the notice, make written representations to the planning authority concerning—

(*a*) the terms of the notice,

(*b*) the provision of assistance under *subsection (2)*, and

(*c*) any other material considerations.

(4) After considering any representations made under *subsection (3)*, the planning authority may confirm, amend or revoke the notice, and shall notify the person who made the representations of its decision.

(5) Particulars of a notice served under this section shall be entered in the register.

Notice to require restoration of character of protected structures and other places.

60.—(1) In this section, "works", in relation to a structure or any element of a structure, includes the removal, alteration or replacement of any specified part of the structure or element, and the removal or alteration of any advertisement structure.

(2) A planning authority may serve a notice that complies with *subsection (3)* on each person who is the owner or occupier of a structure situated within its functional area, if—

(*a*) the structure is a protected structure and, in the opinion of the planning authority, the character of the structure or of any of its elements ought to be restored, or

(*b*) the structure is in an architectural conservation area and, in the opinion of the planning authority, it is necessary, in order to preserve the character of the area, that the structure be restored.

(3) A notice under *subsection (2)* shall—

(*a*) specify the works required to be carried out for the purposes of restoring the structure or element referred to in the notice,

(*b*) state that the person on whom the notice is served may, within a specified period of not less than 8 weeks from the date of the service of the notice, make written representations to the planning authority concerning the notice,

(*c*) invite that person to enter into discussions with the planning authority, within a specified period of not less than 8 weeks from the date of the service of the notice, concerning the notice and in particular concerning—

(i) the provision by the planning authority of advice, materials, equipment, the services of the authority's staff or other assistance in carrying out the works specified in the notice, and

(ii) the period within which the works are to be carried out,

(*d*) specify the period within which, unless otherwise agreed in the discussions under *paragraph (c)*, the works shall be carried out, being a period of not less than 8 weeks from the end of the period allowed for entering into discussions, and

(*e*) state that the planning authority shall pay any expenses that are reasonably incurred by that person in carrying out the works in accordance with the notice, other than works that relate to an unauthorised structure which has been constructed, erected or made 7 years or less prior to the service of the notice.

(4) In deciding whether to serve a notice under this section, a planning authority shall have regard to any guidelines issued under *section 52* and any recommendations made under *section 53*.

(5) If the invitation under *subsection (3)(c)* to enter into discussions is accepted, the planning authority shall facilitate the holding of those discussions.

(6) After considering any representations made under *subsection (3)(b)* and any discussions held under *subsection (5)*, the planning authority may confirm, amend or revoke the notice and shall notify the person who made the representations of its decision.

(7) Particulars of a notice served under this section shall be entered in the register.

Appeals against notices.

61.—(1) Within 2 weeks after being notified under *section 59(4)* or *60(6)* of the confirmation or amendment of a notice, any person who made representations in relation to the notice may appeal against the notice to the District Court, on any one or more of the following grounds:

(*a*) that the person is not the owner or occupier of the structure in respect of which the notice has been served;

(*b*) that, in the case of a notice under *section 59(1)*, compliance with the requirements of the notice would involve unreasonable expense, and that the person had stated in representations made to the planning authority under *section 59(3)* that he or she did not have the means to pay;

(*c*) that the person has already taken all reasonable steps to—

(i) in the case of a notice under *section 59(1)*, prevent the structure from becoming, or continuing to be endangered,

(ii) in the case of a notice under *section 60(2)* in relation to a protected structure, restore the character of the structure or the element, or

(iii) in the case of a notice under *section 60(2)* in relation to a structure that forms part of a place, area, group of structures or townscape referred to in *paragraph (b)* of that subsection, assist in restoring the character of that place, area, group of structures or townscape, as the case may be;

(*d*) that the time for complying with the notice is unreasonably short.

(2) Notice of an appeal under *subsection (1)* shall be given to the planning authority, and it shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.

(3) On the hearing of the appeal, the District Court may, as it thinks proper—

(*a*) confirm the notice unconditionally,

(*b*) confirm the notice subject to such modifications or additions as the Court thinks reasonable, or

(*c*) annual the notice.

(4) Where the notice is confirmed under *subsection (3)(b)* subject to modifications or additions, the notice shall have effect subject to those modifications or additions.

Effective date of notices.

62.—A notice under *section 59(1)* or *60(2)* shall not have effect until the expiry of 4 weeks from the date of service of the notice, subject to the following exceptions—

(*a*) if any representations have been made under *section 59* or *60* in relation to the notice, and no appeal is taken within the period allowed under *section 61(1)*, the notice has effect on the expiry of the appeal period;

(*b*) if an appeal is taken under *section 61(1)* and the notice is confirmed, the notice has effect on the date on which the decision of the District Court is pronounced, or the date on which that order is expressed to take effect, whichever is later;

(*c*) if an application is made to the District Court under *section 65(1)* and an order is made under *section 65(2)(a)*, the notice has effect on the date on which the decision of the Court is pronounced, or the date on which that order is expressed to take effect, whichever is later.

Offence relating to endangerment of protected structures.

63.—A person who fails to comply with a notice served on him or her under *section 59(1)* shall be guilty of an offence.

Owners' powers in relation to notices concerning endangerment or restoration of structures.

64.—Any person who is the owner of the land or structure in respect of which a notice under *section 59(1)* or *60(2)* has been served, and his or her servants or agents, may enter that land or structure and carry out the works required under the notice.

Application to District Court for necessary consent.

65.—(1) A person served with a notice under *section 59(1)* or *60(2)* may apply to the District Court for an order under *subsection (2)* of this section if—

(*a*) that person is unable, without the consent of another person, to carry out the works required under the notice, and

(*b*) the other person withholds consent to the carrying out of those works.

(2) If, on hearing an application under *subsection (1)*, the District Court determines that the other person's consent has been unreasonably withheld—

(*a*) the Court may, at its discretion, deem that consent to have been given, and

(*b*) in that case, the person making the application shall be entitled to carry out the works required under the notice.

Jurisdiction of District Court.

66.—The jurisdiction conferred on the District Court—

(*a*) by *section 61* in relation to an appeal against a notice, or

(*b*) by *section 65* in relation to an application for an order deeming consent to have been given,

shall be exercised by a judge of that Court having jurisdiction in the district in which the structure that is the subject of the appeal or application is situated.

Application to court for contribution to cost of carrying out works on endangered structures.

67.—(1) A person who has been served with a notice under *section 59(1)*, and who has carried out the works required under the notice, may apply to a court of competent jurisdiction for an order directing that all, or such part as may be specified in the order, of the cost of those works be borne by some other person who has an interest in the structure concerned.

(2) On the hearing of an application under *subsection (1)*, the court shall make such order as it considers just, having regard to all the circumstances of the case.

Carrying out of certain works to be exempted development.

68.—The carrying out of any works specified in a notice under *section 59(1)* or *60(2)* shall be exempted development.

Planning authority's power to carry out works to protected structures and other places.

69.—Where a person on whom a planning authority has served a notice under *section 59(1)* or *60(2)* fails to comply with the notice, the planning authority may take such steps as it considers reasonable and necessary to give effect to the terms of the notice including—

(*a*) entry on land by authorised persons in accordance with *section 252*, and

(*b*) the carrying out, or arranging the carrying out, of the works specified in the notice.

Recovery by planning authority of expenses for carrying out works on endangered structures.

70.—A planning authority which serves a notice under *section 59(1)* in respect of a protected structure may—

(*a*) recover (whether as a simple contract debt in a court of competent jurisdiction or otherwise), from the owner or occupier, any expenses reasonably incurred by the authority under *section 69*, including any assistance provided under *section 59(2)*, and

(*b*) secure those expenses by—

(i) charging the protected structure under the Registration of Title Act, 1964, or

(ii) an instrument vesting any interest in the protected structure in the authority subject to a right of redemption by the owner or occupier.

Power to acquire protected structure.

71.—(1) A planning authority may acquire, by agreement or compulsorily, any protected structure situated within its functional area if—

(*a*) it appears to the planning authority that it is necessary to do so for the protection of the structure, and

(*b*) in the case of a compulsory acquisition, the structure is not lawfully occupied as a dwelling house by any person other than a person employed as a caretaker.

(2) In this section and *sections 72* to *77*, a reference to a protected structure shall be construed to include a reference to any land which—

(*a*) forms part of the attendant ground of that structure, and

(*b*) is, in the planning authority's opinion, necessary to secure the protection of that structure,

whether or not the land lies within the curtilage of the structure or is specified as a feature in the record of protected structures.

Notice of intention to acquire protected structure compulsorily.

72.—(1) A planning authority intending to acquire any protected structure compulsorily under this Part shall—

(*a*) publish in one or more newspapers circulating in its functional area a notice—

(i) stating its intention to acquire the protected structure compulsorily under this Part,

(ii) describing the structure to which the notice relates,

(iii) naming the place where a map showing the location of the protected structure is deposited and the times during which it may be inspected, and

(iv) specifying the time within which (not being less than 4 weeks), and the manner in which, objections to the acquisition of the structure may be made to the planning authority,

and

(*b*) serve on every owner, lessee and occupier (except tenants for one month or a period less than one month) of the structure a notice which complies with *paragraph (a)*.

(2) In this section, "owner", in relation to a protected structure, means—

(*a*) a person, other than a mortgagee not in possession, who is for the time being entitled to dispose (whether in possession or reversion) of the fee simple of the protected structure, and

(*b*) a person who, under a lease or agreement the unexpired term of which exceeds 5 years, holds or is entitled to the rents or profits of the protected structure.

Objection to compulsory acquisition of protected structure.

73.—(1) Any person, on whom a notice of the proposed compulsory acquisition of a protected structure has been served under *section 72(1)(b)*, may, within the time and in the manner specified in the notice, submit to the planning authority concerned an objection to the proposed compulsory acquisition referred to in the notice.

(2) A person who has submitted an objection under *subsection (1)* may withdraw the objection by notice in writing sent to the planning authority concerned.

(3) Where an objection submitted to a planning authority under *subsection (1)* is not withdrawn, the planning authority shall not acquire the protected structure compulsorily without the consent of the Board.

(4) An application for the Board's consent to the compulsory acquisition of a protected structure shall be made within 4 weeks after the expiry of the time allowed, under *subsection (1)*, for submitting an objection to that acquisition, and shall be accompanied by the following—

(*a*) the relevant map,

(*b*) a copy of the objection made under *subsection (1)* to the planning authority,

(*c*) the planning authority's comments (if any) on the objection, and

(*d*) such other documents and particulars as may be prescribed.

(5) On receipt of the planning authority's comments (if any) on the objection, the Board shall, by notice served on the person who made the objection, send a copy of the comments to that person who may, within 3 weeks from the date of the service of the notice, make observations to the Board in relation to the comments.

(6) On application under *subsection (4)*, the Board may, as it thinks fit, grant or refuse to grant consent to the compulsory acquisition of all or part of a protected structure referred to in a notice published under *section 72*.

Annotations

Editorial Notes:

E238 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), in effect as per reg. 2.

E239 Previous affecting provision: power pursuant to section exercised (1.01.2001) by *Planning and Development (No. 2) Regulations 2000* (S.I. No. 457 of 2000), in effect as per reg. 2; revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1, in effect as per reg. 2(1).

Vesting order for protected structures.

74.—(1) After complying with *section 73*, a planning authority may, by vesting order, acquire a protected structure if—

(*a*) no objection is submitted to the planning authority under *section 73*,

(*b*) any objection submitted under *section 73*, is subsequently withdrawn, or

(*c*) the Board consents to the compulsory acquisition of the structure by the planning authority.

(2) Where a planning authority becomes aware, before making a vesting order in respect of a protected structure, that the structure is subject (whether alone or in conjunction with other land) to—

(*a*) any annuity or other payment to the Minister for Agriculture, Food and Rural Development or to the Commissioners, or

(*b*) any charge payable to the Revenue Commissioners on the death of any person,

the planning authority shall forthwith inform the Minister for Agriculture, Food and Rural Development, the Commissioners or the Revenue Commissioners, as the case may be, of its intention to make the vesting order.

(3) Within 2 weeks after making a vesting order, a planning authority shall—

(*a*) publish, in one or more newspapers circulating within its functional area, a notice—

(i) stating that the order has been made,

(ii) describing the protected structure to which it relates, and

(iii) naming a place where a copy of the order and the attached map may be seen during office hours at the offices of the authority,

and

(*b*) serve on every person appearing to the authority to have an interest in the protected structure to which the order relates, a notice stating that the order has been made and the effect of the order.

Form and effect of vesting order.

75.—(1) A vesting order by which a planning authority acquires a protected structure under this Part shall be in the prescribed form, and shall have attached to it a map showing the location of the protected structure.

(2) A vesting order shall be expressed and shall operate to vest the protected structure to which it relates in the planning authority in fee simple, free from encumbrances and all estates, rights, titles and interests of whatsoever kind on a specified date (in this section referred to as the vesting date) not earlier than 3 weeks after the making of the order.

(3) Notwithstanding *subsection (2)*, where a planning authority has acquired by a vesting order a protected structure which is subject, either alone or in conjunction with other land, to an annual sum payable to the Minister for Agriculture, Food and Rural Development or the Commissioners, the planning authority shall become and be liable, as from the vesting date, for the payment to that Minister or those Commissioners, as the case may be, of—

(*a*) that annual sum, or

(*b*) such portion of it as shall be apportioned by the Minister or the Commissioners, as the case may be,

as if the protected structure had been transferred to the authority by the owner on that date.

(4) For the purposes of *subsection (3)*, an "annual sum" means a purchase annuity, a payment in lieu of rent, or any other annual sum that is not merely a rent under a contract of tenancy.

Annotations

Editorial Notes:

E240 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), in effect as per reg. 2.

E241 Previous affecting provision: power pursuant to section exercised (1.01.2001) by *Planning and Development (No. 2) Regulations 2000* (S.I. No. 457 of 2000), in effect as per reg. 2; revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1, in effect as per reg. 2(1).

Registration of acquired title and amendment of vesting order.

76.—(1) On making a vesting order in relation to a protected structure, a planning authority shall send the order to the registering authority which, on receipt of the order, shall immediately cause the planning authority to be registered as owner of the land in accordance with the order.

(2) On the application of any person, a planning authority may amend a vesting order made by the authority if—

(*a*) the authority is satisfied that the vesting order contains an error, whether occasioned by it or otherwise, and

(*b*) the error may be rectified without injustice to any person.

(3) Where a copy of an order under *subsection (2)*, amending a vesting order, is lodged with the registering authority, that authority shall rectify its register in such manner as may be necessary to make the register conform with the amending order.

Compensation for interest in protected structure.

77.—(1) Any person who, immediately before a vesting order is made, has any estate or interest in, or any right in respect of, the protected structure acquired by the order, may apply to the planning authority within one year (or such other period as the High Court, on application to it, may allow) after the making of the order for compensation in respect of the estate, interest or right.

(2) On application under *subsection (1)*, the planning authority shall, subject to *subsection (4)*, pay to the applicant by way of compensation an amount equal to the value (if any) of the estate, interest or right.

(3) The compensation to be paid by the planning authority under this section in relation to any estate, interest or right in respect of the protected structure shall, in default of agreement, be determined by arbitration under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919.

(4) Where, after a planning authority makes a vesting order in relation to a protected structure, any sum (including a sum for costs) remains due to the authority by any person under an order of a court for payment of an amount due (whether under this Act or any other Act, or whether remaining due after deducting expenses reasonably incurred by the authority under this Act in relation to the structure), the amount of any compensation payable to that person under this section shall be reduced by the amount of that sum.

(5) Section 69 to 79 of the Lands Clauses Consolidation Act, 1845, as amended or adapted by or under the Second Schedule to the Housing of the Working Classes Act, 1890, or any other Act, shall apply in relation to compensation to be paid by a planning authority under this section as if such compensation were a price or compensation under that Act as so amended.

(6) Where money is paid into court by the planning authority under section 69 of the Lands Clauses Consolidation Act, 1845, as applied by this section, no costs shall be payable by that authority to any person in respect of any proceedings for the investment, payment of income, or payment of capital of such money.

Use of protected structure acquired by planning authority.

78.—A planning authority may—

(*a*) use a protected structure acquired by it under this Act or any other enactment for any purpose connected with its functions, or

(*b*) sell, let, transfer or exchange all or any part of that protected structure,

and in so doing shall have regard to its protected status.

Annotations

Modifications (not altering text):

C87 References to "Sanitary Authority" construed (1.01.2014) as "Irish Water" by *Water Services (No. 2) Act 2013* (50/2013), ss. 6, 7(4), S.I. No. 575 of 2013.

Transfer day

6.— The Minister shall, by order, appoint a day to be the transfer day for the purposes of this Act.

Transfer of functions from water service authorities to Irish Water

7.— ...

(4) References to a sanitary authority in any enactment or instrument under any enactment shall, on and after the transfer day, in so far as they relate to any function transferred by subsection (3), be construed as references to Irish Water.

...

Obligations of sanitary authorities in respect of protected structures.

79.—(1) Before issuing a notice under section 3(1) of the Local Government (Sanitary Services) Act, 1964, in respect of a protected structure or a proposed protected structure, a sanitary authority shall consider—

(*a*) the protected status of the structure, and

(*b*) whether, instead of a notice under section 3(1) of that Act, a notice should be issued under *section 59(1)* or section 11 of the Derelict Sites Act, 1990.

(2) As soon as practicable after serving or proposing to serve a notice in accordance with section 3(1) of the Local Government (Sanitary Services) Act, 1964, in respect of a protected structure or a proposed protected structure, a sanitary authority shall inform the Minister for Arts, Heritage, Gaeltacht and the Islands of the particulars of the notice if he or she recommended that the structure be protected.

(3) A sanitary authority which carries out works on a protected structure, or a proposed protected structure, under section 3(2) of the Local Government (Sanitary Services) Act, 1964, shall as far as possible preserve that structure (or elements of that structure which may be of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest), in as much as the preservation of that structure is not likely to cause a danger to any person or property.

(4) When carrying out works in accordance with section 3(2) of the Local Government (Sanitary Services) Act, 1964, on a protected structure or a proposed protected structure, a sanitary authority shall, as soon as practicable, inform the Minister for Arts, Heritage, Gaeltacht and the Islands of the works if he or she recommended that the structure be protected.

Annotations

Modifications (not altering text):

C88 References to a "sanitary authority" construed as "Irish Water" (1.01.2014) by *Water Services (No. 2) Act 2013* (50/2013), ss. 6, 7(4), S.I. No. 575 of 2013.

Transfer day

6.— The Minister shall, by order, appoint a day to be the transfer day for the purposes of this Act.

Transfer of functions from water service authorities to Irish Water

7.— ...

(4) References to a sanitary authority in any enactment or instrument under any enactment shall, on and after the transfer day, in so far as they relate to any function transferred by subsection (3), be construed as references to Irish Water.

...

Grants to planning authorities in respect of functions under this Part.

80.—With the consent of the Minister for Finance, the Minister may, out of moneys provided by the Oireachtas, make grants to planning authorities in respect of any or all of their functions under this Part, including grants for the purpose of defraying all or part of the expenditure incurred by them in—

(*a*) assisting persons on whom notice is served under *section 59(1)* or *60(2)* in carrying out works in accordance with the notice, and

(*b*) assisting any other person in carrying out works to protected structures in accordance with such conditions as may be specified by a planning authority for the receipt of such assistance.

Annotations

Modifications (not altering text):

C89 Functions under section transferred and references construed (24.06.2021) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2021* (S.I. No. 302 of 2021), arts. 2, 3 and sch. part 1, in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by this Order are transferred to the Department of Housing, Local Government and Heritage.

(2) References to the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media contained in any Act or any instrument made under an Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Housing, Local Government and Heritage.

3. (1) The functions vested in the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media–

(*a*) by or under any of the provisions of the Acts specified in Part 1 of the Schedule,

(*b*) under the Regulations specified in Part 2 of the Schedule, and

(*c*) to make a recommendation to which section 12(3)(b)(iii) of the Planning and Development Act 2000 (No. 30 of 2000) applies and to make observations to which section 12(3)(b)(iv) of that Act applies,

are transferred to the Minister for Housing, Local Government and Heritage.

(2) References to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media contained in any Act or instrument made under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Housing, Local Government and Heritage.

...

SCHEDULE

Part 1

...

Sections 5(8), 52(2), 53, 55 and 80 of the Planning and Development Act 2000 (No. 30 of 2000)

...

C90 Functions in relation to section transferred (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3 and sch. 1.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(*a*) the enactments specified in Schedule 1, and

(*b*) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

Schedule 1 Enactments

...

No. 30 of 2000	Planning and Development Act 2000	Sections 80, 116, 117, 120(2) and 181

...

C91 Functions in relation to section transferred (1.05.2011) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 192 of 2011), arts. 2, 3 and sch. Note that name of Department of and Minister for Tourism, Culture and Sport changed to Department of and Minister for Arts, Heritage and the Gaeltacht (2.06.2011) by *Tourism, Culture*

and Sport (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 220 of 2011).

2. (1) The administration and business in connection with the exercise, performance or execution of any powers, duties and functions transferred by this Order are transferred to the Department of Tourism, Culture and Sport.

(2) References to the Department of the Environment, Heritage and Local Government contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Tourism, Culture and Sport.

3. (1) The powers, duties and functions vested in the Minister for the Environment, Heritage and Local Government—

(*a*) by or under any of the Acts mentioned in Part 1 of the Schedule,

(*b*) under the Regulations mentioned in Part 2 of the Schedule, and

(*c*) to make a recommendation to which section 12 (3)(b)(iii) of the Planning and Development Act 2000 (No. 30 of 2000) applies, and to make observations to which section 12(3)(b)(iv) of that Act applies,

are transferred to the Minister for Tourism, Culture and Sport.

(2) References to the Minister for the Environment, Heritage and Local Government contained in any Act or instrument made under such Act and relating to any powers, duties and functions transferred by this Order shall, on and after the commencement of this Order, be construed as references to the Minister for Tourism, Culture and Sport.

...

Schedule Part 1

Enactments, powers, duties and functions by or under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Sections 51 (2) (in so far as it relates to being consulted under that subsection), 52 (1) (in so far as it relates to the issuing of guidelines), 52 (2), 53, 55, 80 and 260 of the Planning and Development Act 2000 (No. 30 of 2000).

Part 2

Regulations, powers, duties and functions under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Regulations 13A(4)(a)(ii), 28(1)(c), 28(1)(n), 55(a), 82(3)(c), 82(3)(n), 88(2), 121(1)(c), 121(1)(n), 179(2)(g), 179(2)(j) and 213(1)(a) of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001);

...

Chapter II

Architectural Conservation Areas and Areas of Special Planning Control

Architectural conservation areas.

81.—(1) A development plan shall include an objective to preserve the character of a place, area, group of structures or townscape, taking account of building lines and heights, that—

(*a*) is of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest or value, or

(*b*) contributes to the appreciation of protected structures,

if the planning authority is of the opinion that its inclusion is necessary for the preservation of the character of the place, area, group of structures or townscape concerned and any such place, area, group of structures or townscape shall be known as and is in this Act referred to as an "architectural conservation area".

(2) Where a development plan includes an objective referred to in *subsection (1)*, any development plan that replaces the first-mentioned development plan shall, subject to any variation thereof under *section 13*, also include that objective.

Development in architectural conservation areas.

82.—(1) F483**[**Notwithstanding *paragraph (a)*, *(h)*, *(i)*, *(ia)*, *(j)*, *(k)* or *(l)* of *section 4(1)*, or any regulations made under *section 4(2)*,**]** the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area.

(2) In considering an application for permission for development in relation to land situated in an architectural conservation area, a planning authority, or the Board on appeal, shall take into account the material effect (if any) that the proposed development would be likely to have on the character of the architectural conservation area.

Annotations

Amendments:

F483 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 23, S.I. No. 474 of 2011, subject to transitional provision in subs. (2).

Editorial Notes:

E242 Previous affecting provision: subs. (1) amended by *Planning and Development (Amendment) Act 2010* (30/2010), s. 35, not commenced; repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. No. 474 of 2011.

Power to acquire structure or other land in architectural conservation area.

83.—(1) A planning authority may acquire, by agreement or compulsorily, any land situated within an architectural conservation area if the planning authority is of the opinion—

(*a*) that it is necessary to so do in order to preserve the character of the architectural conservation area, and

(*b*) (i) the condition of the land, or the use to which the land or any structure on the land is being put, detracts, or is likely to detract, to a material degree from the character or appearance of the architectural conservation area, or

(ii) the acquisition of the land is necessary for the development or renewal of the architectural conservation area or for the provision of amenities in the area.

(2) A planning authority shall not compulsorily acquire any land under *subsection (1)* that is lawfully occupied as a dwelling house by any person other than a person employed therein as a caretaker.

(3) *Sections 71(2)* to *78* of this Act shall, subject to any necessary modifications, apply to acquisitions under *subsection (1)* and references in those provisions to a protected structure shall, for the purposes of this section, be construed as references to a structure or other land situated within an architectural conservation area.

Area of special planning control.

84.—(1) A planning authority may, if it considers that all or part of an architectural conservation area is of special importance to, or as respects, the civic life or the architectural, historical, cultural or social character of a city or town in which it is situated, prepare a scheme setting out development objectives for the preservation and enhancement of that area, or part of that area, and providing for matters connected therewith.

(2) Without prejudice to the generality of *subsection (1)*, a scheme prepared under that subsection may include objectives (and provisions for the furtherance or attainment of those objectives) for—

(*a*) the promotion of a high standard of civic amenity and civic design;

(*b*) the preservation and protection of the environment, including the architectural, archaeological and natural heritage;

(*c*) the renewal, preservation, conservation, restoration, development or redevelopment of the streetscape, layout and building pattern, including the co-ordination and upgrading of shop frontages;

(*d*) the control of the layout of areas, density, building lines and height of structures and the treatment of spaces around and between structures;

(*e*) the control of the design, colour and materials of structures, in particular the type or quality of building materials used in structures;

(*f*) the promotion of the maintenance, repair or cleaning of structures;

(*g*) the promotion of an appropriate mix of uses of structures or other land;

(*h*) the control of any new or existing uses of structures or other land;

(*i*) the promotion of the development or redevelopment of derelict sites or vacant sites; or

(*j*) the regulation, restriction or control of the erection of advertisement structures and the exhibition of advertisements.

(3) A scheme prepared under *subsection (1)* shall be in writing and shall be consistent with the objectives of the relevant development plan and any local area plan or integrated area plan (within the meaning of the Urban Renewal Act, 1998) in force relating to the area to which the scheme relates.

(4) (*a*) A scheme prepared under *subsection (1)* shall indicate the period for which the scheme is to remain in force.

(*b*) A scheme may indicate the order in which it is proposed that the objectives of the scheme or provisions for their furtherance or attainment will be implemented.

(5) A scheme shall contain information, including information of such class or classes as may be prescribed by the Minister, on the likely significant effects on the environment of implementing the scheme.

F484**[**(6) In this section, and *sections 85* and *86*—

"city" means—

(*a*) the administrative area of a city council,

(*b*) a municipal district that includes the area of a city to which subsection (6) of section 10 (inserted by the Local Government Reform Act 2014) of the Local Government Act 2001 relates;

"municipal district" has the meaning given to it by section 22A (inserted by the Local Government Reform Act 2014) of the Local Government Act 2001;

"town" means a municipal district with a population in excess of 2,000 that is not a municipal district to which *paragraph (b)* of the definition of "city" relates.**]**

Annotations

Amendments:

F484 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 79, S.I. No. 214 of 2014.

Special planning control scheme.

85.—(1) *Subsection (2), (3), (4), (5)* and *(6)* shall, upon the passing of a resolution by the planning authority concerned, be complied with in relation to the scheme specified in the resolution.

(2) The planning authority shall, as soon as may be after the passing of a resolution under *subsection (1)*—

(*a*) notify in writing the Minister, the Board and such other persons as may be prescribed, of the preparation of the scheme,

(*b*) send copies of the scheme to each of the persons referred to in *paragraph (a)*, and

(*c*) publish a notice of the preparation of the scheme in one or more newspapers circulating in the city or town concerned.

(3) A notice under *subsection (2)* shall—

(*a*) indicate the place or places at which, and the period (being not less than 8 weeks) during and times at which, a copy of the scheme may be inspected (and a copy of the scheme shall be kept available for inspection accordingly), and

(*b*) invite submissions or observations in relation to the scheme within such period (being not less than 8 weeks) as is specified in the notice.

(4) (*a*) Where the scheme prepared under *subsection (1)* includes an objective or provision relating to—

(i) the co-ordination, upgrading or changing of specified shop frontages,

(ii) the control of the layout of specified areas, the density, building lines and height of specified structures and the treatment of spaces around and between specified structures,

(iii) the control of the design, colour and materials of specified structures,

(iv) the promotion of the maintenance, repair or cleaning of specified structures,

(v) the control of the use or uses of any specified structure or other land in the area,

(vi) the discontinuance of the existing use of any specified structure or other land,

(vii) the development or redevelopment of specified derelict or vacant sites, or

(viii) the control of specified advertisement structures or of the exhibition of specified advertisements,

the planning authority shall, as soon as may be after the making of a resolution under *subsection (1)*, notify in writing each person who is the owner or occupier of land thereby affected, of the objective or provision concerned.

(*b*) A notice under *paragraph (a)* shall refer to the land concerned and shall—

(i) specify the measures that are required to be undertaken in respect of the structure or other land to ensure compliance with the proposed objective or objectives,

(ii) indicate the place or places at which, and the period (being not less than 8 weeks) during and times at which, a copy of the scheme may be inspected (and the copy shall be kept available for inspection accordingly), and

(iii) invite submissions or observations in relation to the proposed objective or provision within such period (being not less than 8 weeks) as is specified in the notice.

(5) (*a*) Not later than 12 weeks after giving notice under *subsection (2)* and, where appropriate, a notification under *subsection (4)*, whichever occurs later, the F485**[**chief executive**]** of a planning authority shall prepare a report on any submissions or observations received in relation to a scheme prepared under *subsection (1)* and shall submit the report to the members of the authority for their consideration.

(*b*) A report under *paragraph (a)* shall—

(i) list the persons who made submissions or observations in relation to the scheme,

(ii) give a summary of the matters raised in those submissions or observations, and

(iii) include the response of the F485**[**chief executive**]** to the submissions or observations.

(6) In responding to submissions or observations made in relation to a scheme prepared under *subsection (1)*, the F485**[**chief executive**]** of a planning authority shall take account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives of the Government or of any Minister of the Government.

(7) A planning authority may, after considering a scheme prepared under *subsection (1)* and the report of the F485**[**chief executive**]** under *subsection (5)*, by resolution, approve the scheme with or without modifications, or refuse to so approve, and a scheme so approved shall be known as and is referred to in this Part as an "approved scheme".

(8) An architectural conservation area, or that part of an architectural conservation area, to which a scheme approved by a planning authority under *subsection (7)* applies shall be known as and is referred to in this Act as an "area of special planning control".

(9) (*a*) Where a planning authority approves a scheme under *subsection (7)*, it shall publish a notice thereof in one or more newspapers circulating in the city or town concerned.

(*b*) A notice under *paragraph (a)* shall indicate the place or places at which, and times during which, an approved scheme may be inspected (and a copy thereof shall be kept available for inspection accordingly).

(*c*) A planning authority shall send a copy of the scheme to the Minister, the Board and such other persons as may be prescribed.

Annotations

Amendments:

F485 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 55-57, S.I. No. 436 of 2018.

Editorial Notes:

E243 Approving, amending or revoking a special planning control scheme is a reserved function of local authorities or municipal district members as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 2 item 14 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

E244 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E245 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

Variation and review of scheme.

86.—(1) A planning authority shall, from time to time as circumstances require and in any case not later than 6 years after—

(*a*) its approval under *section 85(7)*, or

(*b*) it has most recently been reviewed,

review an approved scheme and may by resolution, amend or revoke the scheme.

(2) Where a planning authority proposes to amend an approved scheme under this section, *section 85* shall, subject to any necessary modifications, apply as respects any such amendment.

(3) Notice of the revocation of an approved scheme under this section shall be given in one or more newspapers circulating in the city or town concerned.

(4) The amendment or revocation of an approved scheme shall be without prejudice to the validity of anything previously done thereunder.

Annotations

Editorial Notes:

E246 Approving, amending or revoking a special planning control scheme is a reserved function of local authorities or municipal district members as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 2 item 14 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

Development in special planning control area.

87.—(1) F486**[**Notwithstanding *paragraph (a), (h), (i), (ia), (j), (k)* or *(l)* of *section 4(1)*, or any regulations made under *section 4(2)*,**]** any development within an area of special planning control shall not be exempted development where it contravenes an approved scheme applying to that area.

(2) When considering an application for permission in relation to land situated in an area of special planning control, a planning authority, or the Board on appeal, shall, in addition to the matters set out in *section 34*, have regard to the provisions of an approved scheme.

(3) An owner or occupier of land situated in an area of special planning control may make a written request to the planning authority, within whose functional area the area of special planning control is situated, for a declaration as to—

(*a*) those developments or classes of development that it considers would be contrary or would not be contrary, as the case may be, to the approved scheme concerned,

(*b*) the objectives or provisions of the approved scheme that apply to the land, or

(*c*) the measures that will be required to be undertaken in respect of the land to ensure compliance with such objectives or provisions.

(4) Within 12 weeks of receipt by a planning authority of a request under *subsection (3)*, or within such other period as may be prescribed by regulations of the Minister, a planning authority shall issue a declaration under this section to the person who made the request.

(5) A planning authority may at any time rescind or vary a declaration under this section.

(6) The rescission or variation of a declaration under *subsection (5)* shall not affect any development commenced prior thereto in reliance on the declaration concerned and that the planning authority has indicated, in accordance with *paragraph (a)* of *subsection (3)*, would not be contrary to an approved scheme.

(7) A declaration under this section is without prejudice to the application of *section 5*.

(8) A planning authority shall cause—

(*a*) the particulars of any declaration issued by that authority under this section to be entered on the register kept by the authority under *section 7*, and

(*b*) a copy of the declaration to be made available for inspection by members of the public during office hours, at the principal office of the authority, following the issue of the declaration.

Annotations

Amendments:

F486 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 24, S.I. No. 474 of 2011, subject to transitional provision in subs. (2).

Editorial Notes:

E247 Previous affecting provision: subs. (1) amended by *Planning and Development (Amendment) Act 2010* (30/2010), s. 36, not commenced; repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. No. 474 of 2011.

Service of notice relating to structures or other land in an area of special planning control.

88.—(1) A planning authority may serve a notice that complies with *subsection (2)* on each person who is the owner or occupier of land to which an objective or provision of an approved scheme applies.

(2) A notice under *subsection (1)* shall—

(*a*) refer to the structure or land concerned,

(*b*) specify the date on which the notice shall come into force,

(*c*) specify the measures required to be undertaken on the coming into force of the notice including, as appropriate, measures for—

(i) the restoration, demolition, removal, alteration, replacement, maintenance, repair or cleaning of any structure, or

(ii) the discontinuance of any use or the continuance of any use subject to conditions,

(*d*) invite the person on whom the notice is served, within such period as is specified in the notice (being not less than 8 weeks from the date of service of the notice) to make written representations to the planning authority concerning the notice,

(*e*) invite the person to enter into discussions with the planning authority, within such period as is specified in the notice (being not less than 8 weeks from the date of service of the notice) concerning the matters to which the notice refers and in particular concerning—

(i) the period within which the measures specified in the notice are to be carried out, and

(ii) the provision by the planning authority of advice, materials, equipment, the services of the authority's staff or other assistance required to carry out the measures specified in the notice,

(*f*) specify the period within which, unless otherwise agreed in the discussions entered into pursuant to an invitation in the notice in accordance with *paragraph (e)*, the measures specified in the notice shall be carried out, being a period of not less than 8 weeks from the date of the coming into force of the notice,

(*g*) state that the planning authority shall pay any expenses that are reasonably incurred by that person in carrying out the steps specified in the notice, other than expenses that relate to unauthorised development carried out not more than 7 years prior to the service of the notice, and

(*h*) state that the planning authority shall, by way of compensation, pay, to any person who shows that as a result of complying with the notice—

(i) the value of an interest he or she has in the land or part thereof existing at the time of the notice has been reduced, or

(ii) he or she, having an interest in the land at that time, has suffered damage by being disturbed in his or her enjoyment of the structure or other land,

a sum equal to the amount of such reduction in value or a sum in respect of the damage suffered.

(3) If the invitation in a notice in accordance with *subsection (2)(d)* to enter into discussions is accepted, the planning authority shall take all such measures as may be necessary to enable the discussions concerned to take place.

(4) After considering any representations made and any discussions held pursuant to invitations in a notice under *subsection (2)*, the planning authority may confirm, amend or revoke the notice and shall notify in writing the person to whom the notice is addressed.

(5) Any person served with a notice under *subsection (1)* may, within 8 weeks from the date of notification of the confirmation or amendment of the notice under *subsection (4)*, appeal to the Board against the notice.

(6) Where an appeal is brought under *subsection (5)* against a notice, the Board may, after taking into account—

(*a*) the proper planning and sustainable development of the area,

(*b*) the provisions of the development plan for the area,

(*c*) any local area plan or integrated area plan (within the meaning of the Urban Renewal Act, 1998) in force relating to the area to which the scheme relates, and

(*d*) the provisions of the approved scheme concerned,

confirm with or without modification, or annul, the notice.

(7) A notice served by a planning authority under *subsection (1)* may, for stated reasons, by notice in writing, be withdrawn.

(8) A notice under this section (other than a notice that has been withdrawn) shall not come into force—

(*a*) until the expiry of any period within which an appeal against the notice may be brought, or

(*b*) where an appeal is taken against the notice, when the appeal has been withdrawn or decided,

as may be appropriate.

Implementation of the notice under *section 88*.

89.—If, within 8 weeks from the date of the coming into force of the notice or such longer period as may be agreed by the planning authority and the person to whom the notice is addressed, the restoration, demolition, removal, alteration, replacement, maintenance, repair or cleaning required by the notice has not been effected, the planning authority may, subject to *section 252*, enter the structure or land and may effect such restoration, demolition, removal, alteration, replacement, maintenance, repair or cleaning as is specified in the notice.

Court may compel compliance with notice under *section 88*.

90.—(1) Where a person served with a notice under *section 88* fails to comply with a requirement of the notice, or causes or permits a person to fail to comply with such a requirement, the High Court or the Circuit Court may, on the application of the planning authority, order any person to comply with the notice or to do, or refrain from doing or continuing to do, anything that the Court considers necessary or expedient to ensure compliance with the terms of the said notice.

(2) An order under *subsection (1)* may, without prejudice to that subsection, require such person as is specified in the order to carry out any works, including the restoration, demolition, removal, alteration, replacement, maintenance, repair or cleaning of any structure or other feature, or the discontinuance of any use, or continuance thereof subject to such conditions as are specified in the order.

(3) (*a*) An application to the High Court or the Circuit Court for an order under *subsection (1)* shall be by motion and the Court when considering the matter may make such interim or interlocutory order, if any, as it considers appropriate.

(*b*) The order by which an application under this section is determined may contain such terms and conditions (if any) as to the payment of costs as the Court considers appropriate.

(4) Rules of Court made in respect of section 27 of the Act of 1976 (inserted by section 19 of the Act of 1992) shall apply with any necessary modifications to an application under this section.

(5) (*a*) An application under *subsection (1)* to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the land the subject of the application is situated.

(*b*) The Circuit Court shall have jurisdiction to hear and determine an application under this section where the F487**[**market value**]** of the land the subject of the application does not exceed F487**[**€3,000,000**]**.

(*c*) Where the F487**[**market value**]** of any land the subject of the application under this section exceeds F487**[**€3,000,000**]**, the Circuit Court shall, if an application is made to it in that behalf by any person having an interest in the proceedings, transfer the proceedings to the High Court, but any order made or act done in the course of such proceedings before the transfer shall be valid unless discharged or varied by order of the High Court.

F488**[**(*d*) In this subsection "market value" means, in relation to land, the price that would have been obtained in respect of the unencumbranced fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.**]**

Annotations

Amendments:

F487 Substituted (11.01.2017) by *Civil Liability and Courts Act 2004* (31/2004), s. 53(1)(a), S.I. No. 2 of 2017.

F488 Inserted (11.01.2017) by *Civil Liability and Courts Act 2004* (31/2004), s. 53(1)(b), S.I. No. 2 of 2017.

Offence to fail to comply with notice under *section 88*.

91.—Where a person served with a notice under *section 88* fails to comply with a requirement of the notice, or causes or permits a person to fail to comply with such a requirement, he or she shall be guilty of an offence.

Permission not required for any development required under this Chapter.

92.—Notwithstanding *Part III*, permission shall not be required in respect of a development required by a notice under *section 88* or an order under *section 90*.

PART V

Housing Supply

Annotations

Modifications (not altering text):

C92 Application of Part extended (3.07.2017) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 5(2)(b), S.I. No. 270 of 2017.

Request for consultations before making application under *section 4*

5. ...

(2) ...

(*b*) those consultations shall have regard to so much of Part V of the Act of 2000 as would be relevant to the proposed strategic housing development.

...

Editorial Notes:

E248 Arrangements in relation to the purchase of affordable dwellings provided for (18.06.2018 in part) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), Part 5 (ss. 78-96), S.I. No. 206 of 2018.

E249 Arrangements in relation to the purchase of houses by tenants provided for (1.01.2016) by *Housing (Miscellaneous Provisions) Act 2014* (21/2014), ss. 21-34, S.I. No. 482 of 2015.

Interpretation.

93.—(1) In this Part—

F489**[**"cost rental housing" means housing comprising cost rental dwellings within the meaning of Part 3 of the Affordable Housing Act 2021;**]**

F490**[**"housing strategy" means a strategy included in a development plan in accordance with *section 94(1)*;

F491**[**"market value"—

(*a*) in relation to a house, means the price which the unencumbered fee simple of the house would fetch if sold on the open market, and

(*b*) in relation to land in respect of which planning permission is granted, means the price which the unencumbered fee simple of the land would have fetched if it had been sold on the open market on the date of the grant of planning permission;**]**

"mortgage" means a loan for the purchase of a house secured by mortgage in an amount not exceeding 90 per cent of the price of the house.**]**

(2) F492**[**...**]**

(3) F492**[**...**]**

(4) For the avoidance of doubt, it is hereby declared that, in respect of any planning application or appeal, compliance with the housing strategy and any related objective in the development plan shall be a consideration material to the proper planning and sustainable development of the area.

Annotations

Amendments:

F489 Inserted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 43(a), S.I. No. 450 of 2021.

F490 Substituted (12.09.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 8 and sch. 2 part 7 item 1(a), S.I. No. 350 of 2018.

F491 Inserted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 43(b), S.I. No. 450 of 2021.

F492 Deleted (12.09.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 8 and sch. 2 part 7 item 1(b), S.I. No. 350 of 2018.

Editorial Notes:

E250 Previous affecting provision: definition of "housing strategy" deleted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 37, S.I. No. 405 of 2010; substituted as per F-note above.

Housing strategies.

94.—(1) (*a*) Each planning authority shall include in any development plan it makes in accordance with *section 12* a strategy for the purpose of ensuring that the proper planning and sustainable development of the area of the development

plan provides for the housing of the existing and future population of the area in the manner set out in the strategy.

(*b*) (i) Subject to *subparagraph (ii)*, any development plan made by a planning authority after the commencement of this section shall include a housing strategy in respect of the area of the development plan.

(ii) Where before the commencement of this section a planning authority has given notice under section 21A(2) (inserted by the Act of 1976) of the Act of 1963 of a proposed amendment of a draft development plan, it may proceed in accordance with *section 266* without complying with *subparagraph (i)*, but where a development plan is so made, the planning authority shall take such actions as are necessary to ensure that, as soon as possible and in any event within a period of 9 months from the commencement of this section, a housing strategy is prepared in respect of the area of the development plan and the procedures under *section 13* are commenced to vary the development plan in order to insert the strategy in the plan and to make such other changes as are necessary arising from the insertion of the strategy in the plan pursuant to this Part.

(*c*) A planning authority shall take such actions as are necessary to ensure that, as soon as possible and in any event within a period of 9 months from the commencement of this section, a housing strategy is prepared in respect of the area of the development plan and the procedures under *section 13* are commenced to vary the development plan in order to insert the strategy in the plan and to make such other changes as are necessary arising from the insertion of the strategy in the plan pursuant to this Part.

(*d*) A housing strategy shall relate to the period of the development plan or, in the case of a strategy prepared under *paragraph (b)(ii)* or *paragraph (c)*, to the remaining period of the existing development plan.

(*e*) A housing strategy under this section may, or pursuant to the direction of the Minister shall, be prepared jointly by 2 or more planning authorities in respect of the combined area of their development plans and such a joint strategy shall be included in any development plan that relates to the whole or any part of the area covered by the strategy and the provisions of this Part shall apply accordingly.

F493**[**(2) In preparing a housing strategy, a planning authority shall—

(*a*) have regard to the most recent summary of social housing assessments prepared under section 21(a) of the Housing (Miscellaneous Provisions) Act 2009 that relate to the area of the development plan,

(*b*) consult with any body standing approved of for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act 1992 in its functional area, and

(*c*) have regard to relevant policies or objectives for the time being of the Government or any Minister of the Government that relate to housing and, in particular, social integration in the provision of housing services.**]**

(3) A housing strategy shall take into account—

(*a*) the existing need and the likely future need for housing to which *subsection (4)(a)* applies,

(*b*) the need to ensure that housing is available for persons who have different levels of income,

(*c*) the need to ensure that a mixture of house types and sizes is developed to reasonably match the requirements of the different categories of households, as may be determined by the planning authority, and including the special requirements of elderly persons and persons with disabilities, F494**[**...**]**

(*d*) the need to counteract undue segregation in housing between persons of different social backgrounds F495**[**, and**]**

F496**[**(*e*) the existing need and the likely future need for housing, in particular houses and duplexes, for purchase by intending owner-occupiers.**]**

(4) (*a*) A housing strategy shall include an estimate of the amount of—

F497**[**(i) housing for the purposes of the provision of social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009, F498**[**...**]]**

F500**[**(ii) housing for eligible applicants within the meaning of Part 2 of the Affordable Housing Act 2021, and**]**

F501**[**(iii) cost rental housing,**]**

required in the area of the development plan during the period of the development plan and the estimate may state the different requirements for different areas within the area of the development plan.

(*b*) F502**[**...**]**

F500**[**(*c*) Subject to *paragraph (d)*, a housing strategy shall provide that as a general policy a specified percentage, not being more than 20 per cent, of—

(i) the land zoned for residential use, or for a mixture of residential and other uses, and

(ii) any land which is not zoned for residential use, or for a mixture of residential and other uses, but in respect of which permission for the development of houses is granted,

shall be reserved under this Part for the provision of housing for the purposes of one or more of *subparagraphs (i), (ii)* and *(iii)* of *paragraph (a)*.**]**

F500**[**(*d*) *Paragraph (c)* shall not operate to prevent any person (including a local authority) from using more than 20 per cent of land in respect of which permission for the development of houses is granted for the provision of housing to which *paragraph (a)* applies.**]**

(5) (*a*) When making an estimate under *subsection (4)(a)(ii)*, the planning authority shall have regard to the following:

(i) the supply of and demand for houses generally, or houses of a particular class or classes, in the whole or part of the area of the development plan;

(ii) the price of houses generally, or houses of a particular class or classes, in the whole or part of the area of the development plan;

(iii) the income of persons generally or of a particular class or classes of person who require houses in the area of the development plan;

(iv) the rates of interest on mortgages for house purchase;

(v) the relationship between the price of housing under *subparagraph (ii)*, incomes under *subparagraph (iii)* and rates of interest under *subparagraph (iv)* for the purpose of establishing the affordability of houses in the area of the development plan;

F503**[**(va) F504**[**...**]]**

(vi) such other matters as the planning authority considers appropriate or as may be prescribed for the purposes of this subsection.

(*b*) Regulations made for the purposes of this subsection shall not affect any housing strategy or the objectives of any development plan made before those regulations come into operation.

F505**[**(6) (*a*) When making an estimate under *subsection (4)(a)(iii)*, the planning authority shall have regard to the following:

(i) the supply of and demand for houses for rent in the whole or part of the area of the development plan;

(ii) the cost of rents applicable to houses generally, or to houses of a particular class or classes, in the whole or part of the area of the development plan;

(iii) the income of persons generally, or of a particular class or classes of person, who require houses for rent in the area of the development plan;

(iv) the relationship between the cost of rents referred to in *subparagraph (ii)* and incomes referred to in *subparagraph (iii)* for the purpose of establishing the affordability of housing for rent in the area of the development plan;

(v) such other matters as the planning authority considers appropriate or as may be prescribed for the purposes of this subsection.

(*b*) Regulations made for the purposes of this subsection shall not affect any housing strategy or the objectives of any development plan made before those regulations come into operation.

(7) Where on the date on which this subsection comes into operation a development plan includes a housing strategy—

(*a*) the chief executive of the planning authority shall, for the purpose of the performance by a planning authority of its functions under this Part, make an estimate of the amount of housing referred to in *subparagraphs (ii)* and *(iii)* of *subsection (4)(a)* required in the area of the development plan during the period of the development plan,

(*b*) such estimate may state the different requirements for housing for different areas within the area of the development plan, and

(*c*) such estimate shall be deemed to be included in the housing strategy concerned.**]**

F496**[**(8) Where on the date on which this subsection comes into operation a development plan includes a housing strategy—

(*a*) the chief executive of the planning authority shall, for the purpose of the performance by a planning authority of its functions under this Part, make an estimate of the amount of housing referred to in *subsection (3)(e)* required in the area of the development plan during the period of the development plan,

(*b*) such estimate may state the different requirements for housing for different areas within the area of the development plan, and

(*c*) such estimate shall be deemed to be included in the housing strategy concerned.**]**

Annotations

Amendments:

F493 Substituted (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 31, S.I. No. 364 of 2015.

F494 Deleted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 7(a)(i)(I), S.I. No. 715 of 2021.

F495 Substituted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 7(a)(i)(II), S.I. No. 715 of 2021.

F496 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 7(a)(i)(III), (ii), S.I. No. 715 of 2021.

F497 Substituted (1.04.2011) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 8 and sch. 2, part 7, item no. 2(a) and (b)(i), S.I. No. 83 of 2011.

F498 Deleted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 44(a)(i)(I), (b), S.I. No. 450 of 2021.

F499 Substituted (12.09.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 8 and sch. 2 part 7 item 2(b)(i), S.I. No. 350 of 2018.

F500 Substituted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 44(a)(i)(II), (ii), (iii), S.I. No. 450 of 2021.

F501 Inserted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 44(a)(i)(III), S.I. No. 450 of 2021.

F502 Deleted (12.09.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 8 and sch. 2 part 7 item 2(b)(ii), S.I. No. 350 of 2018.

F503 Inserted (12.09.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 8 and sch. 2 part 7 item no. 2(c), S.I. No. 350 of 2018.

F504 Deleted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 44(b), S.I. No. 450 of 2021.

F505 Inserted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 44(c), S.I. No. 450 of 2021.

Editorial Notes:

E251 Previous affecting provision: subs. (4)(a)(ii) subsituted (12.09.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 8 and sch. 2 part 7 item 2(b)(i), S.I. No. 350 of 2018; substituted as per F-note above.

E252 Previous affecting provision: subs. (4)(c), (d) amended (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 31, S.I. No. 364 of 2015; substituted as per F-note above.

E253 Previous affecting provision: subs. (2) amended (1.04.2011) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 8 and sch. 2, part 7 item no. 2(a), S.I. No. 83 of 2011; substituted as per F-note above.

Housing strategies and development plans.

95.—(1) (*a*) In conjunction with the inclusion of the housing strategy in its development plan, a planning authority shall F506**[**, having regard to the overall strategy for the proper planning and sustainable development of the area of the development plan referred to in *section 10*,**]** ensure that sufficient and suitable land is zoned for residential use, or for a mixture of residential and other uses, to meet the requirements of the housing strategy and to ensure that a scarcity of such land does not occur at any time during the period of the development plan.

(*b*) A planning authority shall include objectives in the development plan in order to secure the implementation of the housing strategy, in particular, any of

the matters referred to in *section 94(3)*, including objectives requiring that a specified percentage of land zoned solely for residential use, or for a mixture of residential and other uses, be made available for the provision of housing referred to in F507**[***section 94(3)(e)* and**]** *section 94(4)(a)*.

(*c*) Specific objectives as referred to in *paragraph (b)* may be indicated in respect of each area zoned for residential use, or for a mixture of residential and other uses, and, where required by local circumstances relating to the amount of housing required as estimated in the housing strategy under *section 94(4)(a)*, different specific objectives may be indicated in respect of different areas, subject to the specified percentage referred to in *section 94(4)(c)* not being exceeded.

(*d*) In order to counteract undue segregation in housing between persons of different social backgrounds, the planning authority may indicate in respect of any particular area referred to in *paragraph (c)* that there is no requirement for housing referred to in *section 94(4)(a)* in respect of that area, or that a lower percentage than that specified in the housing strategy may instead be required.

F508**[**(2) Nothing in *subsection (1)* or *section 96* shall prevent any land being developed exclusively for housing referred to in *section 94(4)(a)(i)* or *(ii)*.**]**

(3) (*a*) The report of the F509**[**chief executive**]** under *section 15(2)* shall include a review of the progress achieved in implementing the housing strategy and, where the report indicates that new or revised housing needs have been identified, the F509**[**chief executive**]** may recommend that the housing strategy be adjusted and the development plan be varied accordingly.

(*b*) The F509**[**chief executive**]** of a planning authority shall, where he or she considers that there has been a change in the housing market, or in the regulations made by the Minister under *section 100*, that significantly affects the housing strategy, give a report on the matter to the members of the authority and, where he or she considers it necessary, the F509**[**chief executive**]** may recommend that the housing strategy be adjusted and the development plan be varied accordingly.

Annotations

Amendments:

F506 Inserted (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 32, S.I. No. 364 of 2015.

F507 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 7(b), S.I. No. 715 of 2021.

F508 Substituted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 45, S.I. No. 450 of 2021.

F509 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. no. 58, S.I. No. 436 of 2018.

Editorial Notes:

E254 Variation of housing services plan in context of adjustment of a housing strategy pursuant to subs. (3) provided for by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 17(1), not commenced as of date of revision.

F510**[**Provision of social and affordable housing, etc.

96.—(1) Subject to *subsection (13)* and *section 97*, F511**[**the provisions of this section shall apply to an application for permission for the development of houses on land**]**, or where an application relates to a mixture of developments, to that part of the application which relates to the development of houses on such land, in addition to the provisions of *section 34* F512**[**and, where applicable, Part 9 of the Land Development Agency Act 2021**]**.

(2) A planning authority, or the Board on appeal, shall require as a condition of a grant of permission that the applicant, or any other person with an interest in the land to which the application relates, F513**[**prior to the lodgement of a commencement notice within the meaning of Part II of the Building Control Regulations 1997,**]** enter into an agreement under this section with the planning authority, providing, in accordance with this section, for the matters referred to in *paragraph (a)* or *(b)* of *subsection (3)*.

(3) F511**[**(*a*) Subject to *paragraphs (b)* and *(j)*, an agreement under this section shall provide for the transfer to the planning authority of the ownership of 20 per cent of the land that is subject to the application for permission for the provision of housing referred to in *section 94(4)(a)*.**]**

(*b*) Instead of the transfer of land referred to in *paragraph (a)* and subject to *paragraph (c)* and the other provisions of this section, an agreement under this section may provide for—

(i) the building and transfer, on completion, to the ownership of the planning authority, or to the ownership of persons nominated by the authority in accordance with this Part, of houses on the land which is subject to the application for permission of such number and description as may be specified in the agreement,

(ii) F514**[**...**]**

(iii) F514**[**...**]**

F515**[**(iv) the transfer to the ownership of the planning authority, or to the ownership of persons nominated by the authority in accordance with this Part, of houses on any other land within the functional area of the planning authority of such number and description as may be specified in the agreement,**]**

F513**[**(iva) the grant to the planning authority F516**[**, or persons nominated by the authority in accordance with this Part,**]** of a lease under the Housing Acts 1966 to 2014 of houses on the land which is subject to the application for permission, or on any other land within the functional area of the planning authority, of such number and description as may be specified in the agreement,**]**

(v) F514**[**...**]**

(vi) F514**[**...**]**

(vii) a combination of a transfer of land referred to in *paragraph (a)* (but involving a lesser amount of such land than if the agreement solely provided for a transfer under that paragraph) and the doing of one or more of the things referred to in the preceding subparagraphs,

F517**[**(viii) a combination of the doing of 2 or more of the things referred to in *subparagraphs (i)* to *(iva)*,**]**

F517**[**but, subject, in every case, to the provision that is made under this paragraph resulting in the aggregate of the net monetary value of the property transferred, or the reduction in rent payable over the term of a lease referred to in F511**[***subparagraph (iva)***]** (excluding any reduction for maintenance, management and void periods specified in such lease), by virtue of the

agreement being equivalent to the net monetary value, that is to say, the open market value less the existing use value, of the land that the planning authority would receive if the agreement solely provided for a transfer of land under *paragraph (a)*.**]**

F516**[**(*bb*) Where property is transferred to a planning authority under *paragraph (a)* or *(b)* or there is a reduction in rent payable over the term of a lease referred to in *paragraph (b)(iva)* (excluding any reduction for maintenance, management and void periods specified in such lease), the planning authority shall use at least half of the aggregate of the net monetary value of that property and of any reduction in rent calculated in accordance with *paragraph (b)* for the provision of housing referred to in *section 94(4)(a)(i)*.**]**

(*c*) In considering whether to enter into an agreement under *paragraph (b)*, the planning authority shall consider each of the following:

(i) whether such an agreement will contribute effectively and efficiently to the achievement of the objectives of the housing strategy;

(ii) whether such an agreement will constitute the best use of the resources available to it to ensure an adequate supply of housing and any financial implications of the agreement for its functions as a housing authority;

(iii) the need to counteract undue segregation in housing between persons of different social background in the area of the authority;

(iv) whether such an agreement is in accordance with the provisions of the development plan;

(v) the time within which housing referred to in *section 94(4)(a)* is likely to be provided as a consequence of the agreement.

F517**[**(*d*) Where houses are to be transferred to the planning authority F516**[**or persons nominated by the authority**]** in accordance with an agreement under *paragraph (b)*, the price of such houses shall be determined on the basis of—

(i) the site cost of the houses (calculated in accordance with *subsection (6)*), and

(ii) the costs, including normal construction and development costs and profit on those costs, calculated at open market rates that would have been incurred by the planning authority had it retained an independent builder to undertake the works, including the appropriate share of any common development works, as agreed between the authority and the developer.**]**

(*e*) Where an agreement under this section provides for the transfer of F517**[**land or houses**]**, F517**[**the houses**]** or the land, whether in one or more parts, shall be identified in the agreement.

(*f*) In so far as it is known at the time of the agreement, the planning authority shall indicate to the applicant its intention in relation to the provision of housing, including a description of the proposed houses, on the land F514**[**...**]** to be transferred F518**[**, or to be the subject of a lease,**]** in accordance with *paragraph (a)* or *(b)*.

(*g*) Nothing in this subsection shall be construed as requiring the applicant or any other person (other than the planning authority) to enter into an agreement under *paragraph (b)* instead of an agreement under *paragraph (a)*.

(*h*) For the purposes of an agreement under this subsection, the planning authority shall consider—

(i) the proper planning and sustainable development of the area to which the application relates,

(ii) the housing strategy and the specific objectives of the development plan which relate to the implementation of the strategy,

(iii) the need to ensure the overall coherence of the development to which the application relates, where appropriate, and

(iv) the views of the applicant in relation to the impact of the agreement on the development.

(*i*) Government guidelines on public procurement shall not apply to an agreement made under *paragraph (a)* or *(b)* except in the case of an agreement which is subject to the requirements of Council Directive No. 93/37/EEC[1] on the co-ordination of procedures relating to the award of Public Works Contracts and any directive amending or replacing that directive.

F516**[**(*j*) Where—

(i) the permission is granted before 1 August 2021, or

(ii) the permission is granted during the period beginning on 1 August 2021 and ending on 31 July 2026 and the land to which the application for permission relates was purchased by the applicant, or the person on whose behalf the application is made, during the period beginning on 1 September 2015 and ending on 31 July 2021,

the reference to "20 per cent of the land" in *paragraph (a)* shall be read as "10 per cent of the land" and the reference in *paragraph (bb)* to "at least half of the aggregate of the net monetary value" shall be read as "all of the aggregate of the net monetary value.**]**

(4) An applicant for permission shall, when making an application to which this section applies, specify the manner in which he or she would propose to comply with a condition to which *subsection (2)* relates, were the planning authority to attach such a condition to any permission granted on foot of such application, and where the planning authority grants permission to the applicant subject to any such condition it shall have regard to any proposals so specified.

(5) In the case of a dispute in relation to any matter which may be the subject of an agreement under this section, other than a dispute relating to a matter that falls within *subsection (7)*, the matter may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

(6) Where ownership of land is transferred to a planning authority pursuant to *subsection (3)*, the planning authority shall, by way of compensation, pay to the owner of the land a sum equal to—

(*a*) (i) in the case of—

(I) land purchased by the applicant before 25 August 1999, or

(II) land purchased by the applicant pursuant to a legally enforceable agreement entered into before that date or in exercise of an option in writing to purchase the land granted or acquired before that date,

the price paid for the land, or the price agreed to be paid for the land pursuant to the agreement or option, together with such sum in respect of interest thereon (including, in circumstances where there is a mortgage on the land, interest paid in respect of the mortgage) as may be determined by the property arbitrator,

(ii) in the case of land the ownership of which was acquired by the applicant by way of a gift or inheritance taken (within the meaning of the Capital Acquisitions Tax Act, 1976) before 25 August 1999, a sum equal to the

[1]O.J. No. L 199/54, 9.7.1993

market value of the land on the valuation date (within the meaning of that Act) estimated in accordance with section 15 of that Act,

(iii) in the case of—

(I) land purchased before 25 August 1999, or

(II) land purchased pursuant to a legally enforceable agreement to purchase the land entered into before that date, or in exercise of an option, in writing, to purchase the land granted or acquired before that date,

(where the applicant for permission is a mortgagee in possession of the land) the price paid for the land, or the price agreed to be paid for the land pursuant to the agreement or option, together with such sum in respect of interest thereon calculated from that date (including any interest accruing and not paid in respect of the mortgage) as may be determined by the property arbitrator,

or

(*b*) the value of the land calculated by reference to its existing use F517**[**on the date on which the permission referred to in *subsection (2)* is granted**]** on the basis that on that date it would have been, and would thereafter have continued to be, unlawful to carry out any development in relation to that land other than exempted development,

whichever is the greater.

(7) (*a*) Subject to *paragraph (b)*, a property arbitrator appointed under section 2 of the Property Values (Arbitration and Appeals) Act, 1960, shall (in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919), in default of agreement, fix the following where appropriate:

(i) the number and price of houses to be transferred under *subsection (3)(b)(i)*, *(iv)*, *(vii)* or *(viii)*;

F513**[**(ia) in the case of an agreement referred to in *subsection (3)(b)(iva)*, the number of houses and the rent payable under such an agreement;**]**

(ii) F514**[**...**]**

(iii) the compensation payable under *subsection (6)* by a planning authority to the owner of land;

(iv) the payment of an amount to the planning authority under *subsection (3)(b)(vi)*, *(vii)* or *(viii)*; and

(v) the allowance to be made under *section 99(3)(d)(i)*.

(*b*) For the purposes of *paragraph (a)*, section 2(2) of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall not apply and the value of the land shall be calculated on the assumption that it was at that time and would remain unlawful to carry out any development in relation to the land other than exempted development.

(*c*) *Section 187* shall apply to compensation payable under *subsection (6)*.

(8) Where it is a condition of the grant of permission that an agreement be entered into in accordance with *subsection (2)* and, because of a dispute in respect of any matter relating to the terms of such an agreement, F519**[**parties are unable to reach an agreement**]**, F513**[**the planning authority,**]** the applicant or any other person with an interest in the land to which the application relates may—

(*a*) if the dispute relates to a matter falling within *subsection (5)*, refer the dispute under that subsection to the Board, or

(*b*) if the dispute relates to a matter falling within *subsection (7)*, refer the dispute under that subsection to the property arbitrator,

and the Board or the property arbitrator, as may be appropriate, shall determine the matter as soon as practicable.

(9) (*a*) Where ownership of land F514**[**...**]** is transferred to a planning authority in accordance with *subsection (3)*, the authority may—

(i) provide, or arrange for F519**[**the provision on the land of, housing of the type**]** referred to in *section 94(4)(a)*,

(ii) make land F514**[**...**]** available to F519**[**persons eligible for social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009 or eligible applicants within the meaning of Part 2 of the Affordable Housing Act 2021**]** for the development of houses by them for their own occupation, or

(iii) make land F514**[**...**]** available to a body approved for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992, for the F519**[**provision on the land of housing of the type**]** referred to in *section 94(4)(a)*.

(*b*) Pending the provision of houses or sites in accordance with *paragraph (a)(i)*, or the making available of land or sites in accordance with *paragraph (a)(ii)* or *(iii)*, the planning authority shall maintain the land or sites in a manner which does not detract, and is not likely to detract, to a material degree from the amenity, character or appearance of land or houses in the neighbourhood of the land or sites.

(10) (*a*) Where a house is transferred to a planning authority or its nominees under *subsection (3)(b)*, it shall be used for the housing of F519**[**persons eligible under regulations under section 31 (3) of the Affordable Housing Act 2021 to be tenants of cost rental dwellings, persons eligible for social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009 or eligible applicants within the meaning of Part 2 of the Affordable Housing Act 2021**]**.

F519**[**(*b*) A nominee of a planning authority may be a person eligible for social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009 , an eligible applicant within the meaning of Part 2 of the Affordable Housing Act 2021 or a body approved for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act 1992 for the provision of housing of the type referred to in *section 94(4)(a)*.**]**

F512**[**(10A) A dwelling that is the subject of an agreement referred to in section 75 of the Land Development Agency Act 2021 shall not be reckoned in determining whether or not the condition imposed by this section has been complied with.**]**

(11) Notwithstanding any provision of this or any other enactment, if a planning authority becomes satisfied that land, a site or a house transferred to it under *subsection (3)* is no longer required for the purposes specified in *subsection (9)* or *(10)*, it may use the land, site or house for another purpose connected with its functions or sell it for the best price reasonably obtainable and, in either case, it shall pay an amount equal to the market value of the land, site or house or the proceeds of the sale, as the case may be, into the separate account referred to in *subsection (12)*.

F520**[**(12) Any amount referred to in *subsection (11)* and any amount paid to a planning authority in accordance with *subsection (3)(b)(vi)*, *(vii)* or *(viii)* shall be accounted for in a separate account and shall only be applied as capital for its functions in relation to the provision of housing under the Housing Acts 1966 to 2009 F521**[**...**]**.**]**

(13) This section shall not apply to applications for permission for—

(*a*) development consisting of the provision of F522**[**cost rental housing or**]** houses by a body standing approved for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992, for the provision of housing F523**[**required for households assessed under section 20 of the Housing (Miscellaneous Provisions) Act 2009 as being qualified for social housing support**]**, where such houses are to be made available for letting or sale,

(*b*) the conversion of an existing building or the reconstruction of a building to create one or more dwellings, provided that 50 per cent or more of the existing external fabric of the building is retained,

(*c*) the carrying out of works to an existing house, or

(*d*) development of houses pursuant to an agreement under this section.

(14) A planning authority may, for the purposes of an agreement under this section, agree to sell, lease or exchange any land within its ownership to the applicant for permission, in accordance with *section 211*.

(15) In this section, "owner" means—

(*a*) a person, other than a mortgagee not in possession, who is for the time being entitled to dispose (whether in possession or reversion) of the fee simple of the land, and

(*b*) a person who, under a lease or agreement the unexpired term of which exceeds 5 years, holds or is entitled to the rents or profits of the land.**]**

Annotations

Amendments:

F510 Substituted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 3, commenced on enactment.

F511 Substituted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 46(a), (b)(i), (iii), S.I. No. 450 of 2021.

F512 Inserted (31.03.2022) by *Land Development Agency Act 2021* (26/2021), s. 78(a)(i), (ii), S.I. No. 143 of 2022.

F513 Inserted (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 33(1)(a), (b)(iii), (g)(i) and (h), S.I. No. 364 of 2015, subject to transitional provisions in subss. (2) and (3).

F514 Deleted (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 33(1)(b)(i), (iv), (g)(ii) and (i), S.I. No. 364 of 2015, subject to transitional provisions in subss. (2) and (3).

F515 Substituted (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 33(1)(b)(ii), S.I. No. 364 of 2015, subject to transitional provisions in subss. (2) and (3).

F516 Inserted (9.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 46(b)(ii), (iv), (v), (vi), S.I. No. 450 fo 2021.

F517 Substituted (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 33(1)(b)(v), (c), (d) and (f), S.I. No. 364 of 2015, subject to transitional provisions in subss. (2) and (3).

F518 Inserted (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 33(1)(e), S.I. No. 364 of 2015, subject to transitional provisions in subss. (2) and (3).

F519 Substituted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 46(c),(d)(i)-(iii), (e)(i), (ii), S.I. No. 450 of 2021.

F520 Inserted (12.09.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 8 and sch. 2 part 7 item no. 3(a), S.I. No. 350 of 2018 art. 3(b)(iii)(III).

F521 Deleted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 46(f), S.I. No. 450 of 2021.

F522 Inserted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 46(g), S.I. No. 450 of 2021.

F523 Substituted (1.04.2011) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 8 and sch. 2, part 7, item no. 3(b), S.I. No. 83 of 2011.

F524 Inserted by *Urban Regeneration and Housing Act 2015* (33/2015), s. 34(1)(a), (d) and (e), not commenced as of date of revision, subject to transitional provisions in subss. (2) and (3).

F525 Substituted by *Urban Regeneration and Housing Act 2015* (33/2015), s. 34(1)(b) and (c), not commenced as of date of revision, subject to transitional provisions in subss. (2) and (3).

F526 Inserted by *Planning and Development (Amendment) Act 2010* (30/2010), s. 38(a)(i) and (iii), (b), not commenced as of date of revision.

F527 Substituted by *Planning and Development (Amendment) Act 2010* (30/2010), s. 38(a)(ii) and (c), not commenced as of date of revision.

Modifications (not altering text):

C93 Prospective affecting provisions: subss. (3)(b)(ivb) inserted and (3)(b)(viii), (3)(b), (3)(f) and (7)(a)(ia) amended by *Urban Regeneration and Housing Act 2015* (33/2015), s. 34(1), not commenced as of date of revision, subject to transitional provisions in subss. (2) and (3).

(3) ...

(*b*) Instead of the transfer of land referred to in *paragraph (a)* and subject to *paragraph (c)* and the other provisions of this section, an agreement under this section may provide for—

(i) the building and transfer, on completion, to the ownership of the planning authority, or to the ownership of persons nominated by the authority in accordance with this Part, of houses on the land which is subject to the application for permission of such number and description as may be specified in the agreement,

(ii) F514**[**...**]**

(iii) F514**[**...**]**

F515**[**(iv) the transfer to the ownership of the planning authority, or to the ownership of persons nominated by the authority in accordance with this Part, of houses on any other land within the functional area of the planning authority of such number and description as may be specified in the agreement,**]**

F513**[**(iva) the grant to the planning authority of a lease under the Housing Acts 1966 to 2014 of houses on the land which is subject to the application for permission, or on any other land within the functional area of the planning authority, of such number and description as may be specified in the agreement,**]**

F524**[**(ivb) the entry into a rental accommodation availability agreement (which term shall, in this section, have the meaning given to it by section 2 of the Housing (Miscellaneous Provisions) Act 2009) with the planning authority, under Part 2 of that Act, in respect of houses on the land which is subject to the application for permission, or on any other land within the functional area of the planning authority, of such number and description as may be specified in the agreement,**]**

(v) F514**[**...**]**

(vi) F514**[**...**]**

(vii) a combination of a transfer of land referred to in *paragraph (a)* (but involving a lesser amount of such land than if the agreement solely provided for a transfer under that paragraph) and the doing of one or more of the things referred to in the preceding subparagraphs,

F517**[**(viii) a combination of the doing of 2 or more of the things referred to in *subparagraphs (i)* to F525**[***(ivb)***]**,**]**

F517**[**but, subject, in every case, to the provision that is made under this paragraph resulting in the aggregate of the net monetary value of the property transferred, or the reduction in rent payable over the term of a lease referred to in *paragraph (iva)* F525**[**or of an agreement referred to in *paragraph (ivb)* (excluding any reduction for maintenance, management and void periods specified in such lease or such agreement)**]**, by virtue of the agreement being equivalent to the net monetary value, that is to say, the open market value less the existing use value, of the land that the planning authority would receive if the agreement solely provided for a transfer of land under *paragraph (a)*.**]**

...

(*f*) In so far as it is known at the time of the agreement, the planning authority shall indicate to the applicant its intention in relation to the provision of housing, including a description of the proposed houses, on the land F514**[**...**]** to be transferred F518**[**, or to be the subject of a lease F524**[**or rental accommodation availability agreement**]**,**]** in accordance with paragraph (*a*) or (*b*).

...

(7) (*a*) Subject to *paragraph (b)*, a property arbitrator appointed under section 2 of the Property Values (Arbitration and Appeals) Act, 1960, shall (in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919), in default of agreement, fix the following where appropriate:

(i) the number and price of houses to be transferred under *subsection (3)(b)(i)*, *(iv)*, *(vii)* or *(viii)*;

F513**[**(ia) in the case of an agreement referred to in *subsection (3)(b)(iva)* F524**[**or *(ivb)***]**, the number of houses and the rent payable under such an agreement;**]**

C94 Prospective affecting provisions: subs. (3)(b)(viii) and (8) amended and subss. (3)(b)(via), (da) and (7)(a)(iia) inserted by *Planning and Development (Amendment) Act 2010* (30/2010), s. 38, not commenced as of date of revision.

Provision of social and affordable housing, etc.

F510**[96.**— ...

(3) ...

(*b*) Instead of the transfer of land referred to in *paragraph (a)* and subject to paragraph (*c*) and the other provisions of this section, an agreement under this section may provide for— ...

(vi) a payment of such an amount as specified in the agreement to the planning authority,

F526**[**(vi*a*) one of the following—

(I) the entry into a rental accommodation availability agreement (which term shall, in this section, have the meaning given to it by section 2 of the Housing (Miscellaneous Provisions) Act 2009) with the planning authority, under Part 2 of that Act, in respect of, or

(II) a grant of a lease to the planning authority of,

houses on the land which is subject to the application for permission, or any other land within the functional area of the planning authority of such number and description as may be specified in the agreement,**]**

(vii) a combination of a transfer of land referred to in *paragraph (a)* (but involving a lesser amount of such land than if the agreement solely provided for a transfer under that paragraph) and the doing of one or more of the things referred to in the preceding subparagraphs,

(viii) a combination of the doing of 2 or more of the things referred to in F527**[**in *subparagraphs (i)* to *(via)***]**,

but, subject, in every case, to the provision that is made under this paragraph resulting in the aggregate monetary value of the property or amounts or both, as the case may be, transferred or paid by virtue of the agreement being equivalent to the monetary

value of the land that the planning authority would receive if the agreement solely provided for a transfer of land under *paragraph (a)*.

...

F526**[**(*da*) Where a planning authority proposes to enter into a rental accommodation availability agreement or to take a lease in accordance with an agreement under *paragraph (b)*, then, to the extent as may be appropriate the payment to be made, or the rent payable by the planning authority as the case may be shall be reduced (without prejudice to any other relevant discount or allowance) by such amount as may be agreed or in default of agreement as may be prescribed by the Minister as takes account of the obligations imposed by this section and in particular the attribution to the site cost of the houses of a value calculated in accordance with *subsection (6)*.**]**

...

(7) (*a*) Subject to *paragraph (b)*, a property arbitrator appointed under section 2 of the Property Values (Arbitration and Appeals) Act, 1960, shall (in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919), in default of agreement, fix the following where appropriate:

(i) the number and price of houses to be transferred under *subsection (3)(b)(i)*, *(iv)*, *(vii)* or *(viii)*;

(ii) the number and price of sites to be transferred under *subsection (3)(b)(ii)*, *(v)*, *(vii)* or *(viii)*;

F526**[**(ii*a*) the number of houses, and the amount to be paid, or rent payable, therefor under a rental accommodation availability agreement or a lease under *subsection (3)(b)(via)***]**

(iii) the compensation payable under *subsection (6)* by a planning authority to the owner of land;

(iv) the payment of an amount to the planning authority under *subsection (3)(b)(vi)*, *(vii)* or *(viii)*; and

(v) the allowance to be made under *section 99(3)(d)(i)*.

(*b*) For the purposes of *paragraph (a)*, section 2(2) of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall not apply and the value of the land shall be calculated on the assumption that it was at that time and would remain unlawful to carry out any development in relation to the land other than exempted development.

(*c*) *Section 187* shall apply to compensation payable under *subsection (6)*.

(8) Where it is a condition of the grant of permission that an agreement be entered into in accordance with *subsection (2)* and, because of a dispute in respect of any matter relating to the terms of such an agreement, the agreement is not entered into before the expiration of 8 weeks from the date of the grant of permission, F527**[**the planning authority, applicant or any other person**]** with an interest in the land to which the application relates may—

(*a*) if the dispute relates to a matter falling within *subsection (5)*, refer the dispute under that subsection to the Board, or

(*b*) if the dispute relates to a matter falling within *subsection (7)*, refer the dispute under that subsection to the property arbitrator,

and the Board or the property arbitrator, as may be appropriate, shall determine the matter as soon as practicable.

(9) ...**]**

C95 Section construed during specified period (3.07.2017 to 31.12.2021) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 15, S.I. No. 270 of 2017 and S.I. No. 598 of 2019.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(*a*) the period from the commencement of this provision until 31 December 2019, and

(*b*) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of section 96 (provision of social and affordable housing, etc.) of Act of 2000 during specified period

15. Section 96 of the Act of 2000 has effect during the specified period—

(*a*) as if in subsection (1) there were substituted "section 34, or *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*" for "section 34", and

(*b*) as if in subsection (4) there were substituted "the planning authority or the Board, as the case may be," for "the planning authority" in both places where it occurs.

Editorial Notes:

E255 Previous affecting provision: subs. (8)(a)(i), (ii) amended (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 33(1)(b)(i), (iv), (g)(ii) and (i), S.I. No. 364 of 2015, subject to transitional provisions in subss. (2) and (3); substituted as per F-note above.

E256 Sale of house transferred to housing authority in accordance with agreement under section restricted (1.01.2016) by *Housing (Sale of Local Authority Houses) Regulations 2015* (S.I. No. 484 of 2015), reg. 4(e), in effect as per reg. 2.

F528[Restoration of normal limit of duration for certain permissions.

96A.—*Sections 40* to *42* shall apply to permissions granted under Part IV of the Act of 1963 or under *Part III* of this Act pursuant to an application made after 25 August 1999 and to which this Part would have applied if the application for permission had been made after the inclusion of a housing strategy in the development plan under *section 94(1)*.**]**

Annotations

Amendments:

F528 Inserted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 4, commenced on enactment.

F529[Levy to be paid in consideration of restoration effected by *section 96A*.

96B.—(1) In this section—

"house" means—

(*a*) a building or part of a building which has been built for use as a dwelling, and

(*b*) in the case of a block of apartments or other building or part of a building comprising 2 or more dwellings, each of those dwellings;

"market value", in relation to a house, means the price which the house might reasonably be expected to fetch on a sale in the open market;

"relevant house" means a house, permission for which would have ceased to have effect or expired but for section 4 of the Planning and Development (Amendment) Act, 2002.

(2) There shall be deemed to be attached to a permission referred to in *section 96A* a condition providing that there shall, in accordance with *subsections (3)* to *(5)*, be paid to the planning authority an amount in respect of—

(*a*) unless *paragraph (b)* applies as respects the particular house, the first disposal of each relevant house built on foot of that permission,

(*b*) if, as respects a particular relevant house—

(i) it is built on foot of that permission by a person for his or her own occupation, or

(ii) it is built on foot of that permission for a person ('the first-mentioned person') by another for the first-mentioned person's occupation and that other person is not the person from whom the first-mentioned person acquires his or her interest in the land on which the house is built,

the completion of the building of that relevant house on foot of that permission.

(3) In *subsection (2)* 'first disposal', in relation to a relevant house, means whichever of the following first occurs after the house is built—

(*a*) the sale, at arm's length, of the house (whether the agreement for that sale is entered into before or after the building of the house is completed),

(*b*) the granting of a tenancy or lease in respect of the house for the purpose of the grantee of the tenancy or lease occupying the house, or

(*c*) the sale, otherwise than at arm's length, of the house (whether the agreement for that sale is entered into before or after the building of the house is completed) or the transfer of the beneficial interest in the house.

(4) The amount of the payment referred to in *subsection (2)* shall be—

(*a*) where the disposal of the house concerned falls within *subsection (3)(a)*—

(i) if the consideration paid to the vendor by the purchaser equals or exceeds €270,000, an amount equal to 1 per cent of the consideration so paid,

(ii) if the consideration paid to the vendor by the purchaser is less than €270,000, an amount equal to 0.5 per cent of the consideration so paid,

(*b*) where either—

(i) the disposal of the house concerned falls within *subsection (3)(b)* or *(c)*, or

(ii) *subsection (2)(b)* applies as respects the house concerned,

an amount equal to—

(I) if the market value of the house at the time of the disposal or upon the completion of its building, equals or exceeds €270,000, 1 per cent of the market value of the house at the time of that disposal or upon that completion,

(II) if the market value of the house at the time of the disposal or upon such completion is less than €270,000, 0.5 per cent of the market value of the house at the time of that disposal or upon such completion.

(5) The payment referred to in *subsection (2)* shall be made at such time as the planning authority specifies (and the time that is so specified may be before the date on which the disposal concerned of the relevant house is effected).

(6) Any amount paid to a planning authority in accordance with this section shall be accounted for in a separate account and shall only be applied as capital for its functions under this Part or by a housing authority for its functions in relation to the provision of housing under the Housing Acts, 1966 to 2002.

(7) (*a*) The planning authority shall issue, in respect of the payment to it of an amount (being the amount required to be paid under this section in a

particular case), a receipt, in the prescribed form, to the payer stating that the liability for payment of that amount in the case concerned has been discharged.

(*b*) A document purporting to be a receipt issued under this subsection by the planning authority shall be *prima facie* evidence that the liability for the payment of the amount to which it relates has been discharged.

(8) Any of the following—

(*a*) a provision of a contract of sale of a house,

(*b*) a provision of a contract for the building for a person of a house for his or her occupation,

(*c*) a covenant or other provision of a conveyance of an interest in a house,

(*d*) a covenant or other provision of a lease or tenancy agreement in respect of a house,

(*e*) a provision of any other agreement (whether oral or in writing),

which purports to require the purchaser, the person referred to in *paragraph (b)*, the grantee of the interest or the grantee of the lease or tenancy, as the case may be, to pay the amount referred to in *subsection (2)* or to indemnify another in respect of that other's paying or liability to pay that amount shall be void.

(9) Any amount paid by the purchaser, person referred to in *subsection (8)(b)* or grantee of an interest or a lease or tenancy, pursuant to a provision or covenant referred to in *subsection (8)*, may be recovered by him or her from the person to whom it is paid as a simple contract debt in any court of competent jurisdiction.

(10) This section shall not apply to permissions for development consisting of the provision of 4 or less houses, or for housing on land of 0.1 hectares or less.

(11) For the avoidance of doubt, in this section "sale", in relation to a house, includes any transaction or series of transactions whereby the vesting by the builder in another person of the interest in the land on which the house is built by the builder is effected separately from the conclusion of the arrangements under which the house is built for that other person by the builder.**]**

Annotations

Amendments:

F529 Inserted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 4, commenced on enactment.

Editorial Notes:

E257 Power pursuant to section exercised (6.03.2003) by *Planning and Development Regulations 2003* (S.I. No. 90 of 2003).

Development to which *section 96* shall not apply.

97.—(1) In this section—

"applicant" includes a person on whose behalf a person applies for a certificate;

"the court" other than in *subsections (19)* and *(21)*, means the Circuit Court for the circuit in which all or part of the development, to which the application under *subsection (3)* relates, is situated.

(2) For the purposes of this section—

(*a*) 2 or more persons shall be deemed to be acting in concert if, pursuant to an agreement, arrangement or understanding, one of them makes an application under *subsection (3)* or causes such an application to be made, and

(*b*) land in the immediate vicinity of other land shall be deemed in any particular case not to include land that is more than 400 metres from the land second-mentioned in this subsection.

(3) A person may, before applying for permission in respect of a development—

(*a*) consisting of the provision of F531**[**4 or fewer**]** houses, or

(*b*) for housing on land of F532**[**0.1 hectares**]** or less,

apply to the planning authority concerned for a certificate stating that *section 96* shall not apply to a grant of permission in respect of the development concerned (in this section referred to as a "certificate"), and accordingly, where the planning authority grants a certificate, *section 96* shall not apply to a grant of permission in respect of the development concerned.

(4) Subject to—

(*a*) *subsections (6)* and *(12)*, and

(*b*) compliance by the applicant for a certificate with *subsection (8)*,

a planning authority to which an application has been made under and in accordance with this section may grant a certificate to the applicant.

(5) An application for a certificate shall be accompanied by a statutory declaration made by the applicant—

(*a*) giving, in respect of the period of 5 years preceding the application, such particulars of the legal and beneficial ownership of the land, on which it is proposed to carry out the development to which the application relates, as are within the applicant's knowledge or procurement,

(*b*) identifying any persons with whom the applicant is acting in concert,

(*c*) giving particulars of—

(i) any interest that the applicant has, or had at any time during the said period, in any land in the immediate vicinity of the land on which it is proposed to carry out such development, and

(ii) any interest that any person with whom the applicant is acting in concert has, or had at any time during the said period, in any land in the said immediate vicinity, of which the applicant has knowledge,

(*d*) stating that the applicant is not aware of any facts or circumstances that would constitute grounds under *subsection (12)* for the refusal by the planning authority to grant a certificate,

(*e*) giving such other information as may be prescribed.

(6) (*a*) A planning authority may require an applicant for a certificate to provide it with such further information or documentation as is reasonably necessary to enable it to perform its functions under this section.

(*b*) Where an applicant refuses to comply with a requirement under *paragraph (a)*, or fails, within a period of 8 weeks from the date of the making of the requirement, to so comply, the planning authority concerned shall refuse to grant the applicant a certificate.

(7) A planning authority may, for the purpose of performing its functions under this section, make such further inquiries as it considers appropriate.

(8) It shall be the duty of the applicant for a certificate, at all times, to provide the planning authority concerned with such information as it may reasonably require to enable it to perform its functions under this section.

(9) The Minister may make regulations in relation to the making of an application under this section.

(10) Where a planning authority fails within the period of 4 weeks from—

(*a*) the making of an application to it under this section, or

(*b*) (in the case of a requirement under *subsection (6)*) the date of receipt by it of any information or documentation to which the requirement relates,

to grant, or refuse to grant a certificate, the planning authority shall on the expiry of that period be deemed to have granted a certificate to the applicant concerned.

(11) Particulars of a certificate granted under this section shall be entered on the register.

(12) A planning authority shall not grant a certificate in relation to a development if the applicant for such certificate, or any person with whom the applicant is acting in concert—

(*a*) has been granted, not earlier than 5 years before the date of the application, a certificate in respect of a development F533**[**on the land on which it is proposed to carry out the first-mentioned development or land in its immediate vicinity**]**, and the certificate at the time of the application remains in force, or

(*b*) has carried out, or has been granted permission to carry out, a development referred to in *subsection (3)*, not earlier than—

(i) 5 years before the date of the application, and

(ii) one year after the coming into operation of this section,

in respect of the land on which it is proposed to carry out the first-mentioned development, or land in its immediate vicinity, unless—

(I) the aggregate of any development to which *paragraph (a)* or *(b)* relates and the first-mentioned development would not, if carried out, exceed 4 houses, or

(II) (in circumstances where the said aggregate would exceed 4 houses) the aggregate of the land on which any development to which *paragraph (a)* or *(b)* relates, and the land on which it is proposed to carry out the first-mentioned development, does not exceed F534**[**0.1 hectares**]**.

(13) Where a planning authority refuses to grant a certificate, it shall by notice in writing inform the applicant of the reasons for its so refusing.

(14) (*a*) Where a planning authority to which an application has been made under *subsection (3)* refuses to grant a certificate to the applicant, he or she may, not later than 3 weeks from the date on which the applicant receives notification of the refusal by the planning authority to grant the certificate, or such later date as may be permitted by the court, appeal to the court for an order directing the planning authority to grant to the applicant a certificate in respect of the development.

(*b*) The court may at the hearing of an appeal under *paragraph (a)*—

(i) dismiss the appeal and affirm the refusal of the planning authority to grant the certificate, or

(ii) allow the appeal and direct the planning authority to grant the applicant a certificate in respect of the development concerned.

(15) A planning authority shall comply with a direction of the court under this section.

(16) (*a*) Subject to *paragraph (b)*, a planning authority shall revoke a certificate, upon application in that behalf being made to it by the owner of land to which the certificate related, or by any other person acting with the permission of such owner.

(*b*) A planning authority shall not revoke a certificate under this subsection where permission has been granted in respect of the development to which the certificate relates.

(17) A person who, knowingly or recklessly—

(*a*) makes a statutory declaration under *subsection (5)*, or

(*b*) in purported compliance with a requirement under *subsection (6)*, provides a planning authority with information or documentation,

that is false or misleading in a material respect, or who believes any such statutory declaration made, or information or documentation provided in purported compliance with such requirement, by him or her not to be true, shall be guilty of an offence and shall be liable—

(i) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months, or to both, or

(ii) on conviction on indictment to a fine not exceeding £500,000 or to imprisonment for a term not exceeding 5 years, or to both.

(18) A person who—

(*a*) forges, or utters, knowing it to be forged, a certificate purporting to have been granted under this section (hereafter in this subsection referred to as a "forged certificate"),

(*b*) alters with intent to deceive or defraud, or utters, knowing it to be so altered, a certificate (hereafter in this subsection referred to as an "altered certificate"), or

(*c*) without lawful authority or other reasonable excuse, has in his or her possession a forged certificate or an altered certificate,

shall be guilty of an offence and shall be liable—

(i) on summary conviction to a fine not exceeding £1,500 or imprisonment for a term not exceeding 6 months, or to both, or

(ii) on conviction on indictment to a fine not exceeding £500,000 or imprisonment for a term not exceeding 5 years, or to both.

(19) Where a person is convicted on indictment of an offence under *subsection (17)* or *(18)*, the court may in addition to any fine or term of imprisonment imposed by the court under that subsection order the payment into court by the person of an amount that in the opinion of the court is equal to the amount of any gain accruing to that person by reason of the grant of a certificate on foot of the statutory declaration, information or documentation, as the case may be, to which the offence relates, and such sum shall, when paid in accordance with such order, stand forfeited.

(20) All sums that stand forfeited under *subsection (19)* shall be paid to the planning authority that granted the certificate concerned and shall be accounted for in the account referred to in *section 96(13)* and be applied only for the purposes specified in that section.

(21) Where a person is convicted of an offence under *subsection (17)*, the court may revoke a certificate granted on foot of a statutory declaration, information or documentation to which the offence relates, upon application being made to it in that behalf by the planning authority that granted the certificate.

(22) A person shall not, solely by reason of having been granted a certificate, be entitled to a grant of permission in respect of the development to which the certificate relates.

Annotations

Amendments:

F530 Substituted (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 36, S.I. No. 364 of 2015.

F531 Substituted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 47(a), S.I. No. 450 of 2021.

F532 Substituted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 5, commenced on enactment.

F533 Inserted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 47(b), S.I. No. 450 of 2021.

F534 Inserted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 5, commenced on enactment.

Editorial Notes:

E258 Power pursuant to section exercised (4.11.2021) by *Planning and Development (Amendment) (No. 3) Regulations 2021* (S.I. No. 588 of 2021).

E259 Power pursuant to section exercised (10.09.2015) by *Planning and Development (Amendment) (No. 3) Regulations 2015* (S.I. No. 387 of 2015).

E260 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.3007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E261 Power pursuant to section exercised (6.03.2003) by *Planning and Development Regulations 2003* (S.I. No. 90 of 2003).

E262 Power pursuant to section exercised (11.03.2002) by *Planning and Development Regulations 2002* (S.I. No. 70 of 2002).

E263 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E264 Previous affecting provision: subs. (3)(a) amended (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 36, S.I. No. 364 of 2015; substituted as per F-note above.

Allocation of affordable housing.

98.—F535**[**...**]**

Annotations

Amendments:

F535 Repealed (12.09.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 7 and sch. 1 item 4, S.I. No. 350 of 2018, subject to transitional provision in s. 96(6).

Modifications (not altering text):

C96 Scheme under section preserved for period (18.06.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 85(7), S.I. No. 206 of 2018.

Scheme of priority for affordable dwelling purchase arrangements.

85.— ...

(7) Notwithstanding the repeal by this Act of section 98 of the Planning and Development Act 2000 and section 8 of the Act of 2002, a scheme established under the said section 98 or the said section 8, as the case may be, and in force immediately before the coming into operation of this Part continues to have effect after such coming into operation and is deemed to have been made under this section until a scheme of priority made under this section comes into force.

...

Editorial Notes:

E265 Previous affecting provision: making and amending of a scheme which determines the order of priority for allocation of affordable houses is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 item 52 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014; section repealed as per F-note above.

Controls on resale of certain houses.

99.—F536**[**...**]**

Annotations

Amendments:

F536 Repealed (12.09.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 7 and sch. 1 item 4, S.I. No. 350 of 2018, subject to transitional provision in s. 96(6).

Editorial Notes:

E266 Previous affecting provision: subs. (3A) inserted (21.12.2004) by *Housing (Miscellaneous Provisions) Act 2004* (43/2004), s. 2, commenced on enactment; section repealed as per F-note above.

E267 Previous affecting provision: subs. (3A)(c) amended (1.12.2009) by *Land And Conveyancing Law Reform Act 2009* (27/2009), s. 8(1) and sch. 1, S.I. No. 356 of 2009; section repealed as per F-note above.

Regulations under this Part.

100.—F537**[**...**]**

Annotations

Amendments:

F537 Repealed (12.09.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 7 and sch. 1 item 4, S.I. No. 350 of 2018, subject to transitional provision in s. 96(6).

Editorial Notes:

E268 Power pursuant to section exercised (6.03.2003) by *Planning and Development Regulations 2003* (S.I. No. 90 of 2003).

E269 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E270 Previous affecting provision: power pursuant to section exercised (1.11.2000) by *Planning and Development Regulations 2000* (S.I. No. 350 of 2000); revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

Housing and planning authority functions.

101.—(1) Where a planning authority performing any function under this Part is not the housing authority for the area of the function, the planning authority shall consult with the housing authority for the area with respect to the performance of that function.

(2) In this section, a reference to a "housing authority" means a housing authority as defined pursuant to section 23(2) of the Housing (Miscellaneous Provisions) Act, 1992.

PART VI

An Bord Pleanála

Chapter I

Establishment and Constitution

Continuation of Bord Pleanála.

102.—(1) An Bord Pleanála shall continue in being notwithstanding the repeal of any enactment effected by this Act.

(2) The Board shall perform the functions assigned to it by this Act.

(3) The chairman, deputy chairman and any other member of the Board in office immediately prior to the coming into force of this section under an enactment repealed by this Act shall continue in office as chairperson, deputy chairperson and other member, respectively, for a term ending on the day on which his or her appointment would have expired under the repealed enactment.

Board to be body corporate, etc.

103.—(1) The Board shall be a body corporate with perpetual succession and a seal and power to sue and be used in its corporate name and to acquire, hold and dispose of land.

(2) The seal of the Board shall be authenticated by the signature of the chairperson or of some other member, or of an employee of the Board or of a person whose services are availed of by the Board by virtue of *section 122*, who is authorised by the Board to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Board and every document purporting to be an instrument made by the Board and to be sealed with the seal

(purporting to be authenticated in accordance with *subsection (2)*) of the Board shall be received in evidence and be deemed to be such an instrument without proof unless the contrary is shown.

Board to consist of chairperson and 7 other members.

104.—F538**[**(1) Subject to *subsection (2)*, the Board shall consist of a chairperson and such number of ordinary members, up to a maximum of 14, as the Minister may appoint having regard to the number and nature of applications, appeals, referrals or other matters with which the Board is concerned.**]**

(2) The Minister may by order increase the number of ordinary members where he or she is of the opinion that the F539**[**number of applications, appeals**]**, referrals or other matters with which the Board is concerned is at such a level so as to necessitate the appointment of one or more additional Board members to enable the Board fulfil its duty and objective F539**[**under *section 37J*, *126*, F540**[***126A*,**]** F541**[**...**]** *177E* or *221*, or section 47E of the Act of 2001**]**.

F542**[**(2A) Subject to *section 108(1)*, and notwithstanding *section 106(5)*, the Minister shall not fill one or more than one vacancy that arises in relation to an ordinary member, for such period as he or she considers appropriate, where he or she is of the opinion that the number of applications, appeals, referrals or other functions conferred on the Board by or under this Act is at such a level so as to necessitate that the vacancy is not filled and that the Board shall, notwithstanding the reduction in the number of Board members be able to fulfil its duty and objective under *section 37J*, *126*, F540**[***126A*,**]** F541**[**...**]** *177E* or *221*, or section 47E of the Act of 2001 or otherwise satisfactorily perform the functions so conferred.**]**

(3) F543**[**...**]**

(4) F538**[**(*a*) Notwithstanding *subsection (2)*, where the Minister is of the opinion that one, or more than one, additional ordinary member should be appointed as a matter of urgency due to the number of applications, appeals, referrals or other matters with which the Board is concerned, the Minister may, subject to *paragraphs (b)* and *(c)*, appoint, from persons who are, or were formerly, established civil servants for the purposes of the Civil Service Regulation Acts 1956 to 2005, established public servants in state agencies or employees of the Board, one, or more than one person, who is, in the opinion of the Minister, a suitably qualified person on a temporary basis,**]**

(*b*) A person shall not be appointed to be an ordinary member under this subsection for a term in excess of F539**[**12 months**]**.

F542**[**(*c*) The Minister shall appoint not more than 3 persons under this subsection at any one time F543**[**...**]**.**]**

(5) An order made under *subsection (2)* shall have effect for such a period not exceeding 5 years as shall be specified therein.

Annotations

Amendments:

F538 Substituted (10.01.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 4(a), (b), (d)(i), S.I. No. 1 of 2023.

F539 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 39(c)(ii), S.I. No. 477 of 2010.

F540 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 9(a), (b), S.I. No. 715 of 2021.

F541 Deleted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 23(a), (b), S.I. No. 645 of 2023.

F542 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 39(b) and (c)(iii), S.I. No. 477 of 2010.

F543 Deleted (1.01.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 4(c), (d)(ii), S.I. No. 1 of 2023.

Modifications (not altering text):

C97 Section construed during specified period (3.07.2017 to 31.12.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 16, S.I. No. 270 of 2017.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(a) the period from the commencement of this provision until 31 December 2019, and

(b) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of section 104 (Board to consist of chairperson and 7 other members) of Act of 2000 during specified period

16. Section 104 of the Act of 2000 has effect during the specified period as if—

(*a*) in subsection (2), ", or *Part 2* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*" were inserted after "of the Act of 2001", and

(*b*) in subsection (2A), ", or *Part 2* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*," were inserted after "of the Act of 2001".

Editorial Notes:

E271 Previous affecting provision: subs. (1) amended (5.11.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 14, S.I. No. 553 of 2006; subsection substituted (10.01.2023) as per F-note above.

E272 Previous affecting provision: subss. (2), (4)(a) amended (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 39(a), (c)(i), S.I. No. 477 of 2010; subsection substituted (10.01.2023) as per F-note above.

E273 Previous affecting provision: subs. (2) amended (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 9(a), S.I. No. 715 of 2021.; subsection substituted (10.01.2023) as per F-note above.

Appointment of chairperson.

105.—(1) The chairperson shall be appointed by the Government.

(2) There shall be a committee ("the committee") consisting of—

(*a*) the President of the High Court,

(*b*) the Cathaoirleach of the General Council of County Councils,

(*c*) the Secretary-General of the Department of the Environment and Local Government,

(*d*) the Chairperson of the Council of An Taisce — the National Trust for Ireland,

(*e*) the President of the Construction Industry Federation,

(*f*) the President of the Executive Council of the Irish Congress of Trade Unions, and

(*g*) the Chairperson of the National Women's Council of Ireland.

(3) Where—

(*a*) any of the persons referred to in *subsection (2)* signifies at any time his or her unwillingness or inability to act for any period as a member of the committee, or

(*b*) any of the persons referred to in *subsection (2)* is through ill-health or otherwise unable so to act for any period,

the Minister may, when making a request under *subsection (7)*, appoint another person to be a member of the committee in his or her place and that person shall remain a member of the committee until such time as the selection by the committee pursuant to the request is made.

(4) Where the Minister makes a request under *subsection (7)* and at the time of making the request any of the offices referred to in *subsection (2)* is vacant, the Minister may appoint a person to be a member of the committee and that person shall remain a member of the committee until such time as the selection of the committee pursuant to the request is made.

(5) Where, pursuant to *subsection (3)* or *(4)*, the Minister appoints a person to be a member of the committee, he or she shall, as soon as may be, cause a notice of the appointment to be published in *Iris Oifigiúil*.

(6) (*a*) The Minister may by order amend *subsection (2)*.

(*b*) The Minister may by order amend or revoke an order under this subsection (including an order under this paragraph).

(*c*) Where an order under this subsection is proposed to be made, the Minister shall cause a draft thereof to be laid before both Houses of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

(*d*) Where an order under this subsection is in force, *subsection (2)* shall be construed and have effect subject to the terms of the order.

(7) (*a*) The committee shall, whenever so requested by the Minister, select 3 candidates, or if in the opinion of the committee there is not a sufficient number of suitable applicants, such lesser number of candidates as the committee shall determine, for appointment to be the chairperson and shall inform the Minister of the names of the candidates, or, as may be appropriate, the name of the candidate, selected and of the reasons why, in the opinion of the committee, they are or he or she is suitable for the appointment.

(*b*) In selecting candidates the committee shall have regard to the special knowledge and experience and other qualifications or personal qualities which the committee considers appropriate to enable a person effectively to perform the functions of the chairperson.

(8) Except in the case of F544**[**an appointment under *section 105A* or**]** a re-appointment under *subsection (12)*, the Government shall not appoint a person to be the chairperson unless the person was selected by the committee under *subsection (7)* in relation to that appointment but—

(9) The Minister may make regulations as regards—

(*a*) the publication of the notice that a request has been received by the committee under *subsection (7)*,

(*b*) applications for selection by the committee, and

(*c*) any other matter which the Minister considers expedient for the purposes of this section.

(10) A person who is, for the time being—

(*a*) entitled under the Standing Orders of either House of the Oireachtas to sit therein,

(*b*) a member of the European Parliament, or

(*c*) a member of a local authority,

shall be disqualified from being appointed as the chairperson.

(11) The chairperson shall be appointed in a wholetime capacity and shall not at any time during his or her term of office hold any other office or employment in respect of which emoluments are payable.

(12) Subject to the other provisions of this section, the chairperson F544**[**(other than a chairperson appointed on an interim basis under *section 105A*)**]** shall hold office for a term of 7 years and may be re-appointed by the Government for a second or subsequent term of office, provided that a person shall not be re-appointed under this subsection unless, at the time of his or her re-appointment, he or she is or was the outgoing chairperson.

(13) (*a*) The chairperson may resign his or her office as chairperson by letter addressed to the Minister and the resignation shall take effect on and from the date of the receipt of the letter by the Minister.

F545**[**(*b*) The chairperson shall vacate the office of chairperson on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to vacate office on grounds of age shall not apply.**]**

(*c*) A person shall cease to be the chairperson if he or she—

(i) is nominated either as a member of Seanad Éireann or for election to either House of the Oireachtas or to the European Parliament,

(ii) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act, 1997, as having been elected to that Parliament to fill a vacancy, or

(iii) becomes a member of a local authority.

(*d*) A person shall cease to be the chairperson if he or she—

(i) is adjudicated bankrupt,

(ii) makes a composition or arrangement with creditors,

(iii) is convicted of any indictable offence in relation to a company,

(iv) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,

(v) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(vi) is the subject of an order under section 160 of the Companies Act, 1990, or

(vii) ceases to be resident in the State.

F546**[**(14) Subject to the provisions of this section, the chairperson shall hold office on such terms and conditions (including terms relating to allowances for expenses)

as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines.**]**

(15) The chairperson may be removed from office by the Government if he or she has become incapable through ill-health of effectively performing his or her functions, or if he or she has committed stated misbehaviour, or if his or her removal appears to the Government to be necessary for the effective performance by the Board of its functions, and in case the chairperson is removed from office under this subsection, the Government shall cause to be laid before each House of the Oireachtas a statement of the reasons for the removal.

Annotations

Amendments:

F544 Inserted (10.01.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 5(a), (b), S.I. No. 1 of 2023.

F545 Substituted by *Public Service Superannuation (Miscellaneous Provisions) Act 2004* (7/2004), s. 3A and sch. 2 part 3 as inserted (26.12.2018) by *Public Service Superannuation (Age of Retirement) Act 2018* (39/2018), ss. 3, 7 and sch., commenced on enactment.

F546 Substituted (1.01.2012) by *Financial Emergency Measures in the Public Interest (Amendment) Act 2011* (39/2011), s. 14, S.I. No. 683 of 2011.

Editorial Notes:

E274 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E275 Previous affecting provision: subs. (13)(b) amended (25.03.2004) by *Public Service Superannuation (Miscellaneous Provisions) Act 2004* (7/2004), s. 3 and sch. 2 part 2, commenced on enactment; substituted as per F-note above.

E276 Previous affecting provision: power pursuant to section exercised (20.07.2001) by *Planning and Development (Appointment of Chairperson and Ordinary Members of an Board Pleanála) Regulations 2001* (S.I. No. 336 of 2000); revoked (21.02.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

E277 Previous affecting provision: subs. (13)(b) substituted (28.07.2012) by *Public Service Pensions (Single Scheme and Other Provisions) Act 2012* (37/2012), s. 58(a), commenced on enactment; substituted as per F-note above.

F547**[**Appointment of chairperson on interim basis

105A.—(1) Where no chairperson stands appointed under section 105 the Government may, subject to *subsections (2)* and *(3)*, appoint, from persons who are, or were formerly, established civil servants for the purposes of the Civil Service Regulation Acts 1956 to 2005, established public servants in state agencies or employees of the Board, a person who is, in the opinion of the Government, a suitably qualified person, to be the chairperson for a period of not more than 12 months.

(2) Notwithstanding *subsections (1)* and *(3)*, a person appointed to be the chairperson under this section shall cease to hold office on the appointment of a chairperson by the Government under *section 105*.

(3) *Subsections (11)*, *(13)*, *(14)* and *(15)* of *section 105* shall apply to a chairperson appointed under *subsection (1)*.

(4) A person appointed to be the chairperson under this section who ceases to hold office in accordance with *subsection (1)* or *(2)* may be re-appointed by the Government for a second term under *subsection (1)* or appointed by the Government in accordance with *section 105*.**]**

Annotations

Amendments:

F547 Inserted (10.01.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 6, S.I. No. 1 of 2023.

Editorial Notes:

E278 The section heading is taken from the amending section in the absence of one included in the amendment.

Appointment of ordinary members.

106.—F548**[**(1) The Minister shall ensure, in so far as is practicable, that—

(*a*) the ordinary members of the Board are persons who, in the opinion of the Minister, have satisfactory experience of, or a satisfactory mix of experience and knowledge of, infrastructure delivery, housing, physical planning, sustainable development, architecture, heritage, community affairs, social affairs, planning, the environment, the marine, climate change, law and corporate governance, and

(*b*) there is an equitable balance among the ordinary members between men and women.**]**

F548**[**(2) The Minister shall establish a suitable, independent, objective, and transparent procedure (which may include the establishment of a committee), in accordance with which recommendations may be made to the Minister in relation to the appointment of ordinary members of the Board.**]**

F548**[**(3) The Minister may make regulations providing for such matters as the Minister considers necessary for the purpose of establishing the procedure referred to in *subsection (2)* including, where a committee is established under that section, regulations pertaining to the membership of the committee.**]**

F548**[**(4) The procedure provided for under *subsection (2)* shall require that—

(*a*) applications be invited from suitably qualified persons for appointment as an ordinary member of the Board,

(*b*) a panel of candidates suitable for appointment as an ordinary member be prepared having regard to the knowledge, experience, qualifications and personal qualities appropriate to enable a person to perform the functions of an ordinary member effectively,

(*c*) the Minister be informed of the names of the candidates on the panel and the reasons why such candidates are suitable for the appointment, and

(*d*) a recommendation be made to the Minister regarding which candidate on the panel the Minister should appoint as an ordinary member.**]**

F548**[**(5) Except in the case of a re-appointment under *subsection (12)* and subject to *section 104(4)* and *section 108(4)*, the Minister shall not appoint a person to be an ordinary member other than a person recommended in accordance with the procedure established under *subsection (2)*.**]**

(6) F549**[**...**]**

(7) F549**[**...**]**

(8) F549**[**...**]**

F548**[**(9) The Minister may make regulations as regards any matter which the Minister considers expedient for the purposes of this section.**]**

(10) A person who is for the time being—

(*a*) entitled under the Standing Orders of either House of the Oireachtas to sit therein,

(*b*) a member of the European Parliament, or

(*c*) a member of a local authority,

shall be disqualified from being appointed as an ordinary member.

(11) Each of the ordinary members shall be appointed in a whole-time capacity and shall not at any time during his or her term of office hold any other office or employment in respect of which emoluments are payable.

(12) Subject to *section 108(4)(b)*, an ordinary member shall hold office for such term (not exceeding 5 years) as shall be specified by the Minister when appointing him or her to office and may be re-appointed by the Minister for a second or subsequent term of office provided that a person shall not be re-appointed under this subsection unless, at the time of his or her re-appointment, he or she is or was an outgoing member of the Board.

(13) (*a*) An ordinary member may resign his or her membership by letter addressed to the Minister and the resignation shall take effect on and from the date of the receipt of the letter by the Minister.

F550**[**(*b*) A person shall vacate the office of ordinary member on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to vacate office on grounds of age shall not apply.**]**

(*c*) A person shall cease to be an ordinary member if he or she—

(i) is nominated either as a member of Seanad Éireann or for election to either House of the Oireachtas or to the European Parliament,

(ii) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act, 1997, as having been elected to that Parliament to fill a vacancy, or

(iii) becomes a member of a local authority.

(*d*) A person shall cease to be an ordinary member of the Board if he or she—

(i) is adjudicated bankrupt,

(ii) makes a composition or arrangement with creditors,

(iii) is convicted of any indictable offence in relation to a company,

(iv) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,

(v) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(vi) is the subject of an order under section 160 of the Companies Act, 1990, or

(vii) ceases to be resident in the State.

(14) (*a*) There shall be paid by the Board to each ordinary member such remuneration and allowances for expenses as the Minister, with the consent of the Minister for Finance, determines.

(*b*) Subject to the other provisions of this section, an ordinary member shall hold office on such terms and conditions as the Minister, with the consent of the Minister for Finance, determines.

(15) An ordinary member may be removed from office by the Minister if he or she has become incapable through ill-health of effectively performing his or her functions, or if he or she has committed stated misbehaviour, or if his or her removal appears to the Minister to be necessary for the effective performance by the Board of its functions, and in case an ordinary member is removed from office under this subsection, the Minister shall cause to be laid before each House of the Oireachtas a statement in writing of the reasons for the removal.

Annotations

Amendments:

F548 Substituted (10.01.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 7(a)-(e), (g), S.I. No. 1 of 2023, subject to transitional provision in s. 8.

F549 Deleted (10.01.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 7(f), S.I. No. 1 of 2023.

F550 Substituted by *Public Service Superannuation (Miscellaneous Provisions) Act 2004* (7/2004), s. 3A and sch. 2 part 3 as inserted (26.12.2018) by *Public Service Superannuation (Age of Retirement) Act 2018* (39/2018), ss. 3, 7 and sch., commenced on enactment.

Editorial Notes:

E279 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E280 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E281 Previous affecting provision: subs. (13)(b) substituted (28.07.2012) by *Public Service Pensions (Single Scheme and Other Provisions) Act 2012* (37/2012), s. 58(b), commenced on enactment; substituted as per F-note above.

E282 Previous affecting provision: subs. (1)(e) substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 40, S.I. No. 477 of 2010; subsection substituted (10.01.2023) as per F-note above.

E283 Previous affecting provision: subss. (1), (2) substituted and subss. (4), (5) amended (5.11.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 15(a), (b), (c), S.I. No. 553 of 2006; subsections substituted (10.01.2023) as per F-note above.

E284 Previous affecting provision: subs. (13)(b) amended (25.03.2004) by *Public Service Superannuation (Miscellaneous Provisions) Act 2004* (7/2004), s. 3 and sch. 2 part 2, commenced on enactment; substituted as per F-note above.

E285 Previous affecting provision: subs. (3)(a), (b) amended (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(b)(i), (ii), S.I. No. 458 of 2001; subsection substituted (10.01.2023) as per F-note above.

E286 Previous affecting provision: power pursuant to section exercised (20.07.2001) by *Planning and Development (Appointment of Chairperson and Ordinary Members of an Board Pleanála) Regulations 2001* (S.I. No. 336 of 2000); revoked (21.02.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

Appointment of deputy chairperson.

107.—(1) The Minister shall appoint from among the ordinary members a person to be the deputy chairperson and the appointment shall be for such period as shall be specified in the appointment.

(2) If at any time the deputy chairperson ceases to be an ordinary member of the Board, he or she shall thereupon cease to be the deputy chairperson.

(3) The deputy chairperson shall, in addition to his or her remuneration as an ordinary member, be paid by the Board such additional remuneration (if any) as the Minister, with the consent of the Minister for Finance, determines.

(4) The deputy chairperson may resign his or her office as deputy chairperson by letter addressed to the Minister and the resignation shall take effect on and from the date of the receipt of the letter by the Minister.

F551**[**General power of deputy chairperson to perform functions of chairperson where office is vacant

107A.—Where the office of chairperson is vacant the deputy chairperson may perform any function of the chairperson.**]**

Annotations

Amendments:

F551 Inserted (10.01.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 9, S.I. No. 1 of 2023.

Editorial Notes:

E287 The section heading is taken from the amending section in the absence of one included in the amendment.

Board's quorum, vacancies, etc.

108.—F552**[**(1) F553**[**A quorum**]** for a meeting of the Board shall be 3.**]**

F554**[**(1A) F555**[**...**]**

(1B) F555**[**...**]**

(1C) F555**[**...**]**

(1D) F555**[**...**]]**

(2) Subject to *subsection (1)*, the Board may act notwithstanding a vacancy in the office of chairperson or deputy chairperson or among the ordinary members.

(3) Where a vacancy occurs or is due to occur in the office of chairperson or deputy chairperson or among the ordinary members, the Minister shall, as soon as may be, take steps to fill the vacancy.

(4) F553**[**(*a*) Where, owing to the illness of the chairperson or of an ordinary member, or for any other reason, a sufficient number of members of the Board is not available to enable the Board effectively to perform its functions, the Minister may, as an interim measure, appoint, from persons who are, or were formerly, established civil servants for the purposes of the Civil Service Regulation Acts 1956 to 2005, established public servants in state agencies or employees of the Board, one or more than one person who is, in the opinion of the Minister, a suitably qualified person, to be an ordinary member.**]**

(*b*) A person shall not be appointed to be an ordinary member under this subsection for a term in excess of one year.

Annotations

Amendments:

F552 Substituted (23.03.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 41(a), S.I. No. 132 of 2011.

F553 Substituted (10.01.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 10(a), (c), S.I. No. 1 of 2023.

F554 Inserted (23.03.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 41(b), S.I. No. 132 of 2011.

F555 Deleted (10.01.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 10(b), S.I. No. 1 of 2023.

Editorial Notes:

E288 Previous affecting provision: subs. (4)(a) amended (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 41(c), S.I. No. 477 of 2010; para. (a) substituted (10.01.2023) as per F-note above.

E289 Previous affecting provision: subs. (4)(a) amended (5.11.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 16, S.I. No. 553 of 2006; substituted as per F-note above.

Chapter II

Organisation, Staffing, etc.

Performance of Board.

109.—(1) The Board shall supply the Minister with such information relating to the performance of its functions as he or she may from time to time request.

(2) (*a*) The Board shall conduct, at such intervals as it thinks fit or the Minister directs, reviews of its organisation and of the systems and procedures used by it in relation to appeals and referrals.

(*b*) Where the Minister gives a direction under this section, the Board shall report to the Minister the results of the review conducted pursuant to the direction and shall comply with any directive which the Minister may, after consultation with the Board as regards those results, give in relation to all or any of the matters which were the subject of the review.

(3) The Board may make submissions to the Minister as regards any matter pertaining to its functions.

(4) The Minister may consult with the Board as regards any matter pertaining to the performance of—

(*a*) the functions of the Board, or

(*b*) the functions assigned to the Minister by or under this Act or by any other enactment or by any order, regulation or other instrument thereunder.

Chairperson to ensure efficient discharge of business of Board, etc.

110.—F556**[**(1) The chairperson and, subject to the overall direction of the chairperson or where *subsection (1A)* applies, the deputy chairperson shall each have the function of—

(*a*) ensuring the efficient discharge of the business of the Board, and

(*b*) arranging the distribution of the business of the Board among its members.

(1A) The functions referred to in *subsection (1)* shall also fall to be performed by the deputy chairperson where the chairperson is not available or where the office of chairperson is vacant.

(1B) The chairperson may assign to any ordinary member any function necessary to ensure the best or most efficient discharge of the business of the Board.

(1C) The chairperson, or the deputy chairperson where the chairperson is not available or where the office of chairperson is vacant, shall take all practical steps to ensure that the organisation and disposition of the staff and resources of the Board are such as to enable the Strategic Infrastructure Division to discharge its business expeditiously.**]**

F557**[**(2) Where the chairperson considers, on foot of a complaint or otherwise, that an ordinary member may have failed to comply with a code of conduct adopted by the Board under *section 150* or that the conduct of an ordinary member may have been such as to bring the Board into disrepute or may have been prejudicial to the effective performance by the Board of all or any one or more of its functions, he or she may in his or her absolute discretion—

(*a*) require the member of the Board to attend for interview and there interview the member privately, or

(*b*) where he or she considers it appropriate to do so, otherwise investigate the matter,

and, if he or she considers it appropriate to do so, report to the Minister the result of the interview or investigation.**]**

F558**[**(3) Where the Minister considers that the conduct of an ordinary member may have been such as to bring the Board into disrepute or may have been prejudicial to the effective performance by the Board of all or any one or more of its functions, he or she may request the chairperson to—

(*a*) conduct an interview with the board member privately, or

(*b*) otherwise investigate the matter,

and report to the Minister the result of the interview or investigation.**]**

Annotations

Amendments:

F556 Substituted and inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 17, S.I. No. 684 of 2006.

F557 Substituted (10.01.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 11(a), S.I. No. 1 of 2023.

F558 Inserted (10.01.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 11(b), S.I. No. 1 of 2023.

Meetings and procedure of Board.

111.—(1) The Board shall hold such and so many meetings as may be necessary for the performance of its functions.

(2) The chairperson and each ordinary member at a meeting of the Board shall have a vote.

(3) At a meeting of the Board—

(*a*) the chairperson shall, if present, be chairperson of the meeting,

(*b*) if the chairperson is not present the deputy chairperson shall, if present, be chairperson of the meeting, and

(*c*) if neither the chairperson nor the deputy chairperson is present, the ordinary members who are present shall choose one of their number to be chairperson of the meeting.

(4) Every question at a meeting of the Board relating to the performance of its functions shall be determined by a majority of votes of the members present and, in the event that voting is equally divided, the person who is chairperson of the meeting shall have a casting vote.

(5) (*a*) Subject to this Act, and to any regulations made thereunder, and subject also to any other enactment or order, regulation or other instrument thereunder, which regulates or otherwise affects the procedure of the Board, the Board shall regulate its own procedure and business.

(*b*) The Minister may require the Board to keep him or her informed of the arrangements made under this subsection for the regulation of its procedure and business.

(6) (*a*) Subject to *paragraph (b)* and *(c)*, the Board may perform any of its functions through or by any member of the Board or other person who has been duly authorised by the Board in that behalf.

(*b*) *Paragraph (a)* shall be construed as enabling a member of the Board finally to determine points of detail relating to a decision on a particular case if the case to which an authorisation under that paragraph relates has been considered at a meeting of the Board prior to the giving of the authorisation and that determination shall conform to the terms of that authorisation.

(*c*) *Paragraph (a)* shall not be construed as enabling the Board to authorise a person who is not a member of the Board finally to determine any particular case with which the Board is concerned.

(7) The Board shall arrange to keep a written record of all its decisions including the names of those present at a meeting of the Board and the number of those persons who vote for or against those decisions.

F559**[**(8) Notwithstanding any provision of this Act, a meeting of An Bord Pleanála, including a division of the board, may take place using remote video or telephone conferencing facilities or by any means of communication by which all of the board members and other persons participating in different locations can hear and be heard at the same time.

(9) In *subsection (8)*, "meeting" includes any meeting for the purpose of making any decision in relation to any appeal, referral or application.**]**

Annotations

Amendments:

F559 Inserted (10.01.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 12, S.I. No. 1 of 2023.

Divisions of Board.

112.—(1) Whenever the Minister or the chairperson considers that, for the speedy dispatch of the business of the Board, it is expedient that the Board should act by divisions, he or she may direct accordingly, and until that direction is revoked—

(*a*) the chairperson shall assign to each division the business to be transacted by it, and

(*b*) for the purpose of the business so assigned to it, each division shall have all the function of the Board.

(2) A division of the Board shall consist of not less than 3 members of the Board.

(3) The chairperson, or in his or her absence, a person acting as chairperson of a meeting of a division of the Board, may at any stage before a decision is made, transfer the consideration of any appeal or referral from the division to a meeting of all available members of the Board, where the chairperson considers the appeal or referral to be of particular complexity or significance.

F560**[**(4) This section is without prejudice to *section 112A*.**]**

Annotations

Amendments:

F560 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 18, S.I. No. 684 of 2006.

F561**[**Strategic Infrastructure Division.

112A.—(1) A division of the Board which shall be known as the Strategic Infrastructure Division is established on the commencement of section 19 of the Planning and Development (Strategic Infrastructure) Act 2006.

(2) That division is in addition to any division for the time being constituted under *section 112*.

(3) The Strategic Infrastructure Division—

(*a*) shall, subject to *subsections (8)* and *(9)*, determine any matter falling to be determined by the Board under this Act in relation to strategic infrastructure development, and

(*b*) shall determine any other matter falling to be determined by the Board under this or any other enactment, including any class of appeals or referrals, that the chairperson or the deputy chairperson may from time to time assign to it.

(4) For the purpose of business of either of the foregoing kinds, the Strategic Infrastructure Division shall have all the functions of the Board.

(5) The Strategic Infrastructure Division shall consist of the chairperson and the deputy chairperson and 3 other ordinary members nominated by the chairperson to be, for the time being, members of the Division.

(6) The chairperson may authorise any other ordinary member to act in place of any member of the Strategic Infrastructure Division referred to in *subsection (5)* where the latter member is absent.

(7) The quorum for a meeting of the Strategic Infrastructure Division shall be 3.

(8) Either—

(*a*) the chairperson or, in his or her absence, the deputy chairperson, or

(*b*) a person acting as chairperson of a meeting of the Division,

may, at any stage before a decision is made by the Division, transfer the consideration of any matter from the Strategic Infrastructure Division to a meeting of all available members of the Board where he or she considers the matter to be of particular complexity or significance.

(9) The chairperson may, if he or she considers that the issues arising in respect of any particular case of strategic infrastructure development, or any particular class or classes of such case, are not of sufficient complexity or significance as to warrant that case, or that class or those classes of case, being dealt with by the Strategic Infrastructure Division, transfer the consideration of that case, or that class or those classes of case, to another division or part of the Board.**]**

Annotations

Amendments:

F561 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 19, S.I. No. 684 of 2006.

Prohibition on disclosure of information relating to functions of Board.

113.—(1) No person shall, without the consent of the Board (which may be given to the person, subject to or without conditions, as regards any information, as regards particular information or as regards information of a particular class or description), disclose—

(*a*) any information obtained by him or her while serving as a member or employee of, or consultant or adviser to, the Board or as a person whose services are availed of by the Board by virtue of *section 120(2)* or *122*, or

(*b*) any information so obtained relative to the business of the Board or to the performance of its functions.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.

(3) Nothing in *subsection (1)* shall prevent—

(*a*) disclosure of information in a report made to the Board or in a report made by or on behalf of the Board to the Minister,

(*b*) disclosure of information by any person in the course of and in accordance with the functions of his or her office,

(*c*) disclosure of information in accordance with the Freedom of Information Act, 1997, or

(*d*) disclosure of information in accordance with the European Communities Act, 1972 (Access to Information on the Environment) Regulations, 1998, and any regulations amending or replacing those regulations.

Prohibition of certain communications in relation to appeals, etc.

114.—(1) Any person who communicates with the chairperson, an ordinary member, an employee of, or consultant or adviser to, the Board or a person whose services are availed of by the Board by virtue of *section 120(2)* or *122* for the purpose of influencing improperly the consideration of an appeal or referral or a decision of the Board as regards any matter shall be guilty of an offence.

(2) If the chairperson or an ordinary member or an employee of, or consultant or adviser to, the Board or a person whose services are availed of by the Board by virtue of *section 120(2)* or *122*, becomes of the opinion that a communication is in contravention of *subsection (1)*, it shall be his or her duty not to entertain the communication further and shall disclose the communication to the Board.

Indemnification of members and employees of Board and other persons.

115.—Where the Board is satisfied that a member of the Board, an employee of the Board or a person whose services are provided to the Board under *section 120(2)*, *122* or *124(1)* has discharged his or her duties in relation to the functions of the Board in a bona fide manner, it shall indemnify the member, employee or person against all actions or claims howsoever arising in respect of the discharge by him or her of his or her duties.

Grants to Board.

116.—There may, subject to such conditions, if any, as the Minister thinks proper, be paid to the Board in each financial year out of moneys provided by the Oireachtas a grant or grants of such amount or amounts as the Minister, with the consent of the Minister for Finance and after consultation with the Board in relation to its programme of expenditure for that year, may fix.

Annotations

Modifications (not altering text):

C98 Functions in relation to section transferred (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3 and sch. 1.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(*a*) the enactments specified in Schedule 1, and

(*b*) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

Schedule 1 Enactments

...

No. 30 of 2000	Planning and Development Act 2000	Sections 80, 116, 117, 120(2) and 181

...

Accounts and audits of Board.

117.—(1) The Board shall keep in such form as may be approved by the Minister, after consultation with the Minister for Finance, all proper and usual accounts of all moneys received or expended by it.

(2) Accounts kept under this section shall be submitted by the Board to the Comptroller and Auditor General for audit at such times as the Minister shall direct and, when audited shall, together with the report of the Comptroller and Auditor General, be presented to the Minister who shall cause copies to be laid before each House of the Oireachtas.

