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Aircraft Noise (Dublin Airport) Regulation Act 2019 (No. 12)
Arterial Drainage Act 1945 (No. 3)
Capital Acquisitions Tax Consolidation Act 2003 (No. 1)
Circular Economy and Miscellaneous Provisions Act 2022 (No. 26)
Civil Law (Miscellaneous Provisions) Act 2021 (No. 14)
Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24)
Civil Registration Act 2004 (No. 3)
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Derelict Sites Act 1990 (No. 14)
Development (Emergency Electricity Generation) Act 2022 (No. 35)
Digital Hub Development Agency Act 2003 (No. 23)
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Education and Training Boards Act 2013 (No. 11)
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Gaeltacht Act 2012 (No. 34)

Gas (Amendment) Act 2000 (No. 26)

Gas (Interim) (Regulation) Act 2002 (No. 10)

Gas Act 1976 (No. 30)

Grangegorman Development Agency Act 2005 (No. 21)

Greyhound Racing Act 2019 (No. 15)

Harbours Act 1996 (No. 11)

Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023 (No. 26)

Home Building Finance Ireland Act 2018 (No. 28)

Housing (Miscellaneous Provisions) Act 1992 (No. 18)

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Housing (Regulation of Approved Housing Bodies) Act 2019 (No. 47)

Housing (Traveller Accommodation) Act 1998 (No. 33)

Housing Act 1966 (No. 21)

Housing Acts 1966 to 2002

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Industrial and Provident Societies Acts 1893 to 2021

Industrial Development (Amendment) Act 2018 (No. 19)

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Institutional Burials Act 2022 (No. 18)

Interpretation Act 2005 (No. 23)

Land and Conveyancing Law Reform Act 2009 (No. 27)

Land Development Agency Act 2021 (No. 26)

Landlord and Tenant Acts 1967 to 2019

Lands Clauses Consolidation Act 1845 (8 & 9 Vict. c. 18)

Legal Services Regulation Act 2015 (No. 65)

Licensing of Indoor Events Act 2003 (No. 15)

Limited Partnerships Act 1907 (7 Edw. 7, c. 24)

Litter Pollution Act 1997 (No. 12)

Local Government (Ireland) Act 1898 (61 & 62 Vict. c. 37)

Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024 (No. 7)

Local Government (No. 2) Act 1960 (No. 40)

Local Government (Planning and Development) Act 1963 (No. 28)

Local Government (Planning and Development) Act 1990 (No. 11)

Local Government (Sanitary Services) Act 1964 (No.29)

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Local Government Act 2001 (No. 37)

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Local Government Acts 1941, 1946, 1955 and 1991

Local Government Rates and Other Matters Act 2019 (No. 24)

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Maritime Area Planning Act 2021 (No. 50)

Minerals Development Act 1940 (No. 31)

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Ministers and Secretaries (Amendment) (No. 2) Act 1977 (No. 28)

Multi-Unit Developments Act 2011 (No. 2)

National Asset Management Agency Act 2009 (No. 34)

National Monuments (Amendment) Act 1987 (No. 17)

National Monuments (Amendment) Act 1994 (No. 17)

National Monuments (Amendment) Act 2004 (No. 22)

National Monuments Act 1930 (No. 2)

National Monuments Acts 1930 to 2014

Nursing Homes Support Scheme Act 2009 (No. 15)

Partnership Act 1890 (53 & 54 Vict., c. 39)

Petty Sessions (Ireland) Act 1851 (14 & 15 Vict., c. 93)

Planning and Development (Housing) and Residential Tenancies Act 2016 (No. 17)

Planning and Development (Strategic Infrastructure) Act 2006 (No. 27)

Planning and Development Act 2000 (No. 30)

