Changes to Legislation: as of 11 November 2026, this Act is up to date with all changes known to be in force.

Number 30 *of* 2010

PLANNING AND DEVELOPMENT (AMENDMENT) ACT 2010

REVISED

Updated to 25 January 2019

This Revised Act is an administrative consolidation of the *Planning and Development (Amendment) Act 2010*. 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 *Local Government Act 2019* (1/2019), enacted 25 January 2019, and all statutory instruments up to and including *Planning And Development Act 2000 (Exempted Development) Regulations 2019* (S.I. No. 12 of 2019), made 25 January 2019, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 30 *of* 2010

PLANNING AND DEVELOPMENT (AMENDMENT) ACT 2010

REVISED

Updated to 25 January 2019

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Dublin Transport Authority Act 2008	2008, No. 15
Electricity Regulation Act 1999	1999, No. 23
Environmental Protection Agency Act 1992	1992, No. 7
European Communities Act 1972	1972, No. 27
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Housing (Miscellaneous Provisions) Act 2009	2009, No. 22
Local Government (Planning and Development) Act 1963	1963, No. 28
National Asset Management Agency Act 2009	2009, No. 34
Nursing Homes Support Scheme Act 2009	2009, No. 15
Planning and Development (Amendment) Act 2002	2002, No. 32
Planning and Development (Strategic Infrastructure) Act 2006	2006, No. 27
Planning and Development Act 2000	2000, No. 30
Planning and Development Acts 2000 to 2009	
Protection of the Environment Act 2003	2003, No. 27
Roads Act 1993	1993, No. 14
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Transport (Railway Infrastructure) Act 2001	2001, No. 55
Waste Management Act 1996	1996, No. 10
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Number 30 *of* 2010

PLANNING AND DEVELOPMENT (AMENDMENT) ACT 2010

REVISED

Updated to 25 January 2019

AN ACT TO AMEND AND EXTEND THE PLANNING AND DEVELOPMENT ACT 2000, TO AMEND THE TRANSPORT (RAILWAY INFRASTRUCTURE) ACT 2001, AND TO PROVIDE FOR RELATED MATTERS.

[26*th July*, 2010]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Preliminary and General

Short title, collective citation, construction and commencement.

1.— (1) This Act may be cited as the Planning and Development (Amendment) Act 2010.

(2) The Planning and Development Acts 2000 to 2009 and this Act (other than *Part 3*) may be cited together as the Planning and Development Acts 2000 to 2010 and shall be read together as one.

(3) 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 appointed for different purposes and different provisions.

Annotations

Editorial Notes:

E1 Power pursuant to section exercised (15.11.2011) by *Planning and Development (Amendment) Act 2010 (Commencement) (No. 3) Order 2011* (S.I. No. 582 of 2011).

2. The 15 day of November 2011 is appointed as the day on which the following provisions of the Planning and Development (Amendment) Act 2010 (No. 30 of 2010) come into operation:
(a) section 74(a) to (d);
(b) section 75.

E2 Power pursuant to section exercised (21.09.2011) by *Planning and Development (Amendment) Act 2010 (Commencement) (No. 2) Order 2011* (S.I. No. 475 of 2011).

2. The 21st day of September 2011 is appointed as the day on which the following provisions of the Planning and Development (Amendment) Act 2010 come into operation:

(a) section 6;
(b) section 10(f);
(c) section 12(d);
(d) section 14(c);
(e) section 23(b);
(f) section 50(c);
(g) section 57;
(h) section 62;
(i) sections 79 and 80.

E3 Power pursuant to section exercised (23.03.2011) by *Planning and Development (Amendment) Act 2010 (Commencement) Order 2011* (S.I. No. 132 of 2011).

2. The 23rd day of March 2011 is appointed as the day on which the following provisions of the Planning and Development (Amendment) Act 2010 (No. 30 of 2010) come into operation—
(a) section 23(a),
(b) section 23(c),
(c) section 41(a),
(d) section 41(b), and
(e) section 49.

E4 Power pursuant to section exercised (30.11.2010 and 5.10.2010) by *Planning and Development (Amendment) Act 2010 (Commencement) (No. 3) Order 2010* (S.I. No. 477 of 2010).

2. The 5th of October 2010 is appointed as the day on which the following provisions of the Planning and Development (Amendment) Act 2010 (No. 30 of 2010) come into operation:
(i) sections 7, 8, 9, paragraphs (a) to (e) of section 10, section 11, paragraphs (a) to (c) of section 12, section 13, paragraphs (a) and (b) of section 14 and sections 15, 16;
(ii) sections 20, 21 and 22;
(iii) sections 24 and 25;
(iv) section 27;
(v) sections 30 and 31;
(vi) section 34;
(vii) section 39;
(viii) section 40 and paragraph (c) of section 41;
(ix) sections 44 and 45;
(x) paragraphs (a) and (b) of section 50;
(xi) section 51;
(xii) section 59;
(xiii) paragraphs (a), (e) and (f) of section 65;
(xiv) section 67;
(xv) section 72;
(xvi) sections 77 and 78.

3. The 30th of November 2010 is appointed as the day on which sections 17, 18 and 19 of the Planning and Development (Amendment) Act 2010 (No. 30 of 2010) come into operation.

E5 Power pursuant to section exercised (28.09.2010) by *Planning and Development (Amendment) Act 2010 (Commencement) (No. 2) Order 2010* (S.I. No. 451 of 2010).

2. The 28th of September 2010 is appointed as the day on which sections 32 and 33 of the Planning and Development (Amendment) Act 2010 (No. 30 of 2010) come into operation.

E6 Power pursuant to section exercised (19.08.2010) by *Planning and Development (Amendment) Act 2010 (Commencement) Order 2010* (S.I. No. 405 of 2010).

2. The 19th of August 2010 is appointed as the day on which the following provisions of the Planning and Development (Amendment) Act 2010 (No. 30 of 2010) come into operation:
(a) sections 1, 2, 3 and 4;
(b) sections 26, 28 and 29;
(c) section 37;
(d) sections 42 and 46;
(e) sections 53, 54, 55 and 56;
(f) sections 58, 64, 66 and 68;

(g) sections 70, 71 and 73;
(h) section 81.

Definitions.

2.— In this Act—

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

"Act of 2002" means the Planning and Development (Amendment) Act 2002;

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

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

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

"Principal Act" means the Planning and Development Act 2000.

PART 2

Amendment of Principal Act

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

3.— The Principal Act is amended by the insertion of the following new section after section 1:

"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

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

[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

[4] O.J. No. L327, 22.12.2000 p. 1

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".

Amendment of section 2 of Principal Act.

4.— Section 2(1) of the Principal Act is amended—

(*a*) by the deletion of the definition of "Council Directive";

(*b*) by the substitution of—

(i) the following for the definition of "the Birds Directive":

" '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;",

(ii) the following for the definition of "European Site":

" 'European site' has the meaning given to it by section 177R of Part XAB;",

(iii) the following for the definition of "Habitats Directive":

" '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

[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

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

[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, 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 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;",

(iv) the following for the definition of "Major Accidents Directive":

" '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];",

(v) the following for the definition of "planning application":

" '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;";

(*c*) by the insertion of the following definitions:

" '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*;

'adaptation to climate change' means the taking of measures to manage the impacts of climate change;

'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;

'anthropogenic' in relation to greenhouse gas emissions means those emissions that result from or are produced by human activity or intervention;

'appropriate assessment' shall be construed in accordance with section 177R;

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

'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;

[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

[16] O.J. No. L10, 14.1.1997 p. 13

[17] O.J.No. L345, 31.12.2003 p.97-105

'environmental impact assessment' has the meaning given to it by section 171A;

'Environmental Impact Assessment Directive' means Council Directive No. 85/337/EEC of 27 June 1985 [18] on the assessment of the effects of certain public and private projects on the environment amended by Council Directive 97/11/EC of 3 March 1997 [19], Directive 2003/35/EC [20] of the European Parliament and of the Council of 26 May 2003 and Directive 2009/31/EC [21] of the European Parliament and of the Council of 23 April 2009;

'flood risk assessment' means an assessment of the likelihood of flooding, the potential consequences arising and measures, if any, necessary to manage those consequences;

'housing strategy' means a strategy included in a development plan under section 94;

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

'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;

'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*);

'strategic development zone' has the meaning given to it by section 165;

'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;

'substitute consent' has the meaning given to it by section 177A;".

Amendment of section 4 of Principal Act.

5.— F1**[**...**]**

Annotations

Amendments:

F1 Repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. 474 of 2011.

[18] O.J. L175, 5.7.1985 p. 40

[19] O.J. L 73, 14.3.1997 p. 5

[20] O.J. L156, 25.6.2003 p. 17

[21] O.J. L140, 5.6.2009 p. 114

Amendment of section 7 of Principal Act.

6.— Section 7(2) of the Principal Act is amended—

(*a*) by the substitution of the following paragraph for paragraph (*a*):

"(*a*) particulars of any application made to it under this Act for permission for development, for retention of development, for substitute consent including for leave to apply for substitute consent, 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),",

(*b*) by the substitution of the following paragraphs for paragraph (*b*):

"(*b*) where an environmental impact statement, remedial environmental impact statement, Natura impact statement or remedial Natura impact statement was submitted in respect of an application, an indication of this fact,

(*bb*) where applicable, the outcome of—

(i) a determination as to whether an environmental impact assessment is required, or

(ii) screening for appropriate assessment,",

(*c*) by the insertion of the following paragraph after paragraph (*s*):

"(*sa*) particulars of any enforcement notice issued under section 177O;",

(*d*) by the insertion of the following paragraph after paragraph (*x*):

"(*xa*) particulars of any notice given under section 177B, decision of the Board under section 177D, or 177K, or direction served under section 177J or 177L,".

Amendment of section 10 of Principal Act.

7.— Section 10 of the Principal Act is amended—

(*a*) by the insertion of the following subsections after subsection (1):

"(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 National Spatial Strategy and regional planning guidelines.

(1B) A planning authority shall prepare a core strategy, other than where subsection (1C) applies, as soon as practicable and in any event not later than a period of one year after the making of regional planning guidelines under Chapter III which affect the area of the development plan, and shall accordingly vary the development plan under section 13 to include the core strategy.

(1C) Where a period of more than 4 years has expired since the making of the development plan when regional planning guidelines under Chapter III which affect the area of the development plan are made, the planning authority shall prepare a core strategy for inclusion in the new development plan under section 11 and 12.

(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.",

(*b*) in subsection (2)—

(i) by the insertion of the following paragraphs after paragraph (*c*):

"(*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);",

(ii) by the substitution of the following paragraphs for paragraphs (*l*) and (*m*):

"(*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,

(ii) reduce anthropogenic greenhouse gas emissions, and

(iii) address the necessity of adaptation to climate change;

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.",

(*c*) by the insertion of the following subsections after subsection (2):

"(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 National Spatial Strategy and regional planning guidelines,

(*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 National Spatial Strategy,

(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,

(*g*) in respect of the development plan of a city or a town council, provide details of—

(i) the city or town 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 or town centre.