Annotations

Modifications (not altering text):

C99 Functions in relation to section transferred (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3 and sch. 1.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(*a*) the enactments specified in Schedule 1, and

(*b*) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

Schedule 1 Enactments

...

No. 30 of 2000	Planning and Development Act 2000	Sections 80, 116, 117, 120(2) and 181

...

Annual report and information to Minister.

118.—The Board shall, not later than the 30th day of June in each year, make a report to the Minister of its proceedings during the preceding year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

Annotations

Modifications (not altering text):

C100 Additional information for purposes of reports under section prescribed (3.07.2017) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 9(12), S.I. No. 270 of 2017.

Decisions by Board on applications under *section 4*

9. ...

(12) The Board shall include in each report made under section 118 of the Act of 2000 a statement of—

(*a*) the number of matters which the Board has determined within each of the periods referred to in *paragraphs (a)* and *(b)* of *subsection (9)*, and

(*b*) the number and the aggregate amount of all sums paid (if any) by the Board under *subsection (13)* ,

together with such other information as to the time taken to determine such matters as the Minister may direct.

...

Superannuation of members of Board.

119.—(1) The Minister may, with the consent of the Minister for Finance, make a scheme or schemes for the granting of pensions, gratuities or other allowances to or in respect of the chairperson and ordinary members ceasing to hold office.

(2) A scheme under this section may provide that the termination of the appointment of the chairperson or of an ordinary member during that person's term of office shall not preclude the award to him or her under the scheme of a pension, gratuity or other allowance.

(3) The Minister may, with the consent of the Minister for Finance, amend a scheme made by him or her under this section.

(4) If any dispute arises as to the claim of any person to, or the amount of, any pension, gratuity, or allowance payable in pursuance of a scheme under this section, the dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final.

(5) A scheme under this section shall be carried out by the Board in accordance with its terms.

(6) No pension, gratuity or other allowance shall be granted by the Board to or in respect of any person referred to in *subsection (1)* ceasing to hold office otherwise than in accordance with a scheme under this section.

(7) Every scheme made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and if either such House, within the next 21 days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Annotations

Editorial Notes:

E290 Schemes established under section excluded from application of *Pensions Act 1990* (25/1990), Part IV by *Occupational Pension Schemes (Funding Standard) Regulations 1993* (S.I. No. 419 of 1993), art. 6 and sch. C, as substituted (12.02.2019) by *Occupational Pension Schemes (Funding Standard) (Amendment) Regulations 2019* (S.I. No. 39 of 2019), reg. 2.

Employees of Board.

120.—(1) The Board shall appoint such and so many persons to be employees of the Board as the Board, subject to the approval of the Minister, given with the consent of the Minister for Finance, as to the number and kind of those employees, from time to time considers appropriate, having regard to the need to ensure that an adequate number of staff are competent in the Irish language so as to be able to provide service through Irish as well as English.

(2) The Board may employ a person in a part-time capacity to be remunerated by the payment of fees in such amounts as the Board may, with the approval of the Minister, given with the consent of the Minister for Finance, from time to time determine.

(3) An employee of the Board shall hold his or her employment on such terms and conditions as the Board, subject to the approval of the Minister, from time to time determines.

(4) There shall be paid by the Board to its employees out of moneys at its disposal such remuneration and allowances as the Board, subject to the approval of the Minister, with the consent of the Minister for Finance, from time to time determines.

Annotations

Modifications (not altering text):

C101 Functions in relation to section transferred (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3 and sch. 1.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(*a*) the enactments specified in Schedule 1, and

(*b*) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

Schedule 1 Enactments

...

No. 30 of 2000	Planning and Development Act 2000	Sections 80, 116, 117, 120(2) and 181

...

Superannuation of employees of Board.

121.—(1) The Board shall prepare and submit to the Minister for his or her approval, a scheme or schemes for the granting of pensions, gratuities and other allowances on retirement or death to or in respect of such whole-time employees of the Board as it considers appropriate.

(2) The Board may, at any time, prepare and submit to the Minister a scheme amending a scheme under this section.

(3) Where a scheme is submitted to the Minister pursuant to this section, the Minister may, with the consent of the Minister for Finance, approve the scheme without modification or with such modification (whether by way of addition, omission or variation) as the Minister shall, with such consent, think proper.

(4) A scheme submitted to the Minister under this section shall, if approved of by the Minister, with the consent of the Minister for Finance, be carried out by the Board in accordance with its terms.

(5) A scheme approved of under this section shall fix the time and conditions of retirement for all persons to or in respect of whom pensions, gratuities or other allowances are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(6) If any dispute arises as to the claim of any person to, or the amount of, any pension, gratuity or other allowance payable in pursuance of a scheme under this section, the dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final.

(7) Every scheme approved of under this section shall be laid before each House of the Oireachtas as soon as may be after it is approved of and if either House within the next 21 days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Annotations

Editorial Notes:

E291 Schemes established under section excluded from application of *Pensions Act 1990* (25/1990), Part IV by *Occupational Pension Schemes (Funding Standard) Regulations 1993* (S.I. No. 419 of 1993), art. 6 and sch. C, as substituted (12.02.2019) by *Occupational Pension Schemes (Funding Standard) (Amendment) Regulations 2019* (S.I. No. 39 of 2019), reg. 2.

Provision of services by Minister to Board.

122.—(1) For the purposes of enabling the Board to perform its functions, the Minister may provide services (including services of staff) to the Board on such terms and conditions (including payment for such services) as may be agreed and the Board may avail of such services.

(2) The Board may provide services (including services of staff) to the Minister on such terms and conditions (including payment for such services) as may be agreed and the Minister may avail of such services.

Membership of either House of the Oireachtas, etc.

123.—(1) Where a person who is an employee of the Board is nominated as a member of Seanad Éireann or for election to either House of the Oireachtas or the European Parliament, or is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act, 1997, as having been elected to that Parliament to fill a vacancy, or becomes a member of a local authority, he or she shall stand seconded from employment by the Board and shall not be paid by, or be entitled to receive from, the Board any remuneration or allowances—

(*a*) in case he or she is nominated as a member of Seanad Éireann in respect of the period commencing on his or her acceptance of the nomination and ending when he or she ceases to be a member of that House,

(*b*) in case he or she is nominated for election to either such House or to the European Parliament, or is regarded as having been elected to the European Parliament, in respect of the period commencing on his or her nomination or appointment and ending when he or she ceases to be a member of that House or Parliament or fails to be elected or withdraws his or her candidature, as may be appropriate, or

(*c*) in case he or she becomes a member of a local authority, in respect of the period commencing on his or her becoming a member of the local authority and ending when he or she ceases to be a member of that authority.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified from becoming an employee of the Board.

(3) A person who is for the time being a member of a local authority shall, while holding office as such member, be disqualified from becoming an employee of the Board.

Consultants and advisers to Board.

124.—(1) The Board may from time to time engage such consultants or advisers as it considers necessary for the performance of its functions and any fees due to a consultant or adviser engaged pursuant to this section shall be paid by the Board out of moneys at its disposal.

(2) The Board shall include in each report made under *section 118* a statement of the names of the persons (if any) engaged pursuant to this section during the year to which the report relates.

Chapter III

Appeal Procedures, etc.

F562**[**Appeals, referrals and applications with which the Board is concerned.

125.—F563**[**(1)**]** This Chapter shall apply—

(*a*) to appeals and referrals to the Board, and

(*b*) to the extent provided, to applications made to the Board F564**[**under *section 37E* or *section 37L***]** and any other matter with which the Board may be concerned,

but shall not apply to appeals under section *182(4)(b)*.**]**

F563**[**(2) This Chapter (other than *sections 126*, *127*, *128*, *129*, *130*, *131*, *132*, *133* and *134*) shall apply to—

(*a*) applications under *section 291*, and

(*b*) requests under *section 297*.**]**

Annotations

Amendments:

F562 Substituted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 20, S.I. No. 684 of 2006.

F563 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 17, S.I. No. 488 of 2022.

F564 Substituted (14.07.2015) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015), reg. 6.

Modifications (not altering text):

C102 Para. (*b*) construed during specified period (3.07.2017 to 31.12.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 17, S.I. No. 270 of 2017.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(*a*) the period from the commencement of this provision until 31 December 2019, and

(*b*) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of section 125 (appeals, referrals and applications with which the Board is concerned) of Act of 2000 during specified period

17. Section 125 of the Act of 2000 has effect during the specified period as if the following were substituted for *paragraph (b)*:

"(*b*) (i) to the extent provided, to applications made to the Board under section 37E or section 37L,

(ii) except where otherwise provided for by the *Planning and Development (Housing) and Residential Tenancies Act 2016*, to applications made to the Board under *section 4* of that Act, and

(iii) to any other matter with which the Board may be concerned,".

Duty and objective of Board in relation to appeals and referrals.

126.—(1) It shall be the duty of the Board to ensure that appeals and referrals are disposed of as expeditiously as may be and, for that purpose, to take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the determination of appeals and referrals.

(2) Without prejudice to the generality of *subsection (1)* and subject to *subsections (3), (4)* and *(5)*, it shall be the objective of the Board to ensure that every appeal or referral is determined within—

(*a*) a period of 18 weeks beginning on the date of receipt by the Board of the appeal or referral, or

(*b*) such other period as the Minister may prescribe in accordance with *subsection (4)*, either generally or in respect of a particular class or classes of appeals or referrals.

(3) (*a*) Where it appears to the Board that it would not be possible or appropriate, because of the particular circumstances of an appeal or referral or because of the number of appeals and referrals which have been submitted to the Board, to determine the appeal or referral within the period referred to in *paragraph (a)* or *(b)* of *subsection (2)*, as the case may be, the Board shall, by notice in writing served on the parties to the appeal or referral before the expiration of that period, inform those parties of the reasons why it would not be possible or appropriate to determine the appeal or referral within that period and shall specify the date before which the Board intends that the appeal or referral shall be determined, and shall also serve such notice on each person who has made submissions or observations to the Board in relation to the appeal or referral.

(*b*) Where a notice has been served under *paragraph (a)*, the Board shall take all such steps as are open to it to ensure that the appeal or referral is determined before the date specified in the notice.

(4) The Minister may by regulations vary the period referred to in *subsection (2)(a)* either generally or in respect of a particular class or classes of appeals or referrals where it appears to him or her to be necessary, by virtue of exceptional circumstances, to do so and for so long as such regulations are in force this section shall be construed and have effect in accordance therewith.

(5) Where the Minister considers it to be necessary or expedient that—

(*a*) appeals from decisions (of a specified class or classes) of planning authorities under *section 34*, or

(*b*) referrals of a specified class or classes,

relating to development of a class or classes of special strategic, economic or social importance to the State, be determined as expeditiously as is consistent with proper planning and sustainable development, the Minister may give a direction to the Board to give priority to the class or classes of appeals or referrals concerned, and the Board shall comply with such direction.

(6) The Board shall include in each report made under *section 118* a statement of the number of appeals and referrals that it has determined within a period referred to in *paragraph (a)* or *(b)* of *subsection (2)* and such other information as to the time taken to determine appeals and referrals as the Minister may direct.

F565[Time limits for LRD appeals

126A.—(1) Notwithstanding *section 126(2)*, and subject to *subsections (3)*, *(4)* and *(5)*, the Board shall determine an LRD appeal—

(*a*) where no oral hearing is held, within 16 weeks of the receipt by the Board of the appeal, or within such other period as may be prescribed under *subsection (2)*,

(*b*) where an oral hearing is held, within such period as may be prescribed.

(2) The Minister may by regulations extend the period of 16 weeks referred to in *subsection (1)(a)*, either generally or with reference to any particular category of LRD appeals, where it appears to him or her to be necessary, by virtue of exceptional circumstances, to do so and, for so long as the regulations are in force, this section shall be construed and have effect in accordance therewith.

(3) Where the Board, within 16 weeks of the receipt of the LRD appeal, serves notice in accordance with regulations under *section 142* requiring the applicant to give to the Board further information or to produce evidence in respect of the LRD appeal (referred to in this section as an "FI notice"), the Board shall make its decision on the appeal as follows:

(*a*) within 4 weeks of the FI notice being complied with; or

(*b*) if, within the period specified in *paragraph (a)*, having considered the further information given or evidence produced in compliance with the FI notice, the Board—

(i) considers that it contains significant additional data which should be notified to the parties to the appeal, and

(ii) gives notice accordingly in writing to the parties to the appeal,

within 4 weeks beginning on the day on which that notice is given by the Board to the parties to the appeal.

(4) Where, in the case of an LRD appeal of a planning application accompanied by an environmental impact assessment report or a Natura impact statement, the Board serves an FI notice, the Board shall make its decision as follows:

(*a*) within 8 weeks of the FI notice being complied with; or

(*b*) if, within the period specified in *paragraph (a)*, having considered the further information given or evidence produced in compliance with the FI notice, the Board—

(i) considers that it contains significant additional data which should be notified to the parties to the appeal, and

(ii) gives notice accordingly in writing to the parties to the appeal, within 8 weeks beginning on the day on which that notice is given by the Board to the parties to the appeal.

(5) Where an environmental impact assessment report is submitted to the Board under *section 172(1C)*, or where a Natura impact statement is submitted to the Board under *section 177T(5)*, the Board shall make its decision on the LRD appeal as follows:

(*a*) within 8 weeks commencing on the date on which the environmental impact assessment report or Natura impact statement, as the case may be, and a copy of the relevant public notice required in accordance with regulations under this Act, is received by the Board; or

(*b*) where the Board, within 8 weeks of the receipt of an environmental impact assessment report submitted under *section 172(1C)* or a Natura impact statement under *section 177T(5)*, serves notice in accordance with regulations under *section 142* requiring the applicant to give to the Board further information in relation to the environmental impact assessment report or Natura impact statement, as the case may be—

(i) within 8 weeks, in the case of further information in relation to the environmental impact assessment report, and within 4 weeks, in the case

of further information in relation to the Natura impact statement, of the notice being complied with, or

(ii) if, within the period specified in *subparagraph (i)*, having considered the further information given in compliance with the FI notice, the Board considers that it contains significant additional data which should be notified to the parties to the appeal, and gives notice accordingly in writing to the parties to the appeal, within 8 weeks, in the case of such further information given in relation to the environmental impact assessment report, and within 4 weeks, in the case of such further information given in relation to the Natura impact statement, beginning on the day on which that notice is given by the Board to the parties to the appeal.

(6) A person shall not question the validity of the determination of an LRD appeal by reason only that the appeal was not determined within the time periods specified in, or prescribed under, this section.**]**

Annotations

Amendments:

F565 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 8, S.I. No. 715 of 2021.

Editorial Notes:

E292 Power pursuant to section exercsied (17.12.2021) by *Planning and Development (Large-scale Residential Development) Regulations 2021* (S.I. No. 716 of 2021), in effect as per reg. 2.

Consequences of non-compliance with time limits for LRD appeals

F566**[126B.**—(1) Where on the expiry of a period specified in *section 126A* or prescribed under that section, as may be the case, in relation to an LRD appeal the Board has failed to determine the appeal and becomes aware, whether through notification by the appellant or otherwise, that it has so failed, the Board shall proceed to determine the appeal notwithstanding that the period has expired.

(2) Where it appears to the Board that it would not be possible, because of the particular circumstances of an LRD appeal or because of the number of LRD appeals which have been submitted to the Board, to determine the appeal within the period specified in *section 126A* or prescribed under that section, as may be the case, in relation to the LRD appeal the Board shall, by notice in writing served on the parties to the appeal before the expiration of that period, inform those parties of the reasons why it would not be possible to determine the appeal within that period and shall specify the date before which the Board intends that the appeal shall be determined, and shall also serve such notice on each person who has made submissions or observations to the Board in relation to the appeal.

(3) Where a notice has been served under *subsection (2)*, the Board shall take all such steps as are open to it to ensure that the appeal is determined before the date specified in the notice.

(4) Where the period specified in *subsection (1)(a)*, *(3)*, *(4)* or *(5)*, or prescribed under *subsection (1)(b)* or *(2)*, of *section 126A* applies to an LRD appeal and the Board fails to determine the appeal within that period it shall pay €10,000 to the applicant for permission.

(5) Any sum payable under this section shall be paid as soon as may be and in any event not later than 4 weeks after it becomes due.

(6) The Board shall include in each report made under *section 118* a statement of—

(*a*) the number of LRD appeals which the Board has determined within each of the time periods referred to in *section 126A*, and

(*b*) the number and the aggregate amount of all sums paid (if any) by the Board under *subsection (4)*,

together with such other information as to the time taken to determine LRD appeals as the Minister may direct.**]**

Annotations

Amendments:

F566 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 8, S.I. No. 715 of 2021.

Provisions as to making of appeals and referrals.

127.—(1) An appeal or referral shall—

(*a*) be made in writing,

(*b*) state the name and address of the appellant or person making the referral and of the person, if any, acting on his or her behalf,

(*c*) state the subject matter of the appeal or referral,

(*d*) state in full the grounds of appeal or referral and the reasons, considerations and arguments on which they are based,

(*e*) in the case of an appeal under *section 37* by a person who made submissions or observations in accordance with the permission regulations, be accompanied by the acknowledgement by the planning authority of receipt of the submissions or observations,

(*f*) be accompanied by such fee (if any) as may be payable in respect of such appeal or referral in accordance with *section 144*, and

(*g*) be made within the period specified for making the appeal or referral.

(2) (*a*) An appeal or referral which does not comply with the requirements of *subsection (1)* shall be invalid.

(*b*) The requirement of *subsection (1)(d)* shall apply whether or not the appellant or person making the referral requests, or proposes to request, in accordance with *section 134*, an oral hearing of the appeal or referral.

(3) Without prejudice to *section 131* or *134*, an appellant or person making the referral shall not be entitled to elaborate in writing upon, or make further submissions in writing in relation to, the grounds of appeal or referral stated in the appeal or referral or to submit further grounds of appeal or referral and any such elaboration, submissions or further grounds of appeal or referral that is or are received by the Board shall not be considered by it.

(4) (*a*) An appeal or referral shall be accompanied by such documents, particulars or other information relating to the appeal or referral as the appellant or person making the referral considers necessary or appropriate.

(*b*) Without prejudice to *section 132*, the Board shall not consider any documents, particulars or other information submitted by an appellant or person making the referral other than the documents, particulars or other information which accompanied the appeal or referral.

(5) An appeal or referral shall be made—

(*a*) by sending the appeal or referral by prepaid post to the Board,

(*b*) by leaving the appeal or referral with an employee of the Board at the offices of the Board during office hours (as determined by the Board), or

(*c*) by such other means as may be prescribed.

F567**[**Submission of documents, etc. to Board by planning authorities.

128.—(1) Where an appeal or referral is made to the Board the planning authority concerned shall, within a period of 2 weeks beginning on the day on which a copy of the appeal or referral is sent to it by the Board, submit to the Board—

(*a*) in the case of an appeal under *section 37*—

(i) a copy of the planning application concerned and of any drawings, maps, particulars, evidence, F568**[**environmental impact assessment report**]**, other written study or further information received or obtained by it from the applicant in accordance with regulations under this Act,

(ii) a copy of any submission or observation made in accordance with regulations under this Act in respect of the planning application,

(iii) a copy of any report prepared by or for the planning authority in relation to the planning application, and

(iv) a copy of the decision of the planning authority in respect of the planning application and a copy of the notification of the decision given to the applicant,

(*b*) in the case of any other appeal or referral, any information or documents in its possession which is or are relevant to that matter.

(2) The Board, in determining an appeal or referral, may take into account any fact, submission or observation mentioned, made or comprised in any document or other information submitted under *subsection (1)*.**]**

Annotations

Amendments:

F567 Substituted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 21, S.I. No. 525 of 2006.

F568 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 21, in effect as per reg. 2(1).

Submissions or observations by other parties.

129.—(1) The Board shall, as soon as may be after receipt of an appeal or referral, give a copy thereof to each other party.

(2) (*a*) Each other party may make submissions or observations in writing to the Board in relation to the appeal or referral within a period of 4 weeks beginning on the day on which a copy of the appeal or referral is sent to that party by the Board.

(*b*) Any submissions or observations received by the Board after the expiration of the period referred to in *paragraph (a)* shall not be considered by the Board.

(3) Where no submissions or observations have been received from a party within the period referred to in *subsection (2)*, the Board may without further notice to that party determine the appeal or referral.

(4) Without prejudice to *section 131* or *134*, a party shall not be entitled to elaborate in writing upon any submissions or observations made in accordance with *subsection (2)* or make any further submissions or observations in writing in relation to the appeal or referral and any such elaboration, submissions or observations that is or are received by the Board shall not be considered by it.

Submissions or observations by persons other than parties.

130.—(1) (*a*) Any person other than a party may make submissions or observations in writing to the Board in relation to an appeal or referral, other than a referral under *section 96(5)*.

(*b*) Without prejudice to *subsection (4)*, submissions or observations may be made within the period specified in *subsection (3)* and any submissions or observations received by the Board after the expiration of that period shall not be considered by the Board.

(*c*) A submission or observation shall—

(i) be made in writing,

(ii) state the name and address of the person making the submission or observation and the name and address of any person acting on his or her behalf,

(iii) state the subject matter of the submission or observation,

(iv) state in full the reasons, considerations and arguments on which the submission or observation is based, and

(v) be accompanied by such fee (if any) as may be payable in accordance with *section 144*.

(2) Submissions or observations which do not comply with *subsection (1)* shall be invalid.

(3) The period referred to in *subsection (1)(b)* is—

(*a*) where notice of receipt of an F569**[**environmental impact assessment report**]** is published in accordance with regulations under *section 172(5)*, the period of 4 weeks beginning on the day of publication of any notice required under those regulations,

(*b*) where notice is required by the Board to be given under *section 142(4)*, the period of 4 weeks beginning on the day of publication of the required notice,

(*c*) in any other appeal under this Act, the period of 4 weeks beginning on the day of receipt of the appeal by the Board or, where there is more than one appeal against the decision of the planning authority, on the day on which the Board last receives an appeal, or

(*d*) in the case of a referral, the period of 4 weeks beginning on the day of receipt by the Board of the referral.

(4) Without prejudice to *section 131* or *134*, a person who makes submissions or observations to the Board in accordance with this section shall not be entitled to elaborate in writing upon the submissions or observations or make further submissions or observations in writing in relation to the appeal or other matter and any such elaboration, submissions or observations that is or are received by the Board shall not be considered by it.

F570**[**(5) *Subsections (1)(b)* and *(4)* shall not apply to submissions or observations made by a Member State or another state which is a party to the Transboundary Convention, arising from consultation in accordance with the Environmental Impact Assessment Directive or the Transboundary Convention, as the case may be, in relation

to the effects on the environment of the development to which the appeal under *section 37* relates.**]**

Annotations

Amendments:

F569 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 22, in effect as per reg. 2(1).

F570 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 25, S.I. No. 474 of 2011.

Editorial Notes:

E293 Previous affecting provision: subs. (5) amended (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 42, S.I. No. 405 of 2010; substituted as per F-note above.

Power of Board to request submissions or observations.

131.—Where the Board is of opinion that, in the particular circumstances of an appeal or referral, it is appropriate in the interests of justice to request—

(*a*) any party to the appeal or referral,

(*b*) any person who has made submissions or observations to the Board in relation to the appeal or referral, or

(*c*) any other person or body,

to make submissions or observations in relation to any matter which has arisen in relation to the appeal or referral, the Board may, in its discretion, notwithstanding *section 127(3), 129(4), 130(4)* or *137(4)(b)*, serve on any such person F571**[**, other than the applicant for permission in the case of an LRD appeal,**]** a notice under this section—

(i) requesting that person, within a period specified in the notice (not being less than 2 weeks or more than 4 weeks beginning on the date of service of the notice) to submit to the Board submissions or observations in relation to the matter in question, and

(ii) stating that, if submissions or observations are not received before the expiration of the period specified in the notice, the Board will, after the expiration of that period and without further notice to the person, pursuant to *section 133*, determine the appeal or referral.

Annotations

Amendments:

F571 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 10(a), S.I. No. 715 of 2021.

Power of Board to require submission of documents, etc.

132.—(1) Where the Board is of opinion that any document, particulars or other information may be necessary for the purpose of enabling it to determine an appeal or referral, the Board may, in its absolute discretion, serve on any party, or on any person who has made submissions or observations to the Board in relation to the appeal or referral, as appropriate, F572**[**, other than the applicant for permission in the case of an LRD appeal,**]** a notice under this section—

(*a*) requiring that person, within a period specified in the notice (being a period of not less than 2 weeks beginning on the date of service of the notice) to submit to the Board such document, particulars or other information as is specified in the notice, and

(*b*) stating that, in default of compliance with the requirements of the notice, the Board will, after the expiration of the period so specified and without further notice to the person, pursuant to *section 133*, dismiss or otherwise determine the appeal or referral.

(2) Nothing in this section shall be construed as affecting any other power conferred on the Board under this Act to require the submission of further or additional information or documents.

Annotations

Amendments:

F572 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 10(b), S.I. No. 715 of 2021.

Powers of Board where notice served under *section 131* or *132*.

133.—Where a notice has been served under *section 131* or *132*, the Board, at any time after the expiration of the period specified in the notice, may, having considered any submissions or observations or document, particulars or other information submitted by the person on whom the notice has been served, without further notice to that person determine or, in the case of a notice served under *section 132*, dismiss the appeal or referral.

F573[Oral hearings of appeals, referrals and applications.

134.—(1) The Board may in its absolute discretion, hold an oral hearing of an appeal, a referral under *section 5* or an application under *section 37E*.

(2) (*a*) A party to an appeal or a referral under *section 5* or an applicant under *section 37E* or any person who makes a submission or observation under *section 37E* may request an oral hearing of the appeal, referral or application, as appropriate.

(*b*) (i) A request for an oral hearing of an appeal, referral or application shall be made in writing to the Board and shall be accompanied by such fee (if any) as may be payable in respect of the request in accordance with *section 144*.

(ii) A request for an oral hearing of an appeal, referral or application which is not accompanied by such fee (if any) as may be payable in respect of the request shall not be considered by the Board.

(*c*) (i) A request by an appellant for an oral hearing of an appeal under *section 37* shall be made within the appropriate period referred to in that section and any request received by the Board after the expiration of that period shall not be considered by the Board.

(ii) Where a provision of this Act, other than *sections 37* and *254(6)*, authorising an appeal to the Board enables the appeal only to be made within, or before the expiration of, a specified period or before a specified day, a request by an appellant for an oral hearing of an appeal may only be made within, or before the expiration of, the specified period or before the specified day and any request for an oral hearing not so received by the Board shall not be considered by the Board.

(iii) A request by a person making a referral, by an applicant under *section 37E* or by an appellant under *section 254(6)* for an oral hearing of the referral, application or appeal, as the case may be, shall accompany the referral, application or appeal, and any request for an oral hearing received

by the Board, other than a request which accompanies the referral, application or appeal, shall not be considered by the Board.

(*d*) A request by a party to an appeal or referral other than the appellant, or by a person who makes a submission or observation in relation to an application under *section 37E*, for an oral hearing shall be made—

(i) in respect of an appeal or referral, within the period referred to in *section 129(2)(a)* within which the party may make submissions or observations to the Board in relation to the appeal or referral,

(ii) in respect of an application under *section 37E*, within the period specified in a notice under that section within which the person may make submissions or observations to the Board in relation to the application,

and any such request received by the Board after the expiration of that period shall not be considered by the Board.

(3) Where the Board is requested to hold an oral hearing of an appeal, referral or application and decides to determine the appeal, referral or application without an oral hearing, the Board shall serve notice of its decision on—

(*a*) the person who requested the hearing and on each other party to the appeal or referral or, as appropriate, (unless he or she was the requester) the applicant under *section 37E*, and

(*b*) each person who has made submissions or observations to the Board in relation to the appeal, referral or application (not being the person who was the requester).

(4) (*a*) A request for an oral hearing may be withdrawn at any time.

(*b*) Where, following a withdrawal of a request for an oral hearing under paragraph (*a*), the appeal, referral or application falls to be determined without an oral hearing, the Board shall give notice that it falls to be so determined—

(i) to each other party to the appeal or referral or, as appropriate, (unless he or she was the person who withdrew the request) the applicant under *section 37E*, and

(ii) to each person who has made submissions or observations to the Board in relation to the appeal, referral or application (not being the person who withdrew the request).**]**

Annotations

Amendments:

F573 Substituted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 22, S.I. No. 684 of 2006.

Modifications (not altering text):

C103 Section construed during specified period (3.07.2017 to 31.12.2021) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 18, S.I. No. 270 of 2017 and S.I. No. 598 of 2019.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(*a*) the period from the commencement of this provision until 31 December 2019, and

(*b*) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of section 134 (oral hearings of appeals, referrals and applications) of Act of 2000 during specified period

18. Section 134 of the Act of 2000 has effect during the specified period—

(*a*) as if the following were substituted for subsection (1):

"(1) (*a*) The Board may in its absolute discretion, hold an oral hearing of an appeal, a referral under section 5, an application under section 37E or, subject to paragraph (b), an application under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*.

(*b*) Before deciding if an oral hearing for an application under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016* should be held, the Board—

(i) shall have regard to the exceptional circumstances requiring the urgent delivery of housing as set out in the Action Plan for Housing and Homelessness, and

(ii) shall only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.

(*c*) In paragraph (b) 'Action Plan for Housing and Homelessness' means the document entitled 'Rebuilding Ireland - Action Plan for Housing and Homelessness' published by the Government on 19 July 2016.",

(*b*) as if in subsection (2)(a) ", or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*," were inserted after "*section 37E*" where it first occurs,

(*c*) as if in subsection (2)(a) "or under the said *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*" were inserted after "*section 37E*" where it last occurs,

(*d*) as if in subsection (2)(c)(iii) ", or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*," were inserted after "section 254(6) ",

(e) as if in subsection (2)(d) "or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*" were inserted after "section 37E" where it first occurs,

(*f*) as if in subsection (2)(d) there were inserted the following after *subparagraph (ii)*:

"(iii) in respect of an application under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*, within the period specified in a notice under *section 8* of that Act within which the person may make submissions or observations to the Board in relation to the application,",

(*g*) as if in subsection (3)(a) "or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*" were inserted after "*section 37E*", and

(*h*) as if in subsection (4)(b)(i) "or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*" were inserted after "*section 37E*".

Editorial Notes:

E294 Previous affecting provision: subsection inserted (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(c), S.I. No. 458 of 2001; substituted as per F-note above.

F574**[** Further power to hold oral hearings.

134A.—(1) Where the Board considers it necessary or expedient for the purposes of making a determination in respect of any of its functions under this Act or any other enactment, it may, in its absolute discretion, hold an oral hearing and shall, in addition to any other requirements under this Act or other enactment, as appropriate, consider the report and any recommendations of the person holding the oral hearing before making such determination.

(2) *Section 135* shall apply to any oral hearing held in accordance with *subsection (1)* and that section shall be construed accordingly.

(3) This section is in addition to *section 134*.**]**

Annotations

Amendments:

F574 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 22, S.I. No. 684 of 2006.

Supplemental provisions relating to oral hearings.

135.—F575**[**(1) The Board or an employee of the Board duly authorised by the Board may assign a person to conduct an oral hearing of an appeal, referral or application on behalf of the Board.

(2) The person conducting an oral hearing of an appeal, referral or application shall have discretion as to the conduct of the hearing and shall conduct the hearing expeditiously and without undue formality (but subject to any direction F576**[**given by the Board under *subsection (2A)* or *(2AB)*)**]**.

(2A) The Board may give a direction to the person conducting an oral hearing that he or she shall require persons intending to appear at the hearing to submit to him or her, in writing and in advance of the hearing, the points or a summary of the arguments they propose to make at the hearing; where such a direction is given that person shall comply with it (and, accordingly, is enabled to make such a requirement).

F577**[**(2AB) The Board may in its absolute discretion, following a recommendation in relation to the matter from a person assigned to make a written report under *section 146*, give a direction to a person assigned to conduct an oral hearing that he or she shall allow points or arguments in relation to specified matters only during the oral hearing.

(2AC) Where a direction is given by the Board under *subsection (2AB)* the person to whom it is given shall comply with the direction unless that person forms the opinion that it is necessary, in the interests of observing fair procedures, to allow a point or an argument to be made during the oral hearing in relation to matters not specified in the direction.

(2AD) The Board shall give a notice of its direction under *subsection (2AB)* to—

(*a*) each party, in the case of an appeal or referral,

(*b*) the applicant and planning authority in the case of an application—

(i) under this Act,

(ii) for a railway order under the Act of 2001, or

(iii) for approval under section 51 of the Roads Act 1993, and

(*c*) each person who has made objections, submissions or observations to the Board in the case of an appeal, referral or application.

(2AE) The points or summary of the arguments that a person intending to appear at the oral hearing shall submit to the person conducting the hearing, where a direction has been given under *subsection (2A)* or *(2AB)*, shall be limited to points or arguments in relation to matters specified in the direction under *subsection (2AB)*.**]**

(2B) Subject to the foregoing provisions, the person conducting the oral hearing—

(*a*) shall decide the order of appearance of persons at the hearing,

(*b*) shall permit any person to appear in person or to be represented by another person,

(*c*) may limit the time within which each person may make points or arguments (including arguments in refutation of arguments made by others at the hearing), or question the evidence of others, at the hearing,

(*d*) may refuse to allow the making of a point or an argument if—

(i) the point or a summary of the argument has not been submitted in advance to the person in accordance with a requirement made pursuant to a direction given under *subsection (2A)*,

(ii) the point or argument is not relevant to the subject matter of the hearing, or

(iii) it is considered necessary so as to avoid undue repetition of the same point or argument,

F577**[**(*dd*) may refuse to allow the making of a point or an argument in relation to any matter where—

(i) a direction has been given under subsection (2AB) and the matter is not specified in the direction, and

(ii) he or she has not formed the opinion referred to in *subsection (2AC)*.**]**

(*e*) may hear a person other than a person who has made submissions or observations to the Board in relation to the subject matter of the hearing if it is considered appropriate in the interests of justice to allow the person to be heard.

(3) A person conducting an oral hearing of any appeal, application or referral may require any officer of a planning authority or a local authority to give to him or her any information in relation to the appeal, application or referral which he or she reasonably requires for the purposes of the appeal, application or referral, and it shall be the duty of the officer to comply with the requirement.**]**

(4) A person conducting an oral hearing of any F575**[**appeal, referral or application**]** may take evidence on oath or affirmation and for that purpose may administer oaths or affirmations, and a person giving evidence at any such hearing shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.

(5) (*a*) Subject to *paragraph (b)*, the Board in relation to an oral hearing of any F575**[**appeal, referral or application**]** may, by giving notice in that behalf in writing to any person, require that person to do either or both of the following:

(i) to attend at such time and place as is specified in the notice to give evidence in relation to any matter in question at the hearing;

(ii) to produce any books, deeds, contracts, accounts, vouchers, maps, plans, documents or other information in his or her possession, custody or control which relate to any such matter.

(*b*) Where a person is given a notice under *paragraph (a)*:

(i) the Board shall pay or tender to any person whose attendance is required such reasonable subsistence and travelling expenses to be determined by the Board in accordance with the rates for the time being applicable to senior planning authority officials;

(ii) any person who in compliance with a notice has attended at any place shall, save in so far as the reasonable and necessary expenses of the

attendance have already been paid to him or her, be paid those expenses by the Board, and those expenses shall, in default of being so paid, be recoverable as a simple contract debt in any court of competent jurisdiction.

(6) Every person to whom a notice under *subsection (5)* has been given who refuses or wilfully neglects to attend in accordance with the notice or who wilfully alters, suppresses, conceals or destroys any document or other information to which the notice relates or who, having so attended, refuses to give evidence or refuses or wilfully fails to produce any document or other information to which the notice relates shall be guilty of an offence.

(7) Where any person—

(*a*) wilfully gives evidence which is material to the oral hearing and which he or she knows to be false or does not believe to be true,

(*b*) by act or omission, obstructs or hinders the person conducting the oral hearing in the performance of his or her functions,

(*c*) refuses to take an oath or to make an affirmation when legally required to do so by a person holding the oral hearing.

(*d*) refuses to answer any question to which the person conducting an oral hearing may legally require an answer, or

(*e*) does or omits to do any other thing which, if the inquiry had been by the High Court, would have been contempt of that court,

the person shall be guilty of an offence.

(8) (*a*) An oral hearing may be conducted through the medium of the Irish or the English language.

(*b*) Where an oral hearing relates to development within the Gaeltacht, the hearing shall be conducted through the medium of the Irish language, unless the parties to the F575**[**appeal, referral or application**]** to which the hearing relates agree that the hearing should be conducted in English.

(*c*) Where an oral hearing relates to development outside the Gaeltacht, the hearing shall be conducted through the medium of the English language, unless the parties to the F575**[**appeal, referral or application**]** to which the hearing relates agree that the hearing should be conducted in the Irish language.

Annotations

Amendments:

F575 Substituted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 23, S.I. No. 684 of 2006.

F576 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 26(a), S.I. No. 474 of 2011.

F577 Inserted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 26(b) and (c), S.I. No. 474 of 2011.

Editorial Notes:

E295 Previous affecting provision: section amended by *Planning and Development (Amendment) Act 2010* (30/2010), s. 43, not commenced; repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. No. 474 of 2011.

E296 Previous affecting provision: original version of subs. (2) substituted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 23, S.I. No. 684 of 2006; substituted as per F-note above.

Convening of meetings on referrals.

136.—(1) Where it appears to the Board to be expedient or convenient for the purposes of determining a referral under *section 34(5), 96(5)* or *193(2)*, the Board may, in its absolute discretion, convene a meeting of the parties.

(2) The Board shall keep a record in writing of a meeting convened in accordance with this section and a copy of the record shall be placed and kept with the documents to which the referral concerned relates and, where the referral is connected with an appeal, with the documents to which the appeal concerned relates.

Matters other than those raised by parties.

137.—(1) The Board in determining an appeal or referral may take into account matters other than those raised by the parties or by any person who has made submissions or observations to the Board in relation to the appeal or referral if the matters are matters to which, by virtue of this Act, the Board may have regard.

(2) The Board shall give notice in writing to each of the parties and to each of the persons who have made submissions or observations in relation to the appeal or referral of the matters that it proposes to take into account under *subsection (1)* and shall indicate in that notice—

(*a*) in a case where the Board proposes to hold an oral hearing of the appeal or referral, or where an oral hearing of the appeal or referral has been concluded and the Board considers it expedient to re-open the hearing, that submissions in relation to the matters may be made to the person conducting the hearing, or

(*b*) in a case where the Board does not propose to hold an oral hearing of the appeal or referral, or where an oral hearing of the appeal or referral has been concluded and the Board does not consider it expedient to re-open the hearing, that submissions or observations in relation to the matters may be made to the Board in writing within a period specified in the notice (being a period of not less than 2 weeks or more than 4 weeks beginning on the date of service of the notice).

(3) Where the Board has given notice, in accordance with *subsection (2)(a)*, the parties and any other person who is given notice shall be permitted, if present at the oral hearing, to make submissions to the Board in relation to the matters which were the subject of the notice or which, in the opinion of the person conducting the hearing, are of relevance to the appeal or referral.

(4) (*a*) Submissions or observations that are received by the Board after the expiration of the period referred to in *subsection (2)(b)* shall not be considered by the Board.

(*b*) Subject to *section 131*, where a party or a person referred to in *subsection (1)* makes submissions or observations to the Board in accordance with *subsection (2)(b)*, that party or person shall not be entitled to elaborate in writing upon those submissions or observations or make further submissions or observations in writing in relation to the matters referred to in *subsection (1)* and any such elaboration, submissions or observations that is or are received by the Board shall not be considered by it.

Board may dismiss appeals or referrals if vexatious, etc.

138.—(1) The Board shall have an absolute discretion to dismiss an appeal or referral—

F578**[**(*a*) where, having considered the grounds of appeal or referral or any other matter to which, by virtue of this Act, the Board may have regard in dealing with or determining the appeal or referral, the Board is of the opinion that the appeal or referral—

(i) is vexatious, frivolous or without substance or foundation, or

(ii) is made with the sole intention of delaying the development or the intention of securing the payment of money, gifts, consideration or other inducement by any person,**]**

or

(*b*) where, the Board is satisfied that, in the particular circumstances, the appeal or referral should not be further considered by it having regard to—

(i) the nature of the appeal (including any question which in the Board's opinion is raised by the appeal or referral), or

(ii) any previous permission which in its opinion is relevant.

(2) A decision made under this section shall state the main reasons and considerations on which the decision is based.

(3) The Board may, in its absolute discretion, hold an oral hearing under *section 134* to determine whether an appeal or referral is made with an intention referred to in *subsection (1)(a)(ii)*.

Annotations

Amendments:

F578 Substituted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 24, S.I. No. 525 of 2006.

Appeals against conditions.

139.—(1) Where—

(*a*) an appeal is brought against a decision of a planning authority to grant a permission,

(*b*) the appeal relates only to a condition or conditions that the decision provides that the permission shall be subject to, and

(*c*) the Board is satisfied, having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted,

then, subject to compliance by the Board with *subsection (2)*, the Board may, in its absolute discretion, give to the relevant planning authority such directions as it considers appropriate relating to the attachment, amendment or removal by that authority either of the condition or conditions to which the appeal relates or of other conditions.

(2) In exercising the power conferred on it by *subsection (1)*, apart from considering the condition or conditions to which the relevant appeal relates, the Board shall be restricted to considering—

F579**[**(*a*) the matters to which a planning authority shall have regard specified in *paragraph (a)* of *subsection (2)* of *section 34*,**]**

F580**[**(*aa*) in the case of the appeal of a decision of a planning authority in respect of development to which *Chapter II* of *Part XXI* applies or proposed such development, the matters referred to in *paragraph (a)* and the matters to

which a planning authority shall have regard specified in *subsection (2)* of *section 282*,**]**

(*b*) the terms of any previous permission considered by the Board to be relevant.

Annotations

Amendments:

F579 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 18, S.I. No. 488 of 2022.

F580 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 18, S.I. No. 488 of 2022.

Withdrawal of appeals, applications and referrals.

140.—F581**[**F582**[**(1) (*a*)A person who has made—

(i) an appeal,

(ii) a planning application to which an appeal relates,

(iii) a referral,

(iv) an application for permission or approval (as may be appropriate) in respect of a strategic infrastructure development, or

(v) an application for permission under *section 37L* F583**[**or *291***]**,

may withdraw, in writing, the appeal, application or referral at any time before that appeal, application, or referral is determined by the Board.**]**

(*b*) As soon as maybe after receipt of a withdrawal, the Board shall notify each other party or person who has made submissions or observations on the appeal, application or referral of the withdrawal.**]**

(2) (*a*) Without prejudice to *subsection (1)*, where the Board is of the opinion that an appeal or a planning application to which an appeal relates, F584**[**an application for permission or approval (as may be appropriate) F582**[**in respect of a strategic infrastructure development, an application for permission under *section 37L*] F583**[**or *291*]**,]** or a referral has been abandoned, the Board may serve on the person who made the appeal, application or referral, as appropriate, a notice stating that opinion and requiring that person, within a period specified in the notice (being a period of not less than two weeks or more than four weeks beginning on the date of service of the notice) to make to the Board a submission in writing as to why the appeal, application or referral should not be regarded as having been withdrawn.

(*b*) Where a notice has been served under *paragraph (a)*, the Board may, at any time after the expiration of the period specified in the notice, and after considering the submission (if any) made to the Board pursuant to the notice, declare that the appeal, application or referral, as appropriate, shall be regarded as having been withdrawn.

(3) Where, pursuant to this section, a person withdraws a planning application to which an appeal relates, or the Board declares that an application is to be regarded as having been withdrawn, the following provisions shall apply as regards the application:

(*a*) any appeal in relation to the application shall be regarded as having been withdrawn and accordingly shall not be determined by the Board, and

(*b*) notwithstanding any previous decision under *section 34* by a planning authority as regards the application, no permission shall be granted under that section by the authority on foot of the application.

Annotations

Amendments:

F581 Substituted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 25(a), S.I. No. 684 of 2006.

F582 Substituted (14.07.2015) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015), reg. 7.

F583 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 19, S.I. No. 488 of 2022.

F584 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 25(b), S.I. No. 684 of 2006.

Time for decisions and appeals, etc.

141.—(1) Where a requirement of or under this Act requires a planning authority or the Board to give a decision within a specified period and the last day of that period is a public holiday (within the meaning of the F585**[**Organisation of Working Time Act, 1997**]**) or any other day on which the offices of the planning authority or the Board are closed, the decision shall be valid if given on the next following day on which the offices of the planning authority or Board, as the case may be, are open.

(2) Where the last day of the period specified for making an appeal or referral is a Saturday, a Sunday, a public holiday (within the meaning of the F585**[**Organisation of Working Time Act, 1997**]**) or any other day on which the offices of the Board are closed, an appeal or referral shall (notwithstanding any other provision of this Act) be valid as having been made in time if received by the Board on the next following day on which the offices of the Board are open.

(3) Where a requirement of or under this Act requires submissions, observations or a request to be made, or documents, particulars or other information to be submitted, to the Board within a specified period and the last day of that period is a public holiday (within the meaning of the F585**[**Organisation of Working Time Act, 1997**]**) or any other day on which the offices of the Board are closed, the submissions, observations or request of documents, particulars or other information (as the case may be) shall be regarded as having been received before the expiration of that period if received by the Board on the next following day on which the offices of the Board are open.

Annotations

Amendments:

F585 Substituted (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(d), S.I. No. 458 of 2001.

Regulations regarding appeals and referrals.

142.—(1) The Minister may by regulations—

(*a*) provide for such additional, incidental, consequential or supplemental matters as regards procedure in respect of appeals as appear to the Minister to be necessary or expedient, and

(*b*) make such provision as regards procedure in respect of referrals as appear to the Minister to be necessary or expedient.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may enable the Board where it is determining an appeal under *section 37* to invite an applicant and enable an applicant so invited to submit to the Board revised plans or other drawings modifying, or other particulars providing for the modification of, the development to which the appeal relates.

(3) Where plans, drawings or particulars referred to in *subsection (2)* are submitted to the Board in accordance with regulations under this section, the Board may, in determining the appeal, grant a permission for the relevant development as modified by all or any of the plans, drawings or particulars.

(4) Without prejudice to the generality of *subsection (1)*, the Board may require any party to an appeal or referral to give such public notice in relation thereto as the Board may specify and, in particular, may require notice to be given at the site or by publication in a newspaper circulating in the district in which the land or structure to which the appeal or referral relates is situate.

F586**[**(6) Regulations under this section may make different provision with respect to appeals in relation to applications for permission for development made by the Central Bank of Ireland in the cases referred to in *section 33(5)*, and such regulations may make provision modifying the operation of *sections 132* and *146* in relation to such appeals.**]**

F587**[**(7) Without prejudice to the generality of *subsection (1)*, regulations under this section may—

(*a*) provide that the Board, where it is determining an LRD appeal, may, generally or in specified circumstances, serve a notice on the applicant for permission, requesting the applicant to submit such further information, or type of information, with respect to the appeal as may be prescribed in the regulations, within such time as may be specified in the notice, and

(*b*) require such applicant to submit further information in accordance such a request.**]**

Annotations

Amendments:

F586 Inserted (1.08.2013) by *Central Bank (Supervision and Enforcement) Act 2013* (26/2013), s. 90(b), S.I. No. 287 of 2013.

F587 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 11, S.I. No. 715 of 2021.

Editorial Notes:

E297 There is no subs. (5) in the Act as enacted or amended.

E298 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E299 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

F588**[**Board to have regard to certain policies and objectives.

143.—(1) F589**[**The Board shall, in the performance of its functions (other than functions conferred by *Chapter III* of *Part XXI*), have regard to**]**—

(*a*) the policies and objectives for the time being of the Government, a State authority, the Minister, planning authorities and any other body which is a public authority whose functions have, or may have, a bearing on the proper

planning and sustainable development of cities, towns or other areas, whether urban or rural,

(*b*) the national interest and any effect the performance of the Board's functions may have on issues of strategic economic or social importance to the State, and

(*c*) the F590**[**National Planning Framework**]** and any F591**[**regional spatial and economic strategy**]** for the time being in force.

(2) In this section "public authority" means any body established by or under statute which is for the time being declared, by regulations made by the Minister, to be a public authority for the purposes of this section.**]**

Annotations

Amendments:

F588 Substituted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 26, S.I. No. 525 of 2006.

F589 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 20, S.I. No. 488 of 2022.

F590 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 18(2) and sch. 3 ref. no. 10, S.I. No. 436 of 2018.

F591 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 80, S.I. No. 214 of 2014.

Fees payable to Board.

144.—F592**[**(1) The Board may determine fees that may be charged, subject to the approval of the Minister, in relation to any matter referred to in *subsection (1A)* and a fee as so determined shall be payable to the Board by any person concerned as appropriate.

(1A) The matters in relation to which the Board may determine fees under *subsection (1)* are:

(*a*) an appeal or referral;

F593**[**(*aa*) an appeal to the Board under Part 2 of the Urban Regeneration and Housing Act 2015;**]**

(*b*) an application to the Board for any strategic infrastructure development or an application for leave to appeal under *section 37(6)(a)*;

F594**[**(*bb*) an application under *section 291* or a request under *section 297*;**]**

(*c*) an application for a consultation under *section 37B*, *181C*, or *182E* or under section 47B of the Act of 2001;

F595**[**(*cc*) the provision of an opinion or notification under *section 37CD* or *182G*,**]**

F596**[**(*cd*) the provision of an opinion or notification under *section 287B*,**]**

(*d*) a request under *section 146B*;

(*e*) a request for a written opinion on the information to be contained in an environmental impact assessment under *section 173(3)*, under section 39 of the Act of 2001 or under section 50 of the Roads Act 1993;

(*f*) F597**[**...**]** an application for substitute consent under *Part XA*;

(*g*) submission of an F598**[**environmental impact assessment report**]** in accordance with a request by the Board to furnish same;

(*h*) submission of a Natura impact statement in accordance with a request by the Board to furnish same;

F599**[**(*ha*) a determination review or an application referral under *section 176C*;**]**

(*i*) request for an oral hearing under *section 134* or *177Q*; and

(*j*) making a submission or observation under *section 37E*, *37F*, *130*, *135(2B)(e)*, *146B*, *146C*, *146D*, *175*, *181A*, *182A*, *182C*, *217B*, or *226*, F594**[**or pursuant to a notice under *section 291* or *297* or an invitation under *section 292*, or under**]** section 51 of the Roads Act 1993, section 40 (other than by persons required to be served with a notice under section 40(1)(d)), section 41, or section 47D of the Act of 2001 or making an objection under section 48 of the Roads Act 1993 (other than by persons on whom notice is served under F600**[**section 48(b));**]**

F601**[**(*k*) an appeal under section 10 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 against a relevant regulatory decision within the meaning of that section.**]**

(1B) The Board may, subject to the approval of the Minister, provide for the payment of different fees in relation to different classes or descriptions of matters referred to in *subsection (1A)(a)* to *(j)*, for exemption from the payment of fees in specified circumstances and for the waiver, remission or refund in whole or in part of fees in specified circumstances.**]**

(2) The Board shall review the fees determined under *subsection (1)* from time to time, but at least every three years, having regard to any change in the consumer price index since the determination of the fees for the time being in force, and may amend the fees to reflect the results of that review, without the necessity of the Minister's approval under *subsection (1)*.

(3) For the purposes of this section, "change in the consumer price index" means the difference between the All Items Consumer Price Index Number last published by the Central Statistics Office before the date of the determination under this section and the said number last published before the date of the review under *subsection (2)*, expressed as a percentage of the last-mentioned number.

(4) Where the Board determines or amends fees in accordance with this section, it shall give notice of the fees in at least one newspaper circulating in the State, not less than 8 weeks before the fees come into effect.

(5) Fees determined in accordance with regulations under section 10(1)(*b*) of the Act of 1982 shall continue to be payable to the Board in accordance with those regulations until such time as the Board determines fees in accordance with this section.

(6) The Board shall specify fees for the making of copies under *section 5(6)(a)*, not exceeding the cost of making the copies.

Annotations

Amendments:

F592 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 44, S.I. No. 477 of 2010.

F593 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 30, S.I. No. 436 of 2018.

F594 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 21, S.I. No. 488 of 2022.

F595 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 24(a), S.I. No. 645 of 2023.

F596 Inserted (1.10.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 71, S.I. No. 487 of 2022.

F597 Deleted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 24(b), S.I. No. 645 of 2023.

F598 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 23, in effect as per reg. 2(1).

F599 Inserted (1.01.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 27(b), S.I. No. 588 of 2018.

F600 Substituted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 14(a), S.I. No. 403 of 2019.

F601 Inserted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 14(b), S.I. No. 403 of 2019.

Modifications (not altering text):

C104 Subs. (1A) construed in relation to fees payable relating to proposed strategic housing developments (2.02.2017) and during specified period (3.07.2017 to 31.12.2021) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 19, S.I. No. 31 of 2017, S.I. No. 270 of 2017 and S.I. No. 598 of 2019.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(*a*) the period from the commencement of this provision until 31 December 2019, and

(*b*) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of section 144 (fees payable to Board) of Act of 2000 during specified period

19. Subsection (1A) of section 144 of the Act of 2000 has effect during the specified period—

(*a*) as if in paragraph (b) "or for any strategic housing development (within the meaning of *section 3* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*)" were inserted after "for any strategic infrastructure development",

(*b*) as if in paragraph (c) "or a request for a consultation under *section 5* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*" were inserted after "the Act of 2001",

(*c*) as if there were inserted the following after paragraph (d):

"(da) a request for a determination under *section 7(1)(a)* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*;",

(*d*) as if in *paragraph (e)* "or under section 7(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016," were inserted after "section 173(3),",

(*e*) as if there were inserted the following after *paragraph (e)*:

"(*ea*) a request for an opinion in writing on what information will be required to be contained in a Natura impact statement under section 7(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016;",

and

(*f*) as if in *paragraph (j)* "section 8 of the Planning and Development (Housing) and Residential Tenancies Act 2016," were inserted after "or 226,".

Editorial Notes:

E300 Previous affecting provision: subs. (1) amended (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 27, S.I. No. 684 of 2006; substituted as per F-note above.

Expenses of appeal or referral.

145.—(1) Where an appeal or referral is made to the Board—

(*a*) the Board, if it so thinks proper and irrespective of the result of the appeal or referral, may direct the planning authority to pay—

(i) to the appellant or person making the referral, such sum as the Board, in its absolute discretion, specifies as compensation for the expense occasioned to him or her in relation to the appeal or referral, and

(ii) to the Board, such sum as the Board, in its absolute discretion, specifies as compensation to the Board towards the expense incurred by the Board in relation to the appeal or referral,

and

F602**[**(*b*) in case—

(i) the decision of the planning authority in relation to an appeal or referral is confirmed or varied and the Board, in determining the appeal or referral, does not accede in substance to the grounds of appeal or referral, or

(ii) the appeal or referral is decided, dismissed under *section 138* or withdrawn under *section 140* and the Board, in any of those cases, considers that the appeal or referral was made with the intention of delaying the development or securing a monetary gain by a party to the appeal or referral or any other person,

the Board may, if it so thinks proper, direct the appellant or person making the referral to pay—

(I) to the planning authority, such sum as the Board, in its absolute discretion, specifies as compensation to the planning authority for the expense occasioned to it in relation to the appeal or referral,

(II) to any of the other parties to the appeal or referral, such sum as the Board, in its absolute discretion, specifies as compensation to the party for the expense occasioned to him or her in relation to the appeal or referral, and

(III) to the Board, such sum as the Board, in its absolute discretion, specifies as compensation to the Board towards the expense incurred by the Board in relation to the appeal or referral.**]**

(2) Any sum directed under this section to be paid shall, in default of being paid, be recoverable as a simple contract debt in any court of competent jurisdiction.

Annotations

Amendments:

F602 Substituted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 28, S.I. No. 525 of 2006.

Reports and documents of the Board.

146.—(1) The Board or an employee of the Board duly authorised by the Board may in connection with the performance of any of the Board's functions under this Act, assign a person to report on any matter on behalf of the Board.

(2) A person assigned in accordance with *subsection (1)* shall make a written report on the matter to the Board, which shall include a recommendation, and the Board shall consider the report and recommendation before determining the matter.

F603**[**(3) Where, during the consideration by it of any matter falling to be decided by it in performance of a function under or transferred by this Act or any other enactment, the Board either—

(*a*) is required by or under this Act or that other enactment to supply to any person documents, maps, particulars or other information in relation to the matter, or

(*b*) considers it appropriate, in the exercise of its discretion, to supply to any person such documents, maps, particulars or information ("relevant material or information"),

subsection (4) applies as regards compliance with that requirement or such supply in the exercise of that discretion.

F604**[**(4) It shall be sufficient compliance with the requirement referred to in *subsection (3)* for the Board—

(*a*) where an environmental impact assessment report or a remedial environmental impact assessment report (as construed in accordance with *section 177F*), or both such reports, is or are, as the case may be, submitted with an application or request, or any such report is received by the Board in the course of considering an application, request or appeal, to place on its website for inspection and make available for inspection and purchase by members of the public at the offices of the Board from as soon as may be after receipt of such report—

(i) the application, request or appeal, as the case may be,

(ii) the environmental impact assessment report or remedial environmental impact assessment report, or both such reports, as the case may be,

(iii) the notice or notices, as the case may be, published in one or more newspapers circulating in the area in which it is proposed to carry out the development, or in which the development is located, indicating the nature and location of the proposed development or development, as the case may be,

(iv) any further information furnished by, or alterations to the terms of the development made by, or a revised environmental impact assessment report or a revised remedial environmental impact assessment report (as construed in accordance with *section 177F*), or both such reports, as the case may be, furnished by, the person who is proposing to carry out or who has carried out the development, as the case may be, and

(v) any other relevant material or information, or

(*b*) in any other case, to do both of the following (or, as appropriate, the Board, in the exercise of the discretion referred to in *subsection (3)*, may do both of the following):

(i) make the relevant material or information available for inspection—

(I) at the offices of the Board or any other place, or

(II) by electronic means; and

(ii) notify the person concerned that the relevant material or information is so available for inspection.**]**

(5) Within 3 days following the making of a decision on any matter falling to be decided by it in performance of a function under or transferred by this Act or under any other enactment, the documents relating to the matter—

(*a*) shall be made available by the Board for inspection at the offices of the Board by members of the public, and

(*b*) may be made available by the Board for such inspection—

(i) at any other place, or

(ii) by electronic means,

as the Board considers appropriate.

(6) Copies of the documents referred to in *subsection (5)* and of extracts from such documents shall be made available for purchase at the offices of the Board, or such other places as the Board may determine, for a fee not exceeding the reasonable cost of making the copy.

F605**[**(7) The documents referred to in *subsection (5)* shall—

(*a*) where an environmental impact assessment was carried out, be made available for inspection on the Board's website in perpetuity beginning on the third day following the making by the Board of the decision on the matter concerned, or

(*b*) where no environmental impact assessment was carried out, be made available by the means referred to in *subsection (5)(b)* for a period of at least 5 years beginning on the third day following the making by the Board of the decision on the matter concerned.**]]**

Annotations

Amendments:

F603 Substituted and inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 29, S.I. No. 684 of 2006.

F604 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 12(a), in effect as per reg. 2(1).

F605 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 12(b), in effect as per reg. 2(1).

F606**[**CHAPTER IV

Additional powers of Board in relation to permissions, decisions, approvals, etc.

Amendments of permissions, etc. of clerical or technical nature.

146A.—(1) Subject to *subsection (2)*—

(*a*) a planning authority or the Board, as may be appropriate, may amend a planning permission granted by it, or

(*b*) the Board may amend any decision made by it in performance of a function under or transferred by this Act or under any other enactment,

for the purposes of—

(i) correcting any clerical error therein,

(ii) facilitating the doing of any thing pursuant to the permission or decision where the doing of that thing may reasonably be regarded as having been contemplated by a particular provision of the permission or decision or the terms of the permission or decision taken as a whole but which was not expressly provided for in the permission or decision, or

(iii) otherwise facilitating the operation of the permission or decision.

(2) A planning authority or the Board shall not exercise the powers under *subsection (1)* if to do so would, in its opinion, result in a material alteration of the terms of the development, the subject of the permission or decision concerned.

(3) A planning authority or the Board, before it decides whether to exercise the powers under *subsection (1)* in a particular case, may invite submissions in relation to the matter to be made to it by any person who made submissions or observations to the planning authority or the Board in relation to the permission or other matter concerned, and shall have regard to any submissions made to it on foot of that invitation.

(4) In this section "term" includes a condition.**]**

Annotations

Amendments:

F606 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 30, S.I. No. 684 of 2006.

F607**[**Alteration by Board of strategic infrastructure development on request made of it.

146B.—(1) Subject to *subsections (2)* to *(8)* and *section 146C*, the Board may, on the request of any person who is carrying out or intending to carry out a strategic infrastructure development, alter the terms of the development the subject of a planning permission F608**[**other than a development for which permission was granted under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016**]**, approval or other consent granted under this Act.

(2) (*a*) As soon as practicable after the making of such a request, the Board shall make a decision as to whether the making of the alteration to which the request relates would constitute the making of a material alteration of the terms of the development concerned.

(*b*) Before making a decision under this subsection, the Board may invite submissions in relation to the matter to be made to it by such person or class of person as the Board considers appropriate (which class may comprise the public if, in the particular case, the Board determines that it shall do so); the Board shall have regard to any submissions made to it on foot of that invitation.

F609**[**(3)(*a*) If the Board decides that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned, it shall alter the planning permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration.

(*b*) If the Board decides that the making of the alteration would constitute the making of such a material alteration, it shall—

(i) by notice in writing served on the requester, require the requester to submit to the Board the information specified in Schedule 7A to the Planning and Development Regulations 2001 in respect of that alteration,

or in respect of the alternative alteration being considered by it under *subparagraph (ii)(II)*, unless the requester has already provided such information, or an environmental impact assessment report on such alteration or alternative alteration, as the case may be, to the Board, and

(ii) following the receipt of such information or report, as the case may be, determine whether to—

(I) make the alteration,

(II) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or

(III) refuse to make the alteration.**]**

F610**[**(3A) Where the requester is submitting to the Board the information referred to in *subsection (3)(b)(i)*, that information shall be accompanied by any further relevant information on the characteristics of the alteration under consideration and its likely significant effects on the environment including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account.

(3B) Where the requester is submitting to the Board the information referred to in *subsection (3)(b)(i)*, that information may be accompanied by a description of the features, if any, of the alteration under consideration and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the alteration.**]**

(4) Before making a F611**[**determination under *subsection (3)(b)(ii)***]**, the Board shall determine whether the extent and character of—

(*a*) the alteration requested under *subsection (1)*, and

(*b*) any alternative alteration it is considering under F612**[***subsection (3)(b)(ii)(II)***]**

are such that the alteration, were it to be made, would be likely to have significant effects on the environment (and, for this purpose, the Board shall have reached a final decision as to what is the extent and character of any alternative alteration the making of which it is so considering).

F613**[**(4A)(*a*) Subject to *paragraph (b)*, within 8 weeks of receipt of the information referred to in *subsection (3)(b)(i)*, the Board shall make its determination under *subsection (4)*.

(*b*) Subject to *paragraph (c)*, the Board shall not be required to comply with *paragraph (a)* within the period referred to in *paragraph (a)* where it appears to the Board that it would not be possible or appropriate, because of the exceptional circumstances of the alteration under consideration (including in relation to the nature, complexity, location or size of such alteration) to do so.

(*c*) Where *paragraph (b)* applies, the Board shall, by notice in writing served on the requester before the expiration of the period referred to in *paragraph (a)*, inform him or her of the reasons why it would not be possible or appropriate to comply with *paragraph (a)* within that period and shall specify the date before which the Board intends that the determination concerned shall be made.**]**

(5) If the Board determines that the making of either kind of alteration referred to in F614**[**in *subsection (3)(b)(ii)*.**]**—

(*a*) is not likely to have significant effects on the environment, it shall proceed to make a determination under F615**[***subsection (3)(b)(ii)***]**, or

(*b*) is likely to have such effects, the provisions of *section 146C* shall apply.

(6) If, in a case to which *subsection (5)(a)* applies, the Board makes a determination to make an alteration of either kind referred to in F616**[***subsection (3)(b)(ii)***]**, it shall alter the planning permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration.

F617**[**(7)(*a*) In making a determination under *subsection (4)*, the Board shall have regard to—

(i) the criteria for the purposes of determining which classes of development are likely to have significant effects on the environment set out in any regulations made under *section 176*,

(ii) the criteria set out in Schedule 7 to the Planning and Development Regulations 2001,

(iii) the information submitted pursuant to Schedule 7A to the Planning and Development Regulations 2001,

(iv) the further relevant information, if any, referred to in *subsection (3A)* and the description, if any, referred to in *subsection (3B)*,

(v) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and

(vi) in respect of an alteration under consideration which would be located on, or in, or have the potential to impact on—

(I) a European site,

(II) an area the subject of a notice under section 16(2)(*b*) of the Wildlife (Amendment) Act 2000 (No. 38 of 2000),

(III) an area designated as a natural heritage area under section 18 of the Wildlife (Amendment) Act 2000,

(IV) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act 1976 (No. 39 of 1976),

(V) land designated as a refuge for flora or a refuge for fauna under section 17 of the Wildlife Act 1976,

(VI) a place, site or feature of ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan, draft development plan or draft local area plan, or proposed variation of a development plan, for the area in which the development is proposed, or

(VII) a place or site which has been included by the Minister for Culture, Heritage and the Gaeltacht in a list of proposed Natural Heritage Areas published on the National Parks and Wildlife Service website,

the likely significant effects of such alteration on such site, area, land, place or feature, as appropriate.

(*b*) The Board shall include, or refer to, in its determination under *subsection (4)* the main reasons and considerations, with reference to the relevant criteria

listed in Schedule 7 to the Planning and Development Regulations 2001, on which the determination is based.**]**

F618**[**(7A) Where the determination of the Board under *subsection (4)* is that the alteration under consideration would not be likely to have significant effects on the environment and the applicant has, under *subsection (3B)*, provided a description of the features, if any, of the alteration concerned and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the alteration concerned, the Board shall specify such features, if any, and such measures, if any, in the determination.**]**

(8) (*a*) Before making a determination under F619**[**a determination under *subsection (3)(b)(ii)***]** or *(4)*, the Board shall—

(i) make, or require the person who made the request concerned under *subsection (1)* to make, such information relating to that request available for inspection for such period,

(ii) notify, or require that person to notify, such person, such class of person or the public (as the Board considers appropriate) that the information is so available, and

(iii) invite, or require that person to invite, submissions or observations (from any foregoing person or, as appropriate, members of the public) to be made to it in relation to that request within such period,

as the Board determines and, in the case of a requirement under any of the preceding subparagraphs, specifies in the requirement; such a requirement may specify the means by which the thing to which it relates is to be done.

(*b*) The Board shall have regard to any submissions or observations made to it in accordance with an invitation referred to in *paragraph (a)*.

(*c*) The Board shall notify any person who made a submission or observation to it in accordance with that invitation of its determination under F620**[***subsection (3)(b)(ii)***]** or *(4)*.

(9) In this section "term" has the same meaning as it has in *section 146A*.**]**

Annotations

Amendments:

F607 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 30, S.I. No. 684 of 2006.

F608 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 12, S.I. No. 715 of 2021.

F609 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 13(a), in effect as per reg. 2(1).

F610 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 13(b), in effect as per reg. 2(1).

F611 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 13(c)(i), in effect as per reg. 2(1).

F612 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 13(c)(ii), in effect as per reg. 2(1).

F613 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 13(d), in effect as per reg. 2(1).

F614 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 13(e)(i), in effect as per reg. 2(1).

F615 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 13(e)(ii), in effect as per reg. 2(1).

F616 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 13(f), in effect as per reg. 2(1).

F617 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 13(g), in effect as per reg. 2(1).

F618 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 13(g), in effect as per reg. 2(1).

F619 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 13(h)(i), in effect as per 2(1).

F620 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 13(h)(ii), in effect as per 2(1).

Modifications (not altering text):

C105 Application of section restricted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 18(5), S.I. No. 403 of 2019.

Amendment of Seventh Schedule to Act of 2000 and related transitional provisions

18. ...

(5) Sections 146B and 146C of the Act of 2000 shall, on and after the relevant day, cease to apply to a decision of the Board to grant permission under section 37G of that Act to a relevant development.

(6) In this section—

"planning authority" means a local authority within the meaning of section 2 of the Act of 2001;

"relevant day" means the day on which *subsection (1)* comes into operation;

"relevant development" means the development deleted, by *subsection (1)*, from paragraph 2 of the Seventh Schedule to the Act of 2000.

F621**[**Preparation of environmental impact statement for purposes of *section 146B*.

146C.—(1) This section applies to a case where the determination of the Board under *section 146B(4)* is that the making of either kind of alteration referred to in F622**[***section 146B(3)(b)(ii)***]** is likely to have significant effects on the environment.

(2) In a case to which this section applies, the Board shall require the person who made the request under *section 146B* ("the requester") to prepare an F623**[**environmental impact assessment report**]** in relation to the proposed alteration of the terms of the development concerned and, in this subsection and the following subsections of this section, "proposed alteration of the terms of the development concerned" means—

(*a*) the alteration referred to in F624**[***subsection (3)(b)(ii)(I)* of that section**]**, and

(*b*) any alternative alteration under F625**[***subsection (3)(b)(ii)(II)* of that section**]** the making of which the Board is considering (and particulars of any such alternative alteration the making of which is being so considered shall be furnished, for the purposes of this subsection, by the Board to the requester).

(3) F626**[**An environmental impact assessment report**]** under this section shall contain—

(*a*) any information that any regulations made under *section 177* require to be contained in F627**[**environmental impact assessment reports**]** generally under this Act, and

(*b*) any other information prescribed in any regulations made under *section 177* to the extent that—

(i) such information is relevant to—

(I) the given stage of the consent procedure and to the specific characteristics of the development or type of development concerned, and

(II) the environmental features likely to be affected,

F628**[**...**]**

(ii) F629**[**...**]**

and

(*c*) a summary, in non-technical language, of the information referred to in *paragraphs (a)* and *(b)*.

(4) F630**[**When an environmental impact assessment report**]** under this section is prepared, the requester shall as soon as may be—

(*a*) submit a copy of the F631**[**report**]** F632**[**and one electronic copy of the report (which shall be searchable by electronic means as far as practicable)**]** to the Board, together with either—

(i) a copy of the published notice referred to in *paragraph (c)*, or

(ii) a copy of the notice proposed to be published in accordance with *paragraph (c)* together with details of its proposed publication and date,

F633**[**(*aa*) submit a copy of the confirmation notice to the Board,**]**

(*b*) publish a notice, in the prescribed form, in one or more newspapers circulating in the area in which the development concerned is proposed to be, or is being, carried out—

(i) stating that an F634**[**environmental impact assessment report**]** has been submitted to the Board in relation to the proposed alteration of the terms of the development concerned,

(ii) indicating the times at which, the period (which shall not be less than 4 weeks) during which and the place or places where a copy of the F635**[**environmental impact assessment report**]** may be inspected,

(iii) stating that a copy of the F636**[**environmental impact assessment report**]** may be purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy), and

(iv) stating that submissions or observations may be made in writing to the Board before a specified date (which date shall not be less than F637**[**30 days**]** after the notice was first published) in relation to the likely effects on the environment of the proposed alteration of the foregoing terms,

(*c*) send a copy of the F638**[**environmental impact assessment report**]** together with a notice in the prescribed form to the local authority or each local authority in whose functional area the proposed development would be situate and to any prescribed body or person stating that—

(i) the F639**[**report**]** has been submitted to the Board in relation to the proposed alteration of the terms of the development concerned,

(ii) before a specified date (which date shall be the same as provided or proposed to be provided for by the notice under *paragraph (b)*)

submissions or observations may be made in writing to the Board in relation to the likely effects on the environment of the proposed alteration of the foregoing terms,

(*d*) send a copy of the F640**[**environmental impact assessment report**]**, together with a notice in the prescribed form, to a Member State of the European Communities or a state which is a party to the Transboundary Convention where, in the Board's opinion, the proposed alteration of the terms of the development concerned is likely to have significant effects on the environment in that state, together with a notice (in the prescribed form, if any) stating that—

(i) the F641**[**report**]** has been submitted to the Board in relation to the likely effects on the environment of the proposed alteration of the foregoing terms,

(ii) before a specified date (which date shall be the same as provided or proposed to be provided for by the notice under *paragraph (b)*) submissions or observations may be made in writing to the Board in relation to the likely effects on the environment in that state of the proposed alteration of those terms,

and the Board may, at its discretion and from time to time, extend any time limits provided for by this subsection.

(5) On the preceding subsections having been complied with, the Board shall, subject to subsections (6) and (7), proceed to make a determination under F642**[***section 146B(3)(b)(ii)***]** in relation to the matter.

(6) In making that determination, the Board shall, to the extent that they appear to the Board to be relevant, have regard to the following:

(*a*) the F643**[**environmental impact assessment report**]** submitted pursuant to *subsection (4)(a)*, any submissions or observations made in response to the invitation referred to in *subsection (4)(b)* or *(c)* before the date specified in the notice concerned for that purpose and any other relevant information before it relating to the likely effects on the environment of the proposed alteration of the terms of the development concerned;

(*b*) where such alteration is likely to have significant effects on the environment in another Member State of the European Communities, or a state which is a party to the Transboundary Convention, the views of such Member State or party;

(*c*) the development plan or plans for the area in which the development concerned is proposed to be, or is being, carried out (referred to subsequently in this subsection as "the area");

(*d*) the provisions of any special amenity area order relating to the area;

(*e*) if the area or part of the area is a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact;

(*f*) if the development concerned (were it to be carried out in the terms as they are proposed to be altered) would have an effect on a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact;

(*g*) the matters referred to in *section 143*;

(*h*) any social or economic benefit that would accrue to the State, a region of the State or the area were the development concerned to be carried out in the terms as they are proposed to be altered;

(*i*) commitments entered into and the stage at which the development concerned has progressed under the permission, approval or other consent in the terms as originally granted; and

(*j*) any relevant provisions of this Act and of any regulations made under this Act.

(7) The Board shall not make a determination under F644**[***section 146B(3)(b)(ii)***]** in a case to which this section applies at any time prior to the date specified, pursuant to *subparagraph (iv)* of *subsection (4)(b)*, in the notice under *subsection (4)(b)*.

(8) Where the Board makes a determination under F645**[***section 146B(3)(b)(ii)***]** in a case to which this section applies—

F646**[**(*a*) it shall—

(i) give public notice of the determination (including notice in the area in which the development concerned is proposed to be, or is being, carried out),

(ii) inform the prescribed bodies or persons sent a copy of the environmental impact assessment report in accordance with *subsection (4)(c)*, and

(iii) inform any state to which an environmental impact assessment report has been sent under *subsection (4)(d)* of the determination, including, if the determination is of the kind referred to in *paragraph (b)*, particulars of the determination, and**]**

(*b*) if the determination is a determination to make an alteration of either kind referred to in F647**[***section 146B(3)(b)(ii)***]**, it shall alter the planning permission, approval or other consent accordingly and notify the requester of the alteration.

F648**[**(8A) Where the Board makes a determination under *section 146B(3)(b)(ii)* in a case to which this section applies, the determination shall—

(*a*) state the reasoned conclusion, in relation to the significant effects on the environment of the proposed alteration, on which the determination is based,

(*b*) where the determination (being a determination which arises from the consideration of the environmental impact assessment report concerned) by the Board to make an alteration of either kind referred to in *section 146B(3)(b)(ii)*, or to refuse to make an alteration, is different from the recommendation in a report of a person assigned to report on the request on behalf of the Board, state the main reasons for not accepting the recommendation in the last-mentioned report, and

(*c*) include a summary of the results of the consultations that have taken place and information gathered in the course of the environmental impact assessment and, where appropriate, the comments received from an affected Member State of the European Union or other party to the Transboundary Convention, and specify how those results have been incorporated into the determination or otherwise addressed.

(8B) Where the Board makes a determination under *section 146B(3)(b)(ii)*, in a case to which this section applies, to make an alteration of either kind referred to in that section and imposes a condition (being an environmental condition which arises from the consideration of the environmental impact assessment report concerned) in relation to the determination which is materially different, in relation to the terms of such condition, from the recommendation in a report of a person assigned to report on the request on behalf of the Board, the determination shall indicate the main reasons for not accepting, or for varying, as the case may be, the recommendation in the last-mentioned report in relation to such condition.

(8C) Where the Board makes a determination under *section 146B(3)(b)(ii)*, in a case to which this section applies, to make an alteration of either kind referred to in that section, the determination shall be accompanied by a statement that the Board is satisfied that the reasoned conclusion on the significant effects on the environment of the alteration was up to date at the time of the making of the determination.**]**

(9) Without prejudice to the generality of section 18(a) of the Interpretation Act 2005, a reference, however expressed, in this section to the area in which the proposed development would be situated includes, if the context admits, a reference to the 2 or more areas in which the proposed development would be situated and cognate references shall be construed accordingly.**]**

Annotations

Amendments:

F621 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 30, S.I. No. 684 of 2006.

F622 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018) reg. 14(a), in effect as per reg. 2(1).

F623 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 24, in effect as per reg. 2(1).

F624 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018) reg. 14(b)(i), in effect as per reg. 2(1).

F625 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018) reg. 14(b)(ii), in effect as per reg. 2(1).

F626 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 25, in effect as per reg. 2(1).

F627 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 26, in effect as per reg. 2(1).

F628 Deleted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018) reg. 14(c)(i), in effect as per reg. 2(1).

F629 Deleted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018) reg. 14(c)(ii), in effect as per reg. 2(1).

F630 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 27, in effect as per reg. 2(1).

F631 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 28, in effect as per reg. 2(1).

F632 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018) reg. 14(d)(i), in effect as per reg. 2(1).

F633 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 14(d)(ii), in effect as per reg. 2(1).

F634 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 29, in effect as per reg. 2(1).

F635 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 30, in effect as per reg. 2(1).

F636 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 31, in effect as per reg. 2(1).

F637 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 14(d)(iii), in effect as per reg. 2(1).

F638 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 32, in effect as per reg. 2(1).

F639 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 33, in effect as per reg. 2(1).

F640 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 34, in effect as per reg. 2(1).

F641 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 35, in effect as per reg. 2(1).

F642 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 14(e), in effect as per reg. 2(1).

F643 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 36, in effect as per reg. 2(1).

F644 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 14(f), in effect as per reg. 2(1).

F645 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 14(g)(i), in effect as per reg. 2(1).

F646 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 14(g)(ii), in effect as per reg. 2(1).

F647 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 14(g)(iii), in effect as per reg. 2(1).

F648 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 14(h), in effect as per reg. 2(1).

Modifications (not altering text):

C106 Application of section restricted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 18(5), S.I. No. 403 of 2019.

Amendment of Seventh Schedule to Act of 2000 and related transitional provisions

18. ...

(5) Sections 146B and 146C of the Act of 2000 shall, on and after the relevant day, cease to apply to a decision of the Board to grant permission under section 37G of that Act to a relevant development.

(6) In this section—

"planning authority" means a local authority within the meaning of section 2 of the Act of 2001;

"relevant day" means the day on which *subsection (1)* comes into operation;

"relevant development" means the development deleted, by *subsection (1)*, from paragraph 2 of the Seventh Schedule to the Act of 2000.

Editorial Notes:

E301 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

F649**[**Provisions supplementary to *sections 146B* and *146C*

146CA.—(1) (*a*) *Paragraph (b)* applies where a person—

(i) is carrying out or intending to carry out strategic infrastructure development and intends to make a request under *section 146B(1)*, accompanied by an environmental impact assessment report, to the Board to alter the terms of the development, or

(ii) is required by the Board pursuant to *section 146C* to submit an environmental impact assessment report to the Board.

(*b*)(i) *Subparagraph (ii)* applies where, before a person submits an environmental impact assessment report to the Board, he or she requests the Board to give him or her an opinion in writing on the scope and level of detail of the information required to be included in the report.

(ii) Subject to *subparagraph (iii)*, the Board shall, taking into account the information provided by the person referred to in *subparagraph (i)*, in particular on the specific characteristics of the proposed alteration, including its location and technical capacity, and its likely impact on the environment, give an opinion in writing on the scope and level of detail of the information to be included in an environmental impact assessment report, subject to any prescribed consultations to be carried out by the Board in relation to such opinion.

(iii) The Board shall give the opinion before the submission by the person referred to in *subparagraph (i)* of the environmental impact assessment report.

(2) Where an opinion referred to in *subsection (1)* has been provided, the environmental impact assessment report shall be based on that opinion, and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects on the environment of the proposed alteration of the terms of the development, taking into account current knowledge and methods of assessment.**]**

Annotations

Amendments:

F649 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 15, in effect as per reg. 2(1).

Editorial Notes:

E302 The section heading is taken from the amending regulation in the absence of one included in the amendment.

F650**[**Application of *sections 146A* to *146C* to railway orders.

146D.—*Sections 146A* to *146C* shall apply to a railway order under the Transport (Railway Infrastructure) Act 2001 (whether made before or after the amendment of that Act by the *Planning and Development (Strategic Infrastructure) Act 2006*) as they

apply to a permission, decision or approval referred to in them with the following modifications:

(*a*) a reference in those sections to the terms of the development shall be construed as a reference to the terms of the railway works, the subject of the railway order;

(*b*) a reference in those sections to altering the terms of the development shall be construed as a reference to amending, by order, the railway order with respect to the terms of the railway works, the subject of the railway order; and

(*c*) a reference in *section 146A* to submissions or observations made to the Board in relation to the permission or other matter concerned shall be construed as a reference to submissions made to the Minister for Transport or the Board, as the case may be, under the Transport (Railway Infrastructure) Act 2001 in relation to the railway order.**]**

Annotations

Amendments:

F650 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 30, S.I. No. 684 of 2006.

PART VII

Disclosure of Interests, etc.

Annotations

Modifications (not altering text):

C107 Application of Part VII restricted (1.01.2003) by *Local Government Act 2001* (37/2001), s. 167(5)(a), S.I. No. 218 of 2002, subject to transitional provision in subs. (5)(b).

Application (Part 15).

167.— ...

(5) (*a*) Part VII of the Act of 2000 shall cease to apply to—

(i) a member of a planning authority,

(ii) a member of a committee of a planning authority, and

(iii) an officer of a planning authority.

(*b*) A declaration given in accordance with section 147 of the Act of 2000 by—

(i) a member of a planning authority, or

(ii) an officer of a planning authority,

shall continue to apply and have effect until replaced by a declaration furnished to the ethics registrar under section 171 of this Act.

Declaration by members, etc. of certain interests.

147.—(1) It shall be the duty of a person to whom this section applies to give to the relevant body a declaration in the prescribed form, signed by him or her and containing particulars of every interest of his or hers which is an interest to which this section applies and for so long as he or she continues to be a person to whom this section applies it shall be his or her duty where there is a change regarding an interest particulars of which are contained in the declaration or where he or she acquires any other interest to which this section applies, to give to the relevant body a fresh declaration.

(2) A declaration under this section shall be given at least once a year.

(3) (*a*) This section applies to the following persons:

(i) a member of the Board;

(ii) a member of a planning authority;

(iii) an employee of the Board or any other person—

(I) whose services are availed of by the Board, and

(II) who is of a class, description or grade prescribed for the purposes of this section;

(iv) an officer of a planning authority who is the holder of an office which is of a class, description or grade so prescribed.

(*b*) This section applies to the following interests:

(i) any estate or interest which a person to whom this section applies has in any land, but excluding any interest in land consisting of any private home within the meaning of paragraph 1(4) of the Second Schedule to the Ethics in Public Office Act, 1995;

(ii) any business of dealing in or developing land in which such a person is engaged or employed and any such business carried on by a company or other body of which he or she, or any nominee of his or hers, is a member;

(iii) any profession, business or occupation in which such a person is engaged, whether on his or her own behalf or otherwise, and which relates to dealing in or developing land.

(4) A person to whom this section applies and who has an interest to which this section applies shall be regarded as complying with the requirements of *subsection (1)* if he or she gives to the relevant body a declaration referred to in that subsection:

(*a*) within the period of twenty-eight days beginning on the day on which he or she becomes such a person,

(*b*) in case there is a change regarding an interest particulars of which are contained in a declaration already given by the person or where the person acquires any other interest to which this section applies, on the day on which the change occurs or the other such interest is acquired.

(5) For the purposes of this section, a person to whom this section applies shall be regarded as having an estate or interest in land if he or she, or any nominee of his or hers, is a member of a company or other body which has an estate or interest in the land.

(6) For the purposes of this section, a person shall not be regarded as having an interest to which this section applies, if the interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering or discussing, or in voting on, any question with respect to any matter arising or coming before the Board or authority, as may be appropriate, or in performing any function in relation to any such matter.

(7) Where a person to whom this section applies has an interest to which this section applies by reason only of the beneficial ownership of shares in a company or other body by him or her or by his or her nominee and the total value of those shares does not exceed the lesser of—

(*a*) F651**[**€13,000**]**, or

(*b*) one-hundredth part of the total nominal value of either the issued share capital of the company or body or, where that capital is issued in shares of more than one class, the issued share capital of the class or classes of shares in which he or she has an interest,

subsection (1) shall not have effect in relation to that interest.

(8) The Board and each planning authority shall for the purposes of this section keep a register ("the register of interests") and shall enter therein the particulars contained in declarations given to the Board or the authority, as the case may be, pursuant to this section.

(9) The register of interests shall be kept at the offices of the Board or the planning authority, as the case may be, and shall be available for public inspection during office hours.

(10) Where a person ceases to be a person to whom this section applies, any particulars entered in the register of interests as a result of a declaration being given by the person to the relevant body pursuant to this section shall be removed, as soon as may be after the expiration of the period of five years beginning on the day on which the person ceases to be such a person, from the register of interests by that body.

(11) Subject to *subsection (12)*, a person who fails to comply with *subsections (1)* and *(2)* or who, when purporting to comply with the requirements of *subsection (1)*, gives particulars which are false or which to his or her knowledge are misleading in a material respect, shall be guilty of an offence.

(12) In any proceedings for an offence under this section it shall be a defence for the defendant to prove that at the relevant time he or she believed, in good faith and upon reasonable grounds, that—

(*a*) the relevant particulars were true,

(*b*) there was no matter as regards which he or she was then required to make a declaration under *subsection (1)*, or

(*c*) that the matter in relation to which the offence is alleged was not one as regards which he or she was so required to make such a declaration.

(13) (*a*) For the purposes of this section and *sections 148* and *149*—

(i) a F652**[**chief executive**]** shall be deemed to be an officer of every planning authority for which he or she is F652**[**chief executive**]**,

F652**[**(ii) the deputy chief executive (within the meaning of section 148, inserted by section 54 of the Local Government Reform Act 2014, of the Local Government Act 2001) of a local authority shall be deemed to be an officer of the planning authority concerned, and**]**

(iii) an officer of a planning authority who, by virtue of an arrangement or agreement entered into under any enactment, is performing functions under another planning authority, shall be deemed to be also an officer of the other authority.

(*b*) In this section "relevant body" means—

(i) in case a person to whom this section applies is either a member or employee of the Board, or other person whose services are availed of by the Board, the Board, and

(ii) in case such a person is either a member or officer of a planning authority, the authority.

Annotations

Amendments:

F651 Substituted (25.06.2001) by *Euro Changeover (Amounts) Act 2001* (16/2001), s. 1(3) and (4) and schs. 3 ref. no. 6 and 4 item 10, commenced on enactment.

F652 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(2) and sch. 2 items 59, 60, S.I. No. 436 of 2018.

Modifications (not altering text):

E303 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

Requirements affecting members, etc. who have certain beneficial interests.

148.—(1) Where a member of the Board has a pecuniary or other beneficial interest in, or which is material to, any appeal, contribution, question, determination or dispute which falls to be decided or determined by the Board under any enactment, he or she shall comply with the following requirements:

(*a*) he or she shall disclose to the Board the nature of his or her interest;

(*b*) he or she shall take no part in the discussion or consideration of the matter;

(*c*) he or she shall not vote or otherwise act as a member of the Board in relation to the matter;

(*d*) he or she shall neither influence nor seek to influence a decision of the Board as regards the matter.

(2) Where, at a meeting of a planning authority or of any committee of a planning authority, a resolution, motion, question or other matter is proposed or otherwise arises either pursuant to, or as regards the performance by the authority of a function under this Act or in relation to the acquisition or disposal by the authority of land under or for the purposes of this Act or any other enactment, a member of the authority or committee present at the meeting shall, if he or she has a pecuniary or other beneficial interest in, or which is material to, the matter—

(*a*) at the meeting, and before discussion or consideration of the matter commences, disclose the nature of his or her interest, and

(*b*) withdraw from the meeting for so long as the matter is being discussed or considered,

and accordingly, he or she shall take no part in the discussion or consideration of the matter and shall refrain from voting in relation to it.

(3) A member of a planning authority or of any committee of a planning authority who has a pecuniary or other beneficial interest in, or which is material to, a matter arising either pursuant to, or as regards the performance by the authority of a function under this Act, or in relation to the acquisition or disposal by the authority of land under or for the purposes of this Act or any other enactment, shall neither influence nor seek to influence a decision of the authority as regards the matter.

(4) Where the F653**[**chief executive**]** of a planning authority has a pecuniary or other beneficial interest in, or which is material to, any matter which arises or comes before the authority either pursuant to, or as regards the performance by the authority of a function under this Act, or in relation to the acquisition or disposal by the authority of land under or for the purposes of this Act or any other enactment, he or she shall, as soon as may be, disclose to the members of the planning authority the nature of his or her interest.

(5) (*a*) Where an employee of the Board, a consultant or adviser engaged by the Board, or any other person whose services are availed of by the Board has a pecuniary or other beneficial interest in, or which is material to, any appeal, contribution, question or dispute which falls to be decided or determined by the Board, he or she shall comply with the following requirements:

(i) he or she shall neither influence nor seek to influence a decision of the Board as regards the matter;

(ii) in case, as such employee, consultant, adviser or other person, he or she is concerned with the matter, he or she shall disclose to the Board the nature of his or her interest and comply with any directions the Board may give him or her in relation to the matter.

(*b*) Where an officer of a planning authority, not being the F653**[**chief executive**]**, has a pecuniary or other beneficial interest in, or which is material to, any matter which arises or comes before the authority, either pursuant to, or as regards the performance by the authority of a function under this Act, or in relation to the acquisition or disposal of land by the authority under or for the purposes of this Act or any other enactment, he or she shall comply with the following requirements:

(i) he or she shall neither influence nor seek to influence a decision of the authority as regards the matter; and

(ii) in case, as such officer, he or she is concerned with the matter, he or she shall disclose to the manager of the authority the nature of his or her interest and comply with any directions the F653**[**chief executive**]** may give him or her in relation to the matter.

(6) For the purposes of this section but without prejudice to the generality of *subsections (1)* to *(5)*, a person shall be regarded as having a beneficial interest if—

(*a*) he or she or his or her spouse F654**[**or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**]**, or any nominee of his or her or of his or her spouse F654**[**or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**]**, is a member of a company or any other body which has a beneficial interest in, or which is material to, a resolution, motion, question or other matter referred to in *subsections (1)* to *(5)*,

(*b*) he or she or his or her spouse F654**[**or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**]** is in partnership with or is in the employment of a person who has a beneficial interest in, or which is material to, such a resolution, motion, question or other matter,

(*c*) he or she or his or her spouse F654**[**or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**]** is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such a resolution, motion, question or other matter relates, or

(*d*) his or her spouse F654**[**or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**]** has a beneficial interest in, or which is material to, such a resolution, motion, question or other matter.

(7) For the purposes of this section, a person shall not be regarded as having a beneficial interest in, or which is material to, any resolution, motion, question or other matter by reason only of an interest of his or her or of any company or of any other body or person referred to in *subsection (6)* which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering

or discussing, or in voting on, any question with respect to the matter, or in performing any function in relation to that matter.

(8) Where a person has a beneficial interest referred to in *subsection (1), (2), (3), (4)* or *(5)* by reason only of the beneficial ownership of shares in a company or other body by him or her or by his or her spouse F654**[**or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**]** and the total value of those shares does not exceed the lesser of—

(*a*) F655**[**€13,000**]**, or

(*b*) one-hundredth part of the total nominal value of either the issued share capital of the company or body or, where that capital is issued in shares of more than one class, the issued share capital of the class of shares in which he or she has an interest,

none of those subsections shall have effect in relation to that beneficial interest.

(9) Where at a meeting referred to in *subsection (2)* a disclosure is made under that subsection, particulars of the disclosure and of any subsequent withdrawal from the meeting pursuant to that subsection shall be recorded in the minutes of the meeting.

(10) Subject to *subsection (11)*, a person who contravenes or fails to comply with a requirement of this section shall be guilty of an offence.

(11) In any proceedings for an offence under this section it shall be a defence for the defendant to prove that at the time of the alleged offence he or she did not know and had no reason to believe that a matter in which, or in relation to which, he or she had a beneficial interest had arisen or had come before, or was being considered by, the Board or the relevant planning authority or committee, as may be appropriate, or that the beneficial interest to which the alleged offence relates was one in relation to which a requirement of this section applied.

Annotations

Amendments:

F653 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 61, 62, S.I. No. 436 of 2018.

F654 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 97 and sch. part 1, item 26, S.I. No. 648 of 2010.

F655 Substituted (25.06.2001) by *Euro Changeover (Amounts) Act 2001* (16/2001), s. 1(3) and (4) and schs. 3 ref. no. 6 and 4 item 10, commenced on enactment.

Supplemental provisions relating to *sections 147* and *148*.

149.—(1) Proceedings for an offence under *section 147* or *148* shall not be instituted except by or with the consent of the Director of Public Prosecutions.

(2) Where a person is convicted of an offence under *section 147* or *148*—

(*a*) the person shall be disqualified from being a member of the Board,

(*b*) in case the person is a member of the Board, he or she shall on conviction accordingly cease to be a member of the Board,

(*c*) in case the person is a member of a planning authority or a member of any committee of a planning authority, he or she shall on conviction cease to be a member of the authority or the committee, as may be appropriate,

(*d*) in case the person is a member of both a planning authority and any one or more such committees, he or she shall on conviction cease to be a member of both the authority and every such committee, and

(*e*) in case the person by virtue of this subsection ceases to be a member of a planning authority or any such committee, he or she shall be disqualified for being a member of the authority or committee during the period which, but for the cessation of his or her membership of the authority or committee under this section, would be the remainder of his or her term.

(3) A disqualification under this section shall take effect on the expiry of the ordinary time for appeal from the conviction concerned or if an appeal is brought within that time, upon the final disposal of that appeal.

(4) In case a person contravenes or fails to comply with a requirement of *section 147, 148* or *150*, or acts as a member of the Board, a planning authority or committee of a planning authority while disqualified for membership by virtue of this section, the fact of the contravention or failure or of his or her so acting, as the case may be, shall not invalidate any act or proceeding of the Board, authority or committee.

(5) Where any body which is a company within the meaning of section 155 of the Companies Act, 1963, is deemed under that section to be a subsidiary of another or to be another such company's holding company, a person who is a member of the first-mentioned such company shall, for the purposes of *sections 147* and *148* be deemed also to be a member of the other company.

Codes of conduct.

150.—(1) (*a*) Every planning authority, by resolution, and the Board shall adopt a code of conduct for dealing with conflicts of interest and promoting public confidence in the integrity of the conduct of its business which must be followed by those persons referred to in *subsection (3)*.

(*b*) A code of conduct under this section shall be adopted within one year of the commencement of this section.

(2) A code of conduct shall consist of a written statement setting out the planning authority's or the Board's policy on at least the following matters:

(*a*) disclosure of interests and relationships where the interests and relationships are of relevance to the work of the authority or the Board, as appropriate;

(*b*) membership of other organisations, associations and bodies, professional or otherwise;

(*c*) membership of, or other financial interests in, companies, partnerships or other bodies;

(*d*) undertaking work, not being work on behalf of the authority or the Board, as the case may be, both during and after any period of employment with the authority or the Board, whether as a consultant, adviser or otherwise;

(*e*) acceptance of gifts, sponsorship, considerations or favours;

(*f*) disclosure of information concerning matters pertaining to the work of the authority or the Board, as appropriate;

(*g*) following of proper procedure in relation to the functions of the authority and the Board including the procedures for—

(i) (I) the review, making and variation of development plans,

(II) the review, making and amendment of local area plans,

(III) the processing of planning applications and appeals, and

(IV) the granting of permission which would materially contravene the development plan, including the use of resolutions referred to in *section 34(6)(c)*,

and

(ii) the disclosure by members and employees of the authority or of the Board of any representations made to such members or employees whether in writing or otherwise in relation to those matters.

(3) This section shall apply to—

(*a*) a member of the Board,

(*b*) a member of a planning authority,

(*c*) an employee of the Board or any other person—

(i) whose services are availed of by the Board, and

(ii) who is of a class, description or grade prescribed for the purposes of this section,

and

(*d*) an officer of a planning authority who is the holder of an office which is of a class, description or grade so prescribed.

(4) (*a*) It shall be a condition of appointment of persons listed at *subsection (3)(a)* that they shall comply with the code of conduct.

(*b*) It shall be a condition of taking up and holding office by persons listed at *subsection (3)(b)* that they shall comply with the code of conduct.

(*c*) It shall be a condition of employment of persons listed at *subsection (3)(c)* and *(d)* that they shall comply with the code of conduct.

(5) A planning authority or the Board may at any time review a code of conduct adopted under this section and may—

(*a*) amend the code of conduct, or

(*b*) adopt a new code of conduct.

Annotations

Editorial Notes:

E304 Adoption by a planning authority of a code of conduct for dealing with conflicts of interest and promoting public confidence in the integrity of the conduct of its business is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 item 75 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

E305 Provision for continuance of code under section made (21.05.2004) by *Local Government Act 2001* (37/2001), s. 169(6), S.I. No. 217 of 2004.

E306 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

PART VIII

Enforcement

Annotations

Modifications (not altering text):

C108 Application of Part extended with modifications (3.07.2017) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 10(5)(b), S.I. No. 270 of 2017.

Supplemental provisions to *section 9*

10. ...

(5) ...

(*b*) *Part VIII* of the Act of 2000 shall apply to any case where a strategic housing development is carried out otherwise than in compliance with a permission under *section 9* or any condition to which the permission is subject as it applies to any unauthorised development with the modification that a reference in that Part to a permission shall be construed as a reference to a permission granted under *section 9*.

Offence.

151.—Any person who has carried out or is carrying out unauthorised development shall be guilty of an offence.

Warning letter.

152.—(1) Where—

(*a*) a representation in writing is made to a planning authority by any person that unauthorised development may have been, is being or may be carried out, and it appears to the planning authority that the representation is not vexatious, frivolous or without substance or foundation, or

(*b*) it otherwise appears to the authority that unauthorised development may have been, is being or may be carried out,

the authority shall issue a warning letter to the owner, the occupier or any other person carrying out the development and may give a copy, at that time or thereafter, to any other person who in its opinion may be concerned with the matters to which the letter relates.

(2) Notwithstanding *subsection (1)*, where the development in question is of a trivial or minor nature the planning authority may decide not to issue a warning letter.

(3) A planning authority shall issue the warning letter under *subsection (1)* as soon as may be but not later than 6 weeks after receipt of the representation under *subsection (1)*.

(4) A warning letter shall refer to the land concerned and shall—

(*a*) state that it has come to the attention of the authority that unauthorised development may have been, is being or may be carried out,

(*b*) state that any person served with the letter may make submissions or observations in writing to the planning authority regarding the purported offence not later than four weeks from the date of the service of the warning letter,

(*c*) state that when a planning authority considers that unauthorised development has been, is being or may be carried out, an enforcement notice may be issued,

(*d*) state that officials of the planning authority may at all reasonable times enter on the land for the purposes of inspection,

(*e*) explain the possible penalties involved where there is an offence, and

(*f*) explain that any costs reasonably incurred by the planning authority in relation to enforcement proceedings may be recovered from a person on whom an enforcement notice is served or where court action is taken.

Decision on enforcement.

153.—(1) As soon as may be after the issue of a warning letter under *section 152*, the planning authority shall make such investigation as it considers necessary to enable it to make a decision on whether to issue an enforcement notice F656**[**or make an application under *section 160***]**.

(2) (*a*) It shall be the duty of the planning authority to ensure that decisions on whether to issue an enforcement notice are taken as expeditiously as possible.

(*b*) Without prejudice to the generality of *paragraph (a)*, it shall be the objective of the planning authority to ensure that the decision on whether to issue an enforcement notice shall be taken within 12 weeks of the issue of a warning letter.

(3) A planning authority, in deciding whether to issue an enforcement notice shall consider any representations made to it under *section 152(1)(a)* or submissions or observations made under *section 152(4)(b)* and any other material considerations.

(4) The decision made by the planning authority under *subsection (1)* including the reasons for it shall be entered by the authority in the register.

(5) Failure to issue a warning letter under *section 152* shall not prejudice the issue of an enforcement notice or any other proceedings that may be initiated by the planning authority.

F656**[**(6) F657**[**...**]**

F658**[**(7) Where a planning authority establishes, following an investigation under this section that unauthorised development (other than development that is of a trivial or minor nature) has been or is being carried out and the person who has carried out or is carrying out the development has not proceeded to remedy the position, then the authority shall issue an enforcement notice under *section 154* or make an application pursuant to *section 160*, or shall both issue such a notice and make such an application, unless there are compelling reasons for not doing so.

(8) Nothing in this section shall operate to prevent or shall be construed as preventing a planning authority, in relation to an unauthorised development which has been or is being carried out, from both issuing an enforcement notice under *section 154* and making an application pursuant to *section 160*.**]]**

Annotations

Amendments:

F656 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 45(a) and (b), S.I. No. 477 of 2010.

F657 Repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 27(a), S.I. No. 474 of 2011.

F658 Substituted and inserted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 27(b), S.I. No. 474 of 2011.

Editorial Notes:

E307 Previous affecting provision: subss. (6) and (7) inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 45(b), S.I. No. 477 of 2010; deleted and substituted as per F-note above.

Enforcement notice.

154.—(1) (*a*) Where a decision to enforce is made under *section 153* or where urgent action is required under *section 155*, the planning authority shall, as soon as may be, serve an enforcement notice under this section.

(*b*) Where an enforcement notice is served under this section, the planning authority shall notify any person who made representations under *section 152(1)(a)* and any other person, who in the opinion of the planning authority may be concerned with the matter to which the notice concerned relates, not being a person on whom the enforcement notice was served, of the service of the enforcement notice.

(2) Where the planning authority decides not to issue an enforcement notice, it shall notify any person to whom the warning letter was copied under *section 152* and any other person who made a representation under that section of the decision in writing within 2 weeks of the making of that decision.

(3) (*a*) An enforcement notice under *subsection (1)* shall be served on the person carrying out the development and, where the planning authority considers it necessary, the owner or the occupier of the land or any other person who, in the opinion of the planning authority, may be concerned with the matters to which the notice relates.

(*b*) If, subsequent to the service of the enforcement notice, the planning authority becomes aware that any other person may be carrying out development or is an owner or occupier of the land or may be affected by the notice, the notice may be served on that person and the period specified for compliance with the notice shall be extended as necessary to a maximum of 6 months, and the other person or persons on whom the notice had previously been served under *paragraph (a)* shall be informed in writing.

(4) An enforcement notice shall take effect on the date of the service thereof.

(5) An enforcement notice shall refer to the land concerned and shall—

(*a*) (i) in respect of a development where no permission has been granted, require that development to cease or not to commence, as appropriate, F659**[**...**]**

(ii) in respect of a development for which permission has been granted under *Part III* F660**[**or *section 293*, require that the development will proceed in conformity with the permission, or with any condition to which the permission is subject, F661**[**or**]**

F661**[**(iii) in respect of a development in respect of which a certificate has been issued by the Dublin Docklands Development Authority under section 25(7)(a)(ii) of the Dublin Docklands Development Authority Act 1997 or by the Custom House Docks Development Authority under section 12(6)(b) of the Urban Renewal Act 1986, require that the development will proceed in conformity with the planning scheme made under those Acts in respect of which the development was certified to be consistent and any conditions to which the certificate is subject, **]**

(*b*) require such steps as may be specified in the notice to be taken within a specified period, including, where appropriate, the removal, demolition or alteration of any structure and the discontinuance of any use and, in so far as is practicable, the restoration of the land to its condition prior to the commencement of the development,

(*c*) warn the person or persons served with the enforcement notice that, if within the period specified under *paragraph (b)* or within such extended period (not being more than 6 months) as the planning authority may allow, the steps specified in the notice to be taken are not taken, the planning authority may enter on the land and take such steps, including the removal, demolition or alteration of any structure, and may recover any expenses reasonably incurred by them in that behalf,

(*d*) require the person or persons served with the notice to refund to the planning authority the costs and expenses reasonably incurred by the authority in relation to the investigation, detection and issue of the enforcement notice concerned and any warning letter under *section 152*, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers, and the planning authority may recover these costs and expenses incurred by it in that behalf, and

(*e*) warn the person or persons served with the enforcement notice that if within the period specified by the notice or such extended period, not being more than 6 months, as the planning authority may allow, the steps specified in the notice to be taken are not taken, the person or persons may be guilty of an offence.

(6) If, within the period specified under *subsection (5)(b)* or within such extended period, not being more than 6 months, as the planning authority may allow, the steps specified in the notice to be taken are not taken, the planning authority may enter on the land and take such steps, including the demolition of any structure and the restoration of land, and may recover any expenses reasonably incurred by it in that behalf.

(7) Any expenses reasonably incurred by a planning authority under *paragraphs (c)* and *(d)* of *subsection (5)* and *subsection (6)* may be recovered—

(*a*) as a simple contract debt in any court of competent jurisdiction from the person or persons on whom the notice was served, or

(*b*) secured by—

(i) charging the land under the Registration of Title Act, 1964, or

(ii) where the person on whom the enforcement notice was served is the owner of the land, an instrument vesting the ownership of the land in the authority subject to a right of redemption by the owner within five years.

(8) Any person on whom an enforcement notice is served under *subsection (1)* who fails to comply with the requirements of the notice (other than a notice which has been withdrawn under *subsection (11)(a)* or which has ceased to have effect) within the specified period or within such extended period as the planning authority may allow, not exceeding 6 months, shall be guilty of an offence.

(9) Any person who knowingly assists or permits the failure by another to comply with an enforcement notice shall be guilty of an offence.

(10) Particulars of an enforcement notice shall be entered in the register.

(11) (*a*) A planning authority may for stated reasons by notice in writing to any person served with the notice, and, where appropriate, any person who made a representation under *section 152(1)(a)*, withdraw an enforcement notice served under this section.

(*b*) Where an enforcement notice is withdrawn pursuant to this subsection by a planning authority or where a planning authority finds that an enforcement notice has been complied with, the fact that the enforcement notice was withdrawn and the reason for the withdrawal or that it was complied with, as appropriate, shall be recorded by the authority in the register.

(12) An enforcement notice shall cease to have effect 10 years from the date of service of the notice under *subsection (1)* or, if a notice is served under *subsection (3)(b)*, 10 years from the date of service of the notice under that subsection.

(13) A person shall not question the validity of an enforcement notice by reason only that the person or any other person, not being the person on whom the

enforcement notice was served, was not notified of the service of the enforcement notice.

(14) A report of a local authority under section 50 of the Local Government Act, 1991, shall contain details of the number of enforcement notices issued under this section, warning notices issued under *section 153*, prosecutions brought under *section 157* and injunctions sought under *section 160* by that authority.

Annotations

Amendments:

F659 Repealed (1.03.2016, dissolution day) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), s. 31(a), commenced on enactment subject to dissolution order S.I. No. 114 of 2016.

F660 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 22, S.I. No. 488 of 2022.

F661 Inserted (1.03.2016, dissolution day) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), s. 31(b) and (c), commenced on enactment subject to dissolution order S.I. No. 114 of 2016.

Issue of enforcement notice in cases of urgency.

155.—(1) Where, in the opinion of the planning authority, due to the nature of an unauthorised development and to any other material considerations, it is necessary to take urgent action with regard to the unauthorised development, notwithstanding *sections 152* and *153*, it may serve an enforcement notice under *section 154*.

(2) Where an enforcement notice is issued in accordance with *subsection (1)*, any person who made a representation under *section 152(1)(a)* shall be notified in writing within two weeks of the service of the notice.

Penalties for offences.

156.—(1) A person who is guilty of an offence under F662**[***section 32G, 32L, 37CE, 58(4)***]**, *63*, F663**[***135(7),***]** *151*, *154*, F664**[***182H,***]** *205*, *230(3)*, F665**[***239, 247* or *287C***]** shall be liable—

(*a*) on conviction on indictment, to a fine not exceeding £10,000,000, or to imprisonment for a term not exceeding 2 years, or to both, or

(*b*) on summary conviction, to a fine not exceeding F666**[**€5,000**]**, or to imprisonment for a term not exceeding 6 months, or to both.

(2) Where a person is convicted of an offence referred to in *subsection (1)* and there is a continuation by him or her of the offence after his or her conviction, he or she shall be guilty of a further offence on every day on which the contravention continues and for each such offence shall be liable—

(*a*) on conviction on indictment, to a fine not exceeding £10,000 for each day on which the offence is so continued, or to imprisonment for a term not exceeding 2 years, or to both, provided that if a person is convicted in the same proceedings of 2 or more such further offences the aggregate term of imprisonment to which he or she shall be liable shall not exceed 2 years, or

(*b*) on summary conviction, to a fine not exceeding F666**[**€1,500**]** for each day on which the offence is so continued or to imprisonment for a term not exceeding 6 months, or to both, provided that if a person is convicted in the same proceedings of 2 or more such further offences the aggregate term of imprisonment to which he or she shall be liable shall not exceed 6 months.

(3) Where a person is convicted of an offence referred to in *subsection (1)* involving the construction of an unauthorised structure, the minimum fine shall be—

(*a*) on conviction on indictment, the estimated cost of the construction of the structure or £10,000, whichever is less, or

(*b*) on summary conviction, the estimated cost of the construction of the structure or F666**[**€2,500**]**, whichever is less,

except where the person convicted can show to the court's satisfaction that he or she does not have the necessary financial means to pay the minimum fine.

(4) Any person who is guilty of an offence under this Act other than an offence referred to in *subsection (1)* (or a further offence under *subsection (2)*) shall be liable, on summary conviction, to a fine not exceeding F666**[**€5,000**]** or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both.

(5) If the contravention in respect of which a person is convicted under *section 46(11)*, *208(2)(b)* or *252(9)* is continued after the conviction, that person shall be guilty of a further offence on every day on which the contravention continues and for each such offence he or she shall be liable on summary conviction to a fine not exceeding F667**[**€1,500**]**.

(6) In a prosecution for an offence under *sections 151* and *154* it shall not be necessary for the prosecution to show, and it shall be assumed until the contrary is shown by the defendant, that the subject matter of the prosecution was development and was not exempted development.

(7) Where an enforcement notice has been served under *section 154*, it shall be a defence to a prosecution under *section 151* or *154* if the defendant proves that he or she took all reasonable steps to secure compliance with the enforcement notice.

F667**[**(8) Where a person is convicted of an offence under *section 154*, the Court in addition to imposing a penalty referred to in *subsection (1)* or *(2)* as the case may be, may order the person so convicted to take all or any steps specified in the relevant enforcement notice within such period as the Court considers appropriate.**]**

F663**[**(9) Where a person is convicted, on indictment, of an offence under *section 135(7)*, the court may, where it finds that the act or omission constituting the offence delayed the conduct of the oral hearing concerned referred to in *section 135(7)*, order—

(*a*) the person convicted, or

(*b*) any body with whose consent, connivance or approval the court is satisfied the offence was committed,

to pay to the Board or to any party or person who appeared at the oral hearing such an amount as is equal to the amount of any additional costs that it is shown to the court to have been incurred by the Board, party or person in appearing or being represented at the oral hearing by reason of the commission of the offence.**]**

Annotations

Amendments:

F662 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 25, S.I. No. 645 of 2023.

F663 Inserted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 31, S.I. No. 525 of 2006.

F664 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 25, S.I. No. 645 of 2023.

F665 Substituted (1.10.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 72, S.I. No. 487 of 2022.

F666 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 46(a)-(d), S.I. No. 405 of 2010.

F667 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 46(e), (f), S.I. No. 405 of 2010.

Editorial Notes:

E308 Previous affecting provision: subs. (1) amended (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 13, S.I. No. 715 of 2021; substituted (16.12.2023) as per F-note above.

E309 Previous affecting provision: subs. (1) amended (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(e)(ii), S.I. No. 458 of 2001; substituted (1.10.2022) as per F-note above.

E310 Previous affecting provision: subs. (1) amended (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(e)(i), S.I. No. 458 of 2001; substituted (17.12.2021) as per F-note above.

Prosecution of offences.

157.—(1) Subject to *section 149*, summary proceedings for an offence under this Act may be brought and prosecuted by a planning authority whether or not the offence is committed in the authority's functional area.

F668**[**(1A) Summary proceedings for an offence under this Part may be brought and prosecuted by the Maritime Area Regulatory Authority whether or not the offence is committed in the maritime area.**]**

(2) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, and subject to *subsection (3)* of this section, summary proceedings may be commenced—

(*a*) at any time within 6 months from the date on which the offence was committed, or

(*b*) at any time within 6 months from the date on which evidence sufficient, in the opinion of the person by whom the proceedings are initiated, to justify proceedings comes to that person's knowledge,

whichever is the later.

(3) For the purposes of this section, a certificate signed by or on behalf of the person initiating the proceedings as to the date or dates on which evidence described in *subsection (2)(b)* came to his or her knowledge shall be evidence of the date or dates and in any legal proceedings a document purporting to be a certificate under this section and to be so signed shall be deemed to be so signed and shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate, unless the contrary is shown.

(4) (*a*) No warning letter or enforcement notice shall issue and no proceedings for an offence under this Part shall commence—

(i) in respect of a development where no permission has been granted, after seven years from the date of the commencement of the F669**[**development,**]**

(ii) in respect of a development for which permission has been granted under *Part III* F668**[**or *section 293*,**]** after seven years beginning on the expiration, as respects the permission authorising the development, of the appropriate period within the meaning of *section 40* or, as the case may be, of the period as extended under F669**[***section 42*,**]**

F670**[**(iii) in respect of a development in respect of which a certificate has been issued by the Dublin Docklands Development Authority under section 25(7)(a)(ii) of the Dublin Docklands Development Authority Act 1997 or

by the Custom House Docks Development Authority under section 12(6)(b) of the Urban Renewal Act 1986, after seven years beginning on the date the certificate ceases to have effect in accordance with Part 4 of the Dublin Docklands Development Authority (Dissolution) Act 2015.**]**

F671**[**(*aa*) Notwithstanding *paragraph (a)* a warning letter or enforcement notice may issue at any time or proceedings for an offence under this Part may commence at any time in respect of unauthorised quarry development or unauthorised peat extraction development in the following circumstances:

(i) where no permission for the development has been granted under *Part III* and the development commenced not more than 7 years prior to the date on which this paragraph comes into operation;

(ii) where permission for the development has been granted under *Part III* and, as respects the permission—

(I) the appropriate period (within the meaning of *section 40*), or

(II) the appropriate period as extended under *section 42* or *42A*,

expired not more than 7 years prior to the date on which this paragraph comes into operation.

(*ab*) Notwithstanding *paragraph (a)* or *(aa)* a warning letter or enforcement notice may issue at any time to require any unauthorised quarry development or unauthorised peat extraction development to cease and proceedings for an offence under *section 154* may issue at any time in relation to an enforcement notice so issued.**]**

(*b*) Notwithstanding *paragraph (a)*, proceedings may be commenced at any time in respect of any condition concerning the use of land to which the permission is subject.

(*c*) It shall be presumed until the contrary is proved that proceedings were commenced within the appropriate period.

(5) Proceedings for other offences under this Act shall not be initiated later than 7 years from the date on which the offence concerned was alleged to have been committed.

Annotations

Amendments:

F668 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 23, S.I. No. 488 of 2022.

F669 Substituted (1.03.2016, dissolution day) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), s. 32(a), (b), commenced on enactment subject to dissolution order S.I. No. 114 of 2016.

F670 Inserted (1.03.2016, dissolution day) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), s. 32(c), commenced on enactment subject to dissolution order S.I. No. 114 of 2016.

F671 Substituted (15.11.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 28, S.I. No. 583 of 2011.

Editorial Notes:

E311 Previous affecting provision: section amended by *Planning and Development (Amendment) Act 2010* (30/2010), s. 47, not commenced; repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. No. 474 of 2011.

Offences by bodies corporate.

158.—(1) Where an offence under this Act is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been facilitated by any neglect on the part of a person being a director, manager, secretary or other officer of the body or a person who was purporting to act in any such capacity, that person shall also be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

Payment of fines to planning authorities.

159.—Where a court imposes a fine or affirms or varies a fine imposed by another court for an offence under this Act, it shall provide by order for the payment of the amount of the fine to the planning authority and the payment may be enforced by the authority as if it were due to it on foot of a decree or order made by the court in civil proceedings.

Injunctions in relation to unauthorised development.

160.—(1) Where an unauthorised development has been, is being or is likely to be carried out or continued, the High Court or the Circuit Court may, on the application of a planning authority or any other person, whether or not the person has an interest in the land, by order require any person to do or not to do, or to cease to do, as the case may be, anything that the Court considers necessary and specifies in the order to ensure, as appropriate, the following:

(*a*) that the unauthorised development is not carried out or continued;

(*b*) in so far as is practicable, that any land is restored to its condition prior to the commencement of any unauthorised development;

F672**[**(*c*) that any development is carried out in conformity with—

(i) in the case of a permission granted under this Act, the permission pertaining to that development or any condition to which the permission is subject, or

(ii) in the case of a certificate issued by the Dublin Docklands Development Authority under section 25(7)(a)(ii) of the Dublin Docklands Development Authority Act 1997 or by the Custom House Docks Development Authority under section 12(6)(b) of the Urban Renewal Act 1986, the planning scheme made under those Acts to which the certificate relates and any conditions to which the certificate is subject.**]**

(2) In making an order under *subsection (1)*, where appropriate, the Court may order the carrying out of any works, including the restoration, reconstruction, removal, demolition or alteration of any structure or other feature.

(3) (*a*) An application to the High Court or the Circuit Court for an order under this section shall be by motion and the Court when considering the matter may make such interim or interlocutory order (if any) as it considers appropriate.

(*b*) Subject to *section 161*, the order by which an application under this section is determined may contain such terms and conditions (if any) as to the payment of costs as the Court considers appropriate.

(4) (*a*) Rules of court may provide for an order under this section to be made against a person whose identity is unknown.

(*b*) Any relevant rules of Court made in respect of section 27 (inserted by section 19 of the Act of 1992) of the Act of 1976 shall apply to this section and shall be construed to that effect.

(5) (*a*) An application under this section to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the land which is the subject of the application is situated.

(*b*) The Circuit Court shall have jurisdiction to hear and determine an application under this section where the F673**[**market value**]** of the land which is the subject of the application does not exceed F673**[**€3,000,000**]**.

(*c*) The Circuit Court may, for the purposes of *paragraph (b)*, in relation to land that has not been given a F673**[**market value**]** or is the subject with other land of a F673**[**market value**]**, determine that its F673**[**market value**]** would exceed, or would not exceed, F673**[**€3,000,000**]**.

(*d*) Where the F673**[**market value**]** of any land which is the subject of an application under this section exceeds F673**[**€3,000,000**]**, the Circuit Court shall, if an application is made to it in that behalf by any person having an interest in the proceedings, transfer the proceedings to the High Court, but any order made or act done in the course of such proceedings before the transfer shall be valid unless discharged or varied by the High Court by order.

F674**[**(*e*) In this subsection "market value" means, in relation to land, the price that would have been obtained in respect of the unencumbranced fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.**]**

F675**[**(5A) (*a*) An application under this section to the Circuit Court shall, in respect of development situated wholly or partly in the nearshore area of a coastal planning authority, be made to the judge of the Circuit Court for the circuit in which the functional area (other than the nearshore area) of that coastal planning authority is situated.

(*b*) The Circuit Court shall have jurisdiction to hear and determine an application under this section in relation to a development referred to in *paragraph (a)* where the aggregate amount of the levy or levies payable under Chapter 7 of Part 4 of the Maritime Area Planning Act 2021 in respect of the maritime area consent granted to the person who carried out the development does not exceed €500,000.

(5B) (*a*) An application under this section, in respect of development situated wholly or partly in the nearshore area of a coastal planning authority, shall be made to the High Court if that development was carried out by or on behalf of a person who at the time of the carrying out of the development was not the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development.

(*b*) An application under this section, in respect of development situated wholly in the outer maritime area, shall be made to the High Court.**]**

(6) (*a*) An application to the High Court or Circuit Court for an order under this section shall not be made—

(i) in respect of a development where no permission has been granted, after the expiration of a period of 7 years from the date of the commencement of the development, F676**[**...**]**

(ii) in respect of a development for which permission has been granted under *Part III* F675**[**or *section 293*, after the expiration of a period of 7 years beginning on the expiration, as respects the permission authorising the development, of the appropriate period (within the meaning of *section 40*) or, as the case may be, of the appropriate period as extended under F677**[***section 42*, or**]**

F678**[**(iii) in respect of a development in respect of which a certificate has been issued by the Dublin Docklands Development Authority under section 25(7)(a)(ii) of the Dublin Docklands Development Authority Act 1997 or by the Custom House Docks Development Authority under section 12(6)(b) of the Urban Renewal Act 1986, after the expiration of a period of 7 years beginning on the date the certificate ceases to have effect in accordance with Part 4 of the Dublin Docklands Development Authority (Dissolution) Act 2015.**]**

F679**[**(*aa*) Notwithstanding *paragraph (a)* an application to the High Court or Circuit Court for an order under this section may be made at any time in respect of unauthorised quarry development or unauthorised peat extraction development in the following circumstances:

(i) where no permission for the development has been granted under Part III and the development commenced not more than 7 years prior to the date on which this paragraph comes into operation;

(ii) where permission for the development has been granted under *Part III* and, as respects the permission—

(I) the appropriate period (within the meaning of *section 40*), or

(II) the appropriate period as extended under *section 42* or *42A*,

expired not more than 7 years prior to the date on which this paragraph comes into operation.

(*ab*) Notwithstanding *paragraph (a)* or *(aa)*, an application to the High Court or Circuit Court may be made at any time for an order under this section to cease unauthorised quarry development or unauthorised peat extraction development.**]**

(*b*) Notwithstanding *paragraph (a)*, an application for an order under this section may be made at any time in respect of any condition to which the development is subject concerning the ongoing use of the land.

(7) Where an order has been sought under this section, any other enforcement action under this Part may be commenced or continued.

Annotations

Amendments:

F672 Substituted (1.03.2016, dissolution day) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), s. 33(a), commenced on enactment subject to dissolution order S.I. No. 114 of 2016.

F673 Substituted (11.01.2017) by *Civil Liability and Courts Act 2004* (31/2004), s. 53(2)(a), S.I. No. 2 of 2017.

F674 Inserted (11.01.2017) by *Civil Liability and Courts Act 2004* (31/2004), s. 53(2)(b), S.I. No. 2 of 2017.

F675 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 24, S.I. No. 488 of 2022.

F676 Repealed (1.03.2016, dissolution day) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), s.33(b)(i), commenced on enactment subject to dissolution order S.I. No. 114 of 2016.

F677 Substituted (1.03.2016, dissolution day) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), s. 33(b)(ii), commenced on enactment subject to dissolution order S.I. No. 114 of 2016.

F678 Inserted (1.03.2016, dissolution day) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), s. 33(b)(iii), commenced on enactment subject to dissolution order S.I. No. 114 of 2016.

F679 Inserted (15.11.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 29, S.I. No. 583 of 2011.

Editorial Notes:

E312 Previous affecting provision: subs. (6) amended by *Planning and Development (Amendment) Act 2010* (30/2010), s. 48, not commenced; repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. No. 474 of 2011.

Costs of prosecutions and applications for injunctions.

161.—(1) The court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay—

(*a*) where a person is convicted of an offence under this Part, to the planning authority, or

(*b*) where the person is the subject of an order under *section 160*, to the planning authority or to any other person as appropriate,

the costs and expenses of the action, measured by the court.

(2) Where costs or expenses are to be paid to the authority, they shall include any such costs or expenses reasonably incurred by the authority in relation to the investigation, detection and prosecution of the offence or order, as appropriate, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers.

Evidence of permission.

F680**[162.**—(1) In any proceedings for an offence under this Act, the onus of proving the existence of—

(*a*) any permission granted under *Part III* F681**[**or *section 293***]**,

(*b*) any certificate issued by the Custom House Docks Development Authority under section 12(6)(b) of the Urban Renewal Act 1986, or

(*c*) any certificate issued by the Dublin Docklands Development Authority under section 25(7)(a)(ii) of the Dublin Docklands Development Authority Act 1997,

shall be on the defendant.**]**

(2) Notwithstanding *subsection (1)* of this section, it shall not be a defence to a prosecution under this Part if the defendant proves that he or she has applied for or has been granted permission under F682**[***section 34(12C)***]**—

(*a*) since the initiation of proceedings under this Part,

(*b*) since the date of the sending of a warning letter under *section 152*, or

(*c*) since the date of service of an enforcement notice in a case of urgency in accordance with *section 155*.

(3) No enforcement action under this Part (including an application under *section 160*) shall be stayed or withdrawn by reason of an F683**[**application for permission for retention of unauthorised development**]** under F684**[***section 34(12C)***]** or the grant of that permission.

Annotations

Amendments:

F680 Substituted (1.03.2016, dissolution day) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), s. 34, commenced on enactment subject to dissolution order S.I. No. 114 of 2016.

F681 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 25, S.I. No. 488 of 2022.

F682 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 31, S.I. No. 436 of 2018.

F683 Substituted (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(f), S.I. No. 458 of 2001.

F684 Substituted (23.03.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 49, S.I. No. 132 of 2011.

Permission not required for any works required under this Part.

163.—Notwithstanding *Part III* F685**[**or *section 293*****]**, permission shall not be required in respect of development required by a notice under *section 154* or an order under *section 160* F686**[**(disregarding development for which there is in fact permission under *Part III* F685**[**or *section 293*****]** or in respect of which a certificate has been issued by the Dublin Docklands Development Authority under section 25(7)(a)(ii) of the Dublin Docklands Development Authority Act 1997 or by the Custom House Docks Development Authority under section 12(6)(b) of the Urban Renewal Act 1986)**]**.

Annotations

Amendments:

F685 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 26, S.I. No. 488 of 2022.

F686 Substituted (1.03.2016, dissolution day) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), s. 35, commenced on enactment subject to dissolution order S.I. No. 114 of 2016.

Transitional arrangements for offences.

164.—Notwithstanding any repeal of any enactment ("repealed enactment") by this Act, where proceedings have been initiated in respect of any offence under the repealed enactment, or an enforcement notice or a warning notice (within the meaning of the relevant provisions) has issued under any provision of the repealed enactment, or an application to a Court has been made under section 27 of the Act of 1976, the relevant provision which applied before the repeal shall continue to so apply until the proceedings have been finalised, the notices complied with or withdrawn or the application determined, as the case may be.

