



Number 29 of 2022

**PLANNING AND DEVELOPMENT, MARITIME AND VALUATION (AMENDMENT) ACT
2022**

REVISED

Updated to 16 May 2024

This Revised Act is an administrative consolidation of the *Planning and Development, Maritime and Valuation (Amendment) Act 2022*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Employment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Act 2024* (14/2024), enacted 9 May 2024, and all statutory instruments up to and including the *S.I. No. 207/2024 - Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024 (Commencement) (No. 2) Order 2024* (S.I. No. 207 of 2024), made 14 May 2024, were considered in the preparation of this Revised Act.

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Number 29 of 2022

**PLANNING AND DEVELOPMENT, MARITIME AND VALUATION (AMENDMENT) ACT
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Updated to 16 May 2024

CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, collective citation, construction, and commencement

PART 2

AMENDMENT OF PLANNING AND DEVELOPMENT ACT 2000

2. Definitions - Part 2

3. Amendment of section 3A of Principal Act

4. Amendment of section 7 of Principal Act

5. Amendment of section 31 of Principal Act

6. Amendment of section 31AM of Principal Act

7. Amendment of section 31AN of Principal Act

8. Amendment of section 31AO of Principal Act

9. Amendment of section 31AP of Principal Act

10. Amendment of section 32B of Principal Act

11. Opinion in relation to planning application

12. Amendment of section 34 of Principal Act

13. Amendment of section 37 of Principal Act

14. Opinion in relation to application to Board

15. Amendment of section 37G of Principal Act

16. Amendment of section 37I of Principal Act

17. Amendment of section 37L of Principal Act

18. Amendment of section 37M of Principal Act

19. Amendment of section 37N of Principal Act

[No. 29.] *Planning and Development, Maritime and Valuation (Amendment) Act* [2022.]
2022

20. Amendment of section 37O of Principal Act
21. Amendment of section 37P of Principal Act
22. Amendment of section 50A of Principal Act
23. Amendment of section 104 of Principal Act
24. Amendment of section 144 of Principal Act
25. Amendment of section 156 of Principal Act
26. Amendment of section 177A of Principal Act
27. Amendment of section 177E of Principal Act
28. Amendment of section 177F of Principal Act
29. Amendment of section 177I of Principal Act
30. Amendment of section 177K of Principal Act
31. Amendment of section 177L of Principal Act
32. Amendment of section 177M of Principal Act
33. Amendment of section 177N of Principal Act
34. Amendment of section 177O of Principal Act
35. Amendment of section 182B of Principal Act
36. Amendment of section 182D of Principal Act
37. Opinion in relation to application to Board
38. Amendment of section 246 of Principal Act
39. Amendment of Fifth Schedule to Principal Act
40. Repeals
41. Transitional provisions

PART 3

MARITIME AREA PLANNING

42. Definition - Part 3
43. Amendment of section 3 of Act of 2021
44. Amendment of section 6 of Act of 2021
45. Amendment of Part 2 of Act of 2021 - insertion of Chapter 8A
46. Amendment of section 56 of Act of 2021
47. Amendment of section 75 of Act of 2021
48. Amendment of section 81 of Act of 2021
49. Amendment of section 85 of Act of 2021
50. Substitution of section 87 of Act of 2021
51. Amendment of section 95 of Act of 2021

[No. 29.] *Planning and Development, Maritime and Valuation (Amendment) Act* [2022.]
2022

52. Amendment of section 96 of Act of 2021
53. Amendment of section 97 of Act of 2021
54. Amendment of section 131 of Act of 2021
55. Amendment of section 134 of Act of 2021
56. Amendment of section 135 of Act of 2021
57. Amendment of section 136 of Act of 2021
58. Amendment of Part 6 of Act of 2021 - insertion of Chapter 3A
59. Amendment of heading to Chapter 4 of Part 6 of Act of 2021
60. Insertion of new section in Act of 2021
61. Amendment of Part 6 of Act of 2021 - substitution of Chapter heading
62. Amendment of section 145 of Act of 2021
63. Amendment of Part 6 of Act of 2021 - insertion of new Chapter heading
64. Amendment of heading to Chapter 6 of Part 6 of Act of 2021
65. Amendment of section 154 of Act of 2021
66. Amendment of section 155 of Act of 2021
67. Amendment of section 156 of Act of 2021
68. Amendment of section 157 of Act of 2021
69. Amendment of Part 6 of Act of 2021 - insertion of Chapter 8
70. Amendment of section 169 of Act of 2021
71. Amendment of section 144 of Planning and Development Act 2000
72. Amendment of section 156 of Planning and Development Act 2000
73. Amendment of Part XXI of Planning and Development Act 2000
74. Amendment of Schedule 6 to Act of 2021
75. Amendment of Schedule 8 to Act of 2021

PART 4

AMENDMENT OF VALUATION ACT 2001 AND RESIDENTIAL TENANCIES
AND VALUATION ACT 2020

76. Amendment of section 21 of Valuation Act 2001
77. Amendment of section 14 of Residential Tenancies and Valuation Act 2020

ACTS REFERRED TO

[Maritime Area Planning Act 2021](#) (No. 50)
[Planning and Development Act 2000](#) (No. 30)
Planning and Development Acts 2000 to 2021
[Residential Tenancies and Valuation Act 2020](#) (No. 7)
[Valuation Act 2001](#) (No. 13)



Number 29 of 2022

**PLANNING AND DEVELOPMENT, MARITIME AND VALUATION (AMENDMENT) ACT
2022**

REVISED

Updated to 16 May 2024

An Act to amend the [Planning and Development Act 2000](#); to provide that a person shall not advertise certain property in a rent pressure zone for letting for a period not exceeding 14 days; to provide for certain matters relating to Ministerial directions regarding development plans and local area plans and the related functions of the Office of the Planning Regulator; to provide for consultation before making applications for certain permissions for, and approvals of, the development of land and the maritime area in relation to details of such development that may not be confirmed at the time such applications are made; to provide for applications to be made to An Bord Pleanála in respect of development of lands where an application for substitute consent of development of those lands has been made, or in respect of development of lands adjoining those lands; to remove the requirement to apply for leave for substitute consent under Part XA of the [Planning and Development Act 2000](#); to provide for certain matters relating to judicial review of decisions and acts of planning authorities, local authorities and An Bord Pleanála; to provide for the appointment of a chief executive designate to the Maritime Area Regulatory Authority and to provide for other matters relating to the maritime area, including matters relating to judicial review and rehabilitation schedules and for those and other purposes to amend the [Maritime Area Planning Act 2021](#); to enable the Commissioner of Valuation with the consent of the Minister for Housing, Local Government and Heritage to revoke a valuation order in certain circumstances and for that purpose to amend the [Valuation Act 2001](#); to extend the period within which a valuation list in relation to a rating authority shall be published and for that purpose to amend the [Residential Tenancies and Valuation Act 2020](#); and to provide for related matters.

[24th July, 2022]

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, Maritime and Valuation (Amendment) Act 2022.

- (2) The Planning and Development Acts 2000 to 2021 and *Part 2* of this Act may be cited together as the Planning and Development Acts 2000 to 2022 and they shall be construed together as one.
- (3) The *Maritime Area Planning Act 2021* and *Part 3* may be cited together as the Maritime Area Planning Acts 2021 and 2022 and they shall be construed together as one.
- (4) This Act, other than *F1[sections 4 to 7]* of *Part 2*, and *Part 4*, shall come into operation on such day or days as the Minister for Housing, Local Government and Heritage may by order or orders appoint, either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes or provisions.

PART 2

AMENDMENT OF PLANNING AND DEVELOPMENT ACT 2000

Definitions - *Part 2*

2. In this Act—

“Board” means An Bord Pleanála;

“Minister” means the Minister for Housing, Local Government and Heritage;

“Principal Act” means the *Planning and Development Act 2000*.

Amendment of section 3A of Principal Act

3. Section 3A of the Principal Act is amended—

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

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

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

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

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

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

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

(1E) An order under subsection (1D) shall be made by the Minister where he or she is satisfied that it is necessary in order to address

an acute shortage of rental accommodation (other than for short term letting purposes) in rent pressure zones.

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

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

“(2) For the purposes of this section, the Minister may make regulations—

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

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

and

(c) by the insertion of the following definitions in subsection (5):

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

‘relevant property’ means a house or part of a house that is not a principal private residence and is located in a rent pressure zone.”.

Amendment of section 7 of Principal Act

4. Section 7 of the Principal Act is amended in subsection (2)—

(a) in paragraph (a), by the deletion of “including for leave to apply for substitute consent”, and

(b) by the substitution of the following paragraph for paragraph (xa):

“(xa) particulars of any decision of the Board under section 177K, or direction served under section 177J or 177L,”.

Amendment of section 31 of Principal Act

5. Section 31 of the Principal Act is amended—

(a) in subsection (3), by the substitution of “section 31AM(8) or 31AO(7)” for “section 31AN(9) or 31AP(9)”,

(b) in subsection (4)(b), by the deletion of “, in the case of a plan,”,

(c) in subsection (8), by the substitution of “, the Minister and, where relevant, the regional assembly concerned” for “and the Minister”, and

(d) by the substitution of the following subsection for subsection (16):

“(16) Where paragraph (a) of section 31AN(4A), paragraph (a) or (c) of section 31AN(9), paragraph (a) of section 31AP(4A) or paragraph (a) or (c) of section 31AP(9) applies to a matter to which this

section relates, then the Minister shall issue a direction accordingly.”.

Amendment of section 31AM of Principal Act

6. Section 31AM of the Principal Act is amended—

(a) in subsection (2)(b), by the substitution of “consistency of the development plan with the National Planning Framework” for “consistency with the development plan and the National Planning Framework”, and

(b) in subsection (5)(c), by the substitution of “of a development plan” for “in a development plan”.

Amendment of section 31AN of Principal Act

7. Section 31AN of the Principal Act is amended—

(a) by the substitution of the following subsection for subsection (2):

“(2) As soon as practicable after a statement has been prepared under subsection (1)(b), the Minister shall cause a copy of it to be sent to the Office, the planning authority concerned and, where relevant, the regional assembly concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.”,

(b) by the substitution of the following subsection for subsection (4):

“(4) The Office shall consider the report of the chief executive on the submissions, together with any submission made under section 31(10), and shall, no later than 3 weeks after receipt of that report—

(a) recommend to the Minister that he or she issue the direction with or without minor amendments, or

(b) for stated reasons, where the Office is of the opinion that—

(i) a material amendment to the draft direction may be required,

(ii) further investigation is necessary in order to clarify any aspect of the report furnished or submissions made, or

(iii) it is necessary for any other reason,

appoint a person to be an inspector.”,

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

“(4A) The Minister shall consider a recommendation of the Office under subsection (4)(a) that he or she issue a direction with or without minor amendments and—

(a) where the Minister agrees with the recommendation, the Minister shall, no later than 6 weeks after receipt of the recommendation, subject to subsection (16), issue the direction under section 31 with or without minor amendments, or

(b) where the Minister does not so agree with the recommendation, then the Minister shall—

[No. 29.] *Planning and Development, Maritime and Valuation (Amendment) Act 2022* [2022.]