(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 National Spatial Strategy,

(*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 regional planning guidelines 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.",

(*d*) by the insertion of the following new subsection after subsection (5):

"(5A) Where required, a strategic environmental assessment or an appropriate assessment of a draft development plan shall be carried out.",

and

(*e*) by the insertion of the following new subsections after subsection (8):

"(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

Modifications (not altering text):

C1 Certain references construed (1.05.2014) by *Local Government Reform Act 2014* (1/2014), ss. 9(2)(3) and 25(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.

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

(a) to the administrative area of a county council or the administrative area of a city council shall, if the context permits, be read as a reference to the administrative area of a county council, the administrative area of a city council or the administrative area of a city and county council, and

(b) to the administrative area of a county council and the administrative area of a city council shall, if the context permits, be read as a reference to the administrative area of a county council, the administrative area of a city council and the administrative area of 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.

...

Amendment of section 11 of Principal Act.

8.— Section 11 of the Principal Act is amended—

(*a*) by the insertion of the following subsection after subsection (1):

"(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.",

(*b*) in subsection (2) by the substitution of the following paragraphs for paragraph (*b*):

"(*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*) in subsection (4)—

(i) in paragraph (*b*), by the substitution of the following subparagraph for subparagraph (ii):

"(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.",

(ii) by the insertion after paragraph (*bb*) (inserted by section 83 of the Act of 2008) of the following paragraph:

"(*bc*) A report under paragraph (*a*) shall summarise the issues raised and recommendations made by the relevant regional authority in a report prepared in accordance with section 27A (inserted by *section 17* of the *Act of 2010*) and outline the recommendations of the manager in relation to the manner in which those issues and recommendations should be addressed in the draft development plan.",

(iii) in paragraph (*d*), by the substitution of "and any such directions shall be strategic in nature, consistent with the draft core strategy, and shall take account of" for "and any such directions must take account of".

Amendment of section 12 of Principal Act.

9.— Section 12 of the Principal Act is amended—

(*a*) in subsection (1)(*a*), by the substitution of "the Board, the relevant regional authority, the prescribed authorities" for "the Board, the prescribed authorities",

(*b*) in subsection (4)—

(i) in paragraph (*b*), by the substitution of the following subparagraph for subparagraph (ii):

"(ii) summarise the following from the submissions or observations made under this section:

(I) issues raised by the Minister; and

(II) thereafter, issues raised by other bodies or persons,",

(ii) by the insertion of the following paragraph after paragraph (*bb*) (inserted by section 84 of the Act of 2008):

"(*bc*) A report under paragraph (*a*) shall summarise the issues raised and recommendations made by the relevant regional authority 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 manager in relation to the manner in which those issues and recommendations should be addressed in the development plan.",

(*c*) by the insertion of the following paragraph after subsection (5)(*a*):

"(*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 made to the authority under this section or from a regional authority 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 the Minister or regional authority, as the case may be, as soon as practicable by notice in writing which notice shall contain reasons for the decision.",

(*d*) in subsection (7)—

(i) by the substitution of the following for subsection (7)(*a*):

"(*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, the Board and the prescribed authorities.",

(ii) by the insertion of the following paragraphs after paragraph (*a*) of subsection (7):

"(*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 manager, 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 manager.",

(iii) in paragraph (*b*), by the substitution of "A notice under paragraph (*a*) or (*ac*) (inserted by *section 9* of the *Act of 2010*)" for "A notice under paragraph (*a*)",

(*e*) in subsection (10)—

(i) by the substitution of the following paragraph for paragraph (*a*):

"(*a*) The members of the authority shall, by resolution, having considered the manager'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.";

and

(ii) by the insertion of the following paragraph after paragraph (*b*):

"(*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.",

and

(*f*) by the substitution of the following for subsection (14):

"(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 manager 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 manager.

(*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 manager as being required to facilitate an assessment referred to in subsection (7)(*aa*).".

Amendment of section 13 of Principal Act.

10.— Section 13 of the Principal Act is amended—

(*a*) in subsection (2)(*a*) by the substitution of "the Board, the relevant regional authority, and, where appropriate," for "the Board and, where appropriate",

(*b*) in subsection (4)—

(i) in paragraph (*b*), by the substitution of the following subparagraph for subparagraph (ii):

"(ii) summarise the following from the submissions or observations made under this section:

(I) issues raised by the Minister, and

(II) thereafter, issues raised by other bodies or persons,",

(ii) by the insertion of the following paragraph after paragraph (*bb*) (inserted by section 85 of the Act of 2008):

"(*bc*) A report under paragraph (*a*) shall summarise the issues raised and recommendations made by the relevant regional

authority 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 manager in relation to the manner in which those issues and recommendations should be addressed in the development plan.",

(*c*) by the insertion of the following paragraph after subsection (5)(*a*):

"(*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 made to the authority under this section or from a regional authority 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 or regional authority, as the case may be, as soon as practicable by notice in writing which notice shall contain reasons for the decision.",

(*d*) in subsection (6)—

(i) by the substitution of the following paragraphs for paragraph (*a*):

"(*a*) Subject to paragraphs (*aa*) and (*ae*), the members of the authority, having considered the proposed variation and manager'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 manager 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 manager.",

and

(ii) by the insertion of the following paragraph after paragraph (*b*):

"(*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.",

(*e*) in subsection 8(*c*), by the substitution of "the Board, the relevant regional authority and," for "the Board and",

(*f*) by the insertion of the following new subsection after subsection (12):

"(13) An appropriate assessment of a draft variation of a development plan shall be carried out in accordance with Part XAB.".

Amendment of section 18 of Principal Act.

11.— Section 18 of the Principal Act is amended—

(*a*) in subsection (1), by the substitution of "Subject to section 19(2B) (inserted by *section 12* of the *Act of 2010*) a planning authority may at any time" for "A planning authority may at any time", and

(*b*) in subsection (5), by the substitution of "Subject to section 19(2B) (inserted by *section 12* of the *Act of 2010*) a planning authority may at any time" for "A planning authority may at any time".

Amendment of section 19 of Principal Act.

12.— Section 19 of the Principal Act is amended—

(*a*) in subsection (1)—

(i) by the substitution, in paragraph (*b*)(ii) of "5,000" for "2,000",

(ii) by the insertion of the following paragraph after paragraph (*b*):

"(*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).",

and

(iii) by the substitution of the following paragraphs for paragraph (*c*):

"(*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 manager 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 manager—

(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.",

(*b*) in subsection (2) (amended by section 8 of the Act of 2002)—

(i) by the insertion of ", its core strategy, and any regional planning guidelines that apply to the area of the plan" after "objectives of the development plan", and

(ii) by the insertion in paragraph (*b*) of "the objective of development of land on a phased basis and," after "the area to which it applies, including",

(*c*) by the insertion of the following subsection after subsection (2A) (inserted by section 86 of the Act of 2008):

"(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.",

and

(*d*) by the insertion of the following subsections after subsection (4) (inserted by Regulation 6 of the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004):

"(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.".

Amendment of section 20 of Principal Act.

13.— Section 20 of the Principal Act is amended—

(*a*) in subsection (1) by the substitution of "consult the Minister and the public before" for "consult the public before",

(*b*) in subsection (3) (amended by section 9 of the Act of 2002):

(i) in paragraph (*a*)(i) by the substitution of "plan to the Minister, the Board" for "plan to the Board",

(ii) in paragraph (*b*), by the insertion of the following subparagraph after subparagraph (iii):

"(iv) that children, or groups or associations representing the interests of children, are entitled to make submissions or observations under subparagraph (iii).",

(iii) by the substitution of the following for subparagraph (I) of paragraph (*d*)(ii):

"(I) subject to paragraphs (*e*) to (*r*), decides to make or amend the plan otherwise than as recommended in the manager's report, or",

and

(iv) by the substitution of the following for paragraphs (*e*), (*f*), (*g*), (*h*) and (*i*):

"(*e*) Where, following consideration of the manager'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, 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 manager 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 manager.

(*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.

(*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 manager under paragraph (*g*), the manager 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.

(*l*) A report under paragraph (*k*) shall—

(i) list the persons who made submissions or observations under paragraph (*j*)(ii),

(ii) summarise the issues raised by the persons in the submissions or observations,

(iii) contain the opinion of the manager 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 manager under paragraph (*k*).

(*n*) Following consideration of the manager'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.",

and

(*c*) by the insertion of the following subsection after subsection (4):

"(4A) A local area plan made under this section shall have effect 4 weeks from the day that it is made.".

Amendment of section 23 of Principal Act.

14.— Section 23 of the Principal Act is amended—

(*a*) in subsection (1) by the substitution of the following paragraph for paragraph (*a*):

"(1) (*a*) The objective of regional planning guidelines shall be to support the implementation of the National Spatial Strategy by providing a long-term strategic planning framework for the development of the region for which the guidelines are prepared which shall be consistent with the National Spatial Strategy.",

(*b*) in subsection (2)—

(i) by the substitution of the following paragraph for paragraph (*a*):

"(*a*) any policies or objectives for the time being of the Government or any Minister for the Government, or any policies contained in the National Spatial Strategy in relation to national and regional population targets;",

and

(ii) by the substitution of the following paragraphs for paragraph (*j*):

"(*j*) 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;

(*k*) 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;

(*l*) such other matters as may be prescribed.",

and

(*c*) by the insertion of the following subsection after subsection (3):

"(3A) An appropriate assessment of draft regional planning guidelines shall be carried out in accordance with Part XAB.".

Amendment of section 24 of Principal Act.

15.— Section 24 of the Principal Act is amended by the substitution of the following subsections for subsection (6):

"(6) (*a*) Subject to paragraphs (*b*) and (*e*), following consideration of submissions or observations under subsection (5), and subject to section 25, the regional authority shall, subject to any amendments that it considers necessary, make the regional planning guidelines.

(*b*) The regional 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 amendment of the draft regional planning guidelines.

(*c*) The director of the regional authority, 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 authority 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 authority 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 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 amendment or an assessment referred to in paragraph (*b*) and made to the regional authority within a stated period shall be taken into account by the authority before the regional planning guidelines are adopted.

(*f*) The regional authority shall carry out an assessment referred to in paragraph (*b*) of the proposed material amendment of the draft regional planning guidelines within the period specified by the director of the regional authority.

(6A) Following the consideration of submissions or observations under subsection (6), and subject to section 25, the regional authority shall make the regional planning guidelines with or without the proposed material amendments, subject to any minor modifications considered necessary.

(6B) A minor modification referred to in subsection (6A) 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.".

Amendment of section 27 of Principal Act.