Planning and Development Acts 2000 to 2002

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Planning and Development and Foreshore (Amendment) Act 2022 (No. 47)
Planning and Development, Heritage and Broadcasting (Amendment) Act 2021 (No. 11)
Planning and Development, Maritime and Valuation (Amendment) Act 2022 (No. 29)
Probation of Offenders Act 1907 (7 Edw. 7, c. 17)
Property Values (Arbitrations and Appeals) Act 1960 (No. 45)
Public Health (Ireland) Act 1878 (41 & 42 Vict., c. 52)
Public Service Management (Recruitment and Appointments) Act 2004 (No. 33)
Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (No. 37)
Public Service Superannuation (Miscellaneous Provisions) Act 2004 (No. 7)
Public Transport Regulation Act 2009 (No. 37)
Qualifications and Quality Assurance (Education and Training) Act 2012 (No. 28)
Railway Safety Act 2005 (No. 31)
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Regulation of Lobbying Act 2015 (No. 5)
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Residential Tenancies (Amendment) Act 2019 (No. 14)
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Transport (Railway Infrastructure) Act 2001 (No. 55)
Urban Regeneration and Housing Act 2015 (No. 33)
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Waste Management Act 1996 (No. 10)
Water Environment (Abstractions and Associated Impoundments) Act 2022 (No. 48)

Water Services (No. 2) Act 2013 (No. 50)

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Number 34 *of* 2024

PLANNING AND DEVELOPMENT ACT 2024

AnAct to consolidate and revise the law relating to planning and development; to provide for proper planning and sustainable development in the interests of the common good; to provide for the licensing of events and control of funfairs; for those purposes to repeal and replace the Planning and Development Act 2000 and amend certain other enactments; for purposes unrelated to the foregoing, to amend the Residential Tenancies Act 2004, the Residential Tenancies (Amendment) Act 2019, the Land Development Agency Act 2021 and the National Asset Management Agency Act 2009; and to provide for matters connected therewith. [17*th October*, 2024]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Planning and Development Act 2024.

(2) *Part 25* shall be included in the collective citation the Residential Tenancies Acts 2004 to 2024.

(3) This Act shall, subject to *subsection (4)*, come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed—

(a) for different purposes or provisions,

(b) for the repeal of different provisions of the Act of 2000 effected by *section 6*, and

(c) for the amendment of different provisions (including the amendment of different provisions for different purposes) of the enactments specified in *Schedule 7* effected by *section 631*.

(4) *Part 25* shall come into operation on the day immediately following the passing of this Act.

Definitions

2. In this Act—

"abstraction" has the meaning assigned to it by the Water Environment (Abstractions and Associated Impoundments) Act 2022;

"abstraction licence" means a licence under Part 5 of the Water Environment (Abstractions and Associated Impoundments) Act 2022;

"acquisition of a maritime site" has the meaning assigned to it by *section 422*;

"acquisition of land" has the meaning assigned to it by *section 409* and includes, in *sections 264*, *591* and *622*, and *paragraph (a)* of the definition of "public infrastructure and facilities" in *subsection (1)* of *section 584*, an acquisition of a maritime site (and, accordingly, references to "land" in *sections 264*, *591* and *622*, and that *paragraph (a)*, shall include references to "maritime site");

"Act of 1933" means the Foreshore Act 1933;

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

"Act of 1972" means the European Communities Act 1972;

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

"Act of 2000" means the Planning and Development Act 2000;

"Act of 2001" means the Local Government Act 2001;

"Act of 2021" means the Maritime Area Planning Act 2021;

"advertisement" means—

(a) any word or letter,

(b) any balloon, inflatable structure or kite, or

(c) any model, poster, notice, device or representation,

employed for the purpose of advertising, the making of an announcement or the giving of direction;

"advertisement structure" means—

(a) any structure that is—

(i) a hoarding, scaffold, framework, pole, standard, device or sign (whether illuminated or not), and

(ii) used or intended for use for exhibiting advertisements,

or

(b) any attachment to a building or structure used for advertising purposes;