F687**[**Development in Dublin Docklands Area

164A.—For the avoidance of doubt, Dublin City Council is the planning authority in respect of a development in respect of which a certificate has been issued by—

(*a*) the Dublin Docklands Development Authority under section 25(7)(a)(ii) of the Dublin Docklands Development Authority Act 1997, or

(*b*) the Custom House Docks Development Authority under section 12(6)(b) of the Urban Renewal Act 1986.**]**

Annotations

Amendments:

F687 Inserted (1.03.2016, dissolution day) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), s. 36, commenced on enactment subject to dissolution order S.I. No. 114 of 2016.

PART IX

Strategic Development Zones

Interpretation.

165.—In this Part—

"development agency" means the Industrial Development Agency (Ireland), Enterprise Ireland, F688**[**...**]** Údarás na Gaeltachta, the National Building Agency Limited, F689**[**the Grangegorman Development Agency, F691**[**the Land Development Agency, a local authority or such other person as may be prescribed by the Minister for the purposes of this Part;**]]**

F690**[**"relevant public land" has the same meaning as it has in the Land Development Agency Act 2021;**]**

"strategic development zone" means a site or sites to which a planning scheme made under *section 169* applies.

Annotations

Amendments:

F688 Deleted (5.09.2014) by *State Airports (Shannon Group) Act 2014* (27/2014), s. 37(1), commenced as per s. 43 and S.I. No. 396 of 2014.

F689 Substituted (11.07.2005) by *Grangegorman Development Agency Act 2005* (21/2005), s. 42, commenced on enactment.

F690 Inserted (31.03.2022) by *Land Development Agency Act 2021* (26/2021), s. 78(b)(i), S.I No. 143 of 2022.

F691 Substituted (31.03.2022) by *Land Development Agency Act 2021* (26/2021), s. 78(b)(ii), S.I. No 143 of 2022.

Designation of sites for strategic development zones.

166.—(1) Where, in the opinion of the Government, specified development is of economic or social importance to the State, the Government may be order, when so proposed by the Minister, designate one or more sites for the establishment, in accordance with the provisions of this Part, of a strategic development zone to facilitate such development.

(2) The Minister shall, before proposing the designation of a site or sites to the Government under *subsection (1)*, consult with any relevant development agency or planning authority on the proposed designation.

(3) An order under *subsection (1)* shall—

(*a*) specify the development agency or development agencies for the purposes of *section 168*,

(*b*) specify the type or types of development that may be established in the strategic development zone, and

(*c*) state the reasons for specifying the development and for designating the site or sites.

(4) The Minister shall send a copy of any order made under this section to any relevant development agency, planning authority and F692**[**regional assembly**]** and to the Board.

(5) Development that is specified in an order under *subsection (3)* shall be deemed to include development that is ancillary to, or required for, the purposes of development so specified, and may include any necessary infrastructural and community facilities and services.

(6) The Government may revoke or amend an order made under this section.

F693**[**(7) In this section, the Land Development Agency shall not be a relevant development agency unless each site referred to in *subsection (2)* is wholly or partly on relevant public land or land owned by the Agency.**]**

Annotations

Amendments:

F692 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 82, S.I. No. 214 of 2014.

F693 Inserted (31.03.2022) by *Land Development Agency Act 2021* (26/2021), s. 78(c), S.I. No. 143 of 2022.

Editorial Notes:

E313 Power pursuant to section exercised (31.05.2017) by *Planning and Development Act 2000 (Designation of Strategic Development Zone: Ireland West Airport Knock) Order 2017* (S.I. No. 266 of 2017), in effect as per art. 1(2).

E314 Power pursuant to section exercised (18.05.2016) by *Planning and Development Act 2000 (Designation of Strategic Development Zone: Poolbeg West, Dublin City) Order 2016* (S.I. No. 279 of 2016), in effect as per art. 1(2).

E315 Power pursuant to section exercised (20.01.2016) by *Planning and Development Act 2000 (Designation of Strategic Development Zone: North Quays, Waterford City) Order 2016* (S.I. No. 30 of 2016), in effect as per art. 1(2).

E316 Power pursuant to section exercised (25.12.2015) by *Planning and Development Act 2000 (Designation of Strategic Development Zone: Balgaddy-Clonburris, South Dublin County) Order 2015* (S.I. No. 604 of 2015), in effect as per art. 1(2).

E317 Power pursuant to section exercised (18.12.2012) by *Planning and Development Act 2000 (Designation of Strategic Development Zone: North Lotts and Grand Canal Dock) Order 2012* (S.I. No. 530 of 2012).

E318 Power pursuant to section exercised (24.05.2011) by *Planning and Development Act 2000 (Strategic Development Zone) (Amendment) Order 2011* (S.I. No. 243 of 2011).

E319 Power pursuant to section exercised (22.12.2010) by *Planning and Development Act 2000 (Strategic Development Zone) Order 2010* (S.I. No. 678 of 2010).

E320 Power pursuant to section exercised (25.05.2010) by *Planning and Development Act 2000 (Strategic Development Zone) (No. 2) Order 2010* (S.I. No. 540 of 2010).

E321 Power pursuant to section exercised (25.05.2010) by *Planning and Development Act 2000 (Strategic Development Zone: Cherrywood, Dún Laoghaire-Rathdown County) Order 2010* (S.I. No. 535 of 2010).

E322 Power pursuant to section exercised (1.07.2001) by *Planning and Development Act, 2000 (Designation of Strategic Development Zone - Clonmagadden Valley, Navan) Order 2001* (S.I. No. 274 of 2001).

E323 Power pursuant to section exercised (1.07.2001) by *Planning and Development Act, 2000 (Designation of Strategic Development Zone - Hansfield, Blanchardstown) Order 2001* (S.I. No. 273 of 2001).

E324 Power pursuant to section exercised (1.07.2001) by *Planning and Development Act, 2000 (Designation of Strategic Development Zone - Adamstown, Lucan) Order 2001* (S.I. No. 272 of 2001).

E325 Previous affecting provision: power pursuant to section exercised (31.07.2006) by *Planning and Development Act 2000 (Designation of Strategic Development Zone: Balgaddy-Clonburris, South Dublin County) Order 2006* (S.I. No. 442 of 2006); revoked (25.12.2015) by *Planning and Development Act 2000 (Designation of Strategic Development Zone: Balgaddy-Clonburris, South Dublin County) Order 2015* (S.I. No. 604 of 2015), art. 7, in effect as per art. 1(2).

Acquisition of site for strategic development zone.

167.—(1) A planning authority may use any powers to acquire land that are available to it under any enactment, including any powers in relation to the compulsory acquisition of land, for the purposes of providing, securing or facilitating the provision of, a site referred to in *section 166(1)*.

(2) Where a person, other than the relevant development agency, has an interest in land, or any part of land, on which a site or sites referred to in an order under *section 166(1)* is or are situated, the relevant development agency may enter into an agreement with that person for the purpose of facilitating the development of the land.

(3) An agreement made under *subsection (2)* with any person having an interest in land may be enforced by the relevant development agency against persons deriving title under that person in respect of that land.

F694**[**(4) In this section, the Land Development Agency shall not be a relevant development agency unless each site referred to in *section 166(2)* is wholly or partly on relevant public land or land owned by the Agency.**]**

Annotations

Amendments:

F694 Inserted (31.03.2022) by *Land Development Agency Act 2021* (26/2021), s. 78(d), S.I. No. 143 of 2022.

Planning scheme for strategic development zones.

168.—F695**[**(1) Subject to *subsection (1A)*, as soon as may be after the making of an order designating a site under *section 166*—

(*a*) the relevant development agency (other than a local authority) or, where an agreement referred to in *section 167* has been made, the relevant development agency (other than a local authority) and any person who is a party to the agreement shall prepare a draft planning scheme in respect of all or any part of the site and submit it to the relevant planning authority,

(*b*) the local authority, where it is the development agency, or where an agreement referred to in *section 167* has been made, the local authority and any person who is a party to the agreement shall prepare a draft planning scheme in respect of all or any part of the site.

(1A) The first draft planning scheme under *subsection (1)* in respect of all or any part of a site designated under *section 166*, shall be prepared not later than 2 years after the making of the order so designating the site.**]**

(2) F695**[**A draft planning scheme under this section shall consist of a written statement and a plan indicating the manner in which it is intended that the site or part of the site designated under *section 166* to which the scheme relates is to be developed and in particular—**]**

(*a*) the type or types of development which may be permitted to establish on the site (subject to the order of the Government under *section 166*),

(*b*) the extent of any such proposed development,

(*c*) proposals in relation to the overall design of the proposed development, including the maximum heights, the external finishes of structures and the general appearance and design,

(*d*) proposals relating to transportation, including public transportation, the roads layout, the provision of parking spaces and traffic management,

(*e*) proposals relating to the provision of services on the site, including the provision of waste and sewerage facilities and water, electricity and telecommunications services, oil and gas pipelines, including storage facilities for oil or gas,

(*f*) proposals relating to minimising any adverse effects on the environment, including the natural and built environment, and on the amenities of the area, and

(*g*) where the scheme provides for residential development, proposals relating to the provision of amenities, facilities and services for the community, including schools, créches and other education and childcare services.

F696**[**(3) The Minister may, for the purposes of giving effect to Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (No. 2001/42/EC, O.J. No. L 197, 21 July 2001 P. 0030 - 0037), by regulations make provision in relation to consideration of the likely significant effects on the environment of implementing a planning scheme.**]**

F697**[**(3A) A screening for appropriate assessment and, if required, an appropriate assessment of a draft planning scheme shall be carried out in accordance with *Part XAB*.**]**

(4) (*a*) A draft planning scheme for residential development shall be consistent with the housing strategy prepared by the planning authority in accordance with *Part V*.

(*b*) Where land in a strategic development zone is to be used for residential development, an objective to secure the implementation of the housing strategy shall be included in the draft planning scheme as if it were a specific objective under *section 95(1)(b)*.

(5) Where an area designated under *section 166* is situated within the functional area of two or more planning authorities the functions conferred on a planning authority under this Part shall be exercised—

(*a*) jointly by the planning authorities concerned, or

(*b*) by one of the authorities, provided that the consent of the other authority or authorities, as appropriate, is obtained prior to the making of the scheme under *section 169*,

and the words "planning authority" shall be construed accordingly.

F698**[**(6) In this section, the Land Development Agency shall not be a relevant development agency unless each site referred to in *subsection (1)* is wholly or partly on relevant public land or land owned by the Agency.**]**

Annotations

Amendments:

F695 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 50(a) and (b), S.I. No. 477 of 2010.

F696 Substituted (14.07.2004) by *European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004* (S.I. No. 435 of 2004), reg. 8.

F697 Substituted (29.12.2015) by *Planning and Development (Amendment) Act 2015* (63/2015), s. 4, commenced on enactment.

F698 Inserted (31.03.2022) by *Land Development Agency Act 2021* (26/2021), s. 78(e), S.I. No. 143 of 2022.

Editorial Notes:

E326 Power pursuant to subs. (3) exercised (18.12.2012) by *Planning and Development Act 2000 (Designation of Strategic Development Zone: North Lotts and Grand Canal Dock) Order 2012* (S.I. No. 530 of 2012).

E327 Power pursuant to subs. (3) exercised (3.05.2011) by *Planning and Development (Strategic Environmental Assessment) (Amendment) Regulations 2011* (S.I. No. 201 of 2011).

E328 Power pursuant to subs. (3) exercised (21.07.2004) by *Planning and Development (Strategic Environmental Assessment) Regulations 2004* (S.I. No. 436 of 2004).

E329 Previous affecting provision: subs. (3A) inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 50(c), S.I. No. 475 of 2011; substituted as per F-note above.

Making of planning scheme.

169.—(1) Where a draft planning scheme has been prepared and submitted to the planning authority in accordance with *section 168*, the planning authority shall, as soon as may be—

(*a*) send notice and copies of the draft scheme to the Minister, the Board and the prescribed authorities,

(*b*) publish notice of the preparation of the draft scheme in one or more newspapers circulating in its area.

(2) A notice under *subsection (1)* shall state—

(*a*) that a copy of the draft may be inspected at a stated place or places and at stated times during a stated period of not less than 6 weeks (and the copy shall be kept available for inspection accordingly), and

(*b*) that written submissions or observations with respect to the draft scheme made to the planning authority within the stated period will be taken into consideration in deciding upon the scheme.

(3) (*a*) Not longer than 12 weeks after giving notice under *subsection (2)* the F699**[**chief executive**]** of a planning authority shall prepare a report on any submissions or observations received under that subsection and submit the report to the members of the authority for their consideration.

(*b*) A report under *paragraph (a)* shall—

F700**[**(i) list the persons or bodies who made submissions or observations for the purposes of *subsections (1)* and *(2)*,**]**

(ii) summarise the issues raised by the persons or bodies in the submissions or observations,

(iii) give the response of the F699**[**chief executive**]** to the issues raised, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(4) (*a*) The members of a planning authority shall consider the draft planning scheme and the report of the F699**[**chief executive**]** prepared and submitted in accordance with *subsection (3)*.

F701**[**(*b*) The draft planning scheme shall be deemed to be made 6 weeks after the submission of that draft planning scheme and report to the members of the planning authority in accordance with *subsection (3)* unless the planning authority decides, by resolution, to—

(i) make, subject to variations and modifications, the draft planning scheme (and the passing of such a resolution shall be subject to *paragraphs (ba)* and (*be*)), or

(ii) not to make the draft planning scheme.

(*ba*) The planning authority shall determine if a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, is or are to be carried out as respects one or more than one proposed variation or modification that would, if made, be a material alteration of the draft planning scheme.

(*bb*) The F699**[**chief executive**]** shall, not later than 2 weeks after a determination under *paragraph (ba)* specify such period as he or she considers necessary following the determination as being required to facilitate an assessment referred to in *paragraph (ba)*.

(*bc*) The planning authority shall publish notice of the proposed material alteration, and where appropriate in the circumstances, the making of a determination that an assessment referred to in *paragraph (ba)* is required, in at least one newspaper circulating in its area.

(*bd*) The notice referred to in *paragraph (bc)* shall state—

(i) that a copy of the proposed material alteration and of any determination by the authority that an assessment referred to in *paragraph (ba)* is required may be inspected at a stated place or places and at stated times, and on the authority's website, during a stated period of not less than 4 weeks (and that copies will be kept for inspection accordingly), and

(ii) that written submissions or observations with respect to the proposed material alteration or an assessment referred to in *paragraph (ba)* and made to the planning authority within a stated period shall be taken into account by the authority before the draft planning scheme is made.

(*be*) The planning authority shall carry out an assessment referred to in *paragraph (ba)* of the proposed material alteration of the draft planning scheme within the period specified by the F699**[**chief executive**]**.**]**

(*c*) Where a draft planning scheme is—

(i) deemed, in accordance with *paragraph (b)*, to have been made, or

(ii) made in accordance with *paragraph (b)(i)*,

it shall have effect 4 weeks from the date of such making unless an appeal is brought to the Board under *subsection (6)*.

(5) (*a*) Following the decision of the planning authority under *subsection (4)* the authority shall, as soon as may be, and in any case not later than 6 working days following the making of the decision—

(i) give notice of the decision of the planning authority to the Minister, the Board, the prescribed authorities and any person who made written submissions or observations on the draft scheme, and

(ii) publish notice of the decision in one or more newspapers circulating in its area.

(*b*) A notice under *paragraph (a)* shall—

(i) give the date of the decision of the planning authority in respect of the draft planning scheme,

(ii) state the nature of the decision,

(iii) state that a copy of the planning scheme is available for inspection at a stated place or places (and the copy shall be kept available for inspection accordingly),

(iv) state that any person who made submissions or observation regarding the draft scheme may appeal the decision of the planning authority to the Board within 4 weeks of the date of the planning authority's decision, and

(v) contain such other information as may be prescribed.

(6) The development agency or any person who made submissions or observations in respect of the draft planning scheme may, for stated reasons, within 4 weeks of the date of the decision of the planning authority appeal the decision of the planning authority to the Board.

F700**[**(7) (*a*) Following consideration of an appeal made under this section, the Board may—

(i) subject to *paragraph (b)* and *(c)* and *subsection (7A)*, approve the making of the planning scheme, with or without any modifications, or

(ii) refuse to approve the making of the planning scheme.

(*b*) Except where otherwise provided for by and in accordance with *paragraph (c)* and *subsection (7A)*, the Board shall not approve, on an appeal under this section, a planning scheme with a modification where it determines that the making of the modification would constitute the making of a material change in the overall objectives of the planning scheme concerned.

(*c*) If the Board determines that the making of a modification to which, but for this paragraph, *paragraph (b)* would apply—

(i) is a change of a minor nature and not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC[1] on the assessment of the effects of certain plans and programmes on the environment) or on a European site, then it may approve the planning scheme with such a modification and notify the planning authority or each planning authority for the area or areas concerned, of the modification, or

[1] O.J. No. L197, 21.7.2001 p.30

(ii) constitutes the making of a material change but would not constitute a change in the overall objectives of the planning scheme concerned, then, subject to *subsection (7A)*, it shall approve the planning scheme with such modification.

(*d*) Where the Board approves the making of a planning scheme in accordance with *paragraph (a)* or *(c)*, the planning authority shall, as soon as practicable, publish notice of the approval of the scheme in at least one newspaper circulating in its area, and shall state that a copy of the planning scheme is available for inspection at a stated place or places, a copy of which shall be made available for inspection accordingly.**]**

F702**[**(7A) (*a*) Before making a decision under *subsection (7)(c)(ii)* in respect of a planning scheme, the Board shall—

(i) determine whether the extent and character of the modification it is considering are such that the modification, if it were made, would be likely to have a significant effect on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, and

(ii) for the purpose of so determining, the Board shall have reached a final decision as to what is the extent and character of any alternative amendment, the making of which it is also considering.

(*b*) If the Board determines that the making of a modification referred to in *subsection (7)(c)(ii)* —

(i) is not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, then it may approve the planning scheme concerned with the modification, or

(ii) is likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) [2] or on a European site, then it shall require the relevant planning authority to undertake a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, in relation to the making of the proposed modification.

(*c*) Before making a determination under *subsection (7)(c)(ii)*, the Board shall require the relevant planning authority—

(i) to send notice and copies of the proposed modification of the planning scheme concerned to the Minister and the prescribed authorities, and

(ii) to publish a notice of the proposed modification of the planning scheme concerned in one or more newspapers circulating in that area,

and every such notice shall state—

(I) the reason or reasons for the proposed modification,

(II) that a copy of the proposed modification, along with any assessment undertaken in accordance with *paragraph (b)(ii)*, may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks, and

(III) that written submissions or observations with respect to the proposed modification may be made to the planning authority within the stated period, being a period of not less than 4 weeks, and any such submissions or observations will be taken into consideration before making a decision on the proposed modification,

[2] O.J. No. L197, 21.7.2001 p.30

and the copy of the proposed modification shall be made available for inspection accordingly.

(*d*) Not later than 8 weeks after giving notice under *paragraph (c)*, or such additional time as may be required to complete any assessment that may be required pursuant to *subsection (7A)(b)(ii)* and agreed with the Board, the planning authority shall prepare a report on any submissions or observations received as a consequence of that notice and shall submit the report to the Board for its consideration.

(*e*) A report under *paragraph (d)* shall—

(i) list the persons or bodies who made submissions or observations for the purposes of *paragraph (c)(III)*,

(ii) summarise the issues raised in the submissions or observations so made,

(iii) include, where and if required for the purposes of *subsection (7A)(b)(ii)*, either or both—

(I) the environmental report and strategic environmental assessment, and

(II) the Natura impact report and appropriate assessment,

of the planning authority, and

(iv) give the response of the planning authority to the issues raised, taking account of the proper planning and sustainable development of the area, the overall objectives of the planning scheme, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(*f*) Where a report has been submitted to the Board under *paragraph (d)*, the planning authority concerned shall, upon being requested by the Board, provide it with copies of such submissions or observations to which that paragraph relates as are so requested.

(*g*) The Board shall have regard to any report prepared in accordance with *paragraphs (d)* and *(e)*, and

(*h*) Subject to any obligations that may arise under *Part XAB*, if the Board makes a determination to make a modification as referred to in *subsection (7)(c)(ii)*, it shall—

(i) approve the planning scheme with the modification accordingly,

(ii) notify the planning authority or each planning authority for the area or areas concerned of the modification, and

(iii) notify any person who made a submission or observation in accordance with *paragraph (c)(III)* of the determination under *subsection (7)(c)*.**]**

(8) In considering a draft planning scheme under this section a planning authority or the Board, as the case may be, shall consider the proper planning and sustainable development of the area and consider the provisions of the development plan, the provisions of the housing strategy, F703**[**any specific planning policy requirements contained in guidelines under *subsection (1)* of *section 28*,**]** the provisions of any special amenity area order or the conservation and preservation of any European Site and, where appropriate—

(*a*) the effect the scheme would have on any neighbouring land to the land concerned,

(*b*) the effect the scheme would have on any place which is outside the area of the planning authority, and

(*c*) any other consideration relating to development outside the area of the planning authority, including any area outside the State.

F703**[**(8A) (*a*) A planning scheme that contains a provision that contravenes any specific planning policy requirement in guidelines under *subsection (1)* of *section 28* shall be deemed to have been made, under *paragraph (b)* of *subsection (4)* of *section 169*, subject to the deletion of that provision.

(*b*) Where a planning scheme contravenes a specific planning policy requirement in guidelines under *subsection (1)* of *section 28* by omission of a provision in compliance with that requirement, the planning scheme shall be deemed to have been made under *paragraph (b)* of *subsection (4)* of *section 169* subject to the addition of that provision.**]**

(9) A planning scheme made under this section shall be deemed to form part of any development plan in force in the area of the scheme until the scheme is revoked, and any contrary provisions of the development plan shall be superseded.

Annotations

Amendments:

F699 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 63, 64, S.I. No. 436 of 2018.

F700 Substituted (29.12.2015) by *Planning and Development (Amendment) Act 2015* (63/2015), s. 5(a), (b), commenced on enactment.

F701 Substituted and inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 51, S.I. No. 477 of 2010.

F702 Inserted (29.12.2015) by *Planning and Development (Amendment) Act 2015* (63/2015), s. 5(b), commenced on enactment.

F703 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 31(a), (b), S.I. No. 436 of 2018.

Editorial Notes:

E330 Deciding to make, subject to variations and modifications, or deciding not to make a draft planning scheme for strategic development zones is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 item 73 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

E331 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E332 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E333 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E334 Previous affecting provision: power pursuant to section exercised (1.11.2000) by *Planning and Development Regulations 2000* (S.I. No. 350 of 2000); revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

E335 Previous affecting provision: subs. (7)(a) substituted and (aa) inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 51, S.I. No. 477 of 2010; substituted as per F-note above.

Application for development in strategic development zone.

170.—(1) Where an application is made to a planning authority under *section 34* for a development in a strategic development zone, that section and any permission regulations shall apply, subject to the other provisions of this section.

(2) F704**[**Subject to the provisions of *Part X* or *Part XAB*, or both of those Parts as appropriate, a planning authority shall**]** grant permission in respect of an application for a development in a strategic development zone where it is satisfied that the development, where carried out in accordance with the application or subject to any conditions which the planning authority may attach to a permission, would be consistent with any planning scheme in force for the land in question, and no permission shall be granted for any development which would not be consistent with such a planning scheme.

(3) Notwithstanding *section 37*, no appeal shall lie to the Board against a decision of a planning authority on an application for permission in respect of a development in a strategic development zone.

(4) Where the planning authority decides to grant permission for a development in a strategic development zone, the grant shall be deemed to be given on the date of the decision.

Annotations

Amendments:

F704 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 30, S.I. No. 474 of 2011.

Editorial Notes:

E336 Previous affecting provision: subs. (2) amended by *Planning and Development (Amendment) Act 2010* (30/2010), s. 52, not commenced; repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. No. 474 of 2011.

F705**[**Amendment of planning scheme.

170A.—(1) A planning authority may, on its own behalf where it is promoting a planning scheme, or on behalf of a development agency which is promoting a planning scheme, make an application to the Board to request an amendment under this section to a planning scheme.

(2) Where an application under *subsection (1)* has been made, the Board shall make a decision, in a manner provided for by this section, as to whether the making of the amendment to which the request relates would constitute the making of a material change to the planning scheme.

(3) (*a*) Where the amendment F706**[**fails to satisfy**]** each of the criteria referred to in *subparagraphs (i)* to *(iv)* of *paragraph (b)* F707**[**...**]**, the Board shall require the planning authority to amend the planning scheme in compliance with the procedure laid down in section 169 and that section shall be construed and have effect accordingly.

(*b*) The criteria referred to in *paragraph (a)* are that the amendment to the planning scheme concerned—

(i) would not constitute a change in the overall objectives of the planning scheme concerned,

(ii) would not relate to already developed land in the planning scheme,

F708**[**(iii) would not significantly increase or decrease the overall floor area or density of proposed development, and

(iv) would not adversely affect or diminish the amenity of the area that is the subject of the proposed amendment.**]**

(v) F709**[**...**]**

(4) If the Board determines that the making of the amendment to a planning scheme—

(*a*) is a change of a minor nature and not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment) or on a European site, then it may approve the making of the amendment to the planning scheme and notify the planning authority or each planning authority for the area or areas concerned, of the amendment, or

(*b*) constitutes the making of a material change but is within the criteria set out in *subsection (3)(b)*, then, subject to *subsection (5)*, it may approve the making of the amendment to the planning scheme with such amendment, or an alternate amendment, being an amendment that would be different from that to which the request relates but would not represent, in the opinion of the Board, a more significant change than that which was proposed.

(5) Before making a determination to which *subsection (4)(b)* would relate, the Board shall establish whether or not the extent and character—

(*a*) of the amendment to which *subsection (1)* relates, and

(*b*) of any alternative amendment it is considering and to which *subsection (4)(b)* relates,

are such that, if the amendment were to be made, it would be likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site and, for that purpose, the Board shall have reached a final decision as to what is the extent and character of any alternative amendment, the making of which it is also considering.

(6) If the Board determines that the making of either kind of amendment referred to in *subsection (4)(b)* —

(*a*) is not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, it shall proceed to make a determination under *subsection (4)(b)*, or

(*b*) is likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, then it shall require the planning authority to undertake a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, in relation to the making of the proposed amendment or alternative amendment.

(7) Before making a determination to which *subsection (4)(b)* would relate, the Board shall require the planning authority concerned—

(*a*) to send notice and copies of the proposed amendment of the planning scheme concerned to the Minister and the prescribed authorities, and

(*b*) to publish a notice of that proposed amendment in one or more newspapers circulating in the area concerned,

and every such notice shall state—

(i) the reason or reasons for the proposed amendment,

(ii) that a copy of the proposed amendment, along with any assessment undertaken according to *subsection (6)(b)*, may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks, and

(iii) that written submissions or observations with respect to the proposed amendment may be made to the planning authority within the stated period, being a period of not less than 4 weeks, and any such submissions or observations will be taken into consideration before making a decision on the proposed amendment,

and the copy of the proposed amendment shall be made available for inspection accordingly.

(8) Not later than 8 weeks after giving notice under *subsection (7)*, or such additional time as may be required to complete any assessment that may be required pursuant to *subsection (6)(b)* and agreed with the Board, the planning authority shall prepare a report on any submissions or observations received as a consequence of that notice and shall submit the report to the Board for its consideration.

(9) A report under *subsection (8)* shall—

(*a*) list the persons or bodies who made submissions or observations for the purposes of *subsection (7)(iii)*,

(*b*) summarise the issues raised in the submissions or observations so made,

(*c*) include, where and if required for the purposes of *subsection (6)(b)*, either or both—

(i) the environmental report and strategic environmental assessment, and

(ii) the Natura impact report and appropriate assessment,

of the planning authority, and

(*d*) give the response of the planning authority to the issues raised, taking account of the proper planning and sustainable development of the area, the overall objectives of the planning scheme, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(10) The Board shall have regard to any report prepared in accordance with *subsections (8)* and *(9)*.

(11) Subject to any obligations that may arise under *Part XAB*, if the Board makes a determination to make an amendment of any kind referred to in *subsection (4)*, it shall—

(*a*) approve the making of an amendment to the planning scheme accordingly,

(*b*) notify the planning authority or each planning authority for the area or areas concerned of the amendment, and

(*c*) notify any person who made a submission or observation in accordance *subsection (7)(iii)* of its determination under *subsection (4)*.

(12) The amendment of a planning scheme shall not prejudice the validity of any planning permission granted or anything done in accordance with the terms of the scheme before it was amended except in accordance with the terms of this Act.

(13) Without prejudice to the generality of *subsection (12)*, *sections 40* and *42* shall apply to any permission granted under this Part.**]**

Annotations

Amendments:

F705 Inserted (29.12.2015) by *Planning and Development (Amendment) Act 2015* (63/2015), s. 6, commenced on enactment.

F706 Substituted (28.12.2016) by *Courts Act 2016* (22/2016), s. 5(a), commenced on enactment.

F707 Deleted (28.12.2016) by *Courts Act 2016* (22/2016), s. 5(a), commenced on enactment.

F708 Substituted (28.12.2016) by *Courts Act 2016* (22/2016), s. 5(b), commenced on enactment.

F709 Deleted (28.12.2016) by *Courts Act 2016* (22/2016), s. 5(b), commenced on enactment.

Editorial Notes:

E337 The section heading is taken from the amending section in the absence of one included in the amendment.

Revocation of planning scheme.

F710**[171.**—(1) A planning authority may by resolution, with the consent of the relevant development agency, revoke a planning scheme made under this Part.

(2) Notice of the revocation of a planning scheme under this section shall be given in at least one newspaper circulating in the area of the planning authority.

(3) The revocation of a planning scheme shall not prejudice the validity of any planning permission granted or anything done in accordance with the terms of the scheme before it was revoked except in accordance with the terms of this Act.

(4) Without prejudice to the generality of *subsection (3)*, *sections 40* and *42* shall apply to any permission granted under this Part.**]**

Annotations

Amendments:

F710 Substituted (29.12.2015) by *Planning and Development (Amendment) Act 2015* (63/2015), s. 7, commenced on enactment.

Editorial Notes:

E338 Amending or revoking a planning scheme for strategic development zones is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 item 74 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

PART X

Environmental Impact Assessment

F711**[**Interpretation.

F712**[171A.**—In this Part—

"environmental impact assessment" means a process—

(*a*) consisting of—

(i) the preparation of an environmental impact assessment report by the applicant in accordance with this Act and regulations made thereunder,

(ii) the carrying out of consultations in accordance with this Act and regulations made thereunder,

(iii) the examination by the planning authority or the Board, as the case may be, of—

(I) the information contained in the environmental impact assessment report,

(II) any supplementary information provided, where necessary, by the applicant in accordance with *section 172(1D)* and *(1E)*, and

(III) any relevant information received through the consultations carried out pursuant to *subparagraph (ii)*,

(iv) the reasoned conclusion by the planning authority or the Board, as the case may be, on the significant effects on the environment of the proposed development, taking into account the results of the examination carried out pursuant to *subparagraph (iii)* and, where appropriate, its own supplementary examination, and

(v) the integration of the reasoned conclusion of the planning authority or the Board, as the case may be, into the decision on the proposed development, and

(*b*) which includes—

(i) an examination, analysis and evaluation, carried out by the planning authority or the Board, as the case may be, in accordance with this Part and regulations made thereunder, that identifies, describes and assesses, in an appropriate manner, in the light of each individual case, the direct and indirect significant effects of the proposed development on the following:

(I) population and human health;

(II) biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive;

(III) land, soil, water, air and climate;

(IV) material assets, cultural heritage and the landscape;

(V) the interaction between the factors mentioned in *clauses (I)* to *(IV)*, and

(ii) as regards the factors mentioned in *subparagraph (i)(I)* to *(V)*, such examination, analysis and evaluation of the expected direct and indirect significant effects on the environment derived from the vulnerability of the proposed development to risks of major accidents or disasters, or both major accidents and disasters, that are relevant to that development;

"proposed development" means proposed development within the meaning of *section 172(1A)(a)*.**]]**

Annotations

Amendments:

F711 Inserted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 53, S.I. No. 405 of 2010.

F712 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 16, in effect as per reg. 2(1).

Editorial Notes:

E339 Previous affecting provision: subs. (1) amended (31.10.2012) by *European Union (Environmental Impact Assessment) (Planning and Development Act, 2000) Regulations 2012* (S.I. No. 419 of 2012), reg. 2(b), substituted as per F-note above.

E340 Previous affecting provision: section inserted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 53, S.I. No. 405 of 2010, substituted as per F-note above.

Requirement for environmental impact statement.

F713**[172.**—F714**[**(1) An environmental impact assessment shall be carried out by the planning authority or the Board, as the case may be, in respect of an application for consent for proposed development where either—

(*a*) the proposed development would be of a class specified in—

(i) Part 1 of Schedule 5 of the Planning and Development Regulations 2001, and either—

(I) such development F715**[**would equal or exceed, as the case may be,**]** any relevant quantity, area or other limit specified in that Part, or

(II) no quantity, area or other limit is specified in that Part in respect of the development concerned,

or

(ii) Part 2 F716**[**(other than subparagraph (a) of paragraph 2)**]** of Schedule 5 of the Planning and Development Regulations 2001 and either—

(I) such development F717**[**would equal or exceed, as the case may be,**]** any relevant quantity, area or other limit specified in that Part, or

(II) no quantity, area or other limit is specified in that Part in respect of the development concerned,

or

(*b*) (i) the proposed development would be of a class specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001 but F718**[**does not equal or exceed, as the case may be,**]** the relevant quantity, area or other limit specified in that Part, and

F719**[**(ii) it is concluded, determined or decided, as the case may be,—

(I) by a planning authority, in exercise of the powers conferred on it by this Act or the Planning and Development Regulations 2001 (S.I. No. 600 of 2001),

(II) by the Board, in exercise of the powers conferred on it by this Act or those regulations,

(III) by a local authority in exercise of the powers conferred on it by regulation 120 of those regulations,

(IV) by a State authority, in exercise of the powers conferred on it by regulation 123A of those regulations,

(V) in accordance with section 13A of the Foreshore Act, by the appropriate Minister (within the meaning of that Act), or

(VI) by the Minister for Communications, Climate Action and Environment, in exercise of the powers conferred on him or her by section 8A of the Minerals Development Act 1940,

that the proposed development is likely to have a significant effect on the environment.**]]**

(1A) In *subsection (1)*—

(*a*) "proposed development" means—

(i) a proposal to carry out one of the following:

(I) development to which *Part III* applies;

(II) development that may be carried out under *Part IX*;

F720**[**(III) development that may be carried out by a local authority under Part X or development that may be carried out under *Part XI*;**]**

(IV) development on the foreshore under *Part XV*;

(V) development under section 43 of the Act of 2001;

(VI) development under section 51 of the Roads Act 1993; F721**[**...**]**

F722**[**(VII) development to which *Chapter III* of *Part XXI* applies; and**]**

(ii) notwithstanding that development has been carried out, development in relation to which an application for substitute consent is required under *Part XA*;

(*b*) "consent for proposed development" means, as appropriate—

(i) grant of permission;

(ii) a decision of the Board to grant permission on application or on appeal;

(iii) consent to development under *Part IX*;

F720**[**(iv) consent to development that may be carried out by a local authority under Part X or development that may be carried out under *Part XI*;**]**

(v) consent to development on the foreshore under *Part XV*;

(vi) consent to development under section 43 of the Act of 2001;

(vii) consent to development under section 51 of the Roads Act 1993; or

(viii) substitute consent under *Part XA*.

F723**[**(1B) An applicant for consent to carry out a proposed development referred to in *subsection (1)(a)* shall furnish an environmental impact assessment report, which shall be prepared by experts with the competence to ensure its completeness and quality, to the planning authority or the Board, as the case may be, in accordance with the permission regulations.**]**

F720**[**(1C) Where the planning authority or the Board receives an application for consent for proposed development referred to in *paragraph (b)* of *subsection (1)* in relation to which the authority or the Board has made a determination referred to in that paragraph, and the application is not F724**[**accompanied by an environmental impact assessment report**]**, the planning authority or Board, as the case may be, shall require the applicant to submit an F725**[**environmental impact assessment report and where the environmental impact assessment report**]** is not submitted within the period specified, or any further period as may be specified by the planning authority or the Board, the application for consent for the proposed development shall be deemed to be withdrawn.**]]**

F726**[**F727**[**(1D)(*a*) The planning authority or the Board, as the case may be, shall consider whether an environmental impact assessment report submitted

under this section identifies and describes adequately the direct and indirect significant effects on the environment of the proposed development.

(*b*) Where the planning authority or the Board, as the case may be, considers that the environmental impact assessment report does not identify or adequately describe such effects, it shall require the applicant for consent to furnish, within a specified period, such further information, prescribed under *section 177*, which is necessary to ensure the completeness and quality of the environmental impact assessment report and which is directly relevant to reaching the reasoned conclusion on the significant effects on the environment of the proposed development, as the planning authority or the Board, as the case may be, considers necessary to remedy such defect.**]**

(1E) In addition to any requirement arising under *subsection (1D)*, the planning authority or the Board, as the case may be, shall require an applicant for consent to furnish, within a specified period, any further information that the planning authority or the Board considers necessary to enable it to carry out an environmental impact assessment under this section.

(1F) Where information required by the planning authority or the Board under *subsection (1D)* or *subsection (1E)* is not furnished by the applicant for consent within the period specified, or any further period as may be specified by the planning authority or the Board, the application for consent for the proposed development shall be deemed to be withdrawn.

(1G) In carrying out an environmental impact assessment under this section the planning authority or the Board, as the case may be, shall consider—

(*a*) the F728**[**environmental impact assessment report**]**;

(*b*) any further information furnished to the planning authority or the Board pursuant to *subsections (1D)* or *(1E)*;

(*c*) any submissions or observations validly made in relation to the environmental effects of the proposed development;

(*d*) the views, if any, provided by any other Member State under *section 174* or Regulations made under that section.

F729**[**(1GA)(*a*) *Paragraph (b)* applies where an environmental impact assessment under this section and an appropriate assessment following a determination under *section 177U(4)* are required to be carried out simultaneously in respect of the same development.

(*b*) The planning authority or the Board, as the case may be, shall coordinate the 2 assessments.**]**

(1H) In carrying out an environmental impact assessment under this section the planning authority or the Board, as the case may be, F730**[**shall ensure it has, or has access as necessary to, sufficient expertise to examine the environmental impact assessment report to ensure its completeness and quality and**]** may have regard to and adopt in whole or in part any reports prepared by its officials or by consultants, experts or other advisers.

F731**[**(1I)(*a*) Where the planning authority or the Board, as the case may be, decides to grant consent for the proposed development, it shall—

(i) attach such conditions, if any, to the grant as it considers necessary, to avoid, prevent or reduce and, if possible, offset the significant adverse effects on the environment of the proposed development,

(ii) in the decision, specify the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent or reduce and, if

possible, offset the significant adverse effects on the environment of the proposed development, and

(iii) subject to *paragraph (b)*, where appropriate, specify in the decision measures to monitor the significant adverse effects on the environment of the proposed development, being measures which, as regards the types of parameters to be monitored and the duration of the monitoring, are proportionate to the nature, location and size of the proposed development and the significance of the effects on the environment of the proposed development.

(*b*) Where the planning authority or the Board, as the case may be, decides to grant consent for the proposed development, it may, if appropriate to avoid duplication of monitoring, and without prejudice to existing monitoring arrangements pursuant to national or European Union legislation (other than the Environmental Impact Assessment Directive), identify those arrangements (or such of those arrangements as it thinks appropriate in the particular case) to be used for the purpose of *paragraph (a)(iii)*.**]**

(1J) When the planning authority or the Board, as the case may be, has decided whether to grant or to refuse consent for the proposed development, it shall inform the applicant for consent and the public of the decision and shall make the following information available to the applicant for consent and the public:

(*a*) the content of the decision and any conditions attached thereto;

(*b*) an evaluation of the direct and indirect F732**[**significant effects of the proposed development on the matters set out in *paragraph (b)* of the definition of "environmental impact assessment" in *section 171A*];

(*c*) having examined any submission or observation validly made,

(i) the main reasons and considerations on which the decision is based, and

(ii) the main reasons and considerations for the attachment of any conditions, including reasons and considerations arising from or related to submissions or observations made by a member of the public;

(*d*) F733**[**...**]**

(*e*) any report referred to in *subsection (1H)*;

(*f*) information for the public on the procedures available to review the substantive and procedural legality of the decision, and

(*g*) the views, if any, furnished by other Member States of the European Union pursuant to *section 174*.**]**

(2) In addition to the matters set out in *section 33(2)*, the Minister may make permission regulations in relation to the submission of planning applications which are to be accompanied by F734**[**environmental impact assessment reports**]**.

(3) F735**[**(*a*)(i) At the request of an applicant or of a person intending to apply for permission, the Board may take the action specified in *subparagraph (ii)* after having afforded the planning authority concerned an opportunity to furnish observations on the request and where the Board is satisfied that—

(I) exceptional circumstances so warrant,

(II) the application of the requirement to prepare an environmental impact assessment report would adversely affect the purpose of the proposed development, and

(III) the objectives of the Environmental Impact Assessment Directive are otherwise met.

(ii) Subject to *subparagraph (iii)*, the Board may grant in respect of the proposed development an exemption from a requirement of or under regulations under this section to prepare an environmental impact assessment report.

(iii) No exemption may be granted under *subparagraph (ii)* in respect of the proposed development if another Member State of the European Union or other state party to the Transboundary Convention, having been informed about the proposed development and its likely significant effects on the environment in that State or state, as the case may be, has indicated that it intends to furnish views on those effects.**]**

F736**[**(*b*) The Board shall, in granting an exemption under *paragraph (a)*, —

(i) consider whether the effects, if any, of the proposed development on the environment should be assessed in some other form, and

(ii) make available to members of the public the information relating to the exemption decision referred to under *paragraph (a)*, the reasons for granting such exemption and the information obtained under any other form of assessment referred to in *subparagraph (i)*,

and the Board may apply such requirements regarding these matters in relation to the application for permission as it considers necessary or appropriate.**]**

(*c*) The Board shall, as soon as may be, notify the planning authority concerned of the Board's decision on any request made under *paragraph (a)*, and of any requirements applied under *paragraph (b)*.

(*d*) Notice of any exemption granted under *paragraph (a)*, of the reasons for granting the exemption, and of any requirements applied under *paragraph (b)* shall, as soon as may be—

(i) be published in *Iris Oifigiúil* and in at least one daily newspaper published in the State,

(ii) be given, together with a copy of the information, if any, made available to the members of the public in accordance with *paragraph (b)*, to the Commission of the European Communities.

(4) (*a*) A person who makes a request to the Board for an exemption under *subsection (3)* shall, as soon as may be, inform the planning authority concerned of the making of the request and the date on which it was made.

(*b*) Notwithstanding *subsection (8)* of *section 34*, the period for making a decision referred to in that subsection shall not, in a case in which a request is made to the Board under *subsection (3)* of this section, include the period beginning on the day of the making of the request and ending on the day of receipt by the planning authority concerned of notice of the Board's decision on the request.

(5) In addition to the matters provided for under *Part VI, Chapter III*, the Minister may prescribe additional requirements in relation to the submission of appeals to the Board which are to be accompanied by F737**[**environmental impact assessment reports**]**.

Annotations

Amendments:

F713 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 54, S.I. No. 405 of 2010.

F714 Substituted (26.11.2014) by *European Union (Environmental Impact Assessment) (Planning and Development) Regulations 2014* (S.I. No. 543 of 2014), reg. 2.

F715 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 17(a)(i)(I), in effect as per reg. 2(1).

F716 Inserted (25.01.2019) by *European Union (Environmental Impact Assessment) (Peat Extraction) Regulations 2019* (S.I. No. 4 of 2019), reg. 10, in effect as per reg. 1(2).

F717 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 17(a)(i)(II), in effect as per reg. 2(1).

F718 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 17(a)(ii), in effect as per reg. 2(1).

F719 Substituted (8.10.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) (No. 2) Regulations 2018* (S.I. No. 404 of 2018), reg. 2.

F720 Substituted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 6.

F721 Deleted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 27, S.I. No. 488 of 2022.

F722 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 27, S.I. No. 488 of 2022.

F723 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 17(b), in effect as per reg. 2(1).

F724 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 37, in effect as per reg. 2(1).

F725 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 38, in effect as per reg. 2(1).

F726 Inserted (31.10.2012) by *European Union (Environmental Impact Assessment) (Planning and Development Act, 2000) Regulations 2012* (S.I. No. 419 of 2012), reg. 2(c).

F727 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 17(c), in effect as per reg. 2(1).

F728 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 39, in effect as per reg. 2(1).

F729 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 17(d), in effect as per reg. 2(1).

F730 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 17(e), in effect as per reg. 2(1).

F731 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 17(f), in effect as per reg. 2(1).

F732 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 17(g)(i), in effect as per reg. 2(1).

F733 Deleted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 17(g)(ii), in effect as per reg. 2(1).

F734 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 40, in effect as per reg. 2(1).

F735 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 17(h), in effect as per reg. 2(1).

F736 Substituted (19.12.2006) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 2006* (S.I. No. 659 of 2006), reg. 4, subject to transitional provision in reg. 2.

F737 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 41, in effect as per reg. 2(1).

Modifications (not altering text):

C109 Transitional arrangements provided (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 3(1)(a), in effect as per reg. 2(1).

Transitional arrangements

3. (1) Subject to paragraph (3), the Act of 2000 and the Regulations of 2001, as in force immediately before 1 September 2018, shall continue to apply to development or proposed development, as the case may be, in the following cases:

(*a*) in respect of a determination under section 172(1)(*b*) of the Act of 2000, as so in force, as to whether such development has or would be likely to have significant effects on the environment, the planning authority or the Board, as the case may be, has, before 16 May 2017, initiated making such determination;

...

(*d*) an application for consent for proposed development referred to in section 172 of the Act of 2000, as so in force, accompanied by an environmental impact statement, has been made, before 16 May 2017, relating to such development.

(2) Section 2 of the Act of 2000, as in force immediately before 1 September 2018, shall apply to the interpretation of this Regulation as that section applies to the interpretation of that Act.

(3) The Act of 2000 and the Regulations of 2001, as in force on or after 1 September 2018, shall not apply to a case referred to in paragraph (1) unless otherwise specified in a provision of that Act or those Regulations, as the case may be.

(4) In this Regulation—

"Act of 2000" means the Planning and Development Act 2000 (No. 30 of 2000);

"Regulations of 2001" means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

C110 Subs. (1A) construed during specified period (3.07.2017 to 31.12.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 20, S.I. No. 270 of 2017.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(*a*) the period from the commencement of this provision until 31 December 2019, and

(*b*) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of section 172 (requirement for environmental impact statement) of Act of 2000 during specified period

20. Subsection (1A) of section 172 of the Act of 2000 has effect during the specified period as if in paragraph (a)(i) there were inserted the following after clause (III):

"(IIIA) development to which *Chapter 1* of *Part 2* of the *Planning and Development (Housing) and Residential Tenancies Act 2016* relates;".

Editorial Notes:

E341 Power pursuant to subs. (5)(b) exercised (17.08.2022) by *Planning and Development (Amendment) Regulations 2022* (S.I. No. 419 of 2022).

E342 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E343 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E344 Previous affecting provision: subs. (1) amended (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 6 and (15.11.2011) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011* (S.I. No. 584 of 2011), reg. 5; subs. (1) substituted as per F-note above.

E345 Previous affecting provision: subss. (1)(a) and (b) substituted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 5; superseded as per F-note above.

E346 Previous affecting provision: subss. (1A)(a)(i)(III), (b)(iv) and (1B) substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 54, S.I. No. 405 of 2010; substituted as per F-note above.

E347 Previous affecting provision: subs. (1B) amended (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 6, substituted as per F-note above.

F738[EIA portal

172A.—The Minister shall provide, operate and maintain a website—

(*a*) to which the public has access,

(*b*) which contains summary information on applications and notifications of the intention to lodge applications for development consent subject to assessment under the Environmental Impact Assessment Directive or this Act, or both that Directive and this Act, as appropriate, and

(*c*) for the purpose of providing a point of access to the applications referred to in *paragraph (b)* and associated information, assessments and decisions held by the authorities to which the applications have been or are to be made.**]**

Annotations

Amendments:

F738 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Assessment Impact) Regulations 2018* (S.I. No. 296 of 2018), reg. 18, in effect as per reg. 2(1).

F739[Provision of information by applicants to EIA portal

172B.—(1) Subject to *subsection (2)*, an applicant for consent for proposed development shall, within the period of 2 weeks before—

(*a*) the making of an application for such consent which is to be accompanied by an environmental impact assessment report, or

(*b*) the submission of an environmental impact assessment report when required by the planning authority or the Board, as the case may be, to do so,

provide the prescribed information in electronic form to the EIA portal in the manner set out on the portal.

(2) Where it is provided for in national legislation that a person other than the applicant for consent for proposed development shall provide information to the EIA portal, that person shall, not later than public notification of a proposed development which is to be accompanied by an environmental impact assessment report, provide the prescribed information in electronic form to the EIA portal in the manner set out on the portal.**]**

Annotations

Amendments:

F739 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Assessment Impact) Regulations 2018* (S.I. No. 296 of 2018), reg. 18, in effect as per reg. 2(1).

F740**[**Response of Minister on submission of information to EIA portal

172C.—On receipt of information pursuant to *section 172B*, or in respect of any other proposed application or application for development consent for projects likely to have significant effects on the environment, the Minister shall, within 3 working days, respond to the applicant in the prescribed manner.**]**

Annotations

Amendments:

F740 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Assessment Impact) Regulations 2018* (S.I. No. 296 of 2018), reg. 18, in effect as per reg. 2(1).

Permission for development requiring environmental impact assessment.

173.—(1) In addition to the requirements of *section 34(3)* F741**[**or *Chapter III* of *Part XXI***]**, where an application in respect of which an F742**[**environmental impact assessment report was submitted**]** to the planning authority in accordance with *section 172*, the planning authority, and the Board on appeal, shall have regard to the F743**[**report, any supplementary information furnished relating to the report**]** and any submissions or observations furnished concerning the effects on the environment of the proposed development.

F744**[**F745**[**(2) (*a*)(i) *Subparagraph (ii)* applies where an applicant or a person intending to apply for permission requests the planning authority concerned to give him or her a written opinion on the scope and level of detail of the information required to be included in an environmental impact assessment report.

(ii) Subject to *subparagraph (iii)*, the planning authority shall, taking into account the information provided by the applicant or person referred to in *subparagraph (i)*, as the case may be, in particular on the specific characteristics of the proposed development, including its location and technical capacity, and its likely impact on the environment, give a written opinion on the scope and level of detail of the information to be included in an environmental impact assessment report, subject to—

(I) consultation with the Board to be carried out by the planning authority in relation to such opinion, and

(II) any prescribed consultations to be carried out by the planning authority in relation to such opinion.

(iii) The planning authority shall, in the case of the person referred to in *subparagraph (i)*, give the written opinion before the submission by that person of an application for the grant of planning permission.**]**

F746**[**(*aa*) Where an opinion referred to in *paragraph (a)* has been provided, the environmental impact assessment report shall be based on that opinion, and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects on the environment of the proposed development, taking into account current knowledge and methods of assessment.**]**

(*b*) The giving of a written opinion in accordance with *paragraph (a)* shall not prejudice the exercise by the planning authority concerned or the Board of its powers under this Act, or any regulations made thereunder, to require the person who made the request to submit further information regarding the application concerned or, as the case may be, any appeal.

(*c*) The Minister may, by regulations, provide for additional, incidental, consequential or supplementary matters as regards procedures in respect of the provision of a written opinion under *paragraph (a)*.**]**

F747**[**(3) (*a*)(i) *Subparagraph (ii)* applies where a person required by or under this Act to submit an environmental impact assessment report to the Board requests the Board to give him or her a written opinion on the scope and level of detail of the information required to be included in the report.

(ii) Subject to *subparagraph (iii)*, the Board shall, taking into account the information provided by the person referred to in *subparagraph (i)*, in particular on the specific characteristics of the proposed development, including its location and technical capacity, and its likely impact on the environment, give a written opinion on the scope and level of detail of the information to be included in the environmental impact assessment report, subject to any prescribed consultations to be carried out by the Board in relation to such opinion.

(iii) The Board shall give the written opinion before the submission by the person referred to in *subparagraph (i)* of the environmental impact assessment report.**]**

F748**[**(*aa*) Where an opinion referred to in *paragraph (a)* has been provided, the environmental impact assessment report shall be based on that opinion, and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects on the environment of the proposed development, taking into account current knowledge and methods of assessment.**]**

(*b*) The giving of a written opinion in accordance with *paragraph (a)* shall not prejudice the exercise by the Board of its powers pursuant to this Act or any regulations under this Act, to require the applicant to submit specified information in relation to any appeal to which the F749**[**environmental impact assessment report**]** relates.

(*c*) The Minister may make regulations in relation to the making of a request or providing an opinion to which this subsection relates.

Annotations

Amendments:

F741 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 28, S.I. No. 488 of 2022.

F742 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 42, in effect as per reg. 2(1).

F743 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 43, in effect as per reg. 2(1).

F744 Substituted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 32, S.I. No. 684 of 2006.

F745 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 19(a), in effect as per reg. 2(1).

F746 Inserted (1.09.2018) by *European Union (Planning and Planning) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 19(a), in effect as per reg. 2(1).

F747 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 19(b), in effect as per reg. 2(1).

F748 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 19(b), in effect as per reg. 2(1).

F749 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 44, in effect as per reg. 2(1).

Modifications (not altering text):

C111 Note transitional arrangements provided (21.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 3(1)(b)(i), in effect as per reg. 2(1).

Transitional arrangements

3. (1) Subject to *paragraph (3)*, the Act of 2000 and the Regulations of 2001, as in force immediately before 1 September 2018, shall continue to apply to development or proposed development, as the case may be, in the following cases:

...

(*b*) a request has been made, before 16 May 2017—

(i) under section 37D (1), 173(2)(*a*) or (3)(*a*), 181C(3)(*b*) or 182E(3) of the Act of 2000, as so in force, for an opinion to be given or provided by the planning authority or the Board, as the case may be, on the information required to be contained in an environmental impact statement relating to such development, or

...

(2) Section 2 of the Act of 2000, as in force immediately before 1 September 2018, shall apply to the interpretation of this Regulation as that section applies to the interpretation of that Act.

(3) The Act of 2000 and the Regulations of 2001, as in force on or after 1 September 2018, shall not apply to a case referred to in *paragraph (1)* unless otherwise specified in a provision of that Act or those Regulations, as the case may be.

(4) In this Regulation—

"Act of 2000" means the Planning and Development Act 2000 (No. 30 of 2000);

"Regulations of 2001" means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

Editorial Notes:

E348 Power pursuant to subs. (3)(c) exercised (8.12.2022) by *Planning and Development (Amendment) (No. 3) Regulations 2022* (S.I. No. 647 of 2022).

E349 Power pursuant to section exercised (21.12.2006) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E350 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

F750**[**Environmental impact assessment and integrated pollution prevention and control licences.

173A.—(1) In this section—

"Act of 1992" means the Environmental Protection Agency Act 1992;

"activity" shall have the meaning assigned to it by section 3 of the Act of 1992;

"application for a licence" means, in relation to F751**[**a licence**]** under Part IV of the Act of 1992, an application made to the Environmental Protection Agency—

(*a*) for such a licence under section 83 of the Act of 1992, or

(*b*) by the licensee under section 90(1)(*b*) of the Act of 1992 for a review of such a licence or a revised licence;

F752**[**"application for permission" means—

(*a*) an application for permission for development under *Part III*,

(*b*) an application for permission for development under *section 291*,

(*c*) an application for approval for development under *section 175*, *177AE*, F753**[***181(2A)*,**]** *181A*, *182A*, *182C* or *226*,

(*d*) an application for substitute consent under *section 177E*, or

(*e*) a request under *section 297*;**]**

F752**[**"grant of permission" means—

(*a*) a grant of permission for development under *Part III*,

(*b*) a grant of permission for development under *section 293*,

(*c*) an approval for development under *section 175*, *177AE*, *181B*, *182D* or *226*,

(*d*) a grant of substitute consent under *section 177K*, or

(*e*) a decision under *section 299* consisting of the grant of an alteration of the terms of a permission for development.**]**

(2) Where a planning authority or the Board is considering an application for permission and is requested by the applicant for a grant of permission F753**[**or, in the case of an application for approval under *section 181(2A)*, the applicant for a licence under Part IV of the Act of 1992 in respect of an activity to which the application for approval relates,**]** to confirm in writing that the development the subject of the application for permission relates to an activity in respect of which F751**[**a licence**]** under Part IV of the Act of 1992 is required, the planning authority or the Board shall, as soon as possible, confirm in writing that the development the subject of the application for permission so relates to the activity.

(3) Where a request is made by an applicant under *subsection (2)* and the application for permission concerned was not accompanied by an F754**[**environmental impact assessment report and the planning authority or the Board did not require the submission of an environmental impact assessment report**]**, the planning authority or the Board shall on a request in that behalf made to it by the applicant, also provide written confirmation to the applicant that an environmental impact assessment in respect of the development concerned is not required by or under this Act F753**[**or was exempted, in accordance with this Act, from being so required**]**.

F753**[**(3A) Where a grant of permission has been issued, or an order under *section 181(2)(a)* has been made, in respect of a proposed development comprising or for the purposes of an activity in respect of which a licence under Part IV of the Act of 1992 is required, and the application for permission in respect of the development was not accompanied by an environmental impact assessment report and the planning authority or the Board did not require the submission of an environmental impact assessment report, the planning authority or the Board shall, on a request in that behalf made to it by –

(*a*) the applicant for the grant of permission, or

(*b*) in a case where an order has been made under *section 181(2)(a)*, the applicant for the licence under Part IV of the Act of 1992 in respect of the activity concerned,

also provide written confirmation to the applicant concerned that an environmental impact assessment in respect of the development is not required by or under this Act, or was exempted, in accordance with this Act, from being so required.**]**

F751**[**(4) Where a planning authority or the Board receives a notice and request from the Environmental Protection Agency under section 87(1D)(a) or 87(1E)(a) of the Act of 1992, the planning authority or Board shall – (a) comply with the request within the period specified in the request, and (b) enter into consultations, as referred to in section 87(1D)(c) or 87(1E)(c), as the case may be, with the Environmental Protection Agency.**]**

(5) Where a planning authority or the Board is considering an application for permission in respect of development—

(*a*) of a class prescribed by regulations under *section 176* that does not exceed a quantity, area or limit prescribed under those regulations,

(*b*) in respect of which the planning authority or the Board is obliged under this Act to make a determination whether an environmental impact assessment is required, and

(*c*) in respect of which application for permission the planning authority or the Board consider F751**[**a licence**]** under Part IV of the Act of 1992 is required,

the planning authority or the Board shall request observations from the Agency to assist the planning authority or the Board in its deliberations in relation to the determination referred to in paragraph (*b*) and shall take into account any such observations when making that determination.

(6) Where a person makes an application for permission in respect of development under this Act and has made, intends to make or is considering making an application for F751**[**a licence under Part IV**]** under Part IV of the Act of 1992 in respect of an activity relating to that development, the person shall so notify the planning authority or the Board when making the application for permission.**]**

F755**[**(7) Where a planning authority receives a notification from the Environmental Protection Agency that it has received an application for a licence to which section 87(1I) of the Act of 1992 applies, the planning authority shall—

(*a*) within 4 weeks of the date of receipt of the notification from the Environmental Protection Agency, respond to the Agency, forwarding any observations that it has in relation to the application for a licence including any observations on the F756**[**environmental impact assessment report**]**, and

(*b*) enter into consultations with the Environmental Protection Agency, as the Agency considers appropriate, in relation to any environmental impacts of the proposed activity to which the application for a licence relates.**]**

Annotations

Amendments:

F750 Inserted (30.09.2012) by *European Union (Environmental Impact Assessment) (Integrated Pollution Prevention and Control) Regulations 2012* (S.I. No. 282 of 2012), reg. 8.

F751 Substituted (20.12.2022) by *European Union (Planning and Development) (Habitats and Environmental Impact Assessment) Regulations 2022* (S.I. No. 708 of 2022), reg. 3(a)(i), (b)(ii), (e)-(g).

F752 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 29, S.I. No. 488 of 2022.

F753 Inserted (20.12.2022) by *European Union (Planning and Development) (Habitats and Environmental Impact Assessment) Regulations 2022* (S.I. No. 708 of 2022), reg. 3(a)(ii), (b)(i), (c), (d).

F754 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 45, in effect as per reg. 2(1).

F755 Inserted (15.11.2012) by *European Union (Environmental Impact Assessment) (Integrated Pollution Prevention and Control) (No. 2) Regulations 2012* (S.I. No. 457 of 2012), reg. 6.

F756 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 46, in effect as per reg. 2(1).

Environmental impact assessment and waste licences.

F757[**173B.**—(1) In this section—

"Act of 1996" means the Waste Management Act 1996;

"activity" shall be construed in accordance with section 4 of the Act of 1996;

"application for a licence" means, in relation to a waste licence under Part V of the Act of 1996, an application made to the Environmental Protection Agency—

(*a*) for such a licence under section 40 of the Act of 1996, or

(*b*) by the holder of the licence, for a review of a waste licence under section 46 of the Act of 1996;

F758["application for permission" means—

(*a*) an application for permission for development under *Part III*,

(*b*) an application for permission for development under *section 291*,

(*c*) an application for approval for development under *section 175*, *177AE*, *181A*, *182A*, *182C* or *226*,

(*d*) an application for substitute consent under *section 177E*, or

(*e*) a request under *section 297*;

"grant of permission" means—

(*a*) a grant of permission for development under *Part III*,

(*b*) a grant of permission for development under *section 293*,

(*c*) an approval for development under *section 175*, *177AE*, *181B*, *182D*, or *226*,

(*d*) a grant of substitute consent under *section 177K*, or

(*e*) a decision under *section 299* consisting of the grant of an alteration of the terms of a permission for development;**]**

(2) Where a planning authority or the Board is considering an application for permission and is requested by the applicant for a grant of permission to confirm in writing that the development the subject of the application for permission relates to an activity in respect of which a waste licence under Part V of the Act of 1996 is required, the planning authority or the Board shall, as soon as possible, confirm in writing that the development the subject of the application for permission so relates to the activity.

(3) Where a request is made by an applicant under *subsection (2)* and the application for permission concerned was not accompanied by an F759**[**environmental impact assessment report and the planning authority or the Board did not require the submission of an environmental impact assessment report**]**, the planning authority or the Board shall on a request in that behalf made to it by the applicant, also provide written confirmation to the applicant that an environmental impact assessment in respect of the development concerned is not required by or under this Act.

(4) Where a grant of permission has been issued for a development comprising or for the purposes of an activity in respect of which a waste licence under Part V of the Act of 1996 is required and the relevant planning authority or the Board is requested by the Environmental Protection Agency, in connection with an application for a licence, to—

(*a*) state whether the activity to which the application for a licence relates is permitted by the grant of permission that has been issued, and

(*b*) furnish a copy of all documents relating to the environmental impact assessment carried out in respect of the proposed development, and

(*c*) furnish any observations it has in relation to the application for a licence,

the planning authority or the Board shall comply with the request within the period specified in the request by the Environmental Protection Agency.

(5) Where a planning authority or the Board is considering an application for permission in respect of development—

(*a*) of a class prescribed by regulations under *section 176* that does not exceed a quantity, area or limit prescribed under those regulations,

(*b*) in respect of which the planning authority or the Board is obliged under this Act to make a determination whether an environmental impact assessment is required, and

(*c*) in respect of which application for permission the planning authority or the Board consider a waste licence under Part V of the Act of 1996 is required,

the planning authority or the Board shall request observations from the Agency to assist the planning authority or the Board in its deliberations in relation to the determination referred to in *paragraph (b)* and shall take into account any such observations when making that determination.

(6) Where a person makes an application for permission in respect of development under this Act and has made, intends to make or is considering making an application for a waste licence under Part V of the Act of 1996 in respect of an activity relating to that development, the person shall so notify the planning authority or the Board when making the application for permission.

F760**[**(7) Where a planning authority receives a notification from the Environmental Protection Agency that it has received an application for a licence to which section 42(1I) of the Act of 1996 applies, the planning authority shall—

(*a*) within 4 weeks of the date of receipt of the notification from the Environmental Protection Agency, respond to the Agency, forwarding any observations that it has in relation to the application for a licence including any observations on the F761**[**environmental impact assessment report**]**, and

(*b*) enter into consultations with the Environmental Protection Agency, as the Agency considers appropriate, in relation to any environmental impacts of the proposed activity to which the application for a licence relates.**]]**

Annotations

Amendments:

F757 Inserted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 10.

F758 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 30, S.I. No. 488 of 2022.

F759 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 47, in effect as per reg. 2(1).

F760 Inserted (26.11.2013) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2013* (S.I. No. 505 of 2013), reg. 6.

F761 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 48, in effect as per reg. 2(1).

F762**[**Environmental impact assessment relating to waste water discharges

173C.—(1) Where a planning authority or the Board is considering an application for permission referred to in subparagraph (a) of paragraph (3A) (inserted by subparagraph (b) of Regulation 16 of the Regulations of 2020) of Regulation 16 of the Regulations of 2007, it shall, upon the request in writing of the person who made the application and not later than 3 working days from the date of the request, provide that person with —

(*a*) the confirmation first-mentioned in the said subparagraph (a), and

(*b*) in circumstances where an environmental impact assessment in relation to the application is not required, the confirmation referred to in clause (ii) of the said subparagraph (a).

(2) Where a planning authority or the Board grants a permission referred to in subparagraph (b) of paragraph (3A) of Regulation 16 of the Regulations of 2007 but did not require an environmental impact assessment in relation to the application for that permission, it shall, upon the request in writing of the person to whom the permission was granted and not later than 3 working days from the date of the request, provide that person with the confirmation referred to in clause (ii) of the said subparagraph (b).

(3) (*a*) A planning authority shall comply with a request under subparagraph (a) of paragraph (6) (inserted by Regulation 22 of the Regulations of 2020) of Regulation 21 of the Regulations of 2007 within the period second-mentioned in that subparagraph.

(*b*) The Board shall comply with a request under subparagraph (a) of paragraph (6) of Regulation 21 of the Regulations of 2007 within the period second-mentioned in that subparagraph.

(4) (*a*) A planning authority shall comply with a request under subparagraph (a) of paragraph (7) of Regulation 21 of the Regulations of 2007 within the period second-mentioned in that subparagraph.

(*b*) The Board shall comply with a request under subparagraph (a) of paragraph (7) of Regulation 21 of the Regulations of 2007 within the period second-mentioned in that subparagraph.

(5) (*a*) A planning authority shall comply with a request under subparagraph (a) of paragraph (8) of Regulation 21 of the Regulations of 2007 within the period specified in that subparagraph.

(*b*) The Board shall comply with a request under subparagraph (a) of paragraph (8) of Regulation 21 of the Regulations of 2007 within the period specified in that subparagraph.

(6) Where a planning authority or the Board is considering an application for permission referred to in subparagraph (a) of paragraph (1) (inserted by Regulation 26 of the Regulations of 2020) of Regulation 24A of the Regulations of 2007, it shall, upon the request in writing of the person who made the application and not later than 3 working days from the date of the request, provide that person with –

(*a*) the confirmation first-mentioned in the said subparagraph (a), and

(*b*) in circumstances where an environmental impact assessment in relation to the application is not required, the confirmation second-mentioned in that subparagraph.

(7) Where a planning authority or the Board grants a permission referred to in subparagraph (b) of paragraph (1) of Regulation 24A of the Regulations of 2007 but did not require an environmental impact assessment in relation to the application for that permission, it shall, upon the request in writing of the person to whom the permission was granted and not later than 3 working days from the date of the request, provide that person with the confirmation referred to in that subparagraph.

(8) Where a planning authority or the Board is considering an application for permission in respect of development –

(*a*) belonging to a class specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, and

(*b*) that in its opinion requires an authorisation under the Regulations of 2007,

it shall, for the purpose of making a determination as to whether or not an environmental impact assessment in relation to the application is required, invite the Environmental Protection Agency to make observations within such period as may be specified by the planning authority or the Board, as may be appropriate, in relation to the application, and the planning authority or the Board, as may be appropriate, shall take account of any such observations when making that determination.

(9) A person who –

(*a*) makes an application for permission to a planning authority or the Board, and

(*b*) has made an application, or proposes to make an application, to the Agency for –

(i) a licence or review of a licence, or

(ii) a certificate or review of a certificate,

under the Regulations of 2007 in connection with the application referred to in paragraph (a),

shall, when making the application referred to in *paragraph (a)*, inform the planning authority concerned or the Board, as may be appropriate, in writing of his or her having so made the application referred to in *paragraph (b)* or his or her proposal to make such an application, as the case may be.

(10) In this section —

F763**[**"permission" means—

(*a*) permission for development under *Part III*,

(*b*) permission for development under *section 293*,

(*c*) approval for development under *section 175*, *177AE*, *181B*, *182D* or *226*,

(*d*) substitute consent under *section 177K*, or

(*e*) the alteration of the terms of a permission for development in accordance with a decision under *section 297*;**]**

"Regulations of 2007" means the Waste Water Discharge (Authorisation) Regulations 2007 (S.I. No. 684 of 2007);

"Regulations of 2020" means the European Union (Waste Water Discharge) Regulations 2020.**]**

Annotations

Amendments:

F762 Inserted (30.06.2020) by *European Union (Waste Water Discharge) Regulations 2020* (S.I. No. 214 of 2020), reg. 5, in effect as per reg. 2.

F763 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 31, S.I. No. 488 of 2022.

Environmental impact assessment relating to abstractions

F764**[**Environmental **173D.**— ...**]**

Annotations

Amendments:

F764 Inserted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(f), not commenced as of date of revision.

Modifications (not altering text):

C112 Prospective affecting provision: section inserted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(f), not commenced as of date of revision.

F764**[173D.**—(1) Where a planning authority or the Board is considering an application for permission referred to in subsection (2)(a) of section 25 of the Act of 2022, it shall, upon the request in writing of the person who made the application and not later than 3 working days from the date of the request, provide that person with—

(*a*) the confirmation first-mentioned in the said subsection (2)(a), and

(*b*) in circumstances where an environmental impact assessment is not required, the confirmation referred to in subparagraph (ii) of the said subsection (2)(a).

(2) Where a planning authority or the Board grants a permission referred to in subsection (2)(b) of section 25 of the Act of 2022 but did not require an environmental impact assessment in relation to the application for that permission, it shall, upon the request in writing of the person to whom the permission was granted, provide that person with the confirmation referred to in subparagraph (ii) of the said subsection (2)(b).

(3) A planning authority or the Board, as may be appropriate, shall comply with a request of the Environmental Protection Agency under subsection (4)(a) of section 25 of the Act of 2022 within 4 weeks of receipt of the request.

(4) A planning authority or the Board, as may be appropriate, shall comply with a request of the Environmental Protection Agency under subsection (5)(a) of section 25 of the Act of 2022 within 4 weeks of receipt of the request.

(5) A planning authority shall comply with a request of the Environmental Protection Agency under subsection (8)(a) of section 25 of the Act of 2022 within 4 weeks of receipt of the request.

(6) Where a planning authority or the Board is considering an application for permission in respect of development—

(*a*) belonging to a class specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, and

(*b*) that in its opinion requires an abstraction licence,

it shall, for the purpose of making a determination as to whether or not an environmental impact assessment is required, invite the Environmental Protection Agency to make observations within such period as may be specified by the planning authority or the Board, as may be appropriate, in relation to the application, and the planning authority or the Board, as may be appropriate, shall take account of any such observations when making that determination.

(7) A person who—

(*a*) makes an application for permission to a planning authority or the Board, and

(*b*) has made an application, or proposes to make an application, for an abstraction licence in connection with an application referred to in *paragraph (a)*,

shall, when making the application referred to in *paragraph (a)*, inform the planning authority concerned or the Board, as may be appropriate, in writing of his or her having so made the application referred to in *paragraph (b)* or his or her proposal to make such an application, as the case may be.

(8) In this section—

"permission" means—

(*a*) permission under *Part III*,

(*b*) approval for development under *section 175*, *177AE*, *181(2L)*, *181B*, *182B*, *182D* or *226*, or

(*c*) substitute consent under *section 177K*.**]**

Transboundary environmental impacts.

174.—(1) (*a*) The Minister may make regulations in respect of applications for development which require the submission of an F765**[**environmental impact assessment report**]**, where the planning authority F766**[**, or the Board in dealing with any application or appeal,**]** is aware that the development is likely to have significant effects on the environment in another Member State of the European Communities or a state which is a party to the Transboundary Convention or where the other State concerned considers that the development would be likely to have such effects.

(*b*) Without prejudice to the generality of *paragraph (a)*, regulations under this subsection may make provision for the following:

(i) the notification of the Minister regarding the application;

(ii) the submission of information to the Minister regarding the application;

(iii) the notification of the other State involved and the provision of information to that State;

(iv) the making of observations and submissions regarding the application from the other State involved and the entering into consultations with that State;

(v) the extension of time limits for the making of decisions under this Act.

(2) In addition to the requirements of F767**[***sections 34(3)*, *37G(2)*, *37N(2)*, *146C(6)*, *173(1)*, F768**[***181(2H),***]** *181B(1)*, F769**[***182B(1)*, *182D(1)*, *282(2)*, *293(2)* and *297***]]**, the planning authority or the Board, as the case may be, shall have regard, where appropriate, to the views of any Member State of the European Communities or other party to the Transboundary Convention in relation to the effects on the environment of the proposed development.

(3) Notwithstanding any other provisions of this Act, a planning authority or the Board, as the case may be, may, following the consideration of any submissions or observations received or any consultations entered into by a planning authority or the Board, impose conditions on a F766**[**grant of permission or approval**]** in order to reduce or eliminate potential transboundary effects of any proposed development.

F770**[**(4) In any case where—

(*a*) notification has been received from another Member State of the European Communities or other party to the Transboundary Convention, in respect of any development, or

(*b*) a planning authority or a State authority requests, or in any other case where the Minister otherwise decides,

the Minister may request another Member State of the European Communities or other party to the Transboundary Convention to forward information in respect of any development F771**[**which is subject to the Environmental Impact Assessment Directive or Transboundary Convention**]** and which is likely to have significant environmental effects in Ireland F772**[**(including the maritime area)**]**.**]**

(5) (*a*) The Minister or a State authority or planning authority having consulted with the Minister, may decide to forward submissions or observations to, or enter into discussions with, the other state involved in respect of the development referred to in *subsection (4)* regarding the potential transboundary effects of that development and the measures envisaged to reduce or eliminate those effects.

(*b*) The Minister may make regulations regarding the provision of public notification of any F773**[**environmental impact assessment report**]** or other information received by the Minister, State authority or planning authority under *subsection (4)*, and the making of submissions or observations regarding the information.

(6) The Minister may enter into an agreement with any other Member State of the European Communities or other party to the Transboundary Convention regarding the detailed procedures to be followed in respect of consultations regarding proposed developments which are likely to have significant transboundary effects.

Annotations

Amendments:

F765 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 49, in effect as per reg. 2(1).

F766 Substituted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 33, S.I. No. 684 of 2006.

F767 Substituted (14.07.2015) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015), reg. 8.

F768 Inserted (6.08.2019) by *European Union (Environmental Impact Assessment and Habitats) (Section 181 of the Planning and Development Act 2000) Regulations 2019* (S.I. No. 418 of 2019). reg. 3.

F769 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 32, S.I. No. 488 of 2022.

F770 Substituted (19.12.2006) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 2006* (S.I. No. 659 of 2006), reg. 5, subject to transitional provision in reg. 2.

F771 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 55, S.I. No. 405 of 2010.

F772 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 32, S.I. No. 488 of 2022.

F773 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table item 50, in effect as per reg. 2(1).

Modifications (not altering text):

C113 Subs. (2) construed during specified period (3.07.2017 to 31.12.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 21, S.I. No. 270 of 2017.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(*a*) the period from the commencement of this provision until 31 December 2019, and

(*b*) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of section 174 (transboundary environmental impacts) of Act of 2000 during specified period

21. Section 174 of the Act of 2000 has effect during the specified period as if in subsection (2) "and *section 9(1)* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*," were inserted after "182D(1),".

Editorial Notes:

E351 Power pursuant to section exercised (21.12.2006) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E352 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E353 Previous affecting provision: subs. (2) amended (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 33, S.I. No. 684 of 2006; substituted as per F-note above.

E354 Previous affecting provision: subs. (4) amended (19.12.2006) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 2006* (S.I. No. 659 of 2006), reg. 5; substituted as per F-note above.

Environmental impact assessment of certain development carried out by or on behalf of local authorities.

175.—(1) Where development belonging to a class of development, identified for the purposes of *section 176*, is proposed to be carried out—

(*a*) by a local authority that is a planning authority, whether in its capacity as a planning authority or in any other capacity, or

(*b*) by some other person on behalf of, or jointly or in partnership with, such a local authority, pursuant to a contract entered into by that local authority whether in its capacity as a planning authority or in any other capacity,

within the functional area of the local authority concerned (hereafter in this section referred to as "proposed development"), the local authority shall prepare, or cause to be prepared, an F774**[**environmental impact assessment report**]** in respect thereof.

(2) Proposed development in respect of which an F775**[**environmental impact assessment report**]** has been prepared in accordance with *subsection (1)* shall not be carried out unless the Board has approved it with or without modifications.

F776**[**(3) Subject to *subsection (3A)*, where an environmental impact assessment report has been prepared in accordance with *subsection (1)*, the local authority shall apply to the Board for approval of the proposed development to which the report relates.**]**

F777**[**(3A) A local authority shall not be eligible to make an application under *subsection (3)* in relation to proposed development in the maritime area unless it—

(*a*) is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development,

(*b*) is the owner of land on which it is proposed to carry out the development concerned, or

(*c*) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.

(3B) The Board shall neither consider an application under *subsection (3)* in relation to proposed development in the maritime area nor grant approval for such development under *subparagraph (i)*, *(ii)* or *(iii)* of *paragraph (a)* of *subsection (9)* unless the applicant for such approval—

(*a*) is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development,

(*b*) is the owner of land on which it is proposed to carry out the development concerned, or

(*c*) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.**]**

(4) Before a local authority makes an application for approval under *subsection (3)*, it shall—

(*a*) publish in one or more newspapers circulating in the area in which it is proposed to carry out the development a notice indicating the nature and location of the proposed development and—

(i) stating that—

(I) it proposes to seek the approval of the Board for the proposed development,

(II) an F778**[**environmental impact assessment report**]** has been prepared in respect of the proposed development,

F779**[**(III) it is notifying a Member State of the European Communities or any other party to the Transboundary Convention of its opinion that the proposed development to which the application for approval to An Bord Pleanála relates would be likely to have significant effects on the environment in that State,

(IV) the Board may give approval to the application for development with or without conditions or may refuse the application for development.**]**

(ii) specifying the times and places at which, and the period (not being less than 6 weeks) during which, a copy of the F780**[**environmental impact assessment report**]** may be inspected free of charge or purchased, and

(iii) inviting the making, during such period, of submissions and observations to the Board relating to—

(I) the implications of the proposed development for proper planning and sustainable development in the area concerned, and

(II) the likely effects on the environment of the proposed development,

if carried out,

F781**[**(iv) stating that a person may question the validity of a decision of the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986)

(v) stating where practical information on the review mechanism can be found.**]**

and

(*b*) send a copy of the application and the F782**[**environmental impact assessment report**]** to the prescribed authorities together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(ii)*, be made in writing to the Board in relation to—

(i) the likely effects on the environment of the proposed development, and

(ii) the implications of the proposed development for proper planning and sustainable development in the area concerned,

if carried out.

F783**[**(5)(*a*) The Board may—

(i) if it considers it necessary to do so, require a local authority that has applied for approval for a proposed development to furnish to the Board such further information in relation to—

(I) the effects on the environment of the proposed development, or

(II) the consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development of such development,

as the Board may specify, or

(ii) if it is provisionally of the view that it would be appropriate to approve the proposed development were certain alterations (specified in the notification referred to in this subparagraph) to be made to the terms of it, notify the local authority that it is of that view and invite the authority to make to the terms of the proposed development alterations specified in the notification and, if the authority makes those alterations, to furnish to it such information (if any) as it may specify in relation to the

development, in the terms as so altered, or, where necessary, a revised F784**[**environmental impact assessment report**]** in respect of it.

(*b*) If a local authority makes the alterations to the terms of the proposed development specified in a notification given to it under *paragraph (a)*, the terms of the development as so altered shall be deemed to be the proposed development for the purposes of this section.

(*c*) The Board shall—

(i) where it considers that any further information received pursuant to a requirement made under *paragraph (a)(i)* contains significant additional data relating to—

(I) the likely effects on the environment of the proposed development, and

(II) the likely consequences for the proper planning and sustainable development in the area in which it is proposed to situate the said development of such development,

or

(ii) where the local authority has made the alterations to the terms of the proposed development specified in a notification given to it under *paragraph (a)(ii)*,

require the local authority to do the things referred to in *paragraph (d)*.

(*d*) The things which a local authority shall be required to do as aforesaid are—

(i) to publish in one or more newspapers circulating in the area in which the proposed development would be situate a notice stating that, as appropriate—

(I) further information in relation to the proposed development has been furnished to the Board, or

(II) the local authority has, pursuant to an invitation of the Board, made alterations to the terms of the proposed development (and the nature of those alterations shall be indicated) and, if it be the case, that information in relation to the terms of the development as so altered or a revised F785**[**environmental impact assessment report**]** in respect of the development has been furnished to the Board,

indicating the times at which, the period (which shall not be less than F786**[**5 weeks**]**) during which and the place, or places, where a copy of the information or the F787**[**environmental impact assessment report referred to**]** in *clause (I)* or *(II)* may be inspected free of charge or purchased and that submissions or observations in relation to that F788**[**information or report**]** may be made to the Board before the expiration of the indicated period, and

(ii) to send to each prescribed authority to which notice was given pursuant to *subsection (4)(b)*—

(I) a notice of the furnishing to the Board of, as appropriate, the further information referred to in *subparagraph (i)(I)* or the information or F789**[**report**]** referred to in *subparagraph (i)(II)*, and

(II) a copy of that further information, information or F790**[**report**]**,

and to indicate to the authority that submissions or observations in relation to that further information, information or F791**[**report may**]** be made to the Board before the expiration of a period (which shall not be less than

F792**[**5 weeks**]**) beginning on the day on which the notice is sent to the prescribed authority by the local authority.**]**

(6) Before making a decision in respect of a proposed development under this section, the Board shall consider—

(*a*) F783**[**the F793**[**environmental impact assessment report**]** submitted pursuant to *subsection (1)* or *(5)(a)(ii)*, any submission or observations made in accordance with *subsection (4)* or *(5)***]** and any other information furnished in accordance with *subsection (5)* relating to—

(i) the likely effects on the environment of the proposed development, and

(ii) the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development of such development,

(*b*) the views of any other Member State of the European Communities or a state which is a party to the Transboundary Convention to which a copy of the F794**[**environmental impact assessment report**]** was sent, and

(*c*) the report and any recommendations of the person conducting a hearing referred to in *subsection (7)* where evidence is heard at such a hearing relating to—

(i) the likely effects on the environment of the proposed development, and

(ii) the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development of such development.

(7) The person conducting an oral hearing in relation to the compulsory purchase of land which relates wholly or partly to a proposed development under this section in respect of which a local authority has applied for approval shall be entitled to hear evidence relating to—

(*a*) the likely effects on the environment of the proposed development, and

(*b*) the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development of such development.

(8) F795**[**(*a*)(i) The Board may take the action specified in *subparagraph (ii)* where it is satisfied that—

(I) exceptional circumstances so warrant,

(II) the application of the requirement to prepare an environmental impact assessment report would adversely affect the purpose of the proposed development, and

(III) the objectives of the Environmental Impact Assessment Directive are otherwise met.

(ii) Subject to *subparagraph (iii)*, the Board may grant in respect of the proposed development an exemption from a requirement under *subsection (1)* to prepare an environmental impact assessment report.

(iii) No exemption may be granted under *subparagraph (ii)* in respect of the proposed development if another Member State of the European Union or a state party to the Transboundary Convention, having been informed about the proposed development and its likely significant effects on the environment in that State or state, as the case may be, has indicated that it wishes to furnish views on those effects.**]**

F796**[**(*b*) The Board shall, in granting an exemption under *paragraph (a)*, —

(i) consider whether the effects, if any, of the proposed development on the environment should be assessed in some other form, and

(ii) make available to members of the public the information relating to the exemption decision referred to under *paragraph (a)*, the reasons for granting such exemption and the information obtained under any other form of assessment referred to in subparagraph (i),

and the Board may apply such requirements regarding these matters in relation to the application for approval as it considers necessary or appropriate.**]**

(*c*) Notice of any exemption granted under *paragraph (a)* of the reasons for granting the exemption, and of any requirements applied under *paragraph (b)* shall, as soon as may be—

(i) be published in *Iris Oifigiúil* and in at least one daily newspaper published in the State, and

(ii) be given, together with a copy of the information, if any, made available to the members of the public in accordance with *paragraph (b)*, to the Commission of the European Communities.

F783**[**(9)(*a*) F797**[**The Board shall, in respect of an application for approval under this section of proposed development, make its decision within a reasonable period of time and may, in respect of such application**]**—

(i) approve the proposed development,

(ii) make such modifications to the proposed development as it specifies in the approval and approve the proposed development as so modified,

(iii) approve, in part only, the proposed development (with or without specified modifications of it of the foregoing kind), or

(iv) refuse to approve the proposed development,

and may attach to an approval under *subparagraph (i)*, *(ii)* or *(iii)* such conditions as it considers appropriate.

(*b*) Without prejudice to the generality of the foregoing power to attach conditions, the Board may attach to an approval under *paragraph (a)(i)*, *(ii)* or *(iii)* a condition requiring—

(i) the construction or the financing, in whole or in part, of the construction of a facility, or

(ii) the provision or the financing, in whole or in part, of the provision of a service,

in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Board, would constitute a substantial gain to the community.

(*c*) A condition attached pursuant to *paragraph (b)* shall not require such an amount of financial resources to be committed for the purposes of the condition being complied with as would substantially deprive the person in whose favour the approval operates of the benefits likely to accrue from the grant of the approval.

(9A)(*a*) The Board shall direct the payment of such sum as it considers reasonable by the local authority concerned to the Board towards the costs and expenses

incurred by the Board in determining an application under this section for approval of a proposed development, including—

(i) the costs of holding any oral hearing in relation to the application,

(ii) the fees of any consultants or advisers engaged in the matter, and

(iii) an amount equal to such portion of the remuneration and any allowances for expenses paid to the members and employees of the Board as the Board determines to be attributable to the performance of duties by the members and employees in relation to the application,

and the local authority shall pay the sum.

(*b*) If a local authority fails to pay a sum directed to be paid under *paragraph (a)*, the Board may recover the sum from the authority as a simple contract debt in any court of competent jurisdiction.**]**

(10)(*a*) Where an application under this section relates to proposed development which comprises or is for the purposes of an activity for which an integrated pollution control licence or a waste licence is required, the Board shall not, where it decides to approve the proposed development, subject that approval to conditions which are for the purposes of—

(i) controlling emissions from the operation of the activity, including the prevention, limitation, elimination, abatement or reduction of those emissions, or

(ii) controlling emissions related to or following the cessation of the operation of the activity.

(*b*) Where an application under this section relates to proposed development which comprises or is for the purposes of an activity for which an integrated pollution control licence or a waste licence is required, the Board may, in respect of any proposed development comprising or for the purposes of the activity, decide to refuse the proposed development, where the Board considers that the development, notwithstanding the licensing of the activity, is unacceptable on environmental grounds, having regard to the proper planning and sustainable development of the area in which the development is or will be situate.

(*c*) (i) Before making a decision in respect of proposed development comprising or for the purposes of an activity, the Board may request the Environmental Protection Agency to make observations within such period (which period shall not in any case be less than 3 weeks from the date of the request) as may be specified by the Board in relation to the proposed development.

(ii) When making its decision the Board shall have regard to the observations, if any, received from the Agency within the period specified under *subparagraph (i)*.

(*d*) The Board may, at any time after the expiration of the period specified by the Board under *paragraph (c)(i)* for making observations, make its decision on the application.

(*e*) The making of observations by the Agency under this section shall not prejudice any other function of the Agency under F798**[**the Environmental Protection Agency Act, 1992**]**.

(11) (*a*) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of applications for approval under this section.

(*b*) Without prejudice to the generality of *paragraph (a)*, regulations under this subsection may make provision for—

(i) enabling a local authority to request the Board to give a written opinion on the information to be contained in an F799**[**environmental impact assessment report**]**,

(ii) matters of procedure relating to the making of observations by the Environmental Protection Agency under this section and matters connected therewith,

(iii) the notification of another Member State of the European Communities or other parties to the Transboundary Convention in relation to proposed development, receiving observations and submissions from the State or party and entering into consultations with them, and

(iv) requiring the Board to give information in respect of its decision regarding the proposed development for which approval is sought.

(12) In considering under *subsection (6)* information furnished relating to the likely consequences for proper planning and sustainable development of a proposed development in the area in which it is proposed to situate such development, the Board shall have regard to—

F776**[**(*a*) in the case of an area other than a maritime site, the provisions of the development plan for the area,**]**

F777**[**(*aa*) in the case of a maritime site, the matters to which the Board is required to have regard under *subsection (3)* of *section 293* when making a decision in relation to an application under *section 291*,**]**

(*b*) the provisions of any special amenity area order relating to the area,

(*c*) if the area or part of the area is a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact,

(*d*) where relevant, the policies of the Government, the Minister or any other Minister of the Government, and

(*e*) the provisions of this Act and regulations under this Act where relevant.

(13) A person who contravenes a condition imposed by the Board under this section shall be guilty of an offence.

(14) This section shall not apply to proposed road development within the meaning of the Roads Act, 1993, by or on behalf of a road authority.

Annotations

Amendments:

F774 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 51, in effect as per reg. 2(1).

F775 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 52, in effect as per reg. 2(1).

F776 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 33, S.I. No. 488 of 2022.

F777 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 33, S.I. No. 488 of 2022.

F778 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 54, in effect as per reg. 2(1).

F779 Inserted (19.12.2006) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 2006* (S.I. No. 659 of 2006), reg. 6(1), subject to transitional provision in reg. 2.

F780 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 55, in effect as per reg. 2(1).

F781 Inserted (13.07.2010) by *European Communities (Public Participation) Regulations 2010* (S.I. No. 352 of 2010), reg. 10(c).

F782 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 56, in effect as per reg. 2(1).

F783 Substituted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 34, S.I. No. 684 of 2006.

F784 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 57, in effect as per reg. 2(1).

F785 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 58, in effect as per reg. 2(1).

F786 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 20(a)(i), in effect as per reg. 2(1).

F787 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 59, in effect as per reg. 2(1).

F788 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 60, in effect as per reg. 2(1).

F789 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 61, in effect as per reg. 2(1).

F790 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 62, in effect as per reg. 2(1).

F791 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 63, in effect as per reg. 2(1).

F792 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 20(a)(ii), in effect as per reg. 2(1).

F793 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 64, in effect as per reg. 2(1).

F794 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 65, in effect as per reg. 2(1).

F795 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 20(b), in effect as per reg. 2(1).

F796 Substituted (19.12.2006) by *European Communities (Environmental Impact Assessment) (Amendment) Regulations 2006* (S.I. No. 659 of 2006), reg. 6(2), subject to transitional provision in reg. 2.

F797 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 20(c), in effect as per reg. 2(1).

F798 Substituted (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(g), S.I. No. 458 of 2001.

F799 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 66, in effect as per reg. 2(1).

F800 Inserted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(g)(i), not commenced as of date of revision.

F801 Substituted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(g)(ii), not commenced as of date of revision.

Modifications (not altering text):

C114 Prospective affecting provision: subs. (10)(aa) inserted and (b) amended by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(g)(i), (ii), not commenced as of date of revision.

F800**[**(*aa*) Where an application under this section relates to proposed development which comprises or is for the purposes of an activity for which an abstraction licence is required, the Board shall not, where it decides to approve the proposed development, subject that approval to conditions which are for the purposes of controlling the abstraction related to the operation of the activity.**]**

(*b*) Where an application under this section relates to proposed development which comprises or is for the purposes of an activity for which F801**[**an integrated pollution control licence, an abstraction licence**]** or a waste licence is required, the Board may, in respect of any proposed development comprising or for the purposes of the activity, decide to refuse the proposed development, where the Board considers that the development, notwithstanding the licensing of the activity, is unacceptable on environmental grounds, having regard to the proper planning and sustainable development of the area in which the development is or will be situate.

C115 Developments approved under subs. (9) declared exempted developments for purposes of Act and references in section to local authority construed by *Dublin Transport Authority Act 2008* (15/2008), s. 44(14), (15) as inserted (8.02.2016) by *Public Transport Act 2016* (3/2016), s. 1(b)(iv), commenced on enactment.

Functions of Authority in relation to public transport infrastructure.

44.— ...

[(14) The carrying out by the Authority, on its behalf or at its direction of—

(*a*) a proposed road development (within the meaning of the Roads Act 1993) that has been approved by An Bord Pleanála under section 51 (as amended by section 9 of the Roads Act 2007) of that Act, or

(*b*) a proposed development that has been approved by An Bord Pleanála—

(i) under subsection (9) (inserted by section 34(c) of the Planning and Development (Strategic Infrastructure) Act 2006) of section 175 of the Act of 2000 pursuant to an application for approval made by the Authority under subsection (3) of that section, or

(ii) under subsection (8) of section 177AE (inserted by section 57 of the Planning and Development (Amendment) Act 2010) of the Act of 2000 pursuant to an application for approval made by the Authority under subsection (3) of that section,

shall be exempted developments for the purposes of the Act of 2000.

(15) For the purposes of section 175 and 177AE of the Act of 2000 where a proposed development relates to public transport infrastructure an application for approval under section 175(3) or 177AE(3) may be made by the Authority, with the concurrence of the local authority concerned, and, accordingly, references in those sections to a local authority shall be read as references to the Authority.

...]

C116 Application of section restricted and matters to be considered provided (27.09.2007) by *Waste Water Discharge (Authorisation) Regulations 2007* (S.I. No. 684 of 2007), regs. 41(1) and 43(1).

Limitation of Act of 2000

41. (1) Subject to Regulation 42(2), and notwithstanding sections 34, 37, 37E, 175 and 226 of the Act of 2000, or any other provision of that Act, where, under these Regulations, an authorisation has been granted in respect of a waste water discharge from a waste water works—

(*a*) a planning authority, or An Bord Pleanála, where it decides to grant a permission under section 34, 37 or 37E on appeal or otherwise, as the case may be, of the said Act, or

(*b*) An Bord Pleanála, where it decides to grant an approval under section 175 or 226 of the said Act,

in respect of a proposed development that involves a waste water discharge from a waste water works, shall not subject the permission or approval, as the case may be, to conditions which are for the purposes of controlling the waste water discharge.

(2) Where a permission or approval under the Act of 2000 has been subjected to conditions, other than conditions as referred to in paragraph (3)(b), that are for the purposes of controlling discharges from a development as described in paragraph (1), those conditions shall cease to have effect upon the granting of an authorisation under these Regulations in respect of the waste water discharges concerned.

...

Consideration of proposals by planning authorities and An Bord Pleanála

43. (1) Where a planning authority or An Bord Pleanála is considering an application for permission, an appeal or an application for approval under section 34, 37, 37E, 175 or 226 of the Act of 2000 for development being development which involves the disposal of waste water to a waste water works, or is considering such a development under section 179 of the Act of 2000, the planning authority or the Board, as the case may be, shall consider whether the discharge of waste water from the proposed development, in conjunction with existing discharges to the receiving waters, would cause non-compliance with the combined approach or, in situations where there is existing non-compliance, would result in a significant breach of the combined approach.

...

C117 Application of subs. (3) restricted (27.09.2007) by *Waste Water Discharge (Authorisation) Regulations 2007* (S.I. No. 684 of 2007), reg. 22.

Matters in an environmental impact statement to which the Agency shall have regard

22. The Agency shall have regard to the matters mentioned in an environmental impact statement in respect of a development and in the decision of An Bord Pleanála on an application under section 175(3) of the Act of 2000 for approval of such development only in so far as they relate to the risk of environmental pollution of the receiving waters from the waste water discharge concerned.

C118 Application of subs. (3) restricted and matters to be considered provided (7.12.2005) by *European Communities (Waste Water Treatment) (Prevention of Odours and Noise) Regulations 2005* (S.I. No. 787 of 2005), regs. 3, 6.

3. A sanitary authority shall ensure that-

(*a*) in formulating and approving plans for a waste water treatment plant to be provided by the authority or on its behalf the plant is so designed and constructed as to ensure that it avoids causing nuisance through odours or noise,

(*b*) any waste water treatment plant under the sanitary authority's control is so operated and maintained as to ensure that it avoids causing nuisance through odours or noise.

...

6. In considering an appeal, or an application under section 175(3) of the Act of 2000 for approval for a proposed development consisting of the provision of a waste water treatment plant by or on behalf of a sanitary authority, the Board shall have regard to the requirements of Article 3 of these Regulations and, in granting any permission for development or approving any application for approval and having regard to the function of the Agency under Article 4 of these Regulations, shall include such conditions as may be necessary in its opinion to ensure that the plant is so operated and maintained as to avoid causing nuisance through odours or noise.

C119 Provision for consideration of waste management under section made by *Waste Management Act 1996* (10/1996), s. 22(10D) as inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 26(2)(d), S.I. No. 393 of 2004.

Waste management plans.

22.— ...

(10D) (*a*) In performing their functions under the Planning and Development Acts 2000 to 2002, and, in particular, their functions under Part III and sections 175 and 179 of the Planning and Development Act 2000, planning authorities and An Bord Pleanála shall ensure that such measures as are reasonably necessary are taken to secure appropriate provision for the management of waste (and, in particular, recyclable materials) within developments, including the provision of facilities for the storage, separation and collection of such waste (and, in particular, such materials) and the preparation by the appropriate persons of suitable plans for the operation of such facilities.

(*b*) The Minister may issue guidelines as to the steps that may be taken to comply with this subsection.

Editorial Notes:

E355 Authorisations or approvals issued to water authorities under section deemed to be issued to Irish Water (30.10.2015) by *Water Services (No. 2) Act 2013 (Other Licences, Authorisations and Permits) Order 2015* (S.I. No. 462 of 2015), in effect as per arts. 3 and 4.

E356 Authorities prescribed for purposes of subs. (4) (1.01.2014) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 121(1), as substituted by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013), reg. 8, commenced as per reg. 1(3).

E357 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E358 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E359 Power pursuant to section exercised (21.12.2006, 31.01.2007 and 31.03.2007) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E360 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E361 Previous affecting provision: subs. (3) amended (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 53, in effect as per reg. 2(1); subsection substituted (1.10.2022) as per F-note above

Prescribed classes of development requiring assessment.

176.—(1) F802**[**The Minister shall, for the purpose of giving effect to the Environmental Impact Assessment Directive, make regulations—**]**

(*a*) identifying development which may have significant effects on the environment, and

(*b*) specifying the manner in which the likelihood that such development would have significant effects on the environment is to be determined.

(2) Without prejudice to the generality of *subsection (1)*, regulations under that subsection may provide for all or any one or more of the following matters:

(*a*) the establishment of thresholds or criteria for the purpose of determining which classes of development are likely to have significant effects on the environment;

(*b*) the establishment of different such thresholds or criteria in respect of different classes of areas;

(*c*) the determination on a case-by-case basis, in conjunction with the use of thresholds or criteria, of the developments which are likely to have significant effects on the environment;

(*d*) where thresholds or criteria are not established, the determination on a case-by-case basis of the developments which are likely to have significant effects on the environment;

F803**[**(*da*) the carrying out of a screening for environmental impact assessment (within the meaning of *section 176A*), or a determination review or application referral (within the meaning of *section 176C*);**]**

(*e*) the identification of selection criteria in relation to—

(i) the establishment of thresholds or criteria for the purpose of determining which classes of development are likely to have significant effects on the environment, or

(ii) the determination on a case-by-case basis of the developments which are likely to have significant effects on the environment.

(3) Any reference in an enactment to development of a class specified under Article 24 of the European Communities (Environmental Impact Assessment) Regulations, 1989 (S.I. No. 349 of 1989), shall be deemed to be a reference to a class of development prescribed under this section.

Annotations

Amendments:

F802 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 56, S.I. No. 405 of 2010.

F803 Inserted (1.01.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 27(c), S.I. No. 588 of 2018.

Editorial Notes:

E362 Power pursuant to section exercised (24.07.2023) by *Planning and Development (Amendment) (No. 2) Regulations 2023* (S.I. No. 383 of 2023).

E363 Power pursuant to section exercised (8.09.2011) by *Planning and Development (Amendment) (No. 2) Regulations 2011* (S.I. No. 454 of 2011).

E364 Power pursuant to section exercised (14.07.2005) by *Planning and Development Regulations 2005* (S.I. No. 364 of 2005).

E365 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

F804[Application for screening for environmental impact assessment

176A.—(1) In this section and *sections 176B* and *176C*—

"screening determination for environmental impact assessment" means a determination made as part of a screening for environmental impact assessment;

"screening for environmental impact assessment" means a determination—

(*a*) as to whether a proposed development would be likely to have significant effects on the environment, and

(*b*) if the development would be likely to have such effects, that an environmental impact assessment is required.

F805[(1A) A planning authority shall not consider an application under this section in respect of proposed development to which *Chapter II* of *Part XXI* applies, unless the applicant—

(*a*) is the holder of a—

(i) maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, or

(ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purpose of the development on, or in relation to, the maritime site in which the development is proposed to be situated,

(*b*) is the owner of land on which it is proposed to carry out the development concerned,

(*c*) is the lessee, under a lease granted under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned, or

(*d*) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.**]**

(2)(*a*) Subject to *section 176B*, where a proposed development is of a class standing specified in Part 2 of Schedule 5 to the Planning and Development Regulations 2001 and does not equal or exceed, as the case may be, the relevant quantity, area or other limit standing specified in that Part, an application for a screening for environmental impact assessment in respect of that development may be submitted to the planning authority in whose area the development would be situated.

(*b*) Subject to *section 176B*, where a proposed development is of a class standing prescribed under *section 176* for the purposes of this paragraph, an application for a screening for environmental impact assessment in respect of that development shall be submitted to the planning authority in whose area the development would be situated.

(3) An application under *subsection (2)* shall contain—

(*a*) the name and address of the applicant,

F806[(*b*) where the applicant is not the owner or occupier of the land that is the subject of the proposed development, the name and address of the owner (if any) and, where the owner is not the occupier of the land, the occupier (if any),**]**

(*c*) a location map for the proposed development,

(*d*) a description of the nature and extent of the proposed development, its characteristics, its likely significant effects on the environment (including the information specified in Schedule 7A to the Planning and Development

Regulations 2001) including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account, and

(*e*) any such other information as may be prescribed by the Minister,

and be accompanied by such fee as may be prescribed under *section 246(1)(ca)*.

(3A) An application under *subsection (2)* may be accompanied by a description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(4) For the purposes of enabling a planning authority to carry out a screening for environmental impact assessment on foot of an application under *subsection (2)*, the authority may do either or both—

(*a*) seek further information that it considers necessary from the applicant or any other person that the authority considers appropriate, and

F807**[**(*b*) consult any person—

(i) to whom a planning authority is required to send a notice in accordance with Article 28 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001), or

(ii) prescribed by the Minister,

and consider any submissions or observations made by that person,**]**

and, where *paragraph (a)* or *(b)* applies, the authority shall specify the period within which the information or views concerned are required to be received by the authority.

(5) Subject to *subsection (5A)*, where the applicant is not the owner or occupier of the land the subject of the proposed development, the planning authority concerned shall invite in writing—

(*a*) the owner F805**[**(if any)**]** to make a submission on an application made under *subsection (2)*, and

F806**[**(*b*) where the owner is not the occupier of the land, the occupier (if any) of that land to make such a submission,**]**

and, where *paragraph (a)* or *(b)* applies, the authority shall specify the period within which the submission or submissions is or are required to be received by the authority.

(5A) The invitation under *subsection (5)* shall state that the owner or occupier may provide a description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the development.

(6) A planning authority may reject an application under *subsection (2)* if in the opinion of the authority the application is incomplete in any material detail.

(7) Where a planning authority rejects an application in accordance with *subsection (6)*, it shall—

(*a*) subject to *subsection (8)*, return the documents to which *subsection (3)* relates to the applicant, F808**[**...**]** and

(*b*) give reasons for its decision to the applicant,

and, where the applicant is not the owner or occupier of the land the subject of the proposed development, F806**[**the planning authority shall also notify the owner (if any) or, where the owner is not the occupier of the land, the occupier (if any) of its decision under *subsection (6)*]**.

(8) *Subsection (7)* is without prejudice to the planning authority—

(*a*) making a copy of a document,

(*b*) retaining an electronic copy of a document, or

(*c*) by agreement with the applicant concerned, retaining a document,

to which that subsection relates.**]**

Annotations

Amendments:

F804 Inserted (1.01.2019) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 21, in effect as per reg. 2(2).

F805 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 34, S.I. No. 488 of 2022.

F806 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 34, S.I. No. 488 of 2022.

F807 Substituted (1.01.2019) by *European Union (Planning and Development) (Environmental Impact Assessment) (Amendment) Regulations 2018* (S.I. No. 646 of 2018), reg. 2(a), in effect as per reg. 1(2).

F808 Deleted (1.01.2019) by *European Union (Planning and Development) (Environmental Impact Assessment) (Amendment) Regulations 2018* (S.I. No. 646 of 2018), reg. 2(b), in effect as per reg. 1(2).

Modifications (not altering text):

C120 Application of section restricted during specified period (3.07.2017 to 31.12.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 22, S.I. No. 270 of 2017. Note that the version of s. 176A then referred to was not commenced.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(*a*) the period from the commencement of this provision until 31 December 2019, and

(*b*) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of the Fourth Schedule (reasons for the refusal of permission which exclude compensation) to Act of 2000 during specified period

22. Sections 176A, 176B and 176C shall not apply during the specified period to a proposed strategic housing development in respect of which a prospective applicant has, in accordance with *section 7(1)(a)*, requested the Board to make a determination whether it is likely to have significant effects on the environment.

Editorial Notes:

E366 Previous affecting provision: subs. (7)(a) amended by *Planning and Development (Amendment) Act 2018* (16/2018), s. 33, not commenced as of date of revision; this amendment is now redundant as it was made (1.01.2019) as per F-note above.

E367 Previous affecting provision: section inserted by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 26, not commenced; inserted as per F-note above.

F809**[**Screening for environmental impact assessment

176B.—(1) A planning authority shall, where appropriate, carry out screening for appropriate assessment in respect of a proposed development as provided for by *section 177U(10)* at the same time as carrying out a screening for environmental impact assessment in respect of the development under subsection (2).

(2) Subject to *subsections (1)* and *(2A)*, a planning authority shall, on foot of an application under *subsection (2)* of *section 176A* and to which *subsections (6)* and *(7)* of that section do not relate, carry out a screening for environmental impact assessment in respect of the proposed development—

(*a*) where further information, views or submissions—

(i) are duly sought by the planning authority under *subsection (4)* or *(5)* of *section 176A*, and

(ii) are duly received by the authority within the period specified under the said *subsection (4)* or *(5)*,

within the period of 3 weeks from the date that such information, views or submissions are so received, or

(*b*) where further information, views or submissions are not sought by the planning authority under *subsection (4)* or *(5)* of *section 176A*, as the case may be, within the period of 4 weeks from the receipt of the application under *section 176A(2)*.

(2A)(*a*) Subject to *paragraph (b)*, the planning authority shall not be required to comply with *subsection (2)(a)* or *(b)* within the period of 3 weeks or 4 weeks, as the case may be, referred to in that subsection where it appears to the planning authority that it would not be possible or appropriate, because of the exceptional circumstances of the proposed development (including in relation to the nature, complexity, location or size of such development) to do so.

(*b*) Where *paragraph (a)* applies, the planning authority shall, by notice in writing served on—

(i) the applicant,

(ii) the owner F810**[**(if any)**]** of the land the subject of the proposed development, if he or she is not the applicant,

(iii) the occupier F810**[**(if any)**]** of the land the subject of the proposed development, if he or she is not the applicant or owner of such land, and

(iv) any other person from whom further information was sought or any body which was consulted pursuant to section 176A(4),

before the expiration of the period of 3 weeks or 4 weeks, referred to in *subsection (2)(a)* or *(b)*, as the case may be, inform him or her of the reasons why it would not be possible or appropriate to comply with that subsection within that period and shall specify the date before which the authority intends that the screening determination for environmental impact assessment concerned shall be made.

(3)(*a*) Before making a decision on an application under *section 176A(2)*, the planning authority shall—

(i) consider the criteria for determining whether a development would or would not be likely to have significant effects on the environment, as set out in Schedule 7 to the Planning and Development Regulations 2001,

(ia) take into account—

(I) the information provided pursuant to *section 176A(3)(d)*, and

(II) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and

(ii) have regard to any description, information, views or submissions received in accordance with *section 176A(3A)* or *(4)* and, where relevant, *section 176A(5)* or *(5A)*.

(*b*) A planning authority shall include, or refer to, in its screening determination for environmental impact assessment made under this section the main reasons and considerations, with reference to the relevant criteria listed in Schedule 7 to the Planning and Development Regulations 2001, on which such determination is based.

(3A)(*a*) *Paragraph (b)* applies where the screening determination for environmental impact assessment made under this section is that the proposed development would not be likely to have significant effects on the environment and there has been provided, under *section 176A(3A)* or *(5A)*, as the case may be, a description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the proposed development.

(*b*) A planning authority shall specify such features, if any, and such measures, if any, in its screening determination for environmental impact assessment made under this section.

(4) A planning authority shall give notice in writing of its screening determination for environmental impact assessment made under this section to—

(*a*) the applicant,

(*b*) any person or body consulted under *section 176A(4)*, and

F811**[**(*c*) where *subsection (5)* of *section 176A* applies, the owner (if any) and the occupier (if any) of the land that is the subject of the proposed development,**]**

and the notice shall include—

(i) the planning authority's reasons for that determination, and

(ii) information concerning referral of the determination to the Board for review under *section 176C*.

(4A) The notice under *subsection (4)* shall be placed with any application for consent for proposed development subsequently made in respect of which an application for a screening for environmental impact assessment was made under *section 176A(2)*.

(5) A planning authority shall publish the screening determination for environmental impact assessment, either or both—

(*a*) on its website, and

(*b*) in a newspaper circulating in the area where the proposed development would be situated,

together with a notice—

(i) stating that the determination may be referred to the Board for review by—

(I) the applicant,

(II) the owner F810**[**(if any)**]** of the land, where he or she is not the applicant,

(III) the occupier F810**[**(if any)**]** of the land, where he or she is not the applicant or the owner of the land, and

(IV) any person or body consulted by the planning authority about the application,

(ii) stating that a person may question the validity of either or both—

(I) the screening determination for environmental impact assessment by the planning authority, and

(II) any determination by the Board of the said screening determination,

by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with *sections 50* and *50A*, and

(iii) identifying where practical information on the mechanism for questioning the validity of the determination can be found.

(6)(*a*) Where a planning authority makes a screening determination for environmental impact assessment under this section, the following documents shall, within 3 working days, be placed on its website for inspection and be made available for inspection and purchase by members of the public during office hours for at least the minimum period referred to in *paragraph (b)*:

(i) a copy of the application made under *section 176A(2)* and any description, information, views, submissions, particulars, evidence, written study or further information received or obtained from—

(I) the applicant,

(II) the owner F810**[**(if any)**]** of the land the subject of the proposed development, if he or she is not the applicant,

(III) the occupier F810**[**(if any)**]** of the land the subject of the proposed development, if he or she is not the applicant or owner of such land, and

(IV) any other person from whom further information was sought or any body which was consulted pursuant to *section 176A(4)*,

(ii) a copy of any report prepared by or for the authority in relation to the application, and

(iii) a copy of the screening determination for environmental impact assessment made under this section by the authority.

(*b*) The minimum period for the purposes of *paragraph (a)* is 8 weeks from the date of the screening determination for environmental impact assessment made under this section by the planning authority.**]**

Annotations

Amendments:

F809 Inserted (1.01.2019) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 21, in effect as per reg. 2(2).

F810 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 35, S.I. No. 488 of 2022.

F811 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 35, S.I. No. 488 of 2022.

Modifications (not altering text):

C121 Application of section restricted during specified period (3.07.2017 to 31.12.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 22, S.I. No. 270 of 2017. Note the version of s. 176B then referred to was not commenced.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(*a*) the period from the commencement of this provision until 31 December 2019, and

(*b*) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of the Fourth Schedule (reasons for the refusal of permission which exclude compensation) to Act of 2000 during specified period

22. Sections 176A, 176B and 176C shall not apply during the specified period to a proposed strategic housing development in respect of which a prospective applicant has, in accordance with *section 7(1)(a)*, requested the Board to make a determination whether it is likely to have significant effects on the environment.

Editorial Notes:

E368 Previous affecting provision: section inserted by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 26, not commenced; substituted as per F-note above.

F812[Review of screening determination for environmental impact assessment and referral of application for screening for environmental impact assessment

176C.—(1) Where a screening determination for environmental impact assessment is made by a planning authority under *section 176B*, any person to whom *subsection (4)* or *(5)* of that section relates may, within 3 weeks of the issuing of the determination and on payment to the Board of the appropriate fee, refer the determination for review (in this section referred to as a "determination review") by the Board.

(2) Without prejudice to *section 176B*, where an application was made under *section 176A* and no screening determination for environmental impact assessment has been issued by a planning authority within the appropriate period of time provided for by *section 176B(2)*, then—

(*a*) the person who made the application may—

(i) within the period of 3 weeks after the latest date by which that determination was due to be issued under *section 176B(2)*, and

(ii) on payment to the Board of the appropriate fee,

refer the application in question to the Board (which act is in this section referred to as an 'application referral') for determination, and

(*b*) the authority concerned shall repay to the applicant the fee paid to the authority in accordance with *section 176A(3)*.

(3) Where a determination to which *subsection (1)* relates or an application to which *subsection (2)* relates is referred to the Board under either of those subsections, the person so referring shall give notice to that effect to the planning authority concerned, and accordingly that authority shall forthwith forward to the Board—

(*a*) a copy of the application submitted to the authority under *paragraph (a)* or *(b)* of *section 176A(2)* and any determination made, and

(*b*) any description, information, views or submissions received in accordance with *section 176A(3A)* or *(4)* and, where relevant, *section 176A(5)* or *(5A)*, in respect of the application to the planning authority.

(4) The Board shall, where appropriate, carry out screening for appropriate assessment in respect of the proposed development as provided for by *section 177U(10)* at the same time as making a determination under this section in respect of the development.

(5) Before making a determination under this section, the Board shall—

(*a*) consider the criteria for determining whether a development would or would not be likely to have significant effects on the environment, as set out in Schedule 7 to the Planning and Development Regulations 2001,

(*b*) take into account—

(i) the information provided pursuant to *section 176A(3)(d)*, and

(ii) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and

(*c*) have regard to any description, information, views or submissions received in accordance with *section 176A(3A)* or *(4)* and, where relevant, *section 176A(5)* or *(5A)* and any screening determination for environmental impact assessment made by the planning authority under *section 176B*.

(5A) The Board shall include, or refer to, in its determination under this section the main reasons and considerations, with reference to the relevant criteria listed in Schedule 7 to the Planning and Development Regulations 2001, on which the determination is based.

(6) Subject to *subsection (6A)*, the Board shall make a determination on the determination review or the application referral—

(*a*) within 5 weeks of receiving from the planning authority the documents to which *subsection (3)* relates, or

(*b*) where the Board requests from the applicant, or any other person that it considers appropriate, further information with regard to the determination review or application referral in order to enable the Board to make a determination and specifies the period within which the information or views concerned are required to be received by the Board, within 4 weeks of the due receipt of the further information.

(6A)(*a*) Subject to *paragraph (b)*, the Board shall not be required to comply with *subsection (6)(a)* or *(b)* within the 5 week period or 4 week period, as the case may be, referred to in that subsection where it appears to the Board that it would not be possible or appropriate, because of the exceptional circumstances of the proposed development (including in relation to the nature, complexity, location or size of such development) to do so.

(*b*) Where *paragraph (a)* applies, the Board shall, by notice in writing served on—

(i) the applicant,

(ii) the planning authority,

(iii) the owner F813**[**(if any)**]** of the land the subject of the proposed development, if he or she is not the applicant,

(iv) the occupier F813**[**(if any)**]** of the land the subject of the proposed development, if he or she is not the applicant or owner of such land, and

(v) any other person from whom further information was sought or any body which was consulted pursuant to *section 176A(4)*,

before the expiration of the period of 5 weeks or 4 weeks referred to in *subsection (6)(a)* or *(b)*, as the case may be, inform him or her of the reasons why it would not be possible or appropriate to comply with that subsection within that period and shall specify the date before which the Board intends that the determination concerned shall be made.

(7) A determination review or a determination on foot of an application referral under this section shall consist of a determination by the Board—

(*a*) as to whether a proposed development would be likely to have significant effects on the environment, and

(*b*) if the development would be likely to have such effects, that an environmental impact assessment is required.

(7A)(*a*) *Paragraph (b)* applies where the determination under this section is that the proposed development would not be likely to have significant effects on the environment and there has been provided, in accordance with *section 176A(3A)* or *(5A)*, as the case may be, a description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(*b*) The Board shall specify such features, if any, and such measures, if any, in its determination under this section.

(8) The Board shall give notice in writing of its determination under this section to—

(*a*) the planning authority,

(*b*) the applicant,

(*c*) any person or body consulted under *section 176A(4)*,

F814**[**(*d*) where *subsection (5)* of *section 176A* applies, the owner (if any) and the occupier (if any) of the land that is the subject of the proposed development, and**]**

(*e*) any other person, requested by the Board under *subsection (6)(b)* to provide further information with regard to the determination review or application referral,

by issuing in writing to each of them a notice to that effect and the notice shall include the Board's reasons for that decision.

(8A) The notice issued under *subsection (8)* shall be placed with any application for consent for proposed development subsequently made to the planning authority or the Board, as the case may be, or any appeal or referral made to the Board in respect

of which an application for a screening for an environmental impact assessment was made under *section 176A(2)*.

(9) On notification by the Board of a determination under this section, the planning authority shall publish the determination either or both—

(*a*) on its website, and

(*b*) in a newspaper circulating in the area where the proposed development would be situated,

together with a notice—

(i) indicating the place or places at which the documents relating to the making of the determination are available for inspection and purchase by members of the public and, where applicable, the availability of the said documents for inspection by electronic means,

(ii) stating that a person may question the validity of the determination by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with *sections 50* and *50A*, and

(iii) identifying where practical information on the mechanism for questioning the validity of the determination can be found.

(10) The Board shall—

(*a*) keep a record of any determination made by it under this section and the main reasons and considerations on which its determination was based,

(*b*) from time to time, but at least once in every year, forward to each planning authority a copy of the record referred in *paragraph (a)*, and

(*c*) make the record available for purchase and inspection during office hours or available on its website, or both,

and, where the record specified in *paragraph (a)* is made available for purchase and inspection, the Board may charge a specified fee as determined pursuant to *section 144(1A)(ha)* but such fee shall not exceed the cost of making the copy.

(11)(*a*) Where the Board makes a screening determination for environmental impact assessment under this section, the following documents shall, within 3 working days, be placed on its website for inspection and be made available for inspection and purchase by members of the public during office hours at the offices of the Board for at least the minimum period referred to in *paragraph (b)*:

(i) a copy of the application made under *section 176A(2)*, the referral for determination review or the application referral, as the case may be, and any description, information, views, submissions, particulars, evidence, written study or further information received or obtained from—

(I) the applicant,

(II) the owner F813**[**(if any)**]** of the land the subject of the proposed development, if he or she is not the applicant,

(III) the occupier F813**[**(if any)**]** of the land the subject of the proposed development, if he or she is not the applicant or owner of such land,

(IV) any other person from whom further information was sought or any body which was consulted pursuant to *section 176A(4)*, and

(V) any other person requested by the Board under *subsection (6)(b)* to provide further information with regard to the determination review or application referral,

(ii) a copy of any report prepared by or for the Board in relation to the determination review or application referral, and

(iii) a copy of the screening determination for environmental impact assessment made under this section by the Board.

(*b*) The minimum period for the purposes of *paragraph (a)* is 8 weeks from the date of the screening determination for environmental impact assessment made by the Board.**]**

Annotations

Amendments:

F812 Inserted (1.01.2019) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 21, in effect as per reg. 2(2).

F813 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 36, S.I. No. 488 of 2022.

F814 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 36, S.I. No. 488 of 2022.

Modifications (not altering text):

C122 Application of section restricted during specified period (3.07.2017 to 31.12.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 22, S.I. No. 270 of 2017. Note the version of s. 176C then referred to was not commenced.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(*a*) the period from the commencement of this provision until 31 December 2019, and

(*b*) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of the Fourth Schedule (reasons for the refusal of permission which exclude compensation) to Act of 2000 during specified period

22. Sections 176A, 176B and 176C shall not apply during the specified period to a proposed strategic housing development in respect of which a prospective applicant has, in accordance with *section 7(1)(a)*, requested the Board to make a determination whether it is likely to have significant effects on the environment.

Editorial Notes:

E369 Previous affecting provisions: subs. (9A) inserted and subs. (1)(c) substituted by *Planning and Development (Amendment) Act 2018* (16/2018), s. 34(a), (b), not commenced; repealed (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 4(2), in effect as per reg. 2(1).

E370 Previous affecting provision: section inserted by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 26, not commenced; substituted as per F-note above.

Prescribed information regarding environmental impact statements.

177.—(1) The Minister may prescribe the information that is to be contained in an F815**[**environmental impact assessment report**]**.

(2) Any reference in an enactment to the information to be contained in an environmental impact statement specified under Article 25 of the European Communities (Environmental Impact Assessment) Regulations, 1989, shall be deemed to be a reference to information prescribed under this section.

Annotations

Amendments:

F815 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 67, in effect as per reg. 2(1).

Editorial Notes:

E371 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

F816**[**PART XA

Substitute Consent**]**

Annotations

Amendments:

F816 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F817**[**Interpretation. **177A.**—(1) In this Part—

F818**[**"exceptional circumstances" shall, other than in *section 177K(2A)(b)*, be construed in accordance with *section 177K(1J)*;**]**

"F819**[**remedial environmental impact assessment report**]**" shall be construed in accordance with *section 177F*;

"remedial Natura impact statement" shall be construed in accordance with *section 177G*;

"substitute consent" means substitute consent granted under *section 177K*.

(2) Subject to this Part, a word or expression that is used in the Part and that is also used in the Birds Directive or the Habitats Directive has, unless the context otherwise requires, the same meaning in this Part as it has in the Birds Directive or the Habitats Directive.**]**

Annotations

Amendments:

F817 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F818 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 26, S.I. No. 645 of 2023.

F819 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 68, in effect as per reg. 2(1).

F820**[**Application to apply for substitute consent where notice served by planning authority.

177B.—F821**[**...**]]**

Annotations

Amendments:

F820 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F821 Repealed (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 40(a), S.I. No. 645 of 2023, subject to transitional provision in s. 41(10).

Editorial Notes:

E372 Previous affecting provision: subss. (1)(i), (2)(c) amended (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. nos. 69, 70, in effect as per reg. 2(1); section repealed (16.12.2023) as per F-note above.

E373 Previous affecting provision: section amended (24.11.2011) by *European Union (Substitute Consent) Regulations 2011* (S.I. No. 609 of 2011), reg. 3(1)(a)-(e), subject to transitional provision in reg. 3(2); section repealed (16.12.2023) as per F-note above.

F822**[**Application for leave to apply for substitute consent where notice not served by planning authority.

177C.—F823**[**...**]]**

Annotations

Amendments:

F822 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F823 Repealed (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 40(b), S.I. No. 645 of 2023, subject to transitional provision in s. 41(11).

Editorial Notes:

E374 Previous affecting provision: section amended (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 22(a), (b), 36 and sch. 1 table ref. no. 71, in effect as per reg. 2(1); section repealed (16.06.2023) as per F-note above.

F824**[**Decision of Board on whether to grant leave to apply for substitute consent.

177D.—F825**[**...**]]**

Annotations

Amendments:

F824 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F825 Repealed (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 40(c), S.I. No. 645 of 2023.

Editorial Notes:

E375 Previous affecting provision: section amended (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), regs. 23(a)-(d), 36 and sch. 1 table ref. nos. 72, 73, in effect as per reg. 2(1); section repealed (16.12.2023) as per F-note above.

E376 Previous affecting provision: subs. (1) amended (22.07.2015) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015), reg. 3; section repealed (16.12.2023) as per F-note above.

E377 Previous affecting provision: subs. (5)(a)-(c) amended (22.07.2015) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015), reg. 3; section repealed (16.12.2023) as per F-note above.

F826**[**Application for substitute consent.

177E.—(1) An application for substitute consent F827**[**in respect of development of land**]** shall be made to the Board.

F828**[**(1A) The Board may, at its own discretion and at the request of a person who intends to make an application for substitute consent, enter into consultations in respect of the application with that person before he or she makes the application.**]**

F827**[**(1B) Subject to *subsection (2A)*, an application for substitute consent may be made by—

(*a*) a person who has carried out the development referred to in *subsection (1)*, or

(*b*) the owner or occupier of the land on which the development has been carried out.

(1C) The Board shall only consider an application for substitute consent in respect of development of land where—

(*a*) subject to *subsection (1D)*, the Board is satisfied under *section 172* that an environmental impact assessment was required or is required for the development,

(*b*) subject to *subsection (1E)*, the Board is satisfied under *section 177U* that an appropriate assessment was required or is required for the development, or

(*c*) subject to *subsections (1D)* and *(1E)*, the Board is satisfied under *sections 172* and *177U*, that both of the assessments referred to at *paragraphs (a)* and *(b)* were required or are required for the development.

(1D) Where the Board receives an application which is accompanied by a remedial environmental impact assessment report under *subsection (2)(b)* and the application is not, under this Act or any regulations made under it, invalid or withdrawn, the Board shall be deemed to be satisfied that an environmental impact assessment is required and was required and the Board shall consider the application.

(1E) Where the Board receives an application which is accompanied by a remedial Natura impact statement under *subsection (2)(b)*, and the application is not, under this Act or any regulations made under it, invalid or withdrawn, the Board shall be deemed to be satisfied that an appropriate assessment is required and was required and the Board shall consider the application.**]**

F828**[**(2) An application for substitute consent shall—

(*a*) state the name of the person making the application,

(*b*) be accompanied by a remedial environmental impact assessment report or remedial Natura impact statement, or both,

(*c*) be accompanied by the fee payable in accordance with *section 177M*,

(*d*) comply with any requirements prescribed under *section 177N*, and

(*e*) be accompanied by any other document that the applicant considers would be of assistance to the Board in making a decision in relation to his or her application.**]**

F828**[**(2A) Where an application for substitute consent is made in respect of development of land for which planning permission has been granted, that application may be made in relation to—

(*a*) that part of the development permitted under the permission that has been carried out at the time of the application, or

(*b*) subject to *subsection (2B)*, that part of the development referred to in *paragraph (a)* and all or part of the development permitted under the permission that has not been carried out at the time of the application.**]**

F829**[**(2B) Where *subsection (2A)(b)* applies the applicant shall, in relation to that part of the development that has not been carried out at the time of the application, furnish one or both of the following to the Board with his or her application:

(*a*) where a remedial environmental impact assessment report has been furnished with the application, an environmental impact assessment report;

(*b*) where a remedial Natura impact statement has been furnished with the application, a Natura impact statement.**]**

(3) F830**[**...**]**

(4) The Board may at its own discretion, on request extend the period F828**[**specified in *section 177B* (whether the notice given under *section 177B(1)* was confirmed or amended before the date of the coming into operation of section 40 (a) of the Planning and Development, Maritime and Valuation (Amendment) Act 2022, or confirmed or

amended on or after that date in accordance with section 41 (10) of that Act) or specified in *section 261A***]**, for the making of an application for substitute consent, by such further period as it considers appropriate.