16.— Section 27 of the Principal Act is amended—

(*a*) by the substitution of the following subsection for subsection (1):

"(1) A planning authority shall ensure, when making a development plan or a local area plan, that the plan is consistent with any regional planning guidelines in force for its area.",

and

(*b*) by the insertion of the following subsection after subsection (5):

"(6) The Minister may make regulations concerning matters of procedure and administration to be adopted by a regional authority 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.".

Report of regional authority for preparation of draft development plan.

17.— The Principal Act is amended by the insertion of the following section after section 27:

"27A.— (1) Where a regional authority 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 authority under section 11(2) shall contain a report on matters that, in the opinion of the regional authority, require consideration by the planning authority concerned in making the development plan.

(3) The submissions or observations and report of the regional authority 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 planning guidelines, 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 balanced regional development;

(*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 authority 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 authorities, who have been directed by the Minister to make regional planning guidelines for the purpose of section 21(3) in relation to a combined area of the regional authorities or in respect of any particular part or parts of the area which lie within the area of those regional authorities, 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.".

Role of regional authority in making of development plan.

18.— The Principal Act is amended by the insertion of the following section after section 27A (inserted by *section 17*):

"27B.— (1) Where a regional authority 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 authority under subsection (1) shall contain a report which shall state whether, in the opinion of that authority, the draft development plan, and, in particular, its core strategy, are consistent with the regional planning guidelines in force for the area of the development plan.

(3) Where the opinion of the regional authority 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 planning guidelines, the submissions, observations and report shall include recommendations as to what amendments, in the opinion of the regional authority, are required in order to ensure that the draft development plan and its core strategy are so consistent.

(4) The regional authority shall send a copy of the submission or observations and the report to the Minister.

(5) One or more regional authorities, who have been directed by the Minister to make regional planning guidelines for the purpose of section 21(3) in relation to a combined area of the regional authorities or in respect of any particular part or parts of the area which lie within the area of those regional authorities, 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.".

Role of regional authority in variation of development plan.

19.— The Principal Act is amended by the insertion of the following section after section 27B (inserted by *section 18*):

"27C.— (1) Where a regional authority 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 authority under subsection (1) shall contain a report which shall state whether, in the opinion of that authority, the draft variation of the development plan, and, in particular, its core strategy, are consistent with the regional planning guidelines in force for the area of the development plan.

(3) Where the opinion of the regional authority 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 planning guidelines, the submissions and observations and report shall include recommendations as to what amendments, in the opinion of the regional authority, are required in order to ensure that the proposed variation to the development plan and its core strategy are so consistent.

(4) The regional authority shall send a copy of the report to the Minister.

(5) One or more regional authorities, who have been directed by the Minister to make regional planning guidelines for the purpose of section 21(3) in relation to a combined area of the regional authorities or in respect of any particular part or parts of the area which lie within the area of those regional authorities, 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.".

Amendment of section 28 of Principal Act.

20.— Section 28 of the Principal Act is amended by the insertion of the following subsections after subsection (1):

"(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.".

Ministerial directions regarding development plans, variation of development plans and local area plans.

21.— The Principal Act is amended by the substitution of the following section for section 31:

"31.— (1) Where the Minister is of the opinion that—

(*a*) a planning authority, in making a development plan, a variation of a development plan, or a local area plan (in this section referred to as a 'plan') has ignored, or has not taken sufficient account of submissions or observations made by the Minister to the planning authority under section 12, 13 or 20,

(*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,

(*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,

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 Manager 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.

(3) Before he or she issues a direction under this section, the Minister shall issue a notice in writing to a planning authority no later than 4 weeks after a plan is made.

(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, in the case of a plan, 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.

(5) The Minister shall furnish a copy of the notice referred to in subsection (3) to the manager and Cathaoirleach of the planning authority, where there are regional planning guidelines in force for the area of the planning authority, to the regional planning authority concerned and, where relevant, to the Dublin 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 manager 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

(*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 Minister before he or she directs the planning authority pursuant to this section.

(8) No later than 4 weeks after the expiry of the period referred to in subsection (7)(*b*), the manager shall prepare a report on any submissions or observations

received under subsection (7)(*c*) which shall be furnished to the Minister and the elected members of the planning authority.

(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 regional authority,

(*d*) make recommendations in relation to the best manner in which to give effect to the draft direction.

(10) The elected members of the planning authority may make a submission to the Minister in relation to the notice issued by him or her under subsection (3) at any time up to the expiry of the period of time referred to in subsection (7)(*b*).

(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 manager and elected members of the planning authority,

(*c*) may consult with the regional authority and 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 manager and elected members of the planning authority, the regional authority 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 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.

(20) The Minister shall publish or cause to be published in such manner as he or she considers appropriate directions issued under subsection (16).".

Amendment of section 31A of Principal Act.

22.— The Principal Act is amended by the substitution of the following for section 31A (inserted by section 93 of the Act of 2008):

"31A.— (1) Where the Minister is of the opinion that—

(*a*) a regional authority, or authorities, as the case may be, in making the regional planning guidelines has ignored, or has not taken sufficient account of submissions or observations made by the Minister to the regional authority or authorities under section 24 or 26,

(*b*) the regional planning guidelines fail to provide a 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*) the regional planning guidelines are not in compliance with the requirements of this Act, or

(*d*) if applicable, in relation to a regional authority or authorities 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 authority or authorities, 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 authority or regional authorities, as the case may be, notwithstanding anything contained in Chapter III of this Part, shall comply with that direction and the Manager 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 authority or regional authorities, as the case may be, no later than 4 weeks after the guidelines are made.

(4) The notice referred to in subsection (3) shall, for stated reasons, inform the regional authority or regional authorities, 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 authority, or authorities, as the case may be, to take certain measures specified in the notice in order to ensure that the regional planning guidelines are in compliance with the requirements of this Act and to provide a long-term strategic planning 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,

(*c*) the part of the regional planning guidelines 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 authority or authorities, 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 authority, or authorities, as the case may be, and the National Transport Authority.

(6) (*a*) Notwithstanding anything contained in Chapter III, or any matter prescribed thereunder, regional planning guidelines shall not have effect in accordance with that Chapter in relation to a matter contained in the guidelines which is referred to in a notice under subsection (3).

(*b*) If a part of guidelines proposed to be replaced under section 26 contains a matter that corresponds to any matter contained in those guidelines which are 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 authority, or authorities, as the case may be, shall publish notice of the draft direction in at least one newspaper circulating in the area of the regional authority, or authorities, 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 authority, or authorities, as the case may be, during such period and shall be taken into consideration by the Minister before he or she directs the regional authority, or authorities, 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 authority, or authorities, 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 authority, or authorities, as the case may be,

(*b*) summarise the views of and recommendations (if any) made by the members of the regional authority, or authorities, as the case may be,

(*c*) make recommendations in relation to the best manner in which to give effect to the draft direction.

(10) The members of the regional authority, or authorities, as the case may be, may make a submission to the Minister in relation to the notice issued by him or her under subsection (3) at any time up to the expiry of the period of time referred to in subsection (7)(*b*).

(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 authority, or authorities, 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 authority, or authorities, 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 planning guidelines, or, if appropriate, to constitute the guidelines.

(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 authority or authorities, 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.

(20) The Minister shall publish or cause to be published in such manner as he or she considers appropriate directions issued under subsection (16).".

Amendment of section 34 of Principal Act.

23.— Section 34 of the Principal Act is amended—

(*a*) in subsection (6)—

(i) by the substitution of "concerned would contravene materially the development plan or local area plan" for "concerned would contravene materially the development plan",

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

"(ii) copies of the notice shall be given to each of the following—

(I) the applicant,

(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) in subparagraph (iii) by the substitution of "authority" for "authority, and", and

(iv) by the insertion of the following subparagraph after subparagraph (iii):

"(iii*a*) not later than 6 weeks from the publication of the notice under subparagraph (i), the manager shall prepare a report for the planning authority advising the authority of his or her opinion regarding the compliance or otherwise of the proposed development under 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 planning guidelines and the report shall be considered by the authority before a resolution is passed under subparagraph (iv), and",

(*b*) in subsection (8)—

(i) by the substitution of the following for paragraphs (*b*) and (*c*):

"(*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) if 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 environmental impact statement 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) if 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,",

and

(ii) by the substitution of the following for paragraph (*f*):

"(*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.",

(*c*) by the substitution of the following subsections for subsection (12):

"(12) A planning authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required that one or more than one of the following was carried out—

(*a*) an environmental impact assessment,

(*b*) a determination as to whether an environmental impact assessment is required, or

(*c*) an appropriate assessment.

(12A) For the purposes of subsection (12), if an application for permission had been made in respect of the following development before it was commenced, the application shall be deemed not to have required a determination referred to at subsection (12)(*b*):

(*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.".

Amendment of section 35 of Principal Act.

24.— Section 35 of the Principal Act is amended—

(*a*) by the substitution of the following subsection for subsection (1):

"(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.",

(*b*) by the substitution of the following subsection for subsection (4) (inserted by section 9 of the Act of 2006):

"(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)).",

(*c*) in subsection (7)—

(i) in paragraph (*b*) by the substitution of "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,", for "carried out a development referred to in subsection (1)(*b*),",

(ii) in paragraph (*c*)(i) by the substitution of "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," for "carried out a development referred to in subsection (1)(*b*),", and

(iii) in paragraph (*d*), by the substitution of "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," for "carried out a development referred to in subsection (1)(*b*),".

Amendment of section 37A of Principal Act.

25.— Section 37A (inserted by section 3 of the Act of 2006) of the Principal Act is amended by the insertion of the following subsection after subsection (3):

"(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*).".

Amendment of section 37H of Principal Act.

26.— Section 37H(2) (inserted by section 3 of the Act of 2006) of the Principal Act is amended by the substitution of the following paragraph for paragraph (*c*):

"(*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).".

Amendment of section 38 of Principal Act.

27.— Section 38 of the Principal Act is amended—

(*a*) in subsection (1), by the substitution of "at the offices of the authority and may also be made available by the authority by placing the documents on the authority's website or otherwise in electronic form" for "at the offices of the authority",

(*b*) by the insertion of the following subsection after subsection (1):

"(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.",

and

(*c*) in subsection (3) by the substitution of "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 documents on the authority's website or otherwise in electronic form." for "at the office hours of the authority from as soon as may be after receipt of the document until a decision is made on the application.".

Power to extend appropriate period.

28.— The Principal Act is amended by the substitution of the following section for section 42:

"42.— (1) On application to it in that behalf 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:

(*a*) either—

(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) substantial works were carried out pursuant to the permission during that period, and

(III) the development will be completed within a reasonable time,

or

(ii) the authority is satisfied—

(I) that there were considerations of a commercial, economic or technical nature beyond the control of the applicant which substantially militated against either the commencement of development or the carrying out of substantial works pursuant to the planning permission,

(II) that there have been no significant changes in the development objectives in the development plan or in regional development objectives in the regional planning guidelines for the area of the planning authority since the date of the permission such that the development would no longer be consistent with the proper planning and sustainable development of the area,

(III) that the development would not be inconsistent with the proper planning and sustainable development of the area having regard to any guidelines issued by the Minister under section 28, notwithstanding that they were so issued after the date of the grant of permission in relation to which an application is made under this section, and

(IV) where the development has not commenced, that an environmental impact assessment, or an appropriate assessment, or both of those assessments, if required, was or were carried out before the permission was granted.