- (i) prepare a statement in writing of his or her reasons for not agreeing,
 - (ii) cause that statement to be laid before each House of the Oireachtas, and
 - (iii) as soon as practicable, make that statement available on the website of the Department of Housing, Local Government and Heritage.
- (4B) As soon as practicable after a statement has been prepared under subsection (4A)(b), the Minister shall cause a copy of it to be sent to the Office, the planning authority concerned and, where relevant, the regional assembly concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.”,
- (d) in subsection (7)(a), by the insertion of “and the Cathaoirleach of the planning authority” after “the chief executive”,
- (e) by the insertion of the following subsections after subsection (9):
- “(9A) Where the Minister does not agree with a recommendation of the Office under subsection (9) where paragraph (a) or (c) of that subsection applies, then the Minister shall—
- (a) prepare a statement in writing of his or her reasons for not agreeing,
 - (b) cause that statement to be laid before each House of the Oireachtas, and
 - (c) as soon as practicable, make that statement available on the website of the Department of Housing, Local Government and Heritage.
- (9B) As soon as practicable after a statement has been prepared under subsection (9A), the Minister shall cause a copy of it to be sent to the Office, the planning authority concerned and, where relevant, the regional assembly concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.”,
- (f) by the deletion of subsections (12), (13) and (15), and
- (g) in subsection (16), by the substitution of “subsection (4A) or (9)” for “subsection (9)” in each place where it occurs.

Amendment of section 31AO of Principal Act

8. Section 31AO of the Principal Act is amended in subsection (7)(i) by the substitution of “as amended by the planning authority” for “as varied by the planning authority”.

Amendment of section 31AP of Principal Act

9. Section 31AP of the Principal Act is amended—

- (a) by the substitution of the following subsection for subsection (4):
- “(4) The Office shall consider the report of the chief executive on the submissions, together with any submission made under section

[No. 29.] *Planning and Development, Maritime and Valuation (Amendment) Act* [2022.]
2022

31(10), and shall, no later than 3 weeks after receipt of that report—

(a) recommend to the Minister that he or she issue the direction with or without minor amendments, or

(b) for stated reasons, where the Office is of the opinion that—

(i) a material amendment to the draft direction may be required,

(ii) further investigation is necessary in order to clarify any aspect of the report furnished or submissions made, or

(iii) it is necessary for any other reason,

appoint a person to be an inspector.”,

(b) by the insertion of the following subsections after subsection (4):

“(4A) The Minister shall consider a recommendation of the Office under subsection (4)(a) that he or she issue a direction with or without minor amendments and—

(a) where the Minister agrees with the recommendation, then the Minister shall, no later than 6 weeks after receipt of the recommendation, subject to subsection (16), issue the direction under section 31 with or without minor amendments, or

(b) where the Minister does not so agree with the recommendation, then the Minister shall—

(i) prepare a statement in writing of his or her reasons for not agreeing,

(ii) cause that statement to be laid before each House of the Oireachtas, and

(iii) as soon as practicable, make that statement available on the website of the Department of Housing, Local Government and Heritage.

(4B) As soon as practicable after a statement has been prepared under subsection (4A)(b), the Minister shall cause a copy of it to be sent to the Office, the planning authority concerned and, where relevant, the regional assembly concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.”,

(c) in subsection (7)(a), by the insertion of “and the Cathaoirleach of the planning authority” after “the chief executive”,

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

“(9A) Where the Minister does not agree with a recommendation of the Office under subsection (9) where paragraph (a) or (c) of that subsection applies, then the Minister shall—

(a) prepare a statement in writing of his or her reasons for not agreeing,

(b) cause that statement to be laid before each House of the Oireachtas, and

**[No. 29.] Planning and Development, Maritime [2022.]
and Valuation (Amendment) Act
2022**

(c) as soon as practicable, make that statement available on the website of the Department of Housing, Local Government and Heritage.

(9B) As soon as practicable after a statement has been prepared under subsection (9A), the Minister shall cause a copy of it to be sent to the Office, the planning authority concerned and, where relevant, the regional assembly concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.”

(e) by the deletion of subsections (12), (13) and (15), and

(f) in subsection (16), by the substitution of “subsection (4A) or (9)” for “subsection (9)” in each place where it occurs.

Amendment of section 32B of Principal Act

10. Section 32B of the Principal Act is amended by the insertion of the following subsection after section 32B(5):

“(6) A request by a prospective LRD applicant under subsection (1) may include a request that the LRD meeting be treated as a meeting for the purposes of section 32I and such request shall comply with section 32H(2).”.

Opinion in relation to planning application

11. The Principal Act is amended by the insertion of the following sections after section 32G:

“Application for opinion under section 32I

32H. (1) A person who intends to apply for permission under section 34 (referred to in this section and section 32I as a ‘prospective applicant’) may, before making such an application (referred to in this section and section 32I as the ‘proposed application’), request a meeting for the purposes of section 32I with the planning authority or authorities in whose functional area or areas the proposed development would be situated.

(2) A request under subsection (1) shall be in writing, be accompanied by the appropriate fee and include—

(a) the name and address of the prospective applicant,

(b) a site location map sufficient to identify the land on which the proposed development would be situated,

(c) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment,

(d) a draft layout plan of the proposed development,

(e) a description of—

(i) the details, or groups of details, of the proposed development that, owing to the circumstances set out in subparagraph (ii), are unlikely to be confirmed at the time of the proposed application, and

(ii) the circumstances relating to the proposed development, including such circumstances as the Minister may prescribe

[No. 29.] *Planning and Development, Maritime and Valuation (Amendment) Act* [2022.]
2022

in relation to any class or description of development for the purposes of this subparagraph, that indicate that it is appropriate that the proposed application be made and decided, before the prospective applicant has confirmed the details referred to in subparagraph (i) including, in particular, whether the prospective applicant may be able to avail of technology available after making the proposed application that is more effective or more efficient than that available at the time of the application,

- (f) an undertaking to provide with the proposed application, either—
 - (i) two or more options, in respect of each detail or group of details referred to in paragraph (e)(i), containing information on the basis of which the proposed application may be made and decided,
 - (ii) parameters within which each detail referred to in paragraph (e)(i) will fall and on the basis of which the proposed application may be made and decided, or
 - (iii) a combination of subparagraphs (i) and (ii),
 - (g) such other information, drawings or representations as the prospective applicant may wish to provide or make available, and
 - (h) such other information as may be prescribed.
- (3) A planning authority that receives a request under subsection (1) or section 32B(1) may, prior to a meeting taking place under section 32I, consult with any person who may, in the opinion of the planning authority, have information that is relevant for the purposes of the meeting in relation to a proposed development.
- (4) Where a planning authority consults with a person under subsection (3), a written record shall be taken of such a consultation and kept by the planning authority and a copy of such record shall be placed and kept with the documents to which any application in respect of that proposed development relates.
- (5) Where a prospective applicant submits a request in accordance with subsection (1) or section 32B(1), the planning authority shall convene a meeting to take place within the period of 4 weeks beginning on the date on which the request is received by the planning authority.
- (6) The following persons shall attend a meeting convened under subsection (5):
- (a) the planning authority;
 - (b) the prospective applicant, one or more persons on his or her behalf, or both.
- (7) The planning authority shall ensure that planning authority officials attending the meeting on its behalf have a sufficient level of relevant knowledge and expertise in the matter concerned.
- (8) The planning authority shall keep a record in writing of any meeting convened under subsection (5), including a copy of the request for the meeting and accompanying documents, the names of those who participated in the meeting and any explanation

[No. 29.] *Planning and Development, Maritime and Valuation (Amendment) Act* [2022.]
2022

provided under subsection (11) or section 32I(7) and a copy of such record shall be placed and kept with the documents to which any application in respect of that proposed development relates.

- (9) A record kept by a planning authority under subsection (8) shall only be made public when a planning application in respect of the proposed development is made in accordance with section 34.
- (10) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of holding a meeting convened under subsection (5), including—
- (a) matters that are required to be considered at the meeting,
 - (b) matters that may be considered at the meeting, and
 - (c) the manner in which the meeting is to be conducted.
- (11) Where, on the expiry of the period specified in subsection (5), the meeting has not taken place, the planning authority shall proceed to convene the meeting as soon as practicable, notwithstanding that the period has expired, and provide the applicant with a written explanation why the meeting did not take place in the specified period.

Opinion as to flexibility with regard to application for permission

- 32I.** (1) The planning authority shall, within the period of 4 weeks beginning on the date on which the meeting convened under section 32H(5) takes place, consider—
- (a) the information included in the request for the meeting under section 32H, and
 - (b) any other relevant information that is made available at the meeting,
- and determine if it is satisfied that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed certain details of the application.
- (2) Where the planning authority determines that it is satisfied in accordance with subsection (1) it shall provide an opinion to that effect to the prospective applicant.
- (3) Where the planning authority determines that it is not satisfied in accordance with subsection (1) it shall notify the prospective applicant to that effect.
- (4) An opinion under subsection (2) shall specify—
- (a) the details, or groups of details, of the proposed development as proposed by the prospective applicant that may be confirmed after the proposed application has been made and decided,
 - (b) the circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in paragraph (a), and
 - (c) that, in respect of each detail, or group of details, referred to in paragraph (a), the proposed application shall, in addition to any other requirement imposed by or under this Act, be accompanied by the information referred to in section 32H(2)(f).

- (5) An opinion issued by a planning authority under subsection (2) shall only be made public when a planning application in respect of the proposed development is made in accordance with section 34.
- (6) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of the planning authority providing an opinion under subsection (2), including the form of the opinion.
- (7) Where, on the expiry of the period specified in subsection (1), the planning authority has failed to provide an opinion or notification, the planning authority shall proceed to do so as soon as practicable, notwithstanding that the period has expired, and provide the prospective applicant with a written explanation why it failed to provide the opinion or notification in the specified period.

Procedure without prejudice to performance by the planning authority of other functions

32J. Neither the taking place of a meeting under section 32H nor the provision of an opinion or notification under section 32I shall prejudice the performance by the planning authority of its functions under this Act or any regulations under this Act or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

Effect of steps not being completed within the time period

32K. A person shall not question the validity of any steps taken by a planning authority by reason only that the procedures set out in sections 32H and 32I, were not completed within the time referred to in the sections concerned.

Offence of taking payment, etc. in connection with section 32H procedure

32L. A member or official of a planning authority who takes or seeks any favour, benefit or payment, direct or indirect (on his or her own behalf or on behalf of any other person or body), in connection with the provision of an opinion or notification under section 32I commits an offence.”.

Amendment of section 34 of Principal Act

12. Section 34 of the Principal Act is amended—

(a) by the insertion of the following subsection after subsection (4):

“(4A) Notwithstanding subsection (1), where a planning authority grants permission for a development on foot of an application accompanied by an opinion provided by the planning authority under section 32I(2) the permission shall include a condition in respect of any detail of the development that was not confirmed at the time of the application requiring—

(a) the actual detail of the development to fall within specified options, parameters or a combination of options and parameters, and

(b) the applicant to notify the planning authority in writing, by such date prior to the commencement of the development, or prior to the commencement of the part of the development to which the detail relates, as the Minister may prescribe, of the actual detail of the development.”,

(b) by the substitution of the following subsection for subsection (12):

“(12) A planning authority shall refuse to consider an application to retain unauthorised development of land where it decides that either or both of the following was required or is required in respect of the development:

(a) an environmental impact assessment;

(b) an appropriate assessment.”,

and

(c) in subsection (12A), by the substitution of “an application in respect of the following development shall be deemed not to have required, and not to require, a determination as to whether an environmental impact assessment is required” for “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)”.

Amendment of section 37 of Principal Act

13. Section 37 of the Principal Act is amended —

(a) in subsection (1)(b), by the substitution of “(3), (4), and (4A)” for “(3) and (4)”, and

(b) by the insertion of the following subsections after subsection (6):

“(7) Subject to the modification referred to in subsection (8), and any other necessary modifications, subsections (12) and (12A) of section 34 apply to the consideration by the Board of an application on appeal under subsection (1) against a decision of the planning authority.

(8) The modification is that the reference in section 34(12) to the planning authority shall be construed as a reference to the Board.

(9) Where the Board refuses under section 34(12), as applied by subsection (7), to consider an application on appeal—

(a) it shall give the reasons for the refusal to the person who made the appeal,

(b) the application on appeal shall be deemed to have been withdrawn by the applicant for permission, and

(c) the refusal shall operate to annul the decision of the planning authority as from the time when that decision was given.”.