F831**[**(4A)(*a*) The Board shall consider whether a remedial environmental impact assessment report submitted under this section identifies and describes adequately the direct and indirect significant effects on the environment of the development.

(*b*) *Paragraph (c)* applies where the Board considers that the remedial environmental impact assessment report does not identify or adequately describe such effects.

(*c*) The Board shall require the applicant for substitute consent to furnish, within a specified period, such further information which is necessary to ensure the completeness and quality of the remedial environmental impact assessment report and which is directly relevant to reaching the reasoned conclusion on the significant effects on the environment of the development as the Board considers necessary to remedy such defect.**]**

F829**[**(4B) Where the Board considers that a remedial Natura impact statement does not comply with *paragraph (a)*, *(b)* or *(c)* of *section 177G(1)*, the Board shall require the applicant for substitute consent to furnish, within a specified period, such further information as it considers necessary for the statement to so comply.

(4C) Where further information required by the Board under *subsection (4A)(c)* or *(4B)* is not furnished to it by the applicant within the period specified under that subsection, or within any further period as may be specified by the Board, the application shall be deemed to have been withdrawn by the applicant.**]**

(5) As soon as may be after receipt of an application for substitute consent under this section, which is not invalid, the Board shall send a copy of the application and all associated documentation, including the F832**[**remedial environmental impact assessment report, or the remedial Natura impact statement, or both that report and that statement, as the case may be, and, where *subsection (2A)(b)* applies, the environmental impact assessment report or Natura impact statement or both that report and that statement**]**F833**[**, as the case may be,**]** to the planning authority for the area in which the development the subject of the application is situated and such documentation shall be placed on the register.**]**

F829**[**(6) Where a remedial environmental impact assessment report, remedial Natura impact statement, environmental impact assessment report or Natura impact statement is received by the Board in response to a requirement under *subsection (2CA)*, *(2CB)* or *(2CC)* of *section 177K*, the Board shall, as soon as may be after its receipt, send the report or statement, as the case may be, to the planning authority referred to in *subsection (5)*, and the planning authority shall place the report or statement on the register.**]**

Annotations

Amendments:

F826 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F827 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 27(a), (c), S.I. No. 645 of 2023, subject to transitional provision in s. 41(12).

F828 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 27(b), (d), (e), (g), S.I. No. 645 of 2023, subject to transitional provision in s. 41(12).

F829 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 27(f), (h), (i), S.I. No. 645 of 2023, subject to transitional provision in s. 41(12).

F830 Deleted (22.07.2015) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015), reg. 4(b).

F831 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 24, in effect as per reg. 2(1).

F832 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 77, in effect as per reg. 2(1).

F833 Substituted (22.07.2015) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015), reg. 4(c).

Editorial Notes:

E378 Previous affecting provision: subs. (2)(g) substituted (19.12.2020) by *Planning and Development, and Residential Tenancies, Act 2020* (27/2020), s. 6, commenced on enactment; subsection substituted (16.12.2023) as per F-note above.

E379 Previous affecting provision: subss. (2)(c), (d), (2A)(b)(I) amended (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. nos. 74, 75, 76, in effect as per reg. 2(1); subsections substituted (16.12.2023) as per F-note above.

E380 Previous affecting provision: subs. (2A) inserted (22.07.2015) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015), reg. 4(a); substituted (16.12 2023) as per F-note above.

E381 Previous affecting provision: subs. (5) amended (22.07.2015) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015), reg. 4(c); subs. (5) amended as per F-note above.

E382 Previous affecting provision: subs. (1A) inserted (24.11.2011) by *European Union (Substitute Consent) Regulations 2011* (S.I. No. 609 of 2011), reg. 4(a); substituted (16.12.2023) as per F-note above.

E383 Previous affecting provision: subs. (3) amended (24.11.2011) by *European Union (Substitute Consent) Regulations 2011* (S.I. No. 609 of 2011), reg. 4; deleted as per F-note above.

E384 Previous affecting provision: subs. (2)(c) amended (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 7; subsection substituted (16.12.2023) as per F-note above.

F834**[**Remedial environmental impact statement.

177F.—(1) A F835**[**remedial environmental impact assessment report**]** shall contain the following:

(*a*) a statement of the significant effects, if any, on the environment, which have occurred or which are occurring or which can reasonably be expected to occur because the development the subject of the application for substitute consent was carried out;

(*b*) details of—

(i) any appropriate remedial measures undertaken or proposed to be undertaken by the applicant for substitute consent to remedy any significant adverse effects on the environment;

(ii) the period of time within which any proposed remedial measures shall be carried out by or on behalf of the applicant;

(*c*) such information as may be prescribed under *section 177N*.

F836**[**(1A) The remedial environmental impact assessment report shall be prepared by experts with the competence to ensure its completeness and quality.**]**

(2) F837**[**(*a*) F838**[**(i) A person may request the Board to give him or her an opinion referred to in *subparagraph (ii)* in relation to a development—

(I) before he or she makes an application for substitute consent in respect of the development, or

(II) after he or she has made such an application, where required by the Board under *section 177K(2CA)* to submit a remedial environmental impact assessment report.**]**

(ii) Subject to *subparagraph (iii)*, F838**[**the Board shall, when requested to do so by the person referred to in *subparagraph (i)*,**]** taking into account the information provided by F838**[**the person**]**, in particular on the specific characteristics of the development, including its location and technical capacity, and its impact and likely impact on the environment, as soon as may be give an opinion in writing on the scope and level of detail of the information to be included in the remedial environmental impact assessment report F839**[**in relation to the development**]**.

(iii) The Board shall give the opinion in writing before the submission by F838**[**the person referred to in *subparagraph (i)*] of the remedial environmental impact assessment report.**]**

F840**[**(*aa*) Where an opinion referred to in *paragraph (a)* has been provided, the remedial environmental impact assessment report shall be based on that opinion, and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects on the environment of the development, taking into account current knowledge and methods of assessment.**]**

(*b*) F838**[**The person referred to in *paragraph (a)(i)*] shall, in connection with a request under *paragraph (a)*, forward to the Board sufficient information in relation to the development the subject of the application for substitute consent to enable the Board to comply with that request, and shall forward any additional information requested by the Board.

(*c*) The provision of an opinion under this subsection shall not prejudice the performance by the Board of any of its functions under this Act or regulations under this Act and cannot be relied upon in the application for substitute consent or in any legal proceedings.**]**

Annotations

Amendments:

F834 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F835 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 78, in effect as per reg. 2(1).

F836 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 25(a), in effect as per reg. 2(1).

F837 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 25(b), in effect as per reg. 2(1).

F838 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 28(a)(i), (ii)(I), (II), (iii), (b), S.I. No. 645 of 2023.

F839 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 28(a)(ii)(III), S.I. No. 645 of 2023.

F840 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 25(b), in effect as per reg. 2(1).

Modifications (not altering text):

C123 Transitional arrangements provided (21.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 3(1)(c), in effect as per reg. 2(1).

Transitional arrangements

3. (1) Subject to paragraph (3), the Act of 2000 and the Regulations of 2001, as in force immediately before 1 September 2018, shall continue to apply to development or proposed development, as the case may be, in the following cases: ...

(*c*) a request has been made, before 16 May 2017, under section 177F(2) of the Act of 2000, as so in force, for an opinion prepared by the Board on the information required to be contained in a remedial environmental impact statement relating to such development;

...

(2) Section 2 of the Act of 2000, as in force immediately before 1 September 2018, shall apply to the interpretation of this Regulation as that section applies to the interpretation of that Act.

(3) The Act of 2000 and the Regulations of 2001, as in force on or after 1 September 2018, shall not apply to a case referred to in paragraph (1) unless otherwise specified in a provision of that Act or those Regulations, as the case may be.

(4) In this Regulation—

"Act of 2000" means the Planning and Development Act 2000 (No. 30 of 2000);

"Regulations of 2001" means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

F841**[**Remedial Natura impact statement.

177G.—(1) A remedial Natura impact statement shall contain the following:

(*a*) a statement of the significant effects, if any, on the relevant European site which have occurred or which are occurring or which can reasonably be expected to occur because the development the subject of the application for substitute consent was carried out;

(*b*) details of—

(i) any appropriate remedial or mitigation measures undertaken or proposed to be undertaken by the applicant for substitute consent to remedy or mitigate any significant effects on the environment or on the European site;

(ii) the period of time within which any such proposed remedial or mitigation measures shall be carried out by or on behalf of the applicant;

(*c*) such information as may be prescribed under *section 177N*;

(*d*) and may have appended to it, where relevant, and where the applicant may wish to rely upon same:

(i) a statement of imperative reasons of overriding public interest;

(ii) any compensatory measures being proposed by the applicant.**]**

Annotations

Amendments:

F841 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F842**[**Submissions or observations by person other than the applicant for substitute consent or planning authority.

177H.—F843**[**(1) Any person (other than the applicant for substitute consent) or a planning authority may make submissions or observations (including submissions or observations as to the existence or absence of exceptional circumstances justifying a grant of substitute consent) to the Board in relation to an application for substitute consent, and any such submissions or observations shall be in writing.**]**

(2) Submissions or observations that are made under this section shall not be considered by the Board if the person who submits them has not complied with any relevant requirements prescribed by regulations under *section 177N*.

(3) *Subsection (2)* shall not apply in relation to submissions or observations made by a Member State or another state which is a party to the Transboundary Convention, arising from consultation in accordance with the Environmental Impact Assessment Directive or the Transboundary Convention, as the case may be, in relation to the effects on the environment of the development to which an application for substitute consent relates.**]**

Annotations

Amendments:

F842 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F843 Substituted (19.12.2020) by *Planning and Development, and Residential Tenancies, Act 2020* (27/2020), s. 7, commenced on enactment.

F844**[**Report of planning authority.

177I.—(1) F845**[**Subject to *subsection (1A)*, no later**]** than 10 weeks after receipt, under *section 177E(5)*, by a planning authority of a copy of an application for substitute consent and a F846**[**remedial environmental impact assessment report or a remedial Natura impact statement or both that report and that statement, as the case may be, and, where *section 177E(2A)(b)* applies, an environmental impact assessment report or Natura impact statement or both that report and that statement**]** F847**[**, as the case may be,**]** a planning authority shall submit a report to the Board and the Board shall consider the report.

F848**[**(1A) Where *section 177E(6)* applies, the period of 10 weeks referred to in *subsection (1)* shall run from the date of receipt by the planning authority of the report or statement, as the case may be, under that section.**]**

(2) The report referred to in *subsection (1)* shall include the following:

(*a*) information relating to development (including development other than the development which is the subject of the application for consent) carried out on the site where the development the subject of the application for consent is situated, and any application for permission made in relation to the site and the outcome of the application;

(*b*) information relating to any warning letter, enforcement notice or proceedings relating to offences under this Act that relate to the applicant for substitute consent;

(*c*) information regarding the relevant provisions of the development plan and any local area plan as they affect the area of the site and the type of development concerned;

(*d*) any information that the authority may have concerning—

(i) current, anticipated or previous significant effects on the environment, or on a European site associated with the development or the site where the development took place F849**[**or, where *section 177E(2A)(b)* applies, is proposed to take place**]** and, if relevant, the area surrounding or near the development or site, or

(ii) any remedial measures recommended or undertaken;

(*e*) the opinion, including reasons therefor, of the F850**[**chief executive**]** as to—

(i) whether or not substitute consent should be granted for the development, and

(ii) the conditions, if any, that should be attached to any grant of substitute consent.**]**

Annotations

Amendments:

F844 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F845 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 29(a), S.I. No. 645 of 2023.

F846 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 79, in effect as per reg. 2(1).

F847 Inserted (22.07.2015) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015), reg. 5(a).

F848 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 29(b), S.I. No. 645 of 2023.

F849 Inserted (22.07.2015) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015), reg. 5(b).

F850 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. no. 65, S.I. No. 436 of 2018.

F851**[**Draft direction and direction to cease activity or operations.

177J.—(1) Where the Board has received an application for substitute consent made in accordance with *section 177E* and is considering that application, it may give a draft direction in writing to the person who made the application requiring the person to cease within the period specified in the draft direction, all or part of his or her activity or operations on or at the site of the development the subject of the application, where the Board forms the opinion that the continuation of all or part of the activity or operations is likely to cause significant adverse effects on the environment or adverse effects on the integrity of a European site.

(2) The draft direction referred to in *subsection (1)* shall inform the applicant of the Board's reasons for its opinion that the continuation of all or part of the activity or operations is likely to cause significant adverse effects on the environment or adverse effects on the integrity of a European site.

(3) The person to whom the draft direction is given may make a submission or observation to the Board in relation to the draft direction within 2 weeks of receipt of the draft direction.

(4) The Board shall consider any submission or observation submitted to it under *subsection (3)* and may do one of the following:

(*a*) give a direction to the applicant for substitute consent confirming the draft direction;

(*b*) give a direction to the applicant varying the draft direction;

(*c*) withdraw the draft direction,

and shall send a copy of the direction to the relevant planning authority, or inform the authority of its decision to withdraw the draft direction, as the case may be.

(5) A person who fails to comply with a direction given by the Board under subsection (4), within the time specified in the direction shall be guilty of an offence and shall be liable—

(*a*) on summary conviction, to a fine not exceeding €5,000, or to imprisonment for a term not exceeding 6 months, or to both, or

(*b*) on conviction on indictment, to a fine not exceeding €12,600,000 or to imprisonment for a term not exceeding 2 years, or to both.

(6) Where a person is convicted of an offence referred to in *subsection (5)* and there is a continuation by him or her of the offence after his or her conviction, he or she shall be guilty of a further offence on every day on which the contravention continues and for each such offence shall be liable—

(*a*) on summary conviction, to a fine not exceeding €500 for each day on which the offence is so continued or to imprisonment for a term not exceeding 6 months, or to both, provided that if a person is convicted in the same proceedings of 2 or more such further offences the aggregate term of imprisonment to which he or she shall be liable shall not exceed 6 months, or

(*b*) on conviction on indictment, to a fine not exceeding €12,600 for each day on which the offence is so continued, or to imprisonment for a term not exceeding 2 years, or to both, provided that if a person is convicted in the same proceedings of 2 or more such further offences the aggregate term of imprisonment to which he or she shall be liable shall not exceed 2 years.**]**

Annotations

Amendments:

F851 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F852**[**Decision of Board.

177K.—F853**[**(1) Where an application is made to the Board for substitute consent in accordance with this Act and regulations under this Act—

(*a*) the Board shall ensure that it has, or has access to, sufficient expertise to enable it to examine the remedial environmental impact assessment report and ensure its adequacy, and

(*b*) the Board may, subject to *subsection (1A)*—

(i) grant substitute consent (with or without conditions) in respect of the development concerned, or

(ii) refuse substitute consent in respect of the development concerned.**]**

F854**[**(1A) (*a*) The Board shall not grant substitute consent (whether subject to conditions or not) unless it is satisfied that exceptional circumstances exist that would justify the grant of such consent by the Board.

(*b*) F855**[**...**]**

(*c*) F855**[**...**]**

(1B) F856**[**...**]**

(1C) F856**[**...**]**

(1D) F856**[**...**]**

(1E) F856**[**...**]**

(1F) F856**[**...**]**

(1G) F856**[**...**]**

(1H) F856**[**...**]**

(1I) F856**[**...**]]**

F857**[**(1J) In considering whether exceptional circumstances exist under *subsection (1A)(a)* the Board shall have regard to the following matters:

(*a*) whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive;

(*b*) whether the applicant had or could reasonably have had a belief that the development was not unauthorised;

(*c*) whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired;

(*d*) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development;

(*e*) the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated;

(*f*) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development;

(*g*) such other matters as the Board considers relevant.**]**

(2) When making its decision in relation to an application for substitute consent, the Board shall consider the proper planning and sustainable development of the area, regard being had to the following matters:

(*a*) the provisions of the development plan or any local area plan for the area;

(*b*) the provisions of any special amenity area order relating to the area;

(*c*) the F858**[**remedial environmental impact assessment report, or remedial Natura impact statement, or both that report and that statement, as the case may

be, and, where *section 177E(2A)(b)* applies, the environmental impact assessment report or Natura impact statement or both that report and that statement**]** F859**[**, as the case may be,**]** submitted with the application F857**[**or in accordance with a requirement under *subsection (2CA)*, *(2CB)* or *(2CC)***]**;

(*d*) the significant effects on the environment, or on a European site, which have occurred or which are occurring or could reasonably be expected to occur because the development concerned F860**[**was or is proposed to be carried out**]**;

(*e*) the report and the opinion of the planning authority under *section 177I*;

(*f*) any submissions or observations made in accordance with regulations made under *section 177N*;

(*g*) any report or recommendation prepared in relation to the application by or on behalf of the Board, including the report of the person conducting any oral hearing on behalf of the Board;

(*h*) if the area or part of the area is a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact;

(*i*) conditions that may be imposed in relation to a grant of permission under *section 34(4)*, F861**[***282(3)* or *293(7)***]**;

(*j*) the matters referred to in *section 143*;

(*k*) the views of a Member State where the Member State is notified in accordance with regulations under this Act;

(*l*) any relevant provisions of this Act and regulations made thereunder.

F862**[**(2A)(*a*) Subject to *paragraph (b)*, the Board shall make a determination for the purposes of this section as to whether an environmental impact assessment was or is required within 8 weeks of receipt of the information specified in Schedule 7A to the Planning and Development Regulations 2001.

(*b*) Subject to *paragraph (c)*, the Board shall not be required to comply with paragraph (*a*) within the period specified in *paragraph (a)* where it appears to the Board that it would not be possible or appropriate, because of the exceptional circumstances of the development (including in relation to the nature, complexity, location or size of such development) to do so.

(*c*) Where *paragraph (b)* applies, the Board shall, by notice in writing served on the applicant before the expiration of the period specified in *paragraph (a)*, inform him or her of the reasons why it would not be possible or appropriate to comply with *paragraph (a)* within that period and shall specify the date before which the Board intends that the determination concerned shall be made.

(2B) Where the Board makes a determination for the purposes of this section as to whether an environmental impact assessment was or is required, it shall, in making that determination, have regard to—

(*a*) the criteria set out in Schedule 7 to the Planning and Development Regulations 2001,

(*b*) the information submitted pursuant to Schedule 7A to the Planning and Development Regulations 2001,

(*c*) the further relevant information, if any, referred to in article 227(2)(*cb*) of the Planning and Development Regulations 2001 and the description, if any, referred to in article 227(2A) of those Regulations,

(*d*) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and

(*e*) in respect of a development which would be located on, or in, or have the potential to impact on—

(i) a European site,

(ii) an area the subject of a notice under section 16 (2)(*b*) of the Wildlife (Amendment) Act 2000 (No. 38 of 2000),

(iii) an area designated as a natural heritage area under section 18 of the Wildlife (Amendment) Act 2000,

(iv) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act 1976 (No. 39 of 1976),

(v) land designated as a refuge for flora or as a refuge for fauna under section 17 of the Wildlife Act 1976,

(vi) a place, site or feature of ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan, draft development plan or draft local area plan, or proposed variation of a development plan, for the area in which the development is proposed, or

(vii) a place or site which has been included by the Minister for Culture, Heritage and the Gaeltacht in a list of proposed Natural Heritage Areas published on the National Parks and Wildlife Service website,

the likely significant effects of the development on such site, area, land, place or feature, as appropriate.

(2C) The Board shall include, or refer to, in its decision under *subsection (1)* the main reasons and considerations, with reference to the relevant criteria listed in Schedule 7 to the Planning and Development Regulations 2001, on which the determination under *subsection (2A)* is based.

F863**[**(2CA) Where the applicant submitted a remedial Natura impact statement under *section 177E(2)*, but did not submit a remedial environmental impact assessment report under that section, and the Board determines that an environmental impact assessment was required or is required, the Board shall require the applicant to submit such a report within a specified period.

(2CB) Where the applicant submitted a remedial environmental impact assessment report under *section 177E(2)*, but did not submit a remedial Natura impact statement under that section, and the Board determines that an appropriate assessment was required or is required, the Board shall require the applicant to submit such a statement within a specified period.

(2CC) Where *section 177E(2A)(b)* applies and a remedial environmental impact assessment report or remedial Natura impact statement, as the case may be, was not submitted with an application but is subsequently required under *subsection (2CA)* or *(2CB)*, the Board shall, in relation to the part of the development referred to in *section 177E(2A)(b)* that has not been carried out at the time of the application, require the applicant to submit an environmental impact assessment report or a Natura impact statement, as the case may be, within a specified period.

(2CD) Where the Board requires the applicant to submit within a specified period a report under *subsection (2CA)*, a statement under *subsection (2CB)*, or a report or statement under *subsection (2CC)*, and the report or statement is not submitted to it within that period, or within any further period that the Board may specify, the application shall be deemed to have been withdrawn by the applicant.**]**

(2D)(*a*) *Paragraph (b)* applies where the determination under *subsection (2A)* is that the development did not or would not be likely to have significant effects on the environment (and, accordingly, an environmental impact assessment is or was not required) and the applicant has provided, F864**[**in accordance with the Planning and Development Regulations 2001**]**, a description of the features, if any, of the development and the measures, if any, incorporated or envisaged, to avoid, prevent or reduce what might otherwise be or have been significant adverse effects on the environment of the development.

(*b*) The Board shall specify such features, if any, and such measures, if any, in its decision under subsection (1).

(2E)(*a*) Where the Board decides under *subsection (1)* to grant substitute consent for the development, it shall—

(i) attach such conditions, if any, to the grant as it considers necessary to avoid, prevent or reduce and, if possible, offset the significant adverse effects on the environment of the development,

(ii) where the applicant has provided, F864**[**in accordance with the Planning and Development Regulations 2001**]**, a description of the features, if any, of the development and the measures, if any, incorporated or envisaged to avoid, prevent or reduce and, if possible, offset what might otherwise have been the significant adverse effects on the environment of the development, specify such features, if any, and such measures, if any, in the decision, and

(iii) subject to *paragraph (b)*, where appropriate, specify in the decision measures to monitor the significant adverse effects on the environment of the development (being measures, as regards the types of parameters to be monitored and the duration of the monitoring, that are proportionate to the nature, location and size of the development and the significance of the effects on the environment of the development).

(*b*) Where the Board decides under *subsection (1)* to grant substitute consent for the development, it may, if appropriate to avoid duplication of monitoring, and without prejudice to existing monitoring arrangements pursuant to national or European Union legislation (other than the Environmental Impact Assessment Directive) identify such arrangements (or parts thereof as it thinks appropriate in the particular case) to be used for the purpose of *paragraph (a)(iii)*.**]**

(3) The conditions referred to in *subsection (1)* may include—

(*a*) one or more than one condition referred to in *section 34(4)*, F861**[***282(3)* or *293(7)*, as may be appropriate,**]**

(*b*) a condition or conditions relating to remediation of all or part of the site on which the development the subject of the grant of substitute consent is situated,

(*c*) a condition or conditions requiring a financial contribution in accordance with *section 48*, or

(*d*) a condition or conditions requiring a financial contribution in accordance with a supplementary development contribution scheme under *section 49*.

(4) The Board shall send a notification of its decision under *subsection (1)* to the applicant, and such notification shall state—

(*a*) the main reasons for and considerations on which the decision is F865**[**made,**]**

F866**[**(*aa*) F867**[**where an environmental impact assessment was carried out,**]** the reasoned conclusion by the Board on the significant effects on the

environment of the development, taking into account the results of the examination of the information contained in the remedial environmental impact assessment report or the environmental impact assessment report, or both such reports, as the case may be, and any supplementary information provided, where necessary, by the applicant in accordance with regulations under this Part and any relevant information received through consultations with prescribed authorities in accordance with regulations under this Part and, where appropriate, its own supplementary examination, and**]**

(*b*) where conditions are imposed in relation to the grant of substitute consent the main reasons for the imposition of any such conditions.

F868**[**(4A)(*a*) Where the decision under *subsection (1)* by the Board to impose a condition (being an environmental condition which arises from the consideration of the remedial environmental impact assessment report or the environmental impact assessment report concerned, or both such reports, as the case may be) in relation to the grant of substitute consent is materially different, in relation to the terms of such condition, from the recommendation in a report of a person assigned to report on the application on behalf of the Board, the Board shall, in its statement under *subsection (4)(b)*, indicate the main reasons for not accepting, or for varying, as the case may be, the recommendation in the last-mentioned report in relation to such condition.

(*b*) Where F867**[**an environmental impact assessment was carried out and**]** the decision under *subsection (1)* by the Board is to grant, subject to or without conditions, substitute consent, the Board shall cause the decision to be accompanied by a statement that the Board is satisfied that the reasoned conclusion on the significant effects on the environment of the development was up to date at the time of the taking of the decision.

(*c*) F864**[**Where an environmental impact assessment was carried out, the Board shall**]** include in its decision under *subsection (1)* a summary of the results of the consultations that have taken place and information gathered in the course of the environmental impact assessment concerned and, where appropriate, the comments received from an affected Member State of the European Union or other party to the Transboundary Convention, and specify how those results have been incorporated into the decision or otherwise addressed.**]**

(5) The Board shall also send a copy of its decision under *subsection (1)* to the planning authority in whose area the development the subject of the application for substitute consent is situated and to any person who made submissions or observations in relation to the application.

(6) For the avoidance of doubt, there shall be no right to compensation under *Part XII* in respect of any of the following:

(*a*) F869**[**...**]**

(*b*) a direction of the Board to cease all or part of an activity or operations under *section 177J*;

(*c*) a decision of the Board under this section to refuse an application for substitute consent under this section;

(*d*) a decision of the Board under this section to grant substitute consent subject to one or more than one condition;

(*e*) a direction of the Board to cease activity or operations or to take remedial measures under *section 177L*.**]**

Annotations

Amendments:

F852 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F853 Substituted (19.12.2020) by *Planning and Development, and Residential Tenancies, Act 2020* (27/2020), s. 8(a), commenced on enactment.

F854 Inserted (19.12.2020) by *Planning and Development, and Residential Tenancies, Act 2020* (27/2020), s. 8(b), commenced on enactment.

F855 Repealed (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 40(d), S.I. No. 645 of 2023.

F856 Repealed (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 40(e), S.I. No. 645 of 2023.

F857 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 30(a), (b), S.I. No. 645 of 2023.

F858 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 80, in effect as per reg. 2(1).

F859 Inserted (22.07.2015) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015), reg. 6(a).

F860 Substituted (22.07.2015) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015), reg. 6(b).

F861 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 37, S.I. No. 488 of 2022.

F862 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 26(b), in effect as per reg. 2(1).

F863 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 30(c), S.I. No. 645 of 2023.

F864 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 30(d), (e), (g)(ii), S.I. No. 645 of 2023.

F865 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 26(c)(i), in effect as per reg. 2(1).

F866 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 26(c)(ii), in effect as per reg. 2(1).

F867 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 30(f), (g)(i), S.I. No. 645 of 2023.

F868 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 26(d), in effect as per reg. 2(1).

F869 Deleted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 30(h), S.I. No. 645 of 2023.

Editorial Notes:

E385 Previous affecting provision: subs. (1) amended (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 26(a), in effect as per reg. 2(1); subsection substituted as per F-note above.

F870[Direction by Board to cease activity or operations or take remedial measures.

177L.—(1) Where the Board F871[...] refuses to grant substitute consent under *section 177K*, it may give a draft direction in writing to the applicant concerned requiring him or her—

(*a*) to cease within the period specified in the draft direction, all or part of his or her activity or operations on or at the site of the development the subject of the application, where the Board forms the opinion that the continuation of all or part of the activity or operations is likely to cause significant adverse effects on the environment or adverse effects on the integrity of a European site, or

(*b*) to take such remedial measures, within the period specified in the draft direction, as the Board considers are necessary for either or both of the following:

(i) to restore the site on or at which the development referred to in the application is situated, to a safe and environmentally sustainable condition;

(ii) to avoid, in a European site the deterioration of natural habitats and the habitats of species or the disturbance of the species for which the site has been designated, insofar as such disturbance could be significant in relation to the objectives of the Habitats Directive.

(2) A draft direction referred to in *subsection (1)* shall give the reasons the Board considers that the specified measures are necessary and shall inform the person to whom the direction is sent that he or she may make submissions or observations to the Board in relation to the notice within 4 weeks of the date of the notice.

(3) Where the Board gives a draft direction to a person under *subsection (1)* it shall at the same time send a copy of the direction to the relevant planning authority and shall inform the planning authority that it may make submissions or observations to the Board in relation to the direction within 4 weeks of the date of the notice.

(4) In relation to the remedial measures that may be specified a draft direction issued under *subsection (1)* shall direct the person to whom the direction is given—

(*a*) to take the remedial measures specified in the draft direction,

(*b*) to keep records of the remedial measures being carried out in accordance with the draft direction,

(*c*) to carry out the remedial measures in such order, specified in the draft direction, as the Board considers appropriate,

(*d*) to comply with any requirements relating to monitoring and inspection, by the relevant planning authority, of the remedial measures specified in the draft direction,

(*e*) to carry out the remedial measures within the period of time specified in the draft direction.

(5) The Board shall consider any submissions or observations in relation to the draft direction made to it, within 4 weeks of the date of the draft direction by the person to whom the direction was issued or the relevant planning authority and shall, as soon as may be—

(*a*) issue a direction to the applicant confirming the draft direction, or

(*b*) issue a direction to the applicant varying the draft direction, or

(*c*) withdraw the draft direction,

and shall send a copy of the direction to the relevant planning authority, or inform the authority of its decision to withdraw the draft direction, as the case may be.

(6) A person who fails to comply with a direction issued by the Board under F872**[***subsection (5)***]** within the period specified in the direction shall be guilty of an offence and shall be liable—

(*a*) on summary conviction, to a fine not exceeding €5,000, or to imprisonment for a term not exceeding 6 months, or to both, or

(*b*) on conviction on indictment, to a fine not exceeding €12,600,000 or to imprisonment for a term not exceeding 2 years.

(7) Where a person is convicted of an offence referred to in *subsection (6)* and there is a continuation by him or her of the offence after his or her conviction, he or she shall be guilty of a further offence on every day on which the contravention continues and for each such offence shall be liable—

(*a*) on summary conviction, to a fine not exceeding €500 for each day on which the offence is so continued or to imprisonment for a term not exceeding 6 months, or to both, provided that if a person is convicted in the same proceedings of 2 or more such further offences the aggregate term of imprisonment to which he or she shall be liable shall not exceed 6 months, or

(*b*) on conviction on indictment, to a fine not exceeding €12,600 for each day on which the offence is so continued, or to imprisonment for a term not exceeding 2 years, or to both, provided that if a person is convicted in the same proceedings of 2 or more such further offences the aggregate term of imprisonment to which he or she shall be liable shall not exceed 2 years.

(8) Insofar as a direction is issued requiring the taking of remedial measures in respect of a development referred to in *section 157(4)(aa)*, such remedial measures may be required in relation to such development that was carried out at any time, but not more than 7 years prior to the date on which this section comes into operation.

(9) Where monitoring and inspection of remedial measures by a planning authority are specified in a direction under this section, the planning authority shall carry out the monitoring and inspection in accordance with the direction.**]**

Annotations

Amendments:

F870 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F871 Deleted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 31, S.I. No. 645 of 2023.

F872 Substituted (14.07.2015) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015), reg. 9.

F873**[**Fees and costs arising on an application for substitute consent.

177M.—(1) The fee payable to the Board in respect of an application for substitute consent shall be the same as the fee that would be payable to the planning authority under the permission regulations if the applicant were making an application for permission for the development under *section 34(1)* rather than an application for substitute consent.

(2) Where the Board grants an application for substitute consent under *section 177K* F874**[**...**]**, it may determine that a sum or sums is or are required to be paid in order to defray some or all of the costs incurred by the Board or the planning authority during the course of consideration of the application and may direct the applicant to pay the sum or sums to the Board or the planning authority or both, as the case may be.

(3) A reference to costs in *subsection (2)* shall be construed as a reference to such costs as the Board in its absolute discretion considers to be reasonable costs, but does not include a reference to so much of the costs there referred to as have been recovered by the Board by way of a fee charged under *section 144*.

(4) Where the Board directs an applicant to pay an additional sum or sums to it or the planning authority under *subsection (2)*, it shall F874**[**...**]** give to the applicant a notice requiring the payment of that sum or sums by the applicant and shall, if appropriate, give a copy of the notice to the planning authority for the area in which the development the subject of the application is situated.

(5) An applicant who receives a notification in relation to costs under *subsection (2)* may, within 2 weeks of the date of such notice, make submissions or observations to the Board in relation to the sum or sums so notified.

(6) The Board shall consider the submissions or observations made to it under *subsection (5)* and shall, as soon as may be, decide to confirm, vary or withdraw the notice under *subsection (2)* and shall give notice to the applicant of the Board's decision and the reasons therefore and shall give a copy of its decision to the relevant planning authority.

(7) Where an applicant for substitute consent fails to pay a sum or sums in respect of costs in accordance with a direction under *subsection (2)*, the Board or the planning authority as may be appropriate may recover the sum or sums as a simple contract debt in any court of competent jurisdiction.**]**

Annotations

Amendments:

F873 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F874 Deleted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 32(a), (b), S.I. No. 645 of 2023.

F875**[**Regulations. **177N.**—(1) The Minister shall by regulations make provision for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of this Part.

(2) Without prejudice to the generality of *subsection (1)* regulations under this section may provide for the following matters:

(*a*) regarding the making of an application F877**[**...**]** for substitute consent;

(*b*) requiring the submission of information in respect of an application referred to at *paragraph (a)*;

(*c*) requiring an applicant to publish a specified notice or notices relating to an application referred to at *paragraph (a)*;

(*d*) requiring an applicant for F877**[**...**]** substitute consent to submit any further information or evidence with respect to his or her application (including any information as to any estate or interest in or right over land);

(*e*) requiring the Board to notify prescribed authorities regarding applications for substitute consent and to give to them such documents, particulars, plans or other information in respect thereof as may be prescribed;

(*f*) requiring the Board, in the case of applications for substitute consent where the development the subject of the application is likely to have had or likely to have significant effects on the environment of a Member State of the

European Union or a state that is a party to the Transboundary Convention to notify that state;

(*g*) the making available for inspection at the offices of the Board or the relevant planning authority, by members of the public, of any specified documents, particulars, plans or other information with respect to applications for substitute consent;

(*h*) the making of submissions or observations to the Board in relation to applications for substitute consent;

(*i*) the information to be contained in a F876**[**remedial environmental impact assessment report**]**;

(*j*) the information to be contained in a remedial Natura impact statement;

(*k*) requiring the Board to furnish to the Minister and to any other specified persons any specified information with respect to F877**[**...**]** applications for substitute consent and the manner in which they have been dealt with;

(*l*) requiring the Board to publish or give notice of the Board's decisions in respect of applications for substitute consent, including the giving of notice thereof to prescribed bodies and to persons who made submissions or observations in the prescribed manner.**]**

Annotations

Amendments:

F875 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F876 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 81, in effect as per reg. 2(1).

F877 Deleted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 33(a)-(c), S.I. No. 645 of 2023.

Editorial Notes:

E386 Power pursuant to subs. (1) exercised (16.12.2023) by *Planning and Development (Amendment) (No. 4) Regulations 2023* (S.I. No. 648 of 2023).

E387 Power pursuant to section exercised (4.11.2021) by *Planning and Development (Amendment) (No. 3) Regulations 2021* (S.I. No. 588 of 2021).

E388 Power pursuant to subs. (1) exercised (23.12.2020) by *Planning and Development (Amendment) (No. 2) Regulations 2020* (S.I. No. 692 of 2020).

E389 Power pursuant to section exercised (10.09.2015) by *Planning and Development (Amendment) (No. 3) Regulations 2015* (S.I. No. 387 of 2015).

E390 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

F878**[**Enforcement. **177O.**—(1) A grant of substitute consent shall have effect as if it were a permission granted under *section 34* of the Act and where a development is being carried out in compliance with a substitute consent or any condition to which the consent is subject it shall be deemed to be authorised development.

(2) Where a development has not been or is not being carried out in compliance with a grant of substitute consent or any condition to which the substitute consent

is subject it shall, notwithstanding any other provision in this Act, be unauthorised development.

(3) Where a person is required by a planning authority, F879**[**under *section 177B*, before the date of the coming into operation of section 40 (a) of the Planning and Development, Maritime and Valuation (Amendment) Act 2022, or on or after that date where section 41 (10) of that Act applies, or under *section 261A***]**, to make an application for substitute consent for a development and he or she—

(*a*) fails to make such an application in accordance with relevant provisions of this Part and regulations made under *section 177N*, or

(*b*) fails, having made an application, to furnish additional information as required under relevant provisions in this Part or in regulations made under *section 177N*,

the Board shall inform the planning authority for the area in which the development is situated of that fact and the development shall, notwithstanding any other provision in this Act, be unauthorised development.

(4) Where a planning authority is informed by the Board that *paragraph (a)* or *(b)* as appropriate, of *subsection (3)* apply to an application, the planning authority shall, as soon as may be, issue an enforcement notice under *section 154* of this Act requiring the cessation of activity and the taking of such steps as the planning authority considers appropriate.

(5) Where an F879**[**application for substitute consent**]** for a development is refused by the Board under *section 177K* the development shall, notwithstanding any other provision in this Act, be deemed to be unauthorised development and the relevant planning authority shall, as soon as may be after receipt of a copy of the relevant decision from the Board, issue an enforcement notice under *section 154* of this Act requiring the cessation of activity and the taking of such steps as the planning authority considers appropriate.

(6) Where the Board has issued a direction to cease activity or operations or to take remedial measures under *section 177L* and the applicant has failed to comply with such a direction the relevant planning authority shall as soon as may be after receipt of a copy of the Board's direction issue an enforcement notice under *section 154* requiring compliance with the Board's directions and the taking of any additional steps as the planning authority considers appropriate.**]**

Annotations

Amendments:

F878 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F879 Substituted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 34(a), (b), S.I. No. 645 of 2023.

F880**[** Supplementary provisions relating to an application for substitute consent.

177P.—F881**[**(1) *Section 126* shall apply in relation to the duty of the Board to dispose of applications for substitute consent as it applies to the duty of the Board to dispose of appeals and referrals subject to—

(*a*) the modification that references in that section to appeals and referrals shall be to applications for substitute consent,

(*b*) the modification that the period of 18 weeks referred to in *paragraph (a)* of *subsection (2)* shall begin on the date of receipt by the Board of the report submitted by the planning authority to the Board in accordance with *section 177I*, and

(*c*) any other necessary modifications.**]**

(2) *Section 130* (other than *subsection (3)(b), (c)* or *(d)*) shall apply in relation to making submissions or observations by any person other than the applicant for substitute consent or the relevant planning authority as it does to the making of submissions or observations by any person other than a party subject to the following and any other necessary modifications:

(*a*) references in that section to a party shall be construed as references to the applicant for substitute consent or the relevant planning authority, and

(*b*) references in that section to an environmental impact assessment shall be construed as references to a F882**[**remedial environmental impact assessment report or a remedial Natura impact statement, or both that report and that statement**]**, as the case may be.

(3) *Section 131* shall apply in relation to the Board requesting submissions or observations in relation to an application for substitute consent as it does in relation to an appeal or referral subject to the following and any other necessary modifications:

(*a*) references in that section to party to the appeal or referral shall be construed as references to applicant for substitute consent or the relevant planning authority, and

(*b*) references in that section to an appeal or referral shall be construed as references to an application for substitute consent.

(4) *Section 132* shall apply in relation to the Board requiring a document, particulars or other information that it considers necessary to enable it to determine an application for substitute consent as it does in relation to requiring a document, particulars or other information as it considers necessary to enable it to determine an appeal or referral subject to the following and any other necessary modifications:

(*a*) references in that section to party shall be construed as references to applicant for substitute consent or the relevant planning authority, and

(*b*) references in that section to an appeal or referral shall be construed as references to an application for substitute consent.

(5) *Section 133* shall apply in relation to the Board determining or dismissing an application for substitute consent as it applies in relation to the Board determining or dismissing an appeal or referral subject to the modification that references in that section to appeal or referral shall be construed as reference to an application for substitute consent and subject to any other necessary modifications.

(6) *Section 135* shall apply in relation to the holding of an oral hearing of an application for substitute consent as it applies in relation to an oral hearing of an appeal, referral or application subject to the modification that references in that section to an appeal, referral or application shall be construed as references to an application for substitute consent and any other necessary modifications.**]**

Annotations

Amendments:

F880 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F881 Substituted (14.07.2015) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015), reg. 9.

F882 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 82, in effect as per reg. 2(1).

F883**[**Oral hearings of applications for substitute consent.

177Q.—(1) Where the Board considers it necessary or expedient for the purposes of making a determination in respect of an application for substitute consent it may, in its absolute discretion, hold an oral hearing and shall, in addition to any other requirements under this Act or other enactment, as appropriate, consider the report and any recommendations of the person holding the oral hearing before making its determination.

(2) (*a*) An applicant for substitute consent, a planning authority or a person who makes submissions or observations under *section 130* (as modified by *section 177P(2)*) in relation to the application for substitute consent may request an oral hearing of the application.

(*b*) (i) A request for an oral hearing of an application shall be made in writing to the Board and shall be accompanied by such fee (if any) as may be payable in respect of the request in accordance with *section 144*.

(ii) A request for an oral hearing of an application for substitute consent which is not accompanied by such fee (if any) as may be payable in respect of the request shall not be considered by the Board.

(*c*) A request by an applicant for substitute consent, a planning authority, or by a person who makes a submission or observation in relation to the application, for an oral hearing of the application, shall be made within the period specified in regulations under *section 177N* and any such request received by the Board after the expiration of that period shall not be considered by the Board.

(3) Where the Board is requested to hold an oral hearing of an application for substitute consent and decides to determine the application without an oral hearing, the Board shall serve notice of its decision on—

(*a*) the person who requested the hearing,

(*b*) the relevant planning authority, and

(*c*) on each person who has made submissions or observations to the Board in relation to the application (other than the person making the request under *subsection 2(a)*).

(4) (*a*) A request for an oral hearing may be withdrawn at any time.

(*b*) Where, following a withdrawal of a request for an oral hearing under *paragraph (a)*, the application for substitute consent falls to be determined without an oral hearing, the Board shall give notice to the applicant for substitute consent, the planning authority and to each person who has made submissions or observations to the Board in relation to the application.**]**

Annotations

Amendments:

F883 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F891**[**PART XAB

APPROPRIATE ASSESSMENT

Interpretation.

177R.—(1) In this Part—

"appropriate assessment" shall be construed in accordance with *section 177V*;

"candidate site of community importance" means—

(*a*) a site—

(i) in relation to which the Minister has given notice pursuant to regulations under the European Communities Act 1972 that he or she considers the site may be eligible for identification as a site of Community importance pursuant to Article 4, paragraph 1 of the Habitats Directive, which notice may be amended in accordance with such regulations under the European Communities Act 1972,

(ii) that is included in a list transmitted to the Commission in accordance with Article 4, paragraph 1 of the Habitats Directive, or

(iii) that is added in accordance with Article 5 of the Habitats Directive, to the list transmitted to the European Commission pursuant to Article 4, paragraph 1 of the Habitats Directive,

but only until the adoption in respect of the site of a decision by the European Commission under Article 21 of the Habitats Directive for the purposes of the third paragraph of Article 4(2) of that Directive; or

(*b*) a site—

(i) which is subject to a consultation procedure in accordance with Article 5(1) of the Habitats Directive, or

(ii) in relation to which a Council decision is pending in accordance with Article 5(3) of the Habitats Directive;

F884**[**"candidate special area of conservation" means a site that is a candidate site of Community importance or a site of Community importance;**]**

F885**[**"candidate special protection area" means a site in relation to which the Minister for Arts, Heritage and the Gaeltacht has given notice pursuant to regulations under the European Communities Act 1972 that he or she considers that the site may be eligible for classification as a special protection area pursuant to Article 4 of the Birds Directive but only until the public notification of the making of a decision by that Minister to classify or not to classify such a site as a special protection area;**]**

"compensatory measures" shall be construed in accordance with *section 177W(7)* in relation to making Land use plans and in accordance with *section 177AA(8)* in relation to granting permission for proposed development;

"competent authority" shall be construed in accordance with *section 177S*;

"consent for proposed development" shall be construed in accordance with *section 177U(8)*;

"European site" means—

(*a)* a candidate site of Community importance,

(*b*) a site of Community importance,

F884**[**(*ba*) a candidate special area of conservation,**]**

(*c*) a special area of conservation,

(*d*) a candidate special protection area,

(*e*) a special protection area;

F884**[**"foreshore" has the same meaning as it has in *section 224*;**]**

"Land use plan" means—

F886**[**(*a*) regional spatial and economic strategy,**]**

(*b*) a planning scheme in respect of all or any part of a strategic development zone,

F887**[**(*ba*) an amendment of a planning scheme in respect of all or any part of a strategic development zone,**]**

(*c*) a development plan,

(*d*) a variation of a development plan, or

(*e*) a local area plan;

"Natura 2000 network" has the meaning assigned to it by Article 3, paragraph 1 of the Habitats Directive;

"Natura impact report" shall be construed in accordance with *section 177T*;

"Natura impact statement" shall be construed in accordance with section 177T;

F888**[**"proposed development" means—

(*a*) a proposal to carry out—

(i) development to which *Part III* applies,

(ii) development that may be carried out under *Part IX*,

(iii) development that may be carried out by a local authority under *Part X* or *XAB* or development that may be carried out under *Part XI*,

(iv) development on the foreshore under *Part XV*,

(v) development under section 43 of the Act of 2001,

(vi) development under section 51 of the Roads Act 1993, or

(vii) development to which *Chapter II* or *III* of *Part XXI* applies,

(*b*) notwithstanding that the development has been carried out, development in relation to which an application for substitute consent is required under *Part XA*, or

(*c*) a requested alteration within the meaning of *Chapter III* of *Part XXI*;**]**

F884**[**"road authority" has the same meaning as it has in section 2 (amended by section 11 of the Roads Act 2007) of the Roads Act 1993;**]**

"screening for appropriate assessment" shall be construed in accordance with *section 177U*;

"site of community importance" means a site that has been included in the list of sites of Community importance as adopted by the Commission in accordance with the procedure laid down in Article 21 of the Habitats Directive;

"special area of conservation" means a site that has been designated by the Minister as a special area of conservation pursuant to Article 4, paragraph 4 of the Habitats Directive;

"special protection area" means an area classified by the Minister pursuant to Article 4, paragraph 1 or Article 4, paragraph 2 of the Birds Directive, as a special protection area;

F889**[**...**]**

F890**[**(1A) During the period beginning on the date on which section 8 of the Planning and Development (Amendment) Act 2021 comes into operation and ending on 31 December 2023—

(*a*) the definition of "Land use plan" in *subsection (1)* shall be construed and have effect as if the following paragraph were inserted after *paragraph (e)*:

"(*f*) a proposed extension of the duration of an existing development plan;", and

(*b*) in this Part, a reference to "draft Land use plan" or "Land use plan" shall be construed and have effect as including a reference to a proposed extension of the duration of an existing development plan referred to in *paragraph (f)* of the definition of 'Land use plan' (inserted by section 8 of the Planning and Development (Amendment) Act 2021).**]**

(2) Subject to this Part, a word or expression that is used in this Part, and that is also used in the Habitats Directive or the Birds Directive has, unless the context otherwise requires, the same meaning in this Part as it has in the Habitats Directive or the Birds Directive, as the case may be.**]**

Annotations

Amendments:

F884 Inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 8(a), (b), (c) and (e).

F885 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 31, S. I. No. 474 of 2011.

F886 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 81, S.I. No. 214 of 2014.

F887 Inserted (29.12.2015) by *Planning and Development (Amendment) Act 2015* (63/2015), s. 8(a), commenced on enactment.

F888 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 38, S.I. No. 488 of 2022.

F889 Deleted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 8(f).

F890 Inserted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 8(a), S.I. No. 365 of 2021.

F891 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

Modifications (not altering text):

C124 Subs. (1) construed during specified period (3.07.2017 to 31.12.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 23, S.I. No. 270 of 2017.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(*a*) the period from the commencement of this provision until 31 December 2019, and

(*b*) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

23. Subsection (1) of section 177R of the Act of 2000 has effect during the specified period as if in paragraph (a) of the definition of "proposed development" there were inserted the following after *subparagraph (iii)*:

"(iiia) development to which *Chapter 1* of *Part 2* of the *Planning and Development (Housing) and Residential Tenancies Act 2016* relates;".

Editorial Notes:

E391 Definition of "proposed development", para. (a)(iii) substituted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 8(d); definition substituted (1.10.2022) as per F-note above.

F892**[**Competent Authority.

177S.—(1) A competent authority, in performing the functions conferred on it by or under this Part, shall take appropriate steps to avoid in a European site the deterioration of natural habitats and the habitats of species as well as the disturbance of the species for which the site has been designated, insofar as such disturbance could be significant in relation to the objectives of the Habitats Directive.

(2) F893**[**Subject to *subsection (3)*, the competent authority**]** in the State for the purposes of this Part and Articles 6 and 7 of the Habitats Directive, shall be—

F894**[**(*a*) in relation to draft regional spatial and economic strategy, the regional assembly for whose area the strategy is made,**]**

F895**[**(*aa*) in relation to a draft National Planning Framework, the Minister.**]**

(*b*) in relation to a draft planning scheme in respect of all or any part of a strategic development zone, the planning authority (which term shall be construed in accordance with *section 168(5)*) in whose area the strategic development zone is situate, or, on appeal the Board, as the case may be,

F896**[**(*ba*) in relation to a proposed amendment of a planning scheme in respect of all or any part of a strategic development zone, the Board,**]**

(*c*) in relation to a draft development plan, the planning authority for whose area the development plan is made,

(*d*) in relation to a proposed variation of a development plan, the planning authority for whose area the variation of the development plan is made,

(*e*) in relation to a draft local area plan, the planning authority in whose area the local area plan concerned is situate,

(*f*) in relation to a proposed development (other than development referred to in *paragraph (g)* or *(h)*), the planning authority to whom an application for permission is made or F897**[**...**]** the Board, as the case may be,

(*g*) in relation to proposed development that is strategic infrastructure development, the Board, or

F893**[**(*h*) in relation to proposed development that may be carried out by a local authority under *Part X* or *XAB* or proposed development that may be carried out under *Part XI*, the Board.**]]**

F898**[**(2A) During the period beginning on the date on which section 8 of the Planning and Development (Amendment) Act 2021 comes into operation and ending on 31 December 2023, the competent authority in the State referred to in *subsection (2)* shall be construed and have effect as if the following paragraph were inserted after *paragraph (h)*:

"(*i*) in relation to a proposed extension of the duration of an existing development plan, the planning authority for whose area the development plan is proposed to be extended in duration.".**]**

F899**[**(3) The competent authority in the State for the purposes of this Part and Articles 6 and 7 of the Habitats Directive, shall, in relation to proposed development to which *Chapter III* of *Part XXI* applies, be the Board.**]**

Annotations

Amendments:

F892 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F893 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 39, S.I. No. 488 of 2022.

F894 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 83, S.I. No. 214 of 2014.

F895 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 35, S.I. No. 436 of 2018.

F896 Inserted (29.12.2015) by *Planning and Development (Amendment) Act 2015* (63/2015), s. 8(b), commenced on enactment.

F897 Deleted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 9(a).

F898 Inserted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 8(b), S.I. No. 365 of 2021.

F899 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 39, S.I. No. 488 of 2022.

Editorial Notes:

E392 Previous affecting provision: subs. (2)(h) substituted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 9(b); substituted (1.10.2022) as per F-note above.

F900**[**Natura impact report and Natura impact statement.

177T.—(1) In this Part—

(*a*) A Natura impact report means a statement for the purposes of Article 6 of the Habitats Directive, of the implications of a Land use plan, on its own or in combination with other plans or projects, for one or more than one F901**[**European site**]**, in view of the conservation objectives of the site or sites.

(*b*) A Natura impact statement means a statement, for the purposes of Article 6 of the Habitats Directive, of the implications of a proposed development, on its own or in combination with other plans or projects, for one or more than one F901**[**European site**]**, in view of the conservation objectives of the site or sites.

(2) Without prejudice to the generality of *subsection (1)*, a Natura impact report or a Natura impact statement, as the case may be, shall include a report of a scientific examination of evidence and data, carried out by competent persons to identify and classify any implications for one or more than one F901**[**European site**]** in view of the conservation objectives of the site or sites.

(3) F902**[**As respects a draft National Planning Framework, the Government shall prepare a Natura impact report in relation to a draft Land use plan and the following bodies shall also prepare a Natura impact report in relation to a draft Land use plan**]**—

F903**[**(*a*) as respects a draft regional spatial and economic strategy, the regional assembly for whose area the draft strategy is made,**]**

F904**[**(*aa*) as respects a draft National Planning Framework, the Minister.**]**

(*b*) as respects a draft planning scheme in respect of all or any part of a strategic development zone, the planning authority (which term shall be construed in accordance with *section 168(5)*) for whose area the draft scheme is made,

(*c*) as respects a draft development plan or draft variation of a development plan, the planning authority for whose area the draft plan or draft variation is made, and

(*d*) as respects a draft local area plan, the planning authority in whose area the local area concerned is situate.

(4) The applicant for consent for proposed development may, or if directed in accordance with *subsection (5)* by a competent authority, shall furnish a Natura impact statement to the competent authority in relation to the proposed development.

(5) At any time following an application for consent for proposed development a competent authority may give a notice in writing to the applicant concerned, directing him or her to furnish a Natura impact statement F905**[**...**]**.

F901**[**(6) Where an applicant for consent for proposed development who, having been directed in accordance with *subsection (5)*, fails to furnish a Natura impact statement within the period specified in the notice, or any further period as may be specified by the competent authority, the application for consent for the proposed development shall be deemed to be withdrawn.**]**

(7) (*a*) Without prejudice to *subsection (1)* a Natura impact report or a Natura impact statement shall include all information prescribed by regulations under *section 177AD*.

(*b*) Where appropriate, a Natura impact report or a Natura impact statement shall include such other information or data as the competent authority considers necessary to enable it to ascertain if the draft Land use plan or proposed development will not affect the integrity of the site.

(*c*) F905**[**...**]]**

Annotations

Amendments:

F900 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F901 Substituted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 10(a), (b), (d).

F902 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 18(2) and sch. 3 ref. no. 11, S.I. No. 436 of 2018.

F903 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 84, S.I. No. 214 of 2014.

F904 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 36, S.I. No. 436 of 2018.

F905 Deleted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 10(c) and (e).

F906**[**Screening for appropriate assessment.

177U.—(1) A screening for appropriate F907**[**assessment of a draft Land use plan or application for consent for proposed development**]** shall be carried out by the competent authority to assess, in view of best scientific knowledge, if that Land use plan or proposed development, individually or in combination with another plan or project is likely to have a significant effect on the European site.

(2) A competent authority shall carry out a screening for appropriate assessment under *subsection (1)* before—

(*a*) a Land use plan is made including, where appropriate, before a decision on appeal in relation to a draft strategic development zone is made, or

(*b*) consent for a proposed development is given.

(3) In carrying out screening for appropriate assessment of a proposed development a F907**[**competent authority**]** may request such information from the applicant as it may consider necessary to enable it to carry out that screening, and may consult with such persons as it considers appropriate F908**[**and where the applicant does not provide the information within the period specified, or any further period as may be specified by the authority, the application for consent for the proposed development shall be deemed to be withdrawn**]**.

(4) The competent authority shall determine that an appropriate assessment of a draft Land use plan or a proposed development, as the case may be, is required if it cannot be excluded, on the basis of objective information, that the draft Land use plan or proposed development, individually or in combination with other plans or projects, will have a significant effect on a European site.

(5) The competent authority shall determine that an appropriate assessment of a draft Land use plan or a proposed development, as the case may be, is not required if it can be excluded, on the basis of objective information, that the draft Land use plan or proposed development, individually or in combination with other plans or projects, will have a significant effect on a European site.

(6) (*a*) Where, in relation to a proposed development, a competent authority makes a determination that an appropriate assessment is required, the competent authority shall give notice of the determination, including reasons for the determination of the competent authority, to the following—

(i) the applicant,

(ii) if appropriate, any person who made submissions or observations in relation to the application to the competent authority, or

(iii) if appropriate, any party to an appeal or referral.

(*b*) Where a competent authority has determined that an appropriate assessment is required in respect of a proposed development it may direct in the notice issued under *paragraph (a)* that a Natura impact statement is required.

F908**[**(*c*) *Paragraph (a)* shall not apply in a case where the application for consent for the proposed development was accompanied by a Natura impact statement.**]**

F907**[**(7) A competent authority shall, as soon as may be after making the Land use plan or making a decision in relation to the application for consent for proposed development, make available for inspection by members of the public during office hours at the officesof the authority, and may also publish on the internet—

(*a*) any determination that it makes in relation to a draft Land use plan under *subsection (4)* or *(5)* as the case may be, and reasons for that determination, and

(*b*) any notice that it issues under *subsection (6)* in relation to a proposed development.**]**

F907**[**(8) In this section "consent for proposed development" means, as appropriate—

(*a*) a grant of permission,

(*b*) a decision of the Board to grant permission on a planning application or an appeal,

(*c*) consent for development under *Part IX*,

(*d*) approval for development that may be carried out by a local authority under *Part X* or *Part XAB* or development that may be carried out under *Part XI*,

(*e*) approval for development on the foreshore under *Part XV*,

(*f*) approval for development under section 43 of the Act of 2001,

(*g*) approval for development under section 51 of the Roads Act 1993, F909**[**...**]**

(*h*) a substitute consent under F910**[***Part XA*, or**]]**

F911**[**(*i*) a decision to make a requested alteration under *subsection (2)* of *section 297*.**]**

(9) In deciding upon F907**[**a declaration or a referral under *section 5***]** of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.**]**

F912**[**(10) In deciding upon an application under *section 176A* or a determination review or an application referral under *section 176C*, a planning authority or the Board, as the case may be, shall, where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.**]**

Annotations

Amendments:

F906 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F907 Substituted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 11(a), (b)(i), (d), (e), (f).

F908 Inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 11(bii), (c).

F909 Deleted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 40, S.I. No. 488 of 2022.

F910 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 40, S.I. No. 488 of 2022.

F911 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 40, S.I. No. 488 of 2022.

F912 Inserted (1.01.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 27(d), S.I. No. 588 of 2018.

F913**[**Appropriate assessment.

177V.—(1) An appropriate assessment carried out under this Part shall include a determination by the competent authority under Article 6.3 of the Habitats Directive as to whether or not a draft Land use plan or proposed development would adversely affect the integrity of a European site and F914**[**an appropriate assessment shall be carried out by the competent authority, in each case where it has made a determination under *section 177U(4)* that an appropriate assessment is required, before—**]**

(*a*) the draft Land use plan is made including, where appropriate, before a decision on appeal in relation to a draft strategic development zone is made, or

(*b*) consent is given for the proposed development.

(2) In carrying out an appropriate assessment under *subsection (1)* the competent authority shall take into account each of the following matters:

(*a*) the Natura impact report or Natura impact statement, as appropriate;

(*b*) any supplemental information furnished in relation to any such report or statement;

(*c*) if appropriate, any additional information sought by the authority and furnished by the applicant in relation to a Natura impact statement;

(*d*) any additional information furnished to the competent authority at its request in relation to a Natura impact report;

(*e*) any information or advice obtained by the competent authority;

(*f*) if appropriate, any written submissions or observations made to the competent authority in relation to the application for consent for proposed development;

(*g*) any other relevant information.

(3) Notwithstanding any other provision of this Act, or, as appropriate, the Act of 2001, or the Roads Acts 1993 to 2007 F915**[**and save as otherwise provided for in *sections 177X*, *177Y*, *177AB* and *177AC***]**, a competent authority shall make a Land use plan or give consent for proposed development only after having determined that the Land use plan or proposed development shall not adversely affect the integrity of a European site.

(4) Subject to the other provisions of this Act, consent for proposed development may be given in relation to a proposed development where a competent authority has made modifications or attached conditions to the consent where the authority is satisfied to do so having determined that the proposed development would not adversely affect the integrity of the European site if it is carried out in accordance with the consent and the modifications or conditions attaching thereto.

F914**[**(5) A competent authority shall give notice of its determination under *subsection (1)* in relation to a proposed development to the applicant for consent to the proposed development, giving reasons for the determination.

(6) A competent authority shall, as soon as may be after making the Land use plan or making a decision in relation to the application for consent for proposed development, make available for inspection by members of the public during office hours at the offices of the authority, and may also publish on the internet—

(*a*) any determination that it makes under *subsection (1)* as respects a Land use plan and reasons for that determination, and

(*b*) any notice given by the authority under *subsection (5)*.**]]**

Annotations

Amendments:

F913 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F914 Substituted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 12(a) and (c).

F915 Inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 12(b).

F916**[**Draft Land use plans and imperative reasons of overriding public interest.

177W.—(1) Where, notwithstanding a determination by a competent authority that a draft Land use plan or part thereof will adversely affect F917**[**the integrity of**]** a European site, and in the absence of alternative solutions, a competent authority considers that a land use plan should nevertheless be made for imperative reasons of overriding public interest, the authority shall—

(*a*) F918**[**set out the**]** imperative reasons of overriding public interest that necessitate the making of the Land use plan,

(*b*) propose the compensatory measures that are necessary to ensure that the overall coherence of the Natura 2000 network is protected,

(*c*) prepare a statement of case that imperative reasons of overriding public interest exist and of the compensatory measures that are required, and

(*d*) forward the said statement of case together with the draft Land use plan and Natura impact report to the Minister.

(2) A statement of case referred to in *subsection (1)(c)* shall specify—

(*a*) the considerations that led to the assessment by the competent authority that the draft Land use plan would adversely affect the integrity of a European site,

(*b*) the reasons for the forming of the view by the competent authority that there are no alternative solutions (including the option of not proceeding with the draft Land use plan or part thereof),

(*c*) the reasons for the forming of the view by the competent authority that imperative reasons of overriding public interest apply to the draft Land use plan, and

(*d*) the compensatory measures that are being proposed as necessary to ensure the overall coherence of F918**[**the Natura 2000 network**]**, including if appropriate, the provision of compensatory habitat.

(3) In relation to a European site that does not host a priority natural habitat type or priority species, the imperative reasons of overriding public interest may include those of a social or economic nature.

(4) In relation to a European site that hosts a priority natural habitat type or priority species, the only imperative reasons of overriding public interest that may be considered are those relating to—

(*a*) human health,

(*b*) public safety,

(*c*) beneficial consequences of primary importance to the environment, or

(*d*) subject to *subsection (5)*, and having obtained an opinion from the European Commission, other imperative reasons of overriding public interest.

(5) In invoking imperative reasons of overriding public interest under *subsection (4)(d)* the competent authority shall advise the Minister why he or she should be satisfied to request an opinion from the European Commission.

F918**[**(6) A competent authority shall make a statement of case, referred to in *subsection (1)*, available for inspection by members of the public at the offices of the authority during its public opening hours and may also publish the statement on the internet.**]**

(7) For the purposes of this section and *section 177X* or *177Y*, 'compensatory measures' are measures proposed or considered, as the case may be, by a competent authority in the first instance, and by the Minister, as the case may be, for the purposes of ensuring that the overall coherence of F918**[**the Natura 2000 network**]** is protected and may include the provision of compensatory habitats.**]**

Annotations

Amendments:

F916 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F917 Inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 13(a)(i).

F918 Substituted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 13(a)(ii), (b), (c) and (d).

F919**[**European site that does not host priority habitat or species and draft Land use plan.

F920**[177X.**—(1) Where the Minister receives a statement of case under *section 177W(1)* relating to a European site that does not host a priority habitat type or priority species, he or she shall as soon as possible—

(*a*) consider whether imperative reasons of overriding public interest exist,

(*b*) consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister, and

(*c*) consider any views of a Minister of the Government consulted pursuant to *paragraph (b)* and which are received by the Minister before he or she issues a notice under *subsection (5)* or *(6)*.

(2) (*a*) Where the Minister considers that imperative reasons of overriding public interest may exist, he or she shall as soon as possible F921**[**consider 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.

(*b*) F921**[**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**]**, the Minister may enter into consultations with the competent authority, who may submit a revised or modified plan or revised or modified compensatory measures.

(*c*) The Minister may enter into F922**[**...**]** further consultations with the competent authority in relation to the draft Land use plan, or revised or modified draft

Land use plan or the compensatory measures or revised or modified compensatory measures.

F923**[**(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.**]**

F923**[**(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)*.**]**

(5) F923**[**Where the Minister forms the opinion that imperative reasons of overriding public interest exist and that**]** 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, the Minister shall as soon as possible issue a notice to this effect to the competent authority and the competent authority may decide to make—

(*a*) the Land use plan, or

(*b*) that part of the Land use plan that would have an adverse effect on the integrity of a European site.

(6) F923**[**Where the Minister forms the opinion that imperative reasons of overriding public interest do not exist or that**]** the compensatory measures or revised or modified compensatory measures, as the case may be, are not sufficient to ensure that the overall coherence of the Natura 2000 network is protected, the Minister shall as soon as possible issue a notice to this effect to the competent authority and the competent authority shall not make—

(*a*) the Land use plan, or

(*b*) that part of the Land use plan that would have an adverse effect on the integrity of a European site.

(7) Where the Minister issues a notice under *subsection (5)* he or she shall inform the Commission of the matter, including the compensatory measures proposed.

(8) The competent authority shall make available for inspection by members of the public during office hours at the office of the authority, and may also publish on the internet a notice issued to the authority under *subsection (5)* or *(6)*.**]]**

Annotations

Amendments:

F919 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F920 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 32, S. I. No. 474 of 2011.

F921 Substituted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 8(a)(i), (ii), S.I. No. 279 of 2021.

F922 Deleted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 8(a)(iii), S.I. No. 279 of 2021.

F923 Substituted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 8(b)-(e), S.I. No. 279 of 2021.

Editorial Notes:

E393 Previous affecting provision: original version of section inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011; substituted as per F-note above.

F924**[**European site that hosts priority habitat type or species and draft Land use plan.

F925**[177Y.**—(1) Where the Minister receives a statement of case under *section 177W(1)* relating to a European site that hosts a priority habitat type or priority species, he or she shall as soon as possible—

(*a*) consider whether imperative reasons of overriding public interest exist,

(*b*) consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister, and

(*c*) consider any views of a Minister of the Government consulted pursuant to *paragraph (b)* and which are received by the Minister before he or she issues a notice under *subsection (6)*, *(7)* or *(8)*.

(2) (*a*) Where the Minister considers that imperative reasons of overriding public interest may exist and may comprise or include a reason or reasons other than the reasons set out in *section 177W(4)(a)* to *(c)*, the Minister shall consider whether the opinion of the Commission should be sought in relation to the matter.

(*b*) Where the Minister proposes not to seek the opinion of the Commission pursuant to *paragraph (a)* he or she shall, in addition to any consultation that may have taken place under *subsection (1)(b)*, as soon as possible consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister and request that the other Minister furnish his or her views as soon as possible.

(*c*) The Minister shall consider any views received from any other Minister of the Government consulted under *paragraph (b)* where those views are received by the Minister before he or she decides whether to seek the opinion of the Commission under *paragraph (a)*.

(3) (*a*) Where the Minister considers that imperative reasons of overriding public interest may exist, he or she shall, as soon as possible, F926**[**consider 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.

(*b*) F926**[**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**]**, the Minister may enter into consultations with the competent authority, who may submit a revised or modified plan or revised or modified compensatory measures.

(*c*) The Minister may enter into F927**[**...**]** further consultations with the competent authority in relation to the draft Land use plan, or revised or modified draft Land use plan or the compensatory measures or revised or modified compensatory measures.

F928**[**(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.**]**

F928**[**(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)*.**]**

(6) F928**[**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**]** 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, the Minister shall issue a notice to this effect to the competent authority and the competent authority may decide to make—

(*a*) the Land use plan, or

(*b*) that part of the Land use plan that would have an adverse effect on the integrity of a European site.

(7) Where—

(*a*) the Minister forms the opinion that imperative reasons of overriding public interest, comprising or including a reason or reasons other than those in *section 177W(4)(a)* to *(c)* exist, and

(*b*) the Minister has obtained the opinion of the Commission in relation to the matter, and

(*c*) F928**[**the Minister forms the opinion that**]** 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,

the Minister shall issue a notice to this effect to the competent authority, accompanied by a copy of the opinion of the Commission, and the competent authority, only after having considered the opinion of the Commission, may decide to make—

(i) the Land use plan, or

(ii) that part of the Land use plan that would have an adverse effect on the integrity of a European site.

(8) Where—

(*a*) the Minister forms the opinion that imperative reasons of overriding public interest do not exist, or

(*b*) the Minister forms the opinion that the imperative reasons of overriding public interest comprise or include a reason or reasons other than those in *section 177W(4)(a)* to (*c*) and the Minister has decided not seek the opinion of the Commission in relation to the matter, or

(*c*) F928**[**the Minister forms the opinion that**]** the compensatory measures, or revised or modified compensatory measures as the case may be, are not sufficient to ensure that the overall coherence of the Natura 2000 network is protected,

the Minister shall issue a notice to this effect to the competent authority and the competent authority shall not make—

(i) the Land use plan, or

(ii) that part of the Land use plan that would have an adverse effect on the integrity of a European site.

(9) Where the Minister issues a notice under *subsection (6)* or *(7)* he or she shall inform the Commission of the matter, including the compensatory measures proposed.

(10) The competent authority shall make available for inspection by members of the public during office hours at the office of the authority, and may also publish on the internet a notice issued to the authority under *subsection (6)*, *(7)* or *(8)*.**]]**

Annotations

Amendments:

F924 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F925 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 33, S. I. No. 474 of 2011.

F926 Substituted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 9(a)(i), (ii), S.I. No. 279 of 2021.

F927 Deleted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 9(a)(iii), S.I. No. 279 of 2021.

F928 Substituted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 9(b)-(f), S.I. No. 279 of 2021.

Editorial Notes:

E394 Previous affecting provision: original version of section inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011; substituted as per F-note above.

F929**[**Making of Land use plans or part thereof.

177Z.—F930**[**(1) Where a competent authority has received a notice from the Minister under *section 177X(6)* or *section 177Y(8)* in relation to a draft Land use plan, and the authority is satisfied that the draft plan can be amended so that it no longer contains the parts or elements which were the subject of a determination under *section 177V* that the plan would adversely affect a European site, then the authority may make the plan having omitted those parts or elements therefrom.**]**

(2) Subject to the provisions of this Act, where a proposed part of a draft Land use plan is amended or omitted from the plan, its amendment or omission shall not affect the validity of the remainder of the Land use plan where it is made with the part thereof so amended under this section or without the part thereof so omitted under this section.

(3) Notwithstanding that a statement of case referred to in *section 177W(1)* regarding any part of a draft Land use plan has been submitted to the Minister under that section, the competent authority may proceed to make the plan other than the part thereof so submitted.

(4) Notwithstanding the requirements of this Act, any delay incurred in the making of a draft Land use plan or part thereof arising from compliance with this Part shall not invalidate the plan or part thereof.**]**

Annotations

Amendments:

F929 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F930 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 34, S. I. No. 474 of 2011.

F931**[**Proposed development and imperative reasons of overriding public interest.

177AA.—(1) Where, notwithstanding a determination by a competent authority that a proposed development will adversely affect F932**[**the integrity of**]** a European site, and in the absence of alternative solutions, a competent authority considers that consent should nevertheless be given for the proposed development for imperative reasons of overriding public interest, the authority shall—

(*a*) F933**[**set out the**]** imperative reasons of overriding public interest that necessitate the giving of consent for the proposed development,

(*b*) propose the compensatory measures that are necessary to ensure that the overall coherence of the Natura 2000 network is protected,

(*c*) prepare a statement of case that imperative reasons of overriding public interest exist and of the compensatory measures that are required,

(*d*) forward the said statement to the Minister together with a copy of the planning application and Natura impact statement.

(2) A statement of case referred to in *subsection (1)(d)* shall specify—

(*a*) the considerations that led to the assessment by the competent authority that the proposed development would adversely affect the integrity of a European site,

(*b*) the reasons for the forming of the view by the competent authority that there are no alternative solutions (including the option of not giving consent for the proposed development),

(*c*) the reasons for the forming of the view by the competent authority that imperative reasons of overriding public interest apply to the proposed development,

(*d*) compensatory measures that are being proposed as necessary to ensure the overall coherence of Natura 2000 including, if appropriate, the provision of compensatory habitat and the conditions to which any consent for proposed development shall be subject requiring that the compensatory measures are carried out.

(3) In relation to a European site that does not host a priority natural habitat type or priority species, the imperative reasons of overriding public interest may include those of a social or economic nature.

(4) In relation to a European site that hosts a priority natural habitat type or priority species, the only imperative reasons of overriding public interest that may be considered are those relating to—

(*a*) human health,

(*b*) public safety,

(*c*) beneficial consequences of primary importance to the environment, or

(*d*) subject to *subsection (7)*, having obtained an opinion from the European Commission other imperative reasons of overriding public interest.

(5) A competent authority shall furnish a copy of the statement of case referred to in *subsection (1)* to an applicant for consent for proposed development.

F933**[**(6) A competent authority shall make a statement of case, referred to in *subsection (1)*, available for inspection by members of the public at the offices of the authority during its public opening hours and may also publish the statement on the internet.**]**

(7) In invoking imperative reasons of overriding public interest under *subsection (4)(d)* the competent authority shall advise the Minister why he or she should be satisfied to request an opinion from the European Commission.

(8) In this section and in *sections 177AB* and *177AC* 'compensatory measures' are measures proposed in the first instance by the applicant and then by a competent authority or the Minister, as the case may be, for the purposes of ensuring that the overall coherence of Natura 2000 is protected and such measures may include the provision of compensatory habitat.

(9) For the purposes of this section and *sections 177AB* and *177AC* a competent authority may attach a condition to a grant of consent for proposed development relating to compensatory measures that the authority or the Minister may require which may include a condition requiring the making of contributions to finance the provision of compensatory measures and any such condition shall have effect as if it was attached to the grant of consent for proposed development, pursuant to the relevant provisions of this Act, that apply to such a grant of consent.**]**

Annotations

Amendments:

F931 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F932 Inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 14(a)(i).

F933 Substituted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 14(a)(ii) and (b).

F934**[**European site that does not host priority habitat type or species.

F935**[177AB.**—(1) (*a*) Where the Minister receives a statement of case under *section 177AA(1)* relating to a European site that does not host a priority habitat type or priority species, he or she shall as soon as possible F936**[**consider whether**]** the compensatory measures are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.

(*b*) F936**[**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**]**, the Minister may enter into consultations with the competent authority, who having consulted with the applicant for consent for the proposed development, may submit to the Minister a modified proposal for the development, modified proposed conditions to be attached to the proposed development or modified or alternative proposed compensatory measures.

(*c*) The Minister may enter into F937**[**...**]** further consultations with the competent authority in relation to the proposal for the development or any modified proposal for the development, the proposed conditions or any modified proposed conditions to be attached to the proposed development and the

F936**[**compensatory measures or any modified or alternative proposed compensatory measures**]**.

F938**[**(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.**]**

(3) F938**[**Where the Minister forms the opinion that 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, the Minister F938**[**as soon as possible after forming the opinion**]**, shall issue a notice to this effect to the competent authority and the competent authority may decide to grant consent for the proposed development with or without conditions.

(4) F938**[**Where the Minister forms the opinion that the compensatory measures, or modified or alternative proposed compensatory measures, as the case may be**]**, are not sufficient to ensure that the overall coherence of the Natura 2000 network is protected, the Minister F938**[**as soon as possible after forming the opinion**]** shall issue a notice to this effect to the competent authority and the competent authority shall not grant consent for the proposed development.

(5) Where the Minister issues a notice under *subsection (3)* he or she shall inform the Commission of the matter, including the compensatory measures proposed.

(6) The competent authority shall make available for inspection by members of the public during office hours at the office of the authority, and may also publish on the internet a notice issued to the authority under *subsection (3)* or *(4)*.**]]**

Annotations

Amendments:

F934 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F935 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 35, S. I. No. 474 of 2011.

F936 Substituted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 10(a)(i), (ii), (iii)(II), S.I. No. 279 of 2021.

F937 Deleted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 10(a)(iii)((I), S.I. No. 279 of 2021.

F938 Substituted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 10(b)-(d), S.I. No. 279 of 2021.

Editorial Notes:

E395 Previous affecting provision: original version of section inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011; substituted as per F-note above.

F939**[**European site that hosts priority habitat type or species.

F940**[177AC.**—(1) (*a*) Where the Minister receives a statement of case under *section 177AA(1)* relating to a European site that hosts a priority habitat type or priority species he or she shall as soon as possible F941**[**consider whether**]** the compensatory measures are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.

(*b*) F941**[**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**]**, the Minister may enter into consultations with the competent authority, who having consulted with the applicant for consent for the proposed development, may submit to the Minister a modified proposal for the development, modified proposed conditions to be attached to the proposed development, or modified or alternative proposed compensatory measures.

(*c*) The Minister may enter into F942**[**...**]** further consultations with the competent authority in relation to the proposal for the development or any modified proposal for the development, the proposed conditions or any modified proposed conditions to be attached to the proposed development and the compensatory measures or any modified or alternative proposed compensatory measures.

(2) (*a*) Where the Minister considers that the imperative reasons of overriding public interest comprise or include a reason or reasons other than the reasons set out in *section 177AA(4)(a)* to *(c)*, the Minister shall consider whether the opinion of the Commission should be sought in relation to the matter.

(*b*) Where the Minister proposes not to seek the opinion of the Commission he or she shall as soon as possible consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister and request that other Minister to furnish his or her views as soon as possible.

(*c*) The Minister shall consider any views received from any other Minister of the Government consulted under *paragraph (b)* where those views are received by the Minister before he or she decides whether to seek the opinion of the Commission under *paragraph (a)*.

F943**[**(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.**]**

(4) Where the Minister forms the opinion that the imperative reasons of overriding public interest comprise only a reason or reasons set out in *section 177AA(4)(a)* to *(c)* F943**[**and that the compensatory measures, or the 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, the Minister shall issue a notice to this effect to the competent authority and the competent authority may decide to grant consent for the proposed development, with or without conditions.

(5) Where—

(*a*) the Minister forms the opinion that the imperative reasons of overriding public interest comprise or include a reason or reasons other than those in *section 177AA(4)(a)* to *(c)*, and

(*b*) the Minister has obtained the opinion of the Commission in relation to the matter, and

(*c*) F943**[**the Minister forms the opinion that 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,

the Minister shall issue a notice to this effect to the competent authority, accompanied by a copy of the opinion of the Commission, and the competent authority, only after having considered the opinion of the Commission may decide to grant consent for the proposed development, with or without conditions.

(6) Where—

(*a*) the Minister forms the opinion that the imperative reasons of overriding public interest comprise or include a reason or reasons other than those in *section 177AA(4)(a)* to *(c)* and the Minister has decided not to seek the opinion of the Commission in relation to the matter, or

(*b*) F943**[**the Minister forms the opinion that**]** the compensatory measures or modified or alternative proposed compensatory measures, as the case may be, are not sufficient to ensure the overall coherence of the Natura 2000 network is protected,

the Minister shall issue a notice to this effect to the competent authority and the competent authority shall not grant consent for the proposed development.

(7) Where the Minister issues a notice under *subsection (4)* or *(5)* he or she shall inform the Commission of the matter, including the compensatory measures proposed.

(8) The competent authority shall make available for inspection by members of the public during office hours at the offices of the authority and may also publish on the internet a notice issued to the authority under F943**[***subsection (4)*, *(5)* or *(6)***].]]**

Annotations

Amendments:

F939 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F940 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 36, S. I. No. 474 of 2011.

F941 Substituted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 11(a)(i), (ii), S.I. No. 279 of 2021.

F942 Deleted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 11(a)(iii), S.I. No. 279 of 2021.

F943 Substituted (14.06.2021) by *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), s. 11(b)-(f), S.I. No. 279 of 2021.

Editorial Notes:

E396 Previous affecting provision: original version of section inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011; substituted as per F-note above.

F944**[**Regulations. **177AD.**—(1) The Minister may by regulations make provision for such matters of procedure and administration as appear to the Minister to be necessary or expedient for any matter referred to in this Part as prescribed or to be prescribed.

(2) Without prejudice to the generality of the forgoing, the Minister may make regulations, for the purpose of this Part, to give effect to a provision of the Treaty on the European Union, or a legislative act adopted by an institution of the European Union, including the Habitats and Birds Directives.

(3) Without prejudice to the generality of *subsection (1)* or *(2)*, regulations under this section may—

(*a*) contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations,

(*b*) contain provisions repealing, amending or applying, with or without modification, other law, exclusive of the European Communities Act 1972 and the European Communities Act 2007,

(*c*) make provision for—

(i) compensatory measures including relating to provision of compensatory habitat, conditions that may be attached to a consent for proposed development, financial contributions, or bonds required in relation to compensatory measures, implementation, management, and supervision of implementation of compensatory measures,

(ii) conditions for the purposes of this Part that may be attached to a consent for proposed development, including in relation to protection of species or habitats of species,

(iii) consultation between an applicant for consent for proposed development and a competent authority for any purpose under this Part,

(iv) consultation between a competent authority and the Minister for any purpose required under this Part,

(v) in relation to proposed development or classes of development, in addition to matters provided by or under this Act in relation to an application for consent for proposed development, the submission of a Natura impact statement with an application for consent,

(vi) information or classes of information to be contained in a Natura impact statement or a Natura impact report,

(vii) qualifications of persons or classes of persons who shall furnish information referred to in *subparagraph (vi)*,

(viii) information or classes of information to be contained in notices published under this Part,

(ix) persons or classes of persons to be notified that an appropriate assessment or a screening appropriate assessment is to be carried out,

(x) persons or classes of persons to be notified of the outcome of an appropriate assessment or a screening for appropriate assessment,

(xi) records, or classes of records to be retained and the periods for which they should be retained by a competent authority in relation to appropriate assessment of Land use plans.**]**

Annotations

Amendments:

F944 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

Editorial Notes:

E397 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011*.

F945**[**Appropriate Assessment of certain development carried out by or on behalf of local authorities.

177AE.—(1) Where an appropriate assessment is required in respect of development—

(*a*) by a local authority that is a planning authority, whether in its capacity as a planning authority or in any other capacity, or

(*b*) by some other person on behalf of, or jointly or in partnership with, such a local authority, pursuant to a contract entered into by that local authority whether in its capacity as a planning authority or in any other capacity,

F946**[**within the functional area of the local authority concerned F947**[**...**]**, (hereinafter in this section referred to as "proposed development")**]**, the local authority shall prepare, or cause to be prepared, a Natura impact statement in respect thereof.

(2) Proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.

(3) Where a Natura impact statement has been prepared pursuant to *subsection (1)*, the local authority shall apply to the Board for approval and the provisions of *Part XAB* shall apply to the carrying out of the appropriate assessment.

F948**[**(3A) A local authority shall not be eligible to make an application under *subsection (3)* in relation to proposed development in the maritime area, unless it—

(*a*) is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development,

(*b*) is the owner of land on which it is proposed to carry out the development concerned, or

(*c*) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.

(3B) The Board shall neither consider an application for permission under *subsection (3)* in relation to proposed development in the maritime area nor grant approval for such development under *subparagraph (i)*, *(ii)* or *(iii)* of *paragraph (a)* of *subsection (8)*, unless the applicant for such approval—

(*a*) is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development,

(*b*) is the owner of land on which it is proposed to carry out the development concerned, or

(*c*) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.**]**

(4) Before a local authority makes an application for approval under *subsection (3)*, it shall—

(*a*) publish in one or more newspapers circulating in the area in which it is proposed to carry out the development a notice indicating the nature and location of the proposed development, and—

(i) stating that—

(I) it proposes to seek the approval of the Board for the proposed development,

(II) a Natura impact statement has been prepared in respect of the proposed development,

(III) the Board may give approval to the application for development with or without conditions or may refuse the application for development,

(ii) specifying the times and places at which, and the period (not being less than 6 weeks) during which, a copy of the Natura impact statement may be inspected free of charge or purchased, and

(iii) inviting the making, during such period, of submissions and observations to the Board relating to—

(I) the implications of the proposed development for proper planning and sustainable development in the area concerned,

(II) the likely effects on the environment of the proposed development, and

(III) the likely significant effects of the proposed development on a European site,

if carried out,

and

(*b*) send a copy of the application and the Natura impact statement to the prescribed authorities together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(ii)*, be made in writing to the Board in relation to—

(i) the likely effects on the environment of the proposed development,

(ii) the implications of the proposed development for proper planning and sustainable development in the area concerned, and

(iii) the likely significant effects of the proposed development on a European site,

if carried out.

(5) (*a*) The Board may—

(i) if it considers it necessary to do so, require a local authority that has applied for approval for a proposed development to furnish to the Board such further information in relation to—

(I) the effects on the environment of the proposed development, or

(II) the consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development of such development, or

(III) the likely significant effects of the proposed development on a European site,

as the Board may specify, or

(ii) if it is provisionally of the view that it would be appropriate to approve the proposed development with certain alterations (specified in the notification referred to in this subparagraph) to be made to the terms of it, notify the local authority that it is of that view and invite the authority to make to the terms of the proposed development alterations specified in the notification and, if the authority makes those alterations, to furnish to it such information (if any) as it may specify in relation to the development, in the terms as so altered, or, where necessary, a revised Natura impact statement in respect of it.

(*b*) If a local authority makes the alterations to the terms of the proposed development specified in a notification given to it under *paragraph (a)*, the terms of the development as so altered shall be deemed to be the proposed development for the purposes of this section.

(*c*) The Board shall—

(i) where it considers that any further information received pursuant to a requirement made under *paragraph (a)(i)* contains significant additional data relating to—

(I) the likely effects on the environment of the proposed development,

(II) the likely consequences for the proper planning and sustainable development in the area in which it is proposed to situate the said development of such development, and

(III) the likely significant effects of the proposed development on a European site,

or

(ii) where the local authority has made the alterations to the terms of the proposed development specified in a notification given to it under *paragraph (a)(ii)*,

require the local authority to do the things referred to in *paragraph (d)*.

(*d*) The things which a local authority shall be required to do as aforesaid are—

(i) to publish in one or more newspapers circulating in the area in which the proposed development would be situate a notice stating that, as appropriate—

(I) further information in relation to the proposed development has been furnished to the Board, or

(II) the local authority has, pursuant to an invitation of the Board, made alterations to the terms of the proposed development (and the nature of those alterations shall be indicated) and, if it be the case, that information in relation to the terms of the development as so altered or a revised Natura impact statement in respect of the development has been furnished to the Board,

indicating the times at which, the period (which shall not be less than 3 weeks) during which and the place, or places, where a copy of the information or the Natura impact statement referred to in *clause (I)* or *(II)* may be inspected free of charge or purchased and that submissions or observations in relation to that information or statement may be made to the Board before the expiration of the indicated period, and

(ii) to send to each prescribed authority to which notice was given pursuant to *subsection (4)(b)*—

(I) a notice of the furnishing to the Board of, as appropriate, the further information referred to in *subparagraph (i)(I)* or the information or statement referred to in *subparagraph (i)(II)*, and

(II) a copy of that further information, information or statement,

and to indicate to the authority that submissions or observations in relation to that further information, information or statement may be made to the Board before the expiration of a period (which shall not be less than 3 weeks) beginning on the day on which the notice is sent to the prescribed authority by the local authority.

(6) Before making a decision in respect of a proposed development under this section, the Board shall consider—

(*a*) the Natura impact statement submitted pursuant to *subsection (1)* or *(5)(a)(ii)*, any submission or observations made in accordance with *subsection (4)* or *(5)* and any other information furnished in accordance with *subsection (5)* relating to—

(i) the likely effects on the environment of the proposed development,

(ii) the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development of such development, and

(iii) the likely significant effects of the proposed development upon a European site,

(*b*) the report and any recommendations of the person conducting a hearing referred to in *subsection (7)* where evidence is heard at such a hearing relating to—

(i) the likely effects on the environment of the proposed development,

(ii) the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development of such development, and

(iii) the likely significant effects of the proposed development upon a European site.

(7) The person conducting an oral hearing in relation to the compulsory purchase of land which relates wholly or partly to a proposed development under this section in respect of which a local authority has applied for approval shall be entitled to hear evidence relating to—

(*a*) the likely effects on the environment of the proposed development,

(*b*) the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development of such development, and

(*c*) the likely significant effects of the proposed development upon a European site.

(8) (*a*) The Board may, in respect of an application for approval under this section of proposed development—

(i) approve the proposed development,

(ii) make such modifications to the proposed development as it specifies in the approval and approve the proposed development as so modified,

(iii) approve, in part only, the proposed development (with or without specified modifications of it of the foregoing kind), or

(iv) refuse to approve the proposed development, and may attach to an approval under subparagraph (i), (ii) or (iii) such conditions as it considers appropriate.

(*b*) Without prejudice to the generality of the foregoing power to attach conditions, the Board may attach to an approval under *paragraph (a)(i)*, *(ii)* or *(iii)* a condition requiring—

(i) the construction or the financing, in whole or in part, of the construction of a facility, or

(ii) the provision or the financing, in whole or in part, of the provision of a service,

in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Board, would constitute a substantial gain to the community.

(*c*) A condition attached pursuant to *paragraph (b)* shall not require such an amount of financial resources to be committed for the purposes of the condition being complied with as would substantially deprive the person in whose favour the approval operates of the benefits likely to accrue from the grant of the approval.

(9) (*a*) The Board shall direct the payment of such sum as it considers reasonable by the local authority concerned to the Board towards the costs and expenses incurred by the Board in determining an application under this section for approval of a proposed development, including—

(i) the costs of holding any oral hearing in relation to the application,

(ii) the fees of any consultants or advisers engaged in the matter, and

(iii) an amount equal to such portion of the remuneration and any allowances for expenses paid to the members and employees of the Board as the Board determines to be attributable to the performance of duties by the members and employees in relation to the application, and the local authority shall pay the sum.

(*b*) If a local authority fails to pay a sum directed to be paid under *paragraph (a)*, the Board may recover the sum from the authority as a simple contract debt in any court of competent jurisdiction.

(10) (*a*) Where an application under this section relates to proposed development which comprises or is for the purposes of an activity for which an integrated pollution control licence or a waste licence is required, the Board shall not, where it decides to approve the proposed development, subject that approval to conditions which are for the purposes of—

(i) controlling emissions from the operation of the activity, including the prevention, limitation, elimination, abatement or reduction of those emissions, or

(ii) controlling emissions related to or following the cessation of the operation of the activity.

(*b*) Where an application under this section relates to proposed development which comprises or is for the purposes of an activity for which an integrated pollution control licence or a waste licence is required, the Board may, in respect of any proposed development comprising or for the purposes of the activity, decide to refuse the proposed development, where the Board

considers that the development, notwithstanding the licensing of the activity, is unacceptable on environmental grounds, having regard to the proper planning and sustainable development of the area in which the development is or will be situate or is unacceptable on habitats grounds having regard to the provisions of *Part XAB*.

(*c*) (i) Before making a decision in respect of proposed development comprising or for the purposes of an activity, the Board may request the Environmental Protection Agency to make observations within such period (which period shall not in any case be less than 3 weeks from the date of the request) as may be specified by the Board in relation to the proposed development.

(ii) When making its decision the Board shall have regard to the observations, if any, received from the Agency within the period specified under *subparagraph (i)*.

(*d*) The Board may, at any time after the expiration of the period specified by the Board under *paragraph (c)(i)* for making observations, make its decision on the application.

(*e*) The making of observations by the Agency under this section shall not prejudice any other function of the Agency under the Environmental Protection Agency Act 1992.

(11) (*a*) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of applications for approval under this section.

(*b*) Without prejudice to the generality of *paragraph (a)*, regulations under this subsection may make provision for—

(i) enabling a local authority to request the Board to give a written opinion on the information to be contained in a Natura impact statement,

(ii) matters of procedure relating to the making of observations by the Environmental Protection Agency under this section and matters connected therewith, and

(iii) requiring the Board to give information in respect of its decision regarding the proposed development for which approval is sought.

(12) In considering under *subsection (6)* information furnished relating to the likely consequences for proper planning and sustainable development of a proposed development in the area in which it is proposed to situate such development, the Board shall have regard to—

(*a*) the provisions of the development plan for the area,

(*b*) the provisions of any special amenity area order relating to the area,

(*c*) if the area or part of the area is a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact,

(*d*) where relevant, the policies of the Government, the Minister or any other Minister of the Government, and

(*e*) the provisions of this Act and regulations under this Act where relevant.

(13) A person who contravenes a condition imposed by the Board under this section shall be guilty of an offence.

F946**[**(14) This section shall apply to proposed road development, other than proposed road development within the meaning of section 2(1) of the Roads Act 1993, by or on behalf of a road authority.

(15) Where a proposed development to which this section applies is also required to be submitted to the Board under *section 175*, it shall be sufficient for the applicant to make one application to the Board provided that the applicant complies with this section and *section 175* and in such a case the Board shall issue one decision in relation to the application under this section and *section 175*.

(16) Where a proposed development to which this section applies is also required to be submitted to the Board under *section 226*, it shall be sufficient for the applicant to make one application to the Board provided that the applicant complies with this section and *section 226* and in such a case the Board shall issue one decision in relation to the application under this section and *section 226*.**]]**

Annotations

Amendments:

F945 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

F946 Inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 15.

F947 Deleted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 41, S.I. No. 488 of 2022.

F948 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 41, S.I. No. 488 of 2022.

F949 Inserted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(h)(i), not commenced as of date of revision.

F950 Substituted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(h)(ii), not commenced as of date of revision.

Modifications (not altering text):

C125 Propsective affecting provision: subs. (10)(aa) inserted and (b) amended by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(h)(i), (ii), not commenced as of date of revision.

F949**[***(aa)* Where an application under this section relates to proposed development which comprises or is for the purposes of an activity for which an abstraction licence is required, the Board shall not, where it decides to approve the proposed development, subject that approval to conditions which are for the purposes of controlling the abstraction related to the operation of the activity.**]**

(*b*) Where an application under this section relates to proposed development which comprises or is for the purposes of an activity for which F950**[**an integrated pollution control licence, an abstraction licence**]** or a waste licence is required, the Board may, in respect of any proposed development comprising or for the purposes of the activity, decide to refuse the proposed development, where the Board considers that the development, notwithstanding the licensing of the activity, is unacceptable on environmental grounds, having regard to the proper planning and sustainable development of the area in which the development is or will be situate or is unacceptable on habitats grounds having regard to the provisions of *Part XAB*.

C126 Developments approved under section declared exempted developments for purposes of Act and references in section to local authority construed by *Dublin Transport Authority Act 2008* (15/2008), s. 44(14), (15), as inserted (8.02.2016) by *Public Transport Act 2016* (3/2016), s. 1(b)(iv), commenced on enactment.

Functions of Authority in relation to public transport infrastructure.

44.— ...

[(14) The carrying out by the Authority, on its behalf or at its direction of—

(*a*) a proposed road development (within the meaning of the Roads Act 1993) that has been approved by An Bord Pleanála under section 51 (as amended by section 9 of the Roads Act 2007) of that Act, or

(*b*) a proposed development that has been approved by An Bord Pleanála—

(i) under subsection (9) (inserted by section 34(c) of the Planning and Development (Strategic Infrastructure) Act 2006) of section 175 of the Act of 2000 pursuant to an application for approval made by the Authority under subsection (3) of that section, or

(ii) under subsection (8) of section 177AE (inserted by section 57 of the Planning and Development (Amendment) Act 2010) of the Act of 2000 pursuant to an application for approval made by the Authority under subsection (3) of that section,

shall be exempted developments for the purposes of the Act of 2000.

(15) For the purposes of section 175 and 177AE of the Act of 2000 where a proposed development relates to public transport infrastructure an application for approval under section 175(3) or 177AE(3) may be made by the Authority, with the concurrence of the local authority concerned, and, accordingly, references in those sections to a local authority shall be read as references to the Authority.

...]

Editorial Notes:

E398 Authorisations or approvals issued to water authorities under section deemed to be issued to Irish Water (30.10.2015) by *Water Services (No. 2) Act 2013 (Other Licences, Authorisations and Permits) Order 2015* (S.I. No. 462 of 2015), in effect as per arts. 3 and 4.

E399 Previous affecting provision: subs. (1) amended (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 15; substituted (1.10.2022) as per F-note above.

PART XI

Development by Local and State Authorities, etc.

F951[Restrictions on development by certain local authorities

178.—(1) The council of a county shall not effect any development in its functional area which contravenes materially the development plan.

(2) The council of a city shall not effect any development in the city which contravenes materially the development plan.

(3) The council of a city and county shall not effect any development in the city and county which contravenes materially the development plan.**]**

Annotations

Amendments:

F951 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(3), S.I. No. 214 of 2014.

F952[Development in maritime area by local authority or State authority

178A.—(1) A local authority shall not carry out, or make an agreement with another person for the carrying out, of development in the maritime area, unless—

(*a*) it is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development,

(*b*) it is the owner of land on which it is proposed to carry out the development concerned, or

(*c*) in circumstances where it proposes to carry out the development on land that it does not own, it carries out the development with the consent, or on behalf, of the owner of that land.

(2) A State authority shall not carry out, or make an agreement with another person for the carrying out, of development in the maritime area, unless—

(*a*) it is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development,

(*b*) it is the owner of land on which it is proposed to carry out the development concerned, or

(*c*) in circumstances where it proposes to carry out the development on land that it does not own, it carries out the development with the consent, or on behalf, of the owner of that land.

(3) A coastal planning authority shall not carry out development in the maritime area that materially contravenes the National Planning Framework or any maritime spatial plan applicable to that area.**]**

Annotations

Amendments:

F952 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 42, S.I. No. 488 of 2022.

Local authority own development.

179.—(1) (*a*) The Minister may prescribe a development F953**[**, other than development to which *section 179A* applies,**]** or a class of development for the purposes of this section where he or she is of the opinion that by reason of the likely size, nature or effect on the surroundings of such development or class of development there should, in relation to any such development or development belonging to such class of development, be compliance with the provisions of this section and regulations under this section.

(*b*) Where a local authority that is a planning authority proposes to carry out development, or development belonging to a class of development prescribed under *paragraph (a)* (hereafter in this section referred to as "proposed development") it shall in relation to the proposed development comply with this section and any regulations under this section.

(*c*) F954**[**...**]**

(*d*) This section shall also apply to proposed development which is carried out within the functional area of a local authority which is a planning authority, on behalf of, or in partnership with the local authority, pursuant to a contract with the local authority.

(2) The Minister shall make regulations providing for any or all of the following matters:

(*a*) the publication by a local authority of any specified notice with respect to proposed development;

(*b*) requiring local authorities to—

(i) (I) notify prescribed authorities of such proposed development or classes of proposed development as may be prescribed, or

(II) consult with them in respect thereof,

and

(ii) give to them such documents, particulars plans or other information in respect thereof as may be prescribed;

(*c*) the making available for inspection, by members of the public, of any specified documents, particulars, plans or other information with respect to proposed development;

(*d*) the making of submissions or observations to a local authority with respect to proposed development.

(3) F955**[**(*a*)(i) The chief executive of a local authority shall, where an application is not made to the Board for a screening determination referred to in article 120(3)(*b*) of the Planning and Development Regulations 2001, within 8 weeks after the expiration of the period during which submissions or observations with respect to the proposed development may be made, in accordance with regulations under *subsection (2)*, prepare a report in writing in relation to the proposed development and submit the report to the members of the authority.

(ii) The chief executive of a local authority shall, where an application is made to the Board for a screening determination referred to in article 120(3)(*b*) of the Planning and Development Regulations 2001, within 8 weeks after the making by the Board of a screening determination that an environmental impact assessment is not required in respect of the proposed development, prepare a report in writing in relation to the proposed development and submit the report to the members of the authority.**]**

(*b*) A report prepared in accordance with *paragraph (a)* shall—

(i) describe the nature and extent of the proposed development and the principal features thereof, and shall include an appropriate plan of the development and appropriate map of the relevant area,

(ii) evaluate whether or not the proposed development would be consistent with the proper planning and sustainable development of the area to which the development relates, having regard to the provisions of the development plan and giving the reasons and the considerations for the evaluation,

F956**[**(iia) include the screening determination on why an environmental impact assessment is not required and specify the features, if any, of the proposed development and the measures, if any, envisaged to avoid or prevent what might have otherwise been significant adverse effects on the environment of the development,**]**

(iii) list the persons or bodies who made submissions or observations with respect to the proposed development in accordance with the regulations under *subsection (2)*,

(iv) summarise the issues, with respect to the proper planning and sustainable development of the area in which the proposed development would be situated, raised in any such submissions or observations, and give the response of the F957**[**chief executive**]** thereto, and

(v) recommend whether or not the proposed development should be proceeded with as proposed, or as varied or modified as recommended in the report, or should not be proceeded with, as the case may be.

F958**[**(*c*) A report prepared in accordance with *paragraph (a)* shall—

(i) in the case of development situated wholly within the maritime area—

(I) contain an evaluation of the consistency of the proposed development with principles of proper planning and sustainable development and the objectives of maritime spatial planning, having regard to the National Planning Framework, the National Marine Planning Framework and any maritime spatial plan applicable to the maritime site in which it is proposed that the development would be carried out, and

(II) specify the reasons and considerations for that evaluation,

and

(ii) in the case of development proposed to be situated partly on the landward side of a coastal planning authority's functional area and partly in the maritime area—

(I) contain an evaluation referred to in *subparagraph (ii)* of *paragraph (b)* and an evaluation of the consistency of the proposed development with principles of proper planning and sustainable development and objectives of maritime spatial planning, having regard to the National Planning Framework, the National Marine Planning Framework and any maritime spatial plan applicable to the maritime site in which it is proposed that the development would be carried out, and

(II) specify the reasons and considerations for those evaluations,

in addition to the matters referred to in *subparagraphs (i)*, *(iia)*, *(iii)*, *(iv)* and *(v)* of *paragraph (b)*.**]**

(4) (*a*) The members of a local authority shall F959**[**, within 6 weeks of the receipt of the report of the F957**[**chief executive**]**,**]** consider the proposed development and the report of the F957**[**chief executive**]** under *subsection (3)*.

(*b*) Following the consideration of the F957**[**chief executive's report**]** under *paragraph (a)*, the proposed development may be carried out as recommended in the F957**[**chief executive's report**]**, unless the local authority, by resolution, decides to vary or modify the development, otherwise than as recommended in the F957**[**chief executive's report**]**, or decides not to proceed with the development.

F960**[**(*c*) For a resolution to have effect under *paragraph (b)* —

(i) it has to be passed not later than 6 weeks after the receipt of the F957**[**chief executive's report**]**, and

(ii) in the case of a resolution not to proceed with a proposed development, it shall state the reasons for such resolution.**]**

(5) F961**[**Sections 138, 139 and 140 of the Local Government Act, 2001,**]** shall not apply to development under this section.

(6) This section shall not apply to proposed development which—

F962**[**(*a*) consists of works of maintenance or repair other than works to a protected structure, or a proposed protected structure, which would materially affect the character of—

(i) the structure, or

(ii) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest,**]**

(*b*) is necessary for dealing urgently with any situation which the F957**[**chief executive**]** considers is an emergency situation calling for immediate action,

F963**[**(*bb*) consists of works, other than works involving road widening, to enhance public bus services or improve facilities for cyclists provided under *section 95* (as amended by section 37 of the Road Traffic Act 1994) of the Road Traffic Act 1961 or under section 38 of the Road Traffic Act 1994,**]**

F964**[**(*c*) consists of works which a local authority is required to undertake—

(i) by or under any enactment,

(ii) by or under the law of the European Union, or a provision of any act adopted by an institution of the European Union, or

(iii) by order of a court,

(*d*) is development in respect of which an F965**[**environmental impact assessment report**]** is required under *section 175* or under any other enactment, or

(*e*) is development in respect of which an appropriate assessment is required under *section 177AE*, or under any other enactment.**]**

Annotations

Amendments:

F953 Inserted (8.03.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 13, (S.I. No. 107 of 2023).

F954 Deleted (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(h), S.I. No. 458 of 2001.

F955 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 27(a), in effect as per reg. 2(1).

F956 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 27(b), in effect as per reg. 2(1).

F957 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 66-69, S.I. No. 436 of 2018.

F958 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 43, S.I. No. 488 of 2022.

F959 Substituted (3.07.2017) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 29(b), S.I. No. 270 of 2017.

F960 Substituted (3.07.2017) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 29(c), S.I. No. 270 of 2017.

F961 Substituted (1.01.2002) by *Local Government Act 2001* (37/2001), s. 5(3) and sch. 4, S.I. No. 588 of 2001.

F962 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 58(a), S.I. No. 405 of 2010.

F963 Inserted (1.01.2011) by *Public Transport Regulation Act 2009* (37/2009), s. 46(2), S.I. No. 615 of 2010.

F964 Substituted (15.11.2011) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011* (S.I. No. 584 of 2011), reg. 6.

F965 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 83, in effect as per reg. 2(1).

Modifications (not altering text):

C127 Application of section restricted (7.02.2014) by *Water Services (No. 2) Act 2013* (50/2013), s. 33(11), S.I. No. 575 of 2014.

Water services strategic plan.

33.— ...

(11) In considering a proposed development under section 179 of the Act of 2000 a local authority shall not decide that the development should not be proceeded with solely on the grounds that the said development is not specifically referred to in the water services strategic plan in force if the authority considers the development will facilitate the achievement of the objectives of the water services strategic plan.

...

C128 Application of section restricted and matters to be considered provided (27.09.2007) by *Waste Water Discharge (Authorisation) Regulations 2007* (S.I. No. 684 of 2007), reg. 41(1) and 43.

Limitation of Act of 2000

41. (1) Subject to Regulation 42(2), and notwithstanding sections 34, 37, 37E, 175 and 226 of the Act of 2000, or any other provision of that Act, where, under these Regulations, an authorisation has been granted in respect of a waste water discharge from a waste water works—

(*a*) a planning authority, or An Bord Pleanála, where it decides to grant a permission under section 34, 37 or 37E on appeal or otherwise, as the case may be, of the said Act, or

(*b*) An Bord Pleanála, where it decides to grant an approval under section 175 or 226 of the said Act,

in respect of a proposed development that involves a waste water discharge from a waste water works, shall not subject the permission or approval, as the case may be, to conditions which are for the purposes of controlling the waste water discharge.

(2) Where a permission or approval under the Act of 2000 has been subjected to conditions, other than conditions as referred to in paragraph (3)(b), that are for the purposes of controlling discharges from a development as described in paragraph (1), those conditions shall cease to have effect upon the granting of an authorisation under these Regulations in respect of the waste water discharges concerned.

...

Consideration of proposals by planning authorities and An Bord Pleanála

43. (1) Where a planning authority or An Bord Pleanála is considering an application for permission, an appeal or an application for approval under section 34, 37, 37E, 175 or 226 of the Act of 2000 for development being development which involves the disposal of waste water to a waste water works, or is considering such a development under section 179 of the Act of 2000, the planning authority or the Board, as the case may be, shall consider whether the discharge of waste water from the proposed development, in conjunction with existing discharges to the receiving waters, would cause non-compliance with the combined approach or, in situations where there is existing non-compliance, would result in a significant breach of the combined approach.

...

C129 Provision for consideration of waste management under Part made by *Waste Management Act 1996* (10/1996), s. 22(10D) as inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 26(2)(d), S.I. No. 393 of 2004.

Waste management plans.

22.— ...

(10D) (*a*) In performing their functions under the Planning and Development Acts 2000 to 2002, and, in particular, their functions under Part III and sections 175 and 179 of the Planning and Development Act 2000, planning authorities and An Bord Pleanála shall ensure that such measures as are reasonably necessary are taken to secure appropriate provision for the management of waste (and, in particular, recyclable materials) within

developments, including the provision of facilities for the storage, separation and collection of such waste (and, in particular, such materials) and the preparation by the appropriate persons of suitable plans for the operation of such facilities.

(*b*) The Minister may issue guidelines as to the steps that may be taken to comply with this subsection.

Editorial Notes:

E400 Power pursuant to subs. (2) exercised (3.07.2017) by *Planning and Development (Strategic Housing Development) Regulations 2017* (S.I. No. 271 of 2017), in effect as per reg. 2.

E401 Authorisations or approvals issued to water authorities under section deemed to be issued to Irish Water (30.10.2015) by *Water Services (No. 2) Act 2013 (Other Licences, Authorisations and Permits) Order 2015* (S.I. No. 462 of 2015), in effect as per arts. 3 and 4.

E402 Deciding to vary or modify a proposed local authority own development, or deciding not to proceed with the development is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 2 item 15 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

E403 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E404 Power pursuant to section exercised (11.03.2002) by *Planning and Development Regulations 2002* (S.I. No. 70 of 2002).

E405 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E406 Previous affecting provision: subs. (3)(a) amended by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. no. 66, not commenced; deleted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 44, in effect as per reg. 1(2).

E407 Previous affecting provision: subs. (3)(a) amended (3.07.2017) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 29(a), S.I. No. 270 of 2017, substituted as per F note above.

E408 Previous affecting provision: application of section restricted by *Water Services Act 2007* (30/2007), s. 36(5)(b) and (21), not commenced; repealed (1.01.2014) by *Water Services (No. 2) Act 2013, s. 4(1), S.I. No. 575 of 2013.*

E409 Previous affecting provision: subs. (6)(c) substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 58(b), S.I. No. 405 of 2010; substituted as per F-note above.

F966[Local authority own housing development

179A.—(1) This section applies to housing development—

(*a*) that is carried out by, on behalf of, or jointly or in partnership with, a local authority pursuant to a contract entered into by the local authority concerned, whether in its capacity as a planning authority or in any other capacity,

(*b*) that does not materially contravene the development plan or local area plan for the area,

(*c*) that is in accordance with the strategy included in the development plan for the area in accordance with *section 94(1)*,

(*d*) that is not subject to a requirement, in accordance with the Environmental Impact Assessment Directive, for an assessment with regard to its effects on the environment,

(*e*) that is not subject to a requirement, in accordance with the Habitats Directive, for an appropriate assessment,

(*f*) that is on land—

(i) that is owned by a local authority or a State Authority,

(ii) that is zoned for residential use, and

(iii) that has access, or can be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development,

and

(*g*) that is commenced on or before 31 December 2024.

(2) Prior to the commencement of development to which this section applies, the chief executive of the local authority shall inform the members of the local authority in relation to the development and shall provide documents, particulars or plans relevant to the development to the members.

(3) The Minister may make regulations providing for any or all of the following matters in respect of development to which this section applies:

(*a*) the giving of public notice by the local authority in respect of the development;

(*b*) the publication by a local authority of any specified notice in respect of the development;

(*c*) the making available for inspection, including by members of the public, of documents, particulars, plans or other information in relation to the development;

(*d*) notification by the local authority in respect of such development to such bodies as the Minister may prescribe;

(*e*) the entry of particulars of the development in the register;

(*f*) procedures for determining, through a case-by-case basis examination or by reference to prescribed thresholds or criteria, whether the development is one which should be made subject in accordance with the Environmental Impact Assessment Directive to a requirement for an assessment with regard to its effects on the environment, the information to be provided for the purposes of such a determination, the basis on which such a determination is to be made, the time for such a determination, the contents of such a determination, and the making available to the public of such a determination;

(*g*) procedures for determining whether the development is one which should be made subject, in accordance with the Habitats Directive, to an appropriate assessment;

(*h*) a requirement that local authorities provide the Minister with information regarding developments that have been notified, commenced, and completed, the type of information to be provided and the frequency with which such information is to be provided.

(4) Sections 138, 139 and 140 of the Local Government Act 2001 shall not apply in respect of development to which this section applies.

(5) In this section—

"housing development" includes—

(*a*) the construction or erection of a house or houses,

(*b*) the construction of a new road or the widening or realignment of an existing road, to serve houses referred to in *paragraph (a)*,

(*c*) the construction or erection of pumping stations, treatment works, holding tanks or outfall facilities for waste water or storm water, to serve houses referred to in *paragraph (a)*,

(*d*) the laying underground of sewers, mains, pipes or other apparatus,

(*e*) the provision of open spaces, recreational and community facilities and amenities and landscaping works to serve houses referred to in *paragraph (a)*, and

(*f*) the provision of car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure to serve houses referred to in *paragraph (a)*;

"State Authority" means any of the following:

(*a*) a Minister of the Government;

(*b*) an Education and Training Board established under the Education and Training Boards Act 2013;

(*c*) Courts Service;

(*d*) Digital Hub Development Agency;

(*e*) Dublin Institute for Advanced Studies;

(*f*) Enterprise Ireland;

(*g*) Environmental Protection Agency;

(*h*) the Garda Síochána;

(*i*) Health Service Executive;

(*j*) Housing and Sustainable Communities Agency;

(*k*) Industrial Development Agency (Ireland);

(*l*) an Institute of Technology being a college within the meaning of section 2 of the Regional Technical Colleges Act 1992;

(*m*) Institute of Public Administration;

(*n*) Prison Service of the Department of Justice which is charged with the management of prisons;

(*o*) Legal Aid Board;

(*p*) Marine Institute;

(*q*) National Archives;

(*r*) Oberstown Children Detention Campus;

(*s*) Commissioners of Public Works in Ireland;

(*t*) Ordnance Survey Ireland;

(*u*) Sport Ireland;

(*v*) State Laboratory;

(*w*) Teagasc - the Agriculture and Food Development Authority;

(*x*) a technological university established by virtue of an order under section 36 of the Technological Universities Act 2018 ;

(*y*) An tSeirbhís Oideachais Leanúnaigh agus Scileanna.**]**

Annotations

Amendments:

F966 Inserted (8.03.2023) by *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), s. 14, S.I. No. 107 of 2023.

Editorial Notes:

E410 Power pursuant to subs. (3) exercised (8.03.2023) by *Planning and Development (Section 179A) Regulations 2023* (S.I. No. 101 of 2023).

Taking in charge of estates.

180.—(1) F967**[**Subject to *subsection (7)*, where a development**]** for which permission is granted under *section 34* or under Part IV of the Act of 1963 includes the construction of 2 or more houses and the provision of new roads, open spaces, car parks, sewers, F968**[**water mains**]** or F968**[**service connections (within the meaning of the Water Services Act 2007)**]**, and the development has been completed to the satisfaction of the planning authority in accordance with the permission and any conditions to which the permission is subject, the authority shall, where requested by the person carrying out the development, or, subject to *subsection (3)*, F969**[**by the majority of the owners of the houses involved**]**, F967**[**not later than 6 months after being so requested**]**, initiate the procedures under section 11 of the Roads Act, 1993.

(2) (*a*) Notwithstanding *subsection (1)*, where the development F970**[**referred to in *subsection (1)***]** has not been completed to the satisfaction of the planning authority and enforcement proceedings have not been commenced by the planning authority within F967**[**4 years**]** beginning on the expiration, as respects the permission authorising the development, of the appropriate period, within the meaning of *section 40* or the period as extended under *section 42*, as the case may be, the authority shall, F969**[**where requested by the majority of owners of the houses involved**]**, comply with section 11 of the Roads Act, 1993, except that subsection (1)(*b*)(ii) of that section shall be disregarded.

(*b*) In complying with *paragraph (a)*, the authority may apply any security given under *section 34(4)(g)* F971**[**, or a condition attached to a permission under section 9(4) of the Planning and Development (Housing) and Residential Tenancies Act 2016**]** for the satisfactory completion of the development in question.

F970**[**(2A) (*a*) Notwithstanding *subsections (1)* or *(2)*, where a development referred to in *subsection (1)* has not been completed to the satisfaction of the planning authority and either—

(i) enforcement proceedings have been commenced by the planning authority within F967**[**4 years**]** beginning on the expiration, as respects the permission authorising the development, of the appropriate period, or

(ii) the planning authority considers that enforcement proceedings will not result in the satisfactory completion of the development by the developer,

the authority may in its absolute discretion, at any time after the expiration as respects the permission authorising the development of the appropriate period, where requested by a majority of the owners of the houses in question, initiate the procedures under section 11 of the Roads Act 1993.

(*b*) In exercising its discretion and initiating procedures under section 11 of the Roads Act 1993, the authority may apply any security given under *section 34(4)(g)* F971**[**, or a condition attached to a permission under section 9(4) of the Planning and Development (Housing) and Residential Tenancies Act 2016**]** for the satisfactory completion of the development in question. **]**

F972**[**(*c*) The initiation of procedures under section 11 of the Roads Act 1993 shall not preclude the planning authority concerned from pursuing, under the *Planning and Development Acts 2000* to *2018* or otherwise, a developer for the costs incurred by that authority in respect of works undertaken on a development to enable it to be taken in charge by that authority.**]**

(3) (*a*) The planning authority may hold a plebiscite to ascertain F969**[**the wishes of the owners of the houses**]**.

(*b*) The Minister may make or apply any regulations prescribing the procedure to be followed by the planning authority in ascertaining F969**[**the wishes of the owners of the houses**]**.

F969**[**(4) (*a*) Where an order is made under section 11(1) of the Roads Act 1993 in compliance with *subsection (1)* or *(2)*, the planning authority shall, in addition to the provisions of that section, take in charge—

(i) (subject to *paragraph (c)*), any sewers, watermains or service connections within the attendant grounds of the development, and

(ii) public open spaces or public car parks within the attendant grounds of the development.

(*b*) Where an order is made under section 11(1) of the Roads Act 1993 in compliance with *subsection (2A)*, the planning authority may, in addition to the provisions of that section take in charge—

(i) (subject to *paragraph (c)*) some or all of the sewers, watermains or service connections within the attendant grounds of the development, and

(ii) some or all of the public open spaces or public car parks within the attendant grounds of the development,

and may undertake,

(I) any works which, in the opinion of the authority, are necessary for the completion of such sewers, watermains or service connections, public open spaces or public car parks within the attendant grounds of the development, or

(II) any works as in the opinion of the authority, are necessary to make the development safe,

and may recover the costs of works referred to in *clause (I)* or *(II)* from the developer as a simple contract debt in a court of competent jurisdiction.

(*c*) A planning authority that is not a water services authority within the meaning of section 2 of the Act of 2007 shall not take in charge any sewers, watermains or service connections under *paragraph (a)(i)* or *(b)(i)*, but shall request the relevant water services authority to do so.

(*d*) In *paragraph (a)(ii)*, "public open spaces" or "public car parks" means open spaces or car parks to which the public have access whether as of right or by permission.

(*e*) In this subsection, "public open spaces" means open spaces or car parks to which the public have access whether as of right or by permission.**]**

(5) Where a planning authority acts in compliance with this section, references in section 11 of the Roads Act, 1993, to a road authority shall be deemed to include references to a planning authority.

F969**[**(6) In this section "appropriate period" has the meaning given to the term in *section 40*, as extended under *section 42* or *42A* as the case may be.**]**

F972**[**(7) This section applies to that part of a development for which permission is granted under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016 that relates to the construction of houses and the provision of—

(*a*) new roads, open spaces or car parks, or

(*b*) sewers, water mains or service connections, within the meaning of the Water Services Act 2007,

relating to such houses and references to "development" in other provisions of this section shall be read accordingly.**]**

Annotations

Amendments:

F967 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 37(a), (b), (d), S.I. No. 436 of 2018.

F968 Substituted (31.12.2007) by *Water Services Act 2007* (30/2007), s. 114(b)(i), S.I. No. 846 of 2007.

F969 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 59(a), (b)(ii), (d), (e), (f), and (g), S.I. No. 477 of 2010.

F970 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 59(b)(i), (c), S.I. No. 477 of 2010.

F971 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 37(c), (e), S.I. No. 436 of 2018.

F972 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 37(f), (g), S.I. No. 436 of 2018.

Editorial Notes:

E411 Previous affecting provision: subs. (4) amended (31.12.2007) by *Water Services Act 2007* (30/2007), s. 114(b)(ii), S.I. No. 846 of 2007; substituted as per F-note above.

Development by State authorities.

181.—(1) (*a*) The Minister may, by regulations, provide that, except for this section F973**[**and *sections 181A* to *181C*, the provisions of this Act shall not apply to any specified class or classes of development by or on behalf of a State authority where the development is, in the opinion of the Minister, in connection with or for the purposes of public safety or order, the administration of justice or national security or defence and, for so long as the regulations are in force, the provisions of this Act shall not apply to the specified class or classes of development.

(*b*) The Minister may, by regulations, provide for any or all of the following matters in relation to any class or classes of development to which regulations under *paragraph (a)* apply:

(i) the publication by a State authority of any specified notice with respect to development that it proposes to carry out or to have carried out on its behalf;

(ii) the giving by a State authority, to the planning authority for the area in which proposed development is to be carried out, or any other specified person, of any specified notice, documents, particulars, plans or other information with respect to the proposed development;

(iii) the making available for inspection by members of the public of any specified documents, particulars, plans or other information with respect to the proposed development;

(iv) F974**[**...**]**

(v) the making of submissions or observations to a State authority with respect to the proposed development;

F975**[**(vi) the reference to a specified person of any dispute or disagreement, with respect to the proposed development—

(I) between a State authority and the planning authority for the area (including, in circumstances where the planning authority is a coastal planning authority, the nearshore area of that authority) in which the proposed development is to be carried out, or

(II) between a State authority and the Board or the Maritime Area Regulatory Authority in relation to proposed development that is to be carried out in the outer maritime area;**]**

(vii) requiring a State authority, in deciding whether the proposed development is to be carried out, to have regard to any specified matters or considerations.

(2) (*a*) F976**[**Subject to *Parts X* and *XAB* and any regulations made under *Parts X* and *XAB* and *subsections (2A)* to *(2AA)*, where development is proposed to be carried out**]** by or on behalf of F977**[**a Minister of the Government, the Commissioners or a statutory undertaker**]**, the Minister of the Government concerned or, in the case of development proposed to be carried out by or on behalf of the Commissioners, the Minister for Finance, may, if he or she is satisfied that the carrying out of the development is required by reason of an accident or emergency, by order provide that this Act F978**[**(other than *sections 50*, *50A*, *50B* and *181*)**]** or, as may be appropriate, any requirement or requirements of regulations under *subsection (1)(b)* specified in the order, shall not apply to the development, and for so long as such an order is in force this Act or the said requirement or requirements, as the case may be, shall not apply to the development.

F979**[**(*aa*) Before making an order under *paragraph (a)*, the Minister of the Government concerned (other than where the Minister concerned is the Minister) or, in the case of development proposed to be carried out by or on behalf of the Commissioners, the Minister for Public Expenditure and Reform, shall—

(i) inform the Minister of his or her intention to make an order under *paragraph (a)* and provide to the Minister a draft of the order, and

(ii) inform any other State authority of his or her intention to make an order under *paragraph (a)* and provide to the State authority a draft of the order where, in the opinion of the Minister concerned, the draft order relates to the functions of that State authority.

(*ab*) Where the Minister proposes to make an order under this subsection, the Minister shall, before making such order, comply with *paragraph (aa)(ii)*.**]**

(*b*) A Minister of the Government may by order revoke an order made by him or her under *paragraph (a)*.

(*c*) A Minister of the Government shall cause an order made by him or her under this subsection to be published in *Iris Oifigiúil* and notice of the making of the order to be published in a newspaper circulating in the area of the development concerned.

F979**[**(2A) (*a*) F980**[**In *subsections (2)* to *(2AA)*]—

(i) "approval" means a decision by the Board under *subparagraph (i)*, *(ii)*, *(iii)* or *(iv)* of *paragraph (a)* of *subsection (2L)* in relation to an application for approval,

(ii) "Minister concerned" means—

(I) the Minister of the Government who proposes to carry out development referred to in this subsection or *subsection (2)(a)*, or have it carried out on his or her behalf, or

(II) the Minister for Public Expenditure and Reform where the Commissioners propose to carry out development referred to in this subsection or *subsection (2)(a)*, or have it carried out F980**[**on their behalf, or**]**

F981**[**(III) where a statutory undertaker proposes to carry out a development referred to in this subsection or *subsection (2)(a)*, or have it carried out on its behalf, the Minister of the Government responsible for the enactment or instrument under an enactment by or under which the statutory undertaker is authorised, and**]**

(iii) "proposed development" means development proposed to be carried out by or on behalf of a F980**[**Minister of the Government, the Commissioners or a statutory undertaker**]** under *subsection (2)(a)*.

F981**[**(*aa*) In this subsection, "enactment" has the same meaning as it has in the Interpretation Act 2005.**]**

(*b*) F982**[**Where development is proposed to be carried out by or on behalf of a Minister concerned or a statutory undertaker**]** pursuant to an order under *subsection (2)(a)* and the Minister concerned is satisfied, having had regard to *Part X* and *Part XAB*, that an environmental impact assessment or an appropriate assessment, or both such assessments of the proposed development is or are required, the Minister concerned shall F983**[**, other than where a declaration has been made under *paragraph (ba)(i)*,**]** prepare or cause to be prepared an application for approval, which shall include the documents and information referred to in *paragraph (c)*, in respect of the development and shall apply to the Board for such approval.

F983**[**(*ba*) Where a Minister concerned is satisfied that the carrying out of a proposed development is for the sole purpose of responding to a civil emergency, he or she may –

(i) declare that the proposed development is exempt from a requirement under *paragraph (b)*, arising only on the basis that an environmental impact assessment of the proposed development is required, to prepare an application for approval and apply to the Board for such approval, or

(ii) declare that the proposed development is exempt from a requirement under *paragraph (c)* to prepare an environmental impact assessment report in respect of the development and include such report with an application to the Board under *paragraph (b)*,

if the Minister considers that the application of the requirement concerned would have an adverse effect on that purpose.

(*bb*) Notice of a declaration made under *paragraph (ba)* shall, as soon as may be, be published in Iris Oifigiúil and in at least one daily newspaper published in the State.**]**

(*c*) An application for approval referred to in *paragraph (b)* shall include a draft of the order the Minister concerned proposes to make under *subsection (2)(a)*, the plans, drawings and particulars in relation to the proposed development and, other than where an exemption is granted under *subsection (2I)* F983**[**or a declaration is made under *paragraph (ba)(ii)***]**, an environmental impact assessment report or Natura impact statement, or both that report and that statement, as the case may be, in respect of the development.

(*d*) The environmental impact assessment report and the Natura impact statement provided under *paragraph (c)* shall, as appropriate, comply with the requirements of *Parts X* and *XAB* respectively.