(*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.

(4) A decision to extend an appropriate period shall be made once and once only under this section and a planning authority shall not further extend the appropriate period.

(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.".

Amendment of section 42A of Principal Act.

29.— Section 42A of the Principal Act (inserted by section 238 of the National Asset Management Agency Act 2009) is amended as follows:

(*a*) by the substitution of the following for subsection (1):

"(1) On application to it in that behalf 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:

(*a*) either—

(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) substantial works were carried out pursuant to the permission during that period, and

(III) the development will be completed within a reasonable time,

or

(ii) the authority is satisfied—

(I) that there were considerations of a commercial, economic or technical nature beyond the control of the applicant which substantially militated against either the commencement of development or the

carrying out of substantial works pursuant to the planning permission,

(II) that there have been no significant changes in the development objectives in the development plan or in regional development objectives in the regional planning guidelines for the area of the planning authority since the date of the permission such that the development would no longer be consistent with the proper planning and sustainable development of the area,

(III) that the development would not be inconsistent with the proper planning and sustainable development of the area having regard to any guidelines issued by the Minister under section 28, notwithstanding that they were so issued after the date of the grant of permission in relation to which an application is made under this section, and

(IV) where the development has not commenced, that an environmental impact assessment, or an appropriate assessment, or both of those assessments, if required, was or were carried out before the permission was granted,

(*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.",

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

"(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*).",

(*c*) by the insertion of the following after subsection (7):

"(8) 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.".

Amendment of section 48 of Principal Act.

30.— Section 48 of the Principal Act is amended—

(*a*) in subsection (12)(*b*), by the substitution of the following subparagraphs for subparagraphs (i) and (ii)—

"(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",

(*b*) in subsection (17)—

(i) in paragraph (*c*) by the substitution of "service connections, watermains and flood relief work" for "drains and watermains",

(ii) by the substitution of the following paragraphs for paragraphs (*e*) and (*f*):

"(*e*) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, sewers, waste water and water treatment facilities, service connections or watermains,

(*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*).".

Amendment of section 49 of Principal Act.

31.— Section 49 of the Principal Act is amended—

(*a*) by the substitution of the following subsections for subsection (1)—

"(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.",

(*b*) by the insertion of the following new subsection after subsection (3):

"(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.",

and

(*c*) in subsection (7) by the substitution of the following paragraphs for paragraph (*c*)—

"(*c*) the provision of particular new sewers, waste water and water treatment facilities, service connections or watermains and ancillary infrastructure,

(*d*) the provision of new schools and ancillary infrastructure.".

Amendment of section 50A of Principal Act.

32.— Section 50A of the Principal Act is amended by the substitution of the following subsection for subsection (2):

"(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.".

Costs in environmental matters.

33.— The Principal Act is amended by the insertion of the following new section after section 50A:

"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, or

(iii) any failure to take any action,

pursuant to a law of the State 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 applies; 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*).

(2) Notwithstanding anything contained in Order 99 of the Rules of the Superior Courts and subject to subsections (3) and (4), in proceedings to which this section applies, each party (including any notice party) shall bear its own costs.

(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.".

Amendment of section 57 of the Principal Act.

34.— Section 57(1) of the Principal Act is amended by the substitution of "Notwithstanding section 4(1)(*a*), (*h*), (*i*), (*j*), (*k*), or (*l*) and any regulations made under section 4(2)," for "Notwithstanding section 4(1)(*h*)".

Amendment of section 82 of Principal Act.

35.— F2**[**...**]**

Annotations

Amendments:

F2 Repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. 474 of 2011.

Amendment of section 87 of Principal Act.

36.— F3**[**...**]**

Annotations

Amendments:

F3 Repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. 474 of 2011.

Amendment of section 93 of Principal Act.

37.— Section 93(1) of the Principal Act is amended by the deletion of the definition of "housing strategy".

Amendment of section 96 of Principal Act.

38.— F4**[**...**]**

Annotations

Amendments:

F4 Repealed (1.09.2015) by *Urban Regeneration and Housing Act 2015* (33/2015), s. 35, S.I. No. 364 of 2015.

Amendment of section 104 of Principal Act.

39.— Section 104 of the Principal Act is amended—

(*a*) in subsection (2)—

(i) by the substitution of "number of applications, appeals" for "number of appeals",

(ii) by the substitution of "under section 37J, 126, 177C, 177E or 221, or section 47E of the Act of 2001" for "under section 126",

(*b*) by the insertion of the following new subsection after subsection (2):

"(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, 177C, 177E or 221, or section 47E of the Act of 2001 or otherwise satisfactorily perform the functions so conferred.",

(*c*) in subsection (4)—

(i) in paragraph (*a*)—

(I) by the substitution of "number of applications, appeals" for "number of appeals",

(II) by the substitution of "the Minister may, subject to paragraphs (*b*) and (*c*)," for "the Minister may, pending the making and approval of an order under subsections (2) and (3) of this section",

(III) by the substitution of "Civil Service Regulation Acts 1956 to 2005" for "Civil Service Regulation Act 2005",

(ii) in paragraph (*b*), by the substitution of "12 months" for "9 months",

(iii) by the insertion of the following paragraph after paragraph (*b*):

"(*c*) The Minister shall appoint not more than 3 persons under this subsection at any one time, and the number of ordinary members appointed under this subsection shall not exceed

one third of the total number of ordinary members at any one time.".

Amendment of section 106 of Principal Act.

40.— Section 106 of the Principal Act is amended in subsection (1), by the substitution of the following for paragraph (*e*):

"(*e*) one member who, in the Minister's opinion, has satisfactory experience, competence or qualifications as respects issues relating to the environment and sustainability.".

Amendment of section 108 of Principal Act.

41.— Section 108 of the Principal Act is amended—

(*a*) by the substitution of the following subsection for subsection (1):

"(1) Subject to subsection (1A) (inserted by *section 41*) a quorum for a meeting of the Board shall be 3.",

(*b*) by the insertion of the following subsections after subsection (1):

"(1A) The Board may determine by resolution, if so requested by the chairperson (or the deputy chairperson if the chairperson is not available or where the office of chairperson is vacant) where he or she is of the opinion that it is necessary to ensure the efficient discharge of the business of the Board, that the quorum for a meeting of the Board, or, notwithstanding section 112(2), a division of the Board referred to in section 112, should be 2.

(1B) The resolution referred to in subsection (1A) shall specify the functions of the Board or division of the Board which may be performed in a meeting with a quorum of 2 and the period of time during which the specified functions may be performed.

(1C) The chairperson or deputy chairperson shall not request a resolution of the Board referred to in subsection (1A) for the purposes of any matter falling to be determined by the Board or division of the Board under this Act in relation to—

(*a*) development that would materially contravene the relevant development plan,

(*b*) strategic infrastructure development, or

(*c*) a development or class of development referred to in regulations made under section 176.

(1D) If, in determining by vote a question at a meeting of the Board or a division of the Board with a quorum of 2, the voting is equally divided, the matter that is the subject of the vote shall be referred to a meeting of the Board with a quorum of 3 and section 111(4) shall apply in relation to the determination of the question.".

(*c*) in subsection (4), by the substitution of "officers of the Minister who are established civil servants for the purposes of the Civil Service Regulation Acts 1956 to 2005" for "officers referred to in section 106(1)(*e*)".

Amendment of section 130 of Principal Act.

42.— Section 130(5) of the Principal Act is amended by the substitution of "which subject to the Environmental Impact Assessment Directive or Transboundary Convention" for "which is subject to the Council Directive or Transboundary Convention".

Amendment of section 135 of Principal Act.

43.— F5**[**...**]**

Annotations

Amendments:

F5 Repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. 474 of 2011.

Amendment of section 144 of Principal Act.

44.— Section 144 of the Principal Act is amended by the substitution of the following subsections for subsection (1):

"(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;

(*b*) an application to the Board for any strategic infrastructure development or an application for leave to appeal under section 37(6)(*a*);

(*c*) an application for a consultation under section 37B, 181C, or 182E or under section 47B of the Act of 2001;

(*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*) an application for leave to apply for substitute consent or an application for substitute consent under Part XA;

(*g*) submission of an environmental impact statement 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;

(*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, 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 section 48(*b*)).

(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.".

Amendment of section 153 of Principal Act.

45.— Section 153 of the Principal Act is amended:

(*a*) in subsection (1), by the insertion of "or make an application under section 160" after "issue an enforcement notice",

(*b*) by the insertion of the following new subsections after subsection (5):

"(6) The planning authority instead of issuing an enforcement notice under this section, may decide to make an application under section 160.

(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 this section or make an application pursuant to section 160 unless there are compelling reasons for not doing so.".

Amendment of section 156 of Principal Act.

46.— Section 156 of the Principal Act is amended—

(*a*) in subsection (1)(*b*) by the substitution of "€5,000" for "£1,500",

(*b*) in subsection (2)(*b*) by the substitution of "€1,500" for "£400",

(*c*) in subsection (3)(*b*) by the substitution of "€2,500" for "£500",

(*d*) in subsection (4) by the substitution of "€5,000" for "£1,500",

(*e*) in subsection (5) by the substitution of "€1,500" for "£400", and

(*f*) by the substitution of the following for subsection (8)—

"(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.".

Amendment of section 157 of Principal Act.

47.— F6**[**...**]**

Annotations

Amendments:

F6 Repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. 474 of 2011.

Amendment of section 160 of Principal Act.

48.— F7**[**...**]**

Annotations

Amendments:

F7 Repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. 474 of 2011.

Amendment of section 162 of Principal Act.

49.— Section 162 of the Principal Act is amended in subsection (3) by the substitution of "section 34(12C)" for "section 34(12)".

Amendment of section 168 of Principal Act.

50.— Section 168 of the Principal Act is amended:

(*a*) by the substitution of the following subsections for subsection (1):

"(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.",

(*b*) in subsection (2), by the substitution of:

"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—"

for

"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 is to be developed and in particular—",

and,

(*c*) by the insertion of the following subsection after subsection (3):

"(3A) An appropriate assessment of a draft planning scheme shall be carried out in accordance with Part XAB.".

Amendment of section 169 of Principal Act.

51.— Section 169 of the Principal Act is amended—

(*a*) in subsection (4), by the substitution of the following paragraphs for paragraph (*b*):

"(*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 manager 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 manager.",

and

(*b*) in subsection (7), by the substitution of the following paragraphs for paragraph (*a*):

"(*a*) The Board may, following the consideration of an appeal made under this section, approve the making of the planning scheme, with or without any modifications (and paragraph (*aa*) shall apply in relation to any modifications) or it may refuse to approve it.