Opinion in relation to application to Board

14. The Principal Act is amended by the insertion of the following sections after section 37C:

“Application for opinion under section 37CD

[No. 29.] *Planning and Development, Maritime and Valuation (Amendment) Act* [2022.]
2022

- 37CC.** (1) A person who proposes to apply for permission for any development specified in the Seventh Schedule (referred to in this section and section 37CD as a 'prospective applicant') may request a meeting with the Board for the purposes of section 37CD as part of consultations referred to in section 37B(1).
- (2) A request under subsection (1) shall be in writing, be accompanied by the appropriate fee and include—
- (a) the name and address of the prospective applicant,
 - (b) a site location map sufficient to identify the land on which the proposed development would be situated,
 - (c) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment,
 - (d) a draft layout plan of the proposed development,
 - (e) a description of—
 - (i) the details, or groups of details, of the proposed development that, owing to the circumstances set out in subparagraph (ii), are unlikely to be confirmed at the time of the proposed application, and
 - (ii) the circumstances relating to the proposed development, including such circumstances as the Minister may prescribe in relation to any class or description of development for the purposes of this subparagraph, that indicate that it is appropriate that the proposed application be made and decided, before the prospective applicant has confirmed the details referred to in subparagraph (i) including, in particular, whether the prospective applicant may be able to avail of technology available after making the proposed application that is more effective or more efficient than that available at the time of the application,
 - (f) an undertaking to provide with the proposed application, either—
 - (i) two or more options, in respect of each detail or group of details referred to in paragraph (e)(i), containing information on the basis of which the proposed application may be made and decided,
 - (ii) parameters within which each detail referred to in paragraph (e)(i) will fall and on the basis of which the proposed application may be made and decided, or
 - (iii) a combination of subparagraphs (i) and (ii),
 - (g) such other information, drawings or representations as the prospective applicant may wish to provide or make available, and
 - (h) such other information as may be prescribed.
- (3) Where a prospective applicant submits a request in accordance with subsection (1) the Board shall convene a meeting for the purposes of section 37CD.
- (4) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be

**[No. 29.] Planning and Development, Maritime [2022.]
and Valuation (Amendment) Act
2022**

necessary or expedient for the purposes of holding a meeting convened under subsection (3), including—

- (a) matters that are required to be considered at the meeting,
- (b) matters that may be considered at the meeting, and
- (c) the manner in which the meeting is to be conducted.

Opinion as to flexibility with regard to certain applications

37CD. (1) The Board shall, as soon as practicable after a meeting convened under section 37CC(3) takes place, consider—

- (a) the information included in the request for the meeting under section 37CC, and
- (b) any other relevant information that is made available at the meeting,

and determine if it is satisfied that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed certain details of the application.

- (2) Where the Board serves a notice under section 37B(4)(a) it shall, where it determines that it is satisfied in accordance with subsection (1), serve an opinion to that effect with such notice.
- (3) Where the Board serves a notice under section 37B(4)(a) it shall, where it determines that it is not satisfied in accordance with subsection (1), notify the prospective applicant to that effect.
- (4) An opinion under subsection (2) shall specify—
 - (a) the details, or groups of details, of the proposed development that may be confirmed after the proposed application has been made and decided,
 - (b) the circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in paragraph (a), and
 - (c) that, in respect of each detail, or group of details, referred to in paragraph (a), the proposed application shall, in addition to any other requirement imposed by or under this Act, be accompanied by the information referred to in section 37CC(2)(f).
- (5) A meeting held, and any opinion issued, for the purposes of this section shall be part of consultations held under section 37B.
- (6) An opinion issued by the Board under subsection (2) shall only be made public when a planning application in respect of the proposed development is made in accordance with section 37E.
- (7) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of the Board providing an opinion under subsection (2), including the form of the opinion.

Offence of taking payment, etc. in connection with section 37CD procedure

37CE. A member or official of the Board who takes or seeks any favour, benefit or payment, direct or indirect (on his or her own behalf or on behalf of any other person or body), in connection with the provision of an opinion or notification under section 37CD commits an offence.”.

Amendment of section 37G of Principal Act

15. Section 37G of the Principal Act is amended by the insertion of the following subsection after subsection (7):

“(7A) Notwithstanding subsection (3), where the Board grants permission for a development on foot of an application accompanied by an opinion issued by the Board under section 37CD(2) the permission shall include a condition in respect of any detail of the development that was not confirmed at the time of the application requiring—

- (a) the actual detail to fall within specified options, parameters or a combination of options and parameters, and
- (b) the applicant to notify the planning authority in whose functional area or areas the development is situated in writing, by such date prior to the commencement of the development, or prior to the commencement of the part of the development to which the detail relates, as the Minister may prescribe, of the actual detail of the development.”.

Amendment of section 37I of Principal Act

16. Section 37I(1)(c) of the Principal Act is amended by the insertion of “including applications accompanied by an opinion under section 37CD(2)” after “applications for permission under section 37E”.

Amendment of section 37L of Principal Act

17. Section 37L of the Principal Act is amended—

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

“(1) Where a person applies for substitute consent in respect of development of land under section 177E, the person may also apply for permission for the following:

- (a) development of the land the subject of the application for substitute consent;
- (b) development of land adjoining the land the subject of the application for substitute consent.”,

(b) in subsection (2), by the deletion of “to further develop a quarry”,

(c) by the substitution of the following subsection for subsection (3):

“(3) Development referred to in paragraph (a) or (b) of subsection (1) is not required to be the same as, or of the same description as, the development the subject of the application for substitute consent referred to in that subsection.”,

(d) by the substitution of the following subsection for subsection (5):

[No. 29.] *Planning and Development, Maritime and Valuation (Amendment) Act* [2022.]
2022

“(5) Where prior to the date of the coming into operation of *section 17* of the *Planning and Development, Maritime and Valuation (Amendment) Act 2022*, an application for substitute consent has been made under *section 177E*, but no decision has been made by the Board in respect of that application prior to or on that date, an application for permission may be made under subsection (1) as substituted by that *section 17*, within 6 months of that date.”,

(e) by the substitution of the following subsection for subsection (6):

“(6) An application may not be made under subsection (1), as substituted by *section 17* of the *Planning and Development, Maritime and Valuation (Amendment) Act 2022*., where a decision has been made by the Board in respect of the application for substitute consent referred to in subsection (1) as so substituted, prior to or on the date of the coming into operation of that *section 17*.”,

(f) by the substitution of the following subsection for subsection (7):

“(7) Where—

(a) subsection (5), as substituted by *section 17* of the *Planning and Development, Maritime and Valuation (Amendment) Act 2022*., applies, and

(b) the applicant for substitute consent informs the Board by notice in writing prior to it making its decision in respect of the application for substitute consent, in this subsection referred to as the ‘first application’, that he or she intends to submit an application for permission under subsection (1), as substituted by that *section 17*, in this subsection referred to as the ‘second application’,

the Board shall, notwithstanding *section 177P(1)*, not make its decision on the first application prior to—

(i) the date that is 6 months after the date of the coming into operation of that *section 17*,

(ii) the date the second application is received by the Board, or

(iii) the date the applicant for substitute consent informs the Board by notice in writing that he or she no longer intends to submit a second application,

whichever is the earlier.”,

(g) in subsection (8)—

(i) by the deletion of “in respect of a quarry”, and

(ii) by the substitution of “referred to in subsection (1)” for “in respect of that quarry”,

(h) in subsection (10), by the substitution of “environmental impact assessment report” for “environmental impact statement”,

(i) in subsection (11), by the substitution of “environmental impact assessment report” for “environmental impact statement”, and

(j) in subsection (12)(b), by the substitution of “paragraph (a)” for “subparagraph (a)”.

Amendment of section 37M of Principal Act

18. Section 37M of the Principal Act is amended in subsection (1)(a) by the substitution of “environmental impact assessment report” for “environmental impact statement”.

Amendment of section 37N of Principal Act

19. Section 37N of the Principal Act is amended in subsection (2)(a)(i) by the substitution of “environmental impact assessment report” for “environmental impact statement”.

Amendment of section 37O of Principal Act

20. Section 37O of the Principal Act is amended—

(a) in subsection (3)(a), by the substitution of “environmental impact assessment report” for “environmental impact statement”, and

(b) in subsection (4)—

(i) in paragraph (b), by the deletion of “and”,

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

“(ba) where a decision to impose a condition (being an environmental condition which arises from the consideration of an environmental impact assessment report) is materially different, in relation to the terms of the condition, from a recommendation in a report of a person assigned to report on the application for permission on behalf of the Board, the main reasons for not accepting or for varying the recommendation in relation to such condition,

(bb) in relation to the grant or refusal of any permission, subject to or without conditions, that the Board is satisfied, where an environmental impact assessment was carried out, that the reasoned conclusion on the significant effects on the environment of the development was up to date at the time of the taking of the decision,

(bc) in summary form, the results of the consultations that have taken place and information gathered in the course of the environmental impact assessment and, where appropriate, the comments received from an affected Member State of the European Union or other party to the Transboundary Convention, and how those results have been incorporated into the decision or otherwise addressed, and”,

and

(iii) in paragraph (c), by the insertion of “(being a decision which arises from the consideration of the environmental impact assessment report concerned)” after “a decision by the Board under section 37N”.

Amendment of section 37P of Principal Act

21. (1) Section 37P of the Principal Act is amended by the substitution of the following subsections for subsections (1) and (2):

“(1) The Minister shall make regulations to provide for such matters of procedure and administration as appear to the Minister to be

necessary or expedient in respect of applications for permission under section 37L and decisions under section 37N.

(2) Without prejudice to the generality of subsection (1), regulations under this section may—

(a) make provision for the payment of fees to the Board, and

(b) make provision for matters of procedure in relation to the making of an application under section 37L, including the giving of public notice and the making of applications in electronic form.”.

(2) All regulations made under section 37P of the Principal Act and in force immediately before the date of the coming into operation of *subsection (1)* shall be deemed on and after that date to have been made under section 37P of the Principal Act as amended by *subsection (1)*.

(3) Every act done, or purporting to have been done, under the regulations referred to in *subsection (2)* before the date of the coming into operation of *subsection (1)* shall on and after that date be, and be deemed always to have been, valid and effectual for all purposes.

(4) If *subsection (2)* or *(3)* would, but for this subsection, conflict with a constitutional right of any person, the operation of the subsection shall be subject to such limitation as is necessary to secure that it does not so conflict but shall be otherwise of full force and effect.

Amendment of section 50A of Principal Act

22. Section 50A of the Principal Act is amended—

(a) in subsection (3)—

(i) in paragraph (a), by the substitution of “quashed,” for “quashed, and”,

(ii) in paragraph (b), by the substitution of “falls), and” for “falls).”, and

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

“(c) the applicant has exhausted any available appeal procedures or any other administrative remedy available to him or her in respect of the decision or act concerned.”,

and

(b) by the insertion of the following subsection after subsection (9):

“(9A) If, on an application for judicial review under the Order, the Court decides to quash a decision or other act to which section 50(2) applies, made or done on an application for permission or approval, the Court shall, if requested by the applicant for permission or approval, remit the matter to the planning authority, the local authority or the Board, as may be appropriate, for reconsideration, subject to such directions as the Court considers appropriate, unless the Court considers, having regard to the circumstances of the case, that it would not be lawful to do so.”.

Amendment of section 104 of Principal Act

23. Section 104 of the Principal Act is amended—

- (a) in subsection (2), by the deletion of “177C,” and
- (b) in subsection (2A), by the deletion of “177C,”.

Amendment of section 144 of Principal Act

24. Section 144(1A) of the Principal Act is amended —

- (a) by the insertion of the following paragraph after paragraph (c):

“(cc) the provision of an opinion or notification under section 37CD or 182G,”

and

- (b) in paragraph (f), by the deletion of “an application for leave to apply for substitute consent or”.