(*e*) A Minister concerned shall not F983**[**, except where a declaration is made under *paragraph (ba)(i)*,**]** make an order under *subsection (2)(a)* in respect of development which requires an environmental impact assessment or an appropriate assessment, or, as necessary, both such assessments, proposed to be carried out F982**[**by or on behalf of the Minister concerned or a statutory undertaker**]** under the order, other than in accordance with an approval of that proposed development.

(*f*) On receipt of an application for approval under *paragraph (b)*, the Board shall, other than where an exemption is granted under *subsection (2I)*F983**[**or a declaration is made under *paragraph (ba)(ii)*, carry out an environmental impact assessment, or an appropriate assessment, or, as necessary, both such assessments, in accordance with *Part X* or *Part XAB*, as the case may require.

(2B) Before a Minister concerned makes an application for approval under *subsection (2A)*, the Minister shall—

(*a*) publish in one or more newspapers circulating in the area or areas in which it is proposed to carry out the development a notice indicating the nature and location of the proposed development and—

(i) stating that—

(I) the Minister proposes to seek approval with regard to the proposed development,

(II) an environmental impact assessment report or Natura impact statement or both that report and that statement, as the case may be, has or have been prepared in respect of the proposed development, and

(III) where relevant, the proposed development is likely to have significant effects on the environment in another Member State of the European Union or a state that is a party to the Transboundary Convention,

(ii) specifying the times and places at which, and the period (which shall not be less than 30 days) during which a copy of the application and the environmental impact assessment report or Natura impact statement or both that report and that statement, as the case may be, may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy),

(iii) inviting the making, during such period, of submissions and observations to the Board relating to the likely significant effects on the environment or adverse effects on the integrity of a European site, as the case may be, of the proposed development, if carried out,

(iv) specifying the types of approval the Board may make, under *subsection (2L)(a)*, in relation to the application,

(v) stating that a person may question the validity of the approval by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) in accordance with *sections 50*, *50A* and *50B*, and

(vi) stating where practical information on the review mechanism can be found,

(*b*) send a copy of the application and the environmental impact assessment report or Natura impact statement or both that report and that statement, as the case may be, to the planning authority or each planning authority in whose functional area the proposed development would be situate and to any prescribed authorities, those prescribed authorities being, for the purposes of this subsection and *subsection (2F)*, the same as those authorities prescribed for the purposes of *section 175(4)*, together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(ii)*, be made in writing to the Board in relation to the likely significant effects on the environment or adverse effects on the integrity of a European site, as the case may be, of the proposed development, F975**[**if carried out**]**

F984**[**(*bb*) in the case of proposed development in the maritime area, send a—

(i) copy of the application,

(ii) copy of the environmental impact assessment report (if any) and Natura impact statement (if any), and

(iii) a notice stating that submissions or observations may, during the period referred to in *subparagraph (ii)* of *paragraph (a)*, be made in writing to the Board in relation to the application for approval,

to the Maritime Area Regulatory Authority, and**]**

(*c*) where the proposed development is likely to have significant effects on the environment of a Member State of the European Union or a state that is a party to the Transboundary Convention, send a copy of the application and the environmental impact assessment report or Natura impact statement or both that report and that statement, as the case may be, to the prescribed authority of the relevant state or states together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(ii)*, be made in writing to the Board.

(2C) The Board may—

(*a*) if it considers it necessary to do so, require the Minister concerned who, in respect of a proposed development, has applied for approval, to furnish to the Board such further information in relation to the likely significant effects on the environment or adverse effects on the integrity of a European site of the proposed development as the Board may specify, or

(*b*) if it is provisionally of the view that it would be appropriate to approve the proposed development were certain alterations (specified in the notification referred to in this paragraph) to be made to the terms of the proposed development, notify the Minister concerned that it is of that view and invite that Minister to make to the terms of the proposed development alterations specified in the notification and, if the Minister concerned makes those alterations, to furnish to it such information (if any) as it may specify in relation to the proposed development, in the terms as so altered, or where necessary, a revised environmental impact assessment report or revised

Natura impact statement or both that report and that statement, as the case may be, in respect of it.

(2D) If the Minister concerned makes the alterations to the terms of the proposed development specified in a notification given to him or her by the Board under *subsection (2C)*, the terms of the development as so altered shall be deemed to be the proposed development for the purposes of the application for approval of the proposed development concerned under *subsection (2A)*.

(2E) The Board shall—

(*a*) where it considers that any further information furnished to it pursuant to a requirement made under *subsection (2C)(a)* contains significant additional data relating to the likely significant effects on the environment or adverse effects on the integrity of a European site, as the case may be, of the proposed development, or

(*b*) where the Minister concerned has made the alterations to the terms of the proposed development specified in a notification given to him or her under *subsection (2C)(b)*,

require the Minister concerned to comply with *subsection (2F)*.

(2F) Where *subsection (2E)* applies the Minister concerned shall—

(*a*) publish in one or more newspapers circulating in the area or areas in which the proposed development would be situate a notice stating that, as appropriate—

(i) further information in relation to the proposed development has been furnished to the Board, or

(ii) the Minister concerned has, pursuant to an invitation of the Board, made alterations to the terms of the proposed development (and the nature of those alterations shall be indicated) and, if it be the case, that information in relation to the terms of the development as so altered or a revised environmental impact assessment report or revised Natura impact statement or both that report and that statement, as the case may be, in respect of the development has been furnished to the Board,

indicating the times at which, the period (which shall not be less than 3 weeks in a case other than a case relating to a revised environmental impact assessment report) during which and the place, or places, where a copy of the information or the environmental impact assessment report or Natura impact statement or both that report and that statement, as the case may be, referred to in *subparagraph (i)* or *(ii)* may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy) and that submissions or observations in relation to that information, report or statement may be made to the Board before the expiration of the indicated period, and

(*b*) send to each prescribed authority to which a notice was given pursuant to *subsection (2B)(b)* or *(c)*—

(i) a notice of the furnishing to the Board of, as appropriate, the further information referred to in *paragraph (a)(i)* or the information, report or statement referred to in *paragraph (a)(ii)*, and

(ii) a copy of that further information, information, report or statement,

and indicate to the authority that submissions or observations in relation to that further information, information, report or statement may be made to the Board before the expiration of a period (which shall not be less than 3 weeks in a case other than a case relating to a revised environmental impact

assessment report) beginning on the day on which the notice is sent to the prescribed authority by the Minister concerned.

(2G) The period referred to in *subsection (2F)(a)* or *(b)* shall, in a case relating to a revised environmental impact assessment report, not be less than—

(*a*) 30 days where the report has been furnished to the Board, and

(*b*) 3 weeks where the report has not been furnished to the Board.

(2H) Before making a decision under *subsection (2L)(a)*, the Board shall consider—

(*a*) the environmental impact assessment report or Natura impact statement or both that report and statement, as the case may be, submitted pursuant to *subsection (2A)* or *(2C)* or both, as the case may be,

(*b*) any submissions or observations made in accordance with *subsection (2B)* or *(2F)* or both, as the case may be, and

(*c*) any other information furnished in accordance with *subsection (2C)*,

relating to the likely significant effects on the environment or adverse effects on the integrity of a European site of the proposed development.

(2I) (*a*) (i) Notwithstanding *Part X*, at the request in that behalf of the Minister concerned who has made an application for approval in respect of a proposed development, the Board may grant an exemption referred to in *paragraph (b)* where the Board is satisfied that—

(I) exceptional circumstances so warrant,

(II) the application of the requirement to prepare an environmental impact assessment report or to carry out an environmental impact assessment or both that report and that assessment, as the case may be, or any other provisions implementing the Environmental Impact Assessment Directive as set out in this section would adversely affect the purpose of the proposed development, and

(III) the objectives of the Environmental Impact Assessment Directive are otherwise met.

(ii) The Minister concerned may submit the request referred to in *subparagraph (i)* with the application for approval under *subsection (2A)* or at any time before the Board makes its decision under *subsection (2L)(a)*.

(*b*) Subject to *paragraph (c)*, the Board may grant, in respect of the proposed development, an exemption from the requirement under this section to prepare an environmental impact assessment report or carry out an environmental impact assessment, or from any other provision of *Part X* as the Board considers appropriate.

(*c*) No exemption may be granted under *paragraph (b)* in respect of the proposed development where another Member State of the European Union or a state that is a party to the Transboundary Convention, having been informed about the proposed development and its likely significant effects on the environment in that State or state, as the case may be, has indicated that it intends to furnish views on those effects.

(2J) The Board shall, in deciding to grant an exemption under *subsection (2I)*—

(*a*) consider whether the likely significant effects, if any, of the proposed development on the environment should be assessed in some other form, and

(*b*) make available to members of the public the information relating to the decision to grant an exemption under *subsection (2I)*, the reasons for granting such exemption and the information obtained under any other form of assessment referred to in *paragraph (a)*,

and the Board may apply such requirements regarding these matters in relation to the application for approval as it considers necessary or appropriate.

(2K) Notice of any decision by the Board to grant an exemption under *subsection (2I)*, of the reasons for granting the exemption and of any requirements applied under *subsection (2J)* shall, as soon as may be—

(*a*) be published in *Iris Oifigiúil*, on the Board's website and in at least one daily newspaper published in the State, and

(*b*) be given, together with a copy of the information, if any, made available to the members of the public in accordance with *subsection (2J)*, to the European Commission.

(2L) (*a*) The Board shall, in respect of an application for approval under *subsection (2A)*, make its decision as expeditiously as possible having regard to the requirement for the carrying out of the proposed development by reason of an accident or emergency and may, in respect of such application—

(i) approve the proposed development,

(ii) make such modifications to the proposed development as it specifies in the approval and approve the proposed development as so modified,

(iii) approve, in part only, the proposed development (with or without specified modifications of it of the foregoing kind), or

(iv) refuse to approve the proposed development,

and may attach to an approval under *subparagraph (i)*, *(ii)* or *(iii)* such conditions or compensatory measures, or both as the case may be, as it considers appropriate.

(*b*) F982**[**The Minister concerned or a statutory undertaker**]** shall carry out or have carried out the proposed development to which the approval relates in accordance with any conditions attached to that approval.

(2M) (*a*) The Board shall send a copy of the decision under *subsection (2L)(a)* to the Minister concerned, to any planning authority in whose area the proposed development shall be situated and to any person who made submissions or observations on the application for approval.

F984**[**(*aa*) The Board shall, in the case of development proposed to be situated wholly or partly in the outer maritime area, send a copy of the decision under *paragraph (a)* of *subsection (2L)* to—

(i) the Minister concerned,

(ii) any coastal planning authority in whose nearshore area it is proposed that part of the development would be situated,

(iii) the Maritime Area Regulatory Authority, and

(iv) any person who made submissions or observations on the application for approval.**]**

(*b*) The Board shall cause to be published as soon as may be, in one or more newspapers circulating in the area or areas and on its website, a notice informing the public of the decision under *subsection (2L)(a)*.

(*c*) The notice referred to in *paragraph (b)* shall state that details of the decision by the Board referred to in *subsection (2N)* shall be published on the website of the Board as soon as may be.

(*d*) The notice shall state that a person may question the validity of any such decision by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with *sections 50*, *50A* and *50B*.

(*e*) The notice shall identify where practical information on the review mechanism can be found.

(2N) A decision of the Board under *subsection (2L)(a)* shall state—

(*a*) the reasoned conclusion, in relation to the likely significant effects on the environment of the proposed development, and, where relevant, whether the development would have adverse effects on the integrity of a European site,

(*b*) in relation to the decision of the Board under *subparagraph (i)*, *(ii)*, *(iii)* or *(iv)* of *paragraph (a)* of *subsection (2L)*, where a decision (being a decision which arises from the consideration of the environmental impact assessment report concerned) by the Board is different from the recommendation in a report of a person assigned to report on behalf of the Board in relation to the application for approval, the main reasons for not accepting the recommendation in the last-mentioned report to approve or refuse to approve the development,

(*c*) where a decision to impose a condition (being a condition which arises from the consideration of the environmental impact assessment report or Natura impact statement, or both such report and such statement, in respect of the proposed development) in relation to any approval is materially different, in relation to the terms of such condition, from the recommendation in a report of a person assigned to report on behalf of the Board in relation to the application for approval, the main reasons for not accepting, or for varying, as the case may be, the recommendation in the last-mentioned report in relation to such condition,

(*d*) in relation to the decision of the Board under *subparagraph (i)*, *(ii)*, *(iii)* or *(iv)* of *paragraph (a)* of *subsection (2L)*, that the Board is satisfied that the reasoned conclusion on the likely significant effects on the environment or adverse effects on the integrity of a European site of the proposed development was up to date at the time of the taking of the decision,

(*e*) that a person may question the validity of any such decision by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with *sections 50*, *50A* and *50B*, and

(*f*) where practical information on the review mechanism can be found.

(2O) An approval and the notification of the approval shall include a summary of the results of consultations that have taken place and information gathered in the course of the environmental impact assessment or appropriate assessment, or both such assessments, as the case may be, and, where appropriate, the comments received in the course of the environmental impact assessment from an affected Member State of the European Union or a state that is a party to the Transboundary Convention, and specify how those results have been incorporated into the decision or otherwise addressed.

(2P) In considering under *subsection (2H)* information furnished relating to the likely significant effects of a proposed development on the environment or adverse effects on the integrity of a European site, the Board shall have regard to, as appropriate—

(*a*) if the area or part of the area is a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact, and

(*b*) if the proposed development would have an effect on a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact.

(2Q) Nothing in *subsections (2A)* to *(2AA)* shall require the disclosure by a Minister of the Government, the Commissioners or the Board of details of the internal arrangements of a proposed development which might prejudice the internal or external security of the development or facilitate any unauthorised entrance to, or exit from, the development of any person when it is completed.

(2R) (*a*) A Minister concerned who is considering whether to apply for approval for proposed development under *subsection (2A)* (referred to in this subsection and in *subsections (2S)*, *(2T)*, *(2V)* and *(2W)* as a "prospective applicant") may, before making the application, enter into consultations with the Board in relation to the proposed development.

(*b*) The prospective applicant may notify the Board in writing of the intention of the prospective applicant to end the consultations with the Board referred to in *paragraph (a)* and, upon receipt of such notification by the Board, the consultations shall be deemed to have ended on the date of such receipt by the Board.

(2S) In any consultations under *subsection (2R)*, the Board may give advice to the prospective applicant regarding the proposed application and, in particular, regarding—

(*a*) the procedures involved in making the application and in considering such application, and

(*b*) what considerations related to the environment or a European site, may, in the opinion of the Board, have a bearing on its decision in relation to the application.

(2T) (*a*) A prospective applicant who is considering whether to apply for approval for proposed development under *subsection (2A)* may apply to the Board—

(i) for a determination under *sections 176A* and *176B* or *section 177U*, as to whether a proposed development would be likely to have a significant effect on the environment F985**[**or, in respect of a proposed development not directly connected with or necessary to the management of a European site, would be likely to have a significant effect either individually or in combination with other plans or projects on a European site**]**, as the case may be (and inform the prospective applicant of the determination), or

(ii) for an opinion in writing prepared by the Board on what information will be required to be contained in an environmental impact assessment report or Natura impact statement or both that report and that statement as the case may be, in relation to the proposed development.

(*b*) *Sections 176A* and *176B* shall apply to a determination of the Board referred to in *paragraph (a)(i)* subject to the following modifications:

(i) in *sections 176A* and *176B*, "planning authority" or "authority" shall be read as "the Board";

(ii) in *section 176A(3)*, as if the following were omitted:

"and be accompanied by such fee as may be prescribed under *section 246(1)(ca)*";

(iii) in *section 176B(2)*—

(I) in *paragraph (a)*, as if "4 weeks" were substituted for "3 weeks", and

(II) in *paragraph (b)*, as if "5 weeks" were substituted for "4 weeks";

(iv) in *section 176B(4)*, as if *paragraph (ii)* were omitted;

(v) in *section 176B*, as if the following subsection were substituted for *subsection (4A)*:

"(4A) The notice under *subsection (4)* shall be placed with any application for approval under *section 181(2A)* subsequently made in respect of which an application for a screening for environmental impact assessment was made under *section 176A(2)*.";

(vi) in *section 176B(5)*—

(I) as if *paragraph (i)* were omitted, and

(II) as if the following paragraph were substituted for *paragraph (ii)*:

"(ii) stating that a person may question the validity of the screening determination for environmental impact assessment by the Board, by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with *sections 50* and *50A*,";

(vii) any other necessary modifications have been made.

(*c*) *Section 176C* shall not apply to a determination of the Board referred to in *paragraph (a)(i)*.

(2U) On receipt of such an application under *subsection (2T)(a)*, the Board shall make its determination or give its opinion, as the case may be, as expeditiously as possible.

(2V) A prospective applicant shall, for the purposes of—

(*a*) consultations under *subsection (2R)*, and

(*b*) the making of a determination or the giving of an opinion by the Board on an application under *subsection (2T)(a)*,

supply to the Board sufficient information in relation to the proposed development so as to enable the Board to assess the proposed development.

(2W) (*a*) Without prejudice to *subsection (2V)* and subject to *paragraph (b)*, where a prospective applicant has made an application under *subsection (2T)(a)(ii)* for an opinion in relation to what information will be required to be contained in an environmental impact assessment report or Natura impact statement or both that report and that statement as the case may be, the Board shall, after taking into account the information provided by the prospective applicant, in particular on the specific characteristics of the proposed development, including its location and technical capacity, and its likely significant effect on the environment F985**[**or, in respect of a proposed development not directly connected with or necessary to the management of a European site, its likely significant effect either individually or in combination with other plans or projects on a European site**]**, give an opinion in writing on the scope and level of detail of the information to be included in such report or such statement or both that report and that statement as the case may be, subject to any consultations carried out by the Board in relation to such opinion.

(*b*) The Board shall give the opinion before the submission by the prospective applicant of the environmental impact assessment report or Natura impact statement or both that report and that statement as the case may be.

(2X) Where an opinion referred to in *subsection (2W)* has been provided, the environmental impact assessment report or Natura impact statement or both that report and that statement as the case may be, shall be based on that opinion, and include the information that may reasonably be required for reaching a reasoned conclusion on the likely significant effects on the environment of the proposed development or adverse effect on the integrity of a European site, taking into account current knowledge and methods of assessment.

(2Y) Neither—

(*a*) the holding of consultations under *subsection (2R)*, nor

(*b*) the provision of an opinion under *subsection (2W)*,

shall prejudice the performance by the Board of any other of its functions under this Act or regulations made under this Act, or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

(2Z) The Board shall keep a record in writing of any consultations under this section in relation to a proposed development, including the names of those who participated in the consultations, and a copy of such record shall be placed and kept with the documents to which any application in respect of the proposed development relates.

F975**[**(2AA) Where an application for approval is made to the Board under *subsection (2A)*, or where further information is required by and furnished to the Board in relation to an application made under that subsection, the Minister concerned shall, simultaneously, forward a copy of the application, any environmental impact assessment report or Natura impact statement prepared in relation to the application and any further information provided in relation to the application, to—

(*a*) the planning authority or each planning authority in whose functional area it is proposed to carry out the development, or

(*b*) in the case of an application for approval for development in the outer maritime area, the Maritime Area Regulatory Authority,

and the Board, and any such planning authority or the Maritime Area Regulatory Authority (as may be appropriate), shall, as soon as may be thereafter, publish on their internet websites and make available for inspection at their offices during normal office hours—

(i) that application,

(ii) any such environmental impact assessment report,

(iii) any such Natura impact statement, and

(iv) any such further information.**]]**

F986**[**(3)(*a*) In this subsection—

F988**[**...**]**

"Minister concerned" means—

(i) the Minister of the Government who proposes to carry out development to which this subsection applies, or have it carried out on his or her behalf, or

(ii) the Minister for Public Expenditure and Reform where the Commissioners propose to carry out development to which this subsection applies, or have it carried out on their behalf.

(*b*) This subsection applies to development (other than development prescribed for the time being under *subsection (1)* or in respect of which an order under

subsection (2) is in force) F988**[**...**]** proposed to be carried out by or on behalf of a Minister concerned where that Minister is satisfied—

(i) that the carrying out of the proposed development is urgent in order to preserve, protect or improve the quality of the environment or protect human health, and

(ii) having had regard to *Part X* and *Part XAB*, that an environmental impact assessment or an appropriate assessment, or, as necessary, both such assessments, of the proposed development is required.

(*c*) A Minister concerned, in relation to proposed development to which this subsection applies, may apply to the Board for approval.

(*d*) Where a Minister concerned applies to the Board for approval under this subsection—

(i) *section 175* shall apply where the application for approval relates to proposed development where an environmental impact assessment is required, as it applies to such an application by a local authority, subject to the modifications that *section 175* shall be read as if—

(I) the following were substituted for *subsection (1)*:

"(1) Where development to which *section 181(3)* applies, belonging to a class of development identified for the purposes of *section 176*, is proposed to be carried out (in this section referred to as "proposed development") by the Minister concerned within the meaning of *section 181(3)* (in this section referred to as the "Minister concerned"), that Minister concerned shall prepare, or cause to be prepared, an F987**[**environmental impact assessment report**]** in respect thereof.",

(II) in the section, other than as modified under *clause (I)*, "Minister concerned" were substituted for "local authority",

(III) in *subsections (4)(b)* and *(5)(d)(ii)*, "prescribed authorities" and "prescribed authority" includes the local authority within whose functional area the proposed development is to be carried out, and

(IV) any other necessary modifications have been made,

(ii) *section 177AE* shall apply where the application for approval relates to proposed development where an appropriate assessment is required, as it applies to such an application by a local authority, subject to the modifications that *section 177AE* shall be read as if—

F975**[**(I) the following were substituted for *subsection (1)*:

"(1) Where an appropriate assessment is required in respect of development (in this section referred to as "proposed development") to which *subsection (3)* of *section 181* applies, the Minister concerned (in this section referred to as the "Minister concerned") within the meaning of that subsection shall prepare, or cause to be prepared, a Natura impact statement in respect thereof."**]**

(II) in the section, other than as modified under *clause (I)*, "Minister concerned" were substituted for "local authority",

(III) in *subsections (4)(b)* and *(5)(d)(ii)*, "prescribed authorities" and "prescribed authority" includes the local authority within whose functional area the proposed development is to be carried out, and

(IV) any other necessary modifications have been made,

(iii) F988**[**...**]**

F975**[**(*e*) Where an application is made to the Board under this subsection, or where further information is required by and furnished to the Board in relation to an application made under this subsection, the Minister concerned shall at the same time forward a copy of the application, any environmental impact assessment report or Natura impact statement prepared in relation to the application and any further information provided in relation to the application, to—

(i) the planning authority in whose functional area it is proposed to carry out the development, or

(ii) in the case of an application for approval for development in the outer maritime area, the Maritime Area Regulatory Authority,

and the Board, and the planning authority or the Maritime Area Regulatory Authority (as may be appropriate), shall as soon as may be thereafter, publish on their internet websites and make available for inspection at their offices during normal office hours—

(I) the application,

(II) any environmental impact assessment report,

(III) any Natura impact statement, and

(IV) any such further information.**]**

(*f*) Any matter or thing prescribed—

(i) under *section 175* or *176* shall apply as required to an application for approval for proposed development referred to at *subparagraph (i)* of *paragraph (d)*,

(ii) under *section 177AD* or *177AE* shall apply as required to an application for approval for proposed development referred to at *subparagraph (ii)* of *paragraph (d)*, or

(iii) under *section 175*, *176* or *226* shall apply as required to an application for approval for proposed development referred to at *subparagraph (iii)* of *paragraph (d)*.

(*g*) The Board shall consider an application made in compliance with this subsection and shall make its decision as expeditiously as possible.

(*h*) *Section 32* or *225*, as appropriate, shall not apply to a development in relation to which, under this subsection, the Board approves an application with or without modification.**]**

Annotations

Amendments:

F973 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 35(a), S.I. No. 684 of 2006.

F974 Deleted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 35(b), S.I. No. 684 of 2006.

F975 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 44, S.I. No. 488 of 2022.

F976 Substituted (6.08.2019) by *European Union (Environmental Impact Assessment and Habitats) (Section 181 of the Planning and Development Act 2000) Regulations 2019* (S.I. No. 418 of 2019), reg. 4(a)(i).

F977 Substituted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 9(a)(i), S.I. No. 365 of 2021.

F978 Inserted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 9(a)(ii), S.I. No. 365 of 2021.

F979 Inserted (6.08.2019) by *European Union (Environmental Impact Assessment and Habitats) (Section 181 of the Planning and Development Act 2000) Regulations 2019* (S.I. No. 418 of 2019), reg. 4(a)(ii), (b).

F980 Substituted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 9(b)(i)(I), (II), (IV), S.I. No. 365 of 2021.

F981 Inserted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 9(b)(i)(III), (ii), S.I. No. 365 of 2021.

F982 Substituted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 9(c)-(e), S.I. No. 365 of 2021.

F983 Inserted (20.12.2022) by *European Union (Planning and Development) (Habitats and Environmental Impact Assessment) Regulations 2022* (S.I. No. 708 of 2022), reg. 4(a)(i)-(v).

F984 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 44, S.I. No. 488 of 2022.

F985 Substituted (20.12.2022) by *European Union (Planning and Development) (Habitats and Environmental Impact Assessment) Regulations 2022* (S.I. No. 708 of 2022), reg. 4(b), (c).

F986 Inserted (21.10.2013) by *European Union (Environmental Impact Assessment and Habitats) (Section 181 of the Planning and Development Act 2000) Regulations 2013* (S.I. No. 403 of 2013), reg. 2.

F987 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 84, in effect as per reg. 2(1).

F988 Deleted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 44, S.I. No. 488 of 2022.

Modifications (not altering text):

C130 Functions in relation to section transferred (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3 and sch. 1.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(*a*) the enactments specified in Schedule 1, and

(*b*) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

Schedule 1 Enactments

...

No. 30 of 2000	Planning and Development Act 2000	Sections 80, 116, 117, 120(2) and 181

...

C131 Application of regulations made under section restricted (1.05.2007) by *Prisons Act 2007* (10/2007), s. 28(1)(b)(i), S.I. No. 180 of 2007.

Exemptions, etc., relating to development.

28.—(1) A development— ...

(*b*) is not subject to—

(i) regulations under section 181 of the Planning and Development Act 2000,

...

C132 Application of subs. (1) restricted by *Courts Service Act 1998* (8/1998), s. 33 as substituted (10.04.2002) by *Courts and Courts Officers Act 2002* (15/2002), s. 44, commenced on enactment .

Service deemed State authority for planning and development purposes.

33.—(1) The Service shall be deemed to be a State authority for the purposes of section 181(1) of the Act of 2000.

(2) (*a*) Notwithstanding subsection (1) of section 181 of the Act of 2000 or any regulations made under that subsection which provide for the giving of any specified notice with respect to proposed development consisting of the provision of temporary courthouses, it shall be necessary to give such notice of such proposed development once only.

...

(3) Where development is proposed to be carried out by or on behalf of the Service, the Minister may, if he or she is satisfied that the carrying out of the development is required by reason of an accident or emergency, by order provide that the Act of 2000 or, as may be appropriate, any requirement or requirements of regulations under section 181(1)(b) of the Act of 2000 specified in the order, shall not apply to the development, and for so long as such an order is in force the Act of 2000 or the said requirement or requirements, as the case may be, shall not apply to the development.

...

Editorial Notes:

E412 Power pursuant to subs. (1) exercised (16.05.2023) by *Planning and Development (Section 181) Regulations 2023* (S.I. No. 243 of 2023).

E413 Power pursuant to subs. (2)(a) exercised (16.12.2022) by *Planning and Development act 2000 (Section 181(2)(a)) (No. 2) Order 2022* (S.I. No. 694 of 2022).

E414 Power pursuant to subs. (2)(a) exercised (22.09.2022) by *Planning and Development Act 2000 (Section 181(2)(a)) Order 2022* (S.I. No. 478 of 2022).

E415 Power pursuant to subs. (2)(a) exercised (24.09.2020) by *Planning and Development Act 2000 (Section 181(2)(a)) (No. 3) Order 2020*(S.I. No. 371 of 2020).

E416 Power pursuant to subs. (2)(a) exercised (25.06.2020) by *Planning and Development Act 2000 (Section 181(2)(a)) (No. 2) Order 2020* (S.I. No. 232 of 2020).

E417 Power pursuant to subs. (2)(a) exercised (25.06.2020) by *Planning and Development Act 2000 (Section 181(2)(a)) Order 2020* (S.I. No. 231 of 2020).

E418 Power pursuant to subs. (1) exercised (27.03.2020 to 9.11.2020) by *Planning and Development Act 2000 (Section 181) Regulations 2020* (S.I. No. 93 of 2020).

E419 Power pursuant to subs. (2)(a) exercised (24.10.2019) by *Planning and Development Act 2000 Section 181(2)(a) (No. 5) Order 2019* (S.I. No. 521 of 2019).

E420 Power pursuant to subs. (2)(a) exercised (1.07.2019) by *Planning And Development Act, 2000 Section 181(2)(a) Order No. 4 2019* (S.I. No. 285 of 2019).

E421 Power pursuant to subs. (2)(a) exercised (1.07.2019) by *Planning And Development Act, 2000 Section 181(2)(a) Order No. 3 2019* (S.I. No. 284 of 2019).

E422 Power pursuant to subs. (2)(a) exercised (10.03.2019) by *Planning And Development Act, 2000 Section 181(2)(A) Order No. 2 2019* (S.I. No. 100 of 2019).

E423 Power pursuant to subs. (2)(a) exercised (11.02.2019) by *Planning And Development Act, 2000 Section 181(2)(A) Order No. 1 2019* (S.I. No. 57 of 2019).

E424 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E425 Previous affecting provision: subs. (3)(e) amended (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 85, 86, in effect as per reg. 2(1); substituted (1.10.2022 as per F-note above.

F989**[**Approval of certain State development requiring environmental impact assessment.

181A.—(1) F990**[**Subject to *section 181B(4)* and *(4A)*, where a State authority proposes to carry out or have carried out development—

(*a*) of a class specified in regulations made under *section 181(1)(a)*, and

F990**[**(*b*) identified as likely to have significant effects on the environment in accordance with *section 176* or, in respect of such development not directly connected with or necessary to the management of a European site, likely to have a significant effect either individually or in combination with other plans or projects on a European site in accordance with *section 177U*,**]**

(hereafter referred to in this section and *sections 181B* and *181C* as "proposed development"), the authority shall prepare, or cause to be prepared, an application for approval of the development under *section 181B* and an F991**[**F992**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** in respect of the development and shall apply to the Board for such approval accordingly.

(2) F990**[**Subject to *section 181B(4)* and *(4A)*, the proposed development shall not be carried out unless the Board has approved it with or without modifications.

(3) Before a State authority makes an application for approval under *subsection (1)*, it shall—

(*a*) publish in one or more newspapers circulating in the area or areas in which it is proposed to carry out the development a notice indicating the nature and location of the proposed development and—

(i) stating that—

(I) it proposes to seek the approval of the Board for the proposed development,

(II) an F991**[**F993**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** has been prepared in respect of the proposed development,

(III) where relevant, the proposed development is likely to have significant effects on the environment in another Member State of the European Communities or other party to the Transboundary Convention,

(ii) specifying the times and places at which, and the period (not being less than 6 weeks) during which, a copy of the application and the F991**[**F994**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy),

(iii) inviting the making, during such period, of submissions and observations to the Board relating to—

(I) the implications of the proposed development for proper planning and sustainable development in the area or areas concerned, and

(II) the likely F991**[**effects on the environment or adverse effects on the integrity of a European site, as the case may be,**]** of the proposed development,

if carried out, and

(iv) specifying the types of decision the Board may make, under *section 181B*, in relation to the application,

F995**[**(v) stating that a person may question the validity of a decision of the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) and

(vi) stating where practical information on the review mechanism can be found.**]**

(*b*) send a copy of the application and the F991**[**F996**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** to the local authority or each local authority in whose functional area the proposed development would be situate and to any prescribed bodies, together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(ii)*, be made in writing to the Board in relation to—

(i) the implications of the proposed development for proper planning and sustainable development in the area concerned, and

(ii) the likely F991**[**effects on the environment or adverse effects on the integrity of a European site, as the case may be,**]** of the proposed development,

if carried out, and

(*c*) where the proposed development is likely to have significant effects on the environment of a Member State of the European Communities or a state which is a party to the Transboundary Convention, send a prescribed number of copies of the application and the F997**[**environmental impact assessment report**]** to the prescribed authority of the relevant state or states together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(ii)*, be made in writing to the Board.

(4) The Board may—

(*a*) if it considers it necessary to do so, require a State authority that has applied for approval for a proposed development to furnish to the Board such further information in relation to the effects on proper planning and sustainable development or the environment of the proposed development as the Board may specify, or

(*b*) if it is provisionally of the view that it would be appropriate to approve the proposed development were certain alterations (specified in the notification

referred to in this paragraph) to be made to the terms of it, notify the State authority that it is of that view and invite the State authority to make to the terms of the proposed development alterations specified in the notification and, if the State authority makes those alterations, to furnish to it such information (if any) as it may specify in relation to the development, in the terms as so altered, or, where necessary, a F991**[**F998**[**revised environmental impact assessment report or revised Natura impact statement or both that report and that statement**]**, as the case may be,**]** in respect of it.

(5) If a State authority makes the alterations to the terms of the proposed development specified in a notification given to it under *subsection (4)*, the terms of the development as so altered shall be deemed to be the proposed development for the purposes of this section and *section 181B*.

(6) The Board shall—

(*a*) where it considers that any further information received pursuant to a requirement made under *subsection (4)(a)* contains significant additional data relating to—

(i) the likely F991**[**effects on the environment or adverse effects on the integrity of a European site, as the case may be,**]** of the proposed development, and

(ii) the likely consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said development of such development,

or

(*b*) where the State authority has made the alterations to the terms of the proposed development specified in a notification given to it under *subsection (4)(b)*,

require the State authority to do the things referred to in *subsection (7)*.

(7) The things which a State authority shall be required to do as aforesaid are—

(*a*) to publish in one or more newspapers circulating in the area or areas in which the proposed development would be situate a notice stating that, as appropriate—

(i) further information in relation to the proposed development has been furnished to the Board, or

(ii) the State authority has, pursuant to an invitation of the Board, made alterations to the terms of the proposed development (and the nature of those alterations shall be indicated) and, if it be the case, that information in relation to the terms of the development as so altered or a F991**[**F999**[**revised environmental impact assessment report or revised Natura impact statement or both that report and that statement**]**, as the case may be,**]** in respect of the development has been furnished to the Board,

indicating the times at which, the period F1000**[**(which shall not be less than 3 weeks in a case other than a case relating to a revised environmental impact assessment report)**]** during which and the place, or places, where a copy of the F1001**[**information or the environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be, referred to in *subparagraph (i)* or *(ii)* may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy) and that submissions or observations in relation to F1002**[**that information, report or statement**]** may be made to the Board before the expiration of the indicated period, and

(*b*) to send to each prescribed authority to which a notice was given pursuant to *subsection (3)(b)* or *(c)*—

(i) a notice of the furnishing to the Board of, as appropriate, the further information referred to in *paragraph (a)(i)* or the F1003**[**information, report or statement**]** referred to in *paragraph (a)(ii)*, and

(ii) a copy of that further information, F1004**[**information, report or statement**]**,

and to indicate to the authority that submissions or observations F1005**[**in relation to that further information, information, report or statement**]** may be made to the Board before the expiration of a period F1006**[**(which shall not be less than 3 weeks in a case other than a case relating to a revised environmental impact assessment report)**]** beginning on the day on which the notice is sent to the prescribed authority by the State authority. **]**

F1007**[**(8) The period referred to in *subsection (7)(a)* or *(b)* shall, in a case relating to a revised environmental impact assessment report, not be less than—

(*a*) 30 days where the report has been furnished to the Board, and

(*b*) 3 weeks where the report has not been furnished to the Board.**]**

Annotations

Amendments:

F989 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 36, S.I. No. 684 of 2006.

F990 Substituted (20.12.2022) by *European Union (Planning and Development) (Habitats and Environmental Impact Assessment) Regulations 2022* (S.I. No. 708 of 2022), reg. 5(a)(i), (ii), (b).

F991 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 37, S.I. No. 474 of 2011.

F992 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 87, in effect as per reg. 2(1).

F993 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 88, in effect as per reg. 2(1).

F994 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 89, in effect as per reg. 2(1).

F995 Inserted (13.07.2010) by *European Communities (Public Participation) Regulations 2010* (S.I. No. 352 of 2010), reg. 10(d).

F996 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36, sch. 1 table item 90, in effect as per reg. 2(1).

F997 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 91, in effect as per reg. 2(1).

F998 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 92, in effect as per reg. 2(1).

F999 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 93, in effect as per reg. 2(1).

F1000 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 28(a)(i), in effect as per reg. 2(1).

F1001 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 94, in effect as per reg. 2(1).

F1002 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 95, in effect as per reg. 2(1).

F1003 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 96, in effect as per reg. 2(1).

F1004 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 97, in effect as per reg. 2(1).

F1005 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 98, in effect as per reg. 2(1).

F1006 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 28(a)(ii), in effect as per reg. 2(1).

F1007 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 28(b), in effect as per reg. 2(1).

Modifications (not altering text):

C133 "Proposed development" construed (23.06.2022) by *European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulations 2022* (S.I. No. 306 of 2022), reg. 3(2) and sch.

3. (1) The Act of 2000 (other than sections 181A to 181C) shall not apply to the classes of development specified in the Schedule carried out by, or on behalf of, a State authority during the relevant period for the purposes of providing temporary protection to displaced persons.

(2) A reference to "proposed development" in sections 181A to 181C of the Act of 2000 shall include a reference to development of a class specified in the Schedule to which section 181A(1) of the Act of 2000 would apply if it was development of a class specified in regulations made under section 181(1)(a) of the Act of 2000.

SCHEDULE

Article 3

1. Reception and integration facilities.

2. Residential accommodation, including ancillary recreational and sporting facilities.

3. Medical and other health and social care accommodation.

4. Education and childcare facilities, including ancillary recreational and sporting facilities.

5. Emergency management coordination facilities.

6. Structures or facilities ancillary to development referred to in paragraphs 1 to 5, including administration and storage facilities.

7. Infrastructure and other works ancillary to development referred to in paragraphs 1 to 6.

C134 Application of Act restricted (27.03.2020 for relevant period) by *Planning and Development Act 2000 (Section 181) Regulations 2020* (S.I. No. 93 of 2020).

2. In these Regulations "relevant period" means the period commencing on the making of these Regulations and ending on the day on which Part 3 of the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 (No. 1 of 2020) ceases to have effect by virtue of subsection (3) of section 2 of that Act.

3. The Planning and Development Act 2000 (other than section 181) shall not apply to the classes of development specified in the Schedule carried out by, or on behalf of, a State authority during the relevant period.

SCHEDULE

Classes of development to which Planning and Development Act 2000 (other than section 181) shall not apply

acute and other health and social care accommodation

self-isolation or other Covid-19 related short stay accommodation

Covid-19 and other step down accommodation

medical testing centre or laboratory

emergency management coordination facilities

mortuary facilities

ancillary and other accommodation including storage facilities

ancillary infrastructure and other works to support the above development

C135 Application of Act extended (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 20(2), S.I. No. 403 of 2019.

Noise insulation scheme

20. ...

(2) Subject to *subsection (3)*, on and after the relevant day, a scheme shall be deemed to be a noise mitigation measure introduced by the competent authority and the provisions of this Act and the Act of 2000 shall, with all necessary modifications, apply to the scheme accordingly.

(3) On and after the relevant day, the competent authority shall ensure that the scheme applies to all homes located within the relevant noise contours.

C136 Certain functions transferred to Cork City Council as a result of the Cork City and Council areas boundary alteration (31.01.2019) by *Local Government Act 2019* (1/2019), s. 31, S.I. No. 20 of 2019.

Planning applications and development contribution schemes

31. (1) For the purposes of the Act of 2000 or any instrument under that Act and subject to subsection (2), the county council shall, after the transfer day, be the planning authority in relation to any planning application made before the transfer day in respect of development or proposed development in the relevant area.

(2) (*a*) Subject to *paragraph (b)*, the functions of a planning authority under the Act of 2000 shall, as respects—

(i) a decision under section 34 of that Act, or

(ii) a determination under section 37 of that Act,

made before the transfer day in relation to development or proposed development in the relevant area, be performable from that day by the city council.

(3) Any contribution—

(*a*) paid before the transfer day in accordance with section 49 of the Act of 2000 for the purpose of any public infrastructure service or project in the relevant area, and

(*b*) vested in the city council under Part 2,

shall be expended by the city council for that purpose.

(4) Any development contribution scheme under section 48 of the Act of 2000 or supplementary development contribution scheme under section 49 of that Act made by the city council shall, from

the transfer day, apply to the relevant area as it applies to the rest of the functional area of the city council.

...

C137 Application of collectively cited *Planning and Development Acts 2000 to 2016* restricted (3.07.2017) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 4(1), S.I. No. 270 of 2017.

Strategic housing developments and planning applications

4. (1) Subject to *subsection (4)*, during the specified period and notwithstanding anything to the contrary contained in any other provision of the *Planning and Development Acts 2000* to *2016*—

(*a*) an application for permission for a strategic housing development shall—

(i) be made to the Board under this section and not to a planning authority, other than an application for permission, the purpose of which is as set out in section 34(3A) of the Act of 2000,

(ii) be so made only where *section 6(7)(b)* applies or, in the case that a request is made under *section 7(1)*, when the Board has complied with the request pursuant to *section 7(2)*,

(iii) be so made only where the applicant for permission has fulfilled the requirements set out in *section 8*,

(iv) be in such form and contain such information as is prescribed, and

(v) be accompanied by the appropriate fee,

and

(*b*) a copy of the application, shall be sent by the applicant to the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated.

...

C138 Certain functions of Board restricted (3.07.2017) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 11(3), S.I. No. 270 of 2017.

Strategic Housing Division

11. ...

(3) The Strategic Housing Division shall, subject to *subsections (8)*, *(9)* and *(10)*, determine any matter falling to be determined by the Board under the *Planning and Development Acts 2000 to 2016* in relation to strategic housing development other than development to which *section 4 (4)* relates.

...

C139 Act applied with modifications (8.02.2016) by *Dublin Transport Authority Act 2008* (15/2008), s. 44(6)(iii), as substituted by *Public Transport Act 2016* (3/2016), s. 1(b)(iii), commenced on enactment.

Functions of Authority in relation to public transport infrastructure

44. —...

[(6) Where —

(*a*) a decision is made by the Authority under subsection (2)(b) or (5)(a) for the performance of a particular function otherwise than through a public transport authority or statutory body, or

(*b*) the Authority is performing its function of securing the provision of public transport infrastructure in accordance with *subsection (2)(e)*,

the following provisions have effect —

(i) the Authority shall be empowered (notwithstanding any other enactment) to perform the function, including the acquisition of land for that purpose, and to do any other thing which arises out of or is consequential on or is necessary for the purposes of or would facilitate the performance of the function,

(ii) for the purpose of *paragraph (a)* or *(b)*, land may be acquired by agreement or by means of a compulsory purchase order made by the Authority in accordance with Part XIV of the Act of 2000,

(iii) the provisions of any enactment concerned apply in relation to the performance of the function subject to such modifications as may be necessary and as if the Authority was named in such enactment in each place where a public transport authority or other statutory body entitled to exercise the function is named, and

...]

C140 Functions to be performed by municipal district members and local authorities prescribed (1.06.2014) by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A parts 1-3, as inserted by *Local Government Reform Act 2014* (1/2014), s. 21(4) and sch. 3, S.I. No. 214 of 2014.

SCHEDULE 14A

Section 131 and 131A

PART 1

Reserved Functions to be Performed, Subject to Section 131A(4), by Municipal District Members

Reference No. (1)	Description of reserved function (2)	Provision under which reserved function is conferred (3)
...	...	...
30	Making, or refusing to make, or revocation or amendment of, a tree preservation order.	Section 205 of the Act of 2000.
...	...	...

PART 2

Reserved Functions that May be Performed under Section 131A(1) (b) in Respect of a Municipal District by Municipal District Members or the Local Authority

Reference No. (1)	Description of reserved function (2)	Provision under which reserved function is conferred (3)
...	...	...
11	Approving a proposal of the chief executive to grant permission for the development of land which would contravene materially the development plan or local area plan.	Section 34 (as amended by Schedule 2 to the Local Government Reform Act 2014) of the Act of 2000.
12	A decision in relation to the making, amendment or revocation of a local area plan within the meaning of the Act of 2000.	Section 20 (as amended by section 9 of the Planning and Development (Amendment) Act 2002 and section 13 of the Planning and Development (Amendment) Act 2010) of the Act of 2000.

13	The making of an addition to, or a deletion from, a record of protected structures to which Part IV of the Act of 2000 relates.	Section 54 of the Act of 2000.
14	Approving, amending or revoking a special planning control scheme.	Section 85 and 86 of the Act of 2000.
15	Deciding to vary or modify a proposed local authority own development, or deciding not to proceed with the development.	Section 179 of the Act of 2000.
16	Making, or refusing to make an order creating a public right of way over any land.	Section 207 of the Act of 2000.
17	Deciding to vary or modify, or not to proceed with, an event proposed to be carried out by a local authority.	Section 238 of the Act of 2000.
...	...	...

PART 3

Reserved Functions to be Performed by the Local Authority

Reference No. (1)	Description of reserved function (2)	Provision under which reserved function is conferred (3)
...	...	...
32	Making an order to declare an area to be an area of special amenity.	Section 202 of the Act of 2000.
33	Making, or refusing to make, or revocation or amendment of, an order designating any area or place as a landscape conservation area.	Section 204 of the Act of 2000.
...	...	...
52	The making and amending of a scheme which determines the order of priority for allocation of affordable houses provided under Part V of the Planning and Development Act 2000 .	Section 98 of the Act of 2000.
...	...	...
69	The making of a development plan and making or refusing to make a variation of a development plan which for the time being is in force.	Sections 9, 12 and 13 of the Act of 2000.

70	The revocation or modification of a permission to develop land if the development to which the permission relates no longer conforms with the provisions of the development plan.	Section 44 of the Act of 2000.
71	Making a development contribution scheme.	Section 48 of the Act of 2000.
72	Making or amending a supplementary development contribution scheme.	Section 49 of the Act of 2000.
73	Deciding to make, subject to variations and modifications, or deciding not to make a draft planning scheme for strategic development zones.	Section 169 (as amended by section 51 of the Planning and Development (Amendment) Act 2010) of the Act of 2000.
74	Amending or revoking a planning scheme for strategic development zones.	Section 171 of the Act of 2000.
75	Adoption by a planning authority of a code of conduct for dealing with conflicts of interest and promoting public confidence in the integrity of the conduct of its business.	Section 150 of the Act of 2000.
76	Making or terminating of an agreement by two or more planning authorities for sharing the cost of performing functions under the Planning and Development Act 2000 .	Section 244 of the Act of 2000.
...	...	...

C141 References to a "sanitary authority" construed as "Irish Water" (1.01.2014) by *Water Services (No. 2) Act 2013* (50/2013), ss. 6, 7(4), S.I. No. 575 of 2013.

Transfer day

6.— The Minister shall, by order, appoint a day to be the transfer day for the purposes of this Act.

Transfer of functions from water service authorities to Irish Water

7.— ...

(4) References to a sanitary authority in any enactment or instrument under any enactment shall, on and after the transfer day, in so far as they relate to any function transferred by subsection (3), be construed as references to Irish Water.

...

C142 References to "county council", "city council", "town council" and "regional assemblies" construed (1.06.2014) by *Local Government Reform Act 2014* (1/2014), ss. 9(2), 25(2) and 62(2), S.I. No. 214 of 2014.

Cesser and amalgamation of certain local government areas

9.— ...

(2) Except where otherwise provided for by this Act, a reference, however expressed, in any enactment—

(*a*) to a county council or a city council (including a reference construed by section 3(2) of, and Schedule 2 to, the Principal Act as a reference to a county council or to a city council, as the case may be) shall, if the context permits, be read as a reference to a county council, a city council or a city and county council, and

(*b*) to a county council and a city council (including a reference so construed) shall, if the context permits, be read as a reference to a county council, a city council and a city and county council.

...

Dissolution of town councils — consequential provisions

25.— ...

(2) A function of a town council (including a reference construed by section 3(2) of, and Schedule 2 to, the Principal Act as a reference to a town council and whether of general application to town councils or otherwise under an enactment) that—

(*a*) has not been repealed or otherwise provided for by this Act, or

(*b*) is neither spent nor obsolete,

shall, if the context permits in respect of one or more than one town council concerned, be read as a reference to a function of the local authority in whose administrative area the town council so dissolved is situated.

...

Regional assemblies

62.— ...

(2) The bodies established by the Local Government Act 1991 (Regional Authorities) (Establishment) Order 1999 (S.I. No. 226 of 1999) which are subsisting at the commencement of this section shall upon such commencement continue in being until dissolved or replaced under a provision of an establishment order and be known or continue to be known, as the case may be, as regional assemblies and accordingly—

(*a*) subject to paragraph (b) that order shall continue to apply to each of them as it applied before such commencement and that order may be amended or revoked under this section,

(*b*) references in any enactment to regional authorities within the meaning of section 43 (as amended by this Act) of the Local Government Act 1991 shall, where the context admits, be read as references to regional assemblies,

...

C143 Application of Act extended (29.03.2013) by *Water Services Act 2013* (6/2013), s. 21(2), S.I. No. 108 of 2013.

Installation of pipes.

21.— ...

(2) For the avoidance of doubt, the provisions of the Planning and Development Act 2000 shall apply to a metering authority as, by virtue of subsection (12) of section 41 of the Act of 2007, they apply to a water services authority.

C144 Provision made as to costs of proceedings under Act (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), ss. 3, 4, 6, 7, S.I. No. 433 of 2011, art. 2(a).

Costs of proceedings to be borne by each party in certain circumstances.

3.— (1) Notwithstanding anything contained in any other enactment or in— ...

and subject to subsections (2), (3) and (4), in proceedings to which this section applies, each party (including any notice party) shall bear its own costs.

(2) The costs of the proceedings, or a portion of such costs, as are appropriate, may be awarded to the applicant, or as the case may be, the plaintiff, to the extent that he or she succeeds in obtaining relief and any of those costs shall be borne by the respondent, or as the case may be, defendant or any notice party, to the extent that the acts or omissions of the respondent, or as the case may be, defendant or any notice party, contributed to the applicant, or as the case may be, plaintiff obtaining relief.

(3) A court may award costs against a party in proceedings to which this section applies if the court considers it appropriate to do so—

(*a*) where the court considers that a claim or counter-claim by the party is frivolous or vexatious,

(*b*) by reason of the manner in which the party has conducted the proceedings, or

(*c*) where the party is in contempt of the court.

(4) Subsection (1) does not affect the court's entitlement to award costs in favour of a party in a matter of exceptional public importance and where in the special circumstances of the case it is in the interests of justice to do so.

(5) In this section a reference to "court" shall be construed as, in relation to particular proceedings to which this section applies, a reference to the District Court, the Circuit Court, the High Court or the Supreme Court, as may be appropriate.

C145 Application of Act restricted (24.12.2006) by *Energy (Miscellaneous Provisions) Act 2006* (40/2006), s. 22(4), (5) and (6), commenced on enactment.

Certain development approvals under Part XI of Planning and Development Act 2000.

22.— ...

(4) Nothing in section 182C or any other provision of the Act of 2000 shall be read as meaning that, notwithstanding the permission granted under section 34 of the Act of 2000 in respect of that terminal before such commencement, a permission—

(*a*) under section 34 or 37G of the Act of 2000, and

(*b*) granted after the commencement of the amendments of that Act made by the Act of 2006,

is required, either in circumstances generally or in the circumstances referred to in subsection (5), in respect of the terminal referred to in subsection (6).

(5) The circumstances mentioned in subsection (4) are that an application is made under section 182C in relation to a development which, if it is carried out, will consist of the alteration or modification of the terms of the strategic gas infrastructure development referred to in subsection (6) other than the terms of that development that comprise the terminal referred to in that subsection.

(6) The terminal mentioned in subsections (4) and (5) is a terminal comprised in a strategic gas infrastructure development (within the meaning of the Act of 2000) the pipeline comprised in which development has been the subject of a consent referred to in subsection (3)(iii)(I).

C146 Application of Act restricted by *Environmental Protection Agency Act 1992* (7/1992), s. 99F(1) as substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 15, S.I. No. 393 of 2004.

[Application of other Acts.

99F.—(1) Notwithstanding section 34 of the Act of 2000, or any other provision of that Act, where a licence or revised licence under this Part has been granted or is or will be required in relation to an activity, a planning authority or An Bord Pleanála shall not, where it decides to grant a permission under section 34 of that Act in respect of any development comprising or for the purposes of the activity, subject the permission to conditions which are for the purposes of—

(*a*) controlling emissions from the operation of the activity, including the prevention, elimination, limitation, abatement, or reduction of those emissions, or

(*b*) controlling emissions related to or following the cessation of the operation of the activity.

...**]**

C147 Powers and functions in relation to Act transferred (10.07.2002) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2002* (S.I. No. 356 of 2002), arts. 3, 4(1) and sch. part 1.

3. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 4 of this Order are transferred to the Department of the Environment and Local Government.

(2) References to the Department of Community, Rural and Gaeltacht Affairs contained in any Act or instrument made thereunder and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of the Environment and Local Government.

4. (1) The functions vested in the Minister for Community, Rural and Gaeltacht Affairs —

(*a*) by or under any of the instruments or the provisions of the enactments mentioned in Part 1 of the Schedule to this Order,

(*b*) under the Regulations mentioned in Part 2 of that Schedule, and ...

are transferred to the Minister for the Environment and Local Government.

...

Schedule Part 1

Enactments and provisions of enactments, functions under which are transferred from the Minister for Community, Rural and Gaeltacht Affairs to the Minister for the Environment and Local Government

...

Planning and Development Act 2000 (No. 30 of 2000) (in so far as it relates to or refers to the Minister for Community, Rural and Gaeltacht Affairs (except section 33 (3)(c)))

...

Part 2

Regulations, functions under which are transferred from the Minister for Community, Rural and Gaeltacht Affairs to the Minister for the Environment and Local Government

Planning and Development Regulations 2001 (S.I. No. 600 of 2001) (in so far as they relate to or refer to the Minister for Community, Rural and Gaeltacht Affairs (except Article 28 (1)(n) Article 82 (3)(m), Article 121 (1)(m) and Article 179 (2)(p)))

...

C148 Application of Act restricted (23.12.2001) by *Transport (Railway Infrastructure) Act 2001* (55/2001), s. 39(4), commenced on enactment, as substituted (1.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 49(b), S.I. No. 684 of 2006.

[Environmental impact statement.

39.— ...

(4) The European Communities (Environmental Impact Assessment) Regulations 1989 to 2005 and the Act of 2000 and any regulation made thereunder in relation to environmental impact assessment shall not apply to anything done under an order made under this Act.**]**

Editorial Notes:

E426 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E427 Previous affecting provision: subs. (1)(b) amended (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 37, S.I. No. 474 of 2011; para. (b) substituted (20.12.2022) as per F-note above.

E428 Previous affecting provision: substitutions made by *Planning and Development (Amendment) Act 2010* (30/2010), s. 60, not commenced; repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. No. 474 of 2011.

F1008**[***Section 181A*: criteria for decision, certain exemptions, etc.

181B.—(1) Before making a decision in respect of a proposed development the subject of an application under *section 181A*, the Board shall consider—

(*a*) the F1009**[**F1010**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** submitted pursuant to *section 181A(1)* or *(4)*, any submissions or observations made in accordance with *section 181A(3)* or *(7)* and any other information furnished in accordance with *section 181A(4)* relating to—

(i) the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the proposed development of such development, and

(ii) the likely F1009**[**effects on the environment or adverse effects on the integrity of a European site**]** of the proposed development,

and

(*b*) the report and any recommendations of a person conducting any oral hearing relating to the proposed development.

F1011**[**(2)(*a*) The Board may take the action specified in *paragraph (b)* where it is satisfied that—

(i) exceptional circumstances so warrant,

(ii) the application of the requirement to prepare an environmental impact assessment report would adversely affect the purpose of the proposed development, and

(iii) the objectives of the Environmental Impact Assessment Directive are otherwise met.

(*b*) Subject to *paragraph (c)*, the Board may grant in respect of the proposed development an exemption from a requirement under *section 181A(1)* to prepare an environmental impact assessment report.

(*c*) No exemption may be granted under *paragraph (b)* in respect of the proposed development where another Member State of the European Union or a state which is a party to the Transboundary Convention, having been informed about the proposed development and its likely significant effects on the environment in that State or state, as the case may be, has indicated that it wishes to furnish views on those effects.

(*d*) F1012**[**...**]]**

(3) The Board shall, in granting an exemption under *subsection (2)*, consider whether—

(*a*) F1009**[**the effects, if any of the proposed development on the environment F1012**[**...**]]** should be assessed in some other manner, and

(*b*) the information arising from such an assessment should be made available to the members of the public,

and it may apply such requirements regarding these matters in relation to the application for approval as it considers necessary or appropriate.

F1014**[**(4) The Minister for Defence may, where he or she is satisfied that a proposed development or part of a proposed development is for the sole purpose of national defence, declare that the proposed development or relevant part of the proposed development is exempt from a requirement under *section 181A(1)*, arising only on the basis that an environmental impact assessment of the proposed development is required, to apply for approval and prepare an environmental impact assessment report, if he or she considers that the application of *section 181A* or *181C* would have adverse effects on such purpose.**]**

F1015**[**(4A) A Minister of the Government may, where he or she is satisfied that a proposed development or part of a proposed development is for the sole purpose of responding to a civil emergency, declare that the proposed development or relevant part of the proposed development is exempt from a requirement under *section 181A(1)*, arising only on the basis that an environmental impact assessment of the proposed development is required, to apply for approval and prepare an environmental impact assessment report, if he or she considers that the application of *section 181A* or *181C* would have adverse effects on such purpose.**]**

(5) Notice of any exemption granted under *subsection (2)* F1012**[**...**]**, of the reasons for granting the exemption and, where appropriate, of any requirements applied under *subsection (3)* shall, as soon as may be—

(*a*) be published in *Iris Oifigiúil* and in at least one daily newspaper published in the State, and

(*b*) be given, together with a copy of the information, if any, made available to the members of the public in accordance with *subsection (3)*, to the Commission of the European Communities.

F1015**[**(5A) Notice of any exemption granted under *subsection (4)* or *(4A)* shall, as soon as may be, be published in Iris Oifigiúil and in at least one daily newspaper published in the State.**]**

(6) F1016**[**The Board shall, in respect of an application under *section 181A* for approval of proposed development, make its decision within a reasonable period of time and may, in respect of such application**]**—

(*a*) approve the proposed development,

(*b*) make such modifications to the proposed development as it specifies in the approval and approve the proposed development as so modified,

(*c*) approve, in part only, the proposed development (with or without specified modifications of it of the foregoing kind), or

(*d*) refuse to approve the proposed development,

and may attach to an approval under *paragraph (a)*, *(b)* or *(c)* such conditions as it considers appropriate.

F1017**[**(6A) A decision of the Board under *subsection (6)* shall state—

(*a*) the reasoned conclusion, in relation to the significant effects on the environment of the proposed development, on which the decision is based,

(*b*) in relation to the approval of, or refusal to approve, the development, where a decision (being a decision which arises from the consideration of the environmental impact assessment report concerned) by the Board to approve or to refuse to approve such development is different from the recommendation in a report of a person assigned to report on the application on behalf of the Board, the main reasons for not accepting the recommendation in the last-mentioned report to approve or refuse to approve the development,

(*c*) where a decision to impose a condition (being an environmental condition which arises from the consideration of the environmental impact assessment report concerned) in relation to any approval is materially different, in relation to the terms of such condition, from the recommendation in a report of a person assigned to report on the application for approval on behalf of the Board, the main reasons for not accepting, or for varying, as the case may be, the recommendation in the last-mentioned report in relation to such condition, and

(*d*) in relation to the approval of, or refusal to approve, the development, subject to or without conditions, that the Board is satisfied that the reasoned conclusion on the significant effects on the environment of the development was up to date at the time of the taking of the decision.

(6B) A decision given under *subsection (6)* and the notification of the decision shall include a summary of the results of consultations that have taken place and information gathered in the course of the environmental impact assessment and, where appropriate, the comments received from an affected Member State of the European Union or other party to the Transboundary Convention, and specify how those results have been incorporated into the decision or otherwise addressed.**]**

(7) Without prejudice to the generality of the foregoing power to attach conditions, the Board may attach to an approval under *subsection (6)(a)*, *(b)* or *(c)* a condition requiring—

(*a*) the construction or the financing, in whole or in part, of the construction of a facility, or

(*b*) the provision or the financing, in whole or in part, of the provision of a service,

in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Board, would constitute a substantial gain to the community.

(8) A condition attached pursuant to *subsection (7)* shall not require such an amount of financial resources to be committed for the purposes of the condition being complied with as would substantially deprive the person in whose favour the approval under this section operates of the benefits likely to accrue from the grant of the approval.

(9) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of consultations under *section 181C* or applications for approval under *section 181A*.

(10) Without prejudice to the generality of *subsection (9)*, regulations under that subsection may make provision for requiring the Board to give information in respect of its decision regarding the proposed development for which approval is sought.

(11) In considering under *subsection (1)* information furnished relating to the likely consequences for proper planning and sustainable development of a proposed development in the area in which it is proposed to situate such development, or on the environment, the Board shall have regard to—

F1018**[**(*a*) in the case of proposed development on land or partly on land and partly in the nearshore area of a coastal planning authority, the development plan for the area,**]**

F1019**[**(*aa*) in the case of proposed development wholly or partly in the maritime area, the National Marine Planning Framework,**]**

(*b*) the provisions of any special amenity area order relating to the area,

(*c*) if the area or part of the area is a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact,

(*d*) if the proposed development would have an effect on a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact,

(*e*) where relevant, the matters referred to in *section 143*, and

(*f*) the provisions of this Act and regulations under this Act where relevant.

(12) Regulations made under *section 181(1)(b)* shall not apply to any development which is approved under this section.

(13) Nothing in this section or *section 181A* or *181C* shall require the disclosure by a State authority or the Board of details of the internal arrangements of a development which might prejudice the internal or external security of the development or facilitate any unauthorised entrance to, or exit from, the development of any person when it is completed.

(14) Without prejudice to the generality of section 18(*a*) of the Interpretation Act 2005, a reference, however expressed, in this section to the area in which the proposed development would be situated includes, if the context admits, a reference to the 2 or more areas in which the proposed development would be situated and cognate references shall be construed accordingly.**]**

Annotations

Amendments:

F1008 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 36, S.I. No. 684 of 2006.

F1009 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 38, S.I. No. 474 of 2011.

F1010 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 99, in effect as per reg. 2(1).

F1011 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 29(a), in effect as per reg. 2(1).

F1012 Deleted (20.12.2022) by *European Union (Planning and Development) (Habitats and Environmental Impact Assessment) Regulations 2022* (S.I. No. 708 of 2022), reg. 6(a), (b), (e).

F1013 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 29(b), in effect as per reg. 2(1).

F1014 Substituted (20.12.2022) by *European Union (Planning and Development) (Habitats and Environmental Impact Assessment) Regulations 2022* (S.I. No. 708 of 2022), reg. 6(c).

F1015 Inserted (20.12.2022) by *European Union (Planning and Development) (Habitats and Environmental Impact Assessment) Regulations 2022* (S.I. No. 708 of 2022), reg. 6(d), (f).

F1016 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 29(c), in effect as per reg. 2(1).

F1017 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 29(d), in effect as per reg. 2(1).

F1018 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 45, S.I. No. 488 of 2022.

F1019 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 45, S.I. No. 488 of 2022.

Modifications (not altering text):

C149 "Proposed development" construed (23.06.2022) by *European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulations 2022* (S.I. No. 306 of 2022), reg. 3(2) and sch.

3. (1) The Act of 2000 (other than sections 181A to 181C) shall not apply to the classes of development specified in the Schedule carried out by, or on behalf of, a State authority during the relevant period for the purposes of providing temporary protection to displaced persons.

(2) A reference to "proposed development" in sections 181A to 181C of the Act of 2000 shall include a reference to development of a class specified in the Schedule to which section 181A(1) of the Act of 2000 would apply if it was development of a class specified in regulations made under section 181(1)(a) of the Act of 2000.

SCHEDULE

Article 3

1. Reception and integration facilities.

2. Residential accommodation, including ancillary recreational and sporting facilities.

3. Medical and other health and social care accommodation.

4. Education and childcare facilities, including ancillary recreational and sporting facilities.

5. Emergency management coordination facilities.

6. Structures or facilities ancillary to development referred to in paragraphs 1 to 5, including administration and storage facilities.

7. Infrastructure and other works ancillary to development referred to in paragraphs 1 to 6.

C150 Application of section restricted (24.12.2006) by *Energy (Miscellaneous Provisions) Act 2006* (40/2006), s. 22(3), commenced on enactment.

Certain development approvals under Part XI of Planning and Development Act 2000.

22.— ...

(3) No approval shall be required under—

(*a*) section 181B,

...

in relation to development referred to in section 181A, 182A or 182C, respectively, if—

(i) in the case of development referred to in section 181A, a notification in respect of the development has been published, before the commencement of this section, in accordance with regulations under section 181(1)(b) of the Act of 2000 (whether or not the development has been commenced or completed before the commencement of this section),

(ii) in the case of development referred to in section 182A, the development has been the subject of—

(I) a grant of permission under section 34 of the Act of 2000 before the commencement of this section and that permission is in force immediately before such commencement, or

(II) an application made, before the commencement of this section, in accordance with the Act of 2000 and regulations thereunder for the grant of such a permission and that application does not stand withdrawn before the commencement of this section.

...

Editorial Notes:

E429 Previous affecting provision: subs. (4) substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 29(b), in effect as per reg. 2(1); substituted (20.12.2022) as per F-note above.

E430 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E431 Previous affecting provision: similar amendments to those made by 2011 Act made by *Planning and Development (Amendment) Act 2010* (30/2010), s. 61, not commenced; repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. No. 474 of 2011.

E432 Previous affecting provision: original versions of subs. (1)(a), (1)(a)(ii), (2), (3)(a) and (4) inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 36, S.I. No. 684 of 2006; substituted as per F-note above.

E433 Previous affecting provision: subs. (2), (4) amended (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 38(a), S.I. No. 474 of 2011; substituted as per F-note above.

F1020**[**Procedures in advance of seeking approval under *section 181B*.

181C.—(1) A State authority (a "prospective applicant") which proposes to apply for approval under *section 181B* shall, before making the application, enter into consultations with the Board in relation to the proposed development.

(2) In any consultations under *subsection (1)*, the Board may give advice to the prospective applicant regarding the proposed application and, in particular, regarding—

(*a*) the procedures involved in making the application, and

(*b*) what considerations, related to proper planning and sustainable F1021**[**development, the environment or a European site**]**, may, in the opinion of the Board, have a bearing on its decision in relation to the application.

(3) A prospective applicant may request the Board—

F1022**[**(*a*) to make a determination of whether a development of a class specified in regulations made under *section 181(1)(a)* which it proposes to carry out or have carried out is likely to have significant effects on the environment in accordance with *section 176* or, in respect of such a development not directly connected with or necessary to the management of a European site, is likely to have a significant effect either individually or in combination with other plans or projects on a European site in accordance with *section 177U* (and inform the applicant of the determination), or**]**

(*b*) to give to the applicant an opinion in writing prepared by the Board on what information will be required to be contained in an F1021**[**F1023**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]** as the case may be**]** in relation to the proposed development.

(4) On receipt of such a request, the Board shall comply with it as soon as is practicable.

(5) A prospective applicant shall, for the purposes of—

(*a*) consultations under *subsection (1)*, and

(*b*) the Board's complying with a request under *subsection (3)*,

supply to the Board sufficient information in relation to the proposed development so as to enable the Board to assess the proposed development.

F1024**[**(5A)(*a*) Without prejudice to *subsection (5)* and subject to *paragraph (b)*, where a prospective applicant has made a request under *subsection (3)(b)* in relation to what information will be required to be contained in an environmental impact assessment report, the Board shall, after taking into account the information provided by the prospective applicant, in particular on the specific characteristics of the proposed development, including its location and technical capacity, and its likely impact on the environment, give an opinion in writing on the scope and level of detail of the information to be included in such report, subject to any consultations carried out by the Board in relation to such opinion.

(*b*) The Board shall give the opinion before the submission by the prospective applicant of the environmental impact assessment report.

(5B) Where an opinion referred to in *subsection (5A)* has been provided, the environmental impact assessment report shall be based on that opinion, and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects on the environment of the proposed development, taking into account current knowledge and methods of assessment.**]**

(6) Neither—

(*a*) the holding of consultations under *subsection (1)*, nor

(*b*) the provision of an opinion under *subsection (3)*,

shall prejudice the performance by the Board of any other of its functions under this Act or regulations under this Act, or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

(7) The Board shall keep a record in writing of any consultations under this section in relation to a proposed development, including the names of those who participated in the consultations, and a copy of such record shall be placed and kept with the documents to which any application in respect of the proposed development relates.**]**

Annotations

Amendments:

F1020 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 36, S.I. No. 684 of 2006.

F1021 Substituted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 62, S.I. No. 475 of 2011.

F1022 Substituted (20.12.2022) by *European Union (Planning and Development) (Habitats and Environmental Impact Assessment) Regulations 2022* (S.I. No. 708 of 2022), reg. 7.

F1023 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 100, in effect as per reg. 2(1).

F1024 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 30, in effect as per reg. 2(1).

Modifications (not altering text):

C151 "Proposed development" construed (23.06.2022) by *European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulations 2022* (S.I. No. 306 of 2022), reg. 3(2) and sch.

3. (1) The Act of 2000 (other than sections 181A to 181C) shall not apply to the classes of development specified in the Schedule carried out by, or on behalf of, a State authority during the relevant period for the purposes of providing temporary protection to displaced persons.

(2) A reference to "proposed development" in sections 181A to 181C of the Act of 2000 shall include a reference to development of a class specified in the Schedule to which section 181A(1) of the Act of 2000 would apply if it was development of a class specified in regulations made under section 181(1)(a) of the Act of 2000.

SCHEDULE

Article 3

1. Reception and integration facilities.

2. Residential accommodation, including ancillary recreational and sporting facilities.

3. Medical and other health and social care accommodation.

4. Education and childcare facilities, including ancillary recreational and sporting facilities.

5. Emergency management coordination facilities.

6. Structures or facilities ancillary to development referred to in paragraphs 1 to 5, including administration and storage facilities.

7. Infrastructure and other works ancillary to development referred to in paragraphs 1 to 6.

C152 Transitional arrangements provided (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 3(1)(b)(i), in effect as per reg. 2(1).

Transitional arrangements

3. (1) Subject to paragraph (3), the Act of 2000 and the Regulations of 2001, as in force immediately before 1 September 2018, shall continue to apply to development or proposed development, as the case may be, in the following cases: ...

(*b*) a request has been made, before 16 May 2017—

(i) under section 37D (1), 173(2)(*a*) or (3)(*a*), 181C(3)(*b*) or 182E(3) of the Act of 2000, as so in force, for an opinion to be given or provided by the planning authority or the Board, as the case may be, on the information required to be contained in an environmental impact statement relating to such development, or

...

(2) Section 2 of the Act of 2000, as in force immediately before 1 September 2018, shall apply to the interpretation of this Regulation as that section applies to the interpretation of that Act.

(3) The Act of 2000 and the Regulations of 2001, as in force on or after 1 September 2018, shall not apply to a case referred to in paragraph (1) unless otherwise specified in a provision of that Act or those Regulations, as the case may be.

(4) In this Regulation—

"Act of 2000" means the Planning and Development Act 2000 (No. 30 of 2000);

"Regulations of 2001" means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

Editorial Notes:

E434 Power pursuant to section exercised (3.06.2011) by *Planning and Development (Amendment) Regulations 2011* (S.I. No. 262 of 2011).

E435 Previous affecting provision: subs. (3)(a) amended (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 62, S.I. No. 475 of 2011; para. (a) substituted (20.12.2022) as per F-note above.

Cables, wires and pipelines.

182.—(1) A local authority may, with the consent of the owner and occupier of any land not forming part of a public road, place, construct or lay, as may be appropriate, cables, wires or pipelines (including water pipes, sewers or drains) and any ancillary

apparatus on, under or over the land, and may, from time to time, inspect, repair, alter, renew or remove any such cables, wires or pipelines.

F1025**[**(1A) A local authority shall not be eligible to apply for approval referred to in *subsection (1)* for development on a maritime site, and no such approval shall be given to a local authority, unless the local authority—

(*a*) is the holder of a maritime area consent granted for the occupation of the maritime site for the purposes of the proposed development,

(*b*) is the owner of land on which it is proposed to carry out the development concerned, or

(*c*) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.**]**

(2) A local authority may, with the consent of the owner and of the occupier of any structure, attach to the structure any bracket or other fixture required for the carrying or support of any cable, wire or pipeline placed, erected or constructed under this section.

(3) A local authority may erect and maintain notices indicating the position of cables, wires or pipelines placed, erected or constructed under this section and may, with the consent of the owner and of the occupier of any structure, affix such a notice to the structure.

(4) *Subsections (1)* to *(3)* shall have effect subject to the proviso that—

(*a*) a consent for the purposes of any of them shall not be unreasonably withheld,

(*b*) if the local authority considers that such a consent has been unreasonably withheld, it may appeal to the Board, and

(*c*) if the Board determines that such a consent was unreasonably withheld, it shall be treated as having been given.

(5) The local authority may permit the use of any cables, wires or pipelines placed, erected or constructed under this section and of any apparatus incidental to the cables, wires or pipelines subject to such conditions and charges as it considers appropriate.

Annotations

Amendments:

F1025 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 46, S.I. No. 488 of 2022.

Modifications (not altering text):

C153 Application of section extended and references construed (31.12.2007) by *Water Services Act 2007* (30/2007), s. 41(12), S.I. No. 846 of 2007.

Installation of pipes.

41.— ...

(12) Section 182 of the Act of 2000 shall apply to a water services authority for the purposes of this Act, and any references to a local authority in the said section or in Part XIV or related Parts of the Act of 2000 shall be deemed to be a reference to a water services authority for the purposes of this Act.

...

F1026**[**Electricity transmission lines.

182A.—(1) F1027**[**Subject to *subsection (1B)* and *section 182AA*, where**]** a person (hereafter referred to in this section as the "undertaker") intends to carry out development comprising or for the purposes of electricity transmission, (hereafter referred to in this section and *section 182B* as "proposed development"), the undertaker shall prepare, or cause to be prepared, an application for approval of the development under *section 182B* and shall apply to the Board for such approval accordingly.

F1028**[**(1A) An undertaker shall not be eligible to apply for approval referred to in *subsection (1)* for development in a maritime site and no such approval shall be given to him or her, unless he or she—

(*a*) is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development,

(*b*) is the owner of land F1029**[**in the maritime area**]** on which it is proposed to carry out the development concerned, or

(*c*) makes the application with the consent, or on behalf, of the owner of land F1029**[**in the maritime area**]** on which it is proposed to carry out the development concerned.**]**

F1029**[**(1B) (*a*) Subject to *paragraph (b)*, the proposed development shall not include any development (which may be all or part of such proposed development and which is referred to in this subsection as the "development concerned") in the maritime area where a licence (referred to in this subsection as the "licence concerned") under section 3 of the Act of 1933 has been granted, on or before the commencement of section 246 of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023, in respect of the development concerned.

(*b*) Where the proposed development required, as appropriate—

(i) an environmental impact assessment,

(ii) an appropriate assessment, or

(iii) both an environmental impact assessment and an appropriate assessment,

to be carried out, *paragraph (a)* shall not apply to the development concerned unless that assessment was, or those assessments were, as the case may be, carried out before the grant of the licence concerned.

(*c*) Where *paragraph (a)* applies to the development concerned, the provisions of section 3 of the Act of 1933 relevant to the licence concerned shall be deemed to apply to the carrying out of the proposed development.**]**

(2) In the case of development referred to in *subsection (1)* which belongs to a class of development identified for the purposes of *section 176*, the undertaker shall prepare, or cause to be prepared, an F1030**[**F1031**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** in respect of the development.

(3) The proposed development shall not be carried out unless the Board has approved it with or without modifications.

(4) Before an undertaker makes an application under *subsection (1)* for approval, it shall—

(*a*) publish in one or more newspapers circulating in the area or areas in which it is proposed to carry out the development a notice indicating the nature and location of the proposed development and—

(i) stating that—

(I) it proposes to seek the approval of the Board for the proposed development,

(II) in the case of an application referred to in *subsection (1)(a)*, an F1030**[**F1032**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** has been prepared in respect of the proposed development, and

(III) where relevant, the proposed development is likely to have significant effects on the environment of a Member State of the European Communities or other party to the Transboundary Convention,

(ii) specifying the times and places at which, and the period (not being less than 6 weeks) during which, a copy of the application and any F1030**[**F1033**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy),

(iii) inviting the making, during such period, of submissions and observations to the Board relating to—

(I) the implications of the proposed development for proper planning and sustainable development in the area or areas concerned, and

(II) the likely F1030**[**effects on the environment or adverse effects on the integrity of a European site, as the case may be,**]** of the proposed development,

if carried out, and

(iv) specifying the types of decision the Board may make, under *section 182B*, in relation to the application,

F1034**[**(v) stating that a person may question the validity of a decision of the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) and

(vi) stating where practical information on the review mechanism can be found.**]**

F1035**[**(*aa*) comply with *section 172B*,**]**

(*b*) send a copy of the application and any F1030**[**F1036**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** to the local authority or each local authority in whose functional area the proposed development would be situate and to the prescribed authorities together with a notice stating that submissions or observations may, during the period referred to in paragraph (*a*)(ii), be made in writing to the Board in relation to—

(i) the implications of the proposed development for proper planning and sustainable development in the area or areas concerned, and

(ii) the likely F1030**[**effects on the environment or adverse effects on the integrity of a European site, as the case may be,**]** of the proposed development,

if carried out, and

(*c*) where the proposed development is likely to have significant effects on the environment of a Member State of the European Communities or a state which is a party to the Transboundary Convention, send a prescribed number of copies of the application and the F1037**[**environmental impact assessment

report**]** to the prescribed authority of the relevant state or states together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(ii)*, be made in writing to the Board.

(5) The Board may—

(*a*) if it considers it necessary to do so, require an undertaker that has applied for approval for a proposed development to furnish to the Board such further information in relation to—

(i) the F1030**[**effects on the environment or adverse effects on the integrity of a European site, as the case may be,**]** of the proposed development, or

(ii) the consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said development of such development,

as the Board may specify, or

(*b*) if it is provisionally of the view that it would be appropriate to approve the proposed development were certain alterations (specified in the notification referred to in this paragraph) to be made to the terms of it, notify the statutory undertaker that it is of that view and invite the undertaker to make to the terms of the proposed development alterations specified in the notification and, if the undertaker makes those alterations, to furnish to it such information (if any) as it may specify in relation to the development, in the terms as so altered, or, where necessary, a F1030**[**F1038**[**revised environmental impact assessment report or revised Natura impact statement or both that report and that statement**]**, as the case may be,**]** in respect of it.

(6) If an undertaker makes the alterations to the terms of the proposed development specified in a notification given to it under *subsection (5)*, the terms of the development as so altered shall be deemed to be the proposed development for the purposes of this section and *section 182B*.

(7) The Board shall—

(*a*) where it considers that any further information received pursuant to a requirement made under *subsection (5)(a)* contains significant additional data relating to—

(i) the likely F1030**[**effects on the environment or adverse effects on the integrity of a European site, as the case may be,**]** of the proposed development, and

(ii) the likely consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said development of such development,

or

(*b*) where the undertaker has made the alterations to the terms of the proposed development specified in a notification given to it under *subsection (5)(b)*,

require the undertaker to do the things referred to in *subsection (8)*.

(8) The things which an undertaker shall be required to do as aforesaid are—

(*a*) to publish in one or more newspapers circulating in the area or areas in which the proposed development would be situate a notice stating that, as appropriate—

(i) further information in relation to the proposed development has been furnished to the Board, or

(ii) the undertaker has, pursuant to an invitation of the Board, made alterations to the terms of the proposed development (and the nature of those alterations shall be indicated) and, if it be the case, that information in relation to the terms of the development as so altered or a F1030**[**F1039**[**revised environmental impact assessment report or revised Natura impact statement or both that report and that statement**]**, as the case may be,**]** in respect of the development has been furnished to the Board,

indicating the times at which, the period F1040**[**(which shall not be less than 3 weeks in a case other than a case relating to a revised environmental impact assessment report)**]** during which and the place, or places, where a copy of the information or the F1030**[**F1041**[**information or the revised environmental impact assessment report or revised Natura impact statement or both that report and that statement**]**, as the case may be,**]** referred to in *subparagraph (i)* or *(ii)* may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy) and that submissions or observations in relation to that F1042**[**information, report or statement**]** may be made to the Board before the expiration of the indicated period, and

(*b*) to send to each prescribed authority to which a notice was given pursuant to *subsection (4)(b)* or *(c)*—

(i) a notice of the furnishing to the Board of, as appropriate, the further information referred to in *paragraph (a)(i)* or the F1043**[**information, report or statement**]** referred to in *paragraph (a)(ii)*, and

(ii) a copy of that further information, F1044**[**information, report or statement**]**,

and to indicate to the authority that submissions or observations F1045**[**in relation to that further information, information, report or statement**]** may be made to the Board before the expiration of a period F1046**[**(which shall not be less than 3 weeks in a case other than a case relating to a revised environmental impact assessment report)**]** beginning on the day on which the notice is sent to the prescribed authority by the undertaker.

F1047**[**(8A) The period provided for in *subsection (8)(a)* or **(*b*)** shall, in a case relating to an environmental impact assessment report, not be less than—

(*a*) 30 days where the report has been furnished to the Board, and

(*b*) 3 weeks where the report has not been furnished to the Board.**]**

(9) In this section "transmission", in relation to electricity, shall be construed in accordance with *section 2(1)* of the *Electricity Regulation Act 1999* but, for the purposes of this section, the foregoing expression, in relation to electricity, shall also be construed as meaning the transport of electricity by means of—

(*a*) a high voltage line where the voltage would be 110 kilovolts or more, or

(*b*) an interconnector, whether ownership of the interconnector will be vested in the undertaker or not.**]**

Annotations

Amendments:

F1026 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 4, S.I. No. 684 of 2006.

F1027 Substituted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023), s. 246(a), S.I. No. 653 of 2023.

F1028 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 47, S.I. No. 488 of 2022.

F1029 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023), s. 246(b), (c), S.I. No. 653 of 2023.

F1030 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 39, S.I. No. 474 of 2011.

F1031 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 101, in effect as per reg. 2(1).

F1032 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 102, in effect as per reg. 2(1).

F1033 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 103, in effect as per reg. 2(1).

F1034 Inserted (13.07.2010) by *European Communities (Public Participation) Regulations 2010* (S.I. No. 352 of 2010), reg. 10(e).

F1035 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 31(a), in effect as per reg. 2(1).

F1036 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 104, in effect as per reg. 2(1).

F1037 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 105, in effect as per reg. 2(1).

F1038 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 106, in effect as per reg. 2(1).

F1039 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 107, in effect as per reg. 2(1).

F1040 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 31(b)(i), in effect as per reg. 2(1).

F1041 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 108, in effect as per reg. 2(1).

F1042 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 109, in effect as per reg. 2(1).

F1043 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 110, in effect as per reg. 2(1).

F1044 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 111, in effect as per reg. 2(1).

F1045 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 112, in effect as per reg. 2(1).

F1046 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 31(b)(ii), in effect as per reg. 2(1).

F1047 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 31(c), in effect as per reg. 2(1).

Editorial Notes:

E436 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E437 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E438 Power pursuant to section exercised (21.12.2006) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E439 Previous affecting provision: similar amendments to those made by 2011 Act made by *Planning and Development (Amendment) Act 2010* (30/2010), s. 63, not commenced; repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. No. 474 of 2011.

F1048**[**Disapplication of *section 182A* of Act of 2000

182AA.—*Section 182A* shall not apply to development comprising or for the purposes of electricity transmission where such development is the subject of an application for permission made to the Board under *section 291*.**]**

Annotations

Amendments:

F1048 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 247, S.I. No. 653 of 2023.

Editorial Notes:

E440 The section heading is taken from the amending section in the absence of one included in the amendment.

F1049**[***Section 182A*: criteria for decision, certain exemptions, etc.

182B.—(1) Before making a decision in respect of a proposed development the subject of an application under *section 182A*, the Board shall consider—

(*a*) the F1050**[**F1051**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]** as the case may be**]** submitted pursuant to *section 182A(1)* or *(5)*, any submissions or observations made in accordance with *section 182A(4)* or *(8)* and any other information furnished in accordance with *section 182A(5)* relating to—

(i) the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the proposed development of such development, and

(ii) the likely F1050**[**effects on the environment or adverse effects on the integrity of a European site as the case may be**]** of the proposed development,

and

(*b*) the report and any recommendations of a person conducting any oral hearing relating to the proposed development.

F1052**[**(2)(*a*) The Board may take the action specified in *paragraph (b)* where it is satisfied that—

(i) exceptional circumstances so warrant,

(ii) the application of the requirement to prepare an environmental impact assessment report would adversely affect the purpose of the proposed development, and

(iii) the objectives of the Environmental Impact Assessment Directive are otherwise met.

(*b*) Subject to *paragraph (c)*, the Board may grant in respect of the proposed development an exemption from a requirement under *section 182A(2)* to prepare an environmental impact assessment report.

(*c*) No exemption may be granted under *paragraph (b)* in respect of the proposed development where another Member State of the European Union or a state which is a party to the Transboundary Convention, having been informed about the proposed development and its likely significant effects on the environment in that State or state, as the case may be, has indicated that it wishes to furnish views on those effects.**]**

(3) The Board shall, in granting an exemption under *subsection (2)*, consider whether—

(*a*) F1050**[**the effects, if any of the proposed development on the environment or adverse effects, if any, of the proposed development on the integrity of a European site**]** should be assessed in some other manner, and

(*b*) the information arising from such an assessment should be made available to the members of the public,

and it may apply such requirements regarding these matters in relation to the application for approval as it considers necessary or appropriate.

(4) Notice of any exemption granted under *subsection (2)*, of the reasons for granting the exemption, and of any requirements applied under *subsection (3)* shall, as soon as may be—

(*a*) be published in *Iris Oifigiúil* and in at least one daily newspaper published in the State, and

(*b*) be given, together with a copy of the information, if any, made available to the members of the public in accordance with *subsection (3)* to the Commission of the European Communities.

(5) F1053**[**The Board shall, in respect of an application under *section 182A* for approval of the proposed development, make its decision within a reasonable period of time and may, in respect of such application**]**—

(*a*) approve the proposed development,

(*b*) make such modifications to the proposed development as it specifies in the approval and approve the proposed development as so modified,

(*c*) approve, in part only, the proposed development (with or without specified modifications of it of the foregoing kind), or

(*d*) refuse to approve the proposed development,

and may attach to an approval under *paragraph (a)*, *(b)* or *(c)* F1054**[**, subject to *subsection (5D)*,**]** such conditions as it considers appropriate.

F1055**[**(5A) A decision of the Board under *subsection (5)* shall state—

(*a*) the main reasons and considerations on which the decision is based,

F1056**[**(*aa*) the reasoned conclusion, in relation to the significant effects on the environment of the proposed development, on which the decision is based,

(*ab*) in relation to the approval of, or refusal to approve, the development, where a decision (being a decision which arises from the consideration of the environmental impact assessment report concerned) by the Board to approve or to refuse to approve such development is different from the recommendation in a report of a person assigned to report on the application on behalf of the Board, the main reasons for not accepting the recommendation in the last-mentioned report to approve or refuse to approve the development,**]**

(*b*) where conditions are attached under *subsection (5)* or *(6)* the main reasons for attaching them,

F1057**[**(*ba*) where a decision to impose a condition (being an environmental condition which arises from the consideration of the environmental impact assessment report concerned) in relation to any approval is materially different, in relation to the terms of such condition, from the recommendation in a report of a person assigned to report on the application for approval on behalf of the Board, the main reasons for not accepting, or for varying, as the case may be, the recommendation in the last-mentioned report in relation to such condition,

(*bb*) in relation to the approval of, or refusal to approve, the development, subject to or without conditions, that the Board is satisfied that the reasoned conclusion on the significant effects on the environment of the development was up to date at the time of the taking of the decision,**]**

(*c*) the sum and direct the payment of the sum to be paid to the Board towards the costs incurred by the Board of—

(i) giving a written opinion in compliance with a request under *section 182E(3)* (inserted by section 4 of the Act of 2006),

(ii) conducting consultations under *section 182E*, and

(iii) determining the application made under *section 182A* (inserted by section 4 of the Act of 2006) under this section,

and, in such amount as the Board considers to be reasonable, state the sum to be paid and direct the payment of the sum to any planning authority that incurred costs during the course of consideration of that application and to any other person as a contribution to the costs incurred by that person during the course of consideration of that application (each of which the sums the Board may, by virtue of this subsection, require to be paid).

F1058**[**(5AA) A decision of the Board under *subsection (5)* and the notification of the decision shall include a summary of the results of consultations that have taken place and information gathered in the course of the environmental impact assessment and, where appropriate, the comments received from an affected Member State of the European Union or other party to the Transboundary Convention, and specify how those results have been incorporated into the decision or otherwise addressed.**]**

(5B) A reference to costs in *subsection (5A)(c)* shall be construed as a reference to such costs as the Board in its absolute discretion considers to be reasonable costs,

but does not include a reference to so much of the costs there referred to as have been recovered by the Board by way of a fee charged under *section 144*.

(5C) A notice of a decision given under *subsection (5)* shall be furnished to the applicant as soon as may be after it is given but shall not become operative until any requirement under *subsection (5A)(c)* in relation to the payment by the applicant of a sum in respect of costs has been complied with.

(5D) Where an applicant for permission fails to pay a sum in respect of costs in accordance with a requirement under *subsection (5A)(c)*, the Board, the planning authority or any other person concerned (as may be appropriate) may recover the sum as a simple contract debt in any court of competent jurisdiction.**]**

F1054**[**(5E) Where the Board approves development under *subsection (5)* on foot of an application accompanied by an opinion issued by the Board under *section 182G(2)* it shall attach a condition in respect of any detail of the development that was not confirmed at the time of the application requiring—

(*a*) the actual detail to fall within specified options or parameters or a combination of options and parameters, and

(*b*) the applicant to notify the planning authority in whose functional area or areas the development is situated in writing, by such date prior to the commencement of the development, or prior to the commencement of the part of the development to which the detail relates, as the Minister may prescribe, of the actual detail of the development.**]**

(6) Without prejudice to the generality of the foregoing power to attach conditions, the Board may attach to an approval under *subsection (5)(a)*, *(b)* or *(c)* a condition requiring—

(*a*) the construction or the financing, in whole or in part, of the construction of a facility, or

(*b*) the provision or the financing, in whole or in part, of the provision of a service,

in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Board, would constitute a substantial gain to the community.

(7) A condition attached pursuant to *subsection (6)* shall not require such an amount of financial resources to be committed for the purposes of the condition being complied with as would substantially deprive the person in whose favour the approval under this section operates of the benefits likely to accrue from the grant of the approval.

(8) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of applications under *section 182A* for approval F1054**[**including applications accompanied by an opinion under *section 182G(2)*.**]**

(9) Without prejudice to the generality of *subsection (8)*, regulations under that subsection may require the Board to give information in respect of its decision regarding the proposed development for which approval is sought.

(10) In considering under *subsection (1)* information furnished relating to the likely consequences for proper planning and sustainable development of a proposed development in the area in which it is proposed to situate such development, the Board shall have regard to—

F1059**[**(*a*) in the case of proposed development on land or partly on land and partly in the nearshore area of a coastal planning authority, the development plan for the area,**]**

F1060**[**(*aa*) in the case of proposed development wholly or partly in the maritime area, the National Marine Planning Framework,**]**

(*b*) the provisions of any special amenity area order relating to the area,

(*c*) if the area or part of the area is a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact,

(*d*) if the proposed development would have an effect on a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact,

(*e*) the matters referred to in *section 143*, and

(*f*) the provisions of this Act and regulations under this Act where relevant.

(11) (*a*) No permission under F1059**[***section 34*, *37G* or *293***]** shall be required for any development which is approved under this section.

(*b*) Part VIII shall apply to any case where development referred to in *section 182A(1)* is carried out otherwise than in compliance with an approval under this section or any condition to which the approval is subject as it applies to any unauthorised development with the modification that a reference in that Part to a permission shall be construed as a reference to an approval under this section.

(12) Without prejudice to the generality of section 18(a) of the Interpretation Act 2005, a reference, however expressed, in this section to the area in which the proposed development would be situated includes, if the context admits, a reference to the 2 or more areas in which the proposed development would be situated and cognate references shall be construed accordingly.**]**

Annotations

Amendments:

F1049 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 4, S.I. No. 684 of 2006.

F1050 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 64(a) and (b), S.I. No. 405 of 2010.

F1051 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 113, in effect as per reg. 2(1).

F1052 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 32(a), in effect as per reg. 2(1).

F1053 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 32(b), in effect as per reg. 2(1).

F1054 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 35(a)-(c), S.I. No. 645 of 2023.

F1055 Inserted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 64(c), S.I. No. 405 of 2010.

F1056 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 32(c)(i), in effect as per reg. 2(1).

F1057 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 32(c)(ii), in effect as per reg. 2(1).

F1058 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 32(d), in effect as per reg. 2(1).

F1059 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 48, S.I. No. 488 of 2022.

F1060 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 48, S.I. No. 488 of 2022.

Modifications (not altering text):

C154 Application of section restricted (24.12.2006) by *Energy (Miscellaneous Provisions) Act 2006* (40/2006), s. 22(3), commenced on enactment.

Certain development approvals under Part XI of Planning and Development Act 2000.

22.— ...

(3) No approval shall be required under— ...

(*b*) section 182B, or

...

in relation to development referred to in section 181A, 182A or 182C, respectively, if— ...

(ii) in the case of development referred to in section 182A, the development has been the subject of—

(I) a grant of permission under section 34 of the Act of 2000 before the commencement of this section and that permission is in force immediately before such commencement, or

(II) an application made, before the commencement of this section, in accordance with the Act of 2000 and regulations thereunder for the grant of such a permission and that application does not stand withdrawn before the commencement of this section,

...

Editorial Notes:

E441 Power pursuant to subss. (5E)(b), (8), exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

E442 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E443 Power pursuant to section exercised (21.12.2006) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

F1061**[**Application for approval of strategic gas infrastructure development.

182C.—(1) Where a person (hereafter referred to in this section as the "undertaker") intends to carry out a strategic gas infrastructure development (hereafter referred to in this section and *section 182D* as "proposed development") F1062**[**, and where the Board determines following consultations under *section 182E* that the development comes within *paragraph (a)*, *(b)* or *(c)* of *section 37A(2)*,**]** the undertaker shall prepare, or cause to be prepared—

(*a*) an application for approval of the development under *section 182D*, and

(*b*) an F1063**[**F1064**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** in respect of the development,

and shall apply to the Board for such approval accordingly, indicating in the application whether the application relates to a strategic upstream gas pipeline or a strategic downstream gas pipeline.

(2) An application under *subsection (1)* for approval of a proposed development shall, if it will consist of or include a pipeline, be accompanied by a certificate in

relation to the pipeline provided under section 26 of the Gas Act 1976, as amended, or section 20 of the Gas (Amendment) Act 2000 by—

(*a*) in the case of a strategic upstream gas pipeline, the Minister for Communications, Marine and Natural Resources, or

(*b*) in the case of a strategic downstream gas pipeline, the Commission.

(3) The proposed development shall not be carried out unless the Board has approved it with or without modifications.

(4) Before an undertaker makes an application for approval under *subsection (1)*, it shall—

(*a*) publish in one or more newspapers circulating in the area or areas in which it is proposed to carry out the development a notice indicating the nature and location of the proposed development and—

(i) stating that—

(I) it proposes to seek the approval of the Board for the proposed development,

(II) an F1063**[**F1065**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** has been prepared in respect of the proposed development, and

(III) where relevant, the proposed development is likely to have significant effects on the environment of a Member State of the European Communities or other party to the Transboundary Convention,

(ii) specifying the times and places at which, and the period (not being less than 6 weeks) during which, a copy of the application and the F1063**[**F1066**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy),

(iii) inviting the making, during such period, of submissions and observations to the Board relating to—

(I) the implications of the proposed development for proper planning and sustainable development in the area or areas concerned, and

(II) the likely F1063**[**effects on the environment or adverse effects on the integrity of a European site, as the case may be,**]** of the proposed development,

if carried out, and

(iv) specifying the types of decision the Board may make, under *section 182D*, in relation to the application,

F1067**[**(v) stating that a person may question the validity of a decision of the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) and

(vi) stating where practical information on the review mechanism can be found.**]**

F1068**[**...**]**

F1069**[**(*aa*) comply with *section 172B*,**]**

(*b*) send a copy of the application and the F1063**[**F1070**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** to—

(i) the local authority or each local authority in whose functional area the proposed development would be situate,

(ii) any prescribed bodies,

(iii) where the proposed development comprises or is for the purposes of a strategic downstream gas pipeline, the Commission, and

(iv) where the proposed development is likely to have significant effects on the environment of a Member State of the European Communities or a state which is a party to the Transboundary Convention, the prescribed body of the relevant state or states,

together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(ii)*, be made in writing to the Board in relation to—

(I) the implications of the proposed development for proper planning and sustainable development in the area concerned, and

(II) the likely effects on the environment of the proposed development,

if carried out.

(5) The Board may—

(*a*) if it considers it necessary to do so, require an undertaker that has applied for approval for a proposed development to furnish to the Board such further information in relation to—

(i) the F1063**[**effects on the environment or adverse effects on the integrity of a European site, as the case may be,**]** of the proposed development, or

(ii) the consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said development of such development,

as the Board may specify, or

(*b*) if it is provisionally of the view that it would be appropriate to approve the proposed development were certain alterations (specified in the notification referred to in this paragraph) to be made to the terms of it, notify the undertaker that it is of that view and invite the undertaker to make to the terms of the proposed development alterations specified in the notification and, if the undertaker makes those alterations, to furnish to it such information (if any) as it may specify in relation to the development, in the terms as so altered, or, where necessary, a revised F1063**[**F1071**[**revised environmental impact assessment report or Natura impact statement or both that report and that statement**]**, as the case may be,**]** in respect of it.

(6) If an undertaker makes the alterations to the terms of the proposed development specified in a notification given to it under *subsection (5)*, the terms of the development as so altered shall be deemed to be the proposed development for the purposes of this section and *section 182D*.

(7) The Board shall—

(*a*) where it considers that any further information received pursuant to a requirement made under *subsection (5)(a)* contains significant additional data relating to—

(i) the likely F1063**[**effects on the environment or adverse effects on the integrity of a European site, as the case may be,**]** of the proposed development, and

(ii) the likely consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said development of such development,

or

(*b*) where the undertaker has made the alterations to the terms of the proposed development specified in a notification given to it under *subsection (5)(b)*,

require the undertaker to do the things referred to in *subsection (8)*.

(8) The things which an undertaker shall be required to do as aforesaid are—

(*a*) to publish in one or more newspapers circulating in the area or areas in which the proposed development would be situate a notice stating that, as appropriate—

(i) further information in relation to the proposed development has been furnished to the Board, or

(ii) the undertaker has, pursuant to an invitation of the Board, made alterations to the terms of the proposed development (and the nature of those alterations shall be indicated) and, if it be the case, that information in relation to the terms of the development as so altered or F1063**[**a F1072**[**revised environmental impact assessment report or revised Natura impact statement or both that report and that statement**]**, as the case may be,**]** in respect of the development has been furnished to the Board,

indicating the times at which, the period F1073**[**(which shall not be less than 3 weeks in a case other than a case relating to a revised environmental impact assessment report)**]** during which and the place, or places, where a copy of F1074**[**the F1075**[**information or the revised environmental impact assessment report or revised Natura impact statement or both that report and that statement**]**, as the case may be,**]** referred to in *subparagraph (i)* or *(ii)* may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy) and that submissions or observations F1076**[**in relation to that information, report or statement**]** may be made to the Board before the expiration of the indicated period, and

(*b*) to send to each prescribed authority to which a notice was given pursuant to *subsection (4)(b)*—

(i) a notice of the furnishing to the Board of, as appropriate, the further information referred to in *paragraph (a)(i)* or the F1077**[**information, report or statement**]** referred to in *paragraph (a)(ii)*, and

(ii) a copy of that further information, F1078**[**information, report or statement**]**,

and to indicate to the authority that submissions or observations F1079**[**in relation to that further information, information, report or statement**]** may be made to the Board before the expiration of a period F1080**[**(which shall not be less than 3 weeks in a case other than a case relating to a revised environmental impact assessment report)**]** beginning on the day on which the notice is sent to the prescribed authority by the undertaker.

F1081**[**(8A) The period provided for in *subsection (8)(a)* or *(b)* shall, in a case relating to a revised environmental impact assessment report, not be less than—

(*a*) 30 days where the report has been furnished to the Board, and

(*b*) 3 weeks where the report has not been furnished to the Board.**]**

F1082**[**(9) In the case of any application to the Board under this section, the Board shall request the Commission to make observations on safety or operational matters including any relevant safety advice or specific recommendations which the Commission considers appropriate within such period as may be specified (which period shall not be less than 3 weeks from the date of the request).**]**

F1062**[**(9A) In considering the likely effects of a proposed development on the environment or significant effects on a European site and the consequences of the development for proper planning and sustainable development, the Board shall have particular regard to the observations that the Commission considers it appropriate to make to the Board as requested under *subsection (9)*.

(9B) Where the Board is considering not accepting the observations of the Commission it shall give notice to and consult with the Commission, giving its reasons and the Board shall request the Commission to respond within 3 weeks of the giving of notice under this subsection.

(9C) The Board shall consider any response given by the Commission under subsection (9B) before it makes a decision under *section 182D*.

(9D) The Board, in giving an approval for a proposed development under *section 182D(5)(a)*, *(b)* or *(c)* or refusing to approve a proposed development under *section 182D(5)(d)*, where it does not follow the observations of the Commission or part thereof, shall give reasons.

(9E) In making observations on safety or operational matters including any relevant safety advice or specific recommendations which the Commission considers appropriate under this section, the Commission may, without prejudice to the generality of the entitlement to make such observations, refer to such matters as it considers appropriate, including—

(*a*) a safety framework established under section 13I of the Act of 1999,

(*b*) directions made by the Minister for Communications, Energy and Natural Resources under section 13J of the Act of 1999,

(*c*) guidelines issued under section 13L of the Act of 1999,

(*d*) a safety case as defined by section 13A(1) of the Act of 1999,

(*e*) a revised safety case within the meaning of section 13N of the Act of 1999,

(*f*) a safety permit issued pursuant to section 13P of the Act of 1999,

(*g*) an improvement notice issued under section 13Z of the Act of 1999,

(*h*) a prohibition notice issued under section 13AA of the Act of 1999,

(*i*) safety standards referred to in guidelines issued under section 13L of the Act of 1999,

(*j*) standards and codes of practice referred to in section 13L(3)(c), and

(*k*) conditions relating to petroleum authorisations.

(9F) In *subsection (9E)*—

(*a*) "Act of 1999" means the Electricity Regulation Act 1999;

(*b*) a term or expression used in that subsection has the same meaning as it has in Part IIA of the Electricity Regulation Act 1999.**]**

(10) The Minister, after consultation with the Minister for Communications, Marine and Natural Resources, may make regulations to provide for matters of procedure in relation to the making of a request of the Commission under *subsection (9)* and the making of observations by the Commission on foot of such a request.

(11) In this section "Commission" means the Commission for Energy Regulation. **]**

Annotations

Amendments:

F1061 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 4, S.I. No. 684 of 2006.

F1062 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 65(a) and (f), S.I. No. 477 of 2010.

F1063 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 40, S.I. No. 474 of 2011.

F1064 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 114, in effect as per reg. 2(1).

F1065 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 115, in effect as per reg. 2(1).

F1066 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 116, in effect as per reg. 2(1).

F1067 Inserted (13.07.2010) by *European Communities (Public Participation) Regulations 2010* (S.I. No. 352 of 2010), reg. 10(f).

F1068 Deleted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 33(a)(i), in effect as per reg. 2(1).

F1069 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 33(a)(ii), in effect as per reg. 2(1).

F1070 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 117, in effect as per reg. 2(1).

F1071 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 118, in effect as per reg. 2(1).

F1072 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 119, in effect as per reg. 2(1).

F1073 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 33(b)(i), in effect as per reg. 2(1).

F1074 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 40(c)(ii), S.I. No. 474 of 2011.

F1075 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 120, in effect as per reg. 2(1).

F1076 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 121, in effect as per reg. 2(1).

F1077 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 122, in effect as per reg. 2(1).

F1078 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 123, in effect as per reg. 2(1).

F1079 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 124, in effect as per reg. 2(1).

F1080 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 33(b)(ii), in effect as per reg. 2(1).

F1081 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 33(c), in effect as per reg. 2(1).

F1082 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 65(e), S.I. No. 477 of 2010.

Modifications (not altering text):

C155 Application of section clarified (24.12.2006) by *Energy (Miscellaneous Provisions) Act 2006* (40/2006), s. 22(4), (5) and (6), commenced on enactment.

Certain development approvals under Part XI of Planning and Development Act 2000.

22.— ...

(4) Nothing in section 182C or any other provision of the Act of 2000 shall be read as meaning that, notwithstanding the permission granted under section 34 of the Act of 2000 in respect of that terminal before such commencement, a permission—

(*a*) under section 34 or 37G of the Act of 2000, and

(*b*) granted after the commencement of the amendments of that Act made by the Act of 2006,

is required, either in circumstances generally or in the circumstances referred to in subsection (5), in respect of the terminal referred to in subsection (6).

(5) The circumstances mentioned in subsection (4) are that an application is made under section 182C in relation to a development which, if it is carried out, will consist of the alteration or modification of the terms of the strategic gas infrastructure development referred to in subsection (6) other than the terms of that development that comprise the terminal referred to in that subsection.

(6) The terminal mentioned in subsections (4) and (5) is a terminal comprised in a strategic gas infrastructure development (within the meaning of the Act of 2000) the pipeline comprised in which development has been the subject of a consent referred to in subsection (3)(iii)(I).

Editorial Notes:

E444 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E445 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E446 Power pursuant to section exercised (21.12.2006) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E447 Previous affecting provision: section amended by *Planning and Development (Amendment) Act 2010* (30/2010), s. 65(b), (c) and (d), not commenced; repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. No. 474 of 2011.

F1083**[***Section 182C*: criteria for decision, certain exemptions, etc.

182D.—(1) Before making a decision in respect of a proposed development the subject of an application under *section 182C*, the Board shall consider—

(*a*) the F1084**[**F1085**[**environmental impact assessment report or Natura impact statement or both that report and that statement**]** as the case may be**]** submitted pursuant to *section 182C(1)* or *(5)*, any submissions or observations made in accordance with *section 182C(4)*, *(8)* or *(9)* and any other information furnished in accordance with *section 182C(5)* relating to—

(i) the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the proposed development of such development, and

(ii) the likely F1084**[**effects on the environment or adverse effects on the integrity of a European site as the case may be**]** of the proposed development,

and

(*b*) the report and any recommendations of a person conducting any oral hearing relating to the proposed development.

F1086**[**(2)(*a*) The Board may take the action specified in *paragraph (b)* where it is satisfied that—

(i) exceptional circumstances so warrant,

(ii) the application of the requirement to prepare an environmental impact assessment report would adversely affect the purpose of the proposed development, and

(iii) the objectives of the Environmental Impact Assessment Directive are otherwise met.

(*b*) Subject to *paragraph (c)*, the Board may grant in respect of the proposed development an exemption from a requirement under section 182C(1) to prepare an environmental impact assessment report.

(*c*) No exemption may be granted in respect of proposed development under *paragraph (b)* where another Member State of the European Union or a state which is a party to the Transboundary Convention, having been informed about the proposed development and its likely significant effects on the environment in that State or state, as the case may be, has indicated that it wishes to furnish views on those effects.**]**

(3) The Board shall, in granting an exemption under *subsection (2)*, consider whether—

(*a*) F1084**[**the effects, if any of the proposed development on the environment or adverse effects, if any of the proposed development on the integrity of a European site**]** should be assessed in some other manner, and

(*b*) the information arising from such an assessment should be made available to the members of the public,

and it may apply such requirements regarding these matters in relation to the application for approval as it considers necessary or appropriate.

(4) Notice of any exemption granted under *subsection (2)*, of the reasons for granting the exemption, and of any requirements applied under *subsection (3)* shall, as soon as may be—

(*a*) be published in *Iris Oifigiúil* and in at least one daily newspaper published in the State, and

(*b*) be given, together with a copy of the information, if any, made available to the members of the public in accordance with *subsection (3)*, to the Commission of the European Communities.

(5) F1087**[**The Board shall, in respect of an application under *section 182C* for approval of the proposed development, make its decision within a reasonable period of time and may, in respect of such application**]**—

(*a*) approve the proposed development,

(*b*) make such modifications to the proposed development as it specifies in the approval and approve the proposed development as so modified,

(*c*) approve, in part only, the proposed development (with or without specified modifications of it of the foregoing kind), or

(*d*) refuse to approve the proposed development,

and may attach to an approval under *paragraph (a)*, *(b)* or *(c)* F1088**[**, subject to *subsection (5D)*,**]** such conditions as it considers appropriate.

F1089**[**(5A) A decision of the Board given under *subsection (5)* shall state—

(*a*) the main reasons and considerations on which the decision was based,

F1090**[**(*aa*) the reasoned conclusion, in relation to the significant effects on the environment of the proposed development, on which the decision is based,

(*ab*) in relation to the approval of, or refusal to approve, the development, where a decision (being a decision which arises from the consideration of the environmental impact assessment report concerned) by the Board to approve or to refuse to approve such development is different from the recommendation in a report of a person assigned to report on the application on behalf of the Board, the main reasons for not accepting the recommendation in the last-mentioned report to approve or refuse to approve the development,**]**

(*b*) where conditions are attached under *subsection (5)* or *(6)*, the main reasons for attaching the conditions, and

F1091**[**(*ba*) where a decision to impose a condition (being an environmental condition which arises from the consideration of the environmental impact assessment report concerned) in relation to any approval is materially different, in relation to the terms of such condition, from the recommendation in a report of a person assigned to report on the application for approval on behalf of the Board, the main reasons for not accepting, or for varying, as the case may be, the recommendation in the last-mentioned report in relation to such condition,

(*bb*) in relation to the approval of, or refusal to approve, the development, subject to or without conditions, that the Board is satisfied that the reasoned conclusion on the significant effects on the environment of the development was up to date at the time of the taking of the decision, and**]**

(*c*) the sum and direct the payment of the sum to be paid to the Board towards the costs incurred by the Board—

(i) in complying with its obligations under *sections 146B*, *146C*, *146D* (inserted by section 30 of the Act of 2006), and *181A* (inserted by section 36 of the Act of 2006),

(ii) relating to the giving of a written opinion in compliance with a request made under *section 182E(3)* (inserted by section 4 of the Act of 2006),

(iii) of conducting consultations under *section 182E*,

(iv) of determining the application made under *section 182C* (inserted by section 4 of the Act of 2006) under this section,

and, in such amount as the Board considers to be reasonable, state the sum to be paid and direct the payment of the sum to any planning authority that incurred costs during the course of consideration of that application and to any other person as a contribution to the costs incurred by that person during the course of consideration of that application (each of which the sums the Board may, by virtue of this subsection, require to be paid).

F1092**[**(5AA) A decision of the Board given under *subsection (5)* and the notification of the decision shall include a summary of the results of consultations that have taken place and information gathered in the course of the environmental impact assessment and, where appropriate, the comments received from an affected Member State of the European Union or other party to the Transboundary Convention, and state how those results have been incorporated into the decision or otherwise addressed.**]**

(5B) A reference to costs in *subsection (5A)(c)* shall be construed as a reference to such costs as the Board in its absolute discretion considers to be reasonable costs, but does not include a reference to so much of the costs there referred to as have been recovered by the Board by way of a fee charged under *section 144*.

(5C) A notice of a decision given under *subsection (5)* shall be furnished to the applicant as soon as may be after it is given but shall not become operative until any requirement under *subsection (5A)(c)* in relation to the payment by the applicant of a sum in respect of costs has been complied with.

(5D) Where an applicant for permission fails to pay a sum in respect of costs in accordance with a requirement under *subsection (5A)(c)*, the Board, the planning authority or any other person concerned (as may be appropriate) may recover the sum as a simple contract debt in any court of competent jurisdiction.**]**

F1088**[**(5E) Where the Board approves development under *subsection (5)* on foot of an application accompanied by an opinion issued by the Board under *section 182G(2)* it shall attach a condition in respect of any detail of the development that was not confirmed at the time of the application requiring—

(*a*) the actual detail to fall within specified options or parameters or a combination of options and parameters, and

(*b*) the applicant to notify the planning authority in whose functional area or areas the development is situated, in writing, by such date prior to the commencement of the development, or prior to the commencement of the part of the development to which the detail relates, as the Minister may prescribe, of the actual detail of the development.**]**

(6) Without prejudice to the generality of the foregoing power to attach conditions, the Board may attach to an approval under *subsection (5)(a)*, *(b)* or *(c)* a condition requiring—

(*a*) the construction or the financing, in whole or in part, of the construction of a facility, or

(*b*) the provision or the financing, in whole or in part, of the provision of a service,

in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Board, would constitute a substantial gain to the community.

(7) A condition attached pursuant to *subsection (6)* shall not require such an amount of financial resources to be committed for the purposes of the condition being complied with as would substantially deprive the person in whose favour the approval under this section operates of the benefits likely to accrue from the grant of the approval.

(8) The Minister may, after consultation with the Minister for Communications, Marine and Natural Resources, make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of applications under *section 182C* for approval F1088**[**including applications accompanied by an opinion under *section 182G(2)*]**.

(9) Without prejudice to the generality of *subsection (8)*, regulations under that subsection may require the Board to give information in respect of its decision regarding the proposed development for which approval is sought.

(10) In considering under *subsection (1)* information furnished relating to the likely consequences for proper planning and sustainable development of a proposed development in the area in which it is proposed to situate such development, the Board shall have regard to—

F1093**[**(*a*) in the case of proposed development on land or partly on land and partly in the nearshore area of a coastal planning authority, the development plan for the area,**]**

F1094**[**(*aa*) in the case of proposed development wholly or partly in the maritime area, the National Marine Planning Framework,**]**

(*b*) the provisions of any special amenity area order relating to the area,

(*c*) if the area or part of the area is a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact,

(*d*) if the proposed development would have an effect on a European site or an area prescribed for the purposes of *section 10(2)(c)*, that fact,

(*e*) the matters referred to in *section 143*, and

(*f*) the provisions of this Act and regulations under this Act where relevant.

(11)(*a*) No permission under F1093**[***section 34*, *37G* or *293*] shall be required for any development which is approved under this section.

(*b*) *Part VIII* shall apply to any case where development referred to in *section 182C(1)* is carried out otherwise than in compliance with an approval under this section or any condition to which the approval is subject as it applies to any unauthorised development with the modification that a reference in that Part to a permission shall be construed as a reference to an approval under this section.

(12) Without prejudice to the generality of section 18(*a*) of the Interpretation Act 2005, a reference, however expressed, in this section to the area in which the proposed development would be situated includes, if the context admits, a reference to the 2 or more areas in which the proposed development would be situated and cognate references shall be construed accordingly.**]**

Annotations

Amendments:

F1083 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 4, S.I. No. 684 of 2006.

F1084 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 66(a) and (b), S.I. No. 405 of 2010.

F1085 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 125, in effect as per reg. 2(1).

F1086 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 34(a), in effect as per reg. 2(1).

F1087 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 34(b), in effect as per reg. 2(1).

F1088 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 36(a), (b), (2), S.I. No. 645 of 2023.

F1089 Inserted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 66(c), S.I. No. 405 of 2010.

F1090 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 34(c)(i), in effect as per reg. 2(1).

F1091 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 34(c)(ii), in effect as per reg. 2(1).

F1092 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 34(d), in effect as per reg. 2(1).

F1093 Substituted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 49, S.I. No. 488 of 2022.

F1094 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 49, S.I. No. 488 of 2022.

Modifications (not altering text):

C156 Application of section restricted (24.12.2006) by *Energy (Miscellaneous Provisions) Act 2006* (40/2006), s. 22(3), commenced on enactment.

Certain development approvals under Part XI of Planning and Development Act 2000.

22.— ...

(3) No approval shall be required under— ...

(*c*) section 182D,

in relation to development referred to in section 181A, 182A or 182C, respectively, if— ...

(iii) in the case of development referred to in section 182C, the development has been the subject of— ...

(I) a grant of consent under section 39A or 40 of the Act of 1976 before the commencement of this section and that consent is in force immediately before such commencement, or

(II) an application made, before the commencement of this section, in accordance with the Act of 1976 and regulations thereunder for the grant of such a consent and that application does not stand withdrawn before the commencement of this section.

...

Editorial Notes:

E448 Power pursuant to subss. (5E)(b), (8), exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

E449 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E450 Power pursuant to section exercised (21.12.2006) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

F1095**[**Procedures in advance of seeking approval under *section 182B* or *182D*.

182E.—(1) A person (a "prospective applicant") who proposes to apply for approval under *section 182B* or *182D* shall, before making the application, enter into consultations with the Board in relation to the proposed development.

(2) In any consultations under *subsection (1)*, the Board may give advice to the prospective applicant regarding the proposed application and, in particular, regarding—

(*a*) the procedures involved in making such an application, and

(*b*) what considerations, related to proper planning and sustainable development or the environment, may, in the opinion of the Board, have a bearing on its decision in relation to the application.

F1096**[**(3)(*a*) *Paragraph (b)* applies where a prospective applicant requests the Board to give to him or her an opinion in writing on the scope and level of detail of the information required to be included by the prospective applicant in an environmental impact assessment report in relation to the proposed development.

(*b*) The Board shall—

(i) after consulting the prospective applicant and such bodies as may be specified by the Minister for the purpose, and

(ii) after taking into account the information provided by the prospective applicant, in particular on the specific characteristics of the proposed development, including its location and technical capacity, and its likely impact on the environment,

give the opinion as soon as is practicable.**]**

F1097**[**(3A) Where an opinion referred to in *subsection (3)* has been provided, the environmental impact assessment report shall be based on that opinion, and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects on the environment of the proposed development, taking into account current knowledge and methods of assessment.**]**

(4) A prospective applicant shall, for the purposes of—

(*a*) consultations under *subsection (1)*, and

(*b*) the Board's complying with a request under *subsection (3)*,

supply to the Board sufficient information in relation to the proposed development so as to enable the Board to assess the proposed development.

(5) Neither—

(*a*) the holding of consultations under *subsection (1)*, nor

(*b*) the provision of an opinion under *subsection (3)*,

shall prejudice the performance by the Board of any other of its functions under this Act or regulations under this Act, or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

(6) The Board shall keep a record in writing of any consultations under this section in relation to a proposed development, including the names of those who participated in the consultations, and a copy of such record shall be placed and kept with the documents to which any application in respect of the proposed development relates.

(7) The Board may, at its absolute discretion, consult with any person who may, in the opinion of the Board, have information which is relevant for the purposes of consultations under this section in relation to a proposed development.**]**

Annotations

Amendments:

F1095 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 4, S.I. No. 684 of 2006.

F1096 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 35, in effect as per reg. 2(1).

F1097 Inserted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 35, in effect as per reg. 2(1).

Modifications (not altering text):

C157 Note transitional arrangements provided (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 3(1)(b)(i).

3. (1) Subject to paragraph (3), the Act of 2000 and the Regulations of 2001, as in force immediately before 1 September 2018, shall continue to apply to development or proposed development, as the case may be, in the following cases: ...

(*b*) a request has been made, before 16 May 2017—

(i) under section 37D (1), 173(2)(*a*) or (3)(*a*), 181C(3)(*b*) or 182E(3) of the Act of 2000, as so in force, for an opinion to be given or provided by the planning authority or the Board, as the case may be, on the information required to be contained in an environmental impact statement relating to such development, or

...

(2) Section 2 of the Act of 2000, as in force immediately before 1 September 2018, shall apply to the interpretation of this Regulation as that section applies to the interpretation of that Act.

(3) The Act of 2000 and the Regulations of 2001, as in force on or after 1 September 2018, shall not apply to a case referred to in paragraph (1) unless otherwise specified in a provision of that Act or those Regulations, as the case may be.

(4) In this Regulation—

"Act of 2000" means the Planning and Development Act 2000 (No. 30 of 2000);

"Regulations of 2001" means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

Editorial Notes:

E451 Power pursuant to section exercised (3.06.2011) by *Planning and Development (Amendment) Regulations 2011* (S.I. No. 262 of 2011).

F1098**[**Application for opinion under *section 182G*

182F.—(1) A person who proposes to apply for approval under *section 182B* or *182D* (referred to in this section and *section 182G* as a "prospective applicant") may request

a meeting with the Board for the purposes of *section 182G* as part of consultations referred to in *section 182E(1)*.

(2) A request under *subsection (1)* shall be in writing, be accompanied by the appropriate fee and include—

(*a*) the name and address of the prospective applicant,

(*b*) a site location map sufficient to identify the land on which the proposed development would be situated,

(*c*) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment,

(*d*) a draft layout plan of the proposed development,

(*e*) a description of—

(i) the details, or groups of details, of the proposed development that, owing to the circumstances set out in *subparagraph (ii)*, are unlikely to be confirmed at the time of the proposed application, and

(ii) the circumstances relating to the proposed development, including such circumstances as the Minister may prescribe in relation to any class or description of development for the purposes of this subparagraph, that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in *subparagraph (i)* including, in particular, whether the prospective applicant may be able to avail of technology available after making the proposed application that is more effective or more efficient than that available at the time of the application,

(*f*) an undertaking to provide with the proposed application, either—

(i) two or more options, in respect of each detail or group of details referred to in *paragraph (e)(i)*, containing information on the basis of which the proposed application may be made and decided,

(ii) parameters within which each detail referred to in *paragraph (e)(i)* will fall and on the basis of which the proposed application may be made and decided, or

(iii) a combination of *subparagraphs (i)* and *(ii)*,

(*g*) such other information, drawings or representations as the prospective applicant may wish to provide or make available, and

(*h*) such other information as may be prescribed.

(3) Where a prospective applicant submits a request in accordance with *subsection (1)* the Board shall convene a meeting for the purposes of *section 182G*.

(4) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of holding a meeting convened under *subsection (3)*, including—

(*a*) matters that are required to be considered at the meeting,

(*b*) matters that may be considered at the meeting, and

(*c*) the manner in which the meeting is to be conducted.**]**

Annotations

Amendments:

F1098 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 37, S.I. No. 645 of 2023.

F1099[Opinion as to flexibility with regard to application for approval

182G.—(1) The Board shall, as soon as practicable after a meeting convened under section 182F(3) takes place, consider—

(*a*) the information included in the request for the meeting under *section 182F*, and

(*b*) any other relevant information that is made available at the meeting, and determine if it is satisfied that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed certain details of the application.

(2) Where the Board determines that it is satisfied in accordance with *subsection (1)* it shall provide an opinion to that effect to the prospective applicant.

(3) Where the Board determines that it is not satisfied in accordance with subsection (1) it shall notify the prospective applicant to that effect.

(4) An opinion under *subsection (2)* shall specify—

(*a*) the details, or groups of details, of the proposed development that may be confirmed after the proposed application has been made and decided,

(*b*) the circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in *paragraph (a)*, and

(*c*) that, in respect of each detail, or group of details, referred to in *paragraph (a)*, the proposed application shall, in addition to any other requirement imposed by or under this Act, be accompanied by the information referred to in *section 182F(2)(f)*.

(5) A meeting held, and any opinion issued, for the purposes of this section shall be part of consultations held under *section 182E*.

(6) An opinion issued by the Board under *subsection (2)* shall only be made public when a planning application in respect of the proposed development is made in accordance with *section 182A* or *182C*.

(7) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of the Board providing an opinion under *subsection (2)*, including the form of the opinion.**]**

Annotations

Amendments:

F1099 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 37, S.I. No. 645 of 2023.

Editorial Notes:

E452 Power pursuant to subss. (7) exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

F1100[Offence of taking payment, etc. in connection with *section 182G* procedure

182H.—A member or official of the Board who takes or seeks any favour, benefit or payment, direct or indirect (on his or her own behalf or on behalf of any other person or body), in connection with the provision of an opinion or notification under *section 182G* commits an offence.**]**

Annotations

Amendments:

F1100 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 37, S.I. No. 645 of 2023.

PART XII

Compensation

Chapter I

Compensation generally

Annotations

Modifications (not altering text):

C158 Prospective affecting provision: chapter applied with modifications by *Water Services Act 2007* (30/2007), s. 92(7)(b)(ii), not commenced as of date of revision.

Through connection to services, etc.

92.— ...

(6) ...

(*b*) ...

(ii) The provisions of Chapter 1 of Part XII of the Act of 2000 shall, in so far as they are relevant to this section, apply in relation to a claim for compensation under this subsection as if—

(I) references to a planning authority were references to a water services authority or such other person performing the action concerned pursuant to this section,

(II) references to section 199 were references to this subsection,

(III) the reference to section 182 was a reference to this section,

and subject to any other necessary modifications.

...

C159 Chapter applied with modifications (31.12.2007) by *Water Services Act 2007* (30/2007), 97(8)(b)(i), S.I. No. 846 of 2007.

Laying of water mains, sewers, service connections and related cables and wires.

97.— ...

(8) ...

(*b*) The provisions of Chapter 1 of Part XII of the Act of 2000 shall in so far as they are relevant to this section, apply in relation to a claim for compensation under this subsection as if—

(i) references to a planning authority were references to a water services authority,

(ii) references to section 199 were references to this subsection,

(iii) the reference to section 182 was a reference to this section, and subject to any other necessary modifications.

...

Compensation claims time limits.

183.—(1) Subject to *subsection (2)*, a claim for compensation under this Part shall be made not later than 6 months after—

(*a*) in the case of a claim under *section 190*, the date of the decision of the Board,

(*b*) in the case of a claim under *section 195*, the date of the decision of the planning authority or the Board, as the case may be,

(*c*) in the case of a claim under *section 196*, the removal or alteration of the structure,

(*d*) in the case of a claim under *section 197*, the discontinuance or compliance,

(*e*) in the case of a claim referred to in *section 198*, the date of the approval of a scheme under *section 85* or the date of complying with a notice under *section 88*, as the case may be,

(*f*) in the case of a claim under *section 199*, the date on which the action of the planning authority occurred,

(*g*) in the case of a claim under *section 200*, the date on which the order creating the public right of way commences to have effect, and

(*h*) in the case of a claim under *section 201*, the date on which the damage is suffered.

(2) The High Court may, where it considers that the interests of justice so require, extend the period within which a claim for compensation under this Part may be brought, upon application being made to it in that behalf.

Determination of compensation claim.