(*aa*) A modification made by the Board on appeal 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.".

Amendment of section 170 of Principal Act.

52.— F8**[**...**]**

Annotations

Amendments:

F8 Repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. 474 of 2011.

Interpretation.

53.— The Principal Act is amended in Part X by the insertion of the following section before section 172:

"171A.— (1) In this Part—

'environmental impact assessment' means an assessment carried out by a planning authority or the Board, as the case may be, in accordance with this Part and regulations made thereunder, that shall identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of the Environmental Impact Assessment Directive, the direct and indirect effects of a proposed development on the following:

(*a*) human beings, flora and fauna,

(*b*) soil, water, air, climate and the landscape,

(*c*) material assets and the cultural heritage, and

(*d*) the interaction between the factors mentioned in paragraphs (*a*), (*b*) and (*c*).

(2) Subject to this Part, a word or expression that is used in the Part and that is also used in the Environmental Impact Assessment Directive has, unless the context otherwise requires, the same meaning in this Part as it has in the Environmental Impact Assessment Directive.".

Amendment of section 172 of Principal Act.

54.— Section 172 of the Principal Act is amended—

(*a*) by substitution of the following for subsection (1):

"(1) An environmental impact assessment shall be carried out by a planning authority or the Board, as the case may be, in respect of an application for consent for proposed development, or a class of such proposed development, prescribed by regulations under section 176.

(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;

(III) development by a local authority or a State authority 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; 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;

(iv) consent to development by a local authority or a State authority 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.

(1B) An applicant for consent to carry out a proposed development referred to in subsection (1) shall furnish an environmental impact statement to the planning authority or the Board, as the case may be, in accordance with the permission regulations.

(1C) A planning authority or the Board, as the case may be, shall refuse to consider an application for planning permission in respect of a development referred to in subsection (1) if the applicant fails to furnish an environmental impact statement under subsection (1B).".

Amendment of section 174 of Principal Act.

55.— Section 174(4)(*b*) of the Principal Act is amended by the substitution of "which is subject to the Environmental Impact Assessment Directive or Transboundary Convention" for "which is subject to the Council Directive or Transboundary Convention".

Amendment of section 176 of Principal Act.

56.— Section 176(1) is amended by the substitution of "The Minister shall, for the purpose of giving effect to the Environmental Impact Assessment Directive, make regulations—" for "The Minister may, in connection with the Council Directive or otherwise, make regulations—".

Amendment of Part X of Principal Act.

57.— The Principal Act is amended by the insertion of the following Parts after Part X:

"PART XA

SUBSTITUTE CONSENT

Interpretation.

177A.— (1) In this Part—

'exceptional circumstances' shall be construed in accordance with section 177D(2);

'remedial environmental impact statement' 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.

Application to apply for substitute consent where notice served by planning authority.

177B.— (1) Where a planning authority becomes aware in relation to a development in its administrative area for which permission was granted by the planning authority or the Board, and for which—

(*a*) an environmental impact assessment,

(*b*) a determination in relation to whether an environmental impact assessment is required, or

(*c*) an appropriate assessment,

was or is required, that a final judgment of a court of competent jurisdiction in the State or the Court of Justice of the European Union has been made that the permission was in breach of law, invalid or otherwise defective in a material respect because 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,

it shall give a notice in writing to the person who carried out the development or the owner or occupier of the land as appropriate.

(2) The notice referred to in subsection (1) shall—

(*a*) inform the person to whom it is given of the proceedings and findings referred to in subsection (1),

(*b*) direct the person concerned to apply to the Board for substitute consent no later than 12 weeks from the date of the notice,

(*c*) direct the person concerned to furnish with his or her application a remedial environmental impact statement or remedial Natura

impact statement or both of those statements, as the case may be,

(*d*) advise the person concerned that he or she may make submissions or observations in writing to the planning authority no later than 4 weeks from the date of the notice.

(3) Not later than 8 weeks after the giving of the notice under subsection (1) the planning authority shall—

(*a*) where no submissions or observations are made to the authority under subsection (2)(*d*), confirm the notice, or

(*b*) where submissions or observations are made to it under subsection (2)(*d*), subject to subsection (4), decide to confirm or withdraw the notice.

(4) A planning authority may withdraw a notice under subsection (3)(*b*) only where the authority has been shown that a final judgment of a court of competent jurisdiction in the State or the Court of Justice of the European Union has not been made that the permission granted for the development was in breach of law, invalid or otherwise defective in a material respect because of the matters set out in subsection (1).

(5) The planning authority shall notify in writing the person to whom the notice under subsection (1) was given of the withdrawal or confirmation of the notice and the reasons therefor.

(6) (*a*) Where the decision of the planning authority is to confirm the notice under subsection (3)(*a*), the notification referred to in subsection (5) shall also contain a direction to apply for substitute consent not later than 12 weeks after the giving of the notification under subsection (2).

(*b*) Where the decision of the planning authority is to confirm the notice under subsection (3)(*b*), the notification referred to in subsection (5) shall also contain a direction to apply for substitute consent not later than 12 weeks after the giving of the notification under subsection (5).

(7) The planning authority shall send a copy of a notice given under subsection (2) or (5) to the Board.

(8) Details of the confirmation or withdrawal of the notice by the planning authority shall be entered by the authority in the register.

(9) For the purposes of this section and section 177C, a judgment shall be deemed to be a final judgment where—

(*a*) the time within which an appeal against the judgment may be brought has expired and no such appeal has been brought,

(*b*) there is no provision for appeal against such judgment, or

(*c*) an appeal against the judgment has been withdrawn.

Application for leave to apply for substitute consent where notice not served by planning authority.

177C.— (1) A person who has carried out a development referred to in subsection (2), or the owner or occupier of the land as appropriate, to whom no notice has been given under section 177B, may apply to the Board for leave to apply for substitute consent in respect of the development.

(2) A development in relation to which an applicant may make an application referred to in subsection (1) is a development which has been carried out where an environmental impact assessment, a determination as to whether an

environmental impact assessment is required, or an appropriate assessment, was or is required, and in respect of which—

(*a*) the applicant considers that a permission granted for the development by a planning authority or the Board may be in breach of law, invalid or otherwise defective in a material respect, whether pursuant to 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 a procedural error,

or

(*b*) the applicant is of the opinion that exceptional circumstances exist such that it may be appropriate to permit the regularisation of the development by permitting an application for substitute consent.

(3) An applicant for leave to apply for substitute consent under subsection (1) shall furnish the following to the Board:

(*a*) any documents that he or she considers are relevant to support his or her application;

(*b*) any additional information or documentation that may be requested by the Board, within the period specified in such a request.

(4) Where an applicant for leave to apply for substitute consent under subsection (1) fails to furnish additional information or documentation within the period specified in a request under subsection (3)(*b*), or such additional period as the Board may allow, the application shall be deemed to have been withdrawn by the applicant.

(5) The Board may seek information and documents as it sees fit from the planning authority for the administrative area in which the development the subject of the application under this section is situated, including information and documents in relation to a permission referred to in subsection (2)(*a*) and in relation to any other development that may have been carried out by the applicant and the planning authority shall furnish the information not later than 6 weeks after the information is sought by the Board.

Decision of Board on whether to grant leave to apply for substitute consent.

177D.— (1) The Board shall only grant leave to apply for substitute consent in respect of an application under section 177C where it is satisfied that an environmental impact assessment, a determination as to whether an environmental impact assessment is required, or an appropriate assessment, was or is required in respect of the development concerned and where it is further satisfied—

(*a*) that a permission granted for development by a planning authority or the Board is in breach of law, 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 the 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,

or

(*b*) that exceptional circumstances exist such that the Board considers it appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent.

(2) In considering whether exceptional circumstances exist 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.

(3) In deciding whether it is prepared to grant leave to apply for substitute consent under this section the Board shall have regard to any information furnished by the applicant under section 177C(3) and any information furnished by the planning authority under section 177C(5).

(4) The Board shall decide whether to grant leave to apply for substitute consent or to refuse to grant such leave.

(5) The decision of the Board under subsection (4) shall be made—

(*a*) 6 weeks after the receipt of an application under section 177C(1),

(*b*) 6 weeks after receipt of additional information from the applicant under section 177C(3)(*b*), or

(*c*) 6 weeks after receipt of information from the planning authority under section 177C(5),

whichever is the later.

(6) The Board shall give notice in writing to the applicant of its decision on the application for leave to apply for substitute consent and of the reasons therefor.

(7) Where the Board decides to grant leave to apply for substitute consent, the notice under subsection (6) shall also contain a direction—

(*a*) to apply for substitute consent not later than 12 weeks after the giving of the notice, and

(*b*) to furnish with the application a remedial environmental impact statement or a remedial Natura impact statement, or both of those statements as the Board considers appropriate.

(8) The Board shall give a copy of the notice of its decision under subsection (6) and direction under subsection (7) to the planning authority for the administrative area in which the development the subject of the application for leave to apply for substitute consent is situated and details of the decision and direction shall be entered by the authority in the register.

Application for substitute consent.

177E.— (1) An application for substitute consent shall be made to the Board.

(2) An application to the Board for substitute consent shall—

(*a*) be made pursuant to a notice given under section 177B or 261A or a decision to grant leave to apply for substitute consent under section 177D,

(*b*) state the name of the person making the application,

(*c*) in accordance with a direction of the planning authority under section 177B(2), shall be accompanied by a remedial environmental impact statement or remedial Natura impact statement or both of those statements, as the case may be,

(*d*) in accordance with a direction of the Board under section 177D(7), shall be accompanied by a remedial environmental impact statement or remedial Natura impact statement or both of those statements, as the case may be,

(*e*) be accompanied by the fee payable in accordance with section 177M,

(*f*) comply with any requirements prescribed under section 177N, and

(*g*) be received by the Board within the period specified in section 177B, 177D or 261A, as appropriate.

(3) An application for substitute consent which does not comply with the requirements of subsection (2) shall be invalid.

(4) The Board may at its own discretion, on request extend the period specified in section 177B, 177D or 261A, for the making of an application for substitute consent, by such further period as it considers appropriate.

(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 remedial environmental impact statement, or the remedial Natura impact statement, or both of those statements, 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.

Remedial environmental impact statement.

177F.— (1) A remedial environmental impact statement 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.

(2) (*a*) Before an applicant makes an application for substitute consent, he or she may request the Board to give to him or her an opinion in writing prepared by the Board on the information required to be contained in the remedial environmental impact statement in relation to the development the subject of the application and the Board shall, as soon as may be, comply with that request.

(*b*) An applicant 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.

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.

Submissions or observations by person other than the applicant for substitute consent or planning authority.

177H.— (1) Any person other than the applicant for substitute consent or a planning authority may make submissions or observations in writing to the Board in relation to an application for substitute consent.