"agriculture" includes—

(a) horticulture,

(b) fruit growing,

(c) seed growing,

(d) dairy farming,

(e) the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land),

(f) the training of horses,

(g) the rearing of bloodstock, and

(h) the use of land—

(i) as grazing land, meadow land or osier land,

(ii) for market gardening, or

(iii) as nursery grounds;

"alteration" includes, in relation to a structure—

(a) plastering or painting,

(b) the removal of plaster or stucco, and

(c) the replacement of a door, window or roof,

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

"appropriate assessment" means—

(a) in relation to a plan, an assessment carried out in accordance with *section 205*, and

(b) in relation to development or proposed development, an assessment carried out in accordance with *section 217*;

"approved housing body" has the meaning assigned to it by the Housing (Regulation of Approved Housing Bodies) Act 2019;

"approved local newspaper" means, in relation to the functional area of a planning authority—

(a) a publication (other than an online publication or online version of a publication) that—

(i) circulates in the functional area of the planning authority, and

(ii) is approved in a prescribed manner by the planning authority for the purposes of this Act,

or

(b) an online publication, or online version of a publication, approved in a prescribed manner by the planning authority for the purposes of this Act;

"architectural conservation area" means—

(a) a place, area, group of structures or townscape to which an objective referred to in *section 331* applies, or

(b) an architectural conservation area (within the meaning of the Act of 2000) to which an objective in a development plan under the Act of 2000, that continues in force by virtue of *section 68*, applies;

"area of special planning control" means—

(a) an architectural conservation area, or

(b) a part of an architectural conservation area,

to which a special planning control scheme applies;

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

"Birds Directive" means Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009[1] on the conservation of wild birds;

"chief executive" means, subject to *section 633*, in relation to a local authority (including a local authority when performing the functions of a planning authority), the chief executive appointed under Chapter 2 of Part 14 (inserted by section 54 of the Local Government Reform Act 2014) of the Act of 2001;

"Chief Planning Commissioner" means the Chief Planning Commissioner of the Commission appointed under *section 506* or *509*;

"city" means—

(a) the administrative area of a city council (within the meaning of the Act of 2001), or

(b) a municipal district that includes an area that, by virtue of subsection (6) of section 10 of the Local Government Act 2001, may continue to be described as a city;

"climate change adaptation and mitigation" means the taking of measures to mitigate and manage the impact of climate change;

"coastal planning authority" has the meaning assigned to it by the Act of 2021;

"Commission" means An Coimisiún Pleanála;

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

"company" has the meaning assigned to it by the Companies Act 2014;

1 OJ No. L20, 26.1.2010, p. 7

"coordinated area plan" has the meaning assigned to it by *section 73*;

"cost rental housing" means housing comprising cost rental dwellings within the meaning of Part 3 of the Affordable Housing Act 2021;

"Deputy Chief Planning Commissioner" means—

(a) the person who, by virtue of *subsection (5)* of *section 495*, continues in office for the time being as Deputy Chief Planning Commissioner of the Commission on and after the commencement of *section 495*, or

(b) the Deputy Chief Planning Commissioner of the Commission appointed under *section 506* or *509*,

as the case may be;

"development" means—

(a) the carrying out of works—

(i) on, in, over or under land, or

(ii) on, in, over or under the maritime area,

or

(b) the making of a material change in the use of—

(i) land or any structure on land, or

(ii) the sea, seabed or any structure, in the maritime area,

and includes the reclamation of land in the nearshore area;

"development plan" shall be construed in accordance with *Chapter 5* of *Part 3*;

"development scheme" means a development scheme made or deemed to have been made under *section 609*;

"electronic form" means information that is generated, communicated, processed, sent, received, recorded, stored or displayed—

(a) by electronic means (including electrical, digital, magnetic, optical electro-magnetic, biometric and photonic means), or

(b) by means of any other related technology,

and is capable of being used to make a legible copy or reproduction of that information, but does not include information communicated in the form of speech;