Amendment of section 156 of Principal Act

25. Section 156(1) of the Principal Act is amended by the substitution of “section 32G, 32L, 37CE, 58(4)” for “section 32G, 58(4)” and by the insertion of “182H,” after “154,”.

Amendment of section 177A of Principal Act

26. Section 177A of the Principal Act is amended in subsection (1) by the substitution of the following definition for the definition of “exceptional circumstances”:

“‘exceptional circumstances’ shall, other than in section 177K(2A)(b), be construed in accordance with section 177K(1J);”.

Amendment of section 177E of Principal Act

27. Section 177E of the Principal Act is amended—

- (a) in subsection (1), by the insertion of “in respect of development of land” after “substitute consent”,
- (b) by the substitution of the following subsection for subsection (1A):

“(1A) The Board may, at its own discretion and at the request of a person who intends to make an application for substitute consent, enter into consultations in respect of the application with that person before he or she makes the application.”.

- (c) by the insertion of the following subsections after subsection (1A):

“(1B) Subject to subsection (2A), an application for substitute consent may be made by—

- (a) a person who has carried out the development referred to in subsection (1), or
- (b) the owner or occupier of the land on which the development has been carried out.

(1C) The Board shall only consider an application for substitute consent in respect of development of land where—

[No. 29.] *Planning and Development, Maritime and Valuation (Amendment) Act* [2022.]
2022

- (a) subject to subsection (1D), the Board is satisfied under section 172 that an environmental impact assessment was required or is required for the development,
 - (b) subject to subsection (1E), the Board is satisfied under section 177U that an appropriate assessment was required or is required for the development, or
 - (c) subject to subsections (1D) and (1E), the Board is satisfied under sections 172 and 177U, that both of the assessments referred to at paragraphs (a) and (b) were required or are required for the development.
- (1D) Where the Board receives an application which is accompanied by a remedial environmental impact assessment report under subsection (2)(b) and the application is not, under this Act or any regulations made under it, invalid or withdrawn, the Board shall be deemed to be satisfied that an environmental impact assessment is required and was required and the Board shall consider the application.
- (1E) Where the Board receives an application which is accompanied by a remedial Natura impact statement under subsection (2)(b), and the application is not, under this Act or any regulations made under it, invalid or withdrawn, the Board shall be deemed to be satisfied that an appropriate assessment is required and was required and the Board shall consider the application.”
- (d) by the substitution of the following subsection for subsection (2):
- “(2) An application for substitute consent shall—
- (a) state the name of the person making the application,
 - (b) be accompanied by a remedial environmental impact assessment report or remedial Natura impact statement, or both,
 - (c) be accompanied by the fee payable in accordance with section 177M,
 - (d) comply with any requirements prescribed under section 177N, and
 - (e) be accompanied by any other document that the applicant considers would be of assistance to the Board in making a decision in relation to his or her application.”
- (e) by the substitution of the following subsection for subsection (2A):
- “(2A) Where an application for substitute consent is made in respect of development of land for which planning permission has been granted, that application may be made in relation to—
- (a) that part of the development permitted under the permission that has been carried out at the time of the application, or
 - (b) subject to subsection (2B), that part of the development referred to in paragraph (a) and all or part of the development permitted under the permission that has not been carried out at the time of the application.”
- (f) by the insertion of the following subsection after subsection (2A):
- “(2B) Where subsection (2A)(b) applies the applicant shall, in relation to that part of the development that has not been carried out at

the time of the application, furnish one or both of the following to the Board with his or her application:

- (a) where a remedial environmental impact assessment report has been furnished with the application, an environmental impact assessment report;
- (b) where a remedial Natura impact statement has been furnished with the application, a Natura impact statement.”,
- (g) in subsection (4), by the substitution of “specified in section 177B (whether the notice given under section 177B(1) was confirmed or amended before the date of the coming into operation of *section 40(a)* of the *Planning and Development, Maritime and Valuation (Amendment) Act 2022*, or confirmed or amended on or after that date in accordance with *section 41(10)* of that Act) or specified in section 261A” for “specified in section 177B, 177D or 261A”,

(h) by the insertion of the following subsections after subsection (4A):

“(4B) Where the Board considers that a remedial Natura impact statement does not comply with paragraph (a), (b) or (c) of section 177G(1), the Board shall require the applicant for substitute consent to furnish, within a specified period, such further information as it considers necessary for the statement to so comply.

(4C) Where further information required by the Board under subsection (4A)(c) or (4B) is not furnished to it by the applicant within the period specified under that subsection, or within any further period as may be specified by the Board, the application shall be deemed to have been withdrawn by the applicant.”,

and

(i) by the insertion of the following subsection after subsection (5):

“(6) Where a remedial environmental impact assessment report, remedial Natura impact statement, environmental impact assessment report or Natura impact statement is received by the Board in response to a requirement under subsection (2CA), (2CB) or (2CC) of section 177K, the Board shall, as soon as may be after its receipt, send the report or statement, as the case may be, to the planning authority referred to in subsection (5), and the planning authority shall place the report or statement on the register.”.

Amendment of section 177F of Principal Act

28. Section 177F of the Principal Act is amended—

(a) in subsection (2)(a)—

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

“(i) A person may request the Board to give him or her an opinion referred to in subparagraph (ii) in relation to a development—

(I) before he or she makes an application for substitute consent in respect of the development, or

(II) after he or she has made such an application, where required by the Board under section 177K(2CA) to submit a remedial environmental impact assessment report.”,

(ii) in subparagraph (ii)—

(I) by the substitution of “the Board shall, when requested to do so by the person referred to in subparagraph (i),” for “the Board shall,”,

(II) by the substitution of “the person” for “the applicant”, and

(III) by the insertion of “in relation to the development” after “remedial environmental impact assessment report”,

and

(iii) in subparagraph (iii), by the substitution of “the person referred to in subparagraph (i)” for “the applicant”,

and

(b) in subsection (2)(b), by the substitution of “The person referred to in paragraph (a)(i)” for “An applicant”.

Amendment of section 177I of Principal Act

29. Section 177I of the Principal Act is amended—

(a) in subsection (1), by the substitution of “Subject to subsection (1A), no later” for “No later”, and

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

“(1A) Where section 177E(6) applies, the period of 10 weeks referred to in subsection (1) shall run from the date of receipt by the planning authority of the report or statement, as the case may be, under that section.”.

Amendment of section 177K of Principal Act

30. Section 177K of the Principal Act is amended—

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

“(1J) In considering whether exceptional circumstances exist under subsection (1A)(a) the Board shall have regard to the following matters:

(a) whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive;

(b) whether the applicant had or could reasonably have had a belief that the development was not unauthorised;

(c) whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired;

- (d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development;
 - (e) the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated;
 - (f) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development;
 - (g) such other matters as the Board considers relevant.”,
- (b) in subsection (2)(c), by the insertion of “or in accordance with a requirement under subsection (2CA), (2CB) or (2CC)” after “submitted with the application”,
- (c) by the insertion of the following subsections after subsection (2C):
- “(2CA) Where the applicant submitted a remedial Natura impact statement under section 177E(2), but did not submit a remedial environmental impact assessment report under that section, and the Board determines that an environmental impact assessment was required or is required, the Board shall require the applicant to submit such a report within a specified period.
 - (2CB) Where the applicant submitted a remedial environmental impact assessment report under section 177E(2), but did not submit a remedial Natura impact statement under that section, and the Board determines that an appropriate assessment was required or is required, the Board shall require the applicant to submit such a statement within a specified period.
 - (2CC) Where section 177E(2A)(b) applies and a remedial environmental impact assessment report or remedial Natura impact statement, as the case may be, was not submitted with an application but is subsequently required under subsection (2CA) or (2CB), the Board shall, in relation to the part of the development referred to in section 177E(2A)(b) that has not been carried out at the time of the application, require the applicant to submit an environmental impact assessment report or a Natura impact statement, as the case may be, within a specified period.
 - (2CD) Where the Board requires the applicant to submit within a specified period a report under subsection (2CA), a statement under subsection (2CB), or a report or statement under subsection (2CC), and the report or statement is not submitted to it within that period, or within any further period that the Board may specify, the application shall be deemed to have been withdrawn by the applicant.”,
- (d) in subsection (2D)(a), by the substitution of “in accordance with the Planning and Development Regulations 2001” for “under article 227(2A) of the Planning and Development Regulations 2001”,
- (e) in subsection (2E)(a)(ii), by the substitution of “in accordance with the Planning and Development Regulations 2001” for “under article 227(2A) of the Planning and Development Regulations 2001”,
- (f) in subsection (4)(aa), by the insertion of “where an environmental impact assessment was carried out,” before “the reasoned conclusion by the Board”,

(g) in subsection (4A)—

(i) in paragraph (b), by the insertion of “an environmental impact assessment was carried out and” before “the decision under subsection (1)”, and

(ii) in paragraph (c), by the substitution of “Where an environmental impact assessment was carried out, the Board shall” for “The Board shall”,

and

(h) in subsection (6), by the deletion of paragraph (a).

Amendment of section 177L of Principal Act

31. Section 177L of the Principal Act is amended in subsection (1) by the deletion of “refuses an application for leave to apply for substitute consent under section 177D, or”.

Amendment of section 177M of Principal Act

32. Section 177M of the Principal Act is amended—

(a) in subsection (2), by the deletion of “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”, and

(b) in subsection (4), by the deletion of “at the same time as notifying the applicant of its decision under section 177D(6),”.

Amendment of section 177N of Principal Act

33. Section 177N of the Principal Act is amended in subsection (2)—

(a) in paragraph (a), by the deletion of “for leave to apply for substitute consent or”,

(b) in paragraph (d), by the deletion of “leave to apply for substitute consent or”, and

(c) in paragraph (k), by the deletion of “applications for leave to apply for substitute consent or”.

Amendment of section 177O of Principal Act

34. Section 177O of the Principal Act is amended—

(a) in subsection (3), by the substitution of “under section 177B, before the date of the coming into operation of *section 40(a)* of the *Planning and Development, Maritime and Valuation (Amendment) Act 2022.*, or on or after that date where *section 41(10)* of that Act applies, or under section 261A” for “under section 177B or section 261A”, and

(b) in subsection (5), by the substitution of “application for substitute consent” for “application or for substitute consent”.

Amendment of section 182B of Principal Act

35. Section 182B of the Principal Act is amended:

(a) in subsection (5) by the insertion of “, subject to subsection (5D),” after “an approval under paragraph (a), (b) or (c),”

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

“(5E) Where the Board approves development under subsection (5) on foot of an application accompanied by an opinion issued by the Board under section 182G(2) it shall attach a condition in respect of any detail of the development that was not confirmed at the time of the application requiring—

(a) the actual detail to fall within specified options or parameters or a combination of options and parameters, and

(b) the applicant to notify the planning authority in whose functional area or areas the development is situated in writing, by such date prior to the commencement of the development, or prior to the commencement of the part of the development to which the detail relates, as the Minister may prescribe, of the actual detail of the development.”

(c) in subsection (8), by the insertion of “including applications accompanied by an opinion under section 182G(2)” after “applications under section 182A for approval”.

Amendment of section 182D of Principal Act

36. (1) Section 182D of the Principal Act is amended—

(a) in subsection (5) by the insertion of “, subject to subsection (5D),” after “an approval under paragraph (a), (b) or (c),”

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

“(5E) Where the Board approves development under subsection (5) on foot of an application accompanied by an opinion issued by the Board under section 182G(2) it shall attach a condition in respect of any detail of the development that was not confirmed at the time of the application requiring—

(a) the actual detail to fall within specified options or parameters or a combination of options and parameters, and

(b) the applicant to notify the planning authority in whose functional area or areas the development is situated, in writing, by such date prior to the commencement of the development, or prior to the commencement of the part of the development to which the detail relates, as the Minister may prescribe, of the actual detail of the development.”