(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.

Report of planning authority.

177I.— (1) 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 remedial environmental impact statement or a remedial Natura impact statement or both of those statements, as the case may be, a planning authority shall submit a report to the Board and the Board shall consider the report.

(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 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 manager 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.

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.

Decision of Board.

177K.— (1) Where an application is made to the Board for substitute consent in accordance with relevant provisions of the Act and any regulations made thereunder the Board may decide to grant the substitute consent, subject to or without conditions, or to refuse it.

(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 remedial environmental impact statement, or remedial Natura impact statement, or both of those statements, as the case may be, submitted with the application;

(*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 was 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);

(*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.

(3) The conditions referred to in subsection (1) may include—

(*a*) one or more than one condition referred to in section 34(4),

(*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 made, and

(*b*) where conditions are imposed in relation to the grant of substitute consent the main reasons for the imposition of any such conditions.

(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*) a decision by the Board under section 177D to refuse to grant leave to apply for substitute consent;

(*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.

Direction by Board to cease activity or operations or take remedial measures.

177L.— (1) Where the Board refuses an application for leave to apply for substitute consent under section 177D, or 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 subsection (4) 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.

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 in a case where it granted leave to apply for substitute consent on the grounds that exceptional circumstances exist, or in a case where the application is made in compliance with a direction to apply for substitute consent under section 261A, 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 at the same time as notifying the applicant of its decision under section 177D(6), 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.

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 for leave to apply for substitute consent or 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 leave to apply for substitute consent or 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 ina remedial environmental impact statement;

(*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 applications for leave to apply for substitute consent or 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.

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, under section 177B or 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 application or 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.

Supplementary provisions relating to an application for substitute consent.

177P.— (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 the modification that references in that section to appeals and referrals shall be to applications for substitute consent and subject to 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 remedial environmental impact statement or a remedial Natura impact statement, or both such statements, 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.

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.

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;

'candidate special protection area' means a site 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, but only until the public notification of the making of a decision by the Minister to classify or not to classify such a site as a special protection area pursuant to Article 4 of the Birds Directive;

'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,

(*c*) a special area of conservation,

(*d*) a candidate special protection area,

(*e*) a special protection area;

'Land use plan' means—

(*a*) regional planning guidelines,

(*b*) 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;

'proposed development' means—

(*a*) 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,

(iii) development by a local authority or a State authority 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;

and

(*b*) notwithstanding that the development has been carried out, development in relation to which an application for substitute consent is required under Part XA;

'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;

'Wildlife site' means—

(*a*) 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,

(*b*) an area designated as or proposed to be designated as a natural heritage area by a natural heritage area order made under section 18 of the Wildlife (Amendment) Act 2000,

(*c*) a nature reserve established or proposed to be established under an establishment order made under section 15 (amended by section 26 of the Wildlife (Amendment) Act 2000) of the Wildlife Act 1976,

(*d*) a nature reserve recognised or proposed to be 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

(*e*) a refuge for fauna or flora designated or proposed to be designated under a designation order made under section 17 (amended by section 28 of the Wildlife (Amendment) Act 2000) of the Wildlife Act 1976.

(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.

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) The competent authority in the State for the purposes of this Part and Articles 6 and 7 of the Habitats Directive, shall be—

(*a*) in relation to draft regional planning guidelines, the regional authority for whose area the guidelines are made,

(*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,

(*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 on appeal the Board, as the case may be,

(*g*) in relation to proposed development that is strategic infrastructure development, the Board, or

(*h*) in relation to proposed local authority or State authority development, the Board, other than in relation to screening for appropriate assessment, in relation to which the competent authority shall be the planning authority in whose area the proposed development is to be carried out.

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 Natura 2000 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 Natura 2000 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 Natura 2000 site in view of the conservation objectives of the site or sites.

(3) The following bodies shall prepare a Natura impact report in relation to a draft Land use plan—

(*a*) as respects draft regional planning guidelines, the regional authority for whose area the draft guidelines are made,

(*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 and the applicant shall furnish the statement within the period specified in the notice.

(6) Unless the competent authority otherwise directs, 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 under that subsection, the application 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*) Where appropriate a Natura impact report or a Natura impact statement shall include—

(i) the alternative solutions that have been considered and the reasons why they have not been adopted,

(ii) the imperative reasons of overriding public interest that are being relied upon to indicate that the Land use plan or proposed development should proceed notwithstanding that it may affect the integrity of a European site,

(iii) the compensatory measures that are being proposed.

Screening for appropriate assessment.

177U.— (1) A screening for appropriate assessment of a draft Land use plan or 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 planning 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.

(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.

(7) A competent authority shall make available for inspection—

(*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 determination that it makes in relation to a proposed development under subsection (6),

as soon as may be after the making of the determination by members of the public during office hours of the offices of the authority and shall also make the determination available in electronic form including by placing the documents on the authority's website.

(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 application or on appeal,

(*c*) consent for development under Part IX,

(*d*) consent for development by a local authority or a State authority under Part XI,

(*e*) consent for development on the foreshore under Part XV,

(*f*) consent for development under section 43 of the Act of 2001,

(*g*) consent for development under section 51 of the Roads Act 1993, or

(*h*) a substitute consent under Part XA.

(9) In deciding upon a declaration for the purposes of 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.

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 the assessment shall be carried out by the competent authority 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, 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.

(5) A competent authority shall give notice of its determination in relation to a proposed development under subsection (3) or (4), to the applicant for consent for the proposed development, giving reasons for the determination.

(6) A competent authority shall make available for inspection—

(*a*) any determination that it makes in relation to a Land use plan under subsection (3) and provide reasons for that determination, and

(*b*) any notice given by the authority under subsection (5),

as soon as may be after the making of the determination or giving the notice, as appropriate, by members of the public during office hours of the offices of the authority and shall also make the determination or notice available in electronic form including by placing the documents on the authority's website.

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 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*) determine if there are 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 Natura 2000, 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.

(6) A competent authority shall make a statement of case referred to in subsection (1) available for inspection, as soon as may be after it is prepared and forwarded to the Minister as appropriate, by members of the public during office hours of the offices of the authority and shall also make the statement available in electronic form including by placing the documents on the authority's website.

(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 Natura 2000 is protected and may include the provision of compensatory habitats.

European site that does not host priority habitat or species and draft Land use plan.

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 consider the statement and form an opinion—

(*a*) whether imperative reasons of overriding public interest apply,

(*b*) whether the compensatory measures proposed are sufficient to ensure that the overall coherence of Natura 2000 is protected.

(2) If the Minister forms the opinion that imperative reasons of overriding public interest do not apply or that compensatory measures are not sufficient to ensure that the overall coherence of Natura 2000 is protected, he or she shall give notice thereof to the competent authority and the competent authority, subject to section 177Z, shall not make—

(*a*) that Land use plan, or

(*b*) that part of the Land use plan that has an adverse effect on the integrity of a European site.

(3) The Minister shall inform the competent authority of his or her opinion, and subject to subsection (2), the relevant provisions of this Act concerning the making of the Land use plan and section 177Z, the competent authority, having considered the opinion of the Minister, may determine as follows:

(*a*) to make the Land use plan or part thereof;

(*b*) to make the Land use plan or part thereof with modifications;

(*c*) not to make the Land use plan.

(4) Where subsection (3)(*a*) or (*b*) applies to the making of a Land use plan, the competent authority shall give notice thereof to the Minister including a statement of the following:

(*a*) the considerations that led to the assessment by the competent authority that the 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 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 Land use plan;

(*d*) the compensatory measures that are being adopted as necessary to ensure the overall coherence of Natura 2000, including if appropriate, the provision of compensatory habitat.

(5) The Minister shall inform the Commission of the matters contained in a notice given to him or her under subsection (4).

(6) The competent authority shall make a notice given under subsection (4) available for inspection, as soon as may be after it is given, by members of the public during office hours of the offices of the authority and shall also make the notice available in electronic form including by placing the documents on the authority's website.

European site that hosts priority habitat type or species and draft Land use plan.

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 species, he or she shall consider the statement and form an opinion—

(*a*) whether imperative reasons of overriding public interest apply,

(*b*) whether the compensatory measures proposed are sufficient to ensure that the overall coherence of Natura 2000 is protected, or

(*c*) where relevant, if he or she should seek an opinion from the Commission that imperative reasons of overriding public interest referred to in section 177W(4)(*d*) apply.

(2) Where the Minister seeks the opinion of the Commission under subsection (1)(*c*), he or she shall give notice thereof to the competent authority and no decision shall be made by the competent authority in relation to the Land use plan until the opinion of the Commission has been received by the Minister and the Minister has given notice of it to the competent authority.

(3) If the Minister forms the opinion that imperative reasons of public interest do not apply or that compensatory measures are not sufficient to ensure that the overall coherence of Natura 2000 is protected, he or she shall give notice thereof to the competent authority and the competent authority, subject to section 177Z, shall not make—

(*a*) that Land use plan, or

(*b*) that part of the Land use plan that has an adverse effect on the integrity of a European site.

(4) The Minister shall inform the competent authority of his or her opinion, and of the opinion of the Commission where that opinion has been sought under subsection (1)(*c*) and received, and, subject to subsection (3), the relevant provisions of this Act concerning the making of the Land use plan and section 177Z, the competent authority, having considered the opinion of the Minister and, if applicable, the opinion of the Commission, may decide as follows:

(*a*) to make the Land use plan or part thereof;

(*b*) to make the Land use plan or part thereof with modifications; or

(*c*) not to make the Land use plan.

(5) Where subsection (4)(*a*) or (*b*) applies to the making of a Land use plan, the competent authority shall give notice thereof to the Minister including a statement of the following:

(*a*) the considerations that led to the assessment by the competent authority that the 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 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 land use plan;

(*d*) the compensatory measures that are being adopted as necessary to ensure the overall coherence of Natura 2000, including if appropriate, the provision of compensatory habitat.

(6) The Minister shall inform the Commission of the matters contained in a notice given to him or her under subsection (5).

(7) The competent authority shall make a notice given under subsection (5) available for inspection, as soon as may be after it is given, by members of the public during office hours of the offices of the authority and may also make the notice available in electronic form including by placing the documents on the authority's website.

Making of Land use plans or part thereof.

177Z.— (1) Having received the opinion of the Minister under section 177X(3) or the opinion of the Minister and, if applicable, notification of the opinion of the Commission under section 177Y(4), where a competent authority is satisfied that a draft Land use plan may be made without the part of the draft Land use plan in relation to which the Minister, and if applicable the Commission, has or have formed an opinion that imperative reasons of overriding public interest do not exist or that compensatory measures are insufficient, then the competent authority may make that Land use plan having amended the part thereof or omitted the part therefrom in relation to which the Minister and, if applicable, the Commission, has or have formed that opinion.

(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.

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 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*) determine if there are 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.