"enactment" means—

(a) an Act of the Oireachtas (or any provision thereof) for the time being in force,

(b) a statute (or any provision thereof) that continues to have full force and effect by virtue of Article 50 of the Constitution, or

(c) an order, regulation, rule or bye-law (or any provision thereof)—

(i) for the time being in force, and

(ii) made under an Act of the Oireachtas or any such statute;

"environmental impact assessment" means an assessment carried out in accordance with *section 236*;

"Environmental Impact Assessment Directive" means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011[2] on the assessment of the effects of certain public and private projects on the environment;

"environmental impact assessment report" means an environmental impact assessment report prepared and submitted under *section 234*;

"environmental report" means an environmental report prepared in accordance with Article 5 of the Strategic Environmental Assessment Directive;

"European site" means—

(a) a site that has been included in the list of sites of Community importance, as adopted by the European Commission in accordance with the procedure laid down in Article 21 of the Habitats Directive,

(b) a site—

(i) in respect of which the Minister has given notice under regulations under the Act of 1972 of its possible eligibility for identification as a site of Community importance pursuant to paragraph 1 of Article 4 of the Habitats Directive, and

(ii) that has not yet been adopted by the European Commission in accordance with the procedure laid down in Article 21 of the Habitats Directive,

(c) a site that has been—

(i) included in a list transmitted to the European Commission in accordance with paragraph 1 of Article 4 of the Habitats Directive, or

(ii) added to that list in accordance with Article 5 of the Habitats Directive,

but that has not yet been adopted by the European Commission in accordance with the procedure laid down in Article 21 of the Habitats Directive,

(d) a site that is subject to a consultation procedure in accordance with paragraph 1 of Article 5 of the Habitats Directive,

(e) a site in relation to which a Council decision is pending in accordance with paragraph 3 of Article 5 of the Habitats Directive,

(f) a site that has been designated by the Minister as a special area of conservation for the purposes of paragraph 4 of Article 4 of the Habitats Directive,

(g) an area classified by the Minister for the purposes of paragraph 1 or 2 of Article 4 of the Birds Directive as a special protection area, or

2 OJ No. L26, 28.1.2011, p. 1

(h) an area in respect of which the Minister has given notice pursuant to regulations under the Act of 1972 of his or her opinion that the site may be eligible for classification as a special protection area pursuant to Article 4 of the Birds Directive where there has been no public notification of the making of a decision by that Minister to classify or not to classify that area as a special protection area;

"European Union" has the meaning assigned to it by the Act of 1972;

"exempted development" means—

(a) development of a class prescribed under *section 9*, or

(b) development that is exempted development by virtue of *section 152*;

"exhibit" includes, in relation to an advertisement—

(a) affix,

(b) inscribe,

(c) print,

(d) paint,

(e) illuminate, and

(f) otherwise delineate;

"fence" includes a hoarding or similar structure but does not include a bank, wall or other similar structure composed wholly or mainly of earth or stone;

"foreshore" has the meaning assigned to it by the Act of 1933;

"functional area" means (except in *Part 3*)—

(a) in relation to a planning authority (other than a coastal planning authority), its administrative area for the purposes of the Act of 2001, and

(b) in relation to a planning authority that is a coastal planning authority, its administrative area for the purposes of the Act of 2001 and its nearshore area;

"Gaeltacht" means—

(a) a Gaeltacht area within the meaning of the Gaeltacht Act 2012, or

(b) a Gaeltacht Language Planning Area within such meaning;

"Governing Board" has the meaning assigned to it by *section 497*;

"habitable house" means—

(a) a house that is used as a dwelling,

(b) a house (other than a house that is, or forms part of, a derelict site within the meaning of the Derelict Sites Act 1990) that is not in use but was most recently used (disregarding any unauthorised use) as a dwelling, or

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

"Habitats Directive" means Council Directive 92/43/EEC of 21 May 1992[3] on the conservation of natural habitats and of wild fauna and flora;