(2) In subsection (8) by the insertion of “including applications accompanied by an opinion under section 182G(2)” after “applications under section 182C for approval”.

Opinion in relation to application to Board

37. The Principal Act is amended by the insertion of the following sections after section 182E:

“Application for opinion under section 182G

182F. (1) A person who proposes to apply for approval under section 182B or 182D (referred to in this section and section 182G as a ‘prospective applicant’) may request a meeting with the Board for the purposes of section 182G as part of consultations referred to in section 182E(1).

(2) A request under subsection (1) shall be in writing, be accompanied by the appropriate fee and include—

- (a) the name and address of the prospective applicant,
- (b) a site location map sufficient to identify the land on which the proposed development would be situated,
- (c) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment,
- (d) a draft layout plan of the proposed development,
- (e) a description of—
 - (i) the details, or groups of details, of the proposed development that, owing to the circumstances set out in subparagraph (ii), are unlikely to be confirmed at the time of the proposed application, and
 - (ii) the circumstances relating to the proposed development, including such circumstances as the Minister may prescribe in relation to any class or description of development for the purposes of this subparagraph, that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in subparagraph (i) including, in particular, whether the prospective applicant may be able to avail of technology available after making the proposed application that is more effective or more efficient than that available at the time of the application,
- (f) an undertaking to provide with the proposed application, either—
 - (i) two or more options, in respect of each detail or group of details referred to in paragraph (e)(i), containing information on the basis of which the proposed application may be made and decided,
 - (ii) parameters within which each detail referred to in paragraph (e)(i) will fall and on the basis of which the proposed application may be made and decided, or
 - (iii) a combination of subparagraphs (i) and (ii),
- (g) such other information, drawings or representations as the prospective applicant may wish to provide or make available, and
- (h) such other information as may be prescribed.

(3) Where a prospective applicant submits a request in accordance with subsection (1) the Board shall convene a meeting for the purposes of section 182G.

[No. 29.] *Planning and Development, Maritime and Valuation (Amendment) Act* [2022.]
2022

- (4) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of holding a meeting convened under subsection (3), including—
- (a) matters that are required to be considered at the meeting,
 - (b) matters that may be considered at the meeting, and
 - (c) the manner in which the meeting is to be conducted.

Opinion as to flexibility with regard to application for approval

182G. (1) The Board shall, as soon as practicable after a meeting convened under section 182F(3) takes place, consider—

- (a) the information included in the request for the meeting under section 182F, and
- (b) any other relevant information that is made available at the meeting,

and determine if it is satisfied that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed certain details of the application.

- (2) Where the Board determines that it is satisfied in accordance with subsection (1) it shall provide an opinion to that effect to the prospective applicant.
- (3) Where the Board determines that it is not satisfied in accordance with subsection (1) it shall notify the prospective applicant to that effect.
- (4) An opinion under subsection (2) shall specify—
 - (a) the details, or groups of details, of the proposed development that may be confirmed after the proposed application has been made and decided,
 - (b) the circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in paragraph (a), and
 - (c) that, in respect of each detail, or group of details, referred to in paragraph (a), the proposed application shall, in addition to any other requirement imposed by or under this Act, be accompanied by the information referred to in section 182F(2)(f).
- (5) A meeting held, and any opinion issued, for the purposes of this section shall be part of consultations held under section 182E.
 - (6) An opinion issued by the Board under subsection (2) shall only be made public when a planning application in respect of the proposed development is made in accordance with section 182A or 182C.
 - (7) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of the Board providing an opinion under subsection (2), including the form of the opinion.

Offence of taking payment, etc. in connection with section 182G procedure

182H. A member or official of the Board who takes or seeks any favour, benefit or payment, direct or indirect (on his or her own behalf or on behalf of any other person or body), in connection with the provision of an opinion or notification under section 182G commits an offence.”.

Amendment of section 246 of Principal Act

38. Section 246(1)(d) of the Principal Act is amended by the insertion of the following subparagraph after subparagraph (iii):

“(iv) to planning authorities of prescribed fees in relation to the provision of an opinion or notification under section 321,”.

Amendment of Fifth Schedule to Principal Act

39. The Fifth Schedule to the Principal Act is amended by the insertion of the following paragraphs after paragraph 34:

“35. A condition under section 34(4A), 37G(7A), 182B(5E), 182D(5E) or 293(4A) requiring that any detail of a development that was not confirmed at the time of the application for permission fall within specified options, parameters or a combination of options and parameters.

36. A condition under section 34(4A), 37G(7A), 182B(5E), 182D(5E) or 293(4A) requiring the applicant to notify to a planning authority in writing, by such date prior to the commencement of the development, or prior to the commencement of the part of the development to which the detail relates, as the Minister may prescribe, of the actual detail of a development that was not confirmed at the time of the application for permission.”.

Repeals

40. The following provisions of the Principal Act are repealed:

- (a) section 177B;
- (b) section 177C;
- (c) section 177D;
- (d) section 177K(1A)(b) and (c) ;
- (e) section 177K(1B) to (1I).

Transitional provisions

41. (1) The amendment of section 31(8) of the Principal Act effected by *section 3(c)* shall apply in respect of a report under that section 31(8) relating to a notice issued by the Minister under section 31(3) of the Principal Act after the coming into operation of *section 3(c)*.

(2) Where a report has been made to the Office of the Planning Regulator in accordance with section 31AN(3) of the Principal Act before the date of coming into operation of *section 5* , section 31AN(4) of the Principal Act

shall continue to apply in respect of the report on and after that date as if *section 5* had not come into operation.

- (3) Where, before the coming into operation of *section 5*, the Office of the Planning Regulator has recommended to the Minister under section 31AN(4) of the Principal Act that he or she issue a direction with or without minor amendments, section 31AN(4A) (inserted by *section 5(c)*) of the Principal Act shall apply in respect of the recommendation as if the words “no later than 6 weeks after receipt of the recommendation” were deleted therefrom.
- (4) The amendment of section 31AN(7) of the Principal Act effected by *section 5(d)* shall apply in respect of a report of an inspector where the inspector is appointed under section 31AN(4) of the Principal Act after the coming into operation of *section 5*.
- (5) Where a report has been made to the Office of the Planning Regulator in accordance with section 31AP(3) of the Principal Act before the date of coming into operation of *section 7*, section 31AP(4) of the Principal Act shall continue to apply in respect of the report on and after that date as if *section 7* had not come into operation.
- (6) Where, before the coming into operation of *section 7*, the Office of the Planning Regulator has recommended to the Minister under section 31AP(4) of the Principal Act that he or she issue a direction with or without minor amendments, section 31AP(4A) (inserted by *section 7(c)*) of the Principal Act shall apply in respect of the recommendation as if the words “no later than 6 weeks after receipt of the recommendation” were deleted therefrom.
- (7) The amendment of section 31AP(7) of the Principal Act effected by *section 7(d)* shall apply in respect of a report of an inspector where the inspector is appointed under section 31AP(4) of the Principal Act after the coming into operation of *section 7*.
- (8) Subsections (12) and (12A) of section 34 of the Principal Act as amended by *section 12* shall apply, in accordance with the amendments made to section 37 of that Act by *section 13*, on and after the date of the coming into operation of *section 13*, to the Board’s consideration of—
 - (a) any appeal under section 37 of that Act made but not determined before that date, and
 - (b) any appeal under section 37 of that Act made on or after that date, whether or not the decision of the planning authority under section 34 of that Act the subject of the appeal was made before that date.
- (9) Where a person has made an application under section 37L of the Principal Act before the date of the coming into operation of *section 17* but the application has not been determined before that date, the application shall on and after that date be considered in accordance with section 37L of the Principal Act as if *section 17* had not come into operation.
- (10) Where a notice is given under section 177B(1) of the Principal Act before the date of the coming into operation of *section 40(a)*, section 177B shall continue to apply in respect of the notice on and after that date as if *section 40(a)* had not come into operation.
- (11) Where a person applied for leave to apply for substitute consent under section 177C of the Principal Act before the date of the coming into operation of *section 40(b)*, but a decision on the application for leave was not made under section 177D before that date, the applicant shall be deemed to have withdrawn his or her application for leave to apply for substitute consent under section 177C and the Board shall return to the applicant any fee received from the applicant in respect of the application.

- (12) An application for substitute consent under section 177E of the Principal Act made before the date of the coming into operation of *sections 26 to 40*, or made on or after that date pursuant to leave to apply for substitute consent granted under section 177D before that date, shall on and after that date be considered in accordance with the Principal Act as if those sections had not come into operation.

PART 3

MARITIME AREA PLANNING

Definition - *Part 3*

42. In this Part, “Act of 2021” means the *Maritime Area Planning Act 2021*.

Amendment of section 3 of Act of 2021

43. Section 3 of the Act of 2021 is amended—

(a) by renumbering the section as section 3(1), and

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

“(2) Where, but for this subsection, a public body would not be able to perform, in relation to any matter whatsoever, one or more than one of its public functions by virtue of the matter relating, whether in whole or in part, to the continental shelf or any part thereof, then, by virtue of this subsection, the public body may perform the public function concerned in relation to that matter as if the continental shelf or the part thereof concerned were a part of the State where the public body may perform such function, and the other provisions of this Act or of any other enactment shall, with all necessary modifications, be construed accordingly.

(3) A public body shall, in the performance, in relation to any matter whatsoever, of its functions under this Act or any enactment amended by this Act, have regard to—

(a) the obligations placed on the State by the Convention, and

(b) the obligations in respect of the rights of the public or any class of the public over the foreshore in relation to navigation and fishing.

(4) For the purposes of this section, ‘foreshore’ means the bed and shore, below the line of high water of ordinary or medium tides, of the sea and of every tidal river and tidal estuary and of every channel, creek, and bay of the sea or of any such river or estuary.”.

Amendment of section 6 of Act of 2021

44. Section 6(8) of the Act of 2021 is amended by the insertion of “, or the Act of 2000,” after “this Act”.

Amendment of Part 2 of Act of 2021 - insertion of Chapter 8A

45. Part 2 of the Act of 2021 is amended by the insertion of the following Chapter after Chapter 8:

“Chapter 8A

Judicial review and MSPs and DMAPs

Judicial review of matters relating to MSPs and DMAPs

- 33A.** (1) Where a point of law arises on any matter with which a public body is concerned under this Part, the public body may refer the point to the High Court for decision.
- (2) A person shall not question the validity of any decision made or other act done by a public body in the performance or purported performance of a function under this Part in relation to a MSP or DMAP otherwise than by way of an application for judicial review under Order 84.
- (3) A public body may, at any time after the bringing of an application for leave to apply for judicial review of any decision or other act to which subsection (2) applies and which relates to a matter for the time being before the public body, apply to the High Court to stay the proceedings pending the making of a decision by the public body in relation to the matter concerned.
- (4) On the making of such an application, the High Court may, where it considers that the matter before the public body is within the jurisdiction of the public body, make an order staying the proceedings concerned on such terms as it thinks fit.
- (5) Subject to subsection (6), an application for leave to apply for judicial review under Order 84 in respect of a decision or other act to which subsection (2) applies shall be made within the period of eight weeks beginning on the date on which—
- (a) the publication requirement of section 16(1), 17(2)(a) or (b), 17(3)(a) or (b), or 18(1) is complied with in respect of the public body’s decision,
 - (b) the publication requirement of section 26(1)(a) or (b), is complied with in respect of the public body’s decision,
 - (c) the publication requirement of section 29(1) is complied with,
or
 - (d) the public body does the act concerned,
- as appropriate.
- (6) The High Court may extend the period provided for in subsection (5) within which an application for leave referred to in that subsection may be made but shall only do so if it is satisfied that—
- (a) there is good and sufficient reason for doing so, and
 - (b) the circumstances that resulted in the failure to make the application for leave within the period so provided were outside the control of the applicant for the extension.
- (7) References in this section to Order 84 shall be construed as including references to the Order as amended or replaced (with or without modification) by rules of court.