(6) A competent authority shall make a statement of case referred to in subsection (1) available for inspection, as soon as may be after it is prepared and forwarded to the Minister as appropriate, by members of the public during office hours of the offices of the authority and may also make the statement available in electronic form including by placing the documents on the authority's website.

(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.

European site that does not host priority habitat type or species.

177AB.— (1) 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 consider the statement of case and form an opinion on whether the compensatory measures and conditions referred to in section 177AA(2)(*d*) are sufficient to ensure that the overall coherence of Natura 2000 is protected.

(2) If the Minister forms the opinion that compensatory measures are not sufficient to ensure that the overall coherence of Natura 2000 is protected, he or she shall give notice accordingly to the competent authority and the competent authority shall not grant consent to the proposed development.

(3) The Minister shall inform the competent authority of his or her opinion and the competent authority, having considered the opinion of the Minister under subsection (1), notwithstanding the determination that a proposed development will adversely affect the integrity of the European site concerned may determine, subject to subsection (2) and other provisions of this Act—

(*a*) that consent for the proposed development may be granted,

(*b*) that consent for the proposed development may be granted subject to conditions requiring that any necessary compensatory measures are carried out, or

(*c*) not to give consent to the proposed development.

(4) Where subsection (3)(*a*) or (*b*) applies to a determination of a competent authority, the competent authority shall give notice thereof to the Minister including a statement of the following:

(*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 proceeding with 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*) the compensatory measures that are being adopted as necessary to ensure the overall coherence of Natura 2000, including if appropriate, the provision of compensatory habitat.

(5) The Minister shall inform the Commission of the matters contained in a notice given to him or her under subsection (4).

(6) The competent authority shall give a copy of—

(*a*) the notice under subsection (2) of the opinion of the Minister,

(*b*) the determination of the competent authority under subsection (3) together with reasons therefor,

(*c*) the notice under subsection (4) from the competent authority to the Minister,

to the following persons:

(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.

(7) The competent authority shall make copies of the notice given under subsection (2) or (4) or a determination under subsection (3) available for inspection, as soon as may be after it is given, by members of the public during

office hours of the offices of the authority and shall also make the copies available in electronic form including by placing the documents on the authority's website.

European site that hosts priority habitat type or species.

177AC.— (1) Where the Minister receives a statement of case under section 177AA(1) relating to a European site that hosts a priority habitat type or species, the Minister shall consider the statement of case and form an opinion—

(*a*) whether the compensatory measures and conditions referred to in section 177AA(2)(*d*) are sufficient to ensure the overall coherence of Natura 2000 is protected,

(*b*) where relevant, if he or she should seek an opinion from the Commission that other imperative reasons of overriding public interest referred to in section 177AA(4)(*d*) apply.

(2) Where the Minister seeks the opinion of the Commission under subsection (1)(*b*), he or she shall give notice thereof to the competent authority and no decision shall be made by the competent authority in relation to the proposed development until the opinion of the Commission has been received by the Minister and the Minister has given notice of it to the competent authority.

(3) If the Minister forms the opinion that imperative reasons of overriding public interest do not apply or that compensatory measures are not sufficient to ensure that the overall coherence of Natura 2000 is protected he or she shall give notice thereof to the competent authority and the competent authority shall not grant consent for the proposed development.

(4) The Minister shall inform the competent authority of his or her opinion, and of the opinion of the Commission where such opinion has been sought and received under subsection (1)(*b*), and the competent authority, having considered the opinion of the Minister under subsection (1), notwithstanding the determination that a proposed development will adversely affect the integrity of the European site concerned may determine, subject to subsection (3) and other provisions of this Act—

(*a*) that consent for the proposed development may be granted,

(*b*) that consent for the proposed development may be granted subject to conditions requiring that any necessary compensatory measures are carried out, or

(*c*) not to give consent to the proposed development.

(5) Where the competent authority grants consent under subsection (4)(*a*) or (4)(*b*) it shall give notice thereof to the Minister including a statement of the following:

(*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 proceeding with 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*) the compensatory measures that are being adopted as necessary to ensure the overall coherence of Natura 2000, including if appropriate, the provision of compensatory habitat.

(6) The Minister shall inform the Commission of the matters contained in a notice given to him or her under subsection (5).

(7) The competent authority shall give a copy of—

(*a*) the notice of the Minister relating to the seeking of the opinion of the Commission under subsection (2),

(*b*) the notice of the opinion of the Minister under subsection (3),

(*c*) the notice informing the competent authority of the opinion of the Minister or the Commission under subsection (4),

(*d*) the determination of the competent authority under subsection (4), together with reasons therefor,

(*e*) the notice under subsection (5), from the competent authority to the Minister,

to the following persons:

(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.

(8) The competent authority shall make copies of the notice under subsection (2), (3), (4) or (5) or the determination under subsection (4) available for inspection, as soon as may be after it is given, by members of the public during office hours of the offices of the authority and shall also make the copies available in electronic form including by placing the documents on the authority's website.

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.

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,

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, 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.

(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.

(14) This section shall not apply to proposed road development within the meaning of the Roads Acts 1993 to 2007, by or on behalf of a road authority.".

F9**[** Transitional provisions regarding section 57.

57A.—(1) Section 57 (insofar as it relates to Part XAB of the Act of 2000) shall not apply to an application for consent for proposed development made to a competent authority prior to the coming into operation of section 57 (insofar as it relates to Part XAB of the Act of 2000).

(2) Section 177AE (inserted by section 57 of the Act of 2010) of the Act of 2000 shall not apply to development in respect of which the procedures under Part 8 of the Planning and Development Regulations 2001 have been completed prior to the coming into operation of section 57 provided that the development is commenced not later than 12 months after such coming into operation unless, immediately before such coming into operation, the development was being carried out in contravention of the Act of 2000 or regulations made under it.

(3) In subsection (1)—

"competent authority" in relation to proposed development has the same meaning as it has in section 177S of the Act of 2000;

"proposed development" has the same meaning as it has in section 177R of the Act of 2000.**]**

Annotations

Amendments:

F9 Inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 17(3), in effect as per reg. 1(b).

Amendment of section 179 of Principal Act.

58.— Section 179(6) of the Principal Act is amended—

(*a*) by the substitution of the following paragraph for paragraph (*a*):

"(*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*) by the substitution of the following paragraph for paragraph (*c*):

"(*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.".

Amendment of section 180 of Principal Act.

59.— Section 180 (amended by section 114 of the Act of 2007) of the Principal Act is amended—

(*a*) in subsection (1), by the substitution of "by the majority of the owners of the houses involved" for "by the majority of the qualified electors who are owners or occupiers of the houses involved",

(*b*) In subsection (2)(*a*)—

(i) by the insertion of "referred to in subsection (1)" after "where the development",

(ii) by the substitution of "where requested by the majority of owners of the houses involved" for "where requested by the majority of qualified electors who own or occupy the houses in question",

(*c*) To insert the following subsection after subsection (2):

"(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 seven 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*) for the satisfactory completion of the development in question.",

(*d*) in subsection (3)(*a*), by the substitution of "the wishes of the owners of the houses" for "the wishes of the qualified electors",

(*e*) in subsection (3)(*b*), by the substitution of "the wishes of the owners of the houses" for "the wishes of the qualified electors",

(*f*) by the substitution of the following for subsection (4):

"(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.",

and

(*g*) by the substitution of the following for subsection (6):

"(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.".

Annotations

Modifications (not altering text):

C2 Certain references to a "water services authority" or a "relevant water services authority"construed (1.01.2014) by *Water Services (No. 2) Act 2013* (50/2013), s. 7(2)(b), S.I. No. 575 of 2013.

Transfer of functions from water service suthorities to Irish Water

7.—...

(2) References to a water services authority or relevant water services authority in—

...

(b) any other enactment (other than the Act of 2013) or instrument under any other enactment,

in so far as they relate to any function transferred by this Act, shall on and after the transfer day, be construed as references to Irish Water.

...

Amendment of section 181A of Principal Act.

60.— F10**[**...**]**

Annotations

Amendments:

F10 Repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. 474 of 2011.

Amendment of section 181B of Principal Act.

61.—F11**[**...**]**

Annotations

Amendments:

F11 Repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. 474 of 2011.

Amendment of section 181C of Principal Act.

62.— Section 181C of the Principal Act is amended—

(*a*) in subsection (2) by the substitution of "development, the environment or a European site" for "development or the environment",

(*b*) in subsection (3)—

(i) in paragraph (*a*) to substitute "effects on the environment or adverse effects on the integrity of a European site as the case may be" for "effects on the environment", and

(ii) in paragraph (*b*) to substitute "environmental impact statement or Natura impact statement or both of those statements as the case may be", for "environmental impact statement".

Amendment of section 182A of Principal Act.

63.—F12**[...]**

Annotations

Amendments:

F12 Repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. 474 of 2011.

Amendment of section 182B of Principal Act.

64.— Section 182B (inserted by section 4 of the Act of 2006) of the Principal Act is amended—

(*a*) in subsection (1)—

(i) by the substitution of "environmental impact statement or Natura impact statement or both of those statements as the case may be", for "environmental impact statement", and

(ii) by the substitution of "effects on the environment or adverse effects on the integrity of a European site as the case may be" for "effects on the environment",

(*b*) in subsection (3)(*a*) by the substitution of "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" for "the effects, if any of the proposed development on the environment",

(*c*) by the insertion of the following subsections after subsection (5):

"(5A) A decision of the Board under subsection (5) shall state—

(*a*) the main reasons and considerations on which the decision is based,

(*b*) where conditions are attached under subsection (5) or (6) the main reasons for attaching them,

(*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).

(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.".

Amendment of section 182C of Principal Act.

65.— Section 182C of the Principal Act is amended—

(*a*) in subsection (1) by the insertion of ", and where the Board determines following consultations under section 182E that the development comes within paragraph (*a*), (*b*) or (*c*) of section 37A(2)," after " 'proposed development')",

(*b*)F13**[**...**]**

(*c*)F13**[**...**]**

(*d*)F13**[**...**]**

(*e*) by the substitution of the following for subsection (9):

"(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).",

(*f*) by the insertion of the following subsections after subsection (9):

"(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.".

Annotations

Amendments:

F13 Repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. 474 of 2011.

Amendment of section 182D of Principal Act.

66.— Section 182D (inserted by section 4 of the Act of 2006) of the Principal Act is amended—

(*a*) in subsection (1)—

(i) by the substitution of "environmental impact statement or Natura impact statement or both of those statements as the case may be", for "environmental impact statement", and

(ii) by the substitution of "effects on the environment or adverse effects on the integrity of a European site as the case may be" for "effects on the environment",

(*b*) in subsection (3)(*a*), by the substitution of "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" for "the effects, if any of the proposed development on the environment",

(*c*) by the insertion of the following subsections after subsection (5):

"(5A) A decision of the Board given under subsection (5) shall state—

(*a*) the main reasons and considerations on which the decision was based,

(*b*) where conditions are attached under subsection (5) or (6), the main reasons for attaching the conditions, 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).