184.—A claim for compensation under this Part shall, in default of agreement, be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act, 1919, but subject to—

(*a*) the *Second Schedule* in respect of a reduction in the value of an interest in land,

(*b*) the proviso that the arbitrator shall have jurisdiction to make a nil award, and

(*c*) the application of the *Second Schedule* to a claim for compensation under *Chapter III* of this Part for a reduction in the value of an interest as if a reference to "the relevant decision under Part III" or to "the decision" was, in relation to each of the sections in that Chapter set out in column A of the Table to this section, a reference to the matter set out in column B of that Table opposite the reference in column A to that section.

TABLE

A Section	B
196	the removal or alteration of a structure consequent upon a notice under *section 46*.

197	the discontinuance with, or the compliance with conditions on the continuance, of the use of land consequent upon a notice under *section 46*.
198	the approval of a scheme under *section 85* or the compliance with a notice under *section 88*.
199	the action by the planning authority under *section 182*.
200	the making by the planning authority of an order under *section 207*.

Regulations in relation to compensation.

185.—The Minister may make regulations to provide for the following:

(*a*) the form in which claims for compensation are to be made;

(*b*) the provision by a claimant of evidence in support of his or her claim, and information as to his or her interest in the land to which the claim relates;

(*c*) a statement by a claimant of the names and addresses of all other persons (so far as they are known to him or her) having an interest in the land to which the claim relates and, unless the claim is withdrawn, the notification by the planning authority or the claimant of every other person (if any) appearing to it or him or her to have an interest in the land.

Annotations

Editorial Notes:

E453 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

Prohibition of double compensation.

186.—Where a person would, but for this section, be entitled to compensation under this Part in respect of any matter or thing, and also to compensation under any other enactment in respect of the same matter or thing, he or she shall not be entitled to compensation in respect of the matter or thing both under this Part and under the other enactment, and shall not be entitled to any greater amount of compensation under this Part in respect of the matter or thing than the amount of the compensation to which he or she would be entitled under the other enactment in respect of the matter or thing.

Recovery of compensation from planning authority.

187.—(1) All compensation payable under this Part by the planning authority shall, when the amount thereof has been determined by agreement or by arbitration in accordance with this Part, be recoverable from that authority as a simple contract debt in any court of competent jurisdiction.

(2) All costs and expenses of parties to an arbitration to determine the amount of any compensation shall, in so far as the costs and expenses are payable by the planning authority, be recoverable from that authority as a simple contract debt in any court of competent jurisdiction.

(3) Section 69 to 79 of the Lands Clauses Consolidation Act, 1845, as amended or adapted by or under the Second Schedule to the Housing of the Working Classes Act, 1890, or any other Act, shall apply in relation to compensation by this section made recoverable as a simple contract debt, as if the compensation were a price or compensation under the Lands Clauses Consolidation Act, 1845, as so amended or adapted.

(4) Where money is paid into court by the planning authority under section 69 of the Lands Clauses Consolidation Act, 1845, as applied by this section, no costs shall be payable by that authority to any person in respect of any proceedings for the investment, payment of income, or payment of capital of that money.

Registration of compensation.

188.—(1) Where, on a claim for compensation under *Chapter II* of this Part, compensation has become payable of an amount exceeding £500, the planning authority shall prepare and retain a statement of that fact, specifying the refusal of permission or grant of permission subject to conditions, or the revocation or modification of permission, the land to which the claim for compensation relates, and the amount of the compensation.

(2) (*a*) A planning authority shall enter in the register particulars of a statement prepared by it under this section.

(*b*) Every entry under *paragraph (a)* shall be made within the period of 2 weeks beginning on the day of the preparation of the statement.

Recovery by planning authority of compensation on subsequent development.

189.—(1) No person shall carry out any development to which this section applies, on land in respect of which a statement (a "compensation statement") stands registered (whether under section 72 of the Act of 1963, section 9 of the Act of 1990 or *section 188* of this Act) until that amount, as is recoverable under this section in respect of the compensation specified in the compensation statement, has been paid or secured to the satisfaction of the planning authority.

(2) This section applies to any development (other than exempted development) of a kind specified in *section 192(2)*, except that—

(*a*) this section shall not apply to any development by virtue of a permission to develop land under *Part III* referred to in *section 192(5)* where the permission was granted subject to conditions other than conditions of a class or description set out in the *Fifth Schedule*, and

(*b*) in a case where the compensation specified in the statement became payable in respect of the imposition of conditions on the granting of permission to develop land, this section shall not apply to the development for which that permission was granted.

(3) Subject to *subsection (4)*, the amount recoverable under this section in respect of the compensation specified in a compensation statement—

(*a*) if the land on which the development is to be carried out (the "development area") is identical with, or includes (with other land) the whole of the land comprised in the compensation statement, shall be the amount of compensation specified in that statement, or

(*b*) if the development area forms part of the land comprised in the compensation statement, or includes part of that land together with other land not comprised in that statement, shall be so much of the amount of compensation specified in that statement as is attributable to land comprised in that statement and falling within the development area.

(4) The attribution of compensation under *subsection (3)(b)* shall be in accordance with the following—

(*a*) the planning authority shall (if it appears to it to be practicable to do so) apportion the amount of the compensation between the different parts of the land, according to the way in which those parts appear to it to be differently affected by the refusal of permission or grant of permission subject to conditions;

(*b*) if no apportionment is made, the amount of the compensation shall be treated as distributed rateably according to area over the land to which the statement relates;

(*c*) if an apportionment is made, the compensation shall be treated as distributed in accordance with that apportionment, as between the different parts of the land by reference to which the apportionment is made, and so much of

the compensation as, in accordance with the apportionment, is attributed to a part of the land shall be treated as distributed rateably according to area over that part of the land;

(*d*) if any person disputes an apportionment under this subsection, the dispute shall be submitted to and decided by a property arbitrator nominated under the Property Values (Arbitration and Appeals) Act, 1960.

(5) Where, in connection with the development of any land, an amount becomes recoverable under this section in respect of the compensation specified in a compensation statement, then no amount shall be recoverable, in so far as it is attributable to that land, in connection with any subsequent development thereof.

(6) An amount recoverable under this section in respect of any compensation shall be payable to the planning authority, and—

(*a*) shall be so payable, either as a single capital payment or as a series of instalments of capital and interest combined (the interest being determined at the same rate as for a judgment debt), or as a series of other annual or periodical payments, of such amounts, and payable at such times, as the planning authority may direct, after taking into account any representations made by the person by whom the development is to be carried out, and

(*b*) except where the amount is payable as a single capital payment, shall be secured by that person in such manner (whether by mortgage, covenant or otherwise) as the planning authority may direct.

(7) If any person initiates any development to which this section applies in contravention of *subsection (1)*, the planning authority may serve a notice upon him or her, specifying the amount appearing to it to be the amount recoverable under this section in respect of the compensation in question, and requiring him or her to pay that amount to the planning authority within such period, not being less than 12 weeks after the service of the notice, as may be specified in the notice, and, in default of the amount being paid to the planning authority within the period specified in the notice, it shall be recoverable as a simple contract debt in any court of competent jurisdiction.

Chapter II

Compensation in relation to decisions under Part III

Right to compensation.

190.—If, on a claim made to the planning authority, it is shown that, as a result of a decision on an appeal under *Part III* involving a refusal of permission to develop land or a grant of permission to develop land subject to conditions, the value of an interest of any person existing in the land to which the decision relates at the time of the decision is reduced, that person shall, subject to the other provisions of this Chapter, be entitled to be paid by the planning authority by way of compensation—

(*a*) such amount, representing the reduction in value, as may be agreed,

(*b*) in the absence of agreement, the amount of such reduction in value, determined in accordance with the *Second Schedule*, and

(*c*) in the case of the occupier of the land, the damage (if any) to his or her trade, business or profession carried out on the land.

Annotations

Modifications (not altering text):

C160 Section construed during specified period (3.07.2017 to 31.12.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 24, S.I. No. 270 of 2017.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(*a*) the period from the commencement of this provision until 31 December 2019, and

(*b*) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of section 191 (right to compensation) of Act of 2000 during specified period

24. Section 190 of the Act of 2000 has effect during the specified period as if in subsection (1) "or an application for permission under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*" were inserted after "under Part III".

Restriction of compensation.

191.—(1) Compensation under *section 190* shall not be payable in respect of the refusal of permission for any development—

(*a*) of a class or description set out in the *Third Schedule*, or

(*b*) if the reason or one of the reasons for the refusal is a reason set out in the *Fourth Schedule*.

(2) Compensation under *section 190* shall not be payable in respect of the refusal of permission for any development based on any change of the zoning of any land as a result of F1101**[**the making of a new development plan under section 12 or the preparing, making, amending or revoking of a local area plan under section 18 or 20.**]**

(3) Compensation under *section 190* shall not be payable in respect of the imposition, on the granting of permission to develop land, of any condition of a class or description set out in the *Fifth Schedule*.

(4) Compensation under *section 190* shall not be payable in respect of the refusal of permission, or of the imposition of conditions on the granting of permission, for the retention on land of any unauthorised structures.

Annotations

Amendments:

F1101 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 67, S.I. No. 477 of 2010.

Notice preventing compensation.

192.—(1) Where a claim for compensation is made under *section 190*, the planning authority concerned may, not later than 12 weeks after the claim is received, and having regard to all the circumstances of the case, serve a notice in such form as may be prescribed on the person by whom or on behalf of whom the claim has been made stating that, notwithstanding the refusal of permission to develop land or the grant of permission to develop land subject to conditions, the land in question is in its opinion capable of other development for which permission under *Part III* ought to be granted.

(2) For the purpose of *subsection (1)*, "other development" means development of a residential, commercial or industrial character, consisting wholly or mainly of the construction of houses, shops or office premises, hotels, garages and petrol filling

stations, theatres or structures for the purpose of entertainment, or industrial buildings (including warehouses), or any combination thereof.

(3) A notice under *subsection (1)* shall continue in force for a period of 5 years commencing on the day of service of the notice, unless before the expiration of that period—

(*a*) the notice is withdrawn by the planning authority,

(*b*) a permission is granted under *Part III* to develop the land to which the notice relates in a manner consistent with the other development specified in the notice, subject to no conditions or to conditions of a class or description set out in the *Fifth Schedule*, or

(*c*) the notice is annulled by virtue of *subsection (5)*.

(4) Compensation shall not be payable on a claim made under *section 190* where—

(*a*) a notice under *subsection (1)* is in force in relation to that claim,

(*b*) a notice under *subsection (1)* was in force in relation to that claim but has ceased to be in force by reason of the expiration of the period referred to in *subsection (3)*, and an application for permission under *Part III* to develop the land to which the notice relates, in a manner consistent with the other development specified in the notice, has not been made within that period, or

(*c*) a notice under *subsection (1)* was in force in relation to the claim but has ceased to be in force by virtue of *subsection (3)(b)*.

(5) A notice under *subsection (1)* shall be annulled where, upon an application for permission under *Part III* to develop the land to which the notice relates in a manner consistent with the other development specified in the notice, the permission is refused or is granted subject to conditions other than conditions of a class or description set out in the *Fifth Schedule*.

(6) No claim for compensation under *section 190* shall lie in relation to a decision under *Part III* referred to in *subsection (5)*.

Annotations

Editorial Notes:

E454 Power pursuant to section exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

Special provision for structures substantially replacing structures demolished or destroyed by fire.

193.—(1) Nothing in *section 191* shall prevent compensation being paid—

(*a*) in a case in which there has been a refusal of permission for the erection of a new structure substantially replacing a structure (other than an unauthorised structure) which has been demolished or destroyed by fire or otherwise than by an unlawful act of the owner or of the occupier with the agreement of the owner within the 2 years preceding the date of application for permission, or there has been imposed a condition in consequence of which the new structure may not be used for the purpose for which the demolished or destroyed structure was last used, or

(*b*) in a case in which there has been imposed a condition in consequence of which the new structure referred to in *paragraph (a)* or the front thereof, or the front of an existing structure (other than an unauthorised structure) which has been taken down in order to be re-erected or altered, is set back or forward.

(2) Every dispute and question as to whether a new structure would or does replace substantially within the meaning of *subsection (1)* a demolished or destroyed structure shall be referred to the Board for determination.

Restriction on assignment of compensation under *section 190*.

194.—A person shall not be entitled to assign to any other person all or any part of any prospective compensation under *section 190*, and every purported assignment or promise, express or implied, to pay any other person any money in respect of any such compensation is void.

Compensation where permission is revoked or modified.

195.—(1) Where permission to develop land has been revoked or modified by a decision under *section 44*—

(*a*) if, on a claim made to the planning authority, it is shown that any person interested in the land has incurred expenditure or entered into a contract to incur expenditure in respect of works which are rendered abortive by the revocation or modification, the planning authority shall pay to that person compensation in respect of that expenditure or contract,

(*b*) the provisions of this Part shall apply in relation to the decision where it revoked the permission or modified it by the imposition of conditions—

(i) in case it revoked the permission, as they apply in relation to refusal of permission to develop land, and

(ii) in case it modified the permission by the imposition of conditions, as they apply in relation to a grant of permission to develop land subject to conditions.

(2) For the purposes of this section, any expenditure reasonably incurred in the preparation of plans for the purposes of any works or upon other similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out those works but, no compensation shall be paid by virtue of this section in respect of any works carried out before the grant of the permission which is revoked or modified, or in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of that permission.

F1102**[**(3) This section shall apply to an order made under *section 44A* subject to—

(*a*) the modification that references to planning authority shall be construed as references to the Minister, and

(*b*) any other necessary modifications.**]**

Annotations

Amendments:

F1102 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 38, S.I. No. 436 of 2018.

Chapter III

Compensation in relation to section 46, 85, 88, 182, 207 and 252

Compensation regarding removal or alteration of structure.

196.—If, on a claim made to the planning authority, it is shown that, as a result of the removal or alteration of any structure consequent upon a notice under *section 46*, the value of an interest of any person in the structure existing at the time of the confirmation of the notice is reduced, or that any person having an interest in the structure at that time has suffered damage by being disturbed in his or her enjoyment

of the structure, that person shall, subject to the other provisions of this Part, be entitled to be paid by the planning authority by way of compensation the amount of the reduction in value or the amount of the damage.

Compensation regarding discontinuance of use.

197.—(1) If, on a claim made to the planning authority, it is shown that, as a result of the discontinuance, or the compliance with conditions on the continuance, of any use of land consequent upon a notice under *section 46*, the value of an interest of any person in the land existing at the time of the confirmation of the notice is reduced, or that any person having an interest in the land at that time has suffered damage by being disturbed in his or her enjoyment of the land, that person shall, subject to the other provisions in this Part, be entitled to be paid by the planning authority by way of compensation the amount of the reduction in value or the amount of the damage.

(2) Notwithstanding *subsection (1)*, no compensation shall be paid under this section in relation to reduction in value or damage resulting from the imposition under *section 46* of conditions on the continuance of the use of land, being conditions imposed in order to avoid or reduce serious water pollution or the danger of such pollution.

(3) *Subsection (1)* shall not apply where the use of land is for the exhibition of advertising unless at the time of the discontinuance or compliance, the land has been used for the exhibition of advertising for less than 5 years, whether the use was continuous or intermittent or whether or not, while the land was being so used, advertising was exhibited at the same place on the land.

Compensation claim relating to area of special planning control.

198.—If, on a claim made to a planning authority, it is shown that—

(*a*) the value of an interest of any person in land in an area of special planning control has been reduced, or

(*b*) as a result of complying with a notice under *section 88*, the value of an interest of any person in the land existing at the time of the notice has been reduced, or that any person, having an interest in the land at the time, has suffered damage by being disturbed in his or her enjoyment of the structure or other land,

that person shall be paid by the planning authority, by way of compensation, a sum equal to the amount of the reduction in value or a sum in respect of the damage suffered.

Compensation regarding cables, wires and pipelines.

199.—If, on a claim made to the local authority, it is shown that, as a result of the action of the authority pursuant to *section 182* in placing, renewing or removing any cable, wire or pipeline, attaching any bracket or fixture or affixing any notice, the value of an interest of any person in the land or structure existing at the time of the action of the planning authority is reduced, or that any person having an interest in the land or structure at that time has suffered damage by being disturbed in his or her enjoyment of the land or structure, that person shall, subject to the other provisions of this Part, be entitled to be paid by the local authority by way of compensation the amount of the reduction in value or the amount of the damage.

Compensation regarding creation of public rights of way.

200.—If, on a claim made to the planning authority, it is shown that the value of an interest of any person in land, being land over which a public right of way has been created by an order under *section 207* made by that authority, is reduced, or that any person having an interest in the land has suffered damage by being disturbed in his or her enjoyment of the land, in consequence of the creation of the public right of way, that person shall, subject to the other provisions of this Part, be entitled to be paid by the planning authority by way of compensation the amount of the reduction in value or the amount of the damage.

Compensation regarding entry on land.

201.—If, on a claim made to the planning authority, it is shown that, as a result of anything done under *section 252* or *253*, any person has suffered damage, the person shall, subject to the other provisions of this Part, be entitled to be paid by the planning authority by way of compensation the amount of the damage.

PART XIII

Amenities

Area of special amenity.

202.—(1) Where, in the opinion of the planning authority, by reason of—

(*a*) its outstanding natural beauty, or

(*b*) its special recreational value,

and having regard to any benefits for nature conservation, an area should be declared under this section to be an area of special amenity, it may, by resolution, make an order to do so and the order may state the objective of the planning authority in relation to the preservation or enhancement of the character or special features of the area, including objectives for the prevention or limitation of development in the area.

(2) Where it appears to the Minister that an area should be declared under this section to be an area of special amenity by reason of—

(*a*) its outstanding natural beauty, or

(*b*) its special recreational value,

and having regard to any benefits for nature conservation, he or she may, if he or she considers it necessary, direct a planning authority to make an order under this section in relation to an area specified in the direction and may, if he or she thinks fit, require that objectives specified in the direction be included by the planning authority in the order in respect of matters and in a manner so specified, and if the Minister gives a direction under this subsection the planning authority concerned shall comply with the direction.

(3) An order made pursuant to a direction under *subsection (2)* shall be revoked or amended only with the consent of the Minister.

(4) An order under this section shall come into operation on being confirmed, whether with or without modification, under *section 203*.

(5) Where the functional areas of two planning authorities are contiguous, either authority may, with the consent of the other, make an order under this section in respect of an area in or partly in the functional area of the other.

(6) Any order under this section may be revoked or varied by a subsequent order under this section.

(7) Subject to *subsection (3)*, a planning authority may, from time to time, review an order made under this section (excepting any order merely revoking a previous order), for the purpose of deciding whether it is desirable to revoke or amend the order.

Annotations

Editorial Notes:

E455 Making an order to declare an area to be an area of special amenity is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 item 32 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

Confirmation of order under *section 202*.

203.—(1) As soon as may be after it has made an order under *section 202*, a planning authority shall publish in one or more newspapers circulating in the area to which the order relates a notice—

(*a*) stating the fact of the order having been made, and describing the area to which it relates,

(*b*) naming a place where a copy of the order and of any map referred to therein may be seen during office hours,

(*c*) specifying the period (not being less than 4 weeks) within which, and the manner in which, objections to the order may be made to the planning authority, and

(*d*) specifying that the order requires confirmation by the Board and that, where any objections are duly made to the order and are not withdrawn, an oral hearing will be held and the objections will be considered before the order is confirmed.

(2) As soon as may be after the period for making objections has expired, the planning authority may submit the order made under *section 202* to the Board for confirmation, and, when making any such submission, it shall also submit to the Board any objections to the order which have been duly made and have not been withdrawn.

(3) (*a*) If no objection is duly made to the order, or if all objections so made are withdrawn, the Board may confirm the order made under *section 202*, with or without modifications, or refuse to confirm it.

(*b*) Where any objections to the order are not withdrawn, the Board shall hold an oral hearing and shall consider the objections, and may then confirm the order, with or without modifications, or refuse to confirm it.

(4) Any reference in this Act, or any other enactment, to a special amenity area order shall be construed as a reference to an order confirmed under this section.

Landscape conservation areas.

204.—(1) A planning authority may, by order, for the purposes of the preservation of the landscape, designate any area or place within the functional area of the authority as a landscape conservation area.

(2) (*a*) Notwithstanding any exemption granted under *section 4* or under any regulations made under that section, the Minister may prescribe development for the purpose of this section, which shall not be exempted development.

(*b*) Development prescribed under *paragraph (a)* may be subject to any conditions or restrictions that the Minister may prescribe.

(3) An order made by a planning authority under this section may specify, in relation to all or any part of the landscape conservation area, that any development prescribed by the Minister under *subsection (2)* shall be considered not to be exempted development in that area.

(4) Where a planning authority proposes to make an order under this section, it shall cause notice of the proposed order to be published in one or more newspapers circulating in the area of the proposed landscape conservation area.

(5) A notice under *subsection (4)* shall state that—

(*a*) the planning authority proposes to make an order designating a landscape conservation area, indicating the place or places and times at which a map outlining the area may be inspected, and shall give details of the location of the area and any prescribed development which it proposes to specify in the order, and

(*b*) submissions or observations regarding the proposed order may be made to the planning authority within a stated period of not less than 6 weeks, and that the submissions or observations will be taken into consideration by the planning authority.

(6) The members of a planning authority, having considered the proposed order and any submissions or observations made in respect of it, may, as they consider appropriate, by resolution, make the order, with or without modifications, or refuse to make the order.

(7) Where a planning authority wishes to amend or revoke an order made under this section, the planning authority shall give notice of its intention to amend or revoke the order, as the case may be.

(8) A notice under *subsection (7)* (which shall include particulars of the proposed amendment or revocation of the order) shall be published in one or more newspapers circulating in the landscape conservation area.

(9) A notice under *subsection (7)* shall state that—

(*a*) the planning authority proposes to amend or revoke the order, and

(*b*) submissions or observations regarding the proposed amendment or revocation of the order may be made to the planning authority within a stated period of not less than 6 weeks, and that the submissions or observations will be taken into consideration by the planning authority.

(10) The planning authority, having considered the proposed amendment or revocation of the order and any submissions or observations made in respect of it, may by resolution, as it considers appropriate, revoke the order or amend the order, with or without modifications, or refuse to make the order, as the case may be.

(11) Before making an order under this section, the planning authority shall consult with any State authority where it considers that any order relates to the functions of that State authority.

(12) (*a*) A planning authority shall give notice of any order made under this section in at least one newspaper circulating in its functional area, and the notice shall give details of any prescribed development which is specified in the order.

(*b*) Notice under this subsection shall also be given to the Board and to any other prescribed body which in the opinion of the planning authority has an interest in such notice.

(13) Where 2 or more planning authorities propose to jointly designate any area or place, which is situated within the combined functional area of the planning authorities concerned, as a landscape conservation area, the functions conferred on a planning authority under this section shall be performed jointly by the planning authorities concerned, and any reference to "planning authority" shall be construed accordingly.

(14) Particulars of an order under this section shall be entered in the register.

Annotations

Editorial Notes:

E456 Making, or refusing to make, or revocation or amendment of, an order designating any area or place as a landscape conservation area is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 item 33 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

Tree preservation orders.

205.—(1) If it appears to the planning authority that it is expedient, in the interests of amenity or the environment, to make provision for the preservation of any tree, trees, group of trees or woodlands, it may, for that purpose and for stated reasons, make an order with respect to any such tree, trees, group of trees or woodlands as may be specified in the order.

(2) Without prejudice to the generality of *subsection (1)*, an order under this section may—

(*a*) prohibit (subject to any conditions or exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of trees, and

(*b*) require the owner and occupier of the land affected by the order to enter into an agreement with the planning authority to ensure the proper management of any trees, group of trees or woodlands (including the replanting of trees), subject to the planning authority providing assistance, including financial assistance, towards such management as may be agreed.

(3) (*a*) Where a planning authority proposes to make an order under this section, it shall—

(i) serve a notice (which shall include particulars of the proposed order) of its intention to do so on the owner and the occupier of the land affected by the order, and

(ii) cause notice of the proposed order to be published in one or more newspapers circulating in its functional area.

(*b*) A notice under *paragraph (a)(i)* shall be accompanied by a map indicating the tree, trees, group of trees or woodland to be preserved.

(4) A notice under *subsection (3)* shall state that—

(*a*) the planning authority proposes to make an order preserving the tree, trees, group of trees or woodlands,

(*b*) submissions or observations regarding the proposed order may be made to the planning authority within a stated period of not less than 6 weeks, and that the submissions or observations will be taken into consideration by the planning authority, and

(*c*) any person who contravenes an order or, pending the decision of a planning authority, a proposed order under this section, shall be guilty of an offence.

(5) The planning authority, having considered the proposal and any submissions or observations made in respect of it, may by resolution, as it considers appropriate, make the order, with or without modifications, or refuse to make the order, and any person on whom notice has been served under *subsection (3)* shall be notified accordingly.

(6) Where a planning authority intends to amend or revoke an order made under this section, the planning authority shall give notice of its intention to amend or revoke the order, as the case may be.

(7) (*a*) A notice under *subsection (6)* (which shall include particulars of the proposed order) shall be—

(i) served on the owner and the occupier of the land affected by the order, and on any other person on whom a notice was served under *subsection (3)*, and

(ii) published in one or more newspapers circulating in the functional area of the planning authority.

(*b*) A notice under *subsection (6)* shall be accompanied by a map indicating the tree, trees, group of trees or woodland to be affected by the amendment or revocation of the order.

(8) A notice under *subsection (6)* shall state that—

(*a*) the planning authority proposes to amend or revoke the order, and

(*b*) submissions of observations regarding the proposal may be made to the planning authority within a stated period of not less than 6 weeks, and that the submissions or observations will be taken into consideration by the planning authority.

(9) The planning authority, having considered the proposal and any submissions or observations made in respect of it, may by resolution, as it considers appropriate, revoke the order or amend the order, with or without modifications, or refuse to make the order, as the case may be, and any person on whom notice has been served under *subsection (7)* shall be notified accordingly.

(10) Any person who contravenes an order or, pending the decision of a planning authority, a proposed order under this section, shall be guilty of an offence.

(11) Without prejudice to any other exemption for which provision may be made by an order under this section, no such order shall apply to the cutting down, topping or lopping of trees which are dying or dead or have become dangerous, or the cutting down, topping or lopping of any trees in compliance with any obligation imposed by or under any enactment or so far as may be necessary for the prevention or abatement of a nuisance or hazard.

(12) Particulars of an order under this section shall be entered in the register.

Annotations

Editorial Notes:

E457 Making, or refusing to make, or revocation or amendment of an order designating any area or place as a landscape conservation area is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 1 item 30 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

Creation of public rights of way pursuant to agreement.

206.—(1) A planning authority may enter into an agreement with any person having the necessary power in that behalf for the creation, by dedication by that person, of a public right of way over land.

(2) An agreement made under this section shall be on such terms as to payment or otherwise as may be specified in the agreement, and may, if it is so agreed, provide for limitations or conditions affecting the public right of way.

(3) Where an agreement has been made under this section, it shall be the duty of the planning authority to take all necessary steps for securing that the creation of the public right of way is effected in accordance with the agreement.

(4) Particulars of an agreement made under this section shall be entered in the register.

Compulsory powers for creation of public rights of way.

207.—(1) If it appears to the planning authority that there is need for a public right of way over any land, the planning authority may, by resolution, make an order creating a public right of way over the land.

(2) (*a*) Where a planning authority proposes to make an order under this section, it shall—

(i) serve a notice (which shall include particulars of the proposed order) of its intention to do so on the owner and the occupier of the land over which the public right of way is proposed to be created and on any other person who in its opinion will be affected by the creation of the public right of way, and

(ii) cause notice of the proposed order to be published in one or more newspapers circulating in its functional area.

(*b*) A notice under *paragraph (a)(i)* shall be accompanied by a map indicating the public right of way to be created.

(3) A notice under *subsection (2)* shall state that—

(*a*) the planning authority proposes to make an order creating the public right of way, and

(*b*) submissions or observations regarding the proposed order may be made to the planning authority within a stated period of not less than 6 weeks and that the submissions or observations will be taken into consideration by the planning authority.

(4) The planning authority, having considered the proposal and any submissions or observations made in respect of it, may by resolution, as it considers appropriate, make the order, with or without modifications, or refuse to make the order and any person on whom notice has been served under *subsection (2)* shall be notified accordingly.

(5) Any person who has been notified of the making of an order under *subsection (4)* may appeal to the Board against the order within 4 weeks of being notified under that subsection.

(6) Where an appeal is brought under this section against an order, the Board may confirm the order with or without modifications or annul the order.

(7) An order under this section (other than an order which is annulled) shall take effect—

(*a*) in case no appeal against it is taken or every appeal against it is withdrawn before the expiration of the period for taking an appeal, on the expiration of the period for taking an appeal, or

(*b*) in case an appeal or appeals is or are taken against it and the appeal or appeals is or are not withdrawn during the period for taking an appeal, when every appeal not so withdrawn has been either withdrawn or determined.

(8) Particulars of a right of way created under this section shall be entered in the register.

(9) Any public right of way created under an enactment repealed by this Act that was in force immediately before the commencement of this section shall be deemed to have been made under this section.

Annotations

Editorial Notes:

E458 Making, or refusing to make an order creating a public right of way over any land is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 2 item 16 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

Supplemental provisions with respect to public rights of way.

208.—(1) Where a public right of way is created pursuant to this Act, or where a provision in a development plan F1103**[**or local area plan**]** in force on the commencement of this section relates to the preservation of a public right of way, the way shall be maintained by the planning authority.

(2) (*a*) Where a right of way is required by this section to be maintained by the planning authority, a person shall not damage or obstruct the way, or hinder or interfere with the exercise of the right of way.

(*b*) A person who contravenes this subsection shall be guilty of an offence.

(3) Where, in the case of a right of way required by this section to be maintained by the planning authority, the way is damaged or obstructed by any person, the planning authority maintaining the right of way may repair the damage or remove the obstruction, and the expenses incurred by it in the repair or removal shall be paid to them by that person and, in default of being so paid, shall be recoverable from him or her as a simple contract debt in any court of competent jurisdiction.

Annotations

Amendments:

F1103 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 39, S.I. No. 436 of 2018.

Repair and tidying of advertisement structures and advertisements.

209.—(1) If it appears to a planning authority that, having regard to the interests of public safety or amenity, an advertisement structure or advertisement in its area should be repaired or tidied, the planning authority may serve on the person having control of the structure or advertisement a notice requiring that person to repair or tidy the advertisement structure or advertisement within a specified period.

(2) If it appears to a planning authority that any advertisement structure or advertisement is derelict, the planning authority may serve on the person having control of the structure or advertisement a notice requiring that person to remove the advertisement structure or advertisement within a specified period.

(3) If within the period specified in a notice under this section, the advertisement structure or advertisement is not repaired or tidied, or removed, as the case may be, the planning authority may enter on the land on which the structure is situate or the advertisement is exhibited and repair, tidy or remove the structure or advertisement and may recover as a simple contract debt in any court of competent jurisdiction from the person having control of the structure or advertisement any expenses reasonably incurred by it in that behalf.

PART XIV

ACQUISITION OF LAND, ETC.

Annotations

Modifications (not altering text):

C161 References construed and Part applied with modifications by *Industrial Development Act 1986* (9/1986), s. 16D as inserted (19.09.2018) by *Industrial Development (Amendment) Act 2018* (19/2018), s. 7, S.I. No. 361 of 2018.

Functions of Bord Pleanála

16D. (1) The Board shall have the same functions in relation to a compulsory purchase order made by IDA by virtue of subsection (2) of section 16C as it has under Part XIV of the Act of 2000 in relation to a compulsory acquisition of land by a local authority under the Act of 1966, and for that purpose, a reference (howsoever expressed) in the Act of 2000 to the functions transferred to the Board under that Part shall include a reference to the performance of those functions by the Board in relation to such an order.

(2) Without prejudice to the generality of subsection (1)—

(*a*) sections 216(1), 217(3), (5), (6), (6A) and (7), 217A, 217C(1), 218(1), (3) and (4), 219 and 221(1), (2), (3), (5), (7) and (8) of the Act of 2000 shall, with any necessary modifications, apply in relation to a compulsory purchase order made by virtue of subsection (2) of section 16C as if references in that Act to a local authority were to IDA, and

(*b*) sections 50 and 50A of the Act of 2000 shall, with any necessary modifications, apply in respect of the performance by the Board of its functions under subsection (1) in the same manner as those sections apply in respect of the performance by the Board of a function transferred under Part XIV of that Act.

(3) In this section—

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

"Board" means An Bord Pleanála.

C162 Application of Act and Part extended (1.12.2009) by *Dublin Transport Authority Act 2008* (15/2008), s. 44(7), S.I. No. 458 of 2009.

Functions of Authority in relation to public transport infrastructure.

44.— ...

(7) The Act of 2000 applies in relation to the compulsory acquisition of land under subsection (1)(c) or (6) as if it were an acquisition under Part XIV of that Act and for that purpose a reference to a local authority shall be read as a reference to the Authority.

...

C163 References construed (31.12.2007) by *Water Services Act 2007* (30/2007), s. 41(12), S.I. No. 846 of 2007.

Installation of pipes.

41.— ...

(12) Section 182 of the Act of 2000 shall apply to a water services authority for the purposes of this Act, and any references to a local authority in the said section or in Part XIV or related Parts of the Act of 2000 shall be deemed to be a reference to a water services authority for the purposes of this Act.

Appropriation of land for local authority purposes.

210.—(1) Where—

(*a*) land is vested in a local authority for the purposes of its functions under this or any other enactment, and

(*b*) the local authority is satisfied that the land should be made available for the purposes of any of those functions,

the local authority may appropriate the land for those purposes.

(2) Where land is vested in a local authority by means of compulsory acquisition under any enactment, no claim shall be made for compensation or additional compensation and the acquisition shall not be challenged on account of any appropriation of land in accordance with *subsection (1)*.

Disposal of land by local authority.

211.—(1) Any land acquired for the purposes of or appropriated under this Act or any other Act or acquired otherwise, by a local authority, may be sold, leased or exchanged, subject to such conditions as it may consider necessary where it no longer requires the land for any of its functions, or in order to secure—

(*a*) the best use of that or other land, and any structures or works which have been, or are to be, constructed, erected, made or carried out on, in or under that or other land, or

(*b*) the construction, erection, making or carrying out of any structures or works appearing to it to be needed for the proper planning and sustainable development of its functional area.

(2) The consent of the Minister shall, subject to *subsection (3)*, be required for any sale, lease or exchange under *subsection (1)* in case the price or rent, or what is obtained by the local authority on the exchange, is not the best reasonably obtainable, but in any other case, shall not be required notwithstanding the provisions of any other enactment.

(3) The Minister may by regulations provide for the disposal of land under *subsection (1)* without the consent of the Minister as required by *subsection (2)* in such circumstances as may be specified in the regulations and subject to compliance with such conditions (including conditions for the giving of public notice) as may be so specified.

(4) Capital money arising from the disposal of land under *subsection (1)* shall be applied for a capital purpose for which capital money may be properly applied F1104**[**, or for such purposes as may be approved by the Minister whether generally or in relation to specified cases or circumstances**]**.

(5) (*a*) Where, as respects any land acquired for the purposes of or appropriated under this or any other Act or acquired otherwise by a local authority, the authority considers that it will not require the use of the land for any of its functions for a particular period, the authority may grant a lease of the land for that period or any lesser period and the lease shall be expressed as a lease granted for the purposes of this subsection.

(*b*) The Landlord and Tenant Acts, 1967 to 1994, shall not apply in relation to a lease granted under *paragraph (a)* for the purposes of this subsection.

Annotations

Amendments:

F1104 Inserted (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(i), S.I. No. 458 of 2001.

Modifications (not altering text):

C164 Prospective affecting provision: application of subs. (2) restricted by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 27, not commenced as of date of revision.

Non-application of certain provisions to disposals for purposes of this Chapter.

27.—Section 211 (2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply to the disposal, for any of the purposes of this Chapter, of land or a dwelling by a housing authority.

C165 Application of subs. (2) restricted (31.03.2022) by *Land Development Agency Act 2021* (26/2021), s. 58, S.I. No. 143 of 2022.

Provision relating to local authority land under this Part

58. Section 211(2) of the Act of 2000 and section 183 of the Local Government Act 2001 shall not apply to the disposal by a local authority to the Agency under this Part of relevant public land owned by the local authority which land—

(*a*) is situated—

(i) in the local authority area in respect of which a development plan is in force, or

(ii) in the functional area, within the meaning of the Act of 2000, of, or any particular area within the functional area of, a planning authority in respect of which a local area plan is in force,

and

(*b*) is zoned for solely residential use or a mixture of residential and other uses in, as the case may be, the development plan or local area plan.

C166 Application of subs. (2) restricted (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 22(2), S.I. No. 450 of 2021.

Relationship with other enactments

22. ...

(2) Section 211(2) of the Act of 2000 and section 183 of the Local Government Act 2001 shall not apply to the sale of a dwelling to an eligible applicant under an affordable dwelling purchase arrangement.

...

C167 Application of subs. (2) restricted (18.06.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 83(5), S.I. No. 206 of 2018.

Affordable dwelling purchase arrangements.

83.— ...

(5) Section 211 (2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply to the sale of a dwelling to an eligible household under an affordable dwelling purchase arrangement.

...

C168 Application of subsection (2) restricted (27.07.2014) by *Housing (Miscellaneous Provisions) Act 2014* (21/2014), s. 25(4), commenced on enactment.

Sale of house to tenant

25.— ...

(4) Section 211 (2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 do not apply to the sale of a house under this Part.

...

C169 Application of subs. (2) restricted (1.01.2010 and 1.01.2012) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), ss. 45(5) and 64(10), S.I. No. 540 of 2009 and S.I. No. 680 of 2011.

Sale of dwelling by incremental purchase arrangement.

45.— ...

(5) Section 211 (2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply to the sale of a dwelling to an eligible household under this section.

...

64.— ...

(10) Section 211 (2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply to the sale of an apartment to a tenant in accordance with this Part.

Editorial Notes:

E459 Previous affecting provision: application of subs. (2) restricted by *Housing Act 1966* (21/1966), s. 90(4A) as inserted (1.12.2009) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 8 and sch. 2 part 1 item 1; deleted (1.01.2016) by *Housing (Miscellaneous Provisions) Act 2014* (21/2014), s. 31(a), S.I. No. 482 of 2015.

Development by planning authority, etc.

212.—(1) A planning authority may develop or secure or facilitate the development of land and, in particular and without prejudice to the generality of the foregoing, may do one or more of the following:

(*a*) secure, facilitate and control the improvement of the frontage of any public road by widening, opening, enlarging or otherwise improving;

(*b*) develop any land in the vicinity of any road or public transport facility which it is proposed to improve or construct;

(*c*) provide areas with roads, infrastructure facilitating public transport and such services and works as may be needed for development;

(*d*) provide, secure or facilitate the provision of areas of convenient shape and size for development;

(*e*) secure, facilitate or carry out the development and renewal of areas in need of physical, social or economic regeneration and provide open spaces and other public amenities;

(*f*) secure the preservation of any view or prospect, any protected structure or other structure, any architectural conservation area or natural physical feature, any trees or woodlands or any site of archaeological, F1105**[**geological or historical interest;**]**

F1106**[**(*g*) secure the creation, management, restoration or preservation of any site of scientific or ecological interest, including any Nature Conservation Site,**]**

(2) A planning authority may provide or arrange for the provision of—

(*a*) sites for the establishment or relocation of industries, businesses (including hotels, motels and guesthouses), houses, offices, shops, schools, churches, leisure facilities and other community facilities and of such buildings, premises, houses, parks and structures as are referred to in *paragraph (b)*,

(*b*) factory buildings, office premises, shop premises, houses, amusement parks and structures for the purpose of entertainment, caravan parks, buildings for the purpose of providing accommodation, meals and refreshments, buildings for the purpose of providing trade and professional services and advertisement structures,

(*c*) transport facilities, including public and air transport facilities, and

(*d*) any services which it considers ancillary to anything which is referred to in *paragraph (a)*, *(b)* or *(c)*,

and may maintain and manage any such site, building, premises, house, park, structure or service and may make any charges which it considers reasonable in relation to the provision, maintenance or management thereof.

(3) A planning authority may, in connection with any of its functions under this Act, make and carry out arrangements or enter into agreements with any person or body for the development or management of land, and may incorporate a company for those purposes.

(4) A planning authority may use any of the powers available to it under any enactment, including any powers in relation to the compulsory acquisition of land, in relation to its functions under this section and in particular in order to facilitate the assembly of sites for the purposes of the orderly development of land.

F1106**[**(5) In this section "Nature Conservation Site" means—

(*a*) a European site,

(*b*) an area proposed as a natural heritage area and the subject of a notice made under section 16(1) of the Wildlife (Amendment) Act 2000,

(*c*) an area designated as a natural heritage area by a natural heritage area order made under section 18 of the Wildlife (Amendment) Act 2000,

(*d*) a nature reserve established under an establishment order made under section 15 (amended by section 26 of the Wildlife (Amendment) Act 2000) of the Wildlife Act 1976,

(*e*) a nature reserve recognised under a recognition order made under section 16 (amended by section 27 of the Wildlife (Amendment) Act 2000) of the Wildlife Act 1976, or

(*f*) a refuge for fauna or flora designated under a designation order made under section 17 (amended by section 28 of the Wildlife (Amendment) Act 2000) of the Wildlife Act 1976.**]**

Annotations

Amendments:

F1105 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 68(a), S.I. No. 405 of 2010.

F1106 Inserted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 68(b) and (c), S.I. No. 405 of 2010.

Land acquisition by local authorities.

213.—(1) The power conferred on a local authority under any enactment to acquire land shall be construed in accordance with this section.

(2) (*a*) A local authority may, for the purposes of performing any of its functions (whether conferred by or under this Act, or any other enactment passed before or after the passing of this Act), including giving effect to or facilitating the implementation of its development plan or its housing strategy under *section 94*, do all or any of the following:

(i) acquire land, permanently or temporarily, by agreement or compulsorily,

(ii) acquire, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any land or water or any substratum of land,

(iii) restrict or otherwise interfere with, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any land or water or any substratum of land,

and the performance of all or any of the functions referred to in *subparagraphs (i)*, *(ii)* and *(iii)* are referred to in this Act as an "acquisition of land".

(*b*) A reference in *paragraph (a)* to acquisition by agreement shall include acquisition by way of purchase, lease, exchange or otherwise.

(*c*) The functions conferred on a local authority by *paragraph (a)* may be performed in relation to—

(i) land, or

(ii) any easement, way-leave, water-right or other right to which that paragraph applies,

whether situated or exercisable, as the case may be, inside or outside the functional area of the local authority concerned.

(3) (*a*) The acquisition may be effected by agreement or compulsorily in respect of land not immediately required for a particular purpose if, in the opinion of the local authority, the land will be required by the authority for that purpose in the future.

(*b*) The acquisition may be effected by agreement in respect of any land which, in the opinion of the local authority, it will require in the future for the purposes of any of its functions notwithstanding that the authority has not determined the manner in which or the purpose for which it will use the land.

(*c*) *Paragraphs (a)* and *(b)* shall apply and have effect in relation to any power to acquire land conferred on a local authority by virtue of this Act or any other enactment whether enacted before or after this Act.

(4) A local authority may be authorised by compulsory purchase order to acquire land for any of the purposes referred to in *subsection (2)* of this section and section 10 (as amended by section 86 of the Housing Act, 1966) of the Local Government (No. 2) Act, 1960, shall be construed so as to apply accordingly and the reference to "purposes" in section 10(1)(a) of that Act shall be construed as including purposes referred to in *subsection (2)* of this section.

Annotations

Modifications (not altering text):

C170 Extent of functions clarified (1.01.2002) by *Local Government Act 2001* (37/2001), s. 184(2), S.I. No. 588 of 2001.

Exercise of certain land functions.

184.— ...

(2) For the avoidance of doubt it is hereby declared that the functions conferred on a local authority by section 213(2)(a) of the Act of 2000 may be performed in relation to any easement, way-leave, water right or other right to which that paragraph applies granted by or held from the local authority acquiring the land and "acquisition of land" shall be construed accordingly for the purposes of that Act.

...

Transfer of Minister's functions in relation to compulsory acquisition of land to Board.

214.—(1) The functions conferred on the Minister in relation to the compulsory acquisition of land by a local authority under the following enactments are hereby transferred to, and vested in, the Board and any reference in any relevant provision of those Acts to the Minister, or construed to be a reference to the Minister, shall be deemed to be a reference to the Board except that any powers under those enactments to make regulations or to prescribe any matter shall remain with the Minister:

Public Health (Ireland) Act, 1878;

Local Government (Ireland) Act, 1898;

Local Government Act, 1925;

Water Supplies Act, 1942;

Local Government (No. 2) Act, 1960;

Local Government (Sanitary Services) Act, 1964;

Housing Act, 1966;

Derelict Sites Act, 1990;

Roads Acts, 1993 and 1998;

Dublin Docklands Development Authority Act, 1997.

(2) For the purposes of the compulsory acquisition of land by a local authority the following constructions shall apply:

(*a*) the references construed to be references to the Minister in section 203 of the Public Health (Ireland) Act, 1878, shall be construed as referring to the Board and any connected references shall be construed accordingly;

(*b*) the references to the Minister in section 68 of, and in the Sixth Schedule to, the Local Government Act, 1925, shall be construed as referring to the Board and any connected references shall be construed accordingly;

(*c*) the references to the Minister in sections 4, 8, 9 and 10 of, and in the Schedule to, the Water Supplies Act, 1942, shall be construed as referring to the Board and any connected references shall be construed accordingly;

(*d*) the references to the Minister, or to the appropriate Minister, in section 10 (as amended by section 86 of the Housing Act, 1966) of the Local Government (No. 2) Act, 1960, shall be construed as referring to the Board and any connected references shall be construed accordingly;

(*e*) the references to the Minister in sections 7, 8, 9 and 16 of the Local Government (Sanitary Services) Act, 1964, shall be construed as referring to the Board and any connected references shall be construed accordingly;

(*f*) (i) the references to the Minister, or to the appropriate Minister, in sections 76, 77, 78 F1107**[**and 80**]** of, and the Third Schedule to, the Housing Act, 1966, shall be construed as referring to the Board and any connected references shall be construed accordingly;

(ii) F1108**[**...**]**

(*g*) the references to the Minister in sections 16 and 17 of the Derelict Sites Act, 1990, shall be construed as referring to the Board and any connected references shall be construed accordingly;

(*h*) the references to the Minister in section 27(1) of the Dublin Docklands Development Authority Act, 1997, shall be construed as referring to the Board and any connected references shall be construed accordingly.

(3) The transfer of the Minister's functions to the Board in relation to the compulsory purchase of land in accordance with *subsection (1)* shall include the transfer of all necessary ancillary powers in relation to substrata, easements, rights over land (including public rights of way), rights of access to land, the revocation or modification of planning permissions or other such functions as may be necessary in order to ensure that the Board can fully carry out its functions in relation to the enactments referred to in *subsection (1)*.

(4) In this section and *section 216*, "local authority" includes the Dublin Docklands Development Authority.

Annotations

Amendments:

F1107 Substituted (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(j)(i), S.I. No. 458 of 2001.

F1108 Deleted (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(j)(ii), S.I. No. 458 of 2001.

Modifications (not altering text):

C171 References construed (1.03.2016, dissolution day) by *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015), s. 7, commenced on enactment and S.I. No. 144 of 2016. The Council referred to is Dublin City Council.

Transfer of functions

7. (1) All functions that, immediately before the dissolution day, were vested in the Authority under subsections (1) (with the exception of functions vested under subparagraphs (i), (ii) and (iii) of paragraph (b)), (2), (3), (5) and (6) of section 18 of the Act of 1997 shall on that day stand transferred to the Council.

(2) References in any enactment (other than this Act) or instrument under an enactment to the Authority shall, to the extent that such references relate to a function transferred to the Council under this section, on and after the dissolution day, be construed as references to the Council.

Transfer of certain Ministerial functions under Roads Acts, 1993 and 1998, to Board.

215.—(1) The functions of the Minister in relation to a scheme or proposed road development under sections 49, 50 and 51 of the Roads Act, 1993, are hereby transferred to and vested in the Board and relevant references in that Act to the Minister shall be construed as references to the Board and any connected references shall be construed accordingly, except that any powers under those sections to make regulations or to prescribe any matter shall remain with the Minister.

(2) The references to the Minister in section 19(7) and paragraphs (*a*), (*c*), (*e*) and (*f*) of section 20(1) of the Roads Act, 1993, shall be deemed to be references to the Board.

F1109[Transfer of certain Ministerial functions under Gas Act 1976 to Board.

215A.—(1) The functions of—

(*a*) the Minister for Communications, Marine and Natural Resources,

(*b*) any other Minister of the Government, or

(*c*) the Commission for Energy Regulation,

under sections 31 and 32 of, and the Second Schedule to, the Gas Act 1976, as amended, in relation to the compulsory acquisition of land in respect of a strategic gas infrastructure development are transferred to, and vested in, the Board, and relevant references in that Act to the Minister for Communications, Marine and Natural Resources, any other Minister of the Government or the Commission for Energy Regulation shall be construed as references to the Board and any connected references shall be construed accordingly.

(2) The transfer of the functions of the Minister for Communications, Marine and Natural Resources, any other Minister of the Government or the Commission for Energy Regulation to the Board in relation to the compulsory acquisition of land in accordance with *subsection (1)* shall include the transfer of all necessary ancillary powers in relation to deviation limits, substrata of land, easements, rights over land (including wayleaves and public rights of way), rights of access to land, the revocation or modification of planning permissions or other such functions as may be necessary in order to ensure that the Board can fully carry out its functions in relation to the enactments referred to in *subsection (1)*.

(3) Article 5 of the Second Schedule to the Gas Act 1976 shall not apply in respect of the function of compulsory acquisition transferred to the Board under *subsection (1)*.**]**

Annotations

Amendments:

F1109 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 37, S.I. No. 684 of 2006.

F1110**[**Transfer of certain Ministerial functions under Air Navigation Act 1998.

215B.—(1) The functions of the Minister for Transport under section 17 of, and the Second Schedule to, the Air Navigation and Transport (Amendment) Act 1998, as amended, in relation to the compulsory acquisition of land for the purposes set out in section 18 of that Act, are transferred to, and vested in, the Board, and relevant references in that Act to the Minister for Transport shall be construed as references to the Board and any connected references shall be construed accordingly.

(2) The transfer of the functions of the Minister for Transport in relation to the compulsory acquisition of land in accordance with *subsection (1)* shall include the transfer of all necessary ancillary powers in relation to substrata of land, easements, rights over land (including wayleaves and public rights of way), rights over land or water or other such functions as may be necessary in order to ensure that the Board can fully carry out its functions in relation to the enactments referred to in *subsection (1)*.**]**

Annotations

Amendments:

F1110 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 37, S.I. No. 684 of 2006.

F1111**[**Transfer of certain Ministerial functions under Harbours Act 1996.

215C.—(1) The functions of the Minister for Transport under section 16 of, and the Fourth Schedule to, the Harbours Act 1996, as amended, in relation to the compulsory acquisition of land for the purposes set out in that section are transferred to, and vested in, the Board and, subject to *section 7(3)* of the *Harbours (Amendment) Act 2009*, relevant references in that Act to the Minister for Transport shall be construed as references to the Board and any connected references shall be construed accordingly.

(2) The transfer of the functions of the Minister for Transport in relation to the compulsory acquisition of land in accordance with *subsection (1)* shall include the transfer of all necessary ancillary powers in relation to substrata of land, easements, rights over land (including wayleaves and public rights of way), rights over land or water or other such functions as may be necessary in order to ensure that the Board can fully carry out its functions in relation to the enactments referred to in *subsection (1)*.**]**

Annotations

Amendments:

F1111 Inserted (21.07.2009) by *Harbours (Amendment) Act 2009* (26/2009), s.7(2)(b), commenced on enactment.

Confirmation of compulsory purchase order where there are no objections.

216.—(1) Where a compulsory purchase order is made in respect of the acquisition of land by a local authority in accordance with any of the enactments referred to in *section 214(1)* and—

(*a*) no objections are received by the Board or the local authority, as the case may be, within the period provided for making objections,

(*b*) any objection received is subsequently withdrawn at any time before the Board makes its decision, or

(*c*) the Board is of opinion that any objection received relates exclusively to matters which can be dealt with by a property arbitrator,

the Board shall, where appropriate, inform the local authority and the local authority shall, as soon as may be, confirm the order with or without modification, or it may refuse to confirm the order.

(2) *Subsection (1)* shall not prejudice any requirement to obtain approval for a scheme in accordance with section 49 of the Roads Act, 1993, or proposed road development in accordance with section 51 of the Roads Act, 1993, or for proposed development under *section 175* of this Act.

(3) This section shall not apply with respect to a compulsory purchase under the Derelict Sites Act, 1990.

Certain time limits in respect of compulsory purchase of land, etc.

217.—(1) Where an objection is made to a sanitary authority in accordance with section 6 of the Water Supplies Act, 1942, and not withdrawn, the sanitary authority shall, within 6 weeks of receiving the objection, apply to the Board for a provisional order in accordance with section 8 of that Act.

(2) Where an objection is made to a sanitary authority in accordance with section 8 of the Local Government (Sanitary Services) Act, 1964, and not withdrawn, the sanitary authority shall, within 6 weeks of receiving the objection, apply to the Board for its consent to the compulsory acquisition of the land in accordance with that section.

(3) Subject to *section 216*, where a local authority complies with the notification provisions in relation to a compulsory purchase order under paragraph 4 of the Third Schedule to the Housing Act, 1966, it shall, within 6 weeks of complying with those provisions, submit the compulsory purchase order to the Board for confirmation.

(4) Where a road authority complies with the notification provisions in relation to a scheme in accordance with section 48 of the Roads Act, 1993, it shall, within 6 weeks of complying with those provisions, submit the scheme to the Board for approval.

(5) A notice of the making of a confirmation order to be published or served, as the case may be, in accordance with section 78(1) of the Housing Act, 1966, shall be published or served within 12 weeks of the making of the confirmation order.

(6) Notwithstanding section 123 of the Lands Clauses Consolidation Act, 1845, where a compulsory purchase order or provisional order is confirmed by a local authority or the Board and becomes operative and the local authority decides to acquire land to which the order relates, the local authority shall serve any notice required under any enactment to be served in order to treat for the purchase of the several interests

in the land (including under section 79 of the Housing Act, 1966) within 18 months of the order becoming operative.

F1112**[**(6A) (*a*) Notwithstanding *subsection (6)*, where legal proceedings are in being challenging the validity of either—

(i) the compulsory purchase order or provisional order concerned, or

(ii) permissions, consents or authorisations granted by or under this Act or by or under any other enactment relating to the project in respect of which, or being the purpose for which, the land concerned is to be acquired,

and a notice to treat is not served within the period of 18 months (in this subsection referred to as the "first period"), the first period shall be extended for a further period (in this subsection referred to as the "second period") beginning on the day immediately after the day on which the first period expires and expiring on the earlier of the following:

(I) 30 days after the day on which the legal proceedings are concluded; or

(II) 18 months after the day on which the first period expires.

(*b*) Where proceedings referred to in *paragraph (a)* have not been concluded during the second period, on an application to the High Court by the local authority before the expiration of the second period, that court may, if it considers that, in the particular circumstances there is good and sufficient reason for doing so, extend the second period by such further period from its expiration as it believes necessary in the circumstances provided that, having regard to all of the circumstances, it considers that it would be just and equitable to do so.**]**

(7) (*a*) A decision of the Board made in the performance of a function transferred to it under *section 214* or *215* shall become operative 3 weeks from the date on which notice of the decision is first published.

(*b*) *Subsections (8)* and *(9)* of section 52 of the Roads Act, 1993 (as inserted by section 5 of the Roads (Amendment) Act, 1998) and subsections (2) to (4) of section 78 of the Housing Act, 1966, shall not apply in relation to decisions of the Board under this Part.

Annotations

Amendments:

F1112 Inserted (7.07.2010) by *Compulsory Purchase Orders (Extension of Time Limits) Act 2010* (17/2010), s. 1, commenced on enactment.

Modifications (not altering text):

C172 References to a "sanitary authority" construed as "Irish Water" (1.01.2014) by *Water Services (No. 2) Act 2013* (50/2013), ss. 6, 7(4), S.I. No. 575 of 2013.

Transfer day

6.— The Minister shall, by order, appoint a day to be the transfer day for the purposes of this Act.

Transfer of functions from water service authorities to Irish Water

7.— ...

(4) References to a sanitary authority in any enactment or instrument under any enactment shall, on and after the transfer day, in so far as they relate to any function transferred by subsection (3), be construed as references to Irish Water.

...

Editorial Notes:

E460 Previous affecting provision: similar insertion to that made by 17/2010 made by *Planning and Development (Amendment) Act 2010* (30/2010), s. 69, not commenced; repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. No. 474 of 2011.

F1113[Transferred functions under this Part: supplemental provisions.

217A.—(1) The Board may, in respect of any of the functions transferred under this Part concerning the confirming or otherwise of any compulsory acquisition, at its absolute discretion and at any time before making a decision in respect of the matter—

(*a*) request submissions or observations from any person who may, in the opinion of the Board, have information which is relevant to its decision concerning the confirming or otherwise of such compulsory acquisition (and may have regard to any submission or observation so made in the making of its decision), or

(*b*) hold meetings with the local authority, or in the case of *section 215A* the person who applied for the acquisition order, or any other person where it appears to the Board to be necessary or expedient for the purpose of—

(i) making a decision concerning the confirming or otherwise of such compulsory acquisition, or

(ii) resolving any issue with the local authority or the applicant, as may be appropriate, or any disagreement between the authority or the applicant, as may be appropriate, and any other person, including resolving any issue or disagreement in advance of an oral hearing.

(2) Where the Board holds a meeting in accordance with *subsection (1)(b)*, it shall keep a written record of the meeting and make that record available for inspection.

(3) The Board, or an employee of the Board duly authorised by the Board, may appoint any person to hold a meeting referred to in *subsection (1)(b)*.**]**

Annotations

Amendments:

F1113 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 38, S.I. No. 684 of 2006.

F1114[*Section 215*: supplemental provisions.

217B.—(1) The Board may, at its absolute discretion and at any time before making a decision on a scheme or proposed road development referred to in *section 215*—

(*a*) request further submissions or observations from any person who made submissions or observations in relation to the scheme or proposed road development, or any other person who may, in the opinion of the Board, have information which is relevant to its decision on the scheme or proposed road development, or

(*b*) hold meetings with the road authority or any other person where it appears to the Board to be necessary or expedient for the purpose of—

(i) making a decision on the scheme or proposed road development, or

(ii) resolving any issue with the road authority or any disagreement between the authority and any other person, including resolving any issue or disagreement in advance of an oral hearing.

(2) Where the Board holds a meeting in accordance with *subsection (1)(b)*, it shall keep a written record of the meeting and make that record available for inspection.

(3) The Board, or an employee of the Board duly authorised by the Board, may appoint any person to hold a meeting referred to in *subsection (1)(b)*.

(4) The Board may—

(*a*) if it considers it necessary to do so, require a road authority that has submitted a scheme under section 49 of the Roads Act 1993 or made an application for approval under section 51 of that Act to furnish to the Board such further information in relation to—

(i) the effects on the environment of the proposed scheme or road development, or

(ii) the consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said scheme or road development of such scheme or road development,

as the Board may specify, or

(*b*) if it is provisionally of the view that it would be appropriate to approve the scheme or proposed road development were certain alterations (specified in the notification referred to in this paragraph) to be made to the terms of it, notify the road authority that it is of that view and invite the authority to make to the terms of the scheme or proposed road development alterations specified in the notification and, if the authority makes those alterations, to furnish to it such information (if any) as it may specify in relation to the scheme or road development, in the terms as so altered, or, where necessary, a F1115**[**revised environmental impact assessment report**]** in respect of it.

(5) If a road authority makes the alterations to the terms of the scheme or proposed road development specified in a notification given to it under *subsection (4)*, the terms of the scheme or road development as so altered shall be deemed to be the scheme or proposed road development for the purposes of sections 49, 50 and 51 of the Roads Act 1993.

(6) The Board shall—

(*a*) where it considers that any further information received pursuant to a requirement made under *subsection (4)(a)* contains significant additional data relating to—

(i) the likely effects on the environment of the scheme or proposed road development, and

(ii) the likely consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said scheme or road development of such scheme or road development,

or

(*b*) where the road authority has made the alterations to the terms of the proposed development specified in a notification given to it under *subsection (4)(b)*,

require the authority to do the things referred to in *subsection (7)*.

(7) The things which a road authority shall be required to do as aforesaid are—

(*a*) to publish in one or more newspapers circulating in the area or areas in which the development to which the scheme relates or, as the case may be, the proposed road development would be situate a notice stating that, as appropriate—

(i) further information in relation to the scheme or proposed road development has been furnished to the Board, or

(ii) the road authority has, pursuant to an invitation of the Board, made alterations to the terms of the scheme or proposed road development (and the nature of those alterations shall be indicated) and, if it be the case, that information in relation to the terms of the scheme or road development as so altered or a F1116**[**revised environmental impact assessment report**]** in respect of the scheme or development has been furnished to the Board,

indicating the times at which, the period (which shall not be less than 3 weeks) during which and the place, or places, where a copy of the F1117**[**information or the environmental impact assessment report**]** referred to in *subparagraph (i)* or *(ii)* may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy) and that submissions or observations F1118**[**in relation to that information, report or statement**]** may be made to the Board before the expiration of the indicated period, and

(*b*) to send to each body or prescribed authority to which a notice was given pursuant to section 51(3)(*b*) or (*c*) of the Roads Act 1993—

(i) a notice of the furnishing to the Board of, as appropriate, the further information referred to in *paragraph (a)(i)* or the F1119**[**information, report or statement**]** referred to in *paragraph (a)(ii),* and

(ii) a copy of that further information, F1120**[**information, report or statement**]**,

and to indicate to the body or authority that submissions or observations F1121**[**in relation to that further information, information, report or statement**]** may be made to the Board before the expiration of a period (which shall be not less than 3 weeks) beginning on the day on which the notice is sent to the prescribed authority by the road authority.

(8) The Board shall, in making its decision in respect of a scheme or proposed road development, have regard to any information submitted on foot of a notice under *subsection (4)*, including any F1122**[**revised environmental impact assessment report**]** or any submissions or observations made on foot of a request under *subsection (1)* or a notice under *subsection (7).***]**

Annotations

Amendments:

F1114 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 38, S.I. No. 684 of 2006.

F1115 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 126, in effect as per reg. 2(1).

F1116 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 127, in effect as per reg. 2(1).

F1117 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 128, in effect as per reg. 2(1).

F1118 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 129, in effect as per reg. 2(1).

F1119 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 130, in effect as per reg. 2(1).

F1120 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 131, in effect as per reg. 2(1).

F1121 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 132, in effect as per reg. 2(1).

F1122 Substituted (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. no. 133, in effect as per reg. 2(1).

F1123**[**Board's powers to make decisions on transferred functions.

217C.—(1) Notwithstanding any provision of any of the enactments referred to in F1124**[***section 214*, *215A*, *215B* or *215C***]** concerning the confirming or otherwise of any compulsory acquisition, the Board shall, in relation to any of the functions transferred under this Part respecting those matters, have the power to confirm a compulsory acquisition or any part thereof, with or without conditions or modifications, or to annul an acquisition or any part thereof.

(2) Notwithstanding any provision of the Roads Act 1993 concerning the approval of any scheme or proposed road development, the Board shall, in relation to any of the functions transferred under this Part respecting those matters, have the power to approve the scheme or development or any part thereof, with or without conditions or modifications, or to refuse to approve the scheme or development or any part thereof.

(3) Without prejudice to the generality of the foregoing power to attach conditions, the Board may attach to any approval of a scheme or proposed road development under the Roads Act 1993 a condition requiring—

(*a*) the construction or the financing, in whole or in part, of the construction of a facility, or

(*b*) the provision or the financing, in whole or in part, of the provision of a service,

in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Board, would constitute a substantial gain to the community.

(4) A condition attached pursuant to *subsection (3)* shall not require such an amount of financial resources to be committed for the purposes of the condition being complied with as would substantially deprive the person in whose favour the approval operates of the benefits likely to accrue from the grant of the approval.**]**

Annotations

Amendments:

F1123 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 38, S.I. No. 684 of 2006.

F1124 Substituted (21.07.2009) by *Harbours (Amendment) Act 2009* (26/2009), s.7(2)(c), commenced on enactment.

Oral hearings in relation to compulsory acquisition of land.

218.—F1125**[**(1) Where, as a result of the transfer of functions under F1126**[***section 214*, *215*, *215A*, *215B* or *215C***]**, the Board would otherwise be required to hold a local inquiry, public local inquiry or oral hearing, that requirement shall not apply to the Board but the Board may, at its absolute discretion, hold an oral hearing in relation to the matter, the subject of the function transferred.**]**

(2) For the avoidance of doubt, it is hereby declared that the provisions of the Local Government Acts, 1941, 1946, 1955 and 1991, in relation to public local inquiries shall not apply in relation to oral hearings held by the Board in accordance with *subsection (1)*.

(3) For the purposes of this Part, the references to local inquiries or public local inquiries in the following provisions shall be deemed to be references to oral hearings under this section:

(*a*) section 10 of the Local Government (No. 2) Act, 1960;

(*b*) section 78 of, and the Third Schedule to, the Housing Act, 1966;

(*c*) Part IV of the Roads Act, 1993.

(4) *Sections 135, 143* and *146* shall apply and have effect in relation to the functions transferred to the Board under F1126**[***sections 214* to *215C***]** and those sections shall be construed accordingly.

Annotations

Amendments:

F1125 Substituted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 39(a), S.I. No. 684 of 2006.

F1126 Substituted (21.07.2009) by *Harbours (Amendment) Act 2009* (26/2009), s.7(2)(d), commenced on enactment.

Editorial Notes:

E461 Previous affecting provision: subss. (1) and (4) amended (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 39, S.I. No. 684 of 2006; substituted as per F-notes above.

F1127**[**Power to direct payment of certain costs.

219.—(1) Where the Board has made a decision in the performance of any functions transferred under F1128**[***section 214*, *215*, *215A*, *215B* or *215C***]**, it may at its absolute discretion direct the payment of such sum as it considers reasonable by the local authority concerned or, in the case of F1128**[***section 215A*, *215B* or *215C***]**, the person who applied for the acquisition order (hereafter in this section referred to as the "applicant")—

(*a*) to the Board towards the costs and expenses incurred by the Board in determining the matter, including—

(i) the costs of holding any oral hearing in relation to the matter,

(ii) the fees of any consultants or advisers engaged in the matter, and

(iii) an amount equal to such portion of the remuneration and any allowances for expenses paid to the members and employees of the Board as the Board determines to be attributable to the performance of duties by the members and employees in relation to the matter,

and

(*b*) to any person appearing at an oral hearing held in relation to the matter as a contribution towards the costs, other than the costs referred to in *section 135*, incurred by that person of appearing at that hearing,

and the local authority or applicant, as appropriate, shall pay the sum.

(2) The reference in *subsection (1)(b)* to costs shall be construed as a reference to such costs as the Board in its absolute discretion considers to be reasonable costs.

(3) If a local authority or applicant, as appropriate, fails to pay a sum directed to be paid under *subsection (1)*, the Board or any other person concerned, as the case may be, may recover the sum from the authority or applicant, as appropriate, as a simple contract debt in any court of competent jurisdiction. **]**

Annotations

Amendments:

F1127 Substituted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 40, S.I. No. 684 of 2006.

F1128 Substituted (21.07.2009) by *Harbours (Amendment) Act 2009* (26/2009), s.7(2)(e), commenced on enactment.

Certain procedures to run in parallel.

220.—(1) The person holding an oral hearing in relation to the compulsory acquisition of land, which relates wholly or in part to proposed development by a local authority which is required to comply with *section 175* or any other statutory provision to comply with F1129**[**procedures for giving effect to the Environmental Impact Assessment Directive**]**, shall be entitled to hear evidence in relation to the likely effects on the environment of such development.

(2) Where an application for the approval of a proposed development which is required to comply with *section 175* is made to the Board and a compulsory purchase order or provisional order has been submitted to the Board for confirmation and where the proposed development relates wholly or in part to the same proposed development, the Board shall, where objections have been received in relation to the compulsory purchase order, make a decision on the confirmation of the compulsory purchase order at the same time.

Annotations

Amendments:

F1129 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 70, S.I. No. 405 of 2010.

Objective of the Board in relation to transferred functions.

221.—(1) It shall be the duty of the Board to ensure that any matters submitted in accordance with the functions transferred to it under F1130**[***section 214*, *215*, *215A*, *215B* or *215C***]** are disposed of as expeditiously as may be and, for that purpose, to take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the determination of those matters.

(2) Without prejudice to the generality of *subsection (1)* and subject to *subsections (3), (4), (5)* and *(6)*, it shall be the objective of the Board to ensure that—

(*a*) the matter is determined within a period of 18 weeks beginning on the last day for making objections, observations or submissions, as the case may be, in accordance with the relevant enactment referred to in F1130**[***section 214*, *215*, *215A*, *215B* or *215C***]**, or

(*b*) the matter is determined within such other period as the Minister may prescribe in relation to *paragraph (a)*, either generally or in respect of a particular class or classes of matter.

(3) (*a*) Where it appears to the Board that it would not be possible or appropriate, because of the particular circumstances of the matter with which the Board is concerned, to determine the matter within the period prescribed under *subsection (2)*, the Board shall, by notice in writing served on any local authority involved and any other person who submitted objections, representations, submissions or observations in relation to the matter before the expiration of that period, inform the authority and those persons of the reasons why it would not be possible or appropriate to determine the matter within that period and shall specify the date before which the Board intends that the matter shall be determined.

(*b*) Where a notice has been served under *paragraph (a)*, the Board shall take all such steps as are open to it to ensure that the matter is determined before the date specified in the notice.

(4) The Minister may by regulations vary the period as specified in *subsection (2)* either generally or in respect of a particular class or classes of matters with which the Board is concerned, in accordance with the transferred functions under this Part, where it appears to him or her to be necessary, by virtue of exceptional circumstances, to do so and, for so long as the regulations are in force, this section shall be construed and have effect in accordance therewith.

(5) Where the Minister considers it to be necessary or expedient that certain functions of the Board (being functions transferred under F1130**[***section 214*, *215*, *215A*, *215B* or *215C***]**) performable in relation to matters of a class or classes that—

(*a*) are of special strategic, economic or social importance to the State, and

(*b*) are submitted to the Board for the performance by it of such functions,

be performed as expeditiously as is consistent with proper planning and sustainable development, he or she may give a direction to the Board that in the performance of the functions concerned priority be given to matters of the class or classes concerned, and the Board shall comply with such direction.

(6) *Subsection (2)* shall not apply in relation to the functions under the Public Health (Ireland) Act, 1878, the Local Government Act, 1925, or the Water Supplies Act, 1942, which are transferred to the Board under *section 214*.

(7) For the purposes of meeting its duty under this section, the chairperson may, or shall when so directed by the Minister, assign the functions transferred to the Board under F1130**[***section 214*, *215*, *215A*, *215B* or *215C***]** to a particular division of the Board in accordance with *section 112*.

(8) The Board shall include in each report made under *section 118* a statement of the number of matters which the Board has determined within a period referred to in *paragraph (a)* or *(b)* of *subsection (2)* and such other information as to the time taken to determine such matters as the Minister may direct.

F1131**[**(9) The Minister may by regulations provide for such additional, incidental, consequential or supplemental matters as regards procedure in respect of the functions transferred to the Board under *section 214* or *215* as appear to the Minister to be necessary or expedient.**]**

Annotations

Amendments:

F1130 Substituted (21.07.2009) by *Harbours (Amendment) Act 2009* (26/2009), s. 7(2)(f), commenced on enactment.

F1131 Inserted (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(k), S.I. No. 458 of 2001.

Editorial Notes:

E462 Power pursuant to subs. (9) exercised (21.01.2001 and 11.03.2001) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E463 Previous affecting provision: subss. (1), (2), (5) and (7) amended (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 41, S.I. No. 684 of 2006; substituted as per F-note above.

Amendment of section 10 of Local Government (No. 2) Act, 1960.

222.—Section 10 (inserted by section 86 of the Housing Act, 1966) of the Local Government (No. 2) Act, 1960, is hereby amended—

(*a*) by the deletion of subsection (2), and

(*b*) in subsection (4), by the substitution for paragraph (*d*) of the following paragraph:

"(*d*) Where—

(i) an order is made by virtue of this section, and

(ii) there is a public right of way over the land to which the order relates or any part thereof or over land adjacent to or associated with the land or any part thereof,

the order may authorise the local authority, by order made by them after they have acquired such land or part, to extinguish the right of way.".

References to transferred functions in regulations, etc.

223.—(1) A reference in any regulations, prescribed forms or other instruments made under the enactments referred to in F1132**[***section 214, 215, 215A, 215B* or *215C***]** to the Minister, and which relate to the functions transferred under those sections, shall be deemed to be references to the Board.

(2) A reference in any regulations, prescribed forms or other instruments made under the enactments referred to in F1132**[***section 214, 215, 215A, 215B* or *215C***]** to local inquiries or public local inquiries, and which relate to functions transferred to the Board under those sections, shall be deemed to be references to oral hearings by the Board.

Annotations

Amendments:

F1132 Substituted (21.07.2009) by *Harbours (Amendment) Act 2009* (26/2009), s. 7(2)(g), commenced on enactment.

Editorial Notes:

E464 Previous affecting provision: section amended (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 42, S.I. No. 684 of 2006; substituted as per F-note above.

PART XV

Development on the Foreshore

Definition.

224.—F1133**[**...**]**

Annotations

Amendments:

F1133 Repealed (17.07.2023) by *Maritime Area Planning Act 2021* (50/2021), s. 12(2), S.I. No. 369 of 2023, subject to transitional provision in subs. (6).

Obligation to obtain permission in respect of development on foreshore.

225.—F1134**[**...**]**

Annotations

Amendments:

F1134 Repealed (17.07.2023) by *Maritime Area Planning Act 2021* (50/2021), s. 12(2), S.I. No. 369 of 2023, subject to transitional provision in subs. (6).

Local authority development on foreshore.

226.—F1135**[**...**]**

Annotations

Amendments:

F1135 Repealed (17.07.2023) by *Maritime Area Planning Act 2021* (50/2021), s. 12(2), S.I. No. 369 of 2023, subject to transitional provision in subs. (6).

Editorial Notes:

E465 Previous affecting provision: subs. (4)(b)(i), (7), (7)(a)(ii) amended (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. nos. 134-136, in effect as per reg. 2(1); section repealed (17.07.2023) as per F-note above.

E466 Previous affecting provision: authorisations or approvals issued to water authorities under section deemed to be issued to Irish Water (30.10.2015) by *Water Services (No. 2) Act 2013 (Other Licences, Authorisations and Permits) Order 2015* (S.I. No. 462 of 2015), in effect as per arts. 3 and 4; section repealed (17.07.2023) as per F-note above.

E467 Previous affecting provision: application of section restricted and matters to be considered provided (27.09.2007) by *Waste Water Discharge (Authorisation) Regulations 2007* (S.I. No. 684 of 2007), regs. 41(1), 43(1); section repealed (17.07.2023) as per F-note above.

E468 Previous affecting provision: subss. (2), (6)-(9) substituted and inserted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 43, S.I. No. 525 of 2006; section repealed (17.07.2023) as per F-note above.

Acquisition of land etc. on foreshore.

227.—F1136**[**...**]**

Annotations

Amendments:

F1136 Repealed (17.07.2023) by *Maritime Area Planning Act 2021* (50/2021), s. 12(2), S.I. No. 369 of 2023, subject to transitional provision in subs. (6).

Editorial Notes:

E469 Previous affecting provision: subss. (5), (8)(b)(i) amended (1.09.2018) by *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), reg. 36 and sch. 1 table ref. nos. 137, 138, in effect as per reg. 2(1); section repealed (17.07.2023 as per F-note above.

E470 Previous affecting provision: subs. (5) amended (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 44(a), S.I. No. 525 of 2006; section repealed (17.07.2023 as per F-note above.

E471 Previous affecting provision: subs. (8) substituted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 44(b), S.I. No. 525 of 2006; section repealed (17.07.2023 as per F-note above.

E472 Previous affecting provision: subs. (9) deleted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 44(c), S.I. No. 525 of 2006; section repealed (17.07.2023 as per F-note above.

Entering on foreshore for certain purposes.

228.—F1137**[**...**]**

Annotations

Amendments:

F1137 Repealed (17.07.2023) by *Maritime Area Planning Act 2021* (50/2021), s. 12(2), S.I. No. 369 of 2023, subject to transitional provision in subs. (6).

Editorial Notes:

E473 Previous affecting provision: subs. (5) inserted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 45, S.I. No. 525 of 2006; section repealed (17.07.2023) as per F-note above.

PART XVI

Events and Funfairs

Interpretation.

229.—In this Part—

"event" means—

(*a*) a public performance which takes place wholly or mainly in the open air or in a structure with no roof or a partial, temporary or retractable roof, a tent

or similar temporary structure and which is comprised of music, dancing, displays of public entertainment or any activity of a like kind, and

(*b*) any other event as prescribed by the Minister under *section 241*;

"funfair" has the meaning assigned to it by *section 239*;

"licence" means a licence granted by a local authority under *section 231*;

F1138**[**...**]**

Annotations

Amendments:

F1138 Deleted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(7) and sch. 2 part 4 ref. 85, S.I. No. 214 of 2014.

Obligation to obtain a licence for holding of an event.

230.—(1) Subject to *subsection (4)*, a licence shall be required in respect of the holding of an event or class of event prescribed for the purpose of this section.

(2) When prescribing events or classes of events under *subsection (1)*, the Minister shall have regard to the size, location, nature or other attributes of the event or class of event.

(3) Any person who—

(*a*) organises, promotes, holds or is otherwise materially involved in the organisation of an event to which this section applies, or

(*b*) is in control of land on which an event to which this section applies is held,

other than under and in accordance with a licence, shall be guilty of an offence.

(4) A licence shall not be required for the holding of an event prescribed in accordance with *subsection (1)* by a local authority.

Annotations

Editorial Notes:

E474 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E475 Previous affecting provision: power pursuant to section exercised (17.04.2001) by *Planning and Development (Licensing of Outdoor Events) Regulations 2001* (S.I. No. 154 of 2001); revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

Grant of licence.

231.—(1) The Minister may by regulations provide for matters of procedure and administration in relation to applications for and the grant of licences for events.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision for—

(*a*) requiring the publication of a notice of intention to make an application for a licence,

(*b*) requiring the notification of prescribed persons or bodies,

(*c*) the form and content of an application for a licence,

(*d*) the plans, documents and information to be submitted with an application for a licence,

(*e*) the persons and bodies which must be consulted in relation to a licence,

(*f*) enabling persons to make submissions or observations within a prescribed time,

(*g*) requiring the applicant to submit any further information with respect to their application, and

(*h*) the time within which a decision on an application for a licence must be made.

(3) (*a*) Where an application for a licence is made in accordance with regulations under this section, the local authority may decide to grant the licence, grant the licence subject to such conditions as it considers appropriate or refuse the licence.

(*b*) In considering an application for a licence under this section, the local authority shall have regard to—

(i) any information relating to the application furnished to it by the applicant in accordance with *subsection (2)(d)* or *(g)*,

(ii) any consultations under *subsection (2)(e)*,

(iii) any submissions or observations made to it in accordance with *subsection (2)(f)*,

(iv) whether events have previously been held on the land concerned,

(v) the matters referred to in *subsection (4)*, and

(vi) any guidelines or codes of practice issued by the Minister or by any other Minister of the Government.

(4) Without prejudice to the generality of *subsection (3)(a)*, conditions subject to which a licence is granted may relate to all or any of the following—

(*a*) compliance with any guidelines or codes of practice issued by the Minister or any other Minister of the Government, or with any provisions of those guidelines or codes of practice;

(*b*) securing the safety of persons at the place in connection with the event;

(*c*) the provision of adequate facilities for the health and welfare of persons at the place in connection with the event, including the provision of sanitary facilities;

(*d*) the protection of the environment in which the event is to be held, including the control of litter;

(*e*) the maintenance of public order;

(*f*) the avoidance or minimisation of disruption to the neighbourhood in which the event is to take place;

(*g*) ensuring the provision of adequate means of transport to and from the place in which the event is to be held;

(*h*) the number of events which are permitted at a venue within a specified period not exceeding one year;

(*i*) the payment of a financial contribution to the authority of a specified amount or an amount calculated on a specified basis towards the estimated cost to

the local authority of measures taken by the authority in connection with the event;

(*j*) the payment of a financial contribution to a person or body consulted in accordance with *subsection (2)(e)* of a specified amount or an amount calculated on a specified basis towards the estimated cost to that person or body of measures taken by the person or body in connection with the event;

(*k*) maintaining public liability insurance;

(*l*) the display of notice for persons attending the event as to their obligations and conduct at the event.

(5) Conditions under *subsection (4)(i)* or *(j)* requiring the payment of a financial contribution may only relate to an event which is held wholly or mainly for profit.

(6) A person shall not be entitled solely by reason of a licence under this section to hold an event.

Annotations

Editorial Notes:

E476 Power pursuant to section exercised (1.06.2023) by *Planning and Development Act (Amendment) Regulations 2023* (S.I. No. 273 of 2023).

E477 Power pursuant to section exercised (1.10.2015) by *Planning and Development (Amendment) Regulations 2015* (S.I. No. 264 of 2015), in effect as per reg. 1(3).

E478 Power pursuant to section exercised (4.04.2012) by *Planning and Development (Amendment) Regulations 2012* (S.I. No. 116 of 2012).

E479 Power pursuant to section exercised (11.03.2002) by *Planning and Development Regulations 2002* (S.I. No. 70 of 2002).

E480 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E481 Previous affecting provision: power pursuant to section exercised (17.04.2001) by *Planning and Development (Licensing of Outdoor Events) Regulations 2001* (S.I. No. 154 of 2001); revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

Codes of practice in relation to events.

232.—(1) The Minister or any Minister of the Government may draw up and issue codes of practice for the purpose of providing practical guidance with respect to the requirements of any of the relevant provisions of or under this Part.

(2) The Minister or any Minister of the Government, as appropriate, shall, before issuing a code of practice, consult any other Minister of the Government or other person or body that appears to that Minister to be appropriate.

(3) The Minister or any Minister of the Government, as appropriate, may amend or revoke any code of practice, following consultation with any other Minister of the Government or any other person or body that appears to the Minister to be appropriate.

Service of notice in relation to events.

233.—(1) Where a local authority has reason to believe that an event in respect of which a licence under *section 230* is required is occurring or is likely to occur—

(*a*) without such a licence, or

(*b*) in contravention of the terms of such a licence,

the authority may serve a notice under this section.

(2) A notice may require, as appropriate—

(*a*) the immediate cessation of any event or the discontinuation or alteration of any preparations which are being made in relation to an event,

(*b*) the removal of any temporary buildings, structures, plant, machinery or the like from land which the authority believes is intended to be used as the location of an event, and

(*c*) the restoration of the land to its prior condition.

(3) Any person who fails to comply with the requirements of the notice served under *subsection (1)* shall be guilty of an offence.

General obligations with regard to safety at events.

234.—(1) A person to whom a licence is granted under *section 231* shall take such care as is reasonable in all the circumstances, having regard to the care which a person attending the event may reasonably be expected to take for his or her own safety and, if the person is at the event in the company of another person, the extent of the supervision and control the latter person may be expected to exercise over the former person's activities, to ensure that persons on the land in connection with the event do not suffer injury or damage by reason of any danger arising out of the licensed event or associated activities.

(2) It shall be the duty of every person, being on land in connection with an event to which this section applies, to conduct himself or herself in such a way as to ensure that as far as reasonably practicable any person on the land is not exposed to danger as a consequence of any act or omission of his or hers.

Powers of inspection in connection with events.

235.—(1) An authorised person (subject to the production by him or her, if so requested, of his or her authority in writing) or a member of the Garda Síochána shall be entitled at all reasonable times to enter and inspect any land or any structure for any purpose connected with this Part.

(2) Without prejudice to the generality of *subsection (1)*, an authorised person or a member of the Garda Síochána shall, in the performance of his or her functions under *subsection (1)*, be entitled to—

(*a*) require the person in control of the land or structure concerned to—

(i) inform him or her of any matter which the authorised person or the member of the Garda Síochána considers to be relevant, or

(ii) provide such plans, documentation or other information as are necessary to establish that the requirements of this Part and any regulations made under this Part or any licence or any conditions to which the licence is subject are being complied with,

(*b*) take with him or her on to land such persons and equipment as he or she considers necessary and to carry out such tests or to do such other things which he or she considers necessary for the purposes referred to in *subsection (1)*.

(3) Any person who—

(*a*) refuses to allow an authorised person or a member of the Garda Síochána to enter any land in exercise of his or her powers under this section,

(*b*) obstructs or impedes an authorised person or a member of the Garda Síochána in exercise of his or her powers under this section, or

(*c*) wilfully or recklessly gives, either to an authorised person or a member of the Garda Síochána, information which is false or misleading in a material respect,

shall be guilty of an offence.

(4) In this section, "authorised person" means a person authorised for the purposes of this Act by a local authority.

Limitation of civil proceedings.

236.—(1) No action or other proceeding shall lie or be maintainable against the Minister or a local authority or any other officer or employee of a local authority or any person engaged by a local authority or a member of the Garda Síochána for the recovery of damages in respect of any injury to persons, damage to property or other loss alleged to have been caused or contributed to by a failure to exercise any function conferred or imposed on the local authority by or under this Part.

(2) A person shall not be entitled to bring any civil proceedings pursuant to this Part by reason only of the contravention of any provision of this Part, or of any regulations made thereunder.

Consequential provisions for offences.

237.—(1) The local authority by whom a licence under *section 231* was granted may revoke it if the person to whom the licence is granted is convicted of an offence under this Part.

(2) Proceedings for an offence under this Part may be brought by the local authority in whose area the offence is committed.

Holding of event by local authority.

238.—(1) An event that is prescribed in accordance with *section 230(1)* and is proposed to be carried out by a local authority (in this section referred to as a "proposed event") shall be carried out in accordance with this section and any regulations made under *subsection (2)*.

(2) The Minister may make regulations providing for—

(*a*) the publication by the local authority of any specified notice with respect to the proposed event,

(*b*) the notification or consultation by the local authority of any specified person or persons,

(*c*) the making available for inspection, by members of the public, of any specified documents, particulars, plans or other information with respect to the proposed event, and

(*d*) the making of submissions or observations to the local authority within a prescribed time with respect to the proposed event.

(3) (*a*) The F1139**[**chief executive**]** of a local authority shall, after the expiration of the period prescribed under *subsection (2)(d)* for the making of submissions or observations, prepare a written report in relation to the proposed event and submit the report to the members of the local authority.

(*b*) A report prepared in accordance with *paragraph (a)* shall—

(i) specify the proposed event,

(ii) specify the matters referred to in *section 231(4)* to which the holding of the proposed event will be subject,

(iii) list the persons or bodies who made submissions or observations with respect to the proposed event in accordance with the regulations made under *subsection (2)*,

(iv) summarise the issues raised in any such submissions or observations and state the response of the F1139**[**chief executive**]** to them, and

(v) recommend whether or not the proposed event should be held.

(*c*) The members of the local authority shall, as soon as may be, consider the proposed event and the report of the F1139**[**chief executive**]** under *paragraph (a)*,

(*d*) Following the consideration of the F1139**[**chief executive's report**]** under *paragraph (c)*, the proposed event may be carried out as recommended in the F1139**[**chief executive's report**]**, unless the local authority, by resolution, decides to vary or modify the event, otherwise than as recommended in the F1139**[**chief executive's report**]**, or decides not to proceed with the event.

(*e*) A resolution under *paragraph (d)* must be passed not later than 6 weeks after receipt of the F1139**[**chief executive's report**]**.

Annotations

Amendments:

F1139 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 6(1) and sch. 2 ref. nos. 70, 71, S.I. No. 436 of 2018.

Editorial Notes:

E482 Power pursuant to section exercised (1.10.2015) by *Planning and Development (Amendment) Regulations 2015* (S.I. No. 264 of 2015), in effect as per reg. 1(3).

E483 Deciding to vary or modify, or not to proceed with, an event proposed to be carried out by a local authority is a reserved function of local authorities or municipal district members as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 2 item 17 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

E484 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E485 Power pursuant to section exercised (11.03.2002) by *Planning and Development Regulations 2002* (S.I. No. 70 of 2002).

E486 Previous affecting provision: power pursuant to section exercised (17.04.2001) by *Planning and Development (Licensing of Outdoor Events) Regulations 2001* (S.I. No. 154 of 2001); revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

Control of funfairs.

239.—(1) In this section—

"fairground equipment" includes any fairground ride or any similar equipment which is designed to be in motion for entertainment purposes with members of the public on or inside it, any equipment which is designed to be used by members of the public for entertainment purposes either as a slide or for bouncing upon, and any swings, dodgems and other equipment which is designed to be in motion wholly or partly under the control of, or to be put in motion by a member of the public or any equipment which may be prescribed, in the interests of public safety, for the purposes of this section;

"funfair" means an entertainment where fairground equipment is used.

(2) The organiser of a funfair and the owner of fairground equipment used at a funfair shall take such care as is reasonable in the circumstances, having regard to

the care which a person attending the funfair may reasonably be expected to take for his or her own safety, and, if the person is at the event in the company of another person, the extent of the supervision and control the latter person may be expected to exercise over the former person's activities to ensure that persons on the land in connection with the funfair do not suffer injury or damage by reason of any danger arising out of the funfair or associated activities.

(3) It shall be the duty of every person being on land in connection with a funfair to which this section applies to conduct himself or herself in such a way as to ensure that as far as is reasonably practicable any person on the land is not exposed to danger as a consequence of any act or omission of his or hers.

(4) (*a*) An organiser of a funfair or an owner of fairground equipment shall not make available for use by the public any fairground equipment unless such equipment has a valid certificate of safety in accordance with regulations made under *subsection (5)*.

(*b*) An organiser of a funfair or owner of fairground equipment who makes available for use by the public any fairground equipment otherwise than in accordance with *paragraph (a)*, shall be guilty of an offence.

(5) The Minister shall by regulations provide for such matters of procedure, administration and control as appear to the Minister to be necessary or expedient in relation to applications for and the grant of certificates of safety for fairground equipment.

(6) Without prejudice to the generality of *subsection (5)*, regulations under that subsection may provide for—

(*a*) the class or classes of persons who are entitled to grant certificates of safety,

(*b*) the matters to be taken into account in determining applications for safety certificates,

(*c*) the payment of a prescribed fee for an application for a certificate of safety,

(*d*) the period of validity of a certificate of safety, and

(*e*) any class of fairground equipment to be exempt from the provisions of this section.

F1140**[**(6A) Regulations under this section may be made to any extent by reference to a document published by or on behalf of the Minister.**]**

(7) (*a*) A person who intends to hold or organise a funfair, other than at a place where the operation of funfair equipment has been authorised by a permission under *Part III* of this Act or Part IV of the Act of 1963 or is not otherwise an unauthorised use, shall give 2 weeks notice (or such other period of notice as may be prescribed) in writing to the local authority in whose functional area the funfair is to be held.

(*b*) The notice referred to in *paragraph (a)* shall be accompanied by a valid certificate of safety for the fairground equipment to be used at the funfair and shall give details of the names of the organiser of the funfair, the owner or owners of the fairground equipment to be used at the funfair and the location and dates on which the funfair is to be held.

(8) (*a*) Where a local authority has reason to believe that a funfair is taking place, or is likely to take place, which is not in compliance with *subsection (4)* or *(7)*, the authority may serve a notice on any person it believes to be holding, organising or otherwise materially involved in the organisation of the funfair.

(*b*) A notice under *paragraph (a)* may require, as appropriate—

(i) the immediate cessation of any activity or any preparations which are being made in relation to the funfair within a specified time,

(ii) the immediate cessation of the use of any fairground equipment without a valid certificate of safety,

(iii) the removal, within a specified time, of any fairground equipment, temporary buildings or structures, plant, machinery or similar equipment which the authority believes is intended to be used in relation to the funfair, and

(iv) the restoration of the land to its prior condition within a specified time.

(*c*) A person who is served with a notice under *paragraph (a)* and who fails to comply with the requirements of the notice shall be guilty of an offence.

(*d*) Where a person fails to comply with a notice served on the person under this section, the local authority concerned may, through its employees or agents—

(i) give effect to the terms of the notice, and

(ii) where necessary for that purpose, enter on the land concerned,

and may recover the expenditure reasonably incurred by it in so doing from the person as a simple contract debt in any court of competent jurisdiction.

(*e*) A person who obstructs or impedes the local authority in the performance of its functions under *paragraph (d)* shall be guilty of an offence.

Annotations

Amendments:

F1140 Inserted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 14, commenced on enactment.

Modifications (not altering text):

C173 Application of section restricted (1.10.2003) by *Planning and Development Act 2000 (Certification of Fairground Equipment) Regulations 2003* (S.I. No. 449 of 2003), regs. 9 and 10.

9. A person who intends to hold or organise a funfair, other than at a place where the operation of funfair equipment has been authorised under a permission under Part III of the Act or Part IV of the Local Government (Planning and Development) Act, 1963, shall, notwithstanding section 239 (7)(a) of the Act give two working days notice in writing to the local authority in whose functional area the funfair is to be held. This notice shall be accompanied by a valid certificate of safety and shall include details of the location and dates on which the funfair is to be held in accordance with Section 239 (7) (b) of the Planning and Development Act, 2000.

10. The following class of fairground equipment shall be exempt from the provisions of section 239 of the Planning and Development Act, 2000 as amended by section 14 of the Planning and Development (Amendment) Act 2002; namely, playground equipment provided by a local authority.

Editorial Notes:

E487 Power pursuant to section exercised (20.08.2007) by *Planning and Development Act 2000(Certification of Fairground Equipment) (Amendment) Regulations 2007* (S.I. No. 590 of 2007).

E488 Power pursuant to section exercised (1.10.2003) by *Planning and Development Act 2000 (Certification of Fairground Equipment) Regulations 2003* (S.I. No. 449 of 2003).

Exclusion of events and funfairs from planning control.

240.—(1) Subject to *subsection (2)*, the holding of an event to which this Part applies and works directly or solely relating to the holding of such an event shall not be construed as "development" within the meaning of this Act.

(2) (*a*) Notwithstanding *section 230* or *239*, the provisions of this Part shall not affect the validity of any planning permission granted under Part IV of the Act of 1963 for the holding of an event or events or for a funfair.

(*b*) Where a planning permission referred to in *paragraph (a)* has been granted for the holding of an event or events in respect of land, a licence under this Part shall be required for the holding of any additional event on the land concerned.

Regulations for event.

241.—The Minister may make regulations providing that any activity or class of activity to which the public have access and which takes place wholly or mainly in the open air or in a structure with no roof or a partial, temporary or retractable roof, a tent or other similar temporary structure to be an event for the purposes of this Part.

PART XVII

Financial Provisions

Expenses of administration of Minister.

242.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

F1141**[**Charging of expenses of planning authority

243.—Expenses under this Act of a planning authority shall be charged on the local authority concerned.**]**

Annotations

Amendments:

F1141 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(4), S.I. No. 214 of 2014.

Apportionment of joint expenses of planning authorities.

244.—(1) Two or more planning authorities may, by resolution, make and carry out an agreement for sharing the cost of performing all or any of their functions under this Act and, where an agreement has been made under this subsection, the planning authorities concerned may, by resolution, terminate it at any time if they so agree.

(2) Where a planning authority proposes to perform in its functional area a function under this Act at the request of or wholly or partially in the interests of the area of another planning authority (being a planning authority whose area is contiguous with the area of the first-mentioned planning authority), the other planning authority shall defray the cost of the performance of the function to such extent as may be agreed upon between the authorities or, in default of agreement, as may be determined by the Minister.

Annotations

Editorial Notes:

E489 Making or terminating of an agreement by two or more planning authorities for sharing the cost of performing functions under Act is a reserved function of local authorities as provided by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 item 76 as inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 41(4) and sch. 3, S.I. No. 214 of 2014.

Power to set-off.

245.—Where a sum is due under this Act to any person by a planning authority and, at the same time, another sum under this Act is due by that person to that authority, the former sum may be set-off against the latter either, as may be appropriate, in whole or in part.

Fees payable to planning authorities.

246.—(1) The Minister may make regulations providing for—

(*a*) the payment to planning authorities of prescribed fees in relation to applications for—

(i) permission under *Part III*, or

(ii) extensions or further extensions under *section 42*,

(*b*) the payment to planning authorities of prescribed fees in relation to the making of submissions or observations respecting applications for permission referred to in *paragraph (a)*,

(*c*) the payment to planning authorities of prescribed fees in relation to requests for declarations under *section 5*,

F1142**[**(*ca*) the payment to planning authorities of prescribed fees in relation to applications for determinations under *section 176A*,**]**

F1143**[**(*d*) the payment—

(i) to local authorities of prescribed fees in relation to applications for grants of licences under *section 231* or certificates of safety under *section 239*, F1144**[**...**]**

(ii) to planning authorities of prescribed fees in relation to any consultation or advice under *section 247*, F1144**[**...**]]**

F1145**[**(iii) to planning authorities of prescribed fees in relation to the provision of an LRD opinion,

F1146**[**(iv) to planning authorities of prescribed fees in relation to the provision of an opinion or notification under *section 32I*,**]**

and**]**

(*e*) the payment to planning authorities of prescribed fees in relation to applications for grants of licences under *section 254*,

and the regulations may provide for the payment of different fees in relation to cases of different classes or descriptions, for exemption from the payment of fees in specified circumstances, for the waiver, remission or refund (in whole or in part) of fees in specified circumstances and for the manner in which fees are to be disposed of.

(2) The Minister may prescribe that the fee payable to the authority for an application for permission under *section 34(12)* shall be an amount which shall be

related to the estimated cost of the development, or the unauthorised part thereof, as the case may be.

(3) F1143**[**(*a*) Where, under regulations under this section, a fee is—

(i) payable to a planning authority by an applicant in respect of an application to which *paragraph (a)* or *(e)* of *subsection (1)* applies, or

(ii) payable to a local authority in respect of an application to which *subparagraph (i)* of *paragraph (d)* of that subsection applies,

a decision in relation to the application shall not be made until the fee is paid.

(*aa*) Where, under regulations under this section, a fee is payable to a planning authority by a person in respect of—

(i) a request to which *paragraph (c)* of *subsection (1)* applies, or

(ii) a consultation or advice to which *subparagraph (ii)* of *paragraph (d)* of that subsection applies,

the planning authority shall not—

(I) give the declaration, or

(II) provide the consultation or advice,

as may be appropriate, until the fee is paid.**]**

(*b*) With regard to applications under *paragraph (a)* of *subsection (1)*, notwithstanding anything contained in *section 34(8)* or *42(2)*, a decision of a planning authority shall not be regarded, pursuant to any of those sections, as having been given on a day which is earlier than that which is 8 weeks after the day on which the authority is in receipt of the fee, and *section 34(8)* and *42(2)* shall be construed subject to and in accordance with the provisions of this paragraph.

F1147**[**(*c*) With regard to applications under *subsection (1)(e)*, notwithstanding anything contained in *section 254(5A)*, a deemed decision to grant a licence shall not be regarded as having been made on a day which is earlier than the day following the expiration of 4 months commencing on the day on which the authority is in receipt of the fee and *section 254(5A)* shall be construed subject to and in accordance with this paragraph.**]**

(4) Where under regulations under this section a fee is payable to a planning authority or local authority and the person by whom the fee is payable is not the applicant for a permission, approval or licence, submissions or observations made, as regards the relevant application, appeal or referral by or on behalf of the person by whom the fee is payable, shall not be considered by the planning authority or local authority unless the fee has been received by the authority.

(5) A planning authority shall specify fees for the making of copies under *sections 7, 16(1)* and *38(4)*, not exceeding the reasonable cost of making such copies.

Annotations

Amendments:

F1142 Inserted (1.01.2019) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 27(e), S.I. No. 588 of 2018.

F1143 Substituted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 41(a), (b), S.I. No. 436 of 2018.

F1144 Deleted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 14(a), (b), S.I. No. 715 of 2021.

F1145 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 14(c), S.I. No. 715 of 2021.

F1146 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 38, S.I. No. 645 of 2023.

F1147 Inserted (20.07.2016) *European Union (Reduction of Cost of Deploying High-Speed Public Communications Networks) Regulations 2016* (S.I. No. 391 of 2016), reg. 20.

F1148 Substituted by *Planning and Development (Amendment) Act 2018* (16/2018), s. 40, not commenced as of date of revision.

F1149 Inserted by *Planning and Development (Amendment) Act 2018* (16/2018), s. 42, not commenced as of date of revision.

Modifications (not altering text):

C174 Prospective affecting provision: subs. (1)(b) substituted by *Planning and Development (Amendment) Act 2018* (16/2018), s. 40, not commenced as of date of revision.

F1148**[**(*b*) the payment to planning authorities of prescribed fees in relation to the making of submissions or observations respecting applications for permission referred to in *paragraph (a)*, with the exception of local authority members who are exempt from all fees in relation to the making of submissions or observations respecting applications for permission referred to in paragraph (a), insofar as it concerns applications made within the local authority members' local electoral area.**]**

C175 Prospective affecting provision: subs. (1A) inserted (by *Planning and Development (Amendment) Act 2018* (16/2018), s. 40, not commenced as of date of revision.

F1149**[**(1A) Regulations under *subsection (1)* shall not apply to the making of a submission or observation to a planning authority, respecting an application for permission referred to in *paragraph (a)* of that subsection, where the person by whom the submission or observation is made is an elected member of the planning authority concerned.**]**

Editorial Notes:

E490 Power pursuant to subs. (1) exercised (9.05.2024) by *Planning and Development (Street Furniture Fees) Regulations 2024* (S.I. No. 196 of 2024).

E491 Power pursuant to subs. (1) exercised (16.12.2023) by *Planning and Development (Fees for Certain Applications) Regulations 2023* (S.I. No. 654 of 2023).

E492 Power pursuant to subs. (1) exercised (22.05.2023) by *Planning and Development (Street Furniture Fees) Regulations 2023* (S.I. No. 256 of 2023).

E493 Power pursuant to subs. (1) exercised (23.05.2022 to 31.12.2022) by *Planning and Development (Street Furniture Fees) Regulations 2022* (S.I. No. 249 of 2022).

E494 Power pursuant to subs. (1) exercised (17.12.2021) by *Planning and Development (Large-scale Residential Development Fees) Regulations 2021* (S.I. No. 720 of 2021).

E495 Power pursuant to subs. (1) exercised (16.08.2021) by *Planning and Development Act 2000 (Section 254 – Overground Telecommunication Cables) Regulations 2021* (S.I. No. 422 of 2021).

E496 Power pursuant to subs. (1) exercised (30.04.2021) by *Planning and Development (Street Furniture Fees) Regulations 2021* (S.I. No. 209 of 2021).

E497 Power pursuant to section exercised (8.09.2011) by *Planning and Development (Amendment) (No. 2) Regulations 2011* (S.I. No. 454 of 2011).

E498 Power pursuant to section exercised (22.04.2002) by *Planning and Development (No. 2) Regulations 2002* (S.I. No. 149 of 2002).

E499 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

PART XVIII

Miscellaneous

Consultations in relation to proposed development.

247.—F1150**[**(1) Subject to *subsection (1A)*, a person who—

(*a*) has an interest (including a lease granted under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned) in land, or

(*b*) is the holder of—

(i) a maritime area consent granted for the occupation of a maritime site for the purposes of proposed development, or

(ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purposes of proposed development on, or in relation to, the maritime site in which the development is proposed to be situated,

and who intends to make a planning application may, with the agreement (which shall not be unreasonably withheld) of the planning authority concerned, consult with the planning authority for the purposes of discussing any proposed development in relation to the land or maritime site, as the case may be, and the planning authority may advise the person regarding the proposed application.**]**

F1151**[**(1A) (*a*) F1152**[**Subject to *subsection (7)* and section 5**]** of the Planning and Development (Housing) and Residential Tenancies Act 2016, prior to making an application to a planning authority or authorities under *section 34* in respect of a development that—

(i) consists of or includes either or both residential development of more than 10 housing units or non-residential development of more than 1,000 square metres gross floor space, F1153**[**...**]**

F1154**[**(*ia*) consists of or includes the development of student accommodation that includes 200 or more bed spaces, or**]**

(ii) such other development as may be prescribed,

a prospective applicant shall have consulted the appropriate planning authority or authorities in whose area or areas the proposed development would be situated, comprising at least one meeting, and for that purpose—

(I) subject to *paragraph (b)*, F1152**[**this section**]** applies, with any necessary modifications to those consultations, and

(II) those consultations shall have regard to so much of Part V as would be relevant to proposals that include housing development.

(*b*) F1155**[**Where a planning authority receives a request for consultation from a prospective applicant in relation to proposed development referred to in *paragraph (a)*, such consultations shall be held, or the planning authority shall provide a written confirmation referred to in *subsection (7)*, within the period of 4 weeks beginning on the date on which the request is received by

the planning authority,**]** unless the prospective applicant requests that the period be extended by a specified period, in which case—

(i) the period shall be extended by the planning authority, or planning authorities, as the case may be, by such specified period upon the first such request, and

(ii) the period may be extended, at the discretion of the planning authority or planning authorities, as the case may be, by such specified period upon a second or subsequent such request.

(*c*) The failure by a planning authority to comply with the requirement to hold a consultation meeting for the purposes of F1152**[**this section**]** by virtue of *paragraph (b)* within the time limits provided for by that paragraph shall not prevent the prospective applicant, after the expiration of the period specified in that paragraph, from making an application to a planning authority or authorities under section 34 to which the request for a consultation under *paragraph (a)* relates.

(*d*) The Minister may by regulations prescribe for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of requests to which *paragraph (a)* relate and may be so prescribed in respect of different classes of such requests.

(*e*) Without prejudice to the generality of *paragraph (d)*, regulations under that paragraph may make provision for the following—

(i) the manner in which requests under *paragraph (a)* are to be made to planning authorities,

(ii) requiring planning authorities to acknowledge in writing the receipt of requests under *paragraph (a)*,

(iii) requiring any person making a request under *paragraph (a)* to furnish to the planning authority concerned any specified types of drawings, plans, documents or other information in relation to that request.

(*f*) For the purposes of this subsection "gross floor space" means the area ascertained by the internal measurement of the floor space on each floor of a building (including internal walls and partitions), disregarding any floor space provided for the parking of vehicles by persons occupying or using the building or buildings where such floor space is incidental to the primary purpose of the building.**]**

F1156**[**(*g*) A planning authority shall, in carrying out consultations under this section, consult with the competent authority (within the meaning of the Aircraft Noise (Dublin Airport) Regulation Act 2019) and, where requested to do so by the competent authority, facilitate the competent authority in engaging in the consultation and requiring the person making a request under *paragraph (a)* to furnish to the planning authority any specified types of drawings, plans, documents or other information in relation to that request as the competent authority may specify.**]**

(2) In any consultations under *subsection (1)*, the planning authority shall advise the person concerned of the procedures involved in considering a planning application, including any requirements of the permission regulations, and shall, as far as possible, indicate the relevant objectives of the development plan which may have a bearing on the decision of the planning authority.

(3) The carrying out of consultations shall not prejudice the performance by a planning authority of any other of its functions under this Act, or any regulations made under this Act and cannot be relied upon in the formal planning process or in legal proceedings.

(4) (*a*) In order to satisfy the requirements of this section, a planning authority may specify that consultations may be held at particular times and at particular locations and the authority shall not be obliged to enter into consultations otherwise than as specified by it.

(*b*) Where a planning authority decides to hold consultations in accordance with *paragraph (a)* it shall, at least once in each year, publish notice of the times and locations at which consultations are held in one or more newspapers circulating in the area of the authority.

(5) The planning authority shall keep a record in writing of any consultations F1157**[**or request for consultations**]** under this section that relate to a proposed development, including the names of those who participated in the consultations F1157**[**or request for consultations**]**, and a copy of such record shall be placed and kept with the documents to which any planning application in respect of the proposed development relates.

F1154**[**(5A) A record kept by a planning authority under *subsection (5)* shall only be made public when a planning application in respect of the proposed development is made in accordance with *section 34*.**]**

(6) A member or official of a planning authority is guilty of an offence if he or she takes or seeks any favour, benefit or payment, direct or indirect (on his or her own behalf or on behalf of any other person or body), in connection with any consultation entered into or any advice given under this section.

F1154**[**(7) Where a planning authority receives a request under this section in relation to a proposed development in respect of a part of which (referred to in this section as the "permitted development") permission has already been granted under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016 or on foot of an application in accordance with *section 32A*, and the planning authority is satisfied, having compared the proposed development to the permitted development, that—

(*a*) the proposed development is substantially the same as the permitted development, and

(*b*) the nature, scale and effect of any alterations to the permitted development are not such that require the consultation process to be repeated,

the planning authority may determine, notwithstanding *subsection (1A)*, that no consultation is required under this section in relation to the proposed development and may provide a confirmation in writing to the person who made the request to that effect.

(8) A determination under *subsection (7)* shall not prejudice the performance by the planning authority of its functions under this Act or any regulations under this Act or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

(9) A member or official of a planning authority who takes or seeks any favour, benefit or payment, direct or indirect (on his or her own behalf or on behalf of any other person or body), in connection with a determination under *subsection (7)* commits an offence.**]**

Annotations

Amendments:

F1150 Substituted by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 50, not commenced as of date of revision.

F1151 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 43(b), S.I. No. 436 of 2018.

F1152 Substituted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 15(a)(i), (iv), S.I. No. 715 of 2021.

F1153 Deleted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 15(a)(ii), S.I. No. 715 of 2021.

F1154 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 15(a)(iii), (c), (d), S.I. No. 715 of 2021.

F1155 Substituted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 15(b), S.I. No. 715 of 2021.

F1156 Inserted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 15, S.I. No. 403 of 2019.

F1157 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 43(c), S.I. No. 436 of 2018.

Modifications (not altering text):

C176 Application of section extended with modifications to applications under *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 4 (3.07.2017) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 5(2)(a), (3), S.I. No. 270 of 2017.

Request for consultations before making application under *section 4*

5.(1) Subject to *subsection (2)*, a prospective applicant shall, before making the application in accordance with *section 4 (1)*, make a request to the Board to enter into consultations with the Board in relation to the proposed strategic housing development and any such request shall comply with *subsection (7)*.

(2) A prospective applicant shall, prior to making a request to the Board under *subsection (1)*, have consulted the appropriate planning authority or authorities in whose area or areas the proposed development would be situated, comprising at least one meeting, as if the consultations with the planning authority or authorities concerned were for the purpose of making a planning application to it or to each of them, as the case may be, and for that purpose—

(*a*) subject to *subsection (3)*, section 247 of the Act of 2000 applies, with any necessary modifications to those consultations, and

(*b*) those consultations shall have regard to so much of Part V of the Act of 2000 as would be relevant to the proposed strategic housing development.

(3) Consultations under section 247 of the Act of 2000 in relation to proposed development referred to in subsection (2) shall be held within 4 weeks of the date of receipt by the planning authority, or planning authorities, as the case may be, of a request by the prospective applicant for such a consultation, unless the prospective applicant requests that the period be extended by a specified period, in which case—

(*a*) the period shall be extended by the planning authority, or planning authorities, as the case may be, by such specified period upon the first such request, and

(*b*) the period may be extended, at the discretion of the planning authority or planning authorities, as the case may be, by such specified period upon a second or subsequent such request.

...

Editorial Notes:

E500 Power pursuant to section exercsied (17.12.2021) by *Planning and Development (Large-scale Residential Development) Regulations 2021* (S.I. No. 716 of 2021), in effect as per reg. 2.

E501 Previous affecting provision: subs. (1) amended (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 43(a), S.I. No. 436 of 2018; subsection substituted (1.10.2022) as per F-note above.

Information to be provided in electronic form.

248.—(1) Subject to *subsection (2)*, any document or other information that is required or permitted to be given in writing under this Act or any regulations made under this Act by the Minister, the planning authority, the Board or any other person, may be given in electronic form.

(2) A document or information referred to in *subsection (1)* may be given in electronic form only—

(*a*) if at the time it was given it was reasonable to expect that it would be readily accessible to the planning authority, Board or other person to whom it was directed, for subsequent reference or use,

(*b*) where such document or information is required or permitted to be given to a planning authority or the Board and the planning authority or the Board consents to the giving of the information in that form, but requires—

(i) the information to be given in accordance with particular information technology and procedural requirements, or

(ii) that a particular action be taken by way of verifying the receipt of the information,

if the requirements of the planning authority or the Board have been met and those requirements have been made public and are objective, transparent, proportionate and non-discriminatory, and

(*c*) where such document or such information is required or permitted to be given to a person who is neither a planning authority nor the Board F1158**[**...**]**.

(3) A document or information that the planning authority or the Board is required or permitted to retain or to produce, whether for a particular period or otherwise, and whether in its original form or otherwise, may be so retained or produced, as the case may be, in electronic form.

(4) *Subsections (1), (2)* and *(3)* are without prejudice to any other law requiring or permitting documents or other information to be given, retained or produced, as the case may be, in accordance with specified procedural requirements or particular information technology.

(5) The Minister may make regulations providing for or requiring the use of particular information technology or other procedural requirements in relation to the giving, retaining or production of a specified class or classes of documents or other information in electronic form F1159**[**, and may deal with applications, appeals and referrals by electronic means.**]**

(6) Without prejudice to the generality of *subsection (5)*, the regulations may apply to a particular class or classes of documents or other information, or for a particular period.

(7) This section applies to a requirement or permission to give documents or other information whether the word "give", "make", "make available", "submit", "produce" or similar word or expression is used.

(8) (*a*) This section is without prejudice to the requirements under *section 250* in relation to the service or giving of a notice or copy of an order unless prescribed in regulations made under *paragraph (b)*.

(*b*) The Minister may by regulation extend the application of this section to the service or giving of a notice or copy of an order under *section 250*, where the Minister is of the opinion that the public interest would not be prejudiced by so doing and the section as so extended shall apply accordingly.

(9) In this section—

"documents or other information" includes but is not limited to—

(*a*) a development plan or any draft or variation of it,

(*b*) an application for permission or any other document specified in *section 38(1)*,

(*c*) any map, plan or other drawing, and

(*d*) written submissions or observations;

F1160**[**...**]**

Annotations

Amendments:

F1158 Deleted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 44(a), S.I. No. 436 of 2018.

F1159 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 44(b), S.I. No. 436 of 2018.

F1160 Deleted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 71, S.I. No. 405 of 2010.

Additional requirements for public notification.

249.—(1) Where any provision of this Act requires notice to be given in one or more newspapers circulating in the area of a planning authority, the planning authority may, in addition to the requirements of the particular provision and to the extent they consider appropriate, give the notice or draw the attention of the public to the notice through other forms of media including the broadcast media and the use of electronic forms for the provision of information.

F1161**[**(2) Where any provision of this Act, or of any regulations made thereunder, requires notice to be given to any person who has made representations, submissions or observations to a planning authority or the Board, the planning authority or the Board may dispense with that requirement where—

(*a*) a large number of representations, submissions or observations are made as part of an organised campaign, or

(*b*) it is not possible to readily ascertain the full name and address of those persons who made the representations, submissions or observations,

provided that the authority or the Board uses some other means of giving notice to the public that the authority or the Board is satisfied can adequately draw the attention of the public to that notice including, in the case of an organised campaign referred to in *paragraph (a)*, giving notice to any person who, in the opinion of the planning authority or the Board, organised the campaign.**]**

Annotations

Amendments:

F1161 Substituted (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(l), S.I. No. 458 of 2001.

Service of notices, etc.

250.—(1) Where a notice or copy of an order is required or authorised by this Act or any order or regulation made thereunder to be served on or given to a person, it shall be addressed to him or her and shall be served on or given to him or her in one of the following ways—

(*a*) where it is addressed to him or her by name, by delivering it to him or her;

(*b*) by leaving it at the address at which he or she ordinarily resides or, in a case in which an address for service has been furnished, at that address;

(*c*) by sending it by post in a prepaid registered letter addressed to him or her at the address at which he or she ordinarily resides or, in a case in which an address for service has been furnished, at that address;

(*d*) where the address at which he or she ordinarily resides cannot be ascertained by reasonable inquiry and the notice or copy is so required or authorised to be given or served in respect of any land or premises, by delivering it to some person over the age of 16 years resident or employed on the land or premises or by affixing it in a conspicuous place on or near the land or premises;

F1162**[**(*dd*) where the address at which he or she ordinarily resides cannot be ascertained by reasonable inquiry and the notice or copy is so required or authorised to be given or served in respect of any maritime site, by publishing the notice or copy on 7 consecutive days in a national newspaper;**]**

(*e*) in addition to the methods of service provided for in *paragraphs (a)*, *(b)*, *(c)* and *(d)*, by delivering it (in the case of an enforcement notice) to some person over the age of 16 years who is employed, or otherwise engaged, in connection with the carrying out of the development to which the notice relates, or by affixing it in a conspicuous place on the land or premises concerned.

(2) Where a notice or copy of an order is required by this Act or any order or regulation made under this Act to be served on or given to the owner or to the occupier of any land or premises and the name of the owner or of the occupier cannot be ascertained by reasonable inquiry, it may be addressed to "the owner" or "the occupier", as the case may require, without naming him or her.

(3) For the purposes of this section, a company registered under the Companies Acts, 1963 to 1999, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(4) Where a notice or copy of an order is served on or given to a person by affixing it under *subsection (1)(d)*, a copy of the notice or order shall, within two weeks thereafter, be published in at least one newspaper circulating in the area in which the person is last known to have resided.

(5) A person who, at any time during the period of 12 weeks after a notice is affixed under *subsection (1)(d)*, removes, damages or defaces the notice without lawful authority shall be guilty of an offence.

(6) A person who, without lawful authority, removes, damages or defaces a notice required to be erected at the site of a development under the permission regulations or by the Board under *section 142(4)*, shall be guilty of an offence.

(7) Where the Minister or the Board is satisfied that reasonable grounds exist for dispensing with the serving or giving under this Act or under any order or regulation made under this Act of a notice or copy of an order and that dispensing with the serving or giving of the notice or copy will not cause injury or wrong, the Minister or the Board may dispense with the serving or giving of the notice or copy and every such dispensation shall have effect according to the tenor thereof.

(8) A dispensation under *subsection (7)* may be given either before or after the time when the notice or copy would, but for the dispensation, be required to be served or given and either before or after the doing of any act to which the notice or copy would, but for the dispensation, be a condition precedent.

(9) In this section, "notice" includes a warning letter.

Annotations

Amendments:

F1162 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 174 and sch. 12 ref. no. 51, S.I. No. 488 of 2022.

Modifications (not altering text):

C177 Application of section extended (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 24, S.I. No. 364 of 2015.

Service of notices

24. Section 250 of the Act of 2000 applies to notices under this Part and references in that section to a notice is to be read as including a reference to a notice under this Part.

Calculation of appropriate period and other time limits over holidays.

F1163**[251.**— Where calculating any appropriate period or other time limit referred to in this Act or in any regulations made under this Act, the period between the 24th day of December and the first day of January, both days inclusive, shall be disregarded.**]**

Annotations

Amendments:

F1163 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 72, S.I. No. 477 of 2010.

F1164**[**Calculation of time limits during emergency

251A.—(1) Where calculating any appropriate period, specified period or other time limit referred to in the following Acts or provisions, or in any regulations made under those Acts or provisions, the period referred to in *subsection (2)* shall be disregarded:

(*a*) sections 4(4), 6 and 17(6) of the Building Control Act 1990;

(*b*) the Derelict Sites Act 1990;

(*c*) this Act;

(*d*) Part 2 of the Urban Regeneration and Housing Act 2015;

(*e*) Chapter 1 of Part 2 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

(2) The period to be disregarded under *subsection (1)* is the period beginning on the date section 9 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 comes into operation and, subject to *subsection (6)*, ending on the date that shall be specified by order under *subsection (3)* or that may be specified by order under *subsection (4)*.

(3) Immediately following the coming into operation of section 9 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 the Government shall, at the request of the Minister made after consultation with the Minister for Health and with

the consent of the Minister for Public Expenditure and Reform, by order specify the date on which the period to be disregarded under *subsection (1)* shall end.

(4) The Government, at the request of the Minister made after consultation with the Minister for Health and with the consent of the Minister for Public Expenditure and Reform, may by order—

(*a*) before the expiration of the period specified in the order under *subsection (3)*, specify a date later than the date specified in that order on which the period to be disregarded under *subsection (1)* shall end, and

(*b*) thereafter, from time to time, but before the expiration of the period specified in the order made under *paragraph (a)*, or where an order has been previously made under this paragraph, before the expiration of the period specified in the last order so made, specify a date later than the date specified in that order, on which the period to be disregarded under *subsection (1)* shall end.

(5) The Government, in deciding the date that shall be specified by order under *subsection (3)*, or that may be specified by order under *subsection (4)*, shall have regard to—

(*a*) the nature and potential impact of Covid-19 on individuals, society and the State,

(*b*) the capacity of the State to respond to the risk to public health posed by the spread of Covid-19,

(*c*) the policies and objectives of the Government to protect the health and welfare of members of the public,

(*d*) the need to mitigate the economic effects of the spread of Covid-19,

(*e*) the need to ensure the effective operation of the planning system and provide, in the interest of the common good, for proper planning and sustainable development,

(*f*) the need to ensure the effective operation of the building control system and to protect the health, safety and welfare of persons using buildings, and

(*g*) the need to mitigate the likely impact of Covid-19 on the availability of the resources of the State to perform functions relating to the planning and building control systems.

(6) The date that shall be specified by order under *subsection (3)*, or that may be specified by order under *subsection (4)*, as the date on which the period to be disregarded under *subsection (1)* shall end, shall be a date not later than the 9th day of November 2020.

(7) In this section "Covid-19" means a disease caused by infection with the virus SARS-CoV-2 and specified as an infectious disease in accordance with Regulation 6 of, and the Schedule to, the Infectious Diseases Regulations 1981 (S.I. No. 390 of 1981) or any variant of the disease so specified as an infectious disease in those Regulations.**]**

Annotations

Amendments:

F1164 Inserted (29.03.2020) by *Emergency Measures in the Public Interest (Covid-19) Act 2020* (2/2020), s. 9, S.I. No. 100 of 2020 for temporary period initially ceased (20.04.2020) by S.I. No. 129 of 2020, secondly ceased (9.05.2020) by S.I. No. 131 of 2020, and further ceased (23.05.2020) by S.I. No. 165 of 2020.

Editorial Notes:

E502 Power pursuant to section exercised (8.05.2020) by *Planning and Development Act 2000 (Subsection (4) of Section 251A) (No. 2) Order 2020* (S.I. No. 165 of 2020). The end date provided is 23 May 2020.

E503 Power pursuant to section exercised (16.04.2020) by *Planning and Development Act 2000 (Subsection (4) of Section 251A) Order 2020* (S.I. No. 131 of 2020). The end date provided is 9 May 2020.

E504 Power pursuant to section exercised (29.03.2020) by *Planning and Development Act 2000 (Subsection (3) of Section 251A) Order 2020* (S.I. No. 129 of 2020). The end date provided is 20 April 2020.

Power of authorised person to enter on land.

252.—(1) An authorised person may, subject to the other provisions of this section, enter on any land at all reasonable times between the hours of 9 a.m. and 6 p.m., or during business hours in respect of a premises which is normally open outside those hours, for any purpose connected with this Act.

(2) An authorised person entering on land under this section may do all things reasonably necessary for the purpose for which the entry is made and, in particular, may survey, carry out inspections, make plans, take photographs, take levels, make excavations, and examine the depth and nature of the subsoil.

(3) Before an authorised person enters under this section on any land, the appropriate authority shall either obtain the consent (in the case of occupied land) of the occupier or (in the case of unoccupied land) the owner or shall give to the owner or occupier, as the case may be, not less than 14 days' notice in writing of the intention to make the entry.

(4) A person to whom a notice of intention to enter on land has been given under this section by the appropriate authority may, not later than 14 days after the giving of the notice, apply, on notice to the authority, to the judge of the District Court having jurisdiction in the district court district in which the land or part of the land is situated for an order prohibiting the entry, and, upon the hearing of the application, the judge may either wholly prohibit the entry or specify conditions to be observed by the person making the entry.

(5) Where a judge of the District Court prohibits under this section a proposed entry on land, it shall not be lawful for any person to enter under this section on the land, and where a judge of the District Court specifies conditions to be observed by persons entering on land, every person who enters under this section on the land shall observe the conditions so specified.

(6) (*a*) Where (in the case of occupied land) the occupier or (in the case of unoccupied land) the owner refuses to permit the exercise of a power conferred by this section on an authorised person, the appropriate authority may apply to the District Court to approve of the entry.

(*b*) An application under this subsection shall be made, on notice to the person who refused to permit the exercise of the power of entry, to the judge of the District Court having jurisdiction in the district court district in which the land or part of the land is situated.

(7) *Subsections (3), (4)* and *(5)* shall not apply to entry for the purposes of *Part III* and, in a case in which any such entry is proposed, if the occupier (in the case of occupied land) or the owner (in the case of unoccupied land) refuses to permit the entry—

(*a*) the entry shall not be effected unless it has been authorised by an order of the judge of the District Court having jurisdiction in the district court district in which the land or part of the land is situate and, in the case of occupied land, until after at least 24 hours' notice of the intended entry, and of the object thereof, has been given to the occupier,

(*b*) an application for such an order shall be made on notice (in the case of occupied land) to the occupier or (in the case of unoccupied land) to the owner.

(8) An authorised person may, in the exercise of any power conferred on him or her by this Act, where he or she anticipates any obstruction in the exercise of any other power conferred on him or her by or under this Act, request a member of the Garda Síochána to assist him or her in the exercise of such a power and any member of the Garda Síochána of whom he or she makes such a request shall comply therewith.

(9) Every person who, by act or omission, obstructs an authorised person in the lawful exercise of the powers conferred by this section shall be guilty of an offence.

(10) Every authorised person shall be furnished with a certificate of his or her appointment and when exercising any power conferred on him or her by or under this Act, the authorised person shall, if requested by any person affected, produce the certificate to that person.

(11) In this section and *section 253*—

"appropriate authority" means—

(*a*) in a case in which the authorised person was appointed by a local authority — that authority,

(*b*) in a case in which the authorised person was appointed by the Minister — the Minister, and

(*c*) in a case in which the authorised person was appointed by the Board — the Board;

"authorised person" means a member of the Board or a person who is appointed by a local authority, the Minister or the Board to be an authorised person for the purposes of this section and *section 253*.

Annotations

Modifications (not altering text):

C178 Application of section extended and reference construed (31.12.2007) by *Water Services Act 2007* (30/2007), ss. 22(10), 97(9), S.I. No. 846 of 2007.

Powers of authorised persons.

22.— ...

(10) An authorised person may enter on land for the purpose of assessing the suitability of the land for any activity, or for use in connection with any activity, authorised under this Act and that entry shall be subject to the relevant provisions of section 252 of the Act of 2000 as if it were an entry made under that section.

...

Laying of water mains, sewers, service connections and related cables and wires.

97.— ...

(9) An authorised person may enter on land for any purpose connected with this section and that entry shall be subject to the relevant provisions of section 252 of the Act of 2000 as if—

(*a*) it were an entry made under that section, and

(*b*) any reference in the said section to appropriate authority or local authority was a reference to a water services authority.

...

Powers of entry in relation to enforcement.