Provisions supplementary to section 33A

- 33B.** (1) In this section—

[No. 29.] *Planning and Development, Maritime and Valuation (Amendment) Act* [2022.]
2022

‘Court’, where used without qualification, means the High Court (but this definition shall not be construed as meaning that subsections (2) to (6) and (9) do not extend to and govern the exercise by the Court of Appeal of jurisdiction on any appeal that may be made);

‘section 33A leave’ means leave to apply for judicial review under Order 84 in respect of a decision or other act to which section 33A(2) applies.

- (2) (a) An application for section 33A leave shall be made by motion *ex parte* and shall be grounded in the manner specified in Order 84 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 Order 84 in respect of an *ex parte* motion for leave)—
- (i) to the public body concerned, and
- (ii) to any other person specified for that purpose by order of the High Court.
- (d) The Court may—
- (i) on the consent of all of the parties, or
- (ii) where there is good and sufficient reason for so doing and it is just and equitable in all the circumstances, treat the application for leave as if it were the hearing of the application for judicial review and may for that purpose adjourn the hearing on such terms as it may direct.
- (3) The Court shall not grant section 33A leave unless it is satisfied that—
- (a) there are substantial grounds for contending that the decision or act concerned is invalid or ought to be quashed, and
- (b) (i) the applicant has a sufficient interest in the matter which is the subject of the application, or
- (ii) where the decision or act concerned relates to a development identified in or under regulations made under section 176 of the Act of 2000, for the time being in force, as being development which may have significant effects on the environment, the applicant—
- (I) is a body or organisation (other than a State authority, a public authority or governmental body or agency) the aims or objectives of which relate to the promotion of environmental protection, and
- (II) has, during the period of 12 months preceding the date of the application, pursued those aims or objectives.

[No. 29.] *Planning and Development, Maritime and Valuation (Amendment) Act* [2022.]
2022

- (4) A sufficient interest for the purposes of subsection (3)(b)(i) is not limited to an interest in land or other financial interest.
- (5) If the court grants section 33A leave, no grounds shall be relied upon in the application for judicial review under Order 84 other than those determined by the Court to be substantial under subsection (3)(a).
- (6) The determination of the Court of an application for section 33A leave or of an application for judicial review on foot of such leave shall be final and no appeal shall lie from the decision of the Court to the Court of Appeal in either case save with leave of the Court which leave shall only be granted where the Court certifies that its decision involves a point of law of exceptional public importance and that it is desirable in the public interest that an appeal should be taken to the Court of Appeal.
- (7) Subsection (6) shall not apply to a determination of the Court in so far as it involves a question as to the validity of any law having regard to the provisions of the Constitution.
- (8) If an application is made for judicial review under Order 84 in respect of part only of a decision or other act to which section 33A(2) applies, the Court may, if it thinks fit, declare to be invalid or quash the part concerned or any provision thereof without declaring invalid or quashing the remainder of the decision or other act or part of the decision or other act, and if the Court does so, it may make any consequential amendments to the remainder of the decision or other act or the part thereof that it considers appropriate.
- (9) The Court shall, in determining an application for section 33A leave or an application for judicial review on foot of such leave, act as expeditiously as possible consistent with the administration of justice.
- (10) On an appeal from a determination of the Court in respect of an application referred to in subsection (9), the Court of Appeal shall—
- (a) have jurisdiction to determine only the point of law certified by the Court under subsection (6) (and to make only such order in the proceedings as follows from such determination), and
 - (b) in determining the appeal, act as expeditiously as possible consistent with the administration of justice.
- (11) Rules of court may make provision for the expeditious hearing of applications for section 33A leave and applications for judicial review on foot of such leave.”.

Amendment of section 56 of Act of 2021

46. Section 56 of the Act of 2021 is amended—

(a) in subsection (1), by the substitution of “Subject to subsection (9), the Board (M)” for “The Board (M)”, and

(b) by the insertion after subsection (8) of the following subsection:

“(9) (a) A selection competition to appoint a chief executive officer may be held before the establishment day and the successful candidate may be appointed by the Minister as the chief executive designate of the MARA.

(b) The chief executive designate shall be appointed chief executive officer on the establishment of the MARA.

(c) The date of the person's appointment under paragraph (a) shall be deemed to be the date of his or her appointment as chief executive officer."

Amendment of section 75 of Act of 2021

47. Section 75 of the Act of 2021 is amended by the insertion of the following subsection after subsection (4):

"(5) Where subsection (1) applies, the application for the development permission referred to in that subsection shall have attached to it the rehabilitation schedule (within the meaning of section 95) that would otherwise have been required to be attached to the MAC referred to in that subsection but for the operation of section 96(5)."

Amendment of section 81 of Act of 2021

48. Section 81 of the Act of 2021 is amended—

(a) by the substitution of the following subsection for subsection (5):

"(5) Where section 75(1) applies, the grant of a MAC does not confer on the holder of the MAC any right in or over the part of the maritime area the subject of the MAC—

(a) unless and until the holder obtains development permission for the maritime usage the subject of the MAC (being development permission that is consistent with the MAC as in force from time to time) and section 87 has been complied with as regards such permission, and

(b) unless and until the holder obtains all other authorisations (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) required under any other enactment in order to enable the holder to undertake such usage."

and

(b) in subsection (6), by the substitution of "right" for "estate, right or interest".

Amendment of section 85 of Act of 2021

49. Section 85 of the Act of 2021 is amended—

(a) in subsection (2), by the substitution of "Subject to subsection (2A), the proposed assignor" for "The proposed assignor",

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

"(2A) Subject to subsections (2B) and (2C), the Minister may by regulations specify—

(a) a class of assignments (including identifying such class by reference to a class of proposed assignees in relation to whom assignments which fall within that class may be made) to which subsection (2) shall not apply, and

(b) the procedures or requirements that will apply to an application by the proposed assignor or the proposed assignee, or both of them, made to the MARA for the MARA's consent in writing to an assignment which falls within that class (which procedures or requirements may be, or include, modifications of the procedures or requirements which apply to an assignment to which subsection (2) does apply).

(2B) Where the Minister makes regulations under subsection (2A), he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the following principles and policies in relation to the class of assignments concerned and the procedures and requirements that will apply to the applications concerned:

(a) whether the nature of an assignment which falls within that class, or the nature of the proposed assignee to whom the assignment may be made, or both, warrants the disapplication of subsection (2) to that class on the basis that to apply that subsection to that class would be disproportionate;

(b) whether the procedures and requirements applicable to those applications are more proportionate for the purposes of the assignment concerned than the procedures and requirements that would otherwise apply to the assignment by virtue of subsection (2) if that subsection were to apply to the assignment.

(2C) On and after the establishment day, the Minister shall not make regulations under subsection (2A) except after consultation with the MARA.”

and

(c) by the substitution of the following subsection for subsection (3):

“(3) The assignment of a MAC purporting to be effected, as appropriate—

(a) without the consent referred to in subsection (2), or

(b) otherwise than in compliance with regulations made under subsection (2A),

shall be void.”.

Substitution of section 87 of Act of 2021

50. The Act of 2021 is amended by the substitution of the following section for section 87:

“Resolution of irreconciliation (if any) between MAC and development permission

87. (1) This section applies where the maritime usage the subject of a MAC has development permission (including any case where such usage has any further development permission subsequent to the initial development permission).

(2) Where, but for this subsection, there is an irreconciliation between a provision of a MAC and a provision of a development permission for the maritime usage the subject of the MAC, that first-mentioned provision shall, by virtue of this section, be deemed to be amended

to the extent necessary to remove that irreconciliation in favour of the second-mentioned provision, and the other provisions of this Act shall, with all necessary modifications, be construed accordingly.”.

Amendment of section 95 of Act of 2021

51. Section 95 of the Act of 2021 is amended—

(a) in the definition of “rehabilitation schedule”, by the substitution of “attached” for “or (6) attached, or to be attached,”, and

(b) by the insertion of the following definition:

“ ‘planning rehabilitation schedule’, in relation to a MAC to which section 75(5) applies where the development permission concerned referred to in that section has been granted, means the equivalent in such planning permission to the rehabilitation schedule that was attached to the application for such development permission (and regardless of whether or not such equivalent is a schedule attached to the development permission);”.

Amendment of section 96 of Act of 2021

52. Section 96 of the Act of 2021 is amended by the deletion of subsection (6).

Amendment of section 97 of Act of 2021

53. Section 97 of the Act of 2021 is amended—

(a) by the substitution of the following subsections for subsections (1) and (2):

“(1) Subject to subsection (4), this section applies where the MARA is of the opinion, subsequent to the grant of a MAC, or the grant of development permission for the maritime usage the subject of a MAC, as appropriate, but not earlier than the anniversary of that grant specified in the MAC for the purposes of this section, that due to—

(a) technological developments relating to the rehabilitation of marine environments,

(b) changes in what is accepted as best practice relating to the rehabilitation of marine environments,

(c) submissions or recommendations made to the MARA by interested parties, organisations and other bodies concerned with the rehabilitation of marine environments, or

(d) any combination of matters falling within any of paragraphs (a) to (c),

the rehabilitation schedule or planning rehabilitation schedule, as the case may be, is no longer appropriate.

(2) The MARA may, by notice in writing given to the holder of a MAC to which a rehabilitation schedule is attached, require the holder to make an application under section 86(1), within the period specified in the notice (being a period reasonable in all the circumstances of the case), to amend or replace the rehabilitation

schedule to take account of the matters, specified in the notice, which have led the MARA to form the opinion referred to in subsection (1) but excluding any case where to take account of those matters requires an environmental impact assessment (in this section referred to as the 'exclusion (EIA)').",

and

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

"(3A) Subject to subsection (3E), the MARA may, by notice in writing given to the holder of a MAC to which a rehabilitation schedule is attached but to which subsection (2) does not apply by virtue of the exclusion (EIA), require the holder to make an application for development permission, within the period specified in the notice (being a period reasonable in all the circumstances of the case), to amend or replace the rehabilitation schedule to take account of the matters, specified in the notice, which have led the MARA to form the opinion referred to in subsection (1).

(3B) The holder of the MAC shall comply with the notice given to the holder under subsection (3A).

(3C) Subject to subsection (3E), the MARA may, by notice in writing given to the holder of a MAC in respect of which development permission has been granted in respect of the maritime usage the subject of the MAC, require the holder to make an application to amend the planning rehabilitation schedule the subject of such development permission, within the period specified in the notice (being a period reasonable in all the circumstances of the case), to take account of the matters, specified in the notice, which have led the MARA to form the opinion referred to in subsection (1).

(3D) The holder of the MAC shall comply with the notice given to the holder under subsection (3C).

(3E) The matters specified in a notice under subsection (3A) or (3C) shall not be construed to constrain the generality of the provisions of the Act of 2000 that apply to the determination of an application referred to in that subsection."

Amendment of section 131 of Act of 2021

54. Section 131(1) of the Act of 2021 is amended by the substitution of "point" for "question".

Amendment of section 134 of Act of 2021

55. Section 134(1) of the Act of 2021 is amended—

(a) in the definition of "MAC", by the insertion of "revoked under Chapter 3A," after "has been",

(b) in the definition of "licence", by the insertion of "revoked under Chapter 3A," after "has been",

(c) in the definition of "relevant ground", in paragraph (d), by the deletion of "of the holder", and

(d) by the substitution of the following definition for the definition of "relevant provision":

" 'relevant provision' means a provision of—

- (a) a relevant authorisation,
- (b) a development permission granted in respect of the maritime usage the subject of a relevant authorisation, or
- (c) this Act.”.