(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.".

Amendment of section 191 of Principal Act.

67.— Section 191(2) of the Principal Act is amended by the substitution of "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." for "the making of a new development plan under section 12.".

Amendment of section 212 of Principal Act.

68.— Section 212 of the Principal Act is amended—

(*a*) in subsection (1)(*f*) by the substitution of "geological or historical interest;" for "geological, historical, scientific or ecological interest.",

(*b*) by the insertion of the following paragraph after subsection (1)(*f*):

"(*g*) secure the creation, management, restoration or preservation of any site of scientific or ecological interest, including any Nature Conservation Site,",

and

(*c*) by the insertion of the following subsection after subsection (4):

"(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.".

Amendment of section 217 of Principal Act.

69.—F14**[...]**

Annotations

Amendments:

F14 Repealed (21.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 42, S.I. 474 of 2011.

Amendment of section 220 of Principal Act.

70.— Section 220(1) of the Principal Act is amended by the substitution of "procedures for giving effect to the Environmental Impact Assessment Directive" for "procedures for giving effect to the Council Directive".

Amendment of section 248 of Principal Act.

71.— Section 248(9) of the Principal Act is amended by the deletion of the definition of "electronic form".

Calculation of appropriate period and other time limits over holidays.

72.— Section 251 of the Principal Act is amended by the substitution of the following for the section:

"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.".

Amendment of section 253 of Principal Act.

73.— Section 253 of the Principal Act is amended—

(*a*) in subsection (1), by the substitution of "enter a premises or on land" for "enter any premises",

(*b*) in subsection (3)—

(i) by the substitution of "enters a premises or on land" for "enters any premises", and

(ii) by the substitution of the following for paragraph (*a*):

"(*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",

(*c*) in subsection (4)—

(i) in paragraph (*a*) by the substitution of—

(I) "prevented from entering a premises or on land" for "prevented from entering any premises",

(II) "present in a premises or on land" for "present in any premises", and

(III) "by the authorised person in the premises or on the land" for "by the authorised person in the premises",

(ii) in paragraph (*b*) by the substitution of—

(I) "prevented from entering a premises or on land" for "prevented from entering a premises",

(II) "to enter the premises or on the land concerned, if need be by force" for "to enter, if need be by force, the premises concerned".

Amendment of section 261 of Principal Act.

74.— Section 261 of the Principal Act is amended—

(*a*) In subsection (6)—

(i) by the insertion of the following paragraph after paragraph (*a*):

"(*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.", and

(ii) by the substitution of the following for paragraph (*b*):

"(*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.",

(*b*) In subsection (7) by the insertion of the following paragraphs after paragraph (*c*):

"(*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.",

(*c*) In subsection (8), by the insertion of the following paragraph after paragraph (*b*):

"(*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.",

(*d*) by the substitution of the following for subsection (10):

"(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.",

and

(*e*) in subsection (13), by the deletion of the definitions of "operator" and "quarry".

Further matters in relation to control of quarries.

75.— The Principal Act is amended by the insertion of the following section after section 261:

"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 which was not authorised by a permission granted under Part IV of the Act of 1963, prior to 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 after 26 February 1997, which was not authorised by a permission granted under Part IV of the Act of 1963 prior to 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.

(*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, 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 the cessation of the operation of the quarry 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 the development the subject of the determination under subsection (2)(*a*) 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 the development the subject of the determination under subsection (2)(*a*) 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 the cessation of the operation of the quarry 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*), the determination of the planning authority under paragraph (*a*) 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 the development the subject of the determination under subsection (2)(*a*) 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 the cessation of the operation of the quarry 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 the cessation of the operation of the quarry 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 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 the development the subject of the determination under subsection (2)(*a*) 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 the cessation of the operation of the quarry 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 the development the subject of the determination under subsection (2)(*a*) 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 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 the development the subject of the determination under subsection (2)(*a*) 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 the cessation of the operation of the quarry and the taking of such steps as the planning authority considers appropriate.

(14) 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).".

Amendment of section 262 of Principal Act.

76.— Section 262 of the Principal Act is amended in subsection (4)—

(*a*) by the insertion of "4(4)(*b*)" after "4(2)", and

(*b*) by the insertion of "96(3)(*da*)" after "25(5)".

Amendment of First Schedule to Principal Act.

77.— The First Schedule to the Principal Act is amended—

(*a*) In Part I:

(i) by the deletion of paragraph 2,

(ii) by the substitution of the following for paragraph 6:

"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).",

(iii) by the insertion of the following paragraphs after paragraph 11:

"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.",

and

(*b*) in Part IV by the substitution of the following for paragraph 8:

"8. Preserving public rights of way other than those referred to in section 10(2)(*o*).".

Amendment of Seventh Schedule to Principal Act.

78.— The Seventh Schedule to the Principal Act (inserted by section 5 of the Act of 2006) is amended—

(*a*) in paragraph 1 by the substitution of:

"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."

for:

"An installation for the harnessing of wind power for energy production (a wind farm) with more than 50 turbines or having a total output greater than 100 megawatts.",

(*b*) in paragraph 2 by the substitution of:

"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."

for

"A harbour or port 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.",

and

(*c*) by the insertion of the following paragraph after paragraph 3:

"Health Infrastructure

4. Development comprising or for the purposes of the following:

—A health care facility providing in-patient services, but excluding a development which is predominantly for the purpose of providing care services within the meaning given to that term by section 3 of the Nursing Homes Support Scheme Act 2009.".

PART 3

Amendment of certain Acts

Amendment of Environmental Protection Agency Act 1992.

79.— Section 99F of the Environmental Protection Agency Act 1992 (inserted by section 15 of the Protection of the Environment Act 2003) is amended—

(*a*) in subsection (1) by the insertion of "or substitute consent, within the meaning of section 177A," after "permission under section 34",

(*b*) in subsection (2)—

(i) by the insertion of "or refuse a grant of substitute consent, as defined in section 177A" after "under section 34",

(ii) by the substitution of "on environmental grounds or on the grounds of adverse effects on the integrity of a European site (as defined in that Act)," for "on environmental grounds,",

(*c*) in subsection (3) by the insertion of "remedial environmental impact statement or remedial Natura impact statement (as defined in section 177T of the Act of 2000) as the case may be" after "environmental impact statement", and

(*d*) in subsection (9), by the insertion of the following paragraph after paragraph (*a*)—

"(*aa*) a substitute consent, as defined in section 177T of the Act of 2000, or".

F15[Transitional provision regarding section 79

79A.—The amendment to section 99F of the Environment Protection Agency Act 1992 (inserted by section 15 of the Protection of the Environment, 2003) effected by section 79 shall not apply to an application for a grant of permission under section 34 of the Act of 2000 made to a planning authority or An Bord Pleanála prior to the commencement of section 79.**]**

Annotations

Amendments:

F15 Inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 17(4), in effect as per reg. 1(b).

Amendment of Waste Management Act 1996.

80.— Section 54 of the Waste Management Act 1996 is amended—

(*a*) in subsection (3) by the insertion of "or, substitute consent as defined in section 177T," after "permission under section 34",

(*b*) in subsection (3A)—

(i) by the insertion of "or refuse a grant of substitute consent" after "under section 34",

(ii) by the substitution of "on environmental grounds or on the grounds of adverse effects to the integrity of a European site (within the meaning of that Act)," for "on environmental grounds,",

(*c*) in subsection (3B) by the insertion of "remedial environmental impact statement, or remedial Natura impact statement (as defined in section 177T of the Act of 2000), as the case may be" after "environmental impact statement".

F16[Transitional provision regarding section 80

80A.—The amendment to section 54 (amended by section 257 of the Act of 2000) of the Waste Management Act 1996 effected by section 80 shall not apply to an

application for a grant of permission under section 34 of the Act of 2000 made to a planning authority or An Bord Pleanála prior to the commencement of section 80.**]**

Annotations

Amendments:

F16 Inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 17(5), in effect as per reg. 1(b).

Direction of payment of costs by Board.

81.— The Transport (Railway Infrastructure) Act 2001 is amended by the insertion of the following section after section 47D (inserted by section 50 of the Act of 2006):

"47DD.— (1) Where the Board determines an application made under section 37 (amended by section 49 of the Act of 2006) it may at its absolute discretion direct the payment of such sums as it considers reasonable by the applicant to the Board towards the costs incurred by the Board of—

(*a*) conducting consultations under section 47B,

(*b*) compliance by the Board with a request by an applicant for an opinion of the Board under section 39(3) (amended by section 49 of the Act of 2006), or

(*c*) determining an application made under section 37 aforesaid,

and, in such amount as the Board considers to be reasonable, state the sum to be paid and direct the payment of that 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), and the applicant shall pay such sums.

(2) A reference to costs in subsection (1) 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 of the Act of 2000.

(3) A notice of a determination of an application under section 37 shall be furnished to the applicant as soon as may be after the determination but shall not become operative until any requirement under subsection (1) in relation to the payment by the applicant of a sum in respect of costs has been complied with.

(4) Where an applicant for permission fails to pay a sum in respect of costs in accordance with a requirement made under subsection (1) to 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.".

Number 30 *of* 2010

PLANNING AND DEVELOPMENT (AMENDMENT) ACT 2010

REVISED

Updated to 25 January 2019

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 2018: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*European Union (Planning and Development) (Environment Impact Assessment) Regulations 2018*, reg. 1(2)). 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

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 1978, 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

- *Urban Regeneration and Housing Act 2015* (33/2015)
- *Local Government Reform Act 2014* (1/2014)
- *Water Services (No. 2) Act 2013* (50/2013)
- *Environment (Miscellaneous Provisions) Act 2011* (20/2011)
- *Planning and Development Acts 2000 to 2013*

All Acts up to and including *Local Government Act 2019* (1/2019), enacted 25 January 2019, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Planning and Development (Amendment) Act 2010 (Commencement) (No. 3) Order 2011* (S.I. No. 582 of 2011)
- *Planning and Development (Amendment) Act 2010 (Commencement) (No. 2) Order 2011* (S.I. No. 475 of 2011)
- *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011)
- *Planning and Development (Amendment) Act 2010 (Commencement) Order 2011* (S.I. No. 132 of 2011)
- *Planning and Development (Amendment) Act 2010 (Commencement) (No. 3) Order 2010* (S.I. No. 477 of 2010)
- *Planning and Development (Amendment) Act 2010 (Commencement) (No. 2) Order 2010* (S.I. No. 451 of 2010)
- *Planning and Development (Amendment) Act 2010 (Commencement) Order 2010* (S.I. No. 405 of 2010)

All statutory instruments up to and including *Planning And Development Act 2000 (Exempted Development) Regulations 2019* (S.I. No. 12 of 2019), made 25 January 2019, were considered in the preparation of this revision.