253.—(1) Notwithstanding *section 252*, an authorised person may, for any purpose connected with *Part VIII*, at all reasonable times, or at any time if he or she has reasonable grounds for believing that an unauthorised development has been, is being or is likely to be carried out, F1165**[**enter a premises or on land**]** and bring thereon such other persons (including members of the Garda Síochána) or equipment as he or she may consider necessary for the purpose.

(2) Subject to *subsection (4)*, an authorised person shall not, other than with the consent of the occupier, enter into a private house under *subsection (1)* unless he or she has given to the occupier of the house not less than 24 hours' notice in writing of his or her intended entry.

(3) Whenever an authorised person F1165**[**enters a premises or on land**]** pursuant to *subsection (1)*, the authorised person may exercise the powers set out in *section 252(2)* and, as appropriate, in addition—

F1165**[**(*a*) require from an occupier of the premises or land or any person employed on the premises or land or any other person on the premises or land such information, or**]**

(*b*) require the production of and inspect such records and documents, and take copies of or extracts from, or take away, if it is considered necessary for the purposes of inspection or examination, any such records or documents,

as the authorised person, having regard to all the circumstances, considers necessary for the purposes of exercising any power conferred on him or her by or under this Act.

(4) (*a*) Where an authorised person in the exercise of his or her powers under *subsection (1)* is F1165**[**prevented from entering a premises or on land**]** or has reason to believe that evidence related to a suspected offence under this Act may be F1165**[**present in a premises or on land**]** and that the evidence may be removed therefrom or destroyed or that any particular structure may be damaged or destroyed, the authorised person or the person by whom he or she was appointed may apply to a judge of the District Court for a warrant under this subsection authorising the entry F1165**[**by the authorised person in the premises or on the land**]**.

(*b*) If on application being made to him or her under this subsection, a judge of the District Court is satisfied, on the sworn information of the applicant, that the authorised person concerned has been F1165**[**prevented from entering a premises or on land**]** or that the authorised person has reasonable grounds for believing the other matters referred to in *paragraph (a)*, the judge may issue a warrant under his or her hand authorising that person, accompanied, if the judge considers it appropriate so to provide, by such number of members of the Garda Síochána as may be specified in the warrant, at any time within 4 weeks from the date of the issue of the warrant, on production, if so requested, of the warrant, F1165**[**to enter the premises or on the land concerned, if need be by force**]** and exercise the powers referred to in *subsection (3)*.

Annotations

Amendments:

F1165 Substituted (19.08.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 73, S.I. No. 405 of 2010.

Licensing of appliances and cables, etc., on public roads.

254.—(1) Subject to *subsection (2)*, a person shall not erect, construct, place or maintain—

(*a*) a vending machine,

(*b*) a town or landscape map for indicating directions or places,

(*c*) a hoarding, fence or scaffold,

(*d*) an advertisement structure,

(*e*) a cable, wire or pipeline,

F1166**[**(*ee*) overground electronic communications infrastructure and any associated physical infrastructure,**]**

(*f*) a telephone kiosk or pedestal, or

(*g*) any other appliance, apparatus or structure, which may be prescribed as requiring a licence under this section,

on, under, over or along a public road save in accordance with a licence granted by a planning authority under this section.

(2) This section shall not apply to the following—

(*a*) an appliance, apparatus or structure which is authorised in accordance with a planning permission granted under *Part III*;

(*b*) a temporary hoarding, fence or scaffold erected in accordance with a condition of planning permission granted under *Part III*;

(*c*) the erection, construction, placing or maintenance under a public road of a cable, wire or pipeline by a statutory undertaker.

(3) A person applying for a licence under this section shall furnish to the planning authority such plans and other information concerning the position, design and capacity of the appliance, apparatus or structure as the authority may require.

(4) A licence may be granted under this section by the planning authority for such period and upon such conditions as the authority may specify, including conditions in relation to location and design, and where in the opinion of the planning authority by reason of the increase or alteration of traffic on the road or of the widening of the road or of any improvement of or relating to the road, the appliance, apparatus or structure causes an obstruction or becomes dangerous, the authority may by notice in writing withdraw the licence and require the licensee to remove the appliance, apparatus or structure at his or her own expense.

(5) In considering an application for a licence under this section a planning authority, or the Board on appeal, shall have regard to—

(*a*) the proper planning and sustainable development of the area,

(*b*) any relevant provisions of the development plan, or a local area plan,

(*c*) the number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and

(*d*) the convenience and safety of road users including pedestrians.

F1167**[**(5A)(*a*) Subject to this subsection, where in respect of an application for a licence to erect, construct, place or maintain overground electronic communications infrastructure and any associated physical infrastructure—

(i) a planning authority fails to make a decision within a period of 4 months commencing on the date of receipt of an application, a decision (referred

to in this subsection and in *section 246(3)(c)* as a "deemed decision to grant a licence") of the planning authority to grant the licence shall be deemed to have been made on the day following the expiration of that period of 4 months, and

(ii) where a planning authority requests additional information from the applicant regarding the application and the planning authority has not made a decision within a period of 4 months of receiving the applicant's response to the request, a deemed decision to grant a licence shall be deemed to have been made on the day following the expiration of that period of 4 months.

(*b*) A deemed decision to grant a licence shall be subject to the condition that the network operator concerned, in advance of the commencement of the works to erect, construct, place or maintain electronic communications infrastructure or any associated physical infrastructure, shall inform—

(i) the planning authority concerned,

(ii) where planned work is on a national road, the National Roads Authority, and

(iii) where planned work is on any regional or local road, the road authority in whose functional area the network operator proposes to carry out the work.

(*c*) Where a planning authority refuses to grant a licence under this section, it shall state the main reasons for the refusal when notifying its decision to the applicant for the licence.

(*d*) This section does not apply in respect of an application where, within 4 months of receipt of the application—

(i) the planning authority serves notice on the applicant that for exceptional reasons stated in the notice it shall not decide on the application within a period of 4 months commencing on the date of receipt of the application, or

(ii) the applicant gives to the planning authority in writing his or her consent, for stated reasons, to the extension of the period concerned for making a decision on the application, in which case the period for making the decision shall be extended for the period consented to by the applicant.**]**

(6) (*a*) Any person may, in relation to the granting, refusing, withdrawing or continuing of a licence under this section or to the conditions specified by the planning authority for such a licence, appeal to the Board.

(*b*) Where an appeal under this section is allowed, the Board shall give such directions with respect to the withdrawing, granting or altering of a licence under this section as may be appropriate, and the planning authority shall comply therewith.

(7) Development carried out in accordance with a licence under this section shall be exempted development for the purposes of this Act.

(8) A person shall not be entitled solely by reason of a licence under this section to erect, construct, place or maintain on, under, over or along a public road any appliance, apparatus or structure.

(9) Subject to *subsection (10)*, any person who—

(*a*) erects, constructs, places or maintains an appliance, apparatus or structure referred to in *subsection (1)* on, under, over or along any public road without having a licence under this section to do so,

(*b*) erects, constructs, places or maintains such an appliance, apparatus or structure on, under, over or along any public road otherwise than in accordance with a licence under this section, or

(*c*) contravenes any condition subject to which a licence has been granted to him or her under this section,

shall be guilty of an offence.

(10) (*a*) A planning authority may, by virtue of this subsection, itself erect, construct, place or maintain, on, under, over or along a public road any appliance, apparatus or structure referred to in *subsection (1)*, and it shall not be necessary for the planning authority to have a licence under this section.

(*b*) Nothing in this subsection shall be construed as empowering a planning authority to hinder the reasonable use of a public road by the public or any person entitled to use it or as empowering a planning authority to create a nuisance to the owner or occupier of premises adjacent to the public road.

(11) Where a planning authority is not the road authority for the purposes of national or regional roads in its area, it shall not grant a licence under this section in respect of any appliance, apparatus or structure on, under, over or along a national or regional road or erect, construct or place any appliance, apparatus or structure on, under, over or along a national or regional road except after consultation with the authority which is the road authority for those purposes.

Annotations

Amendments:

F1166 Inserted (27.04.2002) by *Communications Regulation Act 2002* (20/2002), s. 54(1), commenced on enactment.

F1167 Inserted (20.07.2016) *European Union (Reduction of Cost of Deploying High-Speed Public Communications Networks) Regulations 2016* (S.I. No. 391 of 2016), reg. 21.

Modifications (not altering text):

C179 Application of section restricted (31.12.2007) by *Water Services Act 2007* (30/2007), s. 41(9), S.I. No. 846 of 2007.

Installation of pipes.

41.— ...

(9) A requirement to hold a licence under section 254 of the Act of 2000 in respect of works on, under, over or along a public road shall not apply to a person who has obtained the consent of a road authority under this section, in respect of the works to which the consent relates.

...

C180 Application of subs. (1)(e) restricted (27.04.2002) by *Communications Regulation Act 2002* (20/2002), s. 53(17), now subs. (20), commenced on enactment, as substituted (16.03.2010) by *Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010* (2/2010), s. 21(2), commenced on enactment.

[Opening of public road for establishment of underground electronic communications infrastructure.

53.— ...

(20) The requirement to hold a licence under section 254 of the Act of 2000 in respect of subsection (1)(e) of that section does not apply where a network operator has obtained a consent.

... **]**

C181 Application of subs. (4) restricted (27.04.2002) by *Communications Regulation Act 2002* (20/2002), s. 55, commenced on enactment, as substituted (16.03.2010) by *Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010* (2/2010), s. 21(3), commenced on enactment .

Cost apportionment for electronic communications infrastructure relocation due to road improvements.

55.— (1) Notwithstanding section 254(4) of the Act of 2000 and subject to this section, where an authority undertakes work for the purposes of improving a public road, it shall pay to a network operator all reasonable costs incurred by the operator in the relocation (except in relation to the relocation of ducts as referred to in subsection (2)) of its electronic communications infrastructure and any associated physical infrastructure necessitated by and directly attributable to that work.

...

Editorial Notes:

E505 Power pursuant to section exercised (30.04.2021) by *Planning and Development (Amendment) (No. 2) Regulations 2021* (S.I. No. 210 of 2021).

E506 Power to amend conditions of certain licenses granted under section prescribed (1.07.2011) by *European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011* (S.I. No. 335 of 2011), reg. 15(3).

E507 Holders of rights under subs. (1) may be required to share physical infrastructure (1.07.2011) by *European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011* (S.I. No. 333 of 2011), reg. 21.

E508 Power pursuant to section exercised (22.04.2002) by *Planning and Development (No. 2) Regulations 2002* (S.I. No. 149 of 2002).

E509 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E510 Previous affecting provision: power to amend conditions of certain licenses granted under section prescribed (25.07.2003) by *European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations 2003* (S.I. No. 306 of 2003), reg. 15(3); revoked (1.07.2011) by *European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011* (S.I. No. 335 of 2011), reg. 28(2)(a), subject to transitional provision in reg. 27.

E511 Previous affecting provision: Regulator required to publish information in relation to licences under section (25.07.2003) by *European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations 2003* (S.I. No. 306 of 2003), reg. 21, in effect as per reg. 1(2); revoked (1.07.2011) by *European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011* (S.I. No. 335 of 2011), reg. 28(2)(a), subject to transitional provisions in reg. 27.

Performance of functions by planning authorities.

255.—(1) A planning authority shall supply the Minister with such information relating to the performance of its functions as he or she may from time to time request.

(2) (*a*) A planning authority shall conduct, at such intervals as it thinks fit or the Minister directs, reviews of its organisation and of the systems and procedures used by it in relation to its functions under this Act.

(*b*) Where the Minister gives a direction under this subsection, the planning authority shall report to the Minister the results of the review conducted pursuant to the direction and shall comply with any directive which the Minister may, after consultation with the planning authority as regards those results, give in relation to all or any of the matters which were the subject of the review.

(3) The Minister may appoint a person or body, not being the planning authority concerned, to carry out a review in accordance with *subsection (2)*.

(4) Without prejudice to the powers of the Minister under the Local Government Act, 1941, if the Minister has formed the opinion from information available to him or her that—

(*a*) a planning authority may not be carrying out its functions in accordance with the requirements of or under this Act,

(*b*) a planning authority is not in compliance with guidelines issued under *section 28*, a directive issued under *section 29*, or a direction issued under *section 31*,

(*c*) there may be impropriety in the conduct of any of its functions by a planning authority, or

(*d*) there are serious diseconomies or inefficiencies in the conduct of its functions by a planning authority,

he or she may, where he or she considers it necessary or appropriate, for stated reasons appoint a commissioner to carry out and have full responsibility for all or any one or more of the functions of the planning authority under this Act and in doing so may distinguish between reserved functions and other functions.

F1168**[**(4A) In *subsection (4)* "information available to him or her" includes any information or recommendation of the Office of the Planning Regulator having regard to—

(*a*) a draft report under *subsection (4)* of *section 31AS* or, where the report has been finalised, in the report under *subsection (6)* of that section,

(*b*) a draft report under *subsection (3)* of *section 31AT* or, where the report has been finalised, in the report under *subsection (5)* of that section,

(*c*) a report on a preliminary examination under *section 31AU*, or

(*d*) directions issued by the Minister on foot of recommendations from the Office under *Chapter III* of *Part IIB*.**]**

(5) In considering whether it is necessary or expedient to appoint a commissioner under this section, the Minister may have regard to any loss of public confidence in the carrying out of its functions by the planning authority and the need to restore that confidence.

(6) A commissioner appointed under this section shall be appointed in accordance with such terms and conditions and for such period as may be specified by the Minister.

(7) A planning authority may on stated grounds based on the provisions of *subsection (4)*, by resolution, request the Minister to appoint a commissioner to carry out all or any of the functions of the authority under this Act and the Minister shall have regard to any such request.

(8) It shall be the duty of every member and every official of a planning authority to co-operate with any commissioner appointed under this section.

Annotations

Amendments:

F1168 Inserted (3.04.2019) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 45, S.I. No. 133 of 2019, art. 2(d).

Amendment of Environmental Protection Agency Act, 1992.

256.—F1169**[**...**]**

Annotations

Amendments:

F1169 Repealed (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 3 and sch. 2 part 1, S.I. No. 393 of 2004.

Amendment of Waste Management Act, 1996.

257.—The Waste Management Act, 1996, is hereby amended in section 54—

(*a*) by the substitution for subsection (3) of the following subsections:

"(3) Notwithstanding *section 34* of the *Planning and Development Act, 2000*, or any other provision of that Act, where a waste licence has been granted or is or will be required in relation to an activity, a planning authority or An Bord Pleanála shall not, where it decides to grant a permission under *section 34* of that Act in respect of any development comprising the activity or for the purposes of the activity, subject the permission to conditions which are for the purposes of—

(*a*) controlling emissions from the operation of the activity, including the prevention, limitation, elimination, abatement or reduction of those emissions, or

(*b*) controlling emissions related to or following the cessation of the operation of the activity.

(3A) Where a waste licence has been granted under this Part or is or will be required in relation to an activity, a planning authority or An Bord Pleanála may, in respect of any development comprising the activity or for the purposes of the activity, decide to refuse a grant of permission under *section 34* of the *Planning and Development Act, 2000*, where the authority or An Bord Pleanála considers that the development, notwithstanding the licensing of the activity under this Part, is unacceptable on environmental grounds, having regard to the proper planning and sustainable development of the area in which the development is or will be situate.

(3B) (*a*) Before making a decision in respect of a development comprising or for the purposes of an activity, a planning authority or An Bord Pleanála may request the Agency to make observations within such period (which period shall not in any case be less than 3 weeks from the date of the request) as may be specified by the authority or the Board in relation to the development, including in relation to any environmental impact statement submitted.

(*b*) When making its decision, the authority or An Bord Pleanála, as the case may be, shall have regard to the observations, if any, received from the Agency within the period specified under paragraph (*a*).

(3C) The planning authority or An Bord Pleanála may, at any time after the expiration of the period specified by the authority or An Bord Pleanála under subsection (3B)(*a*) for making observations, make its decision on the application or appeal.

(3D) The Minister may make regulations making such incidental, consequential, or supplementary provision as may appear to him or her to

be necessary or proper to give full effect to any of the provisions of this section.

(3E) Without prejudice to the generality of subsection (3D), regulations made under this section may provide for matters of procedure in relation to the request for or the making of observations from or by the Agency under this section and related matters.

(3F) The making of observations by the Agency under this section shall not prejudice any other function of the Agency under this Act.",

(*b*) in subsection (4), by the substitution for "Part IV of the Act of 1963" of "*section 34* of the *Planning and Development Act, 2000*" in each place it occurs, and

(*c*) in subsection (5), by the substitution for "the Local Government (Planning and Development) Acts, 1963 to 1993, and a condition attached to a permission granted under Part IV of the Act of 1963" of "the *Planning and Development Act, 2000*, and a condition attached to a permission under *section 34* of that Act".

Limitation on connection to sanitary authority sewers.

258.—F1170**[...]**

Annotations

Amendments:

F1170 Repealed (31.12.2007) by *Water Services Act 2007* (30/2007), s. 4(1) and sch. 1, S.I. No. 846 of 2007.

Editorial Notes:

E512 Previous affecting provision: references to "sanitary authority" construed as "Irish Water" (1.01.2014) by *Water Services (No. 2) Act 2013* (50/2013), ss. 6, 7(4), S.I. No. 575 of 2013; section repealed as per F-note above.

Limitation of section 53 of the Waterworks Clauses Act, 1847.

259.—F1171**[...]**

Annotations

Amendments:

F1171 Repealed (31.12.2007) by *Water Services Act 2007* (30/2007), s. 4(1) and sch. 1, S.I. No. 846 of 2007.

Saving for national monuments.

260.—Nothing in this Act shall restrict, prejudice, or affect the functions of the Minister for Arts, Heritage, Gaeltacht and the Islands under the National Monuments Acts, 1930 to 1994, in relation to national monuments as defined by those Acts or any particular monuments.

Annotations

Amendments:

F1172 Substituted by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 235(a), not commenced as of date of revision.

Modifications (not altering text):

C182 Prospective affecting provision: section substituted by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 235(a), not commenced as of date of revision.

F1172**[Saving for monuments**

260.—Nothing in this Act shall restrict, prejudice or affect—

(*a*) the functions of the Minister for Housing, Local Government and Heritage under the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023 in relation to a national monument within the meaning of section 74 of that Act, or

(*b*) the functions of the Commissioners under the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023 in relation to such a monument.**]**

C183 Functions in relation to section transferred (1.05.2011) by *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 192 of 2011), arts. 2, 3 and sch. Note that name of Department of and Minister for Tourism, Culture and Sport changed to Department of and Minister for Arts, Heritage and the Gaeltacht (2.06.2011) by *Tourism, Culture and Sport (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 220 of 2011).

2. (1) The administration and business in connection with the exercise, performance or execution of any powers, duties and functions transferred by this Order are transferred to the Department of Tourism, Culture and Sport.

(2) References to the Department of the Environment, Heritage and Local Government contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Tourism, Culture and Sport.

3. (1) The powers, duties and functions vested in the Minister for the Environment, Heritage and Local Government—

(*a*) by or under any of the Acts mentioned in Part 1 of the Schedule,

(*b*) under the Regulations mentioned in Part 2 of the Schedule, and

(*c*) to make a recommendation to which section 12 (3)(b)(iii) of the Planning and Development Act 2000 (No. 30 of 2000) applies, and to make observations to which section 12(3)(b)(iv) of that Act applies,

are transferred to the Minister for Tourism, Culture and Sport.

(2) References to the Minister for the Environment, Heritage and Local Government contained in any Act or instrument made under such Act and relating to any powers, duties and functions transferred by this Order shall, on and after the commencement of this Order, be construed as references to the Minister for Tourism, Culture and Sport.

...

Schedule Part 1

Enactments, powers, duties and functions by or under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Sections 51 (2) (in so far as it relates to being consulted under that subsection), 52 (1) (in so far as it relates to the issuing of guidelines), 52 (2), 53, 55, 80 and 260 of the Planning and Development Act 2000 (No. 30 of 2000).

Part 2

Regulations, powers, duties and functions under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Tourism, Culture and Sport.

...

Regulations 13A(4)(a)(ii), 28(1)(c), 28(1)(n), 55(a), 82(3)(c), 82(3)(n), 88(2), 121(1)(c), 121(1)(n), 179(2)(g), 179(2)(j) and 213(1)(a) of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001);

...

Editorial Notes:

E513 Previous affecting provision: functions and powers in relation to *National Monuments (Amendment) Act 1994* (17/1994), ss. 5(5) and 6(2) transferred to Department of and Minister for Arts, Sport and Tourism (10.07.2002) by *National Monuments (Transfer of Departmental Administration and Ministerial Functions) Order 2002* (S.I. No. 358 of 2002).

E514 Previous affecting provision: name of Department of and Minister for Arts, Heritage, Gaeltacht and the Islands changed to Department of and Minister for Community, Rural and Gaeltacht Affairs (19.06.2002) by *Arts, Heritage, Gaeltacht and The Islands (Alteration of Name of Department and Title of Minister) Order 2002* (S.I. No. 308 of 2002).

Control of quarries.

261.—(1) The owner or operator of a quarry to which this section applies shall, not later than one year from the coming into operation of this section, provide to the planning authority, in whose functional area the quarry is situated, information relating to the operation of the quarry at the commencement of this section, and on receipt of such information the planning authority shall, in accordance with *section 7*, enter it in the register.

(2) Without prejudice to the generality of *subsection (1)*, information provided under that subsection shall specify the following—

(*a*) the area of the quarry, including the extracted area delineated on a map,

(*b*) the material being extracted and processed (if at all),

(*c*) the date when quarrying operations commenced on the land (where known),

(*d*) the hours of the day during which the quarry is in operation,

(*e*) the traffic generated by the operation of the quarry including the type and frequency of vehicles entering and leaving the quarry,

(*f*) the levels of noise and dust generated by the operations in the quarry,

(*g*) any material changes in the particulars referred to in *paragraphs (a)* to *(f)* during the period commencing on the commencement of this section and the date on which the information is provided,

(*h*) whether—

(i) planning permission under Part IV of the Act of 1963 was granted in respect of the quarry and if so, the conditions, if any, to which the permission is subject, or

(ii) the operation of the quarry commenced before 1 October 1964,

and

(*i*) such other matters in relation to the operations of the quarry as may be prescribed.

(3) A planning authority may require a person who has submitted information in accordance with this section to submit such further information as it may specify, within such period as it may specify, relating to the operation of the quarry concerned and, on receipt thereof, the planning authority shall enter the information in the register.

(4) (*a*) A planning authority shall, not later than 6 months from the registration of a quarry in accordance with this section, publish notice of the registration in one or more newspapers circulating in the area within which the quarry is situated.

(*b*) A notice under *paragraph (a)* shall state—

(i) that the quarry has been registered in accordance with this section,

(ii) where planning permission has been granted in respect of the quarry, that it has been so granted and whether the planning authority is considering restating, modifying or adding to conditions attached to the planning permission in accordance with *subsection (6)(a)(ii)*, or

(iii) where planning permission has not been granted in respect of the quarry, that it has not been so granted and whether the planning authority is considering—

(I) imposing conditions on the operation of the quarry in accordance with *subsection (6)(a)(i)*, or

(II) requiring the making of a planning application and the preparation of an environmental impact statement in respect of the quarry in accordance with *subsection (7)*,

(iv) the place or places and times at which the register may be inspected,

(v) that submissions or observations regarding the operation of the quarry may be made to the planning authority within 4 weeks from the date of publication of the notice.

(*c*) A notice under this subsection may relate to one or more quarries registered in accordance with this section.

(5) (*a*) Where a planning authority proposes to—

(i) impose, restate, modify or add to conditions on the operation of the quarry under this section, or

(ii) require, under *subsection (7)*, a planning application to be made and an environmental impact statement to be submitted in respect of the quarry in accordance with this section,

it shall, as soon as may be after the expiration of the period for making observations or submissions pursuant to a notice under *subsection (4)(b)*, serve notice of its proposals on the owner or operator of the quarry.

(*b*) A notice referred to in *paragraph (a)*, shall state—

(i) the reasons for the proposals, and

(ii) that submissions or observations regarding the proposals may be made by the owner or operator of the quarry to the planning authority within such period as may be specified in the notice, being not less than 6 weeks from the service of the notice.

(*c*) Submissions or observations made pursuant to a notice under *paragraph (b)* shall be taken into consideration by a planning authority when performing its functions under *subsection (6)* or *(7)*.

(6) (*a*) Not later than 2 years from the registration of a quarry under this section, a planning authority may, in the interests of proper planning and sustainable development, and having regard to the development plan and submissions or observations (if any) made pursuant to a notice under *subsection (4)* or *(5)*—

(i) in relation to a quarry which commenced operation before 1 October 1964, impose conditions on the operation of that quarry, or

(ii) in relation to a quarry in respect of which planning permission was granted under Part IV of the Act of 1963 restate, modify or add to conditions imposed on the operation of that quarry,

and the owner and operator of the quarry concerned shall as soon as may be thereafter be notified in writing thereof.

F1173**[**(*aa*) Notwithstanding any other provisions of this Act, the operation of a quarry in respect of which the owner or operator fails to comply with conditions imposed under paragraph (*a*)(i) shall be unauthorised development.**]**

F1174**[**(*ab*) Where substitute consent or permission under *section 34* is granted in respect of the operation of a quarry on which conditions were imposed under *paragraph (a)(i)* prior to the granting of the substitute consent or permission concerned, those conditions shall cease to have effect.**]**

F1175**[**(*b*) Where, in relation to a grant of planning permission conditions have been restated, modified or added in accordance with *paragraph (a)*, the planning permission shall be deemed, for the purposes of this Act, to have been granted under *section 34*, on the date the conditions were restated, modified or added, and any condition so restated, modified or added shall have effect as if imposed under *section 34*.**]**

(*c*) Notwithstanding *paragraph (a)*, where an integrated pollution control licence has been granted in relation to a quarry, a planning authority or the Board on appeal shall not restate, modify, add to or impose conditions under this subsection relating to—

(i) the control (including the prevention, limitation, elimination, abatement or reduction) of emissions from the quarry, or

(ii) the control of emissions related to or following the cessation of the operation of the quarry.

(7) (*a*) Where the continued operation of a quarry—

(i) (I) the extracted area of which is greater than 5 hectares, or

(II) that is situated on a European site or any other area prescribed for the purpose of *section 10(2)(c)*, or land to which an order under section 15, 16 or 17 of the Wildlife Act, 1976, applies,

and

(ii) that commenced operation before 1 October 1964,

would be likely to have significant effects on the environment (having regard to any selection criteria prescribed by the Minister under *section 176(2)(e)*), a planning authority shall not impose conditions on the operation of a quarry under *subsection (6)*, but shall, not later than one year after the date of the registration of the quarry, require, by notice in writing, the owner or operator of the quarry to apply for planning permission and to submit an environmental impact statement to the planning authority not later than 6 months from the

date of service of the notice, or such other period as may be agreed with the planning authority.

(*b*) *Section 172(1)* shall not apply to development to which an application made pursuant to a requirement under *paragraph (a)* applies.

(*c*) A planning authority, or the Board on appeal, shall, in considering an application for planning permission made pursuant to a requirement under *paragraph (a)*, have regard to the existing use of the land as a quarry.

F1173**[**(*d*) Notwithstanding any other provision of this Act, the continued operation of a quarry in respect of which a notification under *paragraph (a)* applies, unless a planning application in respect of the quarry is submitted to the planning authority within the period referred to in that paragraph, shall be unauthorised development.

(*e*) Notwithstanding any other provision of this Act, the continued operation of a quarry in respect of which the owner or operator has been refused permission in respect of an application for permission made on foot of a notification under *paragraph (a)* shall be unauthorised development.

(*f*) Notwithstanding any other provision of this Act, the continued operation of a quarry in respect of which the owner or operator fails to comply with conditions attached to a permission granted in respect of an application for permission made on foot of a notification under *paragraph (a)* shall be unauthorised development.**]**

(8) (*a*) Where, in relation to a quarry for which permission was granted under Part IV of the Act of 1963, a planning authority adds or modifies conditions under this section that are more restrictive than existing conditions imposed in relation to that permission, the owner or operator of the quarry may claim compensation under *section 197* and references in that section to compliance with conditions on the continuance of any use of land consequent upon a notice under *section 46* shall be construed as including references to compliance with conditions so added or modified, save that no such claim may be made in respect of any condition relating to a matter specified in *paragraph (a), (b)* or *(c)* of *section 34(4)*, or in respect of a condition relating to the prevention, limitation or control of emissions from the quarry, or the reinstatement of land on which the quarry is situated.

(*b*) Where, in relation to a quarry to which *subsection (7)* applies, a planning authority, or the Board on appeal, refuses permission for development under *section 34* or grants permission thereunder subject to conditions on the operation of the quarry, the owner or operator of the quarry shall be entitled to claim compensation under *section 197* and for that purpose the reference in *subsection (1)* of that section to a notice under *section 46* shall be construed as a reference to a decision under *section 34* and the reference in *section 197(2)* to *section 46* shall be construed as a reference to *section 34* save that no such claim may be made in respect of any condition relating to a matter specified in *paragraph (a), (b)* or *(c)* of *section 34(4)*, or in respect of a condition relating to the prevention, limitation or control of emissions from the quarry, or the reinstatement of land on which the quarry is situated.

F1173**[**(*c*) Where, in relation to a quarry which commenced operation before 1 October 1964 a planning authority imposes conditions under *subsection (6)(a)(i)* on the operation of the quarry, the owner or operator of the quarry may claim compensation under *section 197* and references in that section to compliance with conditions on the continuance of any use of land consequent upon a notice under *section 46* shall be construed as including references to compliance with conditions so added or modified, save that no such claim may be made in respect of any condition relating to a matter specified in *paragraph (a), (b)* or *(c)* of *section 34(4)*, or in respect of a condition relating

to the prevention, limitation or control of emissions from the quarry, or the reinstatement of land on which the quarry is situated.**]**

(9) (*a*) A person who provides information to a planning authority in accordance with *subsection (1)* or in compliance with a requirement under *subsection (3)* may appeal a decision of the planning authority to impose, restate, add to or modify conditions in accordance with *subsection (6)* to the Board within 4 weeks from the date of receipt of notification by the authority of those conditions.

(*b*) The Board may at the determination of an appeal under *paragraph (a)* confirm with or without modifications the decision of the planning authority or annul that decision.

F1175**[**(10) Notwithstanding any other provision of this Act, a quarry to which this section applies in respect of which the owner or operator fails to provide information in relation to the operation of the quarry in accordance with *subsection (1)* or in accordance with a requirement under *subsection (3)* shall be unauthorised development.**]**

(11) This section shall apply to—

(*a*) a quarry in respect of which planning permission under Part IV of the Act of 1963 was granted more than 5 years before the coming into operation of this section, and

(*b*) any other quarry in operation on or after the coming into operation of this section, being a quarry in respect of which planning permission was not granted under that Part.

(12) The Minister may issue guidelines to planning authorities regarding the performance of their functions under this section and a planning authority shall have regard to any such guidelines.

(13) In this section—

"emission" means—

(*a*) an emission into the atmosphere of a pollutant within the meaning of the Air Pollution Act, 1987,

(*b*) a discharge of polluting matter, sewage effluent or trade effluent within the meaning of the Local Government (Water Pollution) Act, 1977, to waters or sewers within the meaning of that Act,

(*c*) the disposal of waste, or

(*d*) noise;

"operator" means a person who at all material times is in charge of the carrying on of quarrying activities at a quarry or under whose direction such activities are carried out;

"quarry" has the meaning assigned to it by section 3 of the Mines and Quarries Act, 1965.

Annotations

Amendments:

F1173 Inserted (15.11.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 74(a)(i), (b) and (c), S.I. No. 582 of 2011.

F1174 Inserted (22.07.2015) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015), reg. 7.

F1175 Substituted (15.11.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 74(a)(ii) and (d), S.I. No. 582 of 2011.

F1176 Deleted by *Planning and Development (Amendment) Act 2010* (30/2010), s. 74(e), not commenced as of date of revision.

Modifications (not altering text):

C184 Prospective amending provision: definitions of "operator" and "quarry" deleted by *Planning and Development (Amendment) Act 2010* (30/2010), s. 74(e), not commenced as of date of revision.

F1176**[**...**]**

F1176**[**...**]**

Editorial Notes:

E515 Data compiled under section may be used to establish and maintain registers of all extractive industries (31.12.2009) as provided by *Waste Management (Management of Waste From the Extractive Industries) Regulations 2009* (S.I. No. 566 of 2009), reg. 19(1), in effect as per reg. 1(2).

F1177**[**Further matters in relation to control of quarries.

261A.—(1) Each planning authority shall, not later than 4 weeks after the coming into operation of this section, publish a notice in one or more than one newspaper circulating in its administrative area and on the authority's website, stating—

(*a*) that it intends to examine every quarry in its administrative area to determine, in relation to that quarry, whether having regard to the Environmental Impact Assessment Directive and the Habitats Directive, one or more than one of the following was required but was not carried out—

(i) an environmental impact assessment;

(ii) a determination as to whether an environmental impact assessment is required;

(iii) an appropriate assessment,

(*b*) that where the planning authority determines in relation to a quarry that an environmental impact assessment, a determination as to whether environmental impact assessment was required, or an appropriate assessment, was required but was not carried out and the planning authority also decides that—

(i) the quarry commenced operation prior to 1 October 1964, or permission was granted in respect of the quarry under *Part III* of the *Planning and Development Act 2000* or Part IV of the Local Government (Planning and Development) Act 1963,

and

(ii) if applicable, the requirements in relation to registration under section 261 of the Planning and Development Act 2000 were fulfilled,

the planning authority will issue a notice to the owner or operator of the quarry requiring him or her to submit an application to the Board for substitute consent, such application to be accompanied by a remedial environmental impact statement or a remedial Natura impact statement or both of those statements, as appropriate,

(*c*) that where the planning authority determines in relation to a quarry that an environmental impact assessment, a determination as to whether environmental impact assessment was required, or an appropriate assessment was required, but was not carried out and the planning authority also decides that —

(i) the quarry commenced operation on or after 1 October 1964 and no permission was granted in respect of the quarry under *Part III* of the *Planning and Development Act 2000* or Part IV of the Local Government (Planning and Development) Act 1963,

or

(ii) if applicable, the requirements in relation to registration under *section 261* of the *Planning and Development Act 2000* were not fulfilled,

the planning authority will issue a notice to the owner or operator of the quarry informing him or her that it intends to issue an enforcement notice under *section 154* requiring the cessation of the operation of the quarry and the taking of such steps as the planning authority considers appropriate,

(*d*) that where the planning authority determines in relation to a quarry that an environmental impact assessment, a determination as to whether an environmental impact assessment was required, or an appropriate assessment, was required but was not carried out and the planning authority also determines that the development in question was carried out after 3 July 2008, the planning authority will issue a notice to the owner or operator of the quarry informing him or her that it intends to issue an enforcement notice under *section 154* requiring the cessation of the operation of the quarry and the taking of such steps as the planning authority considers appropriate,

(*e*) that submissions or observations may be made in writing to the planning authority in relation to any quarry in its administrative area, by any person, not later than 6 weeks after the date of the publication of the notice under *paragraph (a)*, that no fee in relation to the making of the submissions or observations shall be payable and that such submissions or observations will be considered by the planning authority,

(*f*) that a copy of any notice that is issued to the owner or operator of a quarry under this section, directing him or her to apply to the Board for substitute consent or informing him or her that the planning authority intends to issue an enforcement notice under *section 154* in respect of the quarry, shall be given to a person who, not later than 6 weeks after the date of the publication of the notice under *paragraph (a)* made submissions or observations, and

(*g*) that an owner or operator of a quarry to whom a notice is issued, and any person to whom a copy of such a notice is given, may apply to the Board for a review of a determination or a decision, or both, of the planning authority referred to in the notice and that no fee in relation to the application for a review shall be payable.

(2) (*a*) Each planning authority shall, not later than 9 months after the coming into operation of this section examine every quarry within its administrative area and make a determination as to whether—

(i) development was carried out after 1 February 1990 F1178**[**...**]** which development would have required, having regard to the Environmental Impact Assessment Directive, an environmental impact assessment or a determination as to whether an environmental impact assessment was required, but that such an assessment or determination was not carried out or made, or

(ii) development was carried out after 26 February 1997, F1178**[**...**]** which development would have required, having regard to the Habitats Directive,

an appropriate assessment, but that such an assessment was not carried out.

(*b*) In making a determination under *paragraph (a)*, the planning authority shall have regard, to the following matters:

(i) any submissions or observations received by the authority not later than 6 weeks after the date of the publication of the notice under *subsection (1)(a)*;

(ii) any information submitted to the authority in relation to the registration of the quarry under *section 261*;

(iii) any relevant information on the planning register;

(iv) any relevant information obtained by the planning authority in an enforcement action relating to the quarry;

(v) any other relevant information.

(3) (*a*) Where a planning authority makes a determination under *subsection (2)(a)* that *subparagraph (i)* or *(ii)* or both, if applicable, of that paragraph apply in relation to a quarry (in this section referred to as a " determination under *subsection (2)(a)* "), and the authority also decides that—

(i) either the quarry commenced operation before 1 October 1964 or permission was granted in respect of the quarry under *Part III* of this Act or Part IV of the Act of 1963, and

(ii) if applicable, the requirements in relation to registration under *section 261* were fulfilled,

the planning authority shall issue a notice, not later than 9 months after the coming into operation of this section, to the owner or operator of the quarry.

(*b*) In making a decision under *paragraph (a)*, a planning authority shall consider all relevant information available to it including any submissions or observations received by the authority not later than 6 weeks after the date of the publication of the notice under *subsection (1)(a)*.

(*c*) A notice referred to in *paragraph (a)* shall be in writing and shall inform the person to whom it is issued of the following matters:

(i) the determination under *subsection (2)(a)* and the reasons therefor;

(ii) the decision of the planning authority under *paragraph (a)* and the reasons therefor;

(iii) that the person is directed to apply to the Board for substitute consent in respect of the quarry, under *section 177E*, F1179**[**with a remedial environmental impact statement or remedial Natura impact statement or both of those statements, as the case may be, in accordance with the determination of the planning authority under *subsection (2)(a)*,**]** not later than 12 weeks after the date of the notice, or such further period as the Board may allow;

(iv) that the person may apply to the Board, not later than 21 days after the date of the notice, for a review of the determination of the planning authority under *subsection (2)(a)* or the decision of the planning authority under *paragraph (a)*, and that no fee in relation to either application for a review shall be payable.

(*d*) At the same time that the planning authority issues the notice to an owner or operator of a quarry, the authority shall—

(i) give a copy of the notice to any person who not later than 6 weeks after the date of the publication of the notice under *subsection (1)(a)*, made submissions or observations to the authority in relation to the quarry,

(ii) inform that person that he or she may, not later than 21 days after the date of the notice, apply to the Board for a review of the determination under *subsection (2)(a)* or the decision of the authority under *paragraph (a)* and that no fee in relation to either application for a review shall be payable, and

(iii) forward a copy of the notice to the Board.

(4) (*a*) Where a planning authority makes a determination under *subsection (2)(a)* and the authority also decides that—

(i) the quarry commenced operation on or after 1 October 1964 and no permission was granted in respect of the quarry under Part III of this Act or Part IV of the Act of 1963, or

(ii) if applicable, the requirements in relation to registration under *section 261* were not fulfilled,

the planning authority shall issue a notice, not later than 9 months after the coming into operation of this section, to the owner or operator of the quarry.

(*b*) In making a decision under *paragraph (a)*, a planning authority shall consider all relevant information available to it, including any submissions or observations received by the authority not later than 6 weeks after the date of the publication of the notice under *subsection (1)(a)*.

(*c*) A notice referred to in *paragraph (a)* shall be in writing and shall inform the person to whom it is issued of the following matters:

(i) the determination under *subsection (2)(a)* and the reasons therefor;

(ii) the decision of the planning authority under *paragraph (a)* and the reasons therefor;

(iii) that the planning authority intends to issue an enforcement notice in relation to the quarry under *section 154* requiring F1180**[**the cessation of the unauthorised quarrying**]** and the taking of such steps as the authority considers appropriate;

(iv) that the person may apply to the Board, not later than 21 days after the date of the notice, for a review of the determination under *subsection (2)(a)* or the decision of the planning authority under *paragraph (a)*, and that no fee in relation to either application for a review shall be payable.

(*d*) At the same time that the planning authority issues the notice to an owner or operator of a quarry, the authority shall—

(i) give a copy of the notice to any person who not later than 6 weeks after the date of the publication of the notice under *subsection (1)(a)*, made submissions or observations to the authority in relation to the quarry, and

(ii) inform that person that he or she may, not later than 21 days after the date of the notice, apply to the Board for a review of the determination of the planning authority under *subsection (2)(a)* or the decision of the planning authority under *paragraph (a)* and that no fee in relation to either application for a review shall be payable.

(5) (*a*) Notwithstanding anything contained in *subsection (3)* or *(4)*, where a planning authority makes a determination under *subsection (2)(a)* and the authority

further determines that F1180**[***subparagraph (i)* or *(ii)* or both, if applicable, of *subsection (2)(a)* apply to the development which**]** took place after 3 July 2008, the authority shall also decide whether—

(i) the quarry commenced operation before 1 October 1964 or permission was granted in respect of the quarry under *Part III* of this Act or Part IV of the Act of 1963, and

(ii) if applicable, the requirements in relation to registration under *section 261* were fulfilled,

and shall issue a notice not later than 9 months after the coming into operation of this section to the owner or operator of the quarry.

(*b*) In making a decision under *paragraph (a)*, a planning authority shall consider all relevant information available to it, including any submissions or observations received by the authority not later than 6 weeks after the date of the publication of the notice under *subsection (1)(a)*.

(*c*) A notice referred to in *paragraph (a)* shall be in writing and shall inform the person to whom it is issued of the following matters:

(i) the determination of the planning authority under *subsection (2)(a)* and the reasons therefor;

(ii) the determination of the planning authority under *paragraph (a)* that F1180**[***subparagraph (i)* or *(ii)* or both, if applicable, of *subsection (2)(a)* apply to the development which**]** took place after 3 July 2008, and the reasons therefor;

(iii) the decision of the planning authority under *paragraph (a)* and the reasons therefor;

(iv) that the planning authority intends to issue an enforcement notice in relation to the quarry under *section 154* requiring F1180**[**the cessation of the unauthorised quarrying**]** and the taking of such steps as the authority considers appropriate;

(v) that the person may apply to the Board, not later than 21 days after the date of the notice, for a review of the determination of the planning authority under *subsection (2)(a)*, the determination of the planning authority under *paragraph (a)*, or the decision of the planning authority under *paragraph (a)*, and that no fee in relation to any application for a review shall be payable.

(*d*) At the same time that the planning authority issues the notice to an owner or operator of a quarry, the authority shall—

(i) give a copy of the notice to any person who made submissions or observations to the authority in relation to the quarry not later than 6 weeks after the date of the publication of the notice under *subsection (1)(a)*, and

(ii) inform that person that he or she may, not later than 21 days after the date of the notice, apply to the Board for a review of the determination under subsection (2)(*a*), F1180**[***subparagraph (i)* or *(ii)* or both, if applicable, of *subsection (2)(a)* apply to the development which**]** that the development the subject of the determination under *subsection (2)(a)* took place after 3 July 2008 or the decision of the planning authority under *paragraph (a)*, and that no fee in relation to any application for a review shall be payable.

(6) (*a*) A person to whom a notice was issued under *subsection (3)(a)*, *(4)(a)* or *(5)(a)*, or a person to whom a copy of such a notice was given under *subsection*

(3)(d), *(4)(d)* or *(5)(d)*, may not later than 21 days after the date of the notice so issued or given to him or her, apply to the Board for a review of one or more than one, of the following, referred to in the notice:

(i) a determination under *subsection (2)(a)*;

(ii) a decision of the planning authority under *subsection (3)(a)*;

(iii) a decision of the planning authority under *subsection (4)(a)*;

(iv) a determination of the planning authority under *subsection (5)(a)* that F1180**[***subparagraph (i)* or *(ii)* or both, if applicable, of *subsection (2)(a)* apply to the development which**]** took place after 3 July 2008;

(v) a decision of the planning authority under *subsection (5)(a)*.

(*b*) Where an application for a review is made to the Board under *paragraph (a)* any person may make submissions or observations not later than 21 days after the date of the notice issued under *subsection (3)(a)*, *(4)(a)* or *(5)(a)*, as the case may be.

(*c*) Where an application for a review is made under *paragraph (a)*, the Board shall inform the planning authority and shall request the planning authority to furnish to it such information as the Board considers necessary to make a decision in relation to the review, and the planning authority shall comply with that request within the period specified in the request.

(*d*) The Board in making a decision on an application for a review under *paragraph (a)* shall consider any documents or evidence submitted by the person or persons who applied for the review, any submissions or observations received under *paragraph (b)* and any information furnished by the planning authority under *paragraph (c)*.

(*e*) The Board shall make a decision as soon as may be whether to confirm or set aside the determination or decision of the planning authority to which the application for a review refers.

(*f*) As soon as may be after the Board makes its decision under *paragraph (e)* it shall give notice of its decision to the person or persons who applied for the review, and to the planning authority concerned, and the giving of the notice shall, for the purposes of this section be considered to be the disposal, by the Board, of the review.

(*g*) The application to the Board for a review under *paragraph (a)* shall have the effect of suspending the operation of a direction contained in a notice issued under *subsection (3)(a)* until the review is disposed of.

(*h*) Where the decision of the Board is to set aside a determination under *subsection (2)(a)* a direction to apply for substitute consent contained in a notice issued under *subsection (3)(a)* shall cease to have effect.

(7) Where in relation to a quarry in respect of which a notice has been issued under *subsection (3)(a)*—

(*a*) either no application has been made to the Board for a review of a determination under *subsection (2)(a)* or the Board in making a decision in relation to such a review has confirmed the determination of the planning authority, and

(*b*) either no application has been made to the Board for a review of a decision of the planning authority under *subsection (3)(a)* or the Board in making a decision in relation to such a review has confirmed the decision of the planning authority,

the person to whom the notice was issued under *subsection (3)(a)* shall apply to the Board for substitute consent under *section 177E* not later than 12 weeks after the date of the giving of the notice of its decision under *subsection (6)(f)* by the Board, or such further period as the Board may allow, save that where no application for review was made to the Board the person to whom the notice was issued under *subsection (3)(a)* shall apply to the Board for substitute consent within the period specified in that notice.

(8) Where in relation to a quarry in respect of which a notice has been issued under *subsection (3)(a)*—

(*a*) either no application has been made to the Board for a review of a determination under *subsection (2)(a)*, or the Board in making a decision in relation to such a review has confirmed the determination of the planning authority, and

(*b*) the Board in making a decision in relation to a review of a decision of the planning authority under *subsection (3)(a)* has set aside the decision of the planning authority,

the direction to apply for substitute consent contained in the notice issued under *subsection (3)(a)* shall cease to have effect and the planning authority shall, as soon as may be after the date of the giving of the notice of its decision by the Board under *subsection (6)(f)*, issue an enforcement notice under *section 154* requiring F1180**[**the cessation of the unauthorised quarrying**]** and the taking of such steps as the planning authority considers appropriate.

(9) Where in relation to a quarry in respect of which a notice has been issued under *subsection (4)(a)*—

(*a*) either no application has been made to the Board for a review of a determination under *subsection (2)(a)* or the Board in making a decision in relation to such a review has confirmed the determination of the planning authority, and

(*b*) either no application has been made to the Board for a review of a decision of the planning authority under *subsection (4)(a)* or the Board in making a decision in relation to such a review has confirmed the decision of the planning authority,

the planning authority shall, as soon as may be after the expiration of the period for applying for a review or the date of the giving of the notice of its decision by the Board under *subsection (6)(f)*, as the case may be, issue an enforcement notice under *section 154* requiring F1180**[**the cessation of the unauthorised quarrying**]** and the taking of such steps as the planning authority considers appropriate.

(10) Where in relation to a quarry in respect of which a notice has been issued under *subsection (4)(a)*—

(*a*) either no application has been made to the Board for a review of a determination under *subsection (2)(a)* or the Board in making a decision in relation to such a review has confirmed the determination of the planning authority, and

(*b*) the Board in making a decision in relation to a review of a decision under *subsection (4)(a)* has set aside the decision of the planning authority, and

(*c*) either no application has been made to the Board for a review of a decision of the planning authority under *subsection (4)(a)(i)* that the quarry commenced operation prior to 1 October 1964, or permission was granted in respect of the quarry under *Part III* of this Act or Part IV of the Act of 1963, or the Board in a review of such a decision has decided that the quarry commenced operation before 1 October 1964 or permission was granted in

respect of the quarry under *Part III* of this Act or Part IV of the Act of 1963, and

(*d*) either no application has been made to the Board for a review of a decision of the planning authority under *subsection (4)(a)(ii)* that if applicable, the requirements in relation to registration under *section 261* were fulfilled, or the Board in a review of such a decision has decided that, if applicable, the requirements in relation to registration under *section 261* were fulfilled,

the planning authority shall, as soon as may be after the date of the giving of the notice of its decision by the Board under *subsection (6)(f)*, issue a notice to the owner or operator of the quarry directing him or her to apply to the Board for substitute consent under *section 177E* F1179**[**with a remedial environmental impact statement or remedial Natura impact statement or both of those statements, as the case may be, F1181**[**in accordance with the determination of the planning authority under *subsection (2)(a)* or, where the Board has made a decision under subsection (6) in relation to the determination of the planning authority, in accordance with that decision,**]]** not later than 12 weeks after the date of the notice issued by the planning authority under this subsection or such further period as the Board may allow.

(11) Where in relation to a quarry in respect of which a notice has been issued under *subsection (5)(a)*—

(*a*) either no application has been made to the Board for a review of a determination under *subsection (2)(a)* or the Board in making a decision in relation to such a review has confirmed the determination of the planning authority, and

(*b*) either no application has been made to the Board for a review of a determination of the planning authority under *subsection (5)(a)* that F1180**[***subparagraph (i)* or *(ii)* or both, if applicable, of *subsection (2)(a)* apply to the development which**]** took place after 3 July 2008 or the Board has confirmed the determination of the planning authority under *subsection (5)(a)*,

the planning authority shall, as soon as may be after the expiration of the period for applying for a review or the date of the giving of the notice of its decision by the Board under *subsection (6)(f)*, as the case may be, issue an enforcement notice under *section 154* requiring F1180**[**the cessation of the unauthorised quarrying**]** and the taking of such steps as the planning authority considers appropriate.

(12) Where in relation to a quarry in respect of which a notice has been issued under *subsection (5)(a)* and—

(*a*) either no application has been made to the Board for a review of the determination under *subsection (2)(a)* or the Board in making a decision in relation to such a review has confirmed the determination of the planning authority, and

(*b*) the Board, in making a decision in relation to a review of such a notice has set aside the determination of the planning authority under *subsection (5)(a)* that F1180**[***subparagraph (i)* or *(ii)* or both, if applicable, of *subsection (2)(a)* apply to the development which**]** took place after 3 July 2008, and

(*c*) either no application has been made to the Board for a review of a decision of the planning authority under *subsection (5)(a)(i)* that the quarry commenced operation prior to 1 October 1964, or permission was granted in respect of the quarry under *Part III* of this Act or Part IV of the Act of 1963, or the Board in a review of such a decision has decided that the quarry commenced operation before 1 October 1964 or permission was granted in respect of the quarry under *Part III* of this Act or Part IV of the Act of 1963, and

(*d*) either no application has been made to the Board for a review of a decision of the planning authority under *subsection (5)(a)(ii)* that if applicable, the requirements in relation to registration under *section 261* were fulfilled or the Board in a review of such a decision has decided that if applicable, the requirements in relation to registration under *section 261* were fulfilled,

the planning authority shall, as soon as may be after the date of the giving of the notice of its decision by the Board under *subsection (6)(f)*, issue a notice to the owner or operator of the quarry directing him or her to apply to the Board for substitute consent under *section 177E* F1179**[**with a remedial environmental impact statement or remedial Natura impact statement or both of those statements, as the case may be, F1181**[**in accordance with the determination of the planning authority under *subsection (2)(a)* or, where the Board has made a decision under *subsection (6)* in relation to the determination of the planning authority, in accordance with that decision,**]]** not later than 12 weeks after the date of the notice issued by the planning authority under this subsection, or such further period as the Board may allow.

(13) Where in relation to a quarry in respect of which a notice has been issued under *subsection (5)(a)*—

(*a*) either no application has been made to the Board for a review of the determination under *subsection (2)(a)* or the Board in making a decision in relation to such a review has confirmed the determination of the planning authority, and

(*b*) the Board, in making a decision in relation to a review has set aside the determination of the planning authority under *subsection (5)(a)* that F1180**[***subparagraph (i)* or *(ii)* or both, if applicable, of *subsection (2)(a)* apply to the development which**]** took place after 3 July 2008, and

(*c*) either—

(i) no application has been made to the Board for a review of a decision of the planning authority under *subsection (5)(a)(i)* that the quarry commenced operation on or after 1 October 1964 and no permission was granted in respect of the quarry under *Part III* of this Act or Part IV of the Act of 1963, or the Board in a review of such a decision has decided that the quarry commenced operation on or after 1 October 1964 and no permission was granted in respect of the quarry under *Part III* of this Act or Part IV of the Act of 1963, or

(ii) no application has been made to the Board for a review of a decision of the planning authority under *subsection (5)(a)(ii)* that if applicable, the requirements in relation to registration under *section 261* were not fulfilled, or the Board in a review of such a decision has decided that, if applicable, the requirements in relation to registration under *section 261* were not fulfilled,

the planning authority shall, as soon as may be after the date of the giving of the notice of its decision by the Board under *subsection (6)(f)*, issue an enforcement notice under *section 154* requiring F1180**[**the cessation of the unauthorised quarrying**]** and the taking of such steps as the planning authority considers appropriate.

(14) F1181**[**Subject to *section 177E(2A)*, where an application for substitute consent is required to be made**]** under this section it shall be made in relation to that development in respect of which the planning authority has made a determination under *subsection (2)(a)*.

(15) The provisions of *Part XA* shall apply, as appropriate, to an application for substitute consent made in accordance with a direction under *subsection (3)*, *(10)* or *(12)*.**]**

F1182**[**(16) On or before 15 August 2012, notwithstanding *sections 177C* and *177D*, the Board shall refuse to consider, in respect of a quarry, an application for leave to

apply for substitute consent under *section 177C* made to the Board during the period commencing on 15 November 2011 and ending on 15 August 2012 and shall return any such application to the person who makes the application.

(17) Nothing in *subsection (16)* shall prevent the Board from considering, in respect of a quarry, an application for leave to apply for substitute consent under *section 177C* made to the Board after 15 August 2012.

(18)(*a*) The Board, before considering any application, in respect of a quarry, for leave to apply for substitute consent under *section 177C* shall make enquiries and request information of the applicant or planning authority concerned as to whether one of the following has occurred:

(i) the planning authority, under this section, has decided that no notice is required to be issued in respect of the quarry concerned;

(ii) a notice was issued by the planning authority under *subsection (4)* or *(5)* and no application was made to the Board for a review of such notice within the period specified in *subsection (6)(a)*;

(iii) a notice was issued by the planning authority under *subsection (3)*, *(4)* or *(5)* and an application was made to the Board for a review of such notice within the period specified in *subsection (6)(a)*;

(iv) an enforcement notice was issued by the planning authority under *subsection (8)*, *(9)*, *(11)* or *(13)*, which notice has or has not been complied with.

(*b*) When the information requested at *paragraph (a)* has been received by the Board it may proceed to consider the application for leave to apply for substitute consent, save that where a notice under *subsection (3)*, *(4)* or *(5)* has been referred to the Board for a review under *subsection (6)*, it may not proceed to consider the application for leave concerned until it has made a decision on the application for a review under *subsection (6)*.

(*c*) The Board shall, when considering an application for leave to apply for substitute consent in relation to a quarry, in addition to any matter referred to in *sections 177C* and *177D*, take into account the matters referred to at *paragraph (a)* including any decision made by the Board under *subsection (6)* on an application for a review of a notice issued by a planning authority referred to it under that subsection.

(19) *Section 177D(5)* shall apply in relation to an application, in respect of a quarry, for leave to apply for substitute consent subject to the modification that it shall be read as if in that subsection the following subparagraph were included and subject to any other necessary modifications:

"(*aa*) F1181**[**12 weeks**]** after the Board has received information following enquiries under *section 261A(18)* or F1181**[**12 weeks**]** after the Board makes a decision on an application for a review under *section 261A(6)* of a notice issued by a planning authority whichever shall be later,".**]**

F1183**[**(20)(*a*) Where the Board is satisfied on application to it in writing by a person required to apply for substitute consent pursuant to *subsection (7)* or directed to apply for substitute consent pursuant to *subsection (10)* or *(12)* in respect of a quarry (in this subsection referred to as an "applicant") that a permission granted by a planning authority or the Board in respect of that quarry was granted in breach of law or was invalid or otherwise defective in a material respect whether by reason of a final judgment of a court of competent jurisdiction in the State or the Court of Justice of the European Union, or otherwise, by reason of—

(i) any matter contained in or omitted from the application for permission including omission of an environmental impact statement or a Natura

impact statement or both of those statements, as the case may be, or inadequacy of an environmental impact statement or a Natura impact statement or both of those statements, as the case may be, or

(ii) any error of fact or law or procedural error,

the Board shall grant leave to the applicant to make an application for substitute consent in relation to all or part of the development the subject of that permission.

(*b*) An applicant for leave to apply for substitute consent under *paragraph (a)* shall furnish the following to the Board:

(i) any documents that he or she considers are relevant to support his or her application;

(ii) any additional information or documentation that may be requested by the Board, within the period specified in such a request.

(*c*) Where an applicant fails to furnish additional information or documentation within the period specified in a request under *paragraph (b)(ii)*, or such additional period as the Board may allow, the application shall be deemed to have been withdrawn by the applicant.

(*d*) The Board may seek information and documents as it sees fit from the planning authority for an administrative area in which the quarry the subject of the application under this subsection is situated, including information and documents in relation to a permission referred to in *paragraph (a)* and the planning authority shall furnish the information not later than 3 weeks after the information is sought by the Board.

(*e*) In deciding whether the circumstances described in *paragraph (a)* apply, the Board shall have regard to any information furnished by the applicant under *paragraph (b)* and any information furnished by a planning authority under *paragraph (d)*.

(*f*) The Board shall decide whether to grant leave to the applicant to make an application for substitute consent in relation to the subject matter of the permission to which the application relates or to refuse to grant such leave.

(*g*) The decision of the Board under *paragraph (f)* shall be made within 6 weeks after the receipt of an application under *paragraph (a)*.

(*h*) The Board shall give notice in writing to the applicant of its decision under *paragraph (f)* and of the reasons therefor.

(*i*) Notwithstanding *subsections (7)*, *(10)* and *(12)*, the period for making an application for substitute consent referred to in those subsections shall not, in a case in which an application is made to the Board under *paragraph (a)* of this subsection, include the period beginning on the day of the receipt by the Board of the application under *paragraph (a)* and ending on the day of receipt by the applicant of notice of the Board's decision on the application under *paragraph (a)* in accordance with *paragraph (f)*.

(*j*) Where—

(i) an applicant submitted an application for substitute consent to the Board prior to the coming into operation of this subsection in respect of a quarry to which his or her application under *paragraph (a)* relates,

(ii) the Board decides to grant leave to apply under this subsection in accordance with *paragraph (f)* in respect of that quarry, and

(iii) the applicant applies for substitute consent in accordance with *177E(2A)* in respect of that quarry,

the application for substitute consent referred to in *subparagraph (i)* shall be taken to be withdrawn.

(*k*) No application may be made under this subsection in relation to a quarry in respect of which an application for substitute consent is made after the coming into operation of this subsection.

(21)(*a*) *Paragraph (c)* applies to a quarry where—

(i) at the expiry of the time period set out in *paragraph (a)* of *section 261A(2)* for the making of a determination under that paragraph either of the following applied:

(I) the decision of a planning authority in relation to an application for permission for that quarry required under *section 261(7)(a)* was under appeal to the Board under *section 37*;

(II) legal proceedings in relation to a decision of a planning authority under section 34 or a determination of the Board on an appeal under *section 37* in relation to an application for permission for that quarry required under *section 261(7)(a)* had not yet been concluded,

(ii)(I) an application under *section 177C* in respect of that quarry is being considered by the Board on the date on which this subsection comes into operation, or

(II) an application under *section 177C* in respect of that quarry is made after the date on which this subsection comes into operation, and

(iii) no notice has been issued in respect of the quarry under *subsection (3)(a)*, *(4)(a)* or *(5)(a)* of *section 261A* prior to the date on which this subsection comes into operation.

(*b*) Where an application is made under *section 177C* in respect of a quarry to which *paragraph (c)* applies the Board shall cause to be published in one or more newspapers circulated in the area and on its website a notice stating that an application has been made under *section 177C* in relation to the quarry and inviting submissions in relation to the application for consideration by the Board, with such submissions to be received not later than 6 weeks after the publication of the notice.

(*c*) The Board shall make a determination in relation to a quarry to which this paragraph applies as to whether—

(i) development was carried out at that quarry after 1 February 1990 which development would have required, having regard to the Environmental Impact Assessment Directive, an environmental impact assessment or a determination as to whether an environmental impact assessment was required, but that such an assessment or determination was not carried out or made, or

(ii) development was carried out at that quarry after 26 February 1997, which development would have required, having regard to the Habitats Directive, an appropriate assessment, but that such an assessment was not carried out.

(*d*) *Paragraph (c)* applies to a quarry notwithstanding that an application has previously been made in respect of the quarry under *section 177C*.

(22)(*a*) In making a determination under *subsection (21)*, the Board shall have regard to the following matters:

(i) any submissions or observations received by the Board in relation to the quarry not later than 6 weeks after the date of the publication of the notice under *subsection (21)(b)*;

(ii) any information submitted to the planning authority in relation to the registration of the quarry under *section 261*;

(iii) any relevant information on the register;

(iv) any relevant information obtained by the planning authority in an enforcement action relating to the quarry;

(v) any other relevant information.

(*b*) The planning authority to which application for permission for the quarry referred to in *subsection (21)* was made shall provide all of the information referred to in *paragraph (a)* in its possession to the Board as soon as practicable following a request from the Board.

(23) The determination of the Board under *subsection (21)* shall be made—

(*a*) 6 weeks after the receipt of an application under *section 177C*,

(*b*) 6 weeks after receipt of submissions or observations under *subsection (21)(b)*, or

(*c*) 6 weeks after receipt of information from the planning authority under *subsection (22)(b)*,

whichever is the later.

(24)(*a*) Where the Board makes a determination under *paragraph (c)* of *subsection (21)* that *subparagraph (i)* or *(ii)* or both, if applicable, of that paragraph apply in relation to a quarry and the Board also decides that—

(i) either

(I) the quarry commenced operation before 1 October 1964, or

(II) permission was granted in respect of the quarry under *Part III* of this Act or Part IV of the Act of 1963, and

(ii) if applicable, the requirements in relation to registration under *section 261* were fulfilled,

the Board shall grant leave to apply for substitute consent in respect of the application under *section 177C*.

(*b*) In making a decision under *paragraph (a)* the Board shall have regard to any information provided by a planning authority under *subsection (22)(b)*.

(*c*) The decision of the Board under *paragraph (a)* shall be made within 3 weeks of the determination under *subsection (21)(c)*.**]**

Annotations

Amendments:

F1177 Inserted (15.11.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 75, S.I. No. 582 of 2011.

F1178 Deleted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 16(a) and (b).

F1179 Inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 16(c), (d) and (e).

F1180 Substituted (9.07.2012) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2012* (S.I. No. 246 of 2012), reg. 3(a) and (b).

F1181 Substituted (22.07.2015) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015), reg. 8(a)-(d).

F1182 Inserted (9.07.2012) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2012* (S.I. No. 246 of 2012), reg. 3(c).

F1183 Inserted (22.07.2015) by *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015), reg. 8(e).

Regulations generally.

262.—(1) The Minister may make regulations for prescribing any matter referred to in this Act as prescribed or to be prescribed, or in relation to any matter referred to in this Act as the subject of regulations.

(2) Regulations under this Act may contain such incidental, supplemental and consequential provisions as appear to the Minister to be necessary or expedient.

(3) Before making any regulations under this Act, the Minister shall consult with any relevant State authority where the regulations relate to the functions of that State authority.

(4) Where regulations are proposed to be made under *section 4(2), 19(3), 25(5), 100(1)(b), (c)* or *(d)*, *126(4)*, F1184**[***126A(2),***]** *176*, *179(1)*, F1185**[***181(1)(a)***]**, *221(4)*, *230(1)* or *246*, a draft of the regulations shall be laid before both Houses of the Oireachtas and the regulations shall not be made unless a resolution approving the draft has been passed by each such House.

(5) Every regulation made under this Act (other than a regulation referred to in *subsection (4)*) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Annotations

Amendments:

F1184 Inserted (17.12.2021) by *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021), s. 9(c), S.I. No. 715 of 2021.

F1185 Substituted (24.12.2002) by *Planning and Development (Amendment) Act 2002* (32/2002), s. 15, commenced on enactment.

F1186 Inserted by *Planning and Development (Amendment) Act 2010* (30/2010), s. 76, not commenced as of date of revision.

Modifications (not altering text):

C185 Prospective amending provision: subs. (4) amended by *Planning and Development (Amendment) Act 2010* (30/2010), s. 76, not commenced as of date of revision.

(4) Where regulations are proposed to be made under *section 4(2), F1186**[**4(4)(b),**]** 19(3), 25(5), F1186**[**96(3)(da),**]** 100(1)(b), (c)* or *(d), 126(4), 176, 179(1), F1185**[**181(1)(a)**]**, 221(4), 230(1)* or *246*, a draft of the regulations shall be laid before both Houses of the Oireachtas and the regulations shall not be made unless a resolution approving the draft has been passed by each such House.

Editorial Notes:

E516 Power pursuant to section exercised (9.05.2024) by *Planning and Development (Street Furniture Fees) Regulations 2024* (S.I. No. 196 of 2024).

E517 Power pursuant to section exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

E518 Power pursuant to section exercised (16.12.2023) by *Planning and Development (Fees for Certain Applications) Regulations 2023* (S.I. No. 654 of 2023).

E519 Power pursuant to section exercised (16.12.2023) by *Planning and Development (Amendment) (No. 4) Regulations 2023* (S.I. No. 648 of 2023).

E520 Power pursuant to section exercised (24.07.2023) by *Planning and Development (Amendment) (No. 2) Regulations 2023* (S.I. No. 383 of 2023).

E521 Power pursuant to section exercised (19.07.2023) by *Planning and Development (Exempted Development) (No. 4) Regulations 2023* (S.I. No. 376 of 2023).

E522 Power pursuant to subs. (1) exercised (1.06.2023) by *Planning and Development Act (Amendment) Regulations 2023* (S.I. No. 273 of 2023).

E523 Power pursuant to section exercised (22.05.2023) by *Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2023* (S.I. No. 269 of 2023).

E524 Power pursuant to section exercised (22.05.2023) by *Planning and Development (Street Furniture Fees) Regulations 2023* (S.I. No. 256 of 2023).

E525 Power pursuant to section exercised (22.05.2023) by *Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2023* (S.I. No. 246 of 2023).

E526 Power pursuant to section exercised (19.05.2023) by *Planning and Development Act (Exempted Development) Regulations 2023* (S.I. No. 250 of 2023).

E527 Power pursuant to section exercised (16.05.2023) by *Planning and Development (Section 181) Regulations 2023* (S.I. No. 243 of 2023).

E528 Power pursuant to section exercised (10.03.2023) by *Planning and Development (Maritime Development) Regulations 2023* (S.I. No. 100 of 2023), in effect as per reg. 1(2).

E529 Power pursuant to section exercised (8.03.2023) by *Planning and Development (Section 179A) Regulations 2023* (S.I. No. 101 of 2023).

E530 Power pursuant to section exercised (8.12.2022) by *Planning and Development (Amendment) (No. 3) Regulations 2022* (S.I. No. 647 of 2022).

E531 Power pursuant to section exercised (29.11.2022) by *Planning and Development (Exempted Development) (No. 4) Regulations 2022* (S.I. No. 605 of 2022).

E532 Power pursuant to section exercised (5.10.2022) by *Planning And Development Act 2000 (Exempted Development) (No. 3) Regulations 2022* (S.I. No. 493 of 2022).

E533 Power pursuant to section exercised (5.10.2022) by *Planning And Development (Solar Safeguarding Zone) Regulations 2022* (S.I. No. 492 of 2022).

E534 Power pursuant to section exercised (17.08.2022) by *Planning and Development (Amendment) Regulations 2022* (S.I. No. 419 of 2022).

E535 Power pursuant to section exercised (23.05.2022 to 31.12.2022) by *Planning and Development (Street Furniture Fees) Regulations 2022* (S.I. No. 249 of 2022).

E536 Power pursuant to section exercised (30.03.2022) by *Planning and Development Act 2000 (Exempted Development) (Number 2) Regulations 2022* (S.I. No. 151 of 2022).

E537 Power pursuant to section exercised (21.02.2022) by *Planning and Development Act (Exempted Development) Regulations 2022* (S.I. No. 75 of 2022).

E538 Power pursuant to section exercised (17.12.2021) by *Planning and Development (Large-scale Residential Development Fees) Regulations 2021* (S.I. No. 720 of 2021).

E539 Power pursuant to section exercised (17.12.2021) by *Planning and Development (Large-scale Residential Development) Regulations 2021* (S.I. No. 716 of 2021), in effect as per reg. 2.

E540 Power pursuant to section exercised (4.11.2021) by *Planning and Development (Amendment) (No. 3) Regulations 2021* (S.I. No. 588 of 2021).

E541 Power pursuant to subs. (1) exercised (16.08.2021) by *Planning and Development Act 2000 (Section 254 – Overground Telecommunication Cables) Regulations 2021* (S.I. No. 422 of 2021).

E542 Power pursuant to section exercised (30.04.2021) by *Planning and Development (Amendment) (No. 2) Regulations 2021* (S.I. No. 210 of 2021).

E543 Power pursuant to section exercised (30.04.2021) by *Planning and Development (Street Furniture Fees) Regulations 2021* (S.I. No. 209 of 2021).

E544 Power pursuant to section exercised (30.04.2021) by *Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2021* (S.I. No. 208 of 2021).

E545 Power pursuant to section exercised (16.03.2021) by *Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2021* (S.I. No. 115 of 2021).

E546 Power pursuant to section exercised (16.03.2021) by *Planning and Development Act 2000 (Exempted Development) Regulations 2021* (S.I. No. 114 of 2021).

E547 Power pursuant to section exercised (23.12.2020) by *Planning and Development (Amendment) (No. 2) Regulations 2020* (S.I. No. 692 of 2020).

E548 Power pursuant to subs. (2) exercised (7.08.2020 for relevant period) by *Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2020* (S.I. No. 293 of 2020).

E549 Power pursuant to subs. (2) exercised (27.03.2020 for relevant period) by *Planning and Development Act 2000 (Section 181) Regulations 2020* (S.I. No. 93 of 2020).

E550 Power pursuant to subs. (2) exercised (27.03.2020 for relevant period) by *Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2020* (S.I. No. 92 of 2020).

E551 Power pursuant to section exercised (1.07.2019) by *Planning And Development Act 2000 (Exempted Development) (No. 2) Regulations 2019* (S.I. No. 235 of 2019), in effect as per reg. 1(3).

E552 Power pursuant to section exercised (16.11.2018) by *Planning and Development (Fees) Regulations 2018* (S.I. No. 501 of 2018).

E553 Power pursuant to section exercised (8.02.2018) by *Planning and Development (Amendment) (No. 3) Regulations 2018* (S.I. No. 31 of 2018).

E554 Power pursuant to section exercised (8.02.2018) by *Planning and Development (Amendment) (No. 2) Regulations 2018* (S.I. No. 30 of 2018).

E555 Power pursuant to section exercised (8.02.2018) by *Planning and Development (Amendment) Regulations 2018* (S.I. No. 29 of 2018).

E556 Power pursuant to section exercised (9.08.2017) by *Planning and Development (Amendment) Regulations 2017* (S.I. No. 342 of 2017), in effect as per reg. 2(1).

E557 Power pursuant to section exercised (3.07.2017) by *Planning and Development (Strategic Housing Development) Regulations 2017* (S.I. No. 271 of 2017), in effect as per reg. 2.

E558 Power pursuant to section exercised (1.10.2015) by *Planning and Development (Amendment) Regulations 2015* (S.I. No. 264 of 2015), in effect as per reg. 1(3).

E559 Power pursuant to section exercised (1.01.2014) by *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013).

E560 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) (No. 3) Regulations 2011* (S.I. No. 476 of 2011).

E561 Power pursuant to section exercised (8.09.2011) by *Planning and Development (Amendment) (No. 2) Regulations 2011* (S.I. No. 454 of 2011).

E562 Power pursuant to section exercised (3.06.2011) by *Planning and Development (Amendment) Regulations 2011* (S.I. No. 262 of 2011).

E563 Power pursuant to section exercised (3.05.2011) by *Planning and Development (Strategic Environmental Assessment) (Amendment) Regulations 2011* (S.I. No. 201 of 2011).

E564 Power pursuant to section exercised (10.07.2008) by *Planning and Development (Amendment) Regulations 2008* (S.I. No. 256 of 2008).

E565 Power pursuant to section exercised (2.07.2008) by *Planning and Development Regulations 2008* (S.I. No. 235 of 2008).

E566 Power pursuant to section exercised (20.08.2007) by *Planning and Development Act 2000(Certification of Fairground Equipment) (Amendment) Regulations 2007* (S.I. No. 590 of 2007).

E567 Power pursuant to section exercised (31.03.2007) by *Planning and Development (No. 2) Regulations 2007* (S.I. No. 135 of 2007).

E568 Power pursuant to section exercised (21.12.2006) by *Planning and Development Regulations 2006* (S.I. No. 685 of 2006).

E569 Power pursuant to section exercised (14.07.2005) by *Planning and Development Regulations 2005* (S.I. No. 364 of 2005).

E570 Power pursuant to section exercised (21.07.2004) by *Planning and Development (Strategic Environmental Assessment) Regulations 2004* (S.I. No. 436 of 2004).

E571 Power pursuant to section exercised (1.10.2003) by *Planning and Development Act 2000 (Certification of Fairground Equipment) Regulations 2003* (S.I. No. 449 of 2003).

E572 Power pursuant to section exercised (6.03.2003) by *Planning and Development Regulations 2003* (S.I. No. 90 of 2003).

E573 Power pursuant to section exercised (22.04.2002) by *Planning and Development (No. 2) Regulations 2002* (S.I. No. 149 of 2002).

E574 Power pursuant to section exercised (11.03.2002) by *Planning and Development Regulations 2002* (S.I. No. 70 of 2002).

E575 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001).

E576 Previous affecting provision: power pursuant to section exercised (20.07.2001) by *Planning and Development (Appointment of Chairperson and Ordinary Members of an Board Pleanála) Regulations 2001* (S.I. No. 336 of 2000); revoked (21.02.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

E577 Previous affecting provision: power pursuant to section exercised (17.04.2001) by *Planning and Development (Licensing of Outdoor Events) Regulations 2001* (S.I. No. 154 of 2001); revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1 .

E578 Previous affecting provision: power pursuant to section exercised (1.01.2001) by *Planning and Development (No. 2) Regulations 2000* (S.I. No. 457 of 2000), in effect as per reg. 2; revoked (21.01.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1, in effect as per reg. 2(1).

E579 Previous affecting provision: power pursuant to section exercised (1.11.2000) by *Planning and Development Regulations 2000* (S.I. No. 350 of 2000); revoked (21.02.2002) by *Planning and Development Regulations 2001* (S.I. No. 600 of 2001), reg. 4 and sch. 1.

PART XIX

Commencement, Repeals and Continuance

Interpretation.

263.—In this Part, "repealed enactments" means the enactments specified in *column (2)* of the *Sixth Schedule*.

Repeals.

264.—The enactments specified in *column (2)* of the *Sixth Schedule* are hereby repealed to the extent specified in *column (3)* of that Schedule.

Continuity of repealed enactments.

265.—(*a*) Nothing in this Act shall affect the validity of anything done under the Local Government (Planning and Development) Acts, 1963 to 1999, or under any regulations made under those Acts.

(*b*) Any order, regulation or policy directive made, or any other thing done, under the Local Government (Planning and Development) Acts, 1963 to 1999, that could have been made or done under a corresponding provision of this Act, shall not be invalidated by any repeal effected by this Act but shall, if in force immediately before that repeal was effected, have effect as if made or done under the corresponding provision of this Act, unless otherwise provided.

(2) The continuity of the operation of the law relating to the matters provided for in the repealed enactments shall not be affected by the substitution of this Act for those enactments, and—

(*a*) so much of any enactment or document (including enactments contained in this Act) as refers, whether expressly or by implication, to, or to things done or falling to be done under or for the purposes of, any provision of this Act, shall, if and so far as the nature of the subject matter of the enactment or document permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments has or had effect, a reference to, or, as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision,

(*b*) so much of any enactment or document (including repealed enactments and enactments and documents passed or made after the commencement of this Act) as refers, whether expressly or by implication, to, or to things done or falling to be done under or for the purposes of, any provision of the repealed enactments shall, if and so far as the nature of the subject matter of the enactment or document permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or, as the case may be, to things done or deemed to be done or falling to be done under or for the purposes of, that corresponding provision.

(3) Section 2 of the Acquisition of Land (Assessment of Compensation) Act, 1919, as amended by section 69(1) of the Act of 1963 shall, notwithstanding the repeal of section 69 of the Act of 1963 by the Act of 1990, apply to every case, other than a case F1187**[**under *Part XII***]** or the Act of 1990, where any compensation assessed will be payable by a planning authority or any other local authority.

(4) In the case of any application to a planning authority, or any appeal or any other matter with which the Board is concerned which is received by the planning authority or the Board, as the case may be, before the repeal of the relevant provisions or the revocation of any associated regulations, the provisions of the Local Government (Planning and Development) Acts, 1963 to 1999, and regulations made thereunder shall continue to apply to the application, appeal or other matter notwithstanding the repeal of any enactment or revocation of any regulation.

Annotations

Amendments:

F1187 Substituted (17.10.2006) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 46, S.I. No. 525 of 2006.

Transitional provisions regarding development plans.

266.—(*a*) Notwithstanding the repeal of any enactment by this Act, development plans made under Part III of the Act of 1963 shall continue in force and shall be deemed to have been made under and in compliance with this Act.

(*b*) Notwithstanding the repeal of any enactment by this Act, where a planning authority has given notice under section 21 of the Act of 1963 of the preparation of a draft development plan, Part III of the Act of 1963 shall continue to apply in respect of that draft development plan until the making of such plan.

(2) (*a*) Where, on the commencement of *Part II*, a development plan is in force for longer than 4 years, the planning authority concerned shall, not later than one year after such commencement, initiate the notification procedures under *section 11*.

(*b*) Except as is provided for in *paragraph (a)* and in *subsection (1)(b)*, the provisions of *Part II* in relation to the review of development plans and the preparation of new plans shall apply to all existing development plans.

(*c*) For the purposes of *paragraphs (a)* and *(b)*, the reference to the development plan shall be a reference to the development plan in force for the functional area of the planning authority which covers all, or the greater part of, that functional area and—

(i) a development plan for a scheduled town, within the meaning of section 2 of the Act of 1963, or

(ii) a development plan covering part only of the functional area of the authority (not being the greater part),

shall be deemed not to be a development plan for the purposes of those paragraphs.

(3) A reference in any enactment or instrument to a development plan shall be deemed to be a reference to a development plan as defined in this Act.

Transitional provisions respecting compulsory acquisition of land.

267.—(1) Where, before the transfer of functions to the Board in accordance with *sections 214* and *215*, any matter was to be determined by the Minister under the enactments referred to in those sections, the Board shall, in lieu of the Minister, determine the matter in accordance with those sections.

(2) *Sections 217, 218, 219, 220, 221* and *222* shall not apply to matters referred to in *subsection (1)* to be determined by the Board in accordance with that subsection.

Miscellaneous transitional provisions.

268.—(1) Notwithstanding the repeal of any enactment by this Act—

(*a*) subsections (2) to (5) of section 38 of the Act of 1999 continue to apply to a planning authority until the planning authority has made the decisions required by those subsections and served them on the appropriate owners and occupiers,

(*b*) a scheme for the granting of pensions, gratuities or other allowances in respect of the chairperson and ordinary members or in respect of wholetime

employees of the Board under an Act repealed by this Act shall continue in force and shall be deemed to be a scheme under *section 119* or *121*, as appropriate,

(*c*) a special amenity area order or tree preservation order confirmed or made under an Act repealed by this Act that is in force immediately before the commencement of this section shall be deemed to have been confirmed or made under *section 203* or *205*, as appropriate,

(*d*) paragraph 12 of the Third Schedule to the Act of 1990 shall continue to apply for a period of 3 years from the commencement of this section, and

(*e*) section 55A (inserted by the Roads (Amendment) Act, 1998) of the Roads Act, 1993 (as inserted by section 6 of the Roads (Amendment) Act, 1998) shall continue to apply in relation to an order of the Minister under section 49(3) or 51(6) of that Act.

(2) Any codes of practice concerning the holding of events issued by the Minister or any other Minister of the Government prior to the coming into force of this Act shall be deemed to be codes of practice under *section 232*.

(3) (*a*) Notwithstanding *section 191*, compensation shall be payable under *section 190* where there has been a refusal of permission under *Part III* on the grounds specified in *paragraph 5* of the *Fourth Schedule*, and where—

(i) the development plan contained, prior to the coming into operation of *section 10*, an objective for the zoning of the land to which the application concerned related for use solely or primarily for the purpose for which the application was made, and

(ii) the application for permission was made not later than 3 years after the coming into operation of this section.

(*b*) *Paragraph (a)* shall not apply to a refusal of permission if—

(i) the development is of a class or description set out in the *Third Schedule*, or

(ii) the refusal was on grounds specified in the *Fourth Schedule* (other than *paragraph (a)*).

F1188[Transitional provisions consequent on Local Government Reform Act 2014

268A.—(1) In this section—

"2014 establishment day" has the same meaning as it has in the Local Government Reform Act 2014;

"dissolved authority" means a local authority to which subsection (2)relates or a town council to which subsection (3) relates, as the circumstances require;

"relevant day or date" means the 2014 establishment day or the transfer date, as the circumstances require;

"successor authority" shall be read in accordance with subsection (2) or (3), as the circumstances require;

"transfer date" has the same meaning as it has in the Local Government Reform Act 2014.

(2) Consequent on the dissolution of certain local authorities by section 17 of the Local Government Reform Act 2014, the planning authority for each local government area concerned shall, with effect from the 2014 establishment day, be the successor authority as provided for by that section.

(3) Consequent on the dissolution of town councils by Chapter 2 of Part 3 of the Local Government Reform Act 2014, the planning authority for the area which was, immediately before the transfer date (as provided for by that Chapter), the area of a town council shall, on and from that date, be the planning authority for the local government area within which the first-mentioned area is situated on that date (in this section referred to as the "successor authority").

(4) All acts duly done and decisions duly made before the relevant day or date by a planning authority to which *subsection (2)* relates or a town council to which *subsection (3)* relates, respectively, shall, subject to this Act, continue to have all such force and effect as they would have had if the transfer order had not been made.

(5) For the purpose of completing any matter outstanding by or with a dissolved authority as the planning authority for a local government area concerned before the relevant day or date, as the case may be, the successor authority shall, on that day or date—

(*a*) become the planning authority for that area, and

(*b*) exercise the functions, as the planning authority for that area, of the dissolved body.

(6) So much of Schedule 4 to the Local Government Reform Act 2014 that relates to a dissolved body for the purposes of that Schedule and is relevant to a dissolved body for the purposes of this section shall, subject to any necessary modifications, apply in relation to the *Planning and Development Acts 2000 to 2014*.**]**

Annotations

Amendments:

F1188 Inserted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 63(5), S.I. No. 214 of 2014.

Regulations to remove difficulties.

269.—If any difficulty arises during the period of 3 years from the commencement of this Act in bringing any provision of this Act into operation or in relation to the operation of any provision, the Minister may by regulations do anything which appears to the Minister to be necessary or expedient for the purposes of removing the difficulty, bringing that provision into operation, or securing or facilitating its operation.

Commencement.

270.—(1) This Act 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 fixed for different purposes and provisions.

(2) An order under *subsection (1)* may, in respect of the repeals effected by *section 264* of the enactments mentioned in the *Sixth Schedule*, fix different days for the repeal of different enactments or for the repeal for different purposes of any enactment.

Annotations

Editorial Notes:

E580 Power pursuant to section exercised (28.04.2004) by *Planning and Development Act 2000 (Commencement) Order 2004* (S.I. No. 152 of 2004).

2. On 28 April 2004, section 261 of the Planning and Development Act 2000 shall come into operation.

E581 Power pursuant to section exercised (24.09.2003) by *Planning and Development Act, 2000 (Commencement) Order 2003* (S.I. No. 450 of 2003).

2. On 24th September, 2003, section 239 of the Planning and Development Act, 2000 shall come into operation.

E582 Power pursuant to section exercised (21.01.2002 and 11.03.2002) by *Planning and Development Act 2000 (Commencement) (No. 3) Order 2001* (S.I. No. 599 of 2001).

2. On 21 January, 2002, the following provisions of the Planning and Development Act, 2000 shall come into operation—

(*a*) section 2, insofar as it relates to the sections referred to in paragraphs (b) to (i) of this article,

(*b*) sections 3, 4, 6 and 8,

(*c*) Part IV, insofar as not previously commenced,

(*d*) Chapter II of Part VI,

(*e*) Part VII,

(*f*) sections 156, 157 and 158, insofar as they relate to prosecutions for offences under sections 58, 63, 91, 113, 114, 147, 148, 205 and 208,

(*g*) section 180,

(*h*) Part XIII,

(*i*) section 264 and the Sixth Schedule insofar as they relate to the repeals effected by article 4 of this Order, and

(*j*) section 268(1)(a), (b) and (c).

3. On 11 March, 2002, the following provisions of the Planning and Development Act, 2000 , insofar as not previously commenced, shall come into operation—

(*a*) section 2,

(*b*) sections 5 and 7,

(*c*) Part III,

(*d*) Chapter III of Part VI,

(*e*) Part VIII,

(*f*) Part X,

(*g*) Part XI,

(*h*) Part XII and the Second, Third, Fourth and Fifth Schedules,

(*i*) Part XV,

(*j*) Part XVII,

(*k*) Part XVIII, other than section 261,

(*l*) section 264 and the Sixth Schedule, insofar as they relate to the repeals effected by article 5 of this Order,

(*m*) section 265(1), (2) and (4), and

(*n*) section 268(1)(d) and (3).

E583 Power pursuant to section exercised (20.07.2001) by *Planning and Development Act 2000 (Commencement) (No. 2) Order 2001* (S.I. No. 335 of 2001).

2. The following provisions of the Planning and Development Act, 2000 shall come into operation—

(*a*) section 2 insofar as it relates to the sections referred to in paragraphs (b) and (c) of this article,

(*b*) Chapter I of Part VI, and

(*c*) section 264 and the Sixth Schedule insofar as they relate to the repeals effected by article 3 of this Order.

3. Section 3 of the Local Government (Planning and Development) Act, 1976 (No. 20 of 1976) and sections 2, 3 (as inserted by section 1 (a) of the Local Government (Planning and Development) Act, 1998 (No. 9 of 1998)), 5, 7, 8 (as amended by section 1 (b) of the Local Government (Planning and Development) Act, 1998) and 12 of the Local Government (Planning and Development) Act, 1983 (No. 28 of 1983) are repealed.

E584 Power pursuant to section exercised (17.04.2001) by *Planning and Development Act, 2000 (Commencement) Order 2001* (S.I. No. 153 of 2001).

2. On 17th April, 2001, the following sections of the Planning and Development Act, 2000 shall come into operation —

(*a*) section 2 insofar as it relates to the sections referred to in paragraphs (b) to (e) of this article,

(*b*) sections 156, 157 and 158 insofar as they relate to prosecutions under sections 230, 233 or 235,

(*c*) Part XVI (other than section 239),

(*d*) subsections (1) (other than paragraphs (a), (b), (c) and (e) of that subsection) and (3)(a) of section 246, and

(*e*) section 268(2).

E585 Power pursuant to section exercised (1.01.2001) by *Planning and Development Act 2000 (Commencement) (No. 2) Order 2000* (S.I. No. 449 of 2000).

3. On 1 January, 2001, sections 2 (insofar as it relates to the sections commenced on that date), 50 (insofar as it relates to decisions under subsection (2)(b)(iii) of that section), 71, 72, 73, 74, 75, 76, 77, 78, 182, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 263, 264 (insofar as it relates to the repeal of Section 55A of the Roads Act, 1993 , as inserted by section 6 of the Roads (Amendment) Act, 1998), 265(3), 267, 268(1) (other than paragraphs (a), (b), (c) and (d) of that subsection), 271, 272, 273, 274, 275, 276 and 277 of the Act shall come into operation.

E586 Power pursuant to section exercised (1.11.2000 and 1.01.2001) by *Planning and Development Act 2000 (Commencement) Order 2000* (S.I. No. 349 of 2000).

3. On 1 November, 2000, sections 1, 2 (insofar as it relates to the sections commenced on that date), 13, 28, 29, 30, 93, 94, 95, 96, 97, 98, 99, 100, 101, 165, 166, 167, 168, 169, 170, 171, 262, 266, 269, and 270 of the Act shall come into operation.

4. On 1 January, 2001, sections 2 (insofar as it relates to the sections commenced on that date), 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 31 and the First Schedule of the Act shall come into operation.

F1189**[**Exempted developments not affected.

270A.—For the avoidance of doubt, any category of exempted development by virtue of *section 4* or regulations thereunder is not affected by the amendments of this Act made by the Planning and Development (Strategic Infrastructure) Act 2006.**]**

Annotations

Amendments:

F1189 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 47, S.I. No. 684 of 2006.

PART XX

Amendments of Roads Act, 1993

Amendment of section 57 of Roads Act, 1993.

271.—Section 57 of the Roads Act, 1993, is hereby amended—

(*a*) by the substitution of the following for subsection (1):

"(1) A road authority may prepare a scheme for the establishment of a system of tolls in respect of the use of a public road.",

(*b*) in subsection (2), by the substitution for "In making a toll scheme" of "In preparing a scheme under subsection (1)",

(*c*) in subsection (3), by the substitution for "toll scheme" of "scheme prepared under subsection (1)",

(*d*) in subsection (4), by the substitution for "toll scheme" of "scheme under subsection (1)",

(*e*) by the substitution of the following for subsection (5):

"(5) A road authority may prepare a scheme amending a toll scheme adopted by it under section 58.",

(*f*) in subsection (6), by the substitution for "toll scheme" of "scheme prepared under subsection (1)", and

(*g*) by the substitution of the following for subsection (7):

"(7) (*a*) The Authority shall, before adopting, under section 58, a scheme prepared under subsection (1) in relation to a national road, send a copy of the scheme to the appropriate road authority under section 13 and serve a notice on the road authority stating—

(i) that a scheme under subsection (1) has been prepared, and

(ii) that representations may be made in writing to the Authority in relation to the scheme before such date as is specified in the notice (being not less than 6 weeks from the date of service of the notice).

(*b*) The Authority shall consider any representations made to it pursuant to a notice under paragraph (*a*).

(*c*) The making of representations by a road authority under this subsection shall be a reserved function and shall be without prejudice to the right of that authority to make objections to the Authority under section 58.".

Scheme prepared under section 57 of Roads Act, 1993, to be adopted by road authority.

272.—The Roads Act, 1993, is hereby amended by the substitution of the following section for section 58:

"58.—(1) A road authority shall publish in one or more newspapers circulating in the area where the proposed toll road is located or is to be located a notice—

(*a*) stating that a draft toll scheme has been prepared,

(*b*) indicating the times at which, the period (being a period of not less than one month from the first publication of the notice) during which, and the place at which a copy of the scheme prepared under section 57, any map referred to therein and the explanatory statement relating to the scheme may be inspected, and

(*c*) stating that objections to the draft toll scheme may be made in writing to the road authority before such date as is specified in the notice (being not less than 2 weeks from the end of the period for inspection referred to in paragraph (*b*)).

(2) (*a*) Subject to paragraph (*b*), a road authority may adopt a scheme prepared by it under subsection (1), with or without modifications and, subject to subsection (3), a scheme so adopted is hereafter in this Act referred to as a "toll scheme".

(*b*) If an objection to a draft toll scheme is made to the road authority and the objection is not withdrawn, the road authority shall, before deciding whether to adopt the draft toll scheme or not, cause an oral hearing to be held into the matters to which the objection relates, by a person appointed by the road authority, and shall consider the report of and any recommendation made by the person so appointed.

(3) (*a*) A toll scheme adopted by the road authority under this section shall come into force with the modifications, if any, therein made by the road authority on such day as may be determined by the road authority.

(*b*) Notice of the day on which a toll scheme is to come into force shall be published by the road authority at least one month before such day in one or more newspapers circulating in the area in which the toll road to which the scheme relates is located or will be located.".

Amendment of section 60 of Roads Act, 1993

273.—Section 60 of the Roads Act, 1993, is hereby amended by the substitution of the following for that section:

"60.—(1) A road authority may by order revoke a toll scheme adopted by it under section 58.

(2) Where a road authority proposes to make an order under subsection (1) it shall, before so making the order, publish in one or more newspapers circulating in the area where the toll road is located a notice—

(*a*) stating that it proposes to revoke the scheme,

(*b*) indicating the times at which, the period (being not less than one month from the first publication of the notice) during which, and the place at which, a copy of the proposal may be inspected,

(*c*) stating that objections or representations may be made in writing to the road authority in relation to the proposal before such date as is specified in the notice (being a date that falls not less than 2 weeks from the end of the period for inspection of the proposal).

(3) Before making an order under subsection (1), the road authority shall consider any objections or representations made to it in accordance with a notice under subsection (2).

(4) A road authority may at its discretion cause an oral hearing to be held into any matter to which objections or representations, made in accordance with a notice under subsection (2) and not withdrawn, relate, by a person appointed by the road authority, and where a road authority causes an oral hearing to be so held it shall, before revoking the toll scheme under subsection (3), consider the report of and any recommendation made by that person.

(5) The road authority shall publish in one or more newspapers circulating in the area where the toll road is located notice of the making of any order under subsection (1).

(6) The making of an order under this section in relation to a regional road or a local road shall be a reserved function.".

Amendment of section 61 of Roads Act, 1993.

274.—Section 61 of the Roads Act, 1993, is hereby amended—

(*a*) by the deletion of subsection (5),

(*b*) by the substitution of the following subsection for subsection (6):

"(6) Before making bye-laws, a road authority shall publish in one or more newspapers circulating in the area where the toll road to which the bye-laws relate is located or is to be located a notice—

(*a*) indicating that it is proposed to make such bye-laws and stating the purpose of the bye-laws,

(*b*) indicating the times at which, the period (being a period of not less than one month from the date of the first publication of the notice) during which, and the place at which, a copy of the draft bye-laws may be inspected,

(*c*) stating that objections or representations may be made in writing to the road authority in relation to the draft bye-laws before such date as is specified in the notice (being a date that falls not less than 2 weeks from the end of the period for inspection of the draft bye-laws), and

(*d*) stating that a copy of the draft bye-laws may be purchased on payment of such fee as is specified in the notice not exceeding the reasonable cost incurred in the making of such copy.",

(*c*) by the substitution of the following subsection for subsection (7):

(7) Before making bye-laws the road authority shall consider any objections or representations which have been made to it in accordance with a notice under subsection (6) and not withdrawn.",

(*d*) by the substitution of the following subsection for subsection (8):

(8) Bye-laws made by a road authority under this section shall come into effect on such date as is specified in those bye-laws.",

and

(*e*) in subsection (9), by the substitution for "approved" of "made".

Amendment of section 63 of Roads Act, 1993.

275.—Section 63 of the Roads Act, 1993, is hereby amended—

(*a*) in subsection (1), by the substitution for "Where a toll scheme is approved by the Minister, a road authority may, with the consent of the Minister," of "Where a toll scheme is adopted by a road authority, the road authority may", and

(*b*) in subsection (3), by the deletion of ", with the consent of the Minister,".

Amendment of section 65 of Roads Act, 1993.

276.—The Roads Act, 1993, is hereby amended in section 65 by the substitution for "section 57" of "section 58".

Further amendment of Part V of Roads Act, 1993.

277.—Part V of the Roads Act, 1993, is hereby amended by the insertion after section 66 of the following sections—

"Ministerial policy directives on road tolling.

66A.—(1) The Minister may, from time to time, issue policy directives to road authorities regarding the exercise of any of their functions under Part V or any matter connected therewith and road authorities shall comply with any such directives.

(2) The Minister may revoke or amend a policy directive issued under this section.

(3) The Minister shall cause a copy of any policy directive issued under this section to be laid before each House of the Oireachtas.

(4) A road authority shall make available for inspection by members of the public any policy directive issued to it under this section.

(5) The Minister shall not issue a directive relating to a particular tolling scheme.

Continuance of existing schemes, bye-laws and agreements.

66B.—Notwithstanding this Part, every agreement entered into and every toll scheme or bye-law made by a road authority and in force immediately before the commencement of this section shall continue in force as if made or entered into under this Part as amended by the *Planning and Development Act, 2000*.

Transitional provisions regarding toll schemes.

66C.—Where, before the commencement of *Part XX* of the *Planning and Development Act, 2000*, any toll scheme, proposal to revoke a toll scheme or bye-law has been submitted to the Minister under Part V and the matter has not been determined by the Minister, the determination of the matter shall continue to rest with the Minister and Part V as amended by *Part XX* of the *Planning and Development Act, 2000*, shall not apply with respect to the matter..

F1190[PART XXI

Maritime Development]

Annotations

Amendments:

F1190 Inserted by *Maritime Area Planning Act 2021* (50/2021), s. 171, not commenced as of date of revision.

Chapter I

Preliminary and General

F1191[Definitions

278.—In this Part, except where the context otherwise requires—

"development" means—

(*a*) the carrying out of any works in the maritime area, or

(*b*) the making of any material change in the use of the sea, seabed or any structure, in the maritime area,

and includes the reclamation of any land in the nearshore area;

"marine planning policy statement" has the meaning assigned to it by the Maritime Area Planning Act 2021;

"public body" means a body established by or under statute that, for the time being, stands prescribed for the purposes of this Part;

"Regulations of 2001" means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).**]**

Annotations

Amendments:

F1191 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1192[Disapplication of *Chapters II* and *III* of *Part XXI* of Act of 2000

278A.—(1) Subject to *subsection (2)*, *Chapters II* and *III* shall not apply to strategic infrastructure development in respect of which—

(*a*) development permission has not been granted, and

(*b*) the prospective applicant concerned has, on or before 1 October 2022, entered into consultations with the Board under *section 37B*.

(2) *Subsection (1)* shall only apply to strategic infrastructure development the subject of an application for permission for such development made to the Board, before 1 October 2024, under *section 37E*.**]**

Annotations

Amendments:

F1192 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 248, S.I. No. 653 of 2023.

Editorial Notes:

E587 The section heading is taken from the amending section in the absence of one included in the amendment.

F1193[Extension of functional area of coastal planning authority

279.—For the purposes of this Act but subject to *section 308*, the functional area of a coastal planning authority includes the nearshore area of that coastal planning authority, and in this Act references to functional area, administrative area or area of a planning authority shall be construed accordingly.**]**

Annotations

Amendments:

F1193 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1194**[**Maritime Area Regulatory Authority is prescribed body

279A.—The Maritime Area Regulatory Authority is, by virtue of this section, a prescribed body for the purposes of this Part and, accordingly, a reference in this Part to prescribed bodies shall include a reference to the Maritime Area Regulatory Authority.**]**

Annotations

Amendments:

F1194 Inserted (1.10.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 73(a), S.I. No. 487 of 2022.

F1195**[**CHAPTER II

Certain Development in Nearshore Area

Application of Chapter

280.—(1) Subject to *subsection (2)*, this Chapter applies to development situated—

(*a*) wholly in the nearshore area of a coastal planning authority, or

(*b*) partly in the nearshore area of a coastal planning authority and partly on land.

(2) This Chapter does not apply to development—

(*a*) of a class specified in the *Eighth Schedule* (inserted by section 172 of the Maritime Area Planning Act 2021),

(*b*) in accordance with—

(i) a permission under *Part III* (whether or not granted before the repeal of *Part XV*) that, immediately before the repeal of *Part XV*, was required in accordance with *section 225*, F1196**[**...**]**

(ii) an approval under *section 226* (whether or not granted before the repeal of *Part XV*),

or

(*c*) consisting of—

(i) the erection of a building, pier, wall or other structure in accordance with a map, plan or specification approved in accordance with section 10 of the Act of 1933, or

(ii) the deposit of any material in accordance with a consent referred to in section 13 of the Act of F1197**[**1933, or**]]**

F1198**[**(*d*) subject to *subsection (3)*, on the commencement of section 249 of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023—

(i) that was the subject of either—

(I) a lease made, on or after 1 October 2017, under section 2 of the Act of 1933 authorising the lessee to do, for the purposes of the

development, one or more than one of the acts referred to in that section, or

(II) a licence granted, on or after 1 October 2017, under section 3 of the Act of 1933 authorising the licensee to do, for the purposes of the development, one or more than one of the acts referred to in that section,

(ii) for which permission under *Part III* was not required, and

(iii) that—

(I) has been completed,

(II) has commenced but has not been completed, or

(III) has not commenced.**]**

F1198**[**(3) *Subsection (2)* shall cease to apply to any development referred to in *paragraph (d)* of that subsection which has not been completed on or before the 5th anniversary of the date of commencement of section 249 of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023.**]**

Annotations

Amendments:

F1195 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1196 Deleted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 249(a)(i), S.I. No. 653 of 2023.

F1197 Substituted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 249(a)(ii), S.I. No. 653 of 2023.

F1198 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 249(a)(iii), (b), S.I. No. 653 of 2023.

F1199**[**Obligation to obtain permission to carry out development

281.—(1) Subject to this Act, permission shall be required for development (other than exempted development) to which this Chapter applies, and accordingly a person shall not carry out any such development except under and in accordance with a permission granted under *section 34*.

(2) Subject to *section 283*, a person shall not be eligible to make an application for permission to carry out development to which this Chapter applies, unless that person—

(*a*) is the holder of—

(i) a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, or

(ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purpose of the development on, or in relation to, the maritime site in which the development is proposed to be situated,

(*b*) is the owner of land F1200**[**in the maritime area**]** on which it is proposed to carry out the development concerned,

(*c*) is the lessee under a lease—

(i) made under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned, and

(ii) that contains a covenant, condition or agreement, to which subsection (4) of the said section 2 applies, requiring the lessee to carry out, on that maritime site, the proposed development concerned, or

(*d*) makes the application with the consent, or on behalf, of the owner of land F1200**[**in the maritime area**]** on which it is proposed to carry out the development concerned.

(3) An application for permission to carry out development to which this Chapter applies shall be made, under and in accordance with *section 34*, to the coastal planning authority within whose functional area that part of the nearshore area in which it is proposed to carry out the development is situated.**]**

Annotations

Amendments:

F1199 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1200 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023), s. 250, S.I. No. 653 of 2023.

F1201**[**Consideration by planning authority of application for permission for development

282.—(1) Subject to *section 283*, a planning authority shall neither consider an application for permission under *section 34* for development to which this Chapter applies nor grant such permission, unless the applicant for such permission—

(*a*) is the holder of—

(i) a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, or

(ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purpose of the development on, or in relation to, the maritime site in which the development is proposed to be situated,

(*b*) is the owner of land on which it is proposed to carry out the development concerned,

(*c*) is the lessee under a lease—

(i) made under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned, and

(ii) that contains a covenant, condition or agreement, to which subsection (4) of the said section 2 applies, requiring the lessee to carry out, on that maritime site, the proposed development concerned, or

(*d*) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.

(2) A coastal planning authority shall, in the performance of its functions under this section and *section 34* in relation to a maritime application, have regard to—

(*a*) the National Marine Planning Framework and the National Planning Framework,

(*b*) the marine planning policy statement,

(*c*) guidelines issued under section 7 of the Maritime Area Planning Act 2021,

(*d*) guidelines issued under *section 28*,

(*e*) any regional, spatial and economic strategy of a regional assembly—

(i) within whose functional area it is proposed to carry out development to which the application relates, or

(ii) whose functional area adjoins the maritime site to which the application relates,

(*f*) the development plan of—

(i) the coastal planning authority within whose functional area it is proposed to carry out development to which the application relates, and

(ii) any coastal planning authority whose functional area adjoins the maritime site to which the application relates,

(*g*) any local area plan applicable to a part of the functional area of any coastal planning authority—

(i) within which it is proposed to carry out development to which the application relates, or

(ii) that adjoins the maritime site to which the application relates,

(*h*) any submissions or observations made by prescribed bodies or members of the public in relation to the application,

(*i*) Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008[19] establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) as amended by Commission Directive (EU) 2017/845 of 17 May 2017[20] , and any enactment or instrument under an enactment that gives effect thereto,

(*j*) land-sea interactions within the meaning of Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014[21] establishing a framework for maritime spatial planning,

(*k*) objectives of maritime spatial planning, and

(*l*) principles of proper planning and sustainable development.

(3) In addition to any conditions that may be attached to a permission in accordance with *subsection (4)* or *(5)* of *section 34*, a coastal planning authority may, when granting permission under that section for development in the nearshore area, attach any or all of the following conditions to the permission:

(*a*) conditions requiring the carrying out of works for the preservation of any site of archaeological interest or any wreck within the meaning of the National Monuments (Amendment) Act 1987;

(*b*) conditions requiring the carrying out of such works as the coastal planning authority may specify for the purposes of the development;

(*c*) for the purpose of ensuring compliance with the terms of the maritime area consent granted for the occupation of the maritime site concerned, conditions regulating the development or use of any part of the maritime area that adjoins that maritime site;

[19] OJ No. L164, 25.6.2008, p. 19
[20] OJ No. L125, 18.5.2017, p.27
[21] OJ No. L257, 28.8.2014, p. 135

(*d*) conditions requiring—

(i) the provision, protection or maintenance of access to the maritime area and land adjoining the maritime area by members of the public or members of a class of the public, or

(ii) the carrying out of works for the purpose of such provision, protection or maintenance;

(*e*) conditions aimed at protecting rights to navigate in the maritime area;

(*f*) conditions aimed at protecting rights to fish in the maritime area;

(*g*) conditions for, or in connection with—

(i) the protection of the marine environment (including the protection of fisheries),

(ii) the safety of navigation, or

(iii) the protection of underwater cables, wires, pipelines or other similar apparatus used for the purpose of—

(I) transmitting electricity or telecommunications signals, or

(II) carrying gas, petroleum, oil or water;

(*h*) conditions requiring the adoption of measures to reduce or prevent the emission of any noise or vibration from any structure or area comprised in the development concerned;

(*i*) conditions relating to the sequence of, and the times at which, works for the purposes of the development shall be carried out;

(*j*) conditions requiring, and relating to, the maintenance or management of the proposed development;

(*k*) conditions requiring the recovery and disposal, in such a manner as may be specified by the coastal planning authority, of construction and demolition waste;

(*l*) conditions requiring, and relating to—

(i) the removal of any structures authorised by the permission, or

(ii) the discontinuance of any activity so authorised,

upon the expiration of such period as the coastal planning authority may specify, and requiring, and relating to, the carrying out of any works necessary for the reinstatement of the site concerned upon such expiration;

(*m*) conditions requiring, and relating to, the provision to the coastal planning authority concerned, and maintenance, of adequate financial security for the purpose of ensuring the satisfactory completion of the proposed development;

(*n*) a condition requiring the person to whom the permission is granted to submit such information, as may be specified by the coastal planning authority, to the coastal planning authority or any other public body prior to commencement of the development concerned.

(4) *Paragraph (a)* of *subsection (2)* of *section 34* shall not apply in relation to a maritime application.

(5) In this section "maritime application" means—

(*a*) an application to a coastal planning authority for permission for development wholly within the nearshore area of that coastal planning authority, or

(*b*) in relation to an application to a coastal planning authority for permission for development partly in the nearshore area of the coastal planning authority and partly on land, the part of the application that relates to permission for development in the said nearshore area.**]**

Annotations

Amendments:

F1201 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1202**[**Effect of bringing of judicial review of maritime area consent on application under *section 34* or appeal under *section 37*

283.(1)—Where the Maritime Area Regulatory Authority grants a maritime area consent, the person who applied for that consent shall, notwithstanding the making by any other person of an application under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) for judicial review of the decision to grant that consent, be eligible to make an application under *section 34* for permission for development to which this Chapter applies.

(2) Where a person makes an application in accordance with this Chapter for permission for development in circumstances to which *subsection (1)* applies, the coastal planning authority concerned shall, notwithstanding any pending application for judicial review referred to in that subsection, perform the functions conferred on it by and in accordance with this Chapter in relation to that application for permission as if no such application for judicial review had been made.

(3) Where an application for permission for development made in circumstances to which *subsection (1)* applies is refused by a coastal planning authority and the applicant for such permission appeals the refusal to the Board under *section 37*, the Board shall, notwithstanding any pending application for judicial review referred to in that subsection, perform the functions conferred on it under this Act in relation to the appeal concerned as if no such application for judicial review had been made.

(4) A permission granted under *section 34* or *37* for development to which this Chapter applies in circumstances to which this section applies shall not come into effect unless and until—

(*a*) final judgment is given—

(i) in relation to the application for judicial review referred to in this section, and

(ii) upholding the grant of the maritime area consent concerned in respect of which that application was made,

or

(*b*) the application for judicial review referred to in this section is withdrawn.**]**

Annotations

Amendments:

F1202 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1203**[**CHAPTER III

Other Development in Maritime Area

Definitions

284.—In this Chapter—

"material alteration" means a requested alteration—

(*a*) that the Board determines, under *subparagraph (i)* of *paragraph (a)* of *subsection (5)* of *section 297*, is likely to have significant effects on the environment,

(*b*) in respect of which the Board determines, under *subsection (4)* of *section 177U*, that an appropriate assessment is required, or

(*c*) that the Board determines, under *paragraph (b)* of the said *subsection (5)*, would otherwise constitute a material alteration of the terms of the permission concerned;

"prospective applicant" has the meaning assigned to it by *section 287*;

"reasoned conclusion" has the meaning assigned to it by the Environmental Impact Assessment Directive;

"requested alteration" means an alteration of the terms of a permission under *section 293* specified in a request made in accordance with *subsection (1)* of *section 297*;

"requesting person" means a person who makes a request in accordance with *subsection (1)* of *section 297*.**]**

Annotations

Amendments:

F1203 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1204**[**Application of Chapter

285.—(1) Subject to *subsection (2)*, this Chapter applies to—

(*a*) development situated—

(i) wholly in the outer maritime area,

(ii) partly in the outer maritime area and partly in—

(I) the nearshore area of a coastal planning authority, or

(II) the nearshore areas of more than one coastal planning authority,

(iii) partly in the outer maritime area, partly in—

(I) the nearshore area of a coastal planning authority, or

(II) the nearshore areas of more than one coastal planning authority,and partly on land, or

(iv) partly in the outer maritime area and partly on land,

(*b*) development situated—

(i) wholly in the nearshore areas of more than one coastal planning authority, F1205**[**...**]**

(ii) partly on land and partly in the nearshore areas of more than one coastal planning authority,

and

(*c*) development of a class specified in the *Eighth Schedule* situated—

(i) wholly in—

(I) the nearshore area of a coastal planning authority, or

(II) the nearshore areas of more than one coastal planning authority,

or

(ii) partly on land and partly in—

(I) the nearshore area of a coastal planning authority, or

(II) the nearshore areas of more than one coastal planning authority.

(2) This Chapter does not apply to development—

(*a*) in accordance with—

(i) a permission under *Part III* (whether or not granted before the repeal of *Part XV*) that, immediately before the repeal of *Part XV*, was required in accordance with *section 225*, or

(ii) an approval under *section 226* (whether or not granted before the repeal of *Part XV*),

or

(*b*) consisting of—

(i) the erection of a building, pier, wall or other structure in accordance with a map, plan or specification approved in accordance with section 10 of the Act of 1933, or

(ii) the deposit of any material in accordance with a consent referred to in section 13 of the Act of F1206**[**1933, or**]]**

F1207**[**(*c*) subject to *subsection (3)*, on the commencement of section 251 of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023—

(i) that was the subject of either—

(I) a lease made, on or after 1 October 2017, under section 2 of the Act of 1933 authorising the lessee to do, for the purposes of the development, one or more than one of the acts referred to in that section, or

(II) a license granted, on or after 1 October 2017, under section 3 of the Act of 1933 authorising the licensee to do, for the purposes of the development, one or more than one of the acts referred to in that section,

(ii) for which permission under *Part III* was not required, and

(iii) that—

(I) has been completed,

(II) has commenced but has not been completed, or

(III) has not commenced.**]**

F1207**[**(3) *Subsection (2)* shall cease to apply to any development referred to in *paragraph (c)* of that subsection which has not been completed on or before the 5th anniversary of the date of commencement of section 251 of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023.

(4) (*a*) Where *subsection (2)* applies to any development referred to in *paragraph (c)* of that subsection and the development is the subject of a lease referred to in *subparagraph (i)(I)* of that paragraph, the provisions of section 2 of the Act of 1933 relevant to the lease shall be deemed to apply to the carrying out of the development.

(*b*) Where *subsection (2)* applies to any development referred to in *paragraph (c)* of that subsection and the development is the subject of a licence referred to in *subparagraph (i)(II)* of that paragraph, the provisions of section 3 of the Act of 1933 relevant to the licence shall be deemed to apply to the carrying out of the development.

(*c*) Where development referred to in *paragraph (c)* of *subsection (2)* required, as appropriate—

(i) an environmental impact assessment,

(ii) an appropriate assessment,

(iii) both an environmental impact assessment and an appropriate assessment,

to be carried out, *subsection (2)* shall not apply to the development unless the assessment was, or those assessments were, as the case may be, carried out before, as appropriate, the making of the lease or the granting of the licence concerned.**]**

Annotations

Amendments:

F1204 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1205 Deleted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 251(a)(i), S.I. No. 653 of 2023.

F1206 Substituted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 251(a)(ii), S.I. No. 653 of 2023.

F1207 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 251(b), S.I. No. 653 of 2023.

F1208**[**Obligation to obtain permission to carry out development

286.—(1) Subject to this Act, permission shall be required for development (other than exempted development) to which this Chapter applies, and accordingly a person shall not carry out any such development except under and in accordance with a permission granted under *section 293*.

(2) An application for permission to carry out development to which this Chapter applies shall be made to the Board under *section 291*.

(3) Subject to F1209**[***sections 287(4)* and *304***]**, a person shall not be eligible to apply for permission to carry out development to which this Chapter applies unless that person—

(*a*) is the holder of—

(i) a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, or

(ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purpose of the development on, or in relation to, the maritime site in which the development is proposed to be situated,

(*b*) is the owner of land F1210**[**in the maritime area**]** on which it is proposed to carry out the development concerned,

(*c*) is the lessee under a lease—

(i) made under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned, and

(ii) that contains a covenant, condition or agreement, to which subsection (4) of the said section 2 applies, requiring the lessee to carry out, on that maritime site, the proposed development concerned, or

(*d*) makes the application with the consent, or on behalf, of the owner of land F1210**[**in the maritime area**]** on which it is proposed to carry out the development concerned.

(4) Subject to *section 304*, the Board shall neither consider an application under *section 291* for permission for development to which this Chapter applies nor grant such permission, unless the applicant for such permission—

(*a*) is the holder of—

(i) a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, or

(ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purpose of the development on, or in relation to, the maritime site in which the development is proposed to be situated,

(*b*) is the owner of land F1210**[**in the maritime area**]** on which it is proposed to carry out the development concerned,

(*c*) is the lessee, under a lease granted under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned, or

(*d*) makes the application with the consent, or on behalf, of the owner of land F1210**[**in the maritime area**]** on which it is proposed to carry out the development concerned.**]**

Annotations

Amendments:

F1208 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1209 Substituted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 252(a)(i), S.I. No. 653 of 2023.

F1210 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 252(a)(ii), (b), S.I. No. 653 of 2023.

F1211**[**Consultation with Board prior to application for permission

287.—(1) F1212**[**Subject to *subsection (4)*, a person**]** (in this Chapter referred to as a "prospective applicant") who—

(*a*) having regard to *subsection (3)* of *section 286*, is eligible to apply for permission to carry out development to which this Chapter applies, and

(*b*) proposes to make an application under *section 291* for such permission,

shall, before making the application, consult with the Board in relation thereto.

(2) The Board may, upon being consulted by a prospective applicant in accordance with *subsection (1)*, provide its opinion to the prospective applicant regarding the making of the application concerned and, in particular, as respects—

(*a*) the procedures to be followed by the prospective applicant when making the application and by the Board when considering the application,

(*b*) the documents required to accompany the application,

(*c*) the need for the prospective applicant to create an internet website for the purpose of publishing the application and all documentation accompanying the application,

(*d*) the publication of notices in accordance with this Act, the furnishing of documentation to persons referred to in *subsection (3)* of *section 291* and the making of submissions and observations in relation to an application under that section,

(*e*) such persons as may be prescribed for the purposes of this Chapter,

(*f*) some or all of the matters that the Board is likely to take into consideration relating to—

(i) the National Marine Planning Framework,

(ii) objectives of maritime spatial planning,

(iii) principles of proper planning and sustainable development, and

(iv) the environment or any European site,

when making a decision under *section 293* in relation to the application,

(*g*) the fees payable to the Board in relation to the making of the application, and

(*h*) compliance by the prospective applicant with any direction of the Board under *subsection (3)* of *section 291*.

(3) The Board may, at any time, conclude a consultation under this section where it considers it appropriate to so do.**]**

F1213**[**(4) (*a*) Subject to *paragraph (b)*, a prospective applicant for permission to carry out development consisting of port infrastructure to facilitate the deployment, maintenance or operation of offshore renewable energy infrastructure may consult with the Board in accordance with *subsection (1)* notwithstanding that the prospective applicant is not the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of such proposed development.

(*b*) *Paragraph (a)* shall not be construed to entitle the prospective applicant referred to in that paragraph to make an application under *section 291* for permission for the development referred to in that paragraph without being the holder of the maritime area consent referred to in that paragraph.**]**

Annotations

Amendments:

F1211 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1212 Substituted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 253(a), S.I. No. 653 of 2023.

F1213 Inserted (31.12.2023) by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 253(b), S.I. No. 653 of 2023.

F1214**[**Application for opinion under *section 287B*

287A.—(1) A prospective applicant who proposes to make an application under *section 291* may, before making such an application, request a meeting with the Board for the purpose of *section 287B* as part of consultations referred to in *section 287(1)*.

(2) A request under *subsection (1)* shall be in writing, be accompanied by the appropriate fee and include—

(*a*) the name and address of the prospective applicant,

(*b*) a site location map sufficient to identify the maritime area in which the proposed development would be situated,

(*c*) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment,

(*d*) a draft layout plan of the proposed development,

(*e*) a description of—

(i) the details, or groups of details, of the proposed development that, owing to the circumstances set out in *subparagraph (ii)*, are unlikely to be confirmed at the time of the proposed application, and

(ii) the circumstances relating to the proposed development, including such circumstances as the Minister may prescribe in relation to any class or description of development for the purposes of this subparagraph, that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in *subparagraph (i)* in particular, whether the prospective applicant may be able to avail of technology available after making the proposed application that is more effective or more efficient than that available at the time of the application,

(*f*) an undertaking to provide with the proposed application either—

(i) two or more options in respect of each detail or group of details referred to in *paragraph (e)(i)*, containing information on the basis of which the proposed application may be made and decided,

(ii) parameters within which each detail referred to in *paragraph (e)(i)* will fall and on the basis of which the proposed application may be made or decided, or (iii) a combination of *subparagraphs (i)* and *(ii)*,

(*g*) such other information, drawings or representations as the prospective applicant may wish to provide or make available, and

(*h*) such other information as may be prescribed.

(3) Where a prospective applicant submits a request in accordance with *subsection (1)*, the Board shall convene a meeting for the purposes of this section.

(4) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of holding a meeting convened under *subsection (3)*, including—

(*a*) matters that are required to be considered at the meeting,

(*b*) matters that may be considered at the meeting, and

(*c*) the manner in which the meeting is to be conducted.**]**

Annotations

Amendments:

F1214 Inserted (1.10.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 73(b), S.I. No. 487 of 2022.

Editorial Notes:

E588 Power pursuant to subs. (4) exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

F1215**[**Opinion of Board as to flexibility with regard to application for permission

287B.—(1) The Board shall, as soon as practicable after a meeting convened under *section 287A(3)* takes place, consider—

(*a*) the information included in the request for the meeting under *section 287A*, and

(*b*) any other relevant information that is made available at the meeting,

and determine if it is satisfied that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed certain details of the application.

(2) Where the Board determines that it is satisfied in accordance with *subsection (1)*, it shall provide an opinion to that effect to the prospective applicant.

(3) Where the Board determines that it is not satisfied in accordance with *subsection (1)*, it shall notify the prospective applicant to that effect.

(4) An opinion under *subsection (2)* shall specify—

(*a*) the details, or groups of details, of the proposed development as proposed by the prospective applicant that may be confirmed after the proposed application has been made or decided;

(*b*) the circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in *paragraph (a)*;

(*c*) that, in respect of each detail, or group of details, referred to in *paragraph (a)*, the proposed application shall, in addition to any other requirement imposed by or under this Act or the Maritime Area Planning Act 2021, be accompanied by the information referred to in *section 287A(2)(f)*.

(5) A meeting held, and any opinion issued for the purposes of this section shall be part of consultations held under *section 287*.

(6) An opinion issued by the Board under *subsection (2)* shall only be made public when a planning application in respect of the proposed development is made in accordance with *section 291*.

(7) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of the Board providing an opinion under *subsection (2)*, including the form of the opinion.**]**

Annotations

Amendments:

F1215 Inserted (1.10.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 73(b), S.I. No. 487 of 2022.

Editorial Notes:

E589 Power pursuant to subs. (7) exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

F1216[Offence of taking payment etc.

287C.—A member or official of the Board who takes or seeks any favour, benefit or payment, direct or indirect (on his or her own behalf or on behalf of any other person or body), in connection with the provision of an opinion under *section 287B* commits an offence.]

Annotations

Amendments:

F1216 Inserted (1.10.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 73(b), S.I. No. 487 of 2022.

F1217[Provision supplementing *section 287*

288.—(1) A prospective applicant shall, for the purpose of consulting with the Board in accordance with section 287—

(*a*) provide the Board with such information as the Board may require for the purpose of enabling the Board to assess the proposed development concerned, and

(*b*) in the case of proposed development of a class to which Part 2 of Schedule 5 to the Regulations of 2001 applies, provide the Board with such information (where not already provided) in relation to the proposed development as is specified in Schedule 7A to those Regulations.

(2) The performance by the Board of functions under *section 287* shall not—

(*a*) prejudice the performance by it of any of its other functions in relation to the prospective applicant, proposed application or proposed development concerned, or

(*b*) be relied on by any person—

(i) in relation to an application or request under this Chapter,

(ii) in relation to—

(I) the consideration by the Board of such application or request, or

(II) the making of a decision under this Chapter in respect of such application or request,

or

(iii) in proceedings before a court relating to, or in connection with, such application, request, consideration or decision.

(3) The Board shall keep a record in writing of every consultation conducted in accordance with *section 287*, and each such record shall identify the persons who participated in the consultation.

(4) A copy of a record referred to in *subsection (3)* shall be placed and kept with all documentation relating to the application for permission concerned.

(5) The Board may consult with any person who, in the opinion of the Board, is likely to be in possession of information that might have a bearing on matters to which the consultation relating to the proposed development concerned applies.**]**

Annotations

Amendments:

F1217 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1218**[**Screening for environmental impact assessment in respect of proposed development

289.—(1) *Section 176A* shall apply to proposed development to which this Chapter applies as if—

(*a*) references to a planning authority, the planning authority (other than in *subparagraph (i)* of *paragraph (b)* of *subsection (4)*) or the authority were construed as references to the Board,

(*b*) the following subsection was inserted:

"(1B) The Board shall not consider an application under this section in respect of proposed development to which *Chapter III* of *Part XXI* applies, unless the applicant—

(*a*) is the holder of—

(i) a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, or

(ii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purpose of the development on, or in relation to, the maritime site in which the development is proposed to be situated,

(*b*) is the owner of land on which it is proposed to carry out the development concerned,

(*c*) is the lessee under a lease—

(i) made under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned, and

(ii) that contains a covenant, condition or agreement, to which subsection (4) of the said section 2 applies, requiring the lessee to carry out, on that maritime site, the proposed development concerned, or

(*d*) makes the application with the consent, or on behalf, of the owner of land on which it is proposed to carry out the development concerned.",

(*c*) the words "in whose area the development would be situated" in *paragraph (a)* of *subsection (2)* were deleted, and

(*d*) the words "in whose area the development would be situated" in *paragraph (b)* of *subsection (2)* were deleted.

(2) *Section 176B* shall apply to proposed development to which this Chapter applies as if—

(*a*) references to a planning authority, the planning authority or the authority were construed as references to the Board,

(*b*) *paragraph (ii)* of *subsection (4)* was deleted, and

(*c*) in *subsection (5)*—

(i) the following paragraph was substituted for *paragraph (b)* of *subsection (5)*:

"(*b*) in a national newspaper.",

and

(ii) *paragraph (i)* was deleted.

(3) *Section 176C* shall not apply to proposed development to which this Chapter applies.**]**

Annotations

Amendments:

F1218 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1219**[**Opinion of Board on information to be contained in environmental impact assessment report

290.—(1) A prospective applicant may, in relation to proposed development to which this Chapter applies, request the Board to give to him or her an opinion in writing on the scope of the information and the extent of detail that should be set out in an environmental impact assessment report.

(2) Upon receipt by the Board of a request referred to in *subsection (1)*, the Board shall—

(*a*) consult with the prospective applicant and such other persons as may be prescribed for the purpose of this section, and

(*b*) after considering the information provided to the Board by the prospective applicant, in particular in relation to—

(i) the specific characteristics of the proposed development, including its location and technical capacity (within the meaning of paragraph 2 of Article 5 of the Environmental Impact Assessment Directive), and

(ii) the likely effects of the proposed development on the environment,

comply with the request as soon as is practicable.

(3) A prospective applicant shall give the Board such information in relation to the proposed development as the Board may reasonably require for the purpose of enabling it to comply with *subsection (2)*.

(4) An environmental impact assessment report shall—

(*a*) take account of an opinion provided to the applicant concerned in accordance with this section, and

(*b*) contain such information (including such information as is specified in the said opinion) as is reasonably necessary to enable the Board to come to a reasoned conclusion with regard to the likely effects of the proposed development concerned on the environment.

(5) The provision of an opinion under this section shall not prejudice the performance by the Board of any of its functions under this Act.