"house" means a building or part of a building that—

(a) is, or was most recently, occupied as a dwelling,

(b) was most recently provided for use as a dwelling but has not been occupied as a dwelling, or

(c) in the case of a building or part of a building containing more than one apartment, flat or other dwelling, each such apartment, flat or dwelling;

"housing development strategy" means a strategy prepared under *section 46* or *47* and included in a development plan in accordance with *paragraph (b)* of *subsection (1)* of *section 43*;

"housing strategy" means a strategy prepared under *section 242*;

"industrial emissions licence" means a licence under Part IV of the Environmental Protection Agency Act 1992 for the carrying on of an industrial emissions directive activity (within the meaning of that Act);

"integrated pollution control licence" means a licence (other than an industrial emissions licence) under Part IV of the Environmental Protection Agency Act 1992;

"land" includes any structure and any land covered with water, but does not include the maritime area (other than reclaimed land) or any part of the maritime area (other than a part of the maritime area that is reclaimed land);

"land-based development" means—

(a) the carrying out of works on, in, over or under land, or

(b) the making of a material change in the use of land or any structure on land;

"landscape" has the meaning assigned to it by the European Landscape Convention done at Florence on 20 October 2000;

"local authority" has the meaning assigned to it by the Act of 2001;

"major accident" has the meaning assigned to it by the Seveso III Directive;

"major accident establishment" means—

(a) an existing establishment within the meaning of the Seveso III Directive, or

(b) a new establishment within the meaning of the Seveso III Directive;

"maritime area" has the meaning assigned to it by the Act of 2021;

"maritime area consent" has the meaning assigned to it by the Act of 2021;

"Maritime Area Regulatory Authority" has the meaning assigned to it by the Act of 2021;

"maritime development" means—

3 OJ No. L206, 22.7.1992, p. 7

(a) the carrying out of any works on, in, over or under the maritime area, or

(b) the making of any material change in the use of the sea, seabed or any structure, in the maritime area,

and includes the reclamation of any land in the nearshore area;

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

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

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

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

"maritime spatial plan" has the meaning assigned to it by the Act of 2021;

"maritime spatial planning" means—

(a) maritime spatial planning within the meaning of Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014[4] establishing a framework for maritime spatial planning, and

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

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

"minerals" includes stone, slate, clay, gravel, sand and other natural deposits but does not include peat;

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

"mortgage loan" means a loan for the purchase of a house secured by mortgage in an amount not exceeding 90 per cent of the price of the house;

"municipal district" has the meaning assigned to it by section 22A (inserted by the Local Government Reform Act 2014) of the Local Government Act 2001;

"national climate objective" has the meaning assigned to it by the Climate Action and Low Carbon Development Act 2015;

"National Marine Planning Framework" has the meaning assigned to it by the Act of 2021;

"national newspaper" means—

(a) a publication (other than an online publication or online version of a publication) that—

(i) circulates generally in the State, and

(ii) is prescribed by the Minister for the purposes of this Act,

or

4 OJ No. L257, 28.8.2014, p. 135

(b) an online publication, or online version of a publication, prescribed by the Minister for the purposes of this Act;

"National Planning Framework" means the National Planning Framework (including the first National Planning Framework in accordance with *paragraph (b)* of *subsection (6)* of *section 21*) for the time being in force under *section 21*;

"National Planning Policies and Measures" has the meaning assigned to it by *paragraph (a)* of *subsection (1)* of *section 25*, and includes any specific planning policy requirements referred to in subsection (1C) of section 28 of the Act of 2000 for the time being in force by virtue of *subsection (1)* of *section 27*;

"National Planning Policy Guidance" has the meaning assigned to it by *paragraph (b)* of *subsection (1)* of *section 25*;

"National Planning Statement" has the meaning assigned to it by *subsection (1)* of *section 25*;

"Natura 2000 network" shall be construed in accordance with paragraph 1 of Article 3 of the Habitats Directive;