Amendment of section 135 of Act of 2021

56. Section 135 of the Act of 2021 is amended—

(a) by the insertion of the following subsection after subsection (2):

“(2A) Without prejudice to the generality of subsection (1), the MARA may, as it thinks fit in all the circumstances of the case—

- (a) abandon proceedings initiated under Chapter 3 or 5 in respect of a matter in favour of initiating proceedings under Chapter 3A in respect of the same matter, or
- (b) abandon proceedings initiated under Chapter 3A in respect of a matter in favour of initiating proceedings under Chapter 3 or 5 in respect of the same matter.”.

and

(b) by the substitution of the following subsection for subsection (3):

“(3) A revocation under Chapter 3A, a suspension under Chapter 4A, or a revocation or suspension under Chapter 5, of a relevant authorisation may relate to a part only of the maritime usage the subject of the relevant authorisation and, in any such case, the other provisions of this Part shall, with all necessary modifications, be construed accordingly.”.

Amendment of section 136 of Act of 2021

57. Section 136 of the Act of 2021 is amended—

- (a) by the deletion of “of a holder”,
- (b) in paragraph (a), by the insertion of “concerned” after “of the holder”, and
- (c) in paragraph (b), by the insertion of “concerned” after “circumstances of the holder”.

Amendment of Part 6 of Act of 2021 - insertion of Chapter 3A

58. The Act of 2021 is amended, in Part 6, by the insertion of the following Chapter after Chapter 3:

“Chapter 3A

Special enforcement notices

Definitions

143A. In this Chapter, ‘special enforcement notice’ means a notice under section 143B(2).

Issue of special enforcement notices

- 143B.** (1) Subsection (2) applies where the MARA is of the opinion (in this section referred to as the ‘relevant opinion’) that a relevant ground applies to a holder and the gravity or potential gravity of such ground is so great that the provisions of this Chapter should apply to that ground rather than the provisions of Chapter 3.
- (2) Without prejudice to the generality of the other provisions of this Part and subject to subsection (3), the MARA may give the holder a notice in writing, accompanied by a copy of this Chapter—
- (a) stating the relevant opinion,
 - (b) specifying the relevant ground as to why it is of that opinion and the reasons why it is of that opinion,
 - (c) directing the holder to take such steps as are specified in the notice to remedy the relevant ground or, as the case may be, the matters occasioning it, and
 - (d) specifying a period (being a period reasonable in all the circumstances of the case) within which those steps must be taken.
- (3) The period specified by the MARA pursuant to subsection (2)(d) may, at the request of the holder, be extended at the discretion of the MARA.
- (4) The MARA shall not give the holder a special enforcement notice unless, in the interests of procedural fairness, the MARA has first—
- (a) given the holder a notice in writing stating the nature of the special enforcement notice that the MARA is minded to give to the holder and the reasons why the MARA is so minded,
 - (b) given the holder a reasonable opportunity, in the circumstances concerned, to make representations in writing to the MARA on what is stated in the notice referred to in paragraph (a), and
 - (c) had regard to the representations (if any) referred to in paragraph (b) made to the MARA.
- (5) The steps specified in a special enforcement notice to remedy any relevant ground to which the notice relates may be framed so as to afford the holder a choice between different ways of remedying the relevant ground.
- (6) The MARA may cancel a special enforcement notice by notice in writing given to the holder.
- (7) Subject to subsection (8), where the holder fails to take the steps specified in a special enforcement notice, the MARA may, by notice in writing given to the holder, revoke the holder’s relevant authorisation.
- (8) The revocation of a relevant authorisation under subsection (7) shall not take effect until—
- (a) the date (if any) on which the MARA receives a notice in writing from the holder, not later than 30 days after the holder is given the notice concerned under subsection (6), stating that the holder accepts the revocation, or

(b) the date (if any) that the High Court specifies that the revocation shall take effect in an order under section 143C confirming the termination,

whichever first occurs.

(9) For the avoidance of doubt, it is hereby declared that the giving of a special enforcement notice to the holder does not relieve the holder of—

(a) any duty, obligation or responsibility under another provision of this Act or another enactment that relates to, or

(b) any liability arising from,

the relevant ground to which the notice relates.

Application to High Court to confirm revocation of relevant authorisation under section 143B(6)

143C. (1) Where the MARA does not receive a notice referred to in section 143B(7)(a) within the period specified in that section, it may, as soon as is practicable after the expiration of that period and on notice to the holder, make an application in a summary manner to the High Court for an order confirming the revocation of the holder’s relevant authorisation under section 143B(6).

(2) The High Court may determine an application under subsection (1) by—

(a) making any order that it considers appropriate, including an order revoking the relevant authorisation the subject of the application from the date specified for the purpose by the High Court in the order, and

(b) giving to the MARA any other direction that it considers appropriate.

(3) The MARA shall, on complying with a direction of the High Court under subsection (2)(b), give notice in writing to the holder concerned of the MARA’s compliance with such direction.

(4) The decision of the High Court on an application under subsection (1) is final except that the MARA or the holder the subject of the decision may, by leave of that Court or the Court of Appeal, appeal against the decision to the Court of Appeal on a point of law.

Rules of court

143D. Rules of court may make provision for the expedition of the hearing of proceedings under this Chapter.”.

Amendment of heading to Chapter 4 of Part 6 of Act of 2021

59. The heading to Chapter 4 of Part 6 of the Act of 2021 is amended by the substitution of “Termination” for “Automatic termination”.

Insertion of new section in Act of 2021

60. The Act of 2021 is amended by the insertion of the following section after section 144:

“Termination of relevant authorisation for breach

- 144A.** (1) The following breaches shall constitute grounds for termination of a relevant authorisation—
- (a) where the holder of a relevant authorisation fails to comply with a development permission granted in respect of the maritime usage the subject of that relevant authorisation and such failure is not remedied in accordance with, and within such reasonable period as is specified in, a notice from the MARA to the holder requiring such failure to be remedied,
 - (b) where the holder of a relevant authorisation fails to pay relevant moneys, as defined in section 167, due and owing to the MARA,
 - (c) where the holder of a relevant authorisation is in material breach of any provision of the relevant authorisation, the Act or the law, which breach is not remedied in accordance with, and within such reasonable period as is specified in, a notice from the MARA to the holder requiring such breach to be remedied, or which breach is not capable of being remedied, or
 - (d) where the holder of a relevant authorisation is in repeated or cumulative breach of any one or more provisions of the relevant authorisation, the Act or the law, which collectively are reasonably determined by the MARA to constitute a material breach and which are not remedied in accordance with, and within such reasonable period as is specified in, a notice from the MARA to the holder requiring such failure to be remedied.
- (2) Where the MARA is satisfied that there is a ground for termination of the relevant authorisation under subsection (1), it shall serve a notice in writing on the holder of the relevant authorisation—
- (a) specifying the particular breach complained of;
 - (b) if the breach is capable of remedy, requiring the holder of the relevant authorisation to remedy the breach;
 - (c) specifying a reasonable period, of at least 30 days, within which the breach must be remedied.
- (3) If the breach is not remedied within the period specified in the notice served under subsection (2), then the MARA shall serve notice of termination on the holder of the relevant authorisation.
- (4) The holder of the relevant authorisation shall accept that the relevant authorisation has terminated or object to the notice of termination within a period of 30 days.
- (5) Where the holder of the relevant authorisation does not accept that the relevant authorisation has terminated or objects to the termination of the relevant authorisation, then the MARA shall make as soon as practicable and on notice to the holder of the relevant authorisation, make an application to the High Court to confirm that the relevant authorisation has terminated.
- (6) The Court may either confirm that the relevant authorisation has terminated or refuse to confirm that the relevant authorisation has terminated, as the Court sees fit, having regard to the conduct of the parties under the foregoing provisions of this section and all other circumstances and where the Court refuses to confirm that the relevant authorisation has terminated, the Court may

make such order subject to such terms and conditions as the Court sees fit.

(7) The entitlement of the MARA to terminate a relevant authorisation for a failure to comply with a development permission is independent of and without prejudice to the entitlement of the MARA to take enforcement action under Part VIII of the Act of 2000 and shall not be construed to prejudice the application of the Act of 2000 in the event of a failure by the holder of a relevant authorisation to comply with a development permission granted in respect of the maritime usage the subject of the relevant authorisation.

(8) The entitlement of the MARA to terminate a relevant authorisation for a failure to pay relevant moneys due and owing by the holder of the relevant authorisation to the MARA is independent of and without prejudice to the entitlement of the MARA to recover, as a simple contract debt in any court of competent jurisdiction, from a person by whom relevant moneys is payable, any amount due and owing to the MARA in respect of such moneys in accordance with section 169 of the Act.

(9) The entitlement of the MARA to terminate a relevant authorisation in accordance with this section is without prejudice to the entitlement of the MARA to exercise any of the other enforcement powers conferred on it under Part 6 of the Act.”.

Amendment of Part 6 of Act of 2021 - substitution of Chapter heading

61. The Act of 2021 is amended, in Part 6, by the substitution of—

“Chapter 4A

Immediate suspension of relevant authorisation ”

for—

“Chapter 5

Immediate suspension of relevant authorisation, investigations and sanctions ”.

Amendment of section 145 of Act of 2021

62. Section 145(1) of the Act of 2021 is amended by the substitution of “, 3A or 5” for “or this Chapter”.

Amendment of Part 6 of Act of 2021 - insertion of new Chapter heading

63. The Act of 2021 is amended, in Part 6, by the insertion of the following Chapter heading after section 145:

“Chapter 5

Investigations and sanctions ”.

Amendment of heading to Chapter 6 of Part 6 of Act of 2021

64. The heading to Chapter 6 of Part 6 of the Act of 2021 is amended by the insertion of “3A,” after “Chapters”.

Amendment of section 154 of Act of 2021

65. Section 154(1) of the Act of 2021 is amended by the substitution of “revocation under Chapter 3A, termination under Chapter 4, or revocation under Chapter 5” for “termination or revocation of a relevant authorisation under Chapter 4 or 5”.

Amendment of section 155 of Act of 2021

66. Section 155 is amended by the insertion of “4A or” after “Chapter”.

Amendment of section 156 of Act of 2021

67. Section 156(1) of the Act of 2021 is amended by the insertion of “3A, 4A or” after “Chapter”.

Amendment of section 157 of Act of 2021

68. Section 157 of the Act of 2021 is amended by the substitution of “The revocation under Chapter 3A, the termination” for “The termination”.

Amendment of Part 6 of Act of 2021 - insertion of Chapter 8

69. The Act of 2021 is amended, in Part 6, by the insertion of the following Chapter after Chapter 7:

“Chapter 8

Civil remedies exercisable by holders of relevant authorisations

Rights of action

166A. (1) Subject to subsection (2), notwithstanding that a relevant authorisation does not confer on the holder of the authorisation any estate or interest in or over the part of the maritime area the subject of the authorisation, the holder shall, by virtue of this section, have the same rights of action—

- (a) in nuisance as if the holder were the owner of that part, and
- (b) in trespass as if the holder were the owner of such areas of that part in which any infrastructure or other property owned by the holder are situated.

(2) The rights referred to in subsection (1) are not exercisable against—

- (a) the MARA,
- (b) a member of staff of the MARA (including a person referred to in section 64(5)),
- (c) an authorised officer, or
- (d) a member of the Garda Síochána,

in the performance of their respective functions under this Act.”.

Amendment of section 169 of Act of 2021

70. Section 169 of the Act of 2021 is amended—

(a) by renumbering it as section 169(1), and

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

“(2) Interest shall be payable on an amount referred to in subsection (1), from the time it is due and owing to the MARA until it is paid to the MARA, at—

(a) the prescribed rate, or

(b) if no such rate stands prescribed, the rate of 2 per cent,

and that reference to amount shall include a reference to the amount of interest payable thereon as calculated under this subsection.”.