(6) An opinion provided under this section may not be relied upon in relation to the making of an application under this Chapter or the bringing of any proceedings before a court.**]**

Annotations

Amendments:

F1219 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1220**[**Application to Board

291.—(1) An application for permission for development to which this Chapter applies shall be made to the Board, and shall—

(*a*) be accompanied by—

(i) the prescribed fee, and

(ii) such information, plans and drawings as may be prescribed,

(*b*) if required by the Board, be accompanied by either—

(i) an environmental impact assessment report, or

(ii) the information in relation to the proposed development specified in Schedule 7A to the Regulations of 2001,

and

(*c*) if required by the Board, be accompanied by either—

(i) a Natura impact statement, or

(ii) a screening statement for appropriate assessment in relation to the proposed development.

(2) The Board may refuse to consider an application under this section where it is of the opinion that—

(*a*) the application,

(*b*) the environmental impact assessment report or the information specified in Schedule 7A to the Regulations of 2001 in relation to environmental impact assessment, as the case may be, or

(*c*) the Natura impact statement or the screening statement for appropriate assessment, as the case may be,

is inadequate or incomplete having regard, in particular, to the permission regulations or other regulations under this Act.

(3) A person shall, before applying for permission for development under this section—

(*a*) publish a notice in at least one national newspaper and such other newspapers (if any) as the Board may specify—

(i) stating—

(I) the nature and location of the proposed development,

(II) that the person proposes to make an application to the Board for permission for the proposed development,

(III) where applicable, that an environmental impact assessment report has been prepared in respect of the proposed development,

(IV) where applicable, that a Natura impact statement has been prepared in respect of the proposed development,

(V) where applicable, that the proposed development is likely to have significant effects on the environment of a Member State of the European Union or a state that is a party to the Transboundary Convention,

(VI) that—

(A) a copy of the application,

(B) a copy of any such environmental impact assessment report, and

(C) a copy of any such Natura impact statement,

has been published on the internet website created by him or her for the purpose of the application, and may be inspected free of charge or purchased on payment of such fee (which shall not be more than the reasonable cost of making such copy or copies) as may be specified in the notice at such times and places and during such period (which shall not be less than eight weeks) as is specified in the notice,

(ii) inviting the making, during the period referred to in *clause (VI)* of *subparagraph (i)*, of submissions and observations to the Board relating to—

(I) the implications of the proposed development for maritime spatial planning,

(II) the implications of the proposed development for proper planning and sustainable development, and

(III) the likely effects on the environment or any European site of the proposed development,

if carried out, and

(iii) specifying the types of decision that the Board is permitted to make under *section 293* in relation to the application,

(*b*) if directed by the Board, send—

(i) a prescribed number of copies of the application,

(ii) a copy of any environmental impact assessment report, and

(iii) a copy of any Natura impact statement,

to each of the following:

(I) the Environmental Protection Agency;

(II) the Minister;

(III) the Minister for Agriculture, Food and the Marine;

(IV) the Minister for the Environment, Climate and Communications;

(V) any coastal planning authority within—

(A) whose nearshore area, or

(B) any other part of whose functional area,

it is proposed that the development would (in whole or in part) be situated;

(VI) any coastal planning authority—

(A) whose nearshore area, or

(B) any other part of whose functional area,

adjoins that part of the maritime area in which it is proposed that the development would (in whole or in part) be situated,

(*c*) if directed by the Board, send to such persons as may be prescribed—

(i) a prescribed number of copies of the application,

(ii) a copy of any environmental impact assessment report,

(iii) a copy of any Natura impact statement, and

(iv) a notice stating that submissions or observations may, during the period referred to in *clause (VI)* of *subparagraph (i)* of *paragraph (a)*, be made in writing to the Board in relation to—

(I) the implications of the proposed development for maritime spatial planning,

(II) the implications of the proposed development for proper planning and sustainable development, and

(III) the likely effects on the environment or any European site of the proposed development,

and

(*d*) if directed by the Board, in the case of proposed development that is likely to have significant effects on the environment of a Member State of the European Union or a state that is a party to the Transboundary Convention, send to each such Member State or state—

(i) such number of copies of the application as may be prescribed,

(ii) a copy of any environmental impact assessment report, and

(iii) a notice stating that submissions or observations may, during the period referred to in *clause (VI)* of *subparagraph (i)* of *paragraph (a)*, be made in writing to the Board in relation to—

(I) the implications of the proposed development for maritime spatial planning,

(II) the implications of the proposed development for proper planning and sustainable development, and

(III) the likely effects on the environment of the proposed development.

(4) A coastal planning authority—

(*a*) within—

(i) whose nearshore area, or

(ii) any other part of whose functional area,

it is proposed that the development concerned would (in whole or in part) be situated, or

(*b*) whose nearshore area, or any other part of whose functional area, adjoins that part of the maritime area in which it is proposed that the development concerned would (in whole or in part) be situated,

may, not later than 10 weeks (or such longer period as may be specified by the Board) from the making of the application under this section in respect of the proposed development, prepare and submit to the Board a report setting out the views of the coastal planning authority in relation to the proposed development, having regard in particular to the matters to which a coastal planning authority is required to have regard in accordance with *subsection (2)* of *section 34* and *subsection (2)* of *section 282* in relation to an application referred to in *subsection (3)* of *section 281*.

(5) The Board may, in addition to a report referred to in *subsection (4)*, require a coastal planning authority to which that subsection applies or any planning authority on whose functional area the proposed development is, in the opinion of the Board, likely to have a significant effect to furnish to the Board such information as the Board may specify in relation to—

(*a*) the implications of the proposed development for maritime spatial planning,

(*b*) the implications of the proposed development for proper planning and sustainable development in the functional area concerned, and

(*c*) the likely effects of the proposed development on the environment or any European site.

(6) The chief executive of a coastal planning authority shall, before that coastal planning authority submits a report to the Board under *subsection (4)* in relation to a proposed development, submit the report to the members of the coastal planning authority and request their views on the proposed development.

(7) The members of a coastal planning authority may, by resolution, decide to attach recommendations specified in the resolution to the report of the coastal planning authority under subsection (4) and, where those members so decide—

(*a*) those recommendations, and

(*b*) a record prepared by the meetings administrator (within the meaning of section 46 of the Local Government Act 2001) of the views expressed by the members on the proposed development,

shall be attached to the report submitted to the Board under that subsection.**]**

Annotations

Amendments:

F1220 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1221[Provision supplementing *section 291*

292.—(1) The Board may, before making a decision under *section 293* in respect of an application under *section 291*—

(*a*) require the applicant to submit, within such period as the Board may specify, such further information (which may include a revised environmental impact assessment report or Natura impact statement) as the Board may specify,

(*b*) inform the applicant that it is considering granting such permission, subject to the applicant's submitting such revised particulars, plans or drawings in relation to the development as the Board may specify,

(*c*) invite further submissions or observations (to be made within such period as may be specified by the Board) from—

(i) the applicant for permission,

(ii) any person who made submissions or observations in relation to the application, or

(iii) any other person who, in the opinion of the Board, is likely to have information that might have a bearing on the consideration by the Board of the application,

or

(*d*) without prejudice to *subsections (2)* and *(3)*—

(i) make any information relating to the application available for inspection by members of the public at its offices during normal office hours,

(ii) notify (in such manner as it considers appropriate) any person or the public that the information is being made so available, and

(iii) invite further submissions or observations in relation to the application to be made to it within such period as it may specify.

(2) Where, in accordance with a requirement under *paragraph (a)* of *subsection (1)*, an applicant submits a revised environmental impact assessment report, revised Natura impact statement, further information or revised particulars, plans or drawings to the Board that, in the opinion of the Board, contains or contain significant additional information on the effects of the proposed development on the environment or a European site, the Board shall—

(*a*) make any such revised report or statement, information, particulars, plans or drawings available for inspection by members of the public at its offices during normal office hours,

(*b*) publish in such manner as it considers appropriate a notice informing the public that any such report, statement, information, particulars, plans or drawings are being so made available, and

(*c*) invite further submissions or observations in relation to the application to be made to it within such period as it may specify.

(3) The Board may, before making a decision under *section 293* in respect of an application under *section 291*, invite—

(*a*) the Maritime Area Regulatory Authority,

(*b*) any coastal planning authority to whom copies of the application for permission concerned were sent in accordance with a direction under *paragraph (b)* of *subsection (3)* of *section 291*,

(*c*) the Environmental Protection Agency,

(*d*) the Minister,

(*e*) the Minister for Agriculture, Food and the Marine, or

(*f*) the Minister for the Environment, Climate and Communications,

to make submissions or observations in relation to the application within such period (which shall not be less than 3 weeks from the date of the invitation) as may be specified by the Board.

(4) When making a decision under *section 293* in respect of an application under *section 291*, the Board shall have regard to any submissions or observations made in accordance with an invitation under *subsection (1)*, *(2)* or *(3)*.

(5) The Board may, at any time after the expiration of the period within which submissions or observations may be made pursuant to—

(*a*) a notice or an invitation in a notice under *section 291*, or

(*b*) an invitation under this section,

whichever occurs later, make a decision under *section 293* in relation to the application.

(6) (*a*) The making of submissions or observations by the Maritime Area Regulatory Authority under this section shall not prejudice the performance by it of any of its other functions.

(*b*) The making of submissions or observations by a coastal planning authority under this section shall not prejudice the performance by it of any of its other functions.

(*c*) The making of submissions or observations by the Environmental Protection Agency under this section shall not prejudice the performance by it of any of its other functions.

(*d*) The making of submissions or observations by the Minister, the Minister for Agriculture, Food and the Marine or the Minister for the Environment, Climate and Communications under this section shall not prejudice the performance by that Minister of the Government of any of his or her other functions.

(7) Where an applicant for permission under this Chapter fails or refuses to comply with *paragraph (a)* of *subsection (1)*, the application concerned is deemed to have been withdrawn.**]**

Annotations

Amendments:

F1221 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1222**[**Decision by Board in respect of application under *section 291*

293.—(1) When making a decision in respect of an application under *section 291*, the Board may consider—

(*a*) any information before it that it considers relevant to the application, and

(*b*) any other matter to which, by virtue of this Act, it is permitted to have regard.

(2) (*a*) Subject to *paragraph (b)*, the Board shall not grant a permission under this section that would materially contravene the National Marine Planning Framework or a maritime spatial plan.

(*b*) The Board may grant a permission under this section that would materially contravene the National Marine Planning Framework or a maritime spatial plan if it is satisfied that—

(i) the proposed development is of strategic, economic or social importance to the State, and

(ii) the National Marine Planning Framework or the maritime spatial plan, as the case may be, contains objectives that conflict with one another or that are ambiguous with regard to their application to the proposed development.

(3) Without prejudice to the generality of *subsection (1)*, the Board shall, in the making of a decision in relation to an application under *section 291*, have regard to—

(*a*) the marine planning policy statement,

(*b*) guidelines issued under section 7 of the Maritime Area Planning Act 2021,

(*c*) guidelines issued under *section 28*,

(*d*) any regional, spatial and economic strategy of a regional assembly—

(i) within whose functional area it is proposed to carry out development to which the application relates, or

(ii) whose functional area adjoins the maritime site to which the application relates,

(*e*) the development plan of any coastal planning authority—

(i) within whose functional area it is proposed to carry out development to which the application relates, or

(ii) whose functional area adjoins the maritime site to which the application relates,

(*f*) any local area plan applicable to a part of the functional area of any coastal planning authority—

(i) within which it is proposed to carry out development to which the application relates, or

(ii) that adjoins the maritime site to which the application relates,

(*g*) any submissions or observations made in relation to the application for permission concerned—

(i) by prescribed bodies,

(ii) by members of the public, or

(iii) pursuant to and in accordance with a notice referred to in *paragraph (c)* or *(d)* of *subsection (3)* of *section 291*,

(*h*) any—

(i) environmental impact assessment report,

(ii) information specified in Schedule 7A of the Regulations of 2001,

(iii) Natura impact statement, or

(iv) screening statement in relation to appropriate assessment in respect of the proposed development,

accompanying the application for permission,

(*i*) the likely effects of the proposed development on the environment or any European site,

(*j*) any submissions or observations from—

(i) the Maritime Area Regulatory Authority,

(ii) the Environmental Protection Agency,

(iii) the Minister,

(iv) the Minister for Agriculture, Food and the Marine,

(v) the Minister for the Environment, Climate and Communications, or

(vi) a coastal planning authority—

(I) within whose functional area it is proposed to carry out development to which the application relates, or

(II) whose functional area adjoins the maritime site to which the application relates,

(*k*) any report prepared or recommendation made in relation to the application for permission in accordance with *section 146*,

(*l*) any recommendation or record referred to in *subsection (7)* of *section 291* in relation to the application for permission,

(*m*) Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008[22] , and any enactment or instrument under an enactment that gives effect thereto,

(*n*) land-sea interactions within the meaning of Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014[23] ,

(*o*) objectives of maritime spatial planning, and

(*p*) principles of proper planning and sustainable development.

(4) The Board may, in respect of an application for permission under *section 291*—

(*a*) grant the permission subject to such modifications (if any) to the proposed development as it may specify,

(*b*) grant the permission in respect of part of the proposed development concerned subject to such modifications (if any) to that part as it may specify, or

(*c*) refuse to grant the permission,

and the Board may attach such conditions to a permission granted under paragraph (a) or (b) as it considers appropriate.

F1223**[**(4A) Where the Board grants permission for a development on foot of an application in respect of which the Board has given an opinion under *section 287B(2)*, the permission shall include a condition in respect of any detail of the development that was not confirmed at the time of the application requiring—

(*a*) the actual detail of the development to fall within specified options, parameters or a combination of options and parameters, and

[22] OJ No. L164, 25.6.2008, p. 19
[23] OJ No. L257, 28.8.2014, p.135

(*b*) the applicant to notify the Board in writing, by such date prior to the commencement of the development, or prior to the commencement of the part of the development to which the detail relates, as the Minister may prescribe, of the actual detail of the development.**]**

(5) Where the Board decides to grant permission under this section for development that consists, or is for the purpose, of an activity for which an integrated pollution control licence or a waste licence is required, the Board shall not attach conditions to that permission that would be for the purpose of—

(*a*) controlling, preventing or limiting emissions resulting from the activity, or

(*b*) controlling emissions related to, or consequential on, the cessation of the activity.

(6) The Board may refuse permission for proposed development that consists, or is for the purpose, of an activity for which—

(*a*) a licence under Part IV of the Environmental Protection Agency Act 1992 , or

(*b*) an authorisation under the Waste Water Discharge (Authorisation) Regulations 2007 (S.I. No. 684 of 2007),

is required (whether or not such licence or authorisation has been granted), if it is satisfied that the proposed development would not be consistent with objectives of maritime spatial planning or principles of proper planning and sustainable development.

(7) Without prejudice to the generality of *subsection (4)*, the Board may attach any one or more of the following conditions to a permission for development under this section:

(*a*) conditions requiring the carrying out of works for the preservation of any site of archaeological interest or any wreck within the meaning of the National Monuments (Amendment) Act 1987;

(*b*) conditions requiring the carrying out of such works as the Board may specify for the purposes of the development;

(*c*) for the purpose of ensuring compliance with the terms of the maritime area consent granted for the occupation of the maritime site concerned, conditions regulating the development or use of any part of the maritime area that adjoins that maritime site;

(*d*) conditions requiring—

(i) the provision, protection or maintenance of access to the maritime area and land adjoining the maritime area by members of the public or members of a class of the public, or

(ii) the carrying out of works for the purpose of such provision, protection or maintenance;

(*e*) conditions aimed at protecting rights to navigate in the maritime area;

(*f*) conditions aimed at protecting rights to fish in the maritime area;

(*g*) conditions for or in connection with—

(i) the protection of the marine environment (including the protection of fisheries),

(ii) the safety of navigation, or(iii) the protection of underwater cables, wires, pipelines or other similar apparatus used for the purpose of—

(I) transmitting electricity or telecommunications signals, or

(II) carrying gas, petroleum, oil or water;

(*h*) conditions requiring the adoption of measures to reduce or prevent the emission of any noise or vibration from any structure or area comprised in the development authorised by the permission;

(*i*) conditions relating to the sequence of, and the times at which, works for the purposes of the development may be carried out;

(*j*) conditions requiring, and relating to, the maintenance or management of the proposed development;

(*k*) conditions requiring the recovery or disposal of construction and demolition waste in such manner as may be specified by the Board;

(*l*) conditions requiring, and relating to—

(i) the removal of any structures authorised by the permission, or

(ii) the discontinuance of any activity so authorised,

upon the expiration of such period as the Board may specify, and requiring, and relating to, the carrying out of any works necessary for the reinstatement of the site concerned upon such expiration;

(*m*) a condition requiring the applicant to submit such information, as may be specified by the Board, to—

(i) the Maritime Area Regulatory Authority,

(ii) such coastal planning authority as may be specified by the Board, or

(iii) any such other public body as may be specified by the Board,

prior to commencement of the development concerned;

(*n*) a condition requiring—

(i) the construction, or the financing (in whole or in part) of the construction, of a facility that, in the opinion of the Board, would provide a substantial gain to the community, or

(ii) the provision, or the financing (in whole or in part) of the provision, of a service that, in the opinion of the Board, would provide such a gain,

in the area in which it is proposed to carry out the development;

(*o*) conditions requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the functional area of any coastal planning authority in which the development concerned is (in whole or in part) proposed to be situated; and

(*p*) any condition that may be attached to a permission in accordance with *subsection (4)* of *section 34*.

(8) A condition attached to a permission in accordance with *paragraph (n)* of *subsection (7)* shall not require such an amount of financial resources to be committed for the purposes of compliance with the condition as would substantially deprive the person in whose favour the permission operates of the benefits likely to accrue from the grant of the permission.

(9) (*a*) Without prejudice to the generality of *subsection (4)*, the Board may, in addition to any condition attached (in accordance with *subsection (7)*) to a permission for development proposed to be situated in the nearshore area

of a coastal planning authority, attach to that permission a condition that the person who carries out the development agree matters of detail with the coastal planning authority and the Board relating to compliance with the permission, and if agreement cannot be reached in relation to any such matter by that person with the coastal planning authority and the Board within such period as may be specified in the condition, the Board shall determine the matter.

(*b*) Without prejudice to the generality of *subsection (4)*, the Board may, in addition to any condition attached (in accordance with *subsection (7)*) to a permission for development proposed to be situated in the outer maritime area, attach to that permission a condition that the person who carries out the development agree matters of detail with the Board relating to compliance with the permission, and if agreement cannot be reached in relation to any such matter by that person with the Board within such period as may be specified in the condition, the Board shall determine the matter.**]**

Annotations

Amendments:

F1222 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1223 Inserted (1.10.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 73(c), S.I. No. 487 of 2022.

Editorial Notes:

E590 Power pursuant to subs. (4A)(b) exercised (16.12.2023) by *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023).

F1224**[**Provision supplementing *section 293*

294.—(1) The Board shall send a copy of a decision under *section 293* to—

(*a*) the applicant for permission,

(*b*) the Maritime Area Regulatory Authority,

(*c*) any planning authority—

(i) within whose functional area it is proposed to carry out the development concerned, or

(ii) whose functional area adjoins the maritime site in which it is proposed to carry out the development concerned,

and

(*d*) any person, Member State of the European Union or other state that made submissions or observations in relation to the application for permission,

and the said copy shall be accompanied by a document containing a statement of the matters referred to in *subsection (3)*.

(2) (*a*) The Board shall, as soon as may be, cause to be published on its internet website and in at least one national newspaper a notice informing the public of a decision under *section 293*.

(*b*) The notice referred to in *paragraph (a)* shall state that a person may, in accordance with *section 50*, question the validity of any such decision by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).

(*c*) The notice referred to in *paragraph (a)* shall specify where information relating to the making of an application referred to in *paragraph (b)* may be obtained.

(3) The document referred to in *subsection (1)* shall—

(*a*) state the main reasons and considerations on which the decision is based,

(*b*) where conditions are imposed in relation to the grant of any permission, state the reasons for the imposition of any such conditions,

(*c*) in the case of a decision (whether to grant or refuse permission) of the Board that conflicts with a recommendation in a report under *section 146* in relation to the application for permission, state the reasons for not following that recommendation,

(*d*) in the case of a permission to which the Board (after having considered an environmental impact assessment report or Natura impact statement) has, for environmental reasons, attached a condition that conflicts with a recommendation in a report under *section 146* in relation to the application for permission, state the reason for not following that recommendation,

(*e*) in relation to the grant or refusal of any permission, state that the Board is satisfied that the reasoned conclusion regarding the effects on the environment of the development concerned was up to date at the time of the decision,

(*f*) state the sum payable by the applicant to the Board for the purpose of contributing to the cost to the Board of—

(i) its consulting with the applicant under *section 287*,

(ii) its acceding to a request by the applicant for an opinion under *section 290*, and

(iii) its performing functions under *section 293* in relation to the application under *section 291*,

and

(*g*) state the sum payable by the applicant to—

(i) the Maritime Area Regulatory Authority,

(ii) any coastal planning authority, or

(iii) any other person,

for the purpose of contributing to the cost incurred as a result of the performance of functions in relation to the application by any or all of the foregoing.

(4) A copy of a decision referred to in *subsection (1)* shall contain—

(*a*) a summary of—

(i) the outcome of any consultation that took place in relation to the application concerned, and

(ii) the manner in which the matters (if any) agreed during such consultation were taken account of in the decision or otherwise addressed,

(*b*) a summary of the information collected during the carrying out of an environmental impact assessment in relation to the application, and

(*c*) a summary of any submissions or observations of a Member State of the European Union or a state that is a party to the Transboundary Convention in relation to the application.

(5) The cost to the Board referred to in *paragraph (f)* of *subsection (3)* is the cost incurred by the Board less the prescribed fee (referred to in *paragraph (a)* of *subsection (1)* of *section 291*), or any part thereof, paid to the Board by or on behalf of the applicant.

(6) A permission granted under *section 293* shall not come into effect unless and until all sums referred to in *paragraphs (f)* and *(g)* of *subsection (3)* payable by the applicant have been paid.

(7) Where an applicant for permission fails to pay a sum in respect of costs in accordance with a statement referred to in *paragraph (f)* of *subsection (3)*, the Board may recover the sum as a simple contract debt in any court of competent jurisdiction.

(8) Where an applicant for permission fails to pay a sum in respect of costs in accordance with a statement referred to in *paragraph (g)* of *subsection (3)*, the Maritime Area Regulatory Authority, the coastal planning authority concerned or any other person to whom the sum is owed, as the case may be, may recover the sum as a simple contract debt in any court of competent jurisdiction.

(9) A person shall not be entitled to carry out development to which this Chapter applies solely by reason of a grant of permission under *section 293*.**]**

Annotations

Amendments:

F1224 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1225**[**Period within which decision under *section 293* to be made

295.—(1) Subject to this section, a decision under *section 293* in relation to an application under *section 291* shall be made not later than—

(*a*) 18 weeks from—

(i) the expiration of the period referred to in *clause (VI)* of *subparagraph (i)* of *paragraph (a)* of *subsection (3)* of *section 291*,

(ii) the day on which the Board receives further information from the applicant for permission pursuant to a requirement under *paragraph (a)* of *subsection (1)* of *section 292*, or

(iii) the conclusion of an oral hearing in relation to the application for permission concerned in accordance with *section 305*,

whichever occurs latest, or

(*b*) the expiration of such other period as the Minister may prescribe either generally or with respect to any particular class of application.

(2) Where the Board is of the opinion that it would not be possible or appropriate, by reason of the existence of special circumstances in relation to the application concerned, for the Board to comply with *subsection (1)*, the Board shall, by notice in writing served on—

(*a*) the applicant for permission,

(*b*) the Maritime Area Regulatory Authority,

(*c*) any planning authority—

(i) within whose functional area it is proposed to carry out the development concerned, or

(ii) whose functional area adjoins the maritime site in which it is proposed to carry out the development concerned,

and

(*d*) any other person who made submissions or observations in relation to the application before the expiration of the period within which those submissions or observations were required to be made pursuant to—

(i) a notice or an invitation in a notice under *section 291*, or

(ii) an invitation under *section 292*,

state the reason for that opinion and specify the date by which the Board intends to make a decision under *section 293* in relation to the application, and the Board shall make all such efforts as are reasonably necessary or expedient to ensure that it makes the decision by that date.

(3) Where the Minister considers it necessary or expedient that decisions under *section 293*, in relation to applications under *section 291* of a particular class or classes, be determined as expeditiously as is consistent with objectives of maritime spatial planning and principles of proper planning and sustainable development, by reason of its or their being of special strategic, economic or social importance to the State, he or she may give a direction to the Board to give priority to the making of such decisions, and the Board shall comply with any such direction.

(4) The Board shall, in each report made under *section 118,* include—

(*a*) a statement of the number of decisions under *section 293* that it has made in compliance with a direction under *subsection (3)* during the year to which the report relates, and

(*b*) such other information as the Minister may direct relating to the time within which such decisions were made.**]**

Annotations

Amendments:

F1225 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1226**[**Discussions with Board prior to application for alteration of development in maritime area

296.—(1) A person who intends to make a request under *section 297* may, before making that request, apply to the Board for the Board's consent to the person's consulting with the Board in relation to the intended request.

(2) The Board may, in any consultation with a person in relation to an intended request under *section 297*, advise the person in relation to—

(*a*) the making of the request, and

(*b*) the considerations with regard to—

(i) objectives of maritime spatial planning,

(ii) principles of proper planning and sustainable development, and

(iii) the protection of the environment or any European site,

that are likely to have a bearing on its decision in relation to the request.

(3) The Board shall prepare and maintain a record in writing of each consultation to which this section applies.

(4) The performance by the Board of functions under this section shall not—

(*a*) prejudice the performance by it of any of its other functions in relation to the requesting person, requested alteration or development concerned, or

(*b*) be relied on by any person in relation to an application or request under this Chapter or in proceedings before a court relating to such application or request.**]**

Annotations

Amendments:

F1226 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1227**[**Request for alteration of terms of permission to which this Chapter applies

297.—(1) A person who has commenced or intends to commence development in the maritime area in accordance with a permission under *section 293* may make a request (other than a request to extend the period for which such a permission shall have effect) to the Board to alter the terms of a permission under *section 293*.

(2) (*a*) A request under *subsection (1)* shall—

(i) be accompanied by—

(I) a document in writing specifying the particulars of the requested alteration,

(II) such plans or drawings relating to the requested alteration as the Board may specify,

(III) such other information (if any) as the Board may specify in the course of any consultation under *section 296* relating to the requested alteration, and

(IV) such fee as may be prescribed,

(ii) if required by the Board, be accompanied by the information specified in Schedule 7A to the Regulations of 2001 in relation to the requested alteration,

(iii) if required by the Board, be accompanied by an environmental impact assessment report prepared in respect of the requested alteration, and

(iv) if required by the Board, be accompanied by a Natura impact statement prepared in respect of the requested alteration.

(*b*) A requesting person may submit any one or more of the following documents with a request under *subsection (1)*:

(i) the information specified in Schedule 7A to the Regulations of 2001 in relation to the requested alteration even if not the subject of a requirement to which *subparagraph (ii)* of *paragraph (a)* applies;

(ii) such information as the requesting person considers the Board might require to enable it to carry out a screening for appropriate assessment in respect of the requested alteration in accordance with *section 177U*,

(iii) an environmental impact assessment report prepared in respect of the requested alteration even if not the subject of a requirement to which *subparagraph (iii)* of *paragraph (a)* applies;

(iv) a Natura impact statement prepared in respect of the requested alteration even if not the subject of a requirement to which *subparagraph (iv)* of *paragraph (a)* applies.

(3) A requesting person shall provide the Board with such information (additional to any information provided in accordance with *subsection (2)*) as the Board may reasonably require for the purposes of its functions under this section.

(4) The Board may, for the purposes of its making a determination under *subsection (5)*, invite such persons, or persons belonging to such class or classes (including the public) of persons, as the Board considers appropriate, to make observations and submissions in relation to the requested alteration concerned, and the Board shall, in the performance of its functions under that subsection, have regard to any such observations or submissions.

(5) (*a*) The Board shall, not later than eight weeks after it has received the relevant materials—

(i) determine whether or not the requested alteration is likely to have significant effects on the environment, and

(ii) make a determination under *subsection (4)* or *(5)* of *section 177U* in relation to the requested alteration.

(*b*) Where the Board—

(i) determines under *subparagraph (i)* of *paragraph (a)* that the requested alteration is not likely to have significant effects on the environment, and

(ii) makes a determination under *subsection (5)* of *section 177U* in relation to the requested alteration,

it shall forthwith determine whether or not the requested alteration would otherwise constitute a material alteration of the terms of the permission concerned.

(*c*) A determination under *subparagraph (i)* of *paragraph (b)* or referred to in *subparagraph (ii)* of that paragraph, and the reasons therefor, shall be published by the Board on its internet website as soon as practicable after the making of such determination.

(*d*) In this subsection "relevant materials" means—

(i) the requested alteration,

(ii) the document referred to in *clause (I)* of *subparagraph (i)* of *paragraph (a)* of *subsection (2)*,

(iii) plans or drawings referred to in *clause (II)* of that subparagraph,

(iv) any information referred to in *clause (III)* of that subparagraph,

(v) any information, report or statement that was the subject of a requirement referred to in *subparagraph (ii)*, *(iii)* or *(iv)* of the said *paragraph (a)*,

(vi) any document submitted in accordance with *paragraph (b)* of *subsection (2)*, and

(vii) in relation to the performance by the Board of its functions under, or referred to in, *paragraph (a)* or *(b)* of this subsection, any submissions or observations made pursuant to an invitation under *subsection (4)*.

(6) (*a*) Where a requested alteration is a material alteration by virtue of a determination of the Board under *subparagraph (i)* of *paragraph (a)* of *subsection (5)* that the requested alteration is likely to have significant effects

on the environment, the Board shall publish that determination and the reasons therefor on its internet website as soon as practicable after the making of the determination and, by notice in writing—

(i) inform the requesting person that the requested alteration is a material alteration, and of the reasons therefor, and

(ii) require the requesting person to prepare, and submit to the Board (if not already submitted), an environmental impact assessment report in relation to the requested alteration in accordance with *section 301*.

(*b*) Where a requested alteration is a material alteration by virtue of a determination of the Board under *subsection (4)* of *section 177U*, the Board shall publish that determination and the reasons therefor on its internet website as soon as practicable after the making of the determination and, by notice in writing—

(i) inform the requesting person that the requested alteration is a material alteration, and of the reasons therefor, and

(ii) require the requesting person to prepare, and submit to the Board (if not already submitted), a Natura impact statement in relation to the requested alteration in accordance with *Part XAB*.

(*c*) Where a requested alteration is a material alteration by virtue of a determination of the Board under *paragraph (b)* of *subsection (5)*, the Board shall, by notice in writing, inform the requesting person that the requested alteration is a material alteration, and of the reasons therefor.

(7) A requesting person shall comply with a requirement under *paragraph (a)* or *(b)* of *subsection (6)* within such period as may be specified in the notice under that paragraph.

(8) If a requesting person fails or refuses to comply with *subsection (7)*, his or her request under *subsection (1)* is deemed to have been withdrawn.**]**

Annotations

Amendments:

F1227 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1228**[**Alteration, other than material alteration, of terms of permission

298.—Where the Board makes a determination under *paragraph (b)* of *subsection (5)* of *section 297* that a requested alteration would not constitute a material alteration of the terms of a permission, it shall—

(*a*) make the requested alteration,

(*b*) publish a notice of the making of the requested alteration in at least one national newspaper and on its internet website, and

(*c*) notify each of the following in writing of the making of the requested alteration:

(i) the requesting person;

(ii) the Maritime Area Regulatory Authority;

(iii) any planning authority—

(I) within whose functional area it is proposed that the development to which the permission concerned relates would be situated, or

(II) whose functional area adjoins the maritime site in which it is proposed that the development to which the permission concerned relates would be situated;

and

(iv) each person who made submissions or observations in relation to the requested alteration in accordance with an invitation under *subsection (4)* of *section 297*.**]**

Annotations

Amendments:

F1228 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1229**[**Material alteration of terms of permission

299.—(1) The Board may, in relation to a requested alteration that is a material alteration—

(*a*) make the requested alteration of the terms of the permission concerned,

(*b*) make the requested alteration of the terms of the permission concerned subject to such modifications as the Board considers appropriate, or

(*c*) refuse to make the requested alteration,

in this section referred to as a "decision".

(2) The Board shall, in the performance of its functions under *subsection (1)*, have regard to—

(*a*) any environmental impact assessment report submitted to the Board under *paragraph (a)* of *subsection (1)* of *section 302* and any subsequent reasoned conclusion of the Board, relating to the requested alteration concerned, and any submissions or observations made in relation thereto in accordance with a notice under *paragraph (c)*, *(d)* or *(e)* of that subsection,

(*b*) any Natura impact statement submitted to the Board under *paragraph (a)* of *subsection (2)* of *section 302* and any subsequent determination under *section 177V*, relating to the requested alteration concerned, and any submissions or observations made in relation thereto in accordance with a notice under *paragraph (c)* or *(d)* of that subsection,

(*c*) the National Marine Planning Framework,

(*d*) the National Planning Framework,

(*e*) the marine planning policy statement,

(*f*) any regional, spatial and economic strategy of a regional assembly—

(i) within whose functional area it is proposed to carry out development to which the requested alteration relates, or

(ii) whose functional area adjoins the maritime site to which the requested alteration relates,

(*g*) the development plan of any coastal planning authority—

(i) within whose functional area it is proposed to carry out development to which the requested alteration relates, or

(ii) whose functional area adjoins the maritime site to which the requested alteration relates,

(*h*) any local area plan applicable to a part of the functional area of any coastal planning authority—

(i) within which it is proposed to carry out development to which the requested alteration relates, or

(ii) that adjoins the maritime site to which the requested alteration relates,

(*i*) any social or economic benefit that would likely accrue to the State or a part of the State by virtue of the requested alteration,

(*j*) land-sea interactions within the meaning of Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014[24] ,

(*k*) objectives of maritime spatial planning,

(*l*) principles of proper planning and sustainable development,

(*m*) contractual commitments entered into by the requesting person in relation to the development concerned,

(*n*) the extent to which the development has already been advanced (if at all) in accordance with the permission granted in respect thereof under *section 293*, and

(*o*) relevant materials within the meaning of *subsection (5)* of *section 297*.

(3) The Board may attach conditions to an alteration under this section of the terms of a permission under *section 293*.

(4) (*a*) The Board shall, as soon as may be after compliance by the requesting person with *section 302* but not before the expiration of the period specified in the notice referred to in *paragraph (c)* of *subsection (1)* of that section, make a decision under this section in respect of a requested alteration that it has determined under *subparagraph (i)* of *paragraph (a)* of *subsection (5)* of *section 297* is likely to have significant effects on the environment.

(*b*) The Board shall, as soon as may be after compliance by the requesting person with *section 302* but not before the expiration of the period specified in the notice referred to in *paragraph (c)* of *subsection (2)* of that section, make a decision under this section in respect of a requested alteration to which a determination under *subsection (4)* of *section 177U* applies.

(*c*) The Board shall, as soon as may be after—

(i) it has been provided with information in accordance with *section 297*, or

(ii) it has been provided with information in accordance with a requirement under *subsection (5)*,

whichever occurs later, make a decision under this section in respect of a requested alteration that it has determined under *paragraph (b)* of *subsection (5)* of *section 297* would constitute a material alteration of the terms of the permission concerned.

(5) A requesting person shall provide the Board with such information (additional to any information provided in accordance with *section 297*) as the Board may reasonably require for the purposes of its functions under this section.

(6) Where the Board makes a decision under this section, it shall—

[24] OJ No. L257, 28.8.2014, p.135

(*a*) publish—

(i) in at least one national newspaper, and

(ii) on its internet website,

a notice of the decision,

(*b*) make the decision available for inspection at its offices during normal office hours,

(*c*) in circumstances where the requesting person was required under *subsection (6)* of *section 297* to prepare an environmental impact assessment report in relation to the requested alteration, inform—

(i) the persons to whom copies of that report were sent in accordance with *paragraph (d)* of *subsection (1)* of *section 302*, of the decision, and

(ii) any Member State of the European Union and any other state to which that report was sent in accordance with *paragraph (e)* of *subsection (1)* of *section 302*, of the decision,

and

(*d*) in circumstances where the requesting person was required under *subsection (6)* of *section 297* to prepare a Natura impact statement in relation to the requested alteration, inform the persons to whom copies of that statement were sent in accordance with *paragraph (c)* of *subsection (2)* of *section 302*, of the decision.

(7) A decision under this section shall—

(*a*) state the main reasons for the decision, and

(*b*) where the decision does not follow a recommendation in relation to the requested alteration made in a report prepared in accordance with *section 146*, state the reasons for not following that recommendation.

(8) The Board may attach such conditions (if any) as it considers appropriate to the alteration of the terms of a permission made under this section, and where it so attaches a condition to such alteration—

(*a*) for reasons resulting from a consideration by the Board of an environmental impact assessment report or a Natura impact statement, or

(*b*) that is not consistent with a recommendation in such statement or in a report prepared in accordance with *section 146*,

the decision under *paragraph (a)* or *(b)* of *subsection (1)* shall state the reasons for attaching that condition.**]**

Annotations

Amendments:

F1229 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1230[Request for opinion of Board with regard to environmental impact assessment

300.—(1) The Board shall, on the request of—

(*a*) a person who has commenced or intends to commence development in the maritime area in accordance with a permission under *section 293*, or

(*b*) a requesting person of whom a requirement under *paragraph (a)* of *subsection (6)* of *section 297* is made,

give such person or requesting person its opinion on the scope and content of an environmental impact assessment report in relation—

(i) in the case of a person to whom *paragraph (a)* applies, to an alteration of the terms of a permission under *section 293* in respect of which he or she proposes to make a request under *subsection (1)* of *section 297*, or

(ii) in the case of such requesting person, to a requested alteration.

(2) A requesting person shall give the Board such information in relation to the requested alteration as the Board may reasonably require for the purpose of enabling it to comply with *subsection (1)*.**]**

Annotations

Amendments:

F1230 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1231**[**Environmental impact assessment report in accordance with requirement under *section 297*

301.—An environmental impact assessment report prepared in accordance with a requirement under *subsection (6)* of *section 297* shall—

(*a*) contain such information (if any) as is required under this Act to be included in an environmental impact assessment report,

(*b*) contain the information specified in paragraph 1 of Article 5 of the Environmental Impact Assessment Directive,

(*c*) contain a summary of the information referred to in *paragraphs (a)* and *(b)* expressed in language that could reasonably be considered to be easily comprehensible to an ordinary member of the public, and

(*d*) take account of any opinion given by the Board under *section 300* pursuant to a request made under that section by the person by, or on whose behalf, the report is prepared.**]**

Annotations

Amendments:

F1231 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1232**[**Submission and notification of environmental impact assessment report and Natura impact statement

302.—(1) The requesting person shall, as soon as may be after preparing an environmental impact assessment report in accordance with a requirement under *subsection (6)* of *section 297*—

(*a*) submit to the Board—

(i) such number of copies, as the Board may specify, of the report in paper form, and a copy of the report in electronic form, and

(ii) a copy of the notice—

(I) published in accordance with *paragraph (c)*, or

(II) that he or she proposes to publish in accordance with *paragraph (c)*, accompanied by particulars of the date on which he or she proposes to so publish the notice,

(*b*) submit a copy of the confirmation notice relating to that report to the Board,

(*c*) publish a notice, in the prescribed form, on his or her internet website and in at least one national newspaper stating—

(i) that an environmental impact assessment report has been submitted to the Board in relation to the requested alteration,

(ii) the times at which, the period (which shall not be less than 30 days) during which and the place or places at which a copy of the environmental impact assessment report may be inspected by members of the public,

(iii) that a copy of the environmental impact assessment report may be purchased on payment of such fee (not exceeding the reasonable cost of making such copy) as may be specified in the notice, and

(iv) that submissions or observations in relation to the likely effects on the environment of the requested alteration may be made in writing to the Board before the expiration of such period (which shall not be less than 30 days after the notice is first published in accordance with this paragraph) as is specified in the notice,

(*d*) send a copy of the environmental impact assessment report to—

(i) the Environmental Protection Agency,

(ii) any planning authority—

(I) within whose functional area it is proposed that the development would be situated, or

(II) whose functional area adjoins the maritime site in which it is proposed that the development would be situated,

and

(iii) each person who made submissions or observations in relation to the requested alteration in accordance with an invitation under *section 297*,

and a notice in the prescribed form to each of the foregoing stating that—

(A) that report has been submitted to the Board, and

(B) submissions or observations may be made in writing to the Board, in relation to the likely effects on the environment of the requested alteration, within the period (for the making of submissions and observations) specified in the notice published under *paragraph (c)* in respect of the requested alteration,

and

(*e*) if the Board informs the requesting person that it is of the opinion that the requested alteration is likely to have significant effects on the environment of a Member State of the European Union or another state that is a party to the Transboundary Convention, send a copy of the environmental impact assessment report and a notice in the prescribed form stating—

(i) that that report has been submitted to the Board, and

(ii) submissions or observations may be made in writing to the Board, in relation to the likely effects on the environment of the requested alteration, within the period (for the making of submissions and observations) specified in the notice published under *paragraph (c)* in respect of the requested alteration,

to that Member State or other state, as the case may be.

(2) The requesting person shall, as soon as may be after preparing a Natura impact statement in accordance with a requirement under *subsection (6)* of *section 297*—

(*a*) submit to the Board—

(i) a copy of the statement in paper form and a copy of the statement in electronic form, and

(ii) a copy of the notice—

(I) published in accordance with *paragraph (c)*, or

(II) that he or she proposes to publish in accordance with *paragraph (c)*, accompanied by particulars of the date on which he or she proposes to so publish the notice,

(*b*) publish a notice in the prescribed form in at least one national newspaper stating—

(i) that a Natura impact statement has been submitted to the Board in relation to the requested alteration,

(ii) the times at which, the period (which shall not be less than 30 days) during which and the place or places at which a copy of the Natura impact statement may be inspected by members of the public,

(iii) that a copy of the Natura impact statement may be purchased on payment of such fee (not exceeding the reasonable cost of making such copy) as may be specified in the notice, and

(iv) that submissions or observations in relation to the likely effects on the environment or any European site of the requested alteration may be made in writing to the Board before the expiration of such period (which shall not be less than 30 days after the notice is first published in accordance with this paragraph) as is specified in the notice,

and

(*c*) send a copy of that statement to—

(i) the Environmental Protection Agency,

(ii) any planning authority—

(I) within whose functional area it is proposed that the development would be situated, or

(II) whose functional area adjoins the maritime site in which it is proposed that the development would be situated,

and

(iii) each person who made submissions or observations in relation to the requested alteration in accordance with an invitation under *section 297*,

and a notice in the prescribed form to each of the foregoing stating that—

(A) that statement has been submitted to the Board in relation to the requested alteration, and

(B) submissions or observations may, within the period (for the making of submissions and observations) specified in the notice published under *paragraph (b)* in respect of the requested alteration, be made in writing

to the Board in relation to the likely effects on the environment or any European site of the requested alteration.**]**

Annotations

Amendments:

F1232 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1233**[**Application of *section 177AA* to request for material alteration of terms of permission

303.—*Section 177AA* shall apply to a requested alteration as if—

(*a*) references to applicant were references to requesting person, and

(*b*) references to applicant for consent for proposed development were references to requesting person.**]**

Annotations

Amendments:

F1233 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1234**[**Effect of bringing of judicial review of maritime area consent on application for permission

304.—(1) Where the Maritime Area Regulatory Authority grants a maritime area consent, the person who applied for that consent shall, notwithstanding the making by any other person of an application under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) for judicial review of a decision to grant that consent, be eligible to make an application in accordance with this Chapter for permission for development in accordance with that consent.

(2) Where a person makes an application in accordance with this Chapter for permission for development in circumstances to which *subsection (1)* applies, the Board shall, notwithstanding any pending application for judicial review referred to in that subsection, perform the functions conferred on it by this Chapter in relation to that application for permission as if no such application for judicial review had been made.

(3) A permission for development granted under this Chapter in circumstances to which this section applies shall not come into effect unless and until—

(*a*) final judgment is given—

(i) in relation to the application for judicial review referred to in this section, and

(ii) upholding the grant of the maritime area consent concerned in respect of which that application was made,

or

(*b*) the application for judicial review referred to in this section is withdrawn.**]**

Annotations

Amendments:

F1234 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1235**[**Oral hearings

305.—(1) The Board may at its discretion hold an oral hearing of an application under *section 291* or a request under *section 297*.

(2) An applicant under *section 291* or requesting person under *section 297* or any person who makes a submission or observation pursuant to a notice or an invitation under *section 291*, *292*, *297* or *302* may make a request in writing for an oral hearing of the application or request, as the case may be.

(3) A request under this section shall be accompanied by such fee (if any) as the Board may specify, and the Board shall not consider a request under this section that is not accompanied by a fee so specified.

(4) The Board shall not consider a request for an oral hearing made—

(*a*) in the case of a request made by an applicant under *section 291*, later than the expiration of—

(i) the period referred to in *clause (VI)* of *subparagraph (i)* of *paragraph (a)* of *subsection (3)* of *section 291*, or

(ii) the period within which submissions and observations are required to be made pursuant to an invitation under *section 292*,

whichever occurs later,

(*b*) in the case of a request made by a requesting person under *section 297*, later than the expiration of the period within which submissions and observations are required to be made pursuant to a notice or an invitation under *section 302*,

(*c*) in the case of a request made by a person who made submissions or observations in respect of an application under *section 291* pursuant to a notice under *subsection (3)* of that section, later than the expiration of the period referred to in *clause (VI)* of *subparagraph (i)* of *paragraph (a)* of that subsection,

(*d*) in the case of a request made by a person who made submissions or observations in respect of an application under *section 291* pursuant to an invitation under *section 292*, later than the expiration of the period within which such submissions and observations are required to be made, and

(*e*) in the case of a request made by a person who made submissions or observations in respect of a request under *section 297* pursuant to a notice or an invitation under *section 302*, later than the expiration of the period within which such submissions and observations are required to be made.

(5) Where the Board refuses a request made in accordance with this section, it shall, by notice in writing, inform the following persons thereof:

(*a*) in the case of a request made in respect of an application under *section 291*, the person who made that application and all persons who made submissions or observations in relation to that application in accordance with this Chapter; and

(*b*) in the case of a request made in respect of a request under *section 297*, the person who made the second-mentioned request and all persons who made submissions or observations in relation to the second-mentioned request in accordance with this Chapter.

(6) Where a request under this section is withdrawn by the person who made the request, the Board shall, by notice in writing, inform the following persons thereof:

(*a*) in the case of a request made by an applicant under *section 291*, all persons who made observations or submissions to the Board in relation to the application concerned in accordance with this Chapter;

(*b*) in the case of a request made by a requesting person under *section 297*, all persons who made observations or submissions to the Board in relation to the request under that section in accordance with this Chapter;

(*c*) in the case of a request made by a person who made submissions or observations in respect of an application under *section 291*, the person who made that application; and

(*d*) in the case of a request made by a person who made submissions or observations in respect of a request under *section 297*, the person who made the second-mentioned request.**]**

Annotations

Amendments:

F1235 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1236**[**Regulations **306.**—(1) The Minister may make regulations for the purposes of this Part.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision in relation to any one or more of the following:

(*a*) the conduct of a consultation under *section 287*;

(*b*) the giving of an opinion under *section 290*;

(*c*) the making of an application under *section 291* F1237**[**(including applications accompanied by an opinion under *section 287B(2)*)**]**;

(*d*) the making of a decision under *section 293*;

(*e*) oral hearings under *section 305*;

(*f*) the publication of documentation in relation to applications under *section 291*; and

(*g*) the making of submissions and observations in accordance with *section 291* or *292*.**]**

Annotations

Amendments:

F1236 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1237 Inserted (1.10.2022) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 73(d), S.I. No. 487 of 2022.

Editorial Notes:

E591 Power pursuant to section exercised (17.05.2024) by *Planning and Development (Fees for Certain Applications) Regulations 2024* (S.I. No. 226 of 2024).

E592 Power pursuant to section exercised (10.03.2023) by *Planning and Development (Maritime Development) Regulations 2023* (S.I. No. 100 of 2023), in effect as per reg. 1(2).

F1238[CHAPTER IV

Manner of Application of Certain Provisions to Maritime Area

Definition

307.—In this Chapter "maritime development" means—

(*a*) development situated wholly within the maritime area, or

(*b*) in relation to development situated partly in the maritime area and partly on land, the part of the development that is situated in the maritime area.**]**

Annotations

Amendments:

F1238 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1239[Disapplication of certain provisions of Act in relation to maritime area

308.—(1) The following provisions shall not apply in relation to the maritime area, and accordingly references in those provisions to functional area, administrative area or area of a planning authority or local authority shall not include references to the nearshore area of a coastal planning authority:

(*a*) *Parts II* (other than *sections 28*, *29* and *30*), *IIA*, *IV*, *V*, *IX*, *XIII* and *XVI*; and

(*b*) *sections 37A*, *37B*, *37C*, *37D*, *37E*, *37F*, *37G*, *37H*, *37I*, *37J*, *37K*, *37L*, *37M*, *37N*, *37O*, *37P*, *37Q*, *37R*, *37S*, *261*, *261A* and *266*.

(2) Subject to *subsection (2)* of *section 282* and *subsection (3)* of *section 293*, a requirement under this Act to—

(*a*) comply (howsoever expressed) with a development plan, local area plan or regional spatial and economic strategy, or

(*b*) act in accordance with, consider, have regard to or otherwise take account of (howsoever expressed) any such plan or strategy in the performance of any function under this Act,

shall not apply in relation to the maritime area.

(3) *Part XII* shall not apply to that part of the maritime area that does not consist of land covered by coastal water.**]**

Annotations

Amendments:

F1239 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1240[Construction of references to land

309.—(1) The relevant provisions shall apply to—

(*a*) maritime development,

(*b*) proposed maritime development, and

(*c*) the maritime area,

as if references to land or the land were references to a maritime site.

(2) References in a relevant provision to occupier shall, in so far as that provision applies to a maritime site, be construed as including references to the holder of a

maritime area consent granted for the occupation of that maritime site for the purposes of maritime development.

(3) References in a relevant provision (other than *section 182*) to owner shall, in so far as that provision applies to a maritime site, not include references to a Minister of the Government in whom the maritime site vests by virtue of section 5 of the Act of 1954.

(4) *Section 37* shall apply to a decision under *section 34* in respect of an application for permission for development to which *Chapter II* applies as if references to land in *subsection (6)* included references to a maritime site.

(5) The reference in *paragraph (b)* of *subsection (2)* of *section 43* to land shall be construed as including a reference to a maritime site.

(6) A power conferred on a local authority by a relevant provision (by virtue of the operation of this section) to compulsorily acquire a maritime site shall not apply to a maritime site that vests in a Minister of the Government by virtue of section 5 of the Act of 1954.

(7) In this section—

"Act of 1954" means the State Property Act 1954; and

"relevant provision" means a provision of this Act specified in *Part 1* of the *Ninth Schedule* (inserted by section 173 of the Maritime Area Planning Act 2021).**]**

Annotations

Amendments:

F1240 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1241**[**Construction of references to proper planning and sustainable development

310.—(1) Subject to *section 308*, this Act (other than this Part and *paragraph (b)* of *subsection (1)* of *section 31Q*) shall apply to—

(*a*) maritime development,

(*b*) proposed maritime development, and

(*c*) the maritime area,

as if references to proper planning and sustainable development were references to maritime spatial planning.

(2) Subject to *section 308*, this Act (other than this Part and *paragraph (c)* of *subsection (3)* of *section 179*) shall apply to—

(*a*) maritime development,

(*b*) proposed maritime development, and

(*c*) the maritime area,

as if references to principles of proper planning and sustainable development were references to objectives of maritime spatial planning.**]**

Annotations

Amendments:

F1241 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1242[Construction of references to National Planning Framework

311.—(1) Subject to *section 308*, this Act (other than this Part, *section 178A*, *subsection (18)* of *section 12*, *subsection (14)* of *section 13* and *paragraph (c)* of *subsection (3)* of *section 179*) shall apply to—

(*a*) maritime development,

(*b*) proposed maritime development, and

(*c*) the maritime area,

as if references to the National Planning Framework were references to the National Marine Planning Framework.**]**

Annotations

Amendments:

F1242 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1243[Construction of references to development plan

312.—(1) The relevant provisions shall apply to—

(*a*) maritime development,

(*b*) proposed maritime development, and

(*c*) the maritime area,

as if references to a development plan or the development plan were references to the National Marine Planning Framework.

(2) In this section "relevant provision" means a provision of this Act specified in *Part II* of the *Ninth Schedule* (inserted by section 173 of the Maritime Area Planning Act 2021).**]**

Annotations

Amendments:

F1243 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1244[Construction of references to planning authority

313.—(1) The relevant provisions shall apply to the outer maritime area as if references to a planning authority, the planning authority, relevant planning authority or planning authorities were references to the Maritime Area Regulatory Authority.

(2) The relevant provisions shall apply to the outer maritime area as if references to a local authority, the local authority, relevant local authority or local authorities were references to the Maritime Area Regulatory Authority.

(3) In this section "relevant provision" means a provision of this Act specified in *Part III* of the *Ninth Schedule* (inserted by section 173 of the Maritime Area Planning Act 2021).**]**

Annotations

Amendments:

F1244 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1245**[**Application of *section 5* to outer maritime area

314.—For the purpose of determining the question as to whether or not any development situated wholly or partly in the outer maritime area is exempted development, *section 5* shall apply as if—

(*a*) references to a planning authority, the planning authority, the relevant planning authority or the authority were references to the Board, and

(*b*) *subsections (3)* and *(4)* were deleted.**]**

Annotations

Amendments:

F1245 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1246**[**Application of *section 137*

315.—*Section 137* shall apply to applications under *section 291* in the same manner as it applies to referrals, and accordingly references in *section 137* to referrals shall be construed as including references to applications under *section 291*.**]**

Annotations

Amendments:

F1246 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1247**[**Application of *section 146*

316.—*Section 146* shall apply to the performance by the Board of its functions for the purposes of this Part as if—

(*a*) "the State" were substituted for "the area in which it is proposed to carry out the development, or in which the development is located," in *subparagraph (iii)* of *paragraph (a)* of *subsection (4)*, and

(*b*) "7 years" were substituted for "5 years" in *paragraph (b)* of *subsection (7)*.**]**

Annotations

Amendments:

F1247 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1248**[**Application of *Part X*

317.—(1) Subject to *section 289*, *Part X* (other than the excluded provisions) shall apply to—

(*a*) development to which *Chapter III* applies, and

(*b*) proposed such development,

as if—

(i) "the Board" were substituted for "a planning authority or the Board" in each place that it occurs,

(ii) "the Board" were substituted for "the planning authority or the Board" in each place that it occurs,

(iii) "the Board" were substituted for 'a planning authority or the Board, as may be appropriate,' in each place that it occurs,

(iv) "the Board" were substituted for "the planning authority concerned or the Board, as may be appropriate," in each place that it occurs,

(v) "the Board" were substituted for "planning authority or the Board, as the case may be," in each place that it occurs,

(vi) all other references to a planning authority or the planning authority were references to the Board,

(vii) in *subsection (4)* of *section 173A*, "the relevant planning authority or" were deleted, and

(viii) in *subsection (4)* of *section 173B*, "the relevant planning authority or" were deleted.

(2) In this section "excluded provision" means—

(*a*) *section 175*,

(*b*) *subsections (1)* and *(2)* of *section 173*,

(*c*) *subsection (9)* of *section 173C*,

(*d*) *subsections (1)* and *(2)* of *section 174*, and

(*e*) *paragraphs (a)*, *(b)* and *(c)* of *subsection (3)*, and *subsection (4)*, of *section 172*.**]**

Annotations

Amendments:

F1248 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1249**[**Application of *Part XAB*

318.—(1) *Part XAB* (other than the excluded provisions) shall apply to—

(*a*) development to which *Chapter III* applies, and

(*b*) proposed such development,

as if—

(i) references to a planning authority or the planning authority were references to the Board, and

(ii) in *section 177U*, "the Board" were substituted for "a planning authority or the Board" in each place that it occurs.

(2) In this section "excluded provisions" means *subsections (9)* and *(10)* of *section 177U*.**]**

Annotations

Amendments:

F1249 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1250**[**Public notice of application

319.—(1) A requirement under a provision of this Act to publish a notice in a newspaper circulating in the functional area or administrative area of a planning authority or local authority or in any district shall, in relation to an application for

permission for development to which *Chapter III* applies, be deemed to be a requirement to publish the notice in a national newspaper.

(2) A requirement under a provision of this Act to erect a notice on land or affix or attach a notice to a structure shall, in so far as that provision applies to the maritime area, be deemed to be a requirement to publish the notice in a national newspaper on such consecutive number of days (in this subsection referred to as the "publication period") as may be prescribed, and different publication periods may be prescribed in respect of different classes of development or proposed development.

(3) A requirement under a provision of this Act to submit to the Board or a planning authority a notice erected on land or a notice affixed or attached to a structure pursuant to the requirement referred to in *subsection (2)* shall be deemed to be a requirement to submit to the Board or coastal planning authority concerned the notice published in accordance with the requirement second-mentioned in that subsection.**]**

Annotations

Amendments:

F1250 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1251**[**Consultation by coastal planning authority with Maritime Area Regulatory Authority

320.—(1) A coastal planning authority may consult with the Maritime Area Regulatory Authority for the purposes of this Part.

(2) A coastal planning authority may, for the purpose of the performance of its functions under *Part III* and this Part, request the Maritime Area Regulatory Authority to provide the coastal planning authority with such information (including information in relation to an applicant for permission for development referred to in *subsection (3)* of *section 281*) as is in the possession, or procurement, of the Maritime Area Regulatory Authority.

(3) The Maritime Area Regulatory Authority shall accede to a request under *subsection (2)*.**]**

Annotations

Amendments:

F1251 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

F1252**[**Consultation by Board with Maritime Area Regulatory Authority

321.—(1) The Board may consult with the Maritime Area Regulatory Authority for the purposes of this Part.

(2) The Board may, for the purpose of the performance of its functions under this Part, request the Maritime Area Regulatory Authority to provide the Board with such information (including information in relation to an applicant under *section 291* or requesting person within the meaning of *Chapter III*) as is in the possession, or procurement, of the Maritime Area Regulatory Authority.

(3) The Maritime Area Regulatory Authority shall accede to a request under *subsection (2)*.**]**

Annotations

Amendments:

F1252 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 171, S.I. No. 488 of 2022.

Section 10.

FIRST SCHEDULE

PURPOSES FOR WHICH OBJECTIVES MAY BE INDICATED IN DEVELOPMENT PLAN

PART I

Location and Pattern of Development

1. Reserving or allocating any particular land, or all land in any particular area, for development of a specified class or classes, or prohibiting or restricting, either permanently or temporarily, development on any specified land.

2. F1253**[**...**]**

3. Preserving the quality and character of urban or rural areas.

4. Regulating, restricting or controlling retail development.

5. Regulating, promoting or controlling tourism development.

F1254**[**6. Carrying out flood risk assessment for the purpose of regulating, restricting and controlling development in areas at risk of flooding (whether inland or coastal).**]**

7. Regulating, restricting and controlling the development of coastal areas and development in the vicinity of inland waterways.

8. Regulating, restricting and controlling development on the foreshore, or any part of the foreshore.

9. Giving effect to the European Spatial Development Perspective towards balanced and sustainable development of the territory of the European Union, adopted by the meeting of Ministers responsible for Regional/Spatial Planning of the European Union at Potsdam, 10 and 11 May, 1999.

10. Regulating, restricting or controlling development in order to reduce the risk of serious danger to human health or the environment.

11. Regulating, promoting or controlling the exploitation of natural resources.

F1255**[**12. Regulating, restricting and controlling development in areas at risk of erosion and other natural hazards.

13. Reserving land for use and cultivation as allotments and regulating, promoting, facilitating or controlling the provision of land for that use.**]**

Annotations

Amendments:

F1253 Deleted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 77(a)(i), S.I. No. 477 of 2010.

F1254 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 77(a)(ii), S.I. No. 477 of 2010.

F1255 Inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 77(a)(iii), S.I. No. 477 of 2010.

PART II

Control of Areas and Structures

1. Regulating and controlling the layout of areas and structures, including density, spacing, grouping and orientation of structures in relation to roads, open spaces and other structures.

2. Regulating and controlling the design, colour and materials of structures and groups of structures, including streets and townscapes, and structures and groups of structures in rural areas.

3. Promoting design in structures for the purposes of flexible and sustainable use, including conservation of energy and resources.

4. Limiting the number of structures, or the number of structures of a specified class, which may be constructed, erected or made on, in or under any area.

5. Regulating and controlling, either generally or in particular areas, all or any of the following matters:

(*a*) the size, height, floor area and character of structures;

(*b*) building lines, coverage and the space about houses and other structures;

(*c*) the extent of parking places required in, on or under structures of a particular class or size, or services or facilities for the parking, loading, unloading or fuelling of vehicles;

(*d*) the objects which may be affixed to structures;

(*e*) the purposes for and the manner in which structures may be used or occupied, including, in the case of a house, the letting thereof in separate units.

6. Regulating and controlling, in accordance with the principles of proper planning and sustainable development, the following:

(*a*) the disposition or layout of land and structures or structures of any specified class, including the reservation of sufficient open space in relation to the number, class and character of structures in any particular development proposal, road layout, landscaping and planting;

(*b*) the provision of water, waste water, waste and public lighting facilities;

(*c*) the provision of service roads and the location and design of means of access to transport networks, including public transport;

(*d*) the provision of facilities for parking, unloading, loading and fuelling of vehicles on any land.

7. The removal or alteration of structures which are inconsistent with the development plan.

PART III

Community Facilities

1. Facilitating the provision and siting of services and facilities necessary for the community, including the following:

(*a*) hospitals and other healthcare facilities;

(*b*) centres for the social, economic, recreational, cultural, environmental, or general development of the community;

(*c*) facilities for the elderly and for persons with disabilities;

(*d*) places of public worship and meeting halls;

(*e*) recreational facilities and open spaces, including caravan and camping parks, sports grounds and playgrounds;

(*f*) shopping and banking facilities.

2. Ensuring the provision and siting of sanitary services.

3. Reserving of land for burial grounds.

F1256**[**4. Regulating, restricting or controlling the development of licensed premises within the meaning of the Licensing Acts 1833 to 2011.**]**

Annotations

Amendments:

F1256 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 46(1), S.I. No. 436 of 2018, subject to further commencement provision in subs. (2): This section takes effect in respect of a new development plan of a planning authority to which section 11(1) of the Principal Act will relate where the planning authority first gives notice, after the passing of the Planning and Development (Amendment) Act 2018, of its intention under section 11(1) of the Principal Act to review its existing development plan and to prepare a new development plan for its area.

PART IV

Environment and Amenities

1. Protecting and preserving the quality of the environment, including the prevention, limitation, elimination, abatement or reduction of environmental pollution and the protection of waters, groundwater, the seashore and the atmosphere.

2. Securing the reduction or prevention of noise emissions or vibrations.

3. Prohibiting, regulating or controlling the deposit or disposal of waste materials, refuse and litter, the disposal of sewage and the pollution of waters.

4. Protecting features of the landscape which are of major importance for wild fauna and flora.

5. (*a*) Preserving and protecting flora, fauna and ecological diversity.

(*b*) Preserving and protecting trees, shrubs, plants and flowers.

6. Protecting and preserving (either *in situ* or by record) places, caves, sites, features and other objects of archaeological, geological, historical, scientific or ecological interest.

7. Preserving the character of the landscape, including views and prospects, and the amenities of places and features of natural beauty or interest.

F1257**[**8. Preserving public rights of way other than those referred to in section 10(2)(*o*).**]**

9. Reserving land as open spaces, whether public or private (other than open spaces reserved under *Part II* of this Schedule) or as a public park, public garden or public recreation space.

10. Prohibiting, restricting or controlling, either generally or in particular places or within a specified distance of the centre line of all roads or any specified road, the erection of all or any particular forms of advertisement structure or the exhibition of all or any particular forms of advertisement.

11. Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any structure or from the objectionable or neglected condition of any land.

Annotations

Amendments:

F1257 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 77(b), S.I. No. 477 of 2010.

PART V

Infrastructure and Transport

1. Reserving land for transport networks, including roads, rail, light rail and air and sea transport, for communication networks, for energy generation and for energy networks, including renewable energy and for other networks, and for ancillary facilities to service those networks.

2. Facilitating the provision of sustainable integrated transport, public transport and road traffic systems and promoting the development of local transport plans.

3. Securing the greater convenience and safety of users of all transport networks and of pedestrians and cyclists.

4. Establishment of public rights of way and extinguishment of public and private rights of way.

5. Construction, alteration, closure or diversion of roads, including cycleways and busways.

6. Establishing—

(*a*) the line, width, level and construction of,

(*b*) the means of access to and egress from, and

(*c*) the general dimensions and character of,

roads, including cycleways and busways, and, where appropriate, other transport networks, whether new or existing.

7. Providing for the management and control of traffic, including the provision and control of parking areas.

8. Providing for works incidental to the making, improvement or landscaping of any transport, communication, energy or other network.

Section 184.

SECOND SCHEDULE

Rules for the Determination of the Amount of Compensation

1. The reduction in value shall, subject to the other provisions of this Schedule, be determined by reference to the difference between the antecedent and subsequent values of the land, where—

(*a*) the antecedent value of the land is the amount which the land, if sold in the open market by a willing seller immediately prior to the relevant decision under *Part III* (and assuming that the relevant application for permission had not been made), might have been expected to realise, and

(*b*) the subsequent value of the land is the amount which the land, if sold in the open market by a willing seller immediately after that decision, might be expected to realise.

2. In determining the antecedent value and subsequent value of the land for the purposes of *paragraph 1*—

(*a*) regard shall be had to—

(i) any contribution which a planning authority might have required or might require as a condition precedent to development of the land,

(ii) any restriction on the development of the land which, without conferring a right to compensation, could have been or could be imposed under any Act or under any order, regulations, rule or bye-law made under any Act,

(iii) the fact that exempted development might have been or may be carried out on the land, and

(iv) the open market value of comparable land, if any, in the vicinity of the land whose values are being determined;

(*b*) no account shall be taken of—

(i) any part of the value of the land attributable to subsidies or grants available from public moneys, or to any tax or rating allowances in respect of development, from which development of the land might benefit,

(ii) the special suitability or adaptability of the land for any purpose if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any statutory body as defined in *paragraph 5*:

Provided that any bona fide offer for the purchase of the land which may be brought to the notice of the arbitrator shall be taken into consideration,

(iii) any increase in the value of land attributable to the use thereof or of any structure thereon in a manner which could be restrained by any court, or is contrary to law, or detrimental to the health of the inmates of the structure, or to public health or safety, or to the environment,

(iv) any depreciation or increase in value attributable to the land, or any land in the vicinity, being reserved for a particular purpose in a development plan,

(v) any value attributable to any unauthorised structure or unauthorised use,

(vi) the existence of proposals for development of the land or any other land by a statutory body, or

(vii) the possibility or probability of the land or other land becoming subject to a scheme of development undertaken by a statutory body;

and

(*c*) all returns and assessments of capital value for taxation made or acquiesced in by the claimant may be considered.

3. (1) In assessing the possibilities, if any, for developing the land, for the purposes of determining its antecedent value, regard shall be had only to such reasonable possibilities as, having regard to all material considerations, could be judged to have existed immediately prior to the relevant decision under *Part III*.

(2) Material considerations for the purposes of *subparagraph (1)* shall, without prejudice to the generality thereof, include—

(*a*) the nature and location of the land,

(*b*) the likelihood or unlikelihood, as the case may be, of obtaining permission or further permission, to develop the land in the light of the provisions of the development plan,

(*c*) the assumption that, if any permission to develop the land were to be granted, any conditions which might reasonably be imposed in relation to matters referred to in the *Fifth Schedule* (but no other conditions) would be imposed, and

(*d*) any permission to develop the land, not being permission for the development of a kind specified in *section 192(2)*, already existing at the time of the relevant decision under *Part III*.

4. (1) In determining the subsequent value of the land in a case in which there has been a refusal of permission—

(*a*) it shall be assumed, subject to *subparagraph (2)*, that, after the refusal, permission under *Part III* would not be granted for any development of a kind specified in *section 192(2)*,

(*b*) regard shall be had to any conditions in relation to matters referred to in the *Fifth Schedule* (but no other conditions) which might reasonably be imposed in the grant of permission to develop the land.

(2) In a case in which there has been a refusal of permission in relation to land in respect of which there is in force an undertaking under Part VI of the Act of 1963, it shall be assumed in determining the subsequent value of the land that, after the refusal, permission under *Part III* of this Act would not be granted for any development other than development to which the undertaking relates.

5. (1) In *paragraph 2*, "statutory body" means—

(*a*) a Minister of the Government,

(*b*) the Commissioners,

(*c*) a local authority within the meaning of the Local Government Act, 1941,

(*d*) a harbour authority within the meaning of the Harbours Act, 1946,

(*e*) a health board established under the Health Act, 1970,

F1258**[**(*f*) an education and training board,**]**

(*g*) a board or other body established by or under statute,

(*h*) a company in which all the shares are held by, or on behalf of, or by directors appointed by, a Minister of the Government, or

(*i*) a company in which all the shares are held by a board, company, or other body referred to in *subparagraph (g)* or *(h)*.

(2) In *clauses (h)* and *(i)* of *subparagraph (1)*, "company" means a company within the meaning of section 2 of the Companies Act, 1963.

Annotations

Amendments:

F1258 Substituted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72 and sch. 6 item 31, S.I. No. 211 of 2013.

Section 191.

THIRD SCHEDULE

DEVELOPMENT IN RESPECT OF WHICH A REFUSAL OF PERMISSION WILL NOT ATTRACT COMPENSATION

1. Any development that consists of or includes the making of any material change in the use of any structures or other land.

2. The demolition of a habitable house.

3. Any development which would materially affect a protected structure or proposed protected structure.

4. The erection of any advertisement structure.

5. The use of land for the exhibition of any advertisement.

6. Development in an area to which a special amenity area order relates.

7. Any development on land with respect to which there is available (notwithstanding the refusal of permission) a grant of permission under *Part III* for any development of a residential, commercial or industrial character, if the development consists wholly or mainly of the construction of houses, shops or office premises, hotels, garages and petrol filling stations, theatres or structures for the purpose of entertainment, or industrial buildings (including warehouses), or any combination thereof, subject to no conditions other than conditions of the kind referred to in the *Fifth Schedule*.

8. Any development on land with respect to which compensation has already been paid under *section 190*, section 11 of the Act of 1990 or under section 55 of the Act of 1963, by reference to a previous decision under *Part III* of this Act or under Part IV of the Act of 1963 involving a refusal of permission.

Section 191.

FOURTH SCHEDULE

Reasons for the Refusal of Permission which Exclude Compensation

1. Development of the kind proposed on the land would be premature by reference to any one or combination of the following constraints and the period within which the constraints involved may reasonably be expected to cease—

(*a*) an existing deficiency in the provision of water supplies or sewerage facilities,

(*b*) the capacity of existing or prospective water supplies or sewerage facilities being required for prospective development as regards which a grant of a permission under *Part III* of this Act, an undertaking under Part VI of the Act of 1963 or a notice under section 13 of the Act of 1990 or *section 192* of this Act exists,

(*c*) the capacity of existing or prospective water supplies or sewerage facilities being required for the prospective development of another part of the functional area of the planning authority, as indicated in the development plan,

(*d*) the capacity of existing or prospective water supplies or sewerage facilities being required for any other prospective development or for any development objective, as indicated in the development plan,

(*e*) any existing deficiency in the road network serving the area of the proposed development, including considerations of capacity, width, alignment, or the surface or structural condition of the pavement, which would render that network, or any part of it, unsuitable to carry the increased road traffic likely to result from the development,

(*f*) any prospective deficiency (including the considerations specified in *subparagraph (e)*) in the road network serving the area of the proposed development which—

(i) would arise because of the increased road traffic likely to result from that development and from prospective development as regards which a grant of permission under *Part III*, an undertaking under Part VI of the Act of 1963 or a notice under section 13 of the Act of 1990 or *section 192* exists, or

(ii) would arise because of the increased road traffic likely to result from that development and from any other prospective development or from any development objective, as indicated in the development plan, and

would render that road network, or any part of it, unsuitable to carry the increased road traffic likely to result from the proposed development.

2. Development of the kind proposed would be premature pending the determination by the planning authority or the road authority of a road layout for the area or any part thereof.

3. Development of the kind proposed would be premature by reference to the order of priority, if any, for development indicated in the development plan or pending the adoption of a local area plan in accordance with the development plan.

4. The proposed development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise.

5. The proposed development—

(*a*) could, due to the risk of a major accident or if a major accident were to occur, lead to serious danger to human health or the environment, or

(*b*) is in an area where it is necessary to limit the risk of there being any serious danger to human health or the environment.

6. The proposed development is in an area which is at risk of flooding.

7. The proposed development, by itself or by the precedent which the grant of permission for it would set for other relevant development, would adversely affect the use of a national road or other major road by traffic.

8. The proposed development would interfere with the character of the landscape or with a view or prospect of special amenity value or natural interest or beauty, any of which it is necessary to preserve.

9. The proposed development would cause serious air pollution, water pollution, noise pollution or vibration or pollution connected with the disposal of waste.

10. In the case of development including any structure or any addition to or extension of a structure, the structure, addition or extension would—

(*a*) infringe an existing building line or, where none exists, a building line determined by the planning authority or by the Board,

(*b*) be under a public road,

(*c*) seriously injure the amenities, or depreciate the value, of property in the vicinity,

(*d*) tend to create any serious traffic congestion,

(*e*) endanger or interfere with the safety of aircraft or the safe and efficient navigation thereof,

(*f*) endanger the health or safety of persons occupying or employed in the structure or any adjoining structure, or

(*g*) be prejudicial to public health.

11. The development would contravene materially a condition attached to an existing permission for development.

12. The proposed development would injure or interfere with a historic monument which stands registered in the Register of Historic Monuments under section 5 of the National Monuments (Amendment) Act, 1987, or which is situated in an archaeological area so registered.

13. The proposed development would adversely affect an architectural conservation area.

14. The proposed development would adversely affect the linguistic or cultural heritage of the Gaeltacht.

15. The proposed development would materially contravene an objective indicated in a local area plan for the area.

16. The proposed development would be contrary to any Ministerial guidelines issued to planning authorities under *section 28* or any Ministerial policy directive issued to planning authorities under *section 29*.

17. The proposed development would adversely affect a landscape conservation area.

18. In accordance with *section 35*, the planning authority considers that there is a real and substantial risk that the development in respect of which permission is sought would not be completed in accordance with any permission or any condition to which such a permission would be subject.

19. The proposed development—

(*a*) would contravene materially a development objective indicated in the development plan for the conservation and preservation of a European site insofar as the proposed development would adversely affect one or more specific—

(i) (I) natural habitat types in Annex I of the Habitats Directive, or

(II) species in Annex II of the Habitats Directive which the site hosts,

and which have been selected by the Minister for Arts, Heritage, Gaeltacht and the Islands in accordance with Annex III (Stage 1) of that Directive,

(ii) species of bird or their habitat or other habitat specified in Article 4 of the Birds Directive, which formed the basis of the classification of that site,

or

(*b*) would have a significant adverse effect on any other areas prescribed for the purpose of *section 10(2)(c)*.

20. The development would contravene materially a development objective indicated in the development plan for the zoning of land for the use solely or primarily of particular areas for particular purposes (whether residential, commercial, industrial, agricultural, recreational, as open space or otherwise or a mixture of such uses).

F1259**[**20A. The proposed development would not be consistent with a planning scheme in force in respect of a strategic development zone.**]**

F1260**[**20B. The proposed development would not be consistent with the transport strategy of the DTA.**]**

F1261**[**20C. The proposed development would cause a serious aircraft noise problem at Dublin Airport including, as appropriate, the area around Dublin Airport significantly affected by aircraft noise.**]**

21. (*a*) Subject to *paragraph 22, paragraphs 19* and *20* shall not apply in a case where a development objective for the use specified in *paragraph 20* applied to the land at any time during the period of a development plan and the development objective of which was changed as a result of a variation of the plan during such period prior to the date on which the relevant application for permission was made to develop the land, and the development would not have contravened materially that development objective.

(*b*) *Paragraph 20* shall not apply in a case where, as a result of a direction by the Minister under *section 31(2)* given within one year of the making of a development plan, a planning authority amends or revokes a development objective referred to in *paragraph 19* but without prejudice to any right of compensation which may otherwise arise in respect of any refusal of permission under *Part III* in respect of an application made before such direction was issued by the Minister.

22. *Paragraph 21* shall not apply in a case where a person acquired his or her interest in the land—

(*a*) after the objective referred to in *paragraph 19* or *20* has come into operation, or

(*b*) after notice has been published,

(i) in accordance with *section 12* or *13*, of a proposed new development plan or of proposed variations of a development plan, as the case may be, or

(ii) in accordance with *section 12*, of a material alteration of the draft concerned,

indicating in draft the development objective referred to in *paragraph 19* or *20*, or

(*c*) in the case of *paragraph 19*, after notice has been published by the Minister for Arts, Heritage, Gaeltacht and the Islands of his or her intention to propose that the land be selected as a European site.

23. For the purposes of *paragraph 22*, the onus shall be on a person to prove all relevant facts relating to his or her interest in the land to the satisfaction of the planning authority.

F1262**[**23A. (1) The proposed development is by an applicant associated with a previous development (whether or not such previous development was within the functional area of the planning authority to which the proposed development relates) which—

(*a*) in the opinion of the planning authority in whose functional area the previous development is situated, has not been satisfactorily completed in the ordinary course of development, or

(*b*) the estate to which the previous development relates has not been taken in charge by the local authority concerned because the estate has not been completed to the satisfaction of that authority.

(2) In this paragraph "associated", in relation to a previous development, means a development under the *Planning and Development Acts 2000* to *2018* to which *section 180* relates and in respect of which the development has not been satisfactorily completed or taken in charge by the local authority concerned due to the actions (whether of commission or omission) of—

(*a*) the applicant for the proposed development,

(*b*) a partnership of which the applicant is or was a member and which, during the membership of that applicant, carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act,

(*c*) a registered society under the Industrial and Provident Societies Acts 1893 to 2014 that—

(i) carried out a development pursuant to a previous permission,

(ii) carried out a substantial unauthorised development, or

(iii) has been convicted of an offence under this Act,

or, during any period to which *subclause (i)* or *(ii)* relates or to which any conviction under *subclause (iii)* relates, the registered society was, during that period, controlled by the applicant—

(I) where, pursuant to section 15 of the Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Act 2014, 'control' has the same meaning as in section 220(5) of the Companies Act 2014, or

(II) as a shadow director within the meaning of section 2(1) of the Companies Act 2014,

(*d*) where the applicant for the proposed development is a company—

(i) the company concerned is related to a company (within the meaning of section 2(10) of the Companies Act 2014) which carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act, or

(ii) the company concerned is under the same control as a company that carried out a development referred to in *subparagraph (1)* where 'control' has the same meaning as in section 220(5) of the Companies Act 2014,

or

(*e*) a company that carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act, which company is controlled by the applicant—

(i) where "control" has the same meaning as in section 220(5) of the Companies Act 2014, or

(ii) as a shadow director within the meaning of section 2(1) of the Companies Act 2014.**]**

24. In this Schedule, "road authority" and "national road" have the meanings assigned to them in the Roads Act, 1993.

Annotations

Amendments:

F1259 Inserted (9.10.2001) by *Local Government Act 2001* (37/2001), s. 247(m), S.I. No. 458 of 2001.

F1260 Inserted (4.01.2010) by *Dublin Transport Authority Act 2008* (15/2008), s. 94, S.I. No. 574 of 2009.

F1261 Inserted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 16, S.I. No. 403 of 2019.

F1262 Inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 47, S.I. No. 436 of 2018.

F1263 Substituted by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023, s. 235(b), not commenced as of date of revision.

F1264 Inserted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(i), not commenced as of date of revision.

Modifications (not altering text):

C186 Prospective affecing provision: para. 12 substituted by *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023), s. 235(b), not commenced as of date of revision.

F1263**[**12. The proposed development would injure, interfere with or adversely affect a registered monument within the meaning of section 2 of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023.**]**

C187 Prospective affecting provision: para. 20D inserted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(i), not commenced as of date of revision.

F1264**[**20D. The proposed development would not be consistent with the objectives of a river basin management plan made under Regulation 13 of the European Communities (Water Policy) Regulations 2003 (S.I. No. 722 of 2003).**]**

C188 Schedule construed during specified period (3.07.2017 to 31.12.2019, extended to 31.12.2021) by *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 25, S.I. No. 270 of 2017, extended by S.I. No. 598 of 2019.

Definitions (*Chapter 1*)

3. In this Chapter— ...

"specified period" means—

(a) the period from the commencement of this provision until 31 December 2019, and

(b) any additional period as may be provided for by the Minister by order under *section 4(2)*;

...

Construction of the Fourth Schedule (reasons for the refusal of permission which exclude compensation) to Act of 2000 during specified period

25. The *Fourth Schedule* to the Act of 2000 has effect during the specified period as if the following were inserted after *paragraph 18*:

"18A. In the case of a proposed strategic housing development (within the meaning of *Chapter 1* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*), the environmental impact statement or Natura impact statement, or both, submitted with the application for permission under *section 4* of that Act is or are inadequate or incomplete.".

Section 191.

FIFTH SCHEDULE

CONDITIONS WHICH MAY BE IMPOSED, ON THE GRANTING OF PERMISSION TO DEVELOP LAND, WITHOUT COMPENSATION

1. A condition, under *paragraph (g)* and *(j)* of *section 34(4)*, requiring the giving of security for satisfactory completion of the proposed development (including maintenance until taken in charge by the local authority concerned of roads, open spaces, carparks, sewers, watermains or drains).

2. A condition, included in a grant of permission pursuant to *section 48* or *49*, requiring the payment of a contribution for public infrastructure benefitting the development.

3. A condition, under *paragraph (n)* of *section 34(4)*, requiring the removal of an advertisement structure.

4. Any condition under *paragraph (n)* of *section 34(4)* in a case in which the relevant application for permission relates to a temporary structure.

5. Any condition relating to the reservation or allocation of any particular land, or all land in any particular area, for development of a specified class or classes, or the prohibition or restriction either permanently or temporarily, of development on any specified land.

6. Any condition relating to the preservation of the quality and character of urban or rural areas.

7. Any condition relating to the regulation, restriction and control of development of coastal areas or development in the vicinity of inland waterways.

8. Any provision relating to the protection of the linguistic or cultural heritage of the Gaeltacht.

9. Any condition relating to reducing the risk or limiting the consequences of a major accident, or limiting the risk of there being any serious danger to human health or the environment.

10. Any condition regulating, restricting or controlling development in areas at risk of flooding.

11. Any condition relating to—

(*a*) the regulation and control of the layout of areas and structures, including density, spacing, grouping and orientation of structures in relation to roads, open spaces and other structures,

(*b*) the regulation and control of the design, colour and materials of structures and groups of structures,

(*c*) the promotion of design in structures for the purposes of flexible and sustainable use, including conservation of energy and resources.

12. Any condition limiting the number of structures or the number of structures of a specified class which may be constructed, erected or made on, in or under any area.

13. Any condition regulating and controlling all or any of the following matters—

(*a*) the size, height, floor area and character of structures;

(*b*) building lines, coverage and the space about houses and other structures;

(*c*) the extent of parking places required in, on or under structures of a particular class or size or services or facilities for the parking, loading, unloading or fuelling of vehicles;

(*d*) the objects which may be affixed to structures;

(*e*) the purposes for and the manner in which structures may be used or occupied, including, in the case of dwellings, the letting thereof in F1265**[**separate units;**]**

F1266**[**(*f*) the persons of a particular class or description to whom the use as a dwelling may be restricted.**]**

14. Any condition relating to the alteration or removal of unauthorised structures.

15. Any condition relating to the provision and siting of sanitary services and waste facilities, recreational facilities and open spaces.

16. Any condition relating to the protection and conservation of the environment including the prevention of environmental pollution and the protection of waters, groundwater, the seashore and the atmosphere.

17. Any condition relating to measures to reduce or prevent the emission or the intrusion of noise or vibration.

F1267**[**17A. Any conditions relating to measures for the regulation of aircraft noise at Dublin Airport including, as appropriate, the area around Dublin Airport significantly affected by aircraft noise.**]**

18. Any condition prohibiting, regulating or controlling the deposit or disposal of waste materials and refuse, the disposal of sewage and the pollution of rivers, lakes, ponds, gullies and the seashore.

19. Any condition relating to the protection of features of the landscape which are of major importance for wild fauna and flora.

20. Any condition relating to the preservation and protection of trees, shrubs, plants and flowers.

21. Any condition relating to the preservation (either *in situ* or by record) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest.

22. Any condition relating to the conservation and preservation of—

(*a*) one or more specific—

(i) (I) natural habitat types in Annex I of the Habitats Directive, or

(II) species in Annex II of the Habitats Directive which the site hosts,

contained in a European site selected by the Minister for Arts, Heritage, Gaeltacht and the Islands in accordance with Annex III (Stage 1) of that Directive,

(ii) species of bird or their habitat or other habitat contained in a European site specified in Article 4 of the Birds Directive, which formed the basis of the classification of that site,

or

(*b*) any other area prescribed for the purpose of *section 10(2)(c)*.

23. Any condition relating to the preservation of the landscape in general, or a landscape conservation order in particular, including views and prospects and amenities of places and features of natural beauty or interest.

24. Any condition for preserving any existing public right of way.

25. Any condition reserving, as a public park, public garden or public recreation space, land normally used as such.

26. Any condition prohibiting, restricting or controlling, either generally or within a specified distance of the centre line of any specified road, the erection of all or any particular forms of advertisement structure or the exhibition of all or any particular forms of advertisement.

27. Any condition preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any structure, or from the objectionable or neglected condition of any land attached to a structure or abutting on a public road or situate in a residential area.

28. Any condition relating to a matter in respect of which a requirement could have been imposed under any other Act, or under any order, regulation, rule or bye-law made under any other Act, without liability for compensation.

29. Any condition prohibiting the demolition of a habitable house.

30. Any condition relating to the filling of land.

31. Any condition in the interest of ensuring the safety of aircraft or the safe and efficient navigation thereof.

32. Any condition determining the sequence in which works shall be carried out or specifying a period within which works shall be completed.

33. Any condition restricting the occupation of any structure included in a development until the completion of other works included in the development or until any other specified condition is complied with or until the planning authority consents to such occupation.

34. Any conditions relating to the protection of a protected structure or a proposed protected structure.

F1268**[**35. A condition under *section 34(4A)*, *37G(7A)*, *182B(5E)*, *182D(5E)* or *293(4A)* requiring that any detail of a development that was not confirmed at the time of the application for permission fall within specified options, parameters or a combination of options and parameters.

36. A condition under *section 34(4A)*, *37G(7A)*, *182B(5E)*, *182D(5E)* or *293(4A)* requiring the applicant to notify to a planning authority in writing, by such date prior to the commencement of the development, or prior to the commencement of the part of the development to which the detail relates, as the Minister may prescribe, of the actual detail of a development that was not confirmed at the time of the application for permission.**]**

Annotations

Amendments:

F1265 Substituted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 10(a), S.I. No. 365 of 2021.

F1266 Inserted (16.07.2021) by *Planning and Development (Amendment) Act 2021* (18/2021), s. 10(b), S.I. No. 365 of 2021.

F1267 Inserted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 17, S.I. No. 403 of 2019.

F1268 Inserted (16.12.2023) by *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), s. 39, S.I. No. 645 of 2023.

Modifications (not altering text):

C189 Prospective affecting provision: schedule to be construed during specified period in accordance with *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 25A as inserted (22.10.2018) by *Planning and Development (Amendment) Act 2018* (16/2018), s. 48, S.I. No. 436 of 2018. S. 25A is not commenced as of date of revision as per subs. (2). The specified period is defined in *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), s. 3 as the period from commencement of that provision until 31 December 2019 and any additional period as may be provided for by ministerial order.

Construction of Fifth Schedule (conditions which may be imposed, on the granting of permission to develop land, without compensation) to Act of 2000 during specified period

25A. The Fifth Schedule to the Act of 2000 has effect during the specified period as if in paragraph 1 'or section 9 (4) of the Planning and Development (Housing) and Residential Tenancies Act 2016' were inserted after 'section 34(4)(g)'.

Section 264.

SIXTH SCHEDULE

ENACTMENTS REPEALED

Number and Year	Short Title	Extent of Repeal
(1)	(2)	(3)
No. 28 of 1963	Local Government (Planning and Development) Act, 1963	The whole Act.
No. 20 of 1976	Local Government (Planning and Development) Act, 1976	The whole Act.
No. 21 of 1982	Local Government (Planning and Development) Act, 1982	The whole Act, other than section 6.
No. 28 of 1983	Local Government (Planning and Development) Act, 1983	The whole Act.
No. 11 of 1990	Local Government (Planning and Development) Act, 1990	The whole Act.
No. 11 of 1991	Local Government Act, 1991	Sections 44 and 45.
No. 14 of 1992	Local Government (Planning and Development) Act, 1992	The whole Act.
No. 12 of 1993	Local Government (Planning and Development) Act, 1993	The whole Act, other than section 4.
No. 14 of 1993	Roads Act, 1993	Section 55A (as inserted by section 6 of the Roads (Amendment) Act, 1998).
No. 9 of 1998	Local Government (Planning and Development) Act, 1998	The whole Act.
No. 17 of 1999	Local Government (Planning and Development) Act, 1999	The whole Act.

Section 37A.

F1269[SEVENTH SCHEDULE

INFRASTRUCTURE DEVELOPMENTS FOR THE PURPOSES OF *SECTIONS 37A* AND *37B*

Energy Infrastructure

1.—Development comprising or for the purposes of any of the following:

—An installation for the onshore extraction of petroleum or natural gas.

—A crude oil refinery (excluding an undertaking manufacturing only lubricants from crude oil) or an installation for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.

—A thermal power station or other combustion installation with a total energy output of 300 megawatts or more.

—An industrial installation for the production of electricity, steam or hot water with a heat output of 300 megawatts or more.

—An industrial installation for carrying gas, steam or hot water with a potential heat output of 300 megawatts or more, or transmission of electrical energy by overhead cables, where the voltage would be 220 kilovolts or more, but excluding any proposed development referred to in *section 182A(1)*.

—An oil pipeline and any associated terminals, buildings and installations, where the length of the pipeline (whether as originally provided or as extended) would exceed 20 kilometres.

—An installation for surface storage of natural gas, where the storage capacity would exceed 200 tonnes.

—An installation for underground storage of combustible gases, where the storage capacity would exceed 200 tonnes.

—An installation for the surface storage of oil or coal, where the storage capacity would exceed 100,000 tonnes.

—An installation for hydroelectric energy production with an output of 300 megawatts or more, or where the new or extended superficial area of water impounded would be 30 hectares or more, or where there would be a 30 per cent change in the maximum, minimum or mean flows in the main river channel.

—F1270**[**An installation for the harnessing of wind power for energy production (a wind farm) with more than 25 turbines or having a total output greater than 50 megawatts.**]**

—An onshore terminal, building or installation, whether above or below ground, associated with a natural gas storage facility, where the storage capacity would exceed 1mscm.

—An onshore terminal, building or installation, whether above or below ground, associated with an LNG facility and, for the purpose of this provision, 'LNG facility' means a terminal which is used for the liquefaction of natural gas or the importation, offloading and re-gasification of liquefied natural gas, including ancillary services.

Transport Infrastructure

2.— Development comprising or for the purposes of any of the following:

—An intermodal transhipment facility, an intermodal terminal or a passenger or goods facility which, in each case, would exceed 5 hectares in area.

—A terminal, building or installation associated with a long-distance railway, tramway, surface, elevated or underground railway or railway supported by suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport, but excluding any proposed railway works referred to in section 37(3) of the Transport (Railway Infrastructure) Act 2001 (as amended by the Planning and Development (Strategic Infrastructure) Act 2006).

F1271**[**...**]**

F1270**[** A harbour or port installation (which may include facilities in the form of loading or unloading areas, vehicle queuing and parking areas, ship repair areas, areas for berthing or dry docking of ships, areas for the weighing, handling or transport of goods or the movement or transport of passengers (including customs or passport control facilities), associated administrative offices or other similar facilities directly related to and forming an integral part of the installation)—

(*a*) where the area or additional area of water enclosed would be 20 hectares or more, or

(*b*) which would involve the reclamation of 5 hectares or more of land, or

(*c*) which would involve the construction of one or more quays which or each of which would exceed 100 metres in length, or

(*d*) which would enable a vessel of over 1350 tonnes to enter within it. **]**

Environmental Infrastructure

3.— Development comprising or for the purposes of any of the following:

—A waste disposal installation for—

(*a*) the incineration, or

(*b*) the chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC[1] under heading D9), or

(*c*) the landfill,

of hazardous waste to which Council Directive 91/689/EEC[2] applies (other than an industrial waste disposal installation integrated into a larger industrial facility).

—A waste disposal installation for—

(*a*) the incineration, or

(*b*) the chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9),

of non-hazardous waste with a capacity for an annual intake greater than 100,000 tonnes.

—An installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes.

—A groundwater abstraction or artificial groundwater recharge scheme, where the annual volume of water abstracted or recharged is equivalent to or exceeds 2 million cubic metres.

—Any works for the transfer of water resources between river basins, where the annual volume of water abstracted or recharged would exceed 2 million cubic metres.

—A waste water treatment plant with a capacity greater than a population equivalent of 10,000 and, for the purpose of this provision, population equivalent shall be determined in accordance with Article 2, point 6, of Council Directive 91/271/EEC [3] .

—A sludge-deposition site with the capacity for the annual deposition of 50,000 tonnes of sludge (wet).

—Any canalisation or flood relief works where—

(*a*) the immediate contributing sub-catchment of the proposed works (namely the difference between the contributing catchments at the upper and lower extent of the works) would exceed 1000 hectares, or

(*b*) more than 20 hectares of wetland would be affected, or

(*c*) the length of river channel on which works are proposed would be greater than 2 kilometres.

[1] O.J. No. L194/39 25.7.1975
[2] O.J. No. L377/20 31.12.1991
[3] O.J. No. L135/40 30.5.1991

—A dam or other installation designed for the holding back or the permanent or long-term storage of water, where the new or extended area of water impounded would be 30 hectares or more or where a new or additional amount of water held back or stored would exceed 10 million cubic metres.

—An installation of overground aqueducts each of which would have a diameter of 1,000 millimetres or more and a length of 500 metres or more.

—Any coastal works to combat erosion or maritime works capable of altering the coast through the construction, for example, of dikes, moles, jetties and other sea defence works, where in each case the length of coastline on which the works would take place would exceed 1 kilometre, but excluding the maintenance or reconstruction of such works or works required for emergency purposes.

F1272**[***Health Infrastructure*

4. Development comprising the following:

A health care facility (other than a development which is predominantly for the purposes of providing care services (within the meaning of section 3 of the Nursing Homes Support Scheme Act 2009)) which, whether or not the facility is intended to form part of another health care facility, shall provide in-patient services and shall have not fewer than 100 beds in order to so provide.**]]**

Annotations

Amendments:

F1269 Inserted (31.01.2007) by *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 5, S.I. No. 684 of 2006.

F1270 Substituted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 78(a) and (b), S.I. No. 477 of 2010.

F1271 Deleted (1.09.2019) by *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), s. 18(1), S.I. No. 403 of 2019.

F1272 Substituted (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 41, S.I. No. 474 of 2011.

F1273 Substituted by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(j), not commenced as of date of revision.

F1274 Inserted by *Planning and Development (Amendment) Act 2018* (16/2018), s. 49, not commenced as of date of revision.

Modifications (not altering text):

C190 Prospective affecting provision: para. 3 amended by *Water Environment (Abstrations and Associated Impoundments) Act 2022* (48/2022), s. 116(j), not commenced as of date of revision.

—F1273**[**A groundwater abstraction, artificial groundwater recharge scheme or a surface water abstraction**]**, where the annual volume of water abstracted or recharged is equivalent to or exceeds 2 million cubic metres.

C191 Prospective affecting provision: para. 5 inserted by *Planning and Development (Amendment) Act 2018* (16/2018), s. 49, not commenced as of date of revision.

F1274**[***Communications and Data Infrastructure*

5. Development comprising the following:

A facility consisting of one or more than one structure, the combined gross floor space of which exceeds 10,000 square metres, used primarily for the storage, management and dissemination of data, and the provision of associated electricity connections infrastructure.**]**

Editorial Notes:

E593 Previous affecting provision: art. 4 inserted (5.10.2010) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 78(c), S.I. No. 477 of 2010; substituted as per F-note above.

F1275[EIGHTH SCHEDULE

Section 285

Classes of Development specified for purposes of Chapter III of Part XXI

1. Development referred to in the Seventh Schedule.

2. Development consisting of a trading port or pier for loading and unloading goods that—

(*a*) is connected to land, and

(*b*) can accommodate vessels of over 1,350 tonnes.

3. Development consisting of a pipeline that is not less than 20 kilometres in length and that is intended for the transport of—

(*a*) gas, oil or chemicals, or

(*b*) carbon dioxide (CO2) streams for the purposes of geological storage, including associated booster stations.

4. Development consisting of the construction of an electrical power line that has a voltage of not less than 220 kilovolts and a length of not less than 15 kilometres.

5. Development consisting of the laying of a telecommunications cable or pipeline of not less than 15 kilometres in length.

6. Development consisting of the construction of a storage site within the meaning of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009[25] on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006.

7. Development consisting of an installation for the capture of CO2 streams within the meaning of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009—

(*a*) intended for geological storage of CO2 within such meaning, or

(*b*) where the intended capture of CO2 is not less than 1,500,000 tonnes per annum.

8. Development consisting of the drainage or reclamation of not less than 2 hectares of wetland.

[25] OJ No. L140, 5.6.2009, p.114

9. Development consisting of a seawater fish breeding installation with an intended output exceeding 100 tonnes per annum.

10. Development consisting of the reclamation of not less than 10 hectares of land from the sea.

11. Development consisting of—

(*a*) the extraction of stone, gravel, sand or clay where the area of extraction would be greater than 5 hectares, or

(*b*) the extraction of stone, gravel, sand or clay by marine dredging (other than maintenance dredging), where the area of extraction would be greater than 5 hectares.

12. Development consisting of deep drilling (other than deep drilling for the purposes of investigating the stability of the soil, seabed or substrata beneath the soil or seabed) for—

(*a*) geothermal purposes, or

(*b*) the purpose of securing water supplies exceeding 2 million cubic metres per annum.

13. Development consisting of the construction or operation of—

(*a*) an installation for the manufacture of vegetable or animal oils or fats, where the capacity for processing raw materials would exceed 40 tonnes per day, or

(*b*) any fish-meal or fish-oil factory.

14. Development consisting of the construction or operation of a sea water marina where the number of berths exceeds 300.

15. Development consisting, or for the purposes, of—

(*a*) a terminal, building or installation ancillary to a natural gas storage facility (either above or below the surface of the water or seabed) the storage capacity of which would exceed 1mscm, or

(*b*) a terminal, building or installation ancillary to a terminal that is used for the liquefaction of natural gas or the importation, offloading and re-gasification of liquefied natural gas, and ancillary services.

16. Development consisting, or for the purposes, of an installation for the storage of—

(*a*) natural gas, where the storage capacity would exceed 200 tonnes,

(*b*) combustible gases, where the storage capacity would exceed 200 tonnes, or

(*c*) oil or coal, where the storage capacity would exceed 100,000 tonnes.

17. An installation for the production of hydroelectric energy—

(*a*) that has an output of not less than 20 megawatts,

(*b*) that would result in the new or extended area of water impounded being not less than 20 hectares, or

(*c*) that would result in a 30 per cent change in the maximum, minimum or mean flows in the main river channel or tidal bay concerned.

18. An installation for the production of energy by harnessing the power of the wind that has—

(*a*) more than 5 turbines, or

(*b*) a total output of more than 5 megawatts.

19. Any floating or fixed installation (either temporary or permanent) for the production of energy by harnessing the power of the sun.

20. An installation for the production of energy by harnessing wave or tidal power that has a total output greater than 5 generating units or 5 megawatts.

21. A harbour or port installation, including—

(*a*) loading or unloading areas,

(*b*) vehicle queuing and parking areas,

(*c*) ship repair areas,

(*d*) areas for berthing or dry docking of ships, and

(*e*) areas for the weighing, handling or transport of goods or the movement or transport of passengers (including customs or passport control facilities), and any associated offices or other similar facilities that would—

(i) result in the enclosed area of water in the harbour or port installation being not less than 20 hectares,

(ii) involve the reclamation of an area of land of not less than 5 hectares,

(iii) involve the construction of a quay greater than 100 metres in length, or

(iv) be capable of admitting a vessel of more than 1,350 tonnes.**]**

Annotations

Amendments:

F1275 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 172 and sch. 10, S.I. No. 488 of 2022.

F1276[NINTH SCHEDULE

Sections 309, 312 and 313

Part I

Relevant provisions for purposes of section 309

1. Part XA.

2. Sections 2 (other than the definition of "land" and the definition of "strategic infrastructure development"), 4, 5, 7, 8, 31AW, 33, 34, 39 (other than subsection (4)), 40, 41, 44, 44A, 46, 142, 147, 148, 154 (other than paragraph (b) of subsection (7)) and 247.

3. Subsection (2) of section 3.

4. Subsection (4) of section 152.

5. Subsection (1), and paragraph (b) of subsection (6), of section 160.

6. Subsection (1) of section 182.

7. Paragraph (b) of subsection (4) of section 157.

8. Paragraph (b) of subsection (3), and subsections (5) and (7), of section 176A.

9. Paragraph (b) of subsection (2A), paragraph (i) of subsection (5) and subparagraph (i) of paragraph (a) of subsection (6) of section l76B.

10. Paragraph (b) of subsection (6) and subparagraph (i) of paragraph (a) of subsection (11) of section 176C.

Part II

Relevant provisions for purposes of section 312

1. Sections 37, 42, 44, 46, 108, 177I and 177AE.

2. Subsection (6) of section 34.

3. Subsection (2) of section 177K.

4. Subsection (2) of section 247.

Part III

Relevant provisions for purposes of section 313

1. Part VIII (other than subsection (1) of section 157).

2. Section 46.**]**

Annotations

Amendments:

F1276 Inserted (1.10.2022) by *Maritime Area Planning Act 2021* (50/2021), s. 173, S.I. No. 488 of 2022.

Number 30 *of* 2000

PLANNING AND DEVELOPMENT ACT 2000

REVISED

Updated to 17 May 2024

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Planning and Development Acts 2000 to 2023: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*, s. 1(3)). The Acts and statutory instruments in this group are:

- *Planning and Development Act 2000* (30/2000)
- *Local Government Act 2001* (37/2001), ss. 2, 5(3) and Schedule 4 (in so far as they relate to the Act of 2000) and s. 247
- *Planning and Development (Amendment) Act 2002* (32/2002), Parts 2 and 3
- *Housing (Miscellaneous Provisions) Act 2004* (43/2004), s. 2
- *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006)
- *Water Services Act 2007* (30/2007), ss. 1(6) and 114
- *Harbours (Amendment) Act 2009* (26/2009), ss. 7(1) and (2) and 21(3)
- *Compulsory Purchase Orders (Extension of Time Limits) Act 2010* (17/2010)
- *Planning and Development (Amendment) Act 2010* (30/2010), other than Part 3
- *Environment (Miscellaneous Provisions) Act 2011* (20/2011), Part 5
- *Electoral, Local Government and Planning and Development Act 2013* (27/2013), Part 8
- *Local Government Reform Act 2014* (1/2014), ss. 1(8), 5(7) and sch. 2 part 4
- *Urban Regeneration and Housing Act 2015* (33/2015)
- *Planning and Development (Amendment) Act 2015* (63/2015)
- *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016), other than s. 1(2)(b) and (c), Parts 3 to 5 and sch.
- *Planning and Development (Amendment) Act 2017* (20/2017)
- *Planning and Development (Amendment) Act 2018* (16/2018), other than Part 4 and sch. 3 ref. nos. 12-18
- *European Union (Planning and Development) (Environment Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018), Parts 2, 3, 4 and schs. 1 and 2
- *Aircraft Noise (Dublin Airport) Regulation Act* (12/2019), Part 3
- *Residential Tenancies (Amendment) Act 2019* (14/2019), s. 38
- *Local Government Rates and Other Matters Act 2019* (24/2019), ss. 23, 24
- *Emergency Measures in the Public Interest (Covid-19) Act 2020* (2/2020), s. 9
- *European Union (Waste Water Discharge) Regulations 2020* (S.I. No. 214 of 2020), Part II (reg. 5)
- *Planning and Development, and Residential Tenancies, Act 2020* (27/2020)

- *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021)
- *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021)
- *Maritime Area Planning Act 2021* (50/2021), Part 8 and schs. 10-12
- *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), Part 2 (ss. 2-41)
- *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), Part 2 (ss. 2-14)
- *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2022), Part 13 chapter 3 (ss. 246-253)

Roads Acts 1993 to 2023: this Act is one of a group of Acts included in this collective citation, to be read together as one (*Road Traffic and Roads Act 2023*, s. 1(4)). The Acts in the group are:

- *Roads Act 1993* (14/1993)
- *Roads (Amendment) Act 1998* (23/1998), other than s. 7
- *Planning and Development Act 2000* (30/2000), s. 215 and Part XX
- *Local Government Act 2001* (37/2001), ss. 81 and 245
- *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 51
- *Roads Act 2007* (34/2007), other than ss. 12 and 13
- *Roads Act 2015* (14/2015)
- *Road Traffic and Roads Act 2023* (16/2023), ss. 37-45

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024* (7/2024)
- *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023)
- *Water Environment (Abstractions and Associated Impoundments) Act 2022* (48/2022)
- *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022)
- *Development (Emergency Electricity Generation) Act 2022* (35/2022)
- *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022)
- *Remediation of Dwellings Damaged by the use of Defective Concrete Blocks Act 2022* (28/2022)
- *Institutional Burials Act 2022* (18/2022)
- *Maritime Planning Act 2021* (50/2021)

- *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021)
- *Climate Action and Low Carbon Development (Amendment) Act 2021* (32/2021)
- *Land Development Agency Act 2021* (26/2021)
- *Affordable Housing Act 2021* (25/2021)
- *Planning and Development (Amendment) Act 2021* (18/2021)
- *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021)
- *Planning and Development, and Residential Tenancies, Act 2020* (27/2020)
- *Emergency Measures in the Public Interest (Covid-19) Act 2020* (2/2020)
- *Local Government Rates and other Matters Act 2019* (24/2019)
- *Residential Tenancies (Amendment) Act 2019* (14/2019)
- *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019)
- *Local Government Act 2019* (1/2019)
- *Planning and Development (Amendment) Act 2018* (16/2018)
- *Data Protection Act 2018* (7/2018)
- *Planning and Development (Amendment) Act 2017* (20/2017)
- *Courts Act 2016* (22/2016)
- *Planning and Development (Housing) and Residential Tenancies Act 2016* (17/2016)
- *Planning and Development (Amendment) Act 2015* (63/2015)
- *Dublin Docklands Development Authority (Dissolution) Act 2015* (55/2015)
- *Urban Regeneration and Housing Act 2015* (33/2015)
- *State Airports (Shannon Group) Act 2014* (27/2014)
- *Housing (Miscellaneous Provisions) Act 2014* (21/2014)
- *Local Government Reform Act 2014* (1/2014)
- *Water Services (No. 2) Act 2013* (50/2013)
- *Electoral, Local Government and Planning and Development Act 2013* (27/2013)
- *Central Bank (Supervision and Enforcement) Act 2013* (26/2013)
- *Education and Training Boards Act 2013* (11/2013)
- *Water Services Act 2013* (6/2013)
- *Public Service Pensions (Single Scheme and Other Provisions) Act 2012* (37/2012)
- *Financial Emergency Measures in the Public Interest (Amendment) Act 2011* (39/2011)
- *Environment (Miscellaneous Provisions) Act 2011* (20/2011)
- *Planning and Development (Amendment) Act 2010* (30/2010)
- *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010)
- *Compulsory Purchase Orders (Extension of Time Limits) Act 2010* (17/2010)
- *Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010* (2/2010)
- *Public Transport Regulation Act 2009* (37/2009)
- *National Asset Management Agency Act 2009* (34/2009)
- *Land And Conveyancing Law Reform Act 2009* (27/2009)
- *Harbours (Amendment) Act 2009* (26/2009)
- *Housing (Miscellaneous Provisions) Act 2009* (22/2009)
- *Dublin Transport Authority Act 2008* (15/2008)
- *Roads Act 2007* (34/2007)
- *Water Services Act 2007* (30/2007)
- *Prisons Act 2007* (10/2007)
- *Energy (Miscellaneous Provisions) Act 2006* (40/2006)
- *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006)
- *Grangegorman Development Agency Act 2005* (21/2005)
- *Housing (Miscellaneous Provisions) Act 2004* (43/2004)
- *Civil Liability and Courts Act 2004* (31/2004)
- *Public Service Superannuation (Miscellaneous Provisions) Act 2004* (7/2004)
- *Protection of the Environment Act 2003* (27/2003)
- *Local Government (No. 2) Act 2003* (17/2003)
- *Planning and Development (Amendment) Act 2002* (32/2002)
- *Minister For the Environment and Local Government (Performance of Certain Functions) Act 2002* (24/2002)
- *Communications Regulation Act 2002* (20/2002)
- *Courts and Court Officers Act 2002* (15/2002)
- *Transport (Railway Infrastructure) Act 2001* (55/2001)
- *Local Government Act 2001* (37/2001)
- *Euro Changeover (Amounts) Act 2001* (16/2001)
- *Roads (Amendment) Act 1998* (23/1998)

- *Courts Service Act 1998* (8/1998)
- *Taxes Consolidation Act 1997* (39/1997)
- *Waste Management Act 1996* (10/1996)
- *Roads Act 1993* (14/1993)
- *Industrial Development Act 1986* (9/1986)
- *Saint Stephen's Green (Dublin) Act 1877* (40 & 41 Vict. c. 134)

All Acts up to and including *Employment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Act 2024* (14/2024), enacted 9 May 2024, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Planning and Development (Fees for Certain Applications) Regulations 2024* (S.I. No. 226 of 2024)
- *Planning and Development (Street Furniture Fees) Regulations 2024* (S.I. No. 196 of 2024)
- *Planning and Development (Amendment) (No. 3) Regulations 2023* (S.I. No. 655 of 2023)
- *Planning and Development (Fees for Certain Applications) Regulations 2023* (S.I. No. 654 of 2023)
- *Planning and Development (Amendment) (No. 4) Regulations 2023* (S.I. No. 648 of 2023)
- *Planning and Development (Amendment) (No. 2) Regulations 2023* (S.I. No. 383 of 2023)
- *Planning and Development (Exempted Development) (No. 4) Regulations 2023* (S.I. No. 376 of 2023)
- *Planning and Development Act (Amendment) Regulations 2023* (S.I. No. 273 of 2023)
- *Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2023* (S.I. No. 269 of 2023)
- *Planning and Development (Street Furniture Fees) Regulations 2023* (S.I. No. 256 of 2023)
- *European Union (Planning and Development) (Development for Accommodation of Displaced Persons) Regulations 2023* (S.I. No. 251 of 2023)
- *Planning and Development Act (Exempted Development) Regulations 2023* (S.I. No. 250 of 2023)
- *Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2023* (S.I. No. 246 of 2023)
- *Planning and Development (Section 181) Regulations 2023* (S.I. No. 243 of 2023)
- *Planning and Development (Section 179A) Regulations 2023* (S.I. No. 101 of 2023)
- *Planning and Development (Maritime Development) Regulations 2023* (S.I. No. 100 of 2023)
- *European Union (Planning and Development) (Habitats and Environmental Impact Assessment) Regulations 2022* (S.I. No. 708 of 2022)
- *Planning and Development act 2000 (Section 181(2)(a)) (No. 2) Order 2022* (S.I. No. 694 of 2022)
- *Planning and Development Act 2000 (Exempted Development) (Number 5) Regulations 2022* (S.I. No. 664 of 2022)
- *Planning and Development (Amendment) (No. 3) Regulations 2022* (S.I. No. 647 of 2022)
- *Planning and Development (Exempted Development) (No. 4) Regulations 2022* (S.I. No. 605 of 2022)
- *Planning and Development (Amendment) (No. 2) Regulations 2022* (S.I. No. 565 of 2022)
- *Planning And Development Act 2000 (Exempted Development) (No. 3) Regulations 2022* (S.I. No. 493 of 2022)
- *Planning And Development (Solar Safeguarding Zone) Regulations 2022* (S.I. No. 492 of 2022)
- *Planning and Development Act 2000 (Section 181(2)(a)) Order 2022* (S.I. No. 478 of 2022)
- *Planning and Development (Amendment) Regulations 2022* (S.I. No. 419 of 2022)
- *European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulations 2022* (S.I. No. 306 of 2022)

- *Planning and Development (Street Furniture Fees) Regulations 2022* (S.I. No. 249 of 2022)
- *Planning and Development Act 2000 (Exempted Development) (Number 2) Regulations 2022* (S.I. No. 151 of 2022)
- *Planning and Development Act (Exempted Development) Regulations 2022* (S.I. No. 75 of 2022)
- *Planning and Development (Large-scale Residential Development Fees) Regulations 2021* (S.I. No. 720 of 2021)
- *Planning and Development (Large-scale Residential Development) Regulations 2021* (S.I. No. 716 of 2021)
- *Planning and Development (Amendment) (No. 3) Regulations 2021* (S.I. No. 588 of 2021)
- *Planning and Development (Amendment) (No. 3) Regulations 2021* (S.I. No. 459 of 2021)
- *European Union (Planning) (Habitats, Birds and Environmental Impact) (No. 2) Regulations 2021* (S.I. No. 457 of 2021)
- *European Union (Planning) (Habitats, Birds and Environmental Impact) Regulations 2021* (S.I. No. 456 of 2021)
- *Planning and Development Act 2000 (Section 254 – Overground Telecommunication Cables) Regulations 2021* (S.I. No. 422 of 2021)
- *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2021* (S.I. No. 302 of 2021)
- *Planning and Development (Amendment) (No. 2) Regulations 2021* (S.I. No. 210 of 2021)
- *Planning and Development (Street Furniture Fees) Regulations 2021* (S.I. No. 209 of 2021)
- *Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2021* (S.I. No. 208 of 2021)
- *Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2021* (S.I. No. 115 of 2021)
- *Planning and Development Act 2000 (Exempted Development) Regulations 2021* (S.I. No. 114 of 2021)
- *Planning and Development (Amendment) Regulations 2021* (S.I. No. 9 of 2021)
- *Planning and Development (Amendment) (No. 2) Regulations 2020* (S.I. No. 692 of 2020)
- *Planning and Development Act 2000 (Section 181(2)(a)) (No. 3) Order 2020* (S.I. No. 371 of 2020)
- *Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2020* (S.I. No. 293 of 2020)
- *Planning and Development Act 2000 (Section 181(2)(a)) (No. 2) Order 2020* (S.I. No. 232 of 2020)
- *Planning and Development Act 2000 (Section 181(2)(a)) Order 2020* (S.I. No. 231 of 2020)
- *European Union (Waste Water Discharge) Regulations 2020* (S.I. No. 214 of 2020)
- *Planning and Development Act 2000 (Section 38) Regulations 2020* (S.I. No. 180 of 2020)
- *Planning and Development Act 2000 (Subsection (4) of Section 251A) (No. 2) Order 2020* (S.I. No. 165 of 2020)
- *Planning and Development Act 2000 (Subsection (4) of Section 251A) Order 2020* (S.I. No. 131 of 2020)
- *Planning and Development Act 2000 (Subsection (3) of Section 251A) Order 2020* (S.I. No. 129 of 2020)
- *Planning and Development Act 2000 (Section 181) Regulations 2020* (S.I. No. 93 of 2020)
- *Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2020* (S.I. No. 92 of 2020)
- *Planning and Development Act 2000 (Section 44A) Order 2020* (S.I. No. 61 of 2020)
- *Planning and Development (Amendment) Regulations 2020* (S.I. No. 46 of 2020)
- *Planning and Development Act 2000 (Exempted Development) Regulations 2020* (S.I. No. 45 of 2020)
- *Planning and Development Act 2000 Section 181(2)(a) (No. 5) Order 2019* (S.I. No. 521 of 2019)
- *European Union (Environmental Impact Assessment and Habitats) (Section 181 of the Planning and Development Act 2000) Regulations 2019* (S.I. No. 418 of 2019)
- *Planning And Development Act, 2000 Section 181(2) (a) Order No. 4 2019* (S.I. No. 285 of 2019)

- *Planning And Development Act, 2000 Section 181(2) (a) Order No. 3 2019* (S.I. No. 284 of 2019)
- *Planning And Development Act 2000 (Exempted Development) (No. 2) Regulations 2019* (S.I. No. 235 of 2019)
- *Planning And Development Act 2000 (Part IIB) (Establishment Day) Order 2019* (S.I. No. 134 of 2019)
- *Planning and Development Act 2000, Section 181(2)(a) Order No. 2 2019* (S.I. No. 100 of 2019)
- *Planning And Development Act, 2000 Section 181(2)(A) Order No. 1 2019* (S.I. No. 57 of 2019)
- *Planning And Development Act 2000 (Exempted Development) Regulations 2019* (S.I. No. 12 of 2019)
- *European Union (Environmental Impact Assessment) (Peat Extraction) Regulations 2019* (S.I. No. 4 of 2019)
- *European Union (Planning and Development) (Environmental Impact Assessment) (Amendment) Regulations 2018* (S.I. No. 646 of 2018)
- *Planning and Development (Fees) Regulations 2018* (S.I. No. 501 of 2018)
- *European Union (Planning and Development) (Environmental Impact Assessment) (No. 2) Regulations 2018* (S.I. No. 404 of 2018)
- *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. No. 296 of 2018)
- *Planning and Development (Amendment) (No. 3) Regulations 2018* (S.I. No. 31 of 2018)
- *Planning and Development (Amendment) (No. 2) Regulations 2018* (S.I. No. 30 of 2018)
- *Planning and Development (Amendment) Regulations 2018* (S.I. No. 29 of 2018)
- *Planning and Development (Amendment) Regulations 2017* (S.I. No. 342 of 2017)
- *Planning and Development (Housing) and Residential Tenancies Act 2016 (Commencement of Section 28(2)) Order 2017* (S.I. No. 341 of 2017)
- *Planning and Development (Strategic Housing Development) Regulations 2017* (S.I. No. 271 of 2017)
- *Planning and Development Act 2000 (Designation of Strategic Development Zone: Ireland West Airport Knock) Order 2017* (S.I. No. 266 of 2017)
- *European Union (Reduction of Cost of Deploying High-Speed Public Communications Networks) Regulations 2016* (S.I. No. 391 of 2016)
- *Planning and Development Act 2000 (Designation of Strategic Development Zone: Poolbeg West, Dublin City) Order 2016* (S.I. No. 279 of 2016)
- *Planning and Development Act 2000 (Designation of Strategic Development Zone: North Quays, Waterford City) Order 2016* (S.I. No. 30 of 2016)
- *Planning and Development Act 2000 (Designation of Strategic Development Zone: Balgaddy-Clonburris, South Dublin County) Order 2015* (S.I. No. 604 of 2015)
- *Housing (Sale of Local Authority Houses) Regulations 2015* (S.I. No. 484 of 2015)
- *Water Services (No. 2) Act 2013 (Other Licences, Authorisations and Permits) Order 2015* (S.I. No. 462 of 2015)
- *Planning and Development (Amendment) (No. 3) Regulations 2015* (S.I. No. 387 of 2015)
- *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015* (S.I. No. 320 of 2015)
- *Planning and Development (Amendment) (No. 2) Regulations 2015* (S.I. No. 310 of 2015)
- *European Union (Environmental Impact Assessment and Habitats) Regulations 2015* (S.I. No. 301 of 2015)
- *Planning and Development (Amendment) Regulations 2015* (S.I. No. 264 of 2015)
- *Local Government Act 1991 (Regional Assemblies) (Establishment) Order 2014* (S.I. No. 573 of 2014)
- *European Union (Environmental Impact Assessment) (Planning and Development) Regulations 2014* (S.I. No. 543 of 2014)
- *Local Government (Performance of Reserved Functions in Respect of Municipal District Members) Regulations 2014* (S.I. No. 231 of 2014)
- *Planning and Development (Amendment) (No. 2) Regulations 2013* (S.I. No. 520 of 2013)
- *European Union (Environmental Impact Assessment) (Waste) Regulations 2013* (S.I. No. 505 of 2013)
- *European Union (Environmental Impact Assessment and Habitats) (Section 181 of the Planning and Development Act 2000) Regulations 2013* (S.I. No. 403 of 2013)
- *Planning and Development (Amendment) Regulations 2013* (S.I. No. 219 of 2013)

- *Occupational Pension Schemes (Funding Standard) (Amendment) Regulations 2013* (S.I. No. 135 of 2013)
- *Planning and Development Act 2000 (Designation of Strategic Development Zone: North Lotts and Grand Canal Dock) Order 2012* (S.I. No. 530 of 2012)
- *European Union (Environmental Impact Assessment) (Integrated Pollution Prevention and Control) (No. 2) Regulations 2012* (S.I. No. 457 of 2012)
- *European Union (Environmental Impact Assessment) (Planning and Development Act, 2000) Regulations 2012* (S.I. No. 419 of 2012)
- *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012)
- *European Union (Environmental Impact Assessment) (Integrated Pollution Prevention and Control) Regulations 2012* (S.I. No. 282 of 2012)
- *European Union (Environmental Impact Assessment and Habitats) Regulations 2012* (S.I. No. 246 of 2012)
- *Planning and Development (Amendment) Regulations 2012* (S.I. No. 116 of 2012)
- *European Union (Substitute Consent) Regulations 2011* (S.I. No. 609 of 2011)
- *European Union (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2011* (S.I. No. 584 of 2011)
- *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011)
- *European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011* (S.I. No. 335 of 2011)
- *Planning and Development (Amendment) Regulations 2011* (S.I. No. 262 of 2011)
- *Planning and Development Act 2000 (Strategic Development Zone) (Amendment) Order 2011* (S.I. No. 243 of 2011)
- *Tourism, Culture and Sport (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 220 of 2011)
- *Planning and Development (Strategic Environmental Assessment) (Amendment) Regulations 2011* (S.I. No. 201 of 2011)
- *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 192 of 2011)
- *Planning and Development Act 2000 (Strategic Development Zone) Order 2010* (S.I. No. 678 of 2010)
- *Planning and Development Act 2000 (Strategic Development Zone) (No. 2) Order 2010* (S.I. No. 540 of 2010)
- *Planning and Development Act 2000 (Strategic Development Zone: Cherrywood, Dún Laoghaire-Rathdown County) Order 2010* (S.I. No. 535 of 2010)
- *Planning and Development Regulations 2010* (S.I. No. 406 of 2010)
- *European Communities (Public Participation) Regulations 2010* (S.I. No. 352 of 2010)
- *Planning and Development (Regional Planning Guidelines) Regulations 2009* (S.I. No. 100 of 2009)
- *Planning and Development (Amendment) Regulations 2008* (S.I. No. 256 of 2008)
- *Planning and Development Regulations 2008* (S.I. No. 235 of 2008)
- *Waste Water Discharge (Authorisation) Regulations 2007* (S.I. No. 684 of 2007)
- *Planning and Development Act 2000 (Certification of Fairground Equipment) (Amendment) Regulations 2007* (S.I. No. 590 of 2007)
- *Planning and Development (No. 2) Regulations 2007* (S.I. No. 135 of 2007)
- *European Communities (Access to Information on the Environment) Regulations 2007* (S.I. No. 133 of 2007)
- *Planning and Development Regulations 2007* (S.I. No. 83 of 2007)
- *Planning and Development Regulations 2006* (S.I. No. 685 of 2006)
- *European Communities (Environmental Impact Assessment) (Amendment) Regulations 2006* (S.I. No. 659 of 2006)
- *Planning and Development Act 2000 (Designation of Strategic Development Zone: Balgaddy-Clonburris, South Dublin County) Order 2006* (S.I. No. 442 of 2006)
- *Planning and Development Regulations 2005* (S.I. No. 364 of 2005)
- *Planning and Development (Strategic Environmental Assessment) Regulations 2004* (S.I. No. 436 of 2004)
- *European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004* (S.I. No. 435 of 2004)
- *Planning and Development Act 2000 (Commencement) Order 2003* (S.I. No. 450 of 2003)
- *Planning and Development Act, 2000 (Certification of Fairground Equipment) Regulations 2003* (S.I. No. 449 of 2003)

- *European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations 2003* (S.I. No. 306 of 2003)
- *Planning and Development (Regional Planning Guidelines) Regulations 2003* (S.I. No. 175 of 2003)
- *Planning and Development Regulations 2003* (S.I. No. 90 of 2003)
- *National Monuments (Transfer of Departmental Administration and Ministerial Functions) Order 2002* (S.I. No. 358 of 2002)
- *Heritage (Transfer of Departmental Administration and Ministerial Functions) Order 2002* (S.I. No. 356 of 2002)
- *Arts, Heritage, Gaeltacht and The Islands (Alteration of Name of Department and Title of Minister) Order 2002* (S.I. No. 308 of 2002)
- *Planning and Development (No. 2) Regulations 2002* (S.I. No. 149 of 2002)
- *Planning and Development Regulations 2002* (S.I. No. 70 of 2002)
- *Planning and Development Regulations 2001* (S.I. No. 600 of 2001)
- *Planning and Development Act 2000 (Commencement) (No. 3) Order 2001* (S.I. No. 599 of 2001)
- *Planning and Development (Appointment of Chairperson and Ordinary Members of an Board Pleanála) Regulations 2001* (S.I. No. 336 of 2001)
- *Planning and Development Act 2000 (Commencement) (No. 2) Order 2001* (S.I. No. 335 of 2001)
- *Planning and Development Act 2000 (Designation of Strategic Development Zone - Clonmagadden Valley, Navan) Order 2001* (S.I. No. 274 of 2001)
- *Planning and Development Act 2000 (Designation of Strategic Development Zone - Hansfield, Blanchardstown) Order 2001* (S.I. No. 273 of 2001)
- *Planning and Development Act 2000 (Designation of Strategic Development Zone - Adamstown, Lucan) Order 2001* (S.I. No. 272 of 2001)
- *Planning and Development (Licensing of Outdoor Events) Regulations 2001* (S.I. No. 154 of 2001)
- *Planning and Development Act 2000 (Commencement) Order 2001* (S.I. No. 153 of 2001)
- *Local Government (Planning and Development) General Policy Directive (Shopping) 1998 (Revocation Order) 2001* (S.I. No. 1 of 2001)
- *Planning and Development (No. 2) Regulations 2000* (S.I. No. 457 of 2000)
- *Planning and Development Act 2000 (Commencement) (No. 2) Order 2000* (S.I. No. 449 of 2000)
- *Planning and Development Regulations 2000* (S.I. No. 350 of 2000)
- *Planning and Development Act 2000 (Commencement) Order 2000* (S.I. No. 349 of 2000)
- *Occupational Pension Schemes (Funding Standard) Regulations 1993* (S.I. No. 419 of 1993)

All statutory instruments up to and including *Planning and Development (Fees for Certain Applications) Regulations 2024* (S.I. No. 226 of 2024), made 17 May 2024, were considered in the preparation of this revision.