Amendment of section 144 of Planning and Development Act 2000

71. Section 144(1A) of the *Planning and Development Act 2000* is amended by the insertion the following paragraph after paragraph (cc):

“(cd) the provision of an opinion or notification under section 287B,”.

Amendment of section 156 of Planning and Development Act 2000

72. Section 156(1) of the *Planning and Development Act 2000* is amended by the substitution of “239, 247 or 287C” for “239 or 247”.

Amendment of Part XXI of Planning and Development Act 2000

73. Part XXI (inserted by section 171 of the Act of 2021) of the *Planning and Development Act 2000*, is amended—

(a) by the insertion of the following section after section 279 but in Chapter 1 of that Part:

“Maritime Area Regulatory Authority is prescribed body

279A. The Maritime Area Regulatory Authority is, by virtue of this section, a prescribed body for the purposes of this Part and, accordingly, a reference in this Part to prescribed bodies shall include a reference to the Maritime Area Regulatory Authority.”.

(b) by the insertion of the following sections after section 287:

“Application for opinion under section 287B

287A. (1) A prospective applicant who proposes to make an application under section 291 may, before making such an application, request a meeting with the Board for the purpose of section 287B as part of consultations referred to in section 287(1).

(2) A request under subsection (1) shall be in writing, be accompanied by the appropriate fee and include—

(a) the name and address of the prospective applicant,

(b) a site location map sufficient to identify the maritime area in which the proposed development would be situated,

(c) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment,

- (d) a draft layout plan of the proposed development,
 - (e) a description of—
 - (i) the details, or groups of details, of the proposed development that, owing to the circumstances set out in subparagraph (ii), are unlikely to be confirmed at the time of the proposed application, and
 - (ii) the circumstances relating to the proposed development, including such circumstances as the Minister may prescribe in relation to any class or description of development for the purposes of this subparagraph, that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in subparagraph (i) in particular, whether the prospective applicant may be able to avail of technology available after making the proposed application that is more effective or more efficient than that available at the time of the application,
 - (f) an undertaking to provide with the proposed application either—
 - (i) two or more options in respect of each detail or group of details referred to in paragraph (e)(i), containing information on the basis of which the proposed application may be made and decided,
 - (ii) parameters within which each detail referred to in paragraph (e)(i) will fall and on the basis of which the proposed application may be made or decided, or
 - (iii) a combination of subparagraphs (i) and (ii),
 - (g) such other information, drawings or representations as the prospective applicant may wish to provide or make available, and
 - (h) such other information as may be prescribed.
- (3) Where a prospective applicant submits a request in accordance with subsection (1), the Board shall convene a meeting for the purposes of this section.
- (4) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of holding a meeting convened under subsection (3), including—
- (a) matters that are required to be considered at the meeting,
 - (b) matters that may be considered at the meeting, and
 - (c) the manner in which the meeting is to be conducted.

Opinion of Board as to flexibility with regard to application for permission

287B. (1) The Board shall, as soon as practicable after a meeting convened under section 287A(3) takes place, consider—

- (a) the information included in the request for the meeting under section 287A, and

- (b) any other relevant information that is made available at the meeting,
- and determine if it is satisfied that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed certain details of the application.
- (2) Where the Board determines that it is satisfied in accordance with subsection (1), it shall provide an opinion to that effect to the prospective applicant.
- (3) Where the Board determines that it is not satisfied in accordance with subsection (1), it shall notify the prospective applicant to that effect.
- (4) An opinion under subsection (2) shall specify—
- (a) the details, or groups of details, of the proposed development as proposed by the prospective applicant that may be confirmed after the proposed application has been made or decided;
- (b) the circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in paragraph (a) ;
- (c) that, in respect of each detail, or group of details, referred to in paragraph (a), the proposed application shall, in addition to any other requirement imposed by or under this Act or the [Maritime Area Planning Act 2021](#), be accompanied by the information referred to in section 287A(2)(f).
- (5) A meeting held, and any opinion issued for the purposes of this section shall be part of consultations held under section 287.
- (6) An opinion issued by the Board under subsection (2) shall only be made public when a planning application in respect of the proposed development is made in accordance with section 291.
- (7) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient for the purposes of the Board providing an opinion under subsection (2), including the form of the opinion.

Offence of taking payment etc.

287C. A member or official of the Board who takes or seeks any favour, benefit or payment, direct or indirect (on his or her own behalf or on behalf of any other person or body), in connection with the provision of an opinion under section 287B commits an offence.”,

(c) by the insertion of the following subsection after subsection 293(4):

“(4A) Where the Board grants permission for a development on foot of an application in respect of which the Board has given an opinion under section 287B(2), the permission shall include a condition in respect of any detail of the development that was not confirmed at the time of the application requiring—

- (a) the actual detail of the development to fall within specified options, parameters or a combination of options and parameters, and

- (b) the applicant to notify the Board in writing, by such date prior to the commencement of the development, or prior to the commencement of the part of the development to which the detail relates, as the Minister may prescribe, of the actual detail of the development.”, and
- (d) by the insertion in section 306(2)(c) of “(including applications accompanied by an opinion under section 287B(2))” after “section 291”.

Amendment of Schedule 6 to Act of 2021

74. Schedule 6 to the Act of 2021 is amended—

(a) in Part 1—

(i) by the substitution of the following paragraph for paragraph 1:

“(1) A condition requiring the holder of a MAC to provide an indemnity to the State for one or both of the following:

(a) a failure to comply with—

(i) a provision of the MAC,

(ii) a provision of this Act relevant to a MAC, or

(iii) a provision of one or more than one condition attached, or deemed to be attached, to the MAC, or

(b) any liability arising from the undertaking of the maritime usage the subject of the MAC.”,

(ii) in paragraph 3, by the deletion of “change of circumstances that a reasonable person would consider might be a”,

(iii) by the substitution of the following paragraph for paragraph 9:

“9. If a MAC is revoked under Chapter 3A of Part 6, terminated under Chapter 4 of that Part or revoked under Chapter 5 of that Part, a provision requiring the former holder of the MAC (and notwithstanding that revocation or termination) to comply, in relation to that MAC, with section 96—

(a) as if the reference in section 96(1) to the expiration of a MAC were a reference to that revocation or termination, and

(b) to the extent practicable in all the circumstances of the case.”,

(iv) by the deletion of paragraphs 11 and 18, and

(v) by the insertion of the following paragraphs after paragraph 22:

“22A. A condition requiring the holder of a MAC to comply with the enactments specified in the condition that are relevant to the maritime usage the subject of the MAC.

22B. A condition specifying the steps that must be taken by the holder of a MAC when force majeure or other change of circumstances prevents one or both of the following:

(a) the holder from discharging (whether in whole or in part) an obligation of the holder under the MAC, this Act or the Act of 2000;

[No. 29.] *Planning and Development, Maritime and Valuation (Amendment) Act 2022* [2022.]

(b) the MARA from discharging (whether in whole or in part) an obligation of the MARA under the MAC, this Act or the Act of 2000 where the obligation relates, whether in whole or in part or directly or indirectly, to the holder.

22C. A condition that the MARA considers necessary and appropriate in the particular circumstances of a particular holder of a MAC.”,

and

(b) in Part 2, by the insertion of the following paragraphs after paragraph 24:

“24A. A condition requiring the holder of a MAC to comply with any development permission granted in respect of the maritime usage the subject of the MAC.

24B. A condition requiring the holder of a MAC to cooperate with and assist the MARA in—

(a) the MARA’s performance of its functions under and in relation to the MAC, and

(b) the MARA’s performance of its functions under this Act in so far as those functions relate to the MAC or to a class of MACs into which the MAC falls.”.

Amendment of Schedule 8 to Act of 2021

75. Schedule 8 to the Act of 2021 is amended—

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

“(1) A condition requiring the holder of a licence to provide an indemnity to the State for one or both of the following:

(a) a failure to comply with—

(i) a provision of the licence,

(ii) a provision of this Act relevant to the licence, or

(iii) a provision of one or more than one condition attached (or deemed to be attached) of the licence,

or

(b) any liability arising from the undertaking of the maritime usage the subject of the licence.”,

(b) in paragraph 3, by the deletion of “change of circumstances that a reasonable person would consider to be a”, and

(c) by the insertion of the following paragraph after paragraph 17:

“17A. A condition that the MARA considers necessary and appropriate in the particular circumstances of a particular holder of a licence.”.

PART 4

AMENDMENT OF VALUATION ACT 2001 AND RESIDENTIAL TENANCIES AND VALUATION ACT 2020

Amendment of section 21 of Valuation Act 2001

76. Section 21 of the Valuation Act 2001 is amended by the insertion of the following subsection after subsection (4):

“(5) The Commissioner may, with the consent of the Minister, by order revoke a valuation order at any time before the issue, under subsection (1) of section 26, of a copy of a valuation certificate and notice referred to in that subsection, relating to the valuation order concerned.”.

Amendment of section 14 of Residential Tenancies and Valuation Act 2020

77. Section 14(1) of the Residential Tenancies and Valuation Act 2020 is amended—

- (a) by the substitution of “31 December 2026” for “31 December 2022”,
- (b) by the substitution of “in relation to a rating authority area” for “in relation to the rating authority area of Dún Laoghaire-Rathdown County Council”, and
- (c) by the substitution of “16 years” for “12 years”.



Number 29 of 2022

**PLANNING AND DEVELOPMENT, MARITIME AND VALUATION (AMENDMENT)
ACT 2022**

REVISED

Updated to 16 May 2024

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Planning and Development Acts 2000 to 2023: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*, s. 1(3)). The Acts in this group are:

- *Planning and Development Act 2000* (30/2000)
- *Local Government Act 2001* (37/2001), ss. 2, 5(3) and Schedule 4 insofar 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), s. 1(6) and 114
- *Harbours (Amendment) Act 2009*(26/2009), s. 7(1) and (2), s. 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 Schedule 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), ss. 1(1), (2)(a), (3), 2-29
- *Planning and Development (Amendment) Act 2017* (20/2017)
- *Planning and Development (Amendment) Act 2018* (16/2018), other than Part 4 and sch. 3, references 12 to 18
- *European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018* (S.I. 296 of 2018), Parts 2, 3, 4 and Schedules 1, 2
- *Aircraft Noise (Dublin Airport) Regulation Act 2019* (12/2019), Part 3
- *Residential Tenancies (Amendment) Act 2019* (14/2019), s. 38
- *Local Government Rates and Other Matters Act 2019* (24/2019), ss. 23, 24
- *European Union (Waste Water Discharge) Regulations 2020* (S.I. No. 214 of 2020), Part II (reg. 5)

- *Planning and Development, Heritage and Broadcasting (Amendment) Act 2021* (11/2021), Part 2, Chapters 2, 5 (ss. 4-11, 15)
- *Planning and Development (Large Scale Residential Developments) Act 2021* (40/2021)
- *Maritime Area Planning Act 2021* (50/2021), Part 8 (ss. 171-174) and Schedules 10-12
- *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), Part 2 (ss. 2-41)
- *Planning and Development and Foreshore (Amendment) Act 2022* (47/2022), Part 2 (ss. 2-14)
- *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023), Part 13 chapter 3 (ss. 246-253)

Maritime Area Planning Acts 2021 to 2024: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Gas (Amendment) and Miscellaneous Provisions Act 2024* (11/2024) s. 1(3)). The Acts in this group are:

- *Maritime Area Planning Act 2021* (50/2021)
- *Planning and Development, Maritime and Valuation (Amendment) Act 2022* (29/2022), Part 3 (ss. 42-71)
- *Gas (Amendment) and Miscellaneous Provisions Act 2024* (11/2024), Part 4 (ss. 22-35)

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

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. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.