"Natura impact report" means a report prepared for the purposes of Article 6 of the Habitats Directive setting out the implications of a plan, whether on its own or in combination with other plans or projects, for any European site on which the plan may have significant effects, having regard to the conservation objectives in relation to that site;

"Natura impact statement" means a statement prepared for the purposes of Article 6 of the Habitats Directive setting out the implications of a project, whether on its own or in combination with other plans or projects, for any European site on which the project may have significant effects, having regard to the conservation objectives in relation to that site;

"nearshore area" has the meaning assigned to it by the Act of 2021;

"newspaper" means a national newspaper or an approved local newspaper;

"objectives of maritime spatial planning" means—

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

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

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

"occupier" means—

(a) in relation to land, a person who—

5 OJ No. L257, 28.8.2014, p. 135

(i) is in occupation of the land,

(ii) is entitled to the immediate use, enjoyment or control of the land, or

(iii) is in control of the land,

(b) in relation to a maritime site, a person who is the holder of—

(i) a maritime area consent granted for the occupation of the maritime site,

(ii) a lease under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site,

(iii) a licence granted under section 3 of the Act of 1933 authorising the licensee to do any act or acts referred to in that section for the purpose of development on, in, over, under or otherwise in relation to, the maritime site, or

(iv) a licence under Part 5 of the Act of 2021 granted for a Schedule 7 usage within the meaning of that Part,

or

(c) in relation to any structure, a person who—

(i) is entitled to the immediate use, enjoyment or control of the structure, or

(ii) is in control of the structure;

"ordinary planning commissioner" means—

(a) a person who, by virtue of *subsection (5)* of *section 495*, continues in office for the time being as an ordinary planning commissioner of the Commission on and after the commencement of *section 495*, or

(b) an ordinary planning commissioner of the Commission appointed under *section 507* or *509*;

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

"owner" means—

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

(b) in relation to any part of the maritime area that does not vest in a Minister of the Government, a person, other than a mortgagee not in possession, who, whether in his or her own right or as trustee or agent for any other person, is entitled to receive the rack rent of that part or, where that part is not let at a rack rent, would be so entitled if it were so let, and

(c) in relation to any other part of the maritime area, the Minister of the Government in whom that other part vests;

"permission" means—

(a) permission for development under *Chapter 3* or *4* of *Part 4*,

(b) retention permission under *Chapter 3* of *Part 4*,

(c) permission for development for which retrospective consent is required under *Chapter 4* of *Part 4*, and

(d) an alteration or extension of duration of a permission under *Chapter 5* of *Part 4*;

"planning application" means an application for permission;

"planning authority" means a local authority;

"Planning Commissioners" shall be construed in accordance with *section 505*;

"Planning Regulator" means—

(a) the person who, immediately before the repeal of Part IIB of the Act of 2000, was the Planning Regulator, or

(b) where a person stands appointed to be the Planning Regulator under *section 540*, that person;

"planning scheme" means a scheme under *section 593*;

"prescribed" means (except in *Chapter 2* of *Part 9*) prescribed by regulations made by the Minister and "prescribe" shall be construed accordingly;

"priority area plan" has the meaning assigned to it by *section 72*;

"proposed protected structure" means a structure specified in a notice under—

(a) *subsection (4)* of *section 55* or *subsection (2)* of *section 309*, or

(b) subsection (3) of section 12 or subsection (1) of section 55 of the Act of 2000,

and includes—

(i) the interior of the structure,

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

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

(iv) any feature of the structure that is within the attendant grounds of the structure;

"protected structure" means a structure, or part of a structure, specified in a record of protected structures, and includes—

(a) the interior of the structure,

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

(c) any other structure, and their interiors, lying within that curtilage, and

(d) any feature of the structure that—

(i) is within the attendant grounds of the structure, and

(ii) is specified in a record of protected structures;

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

"public body" means—

(a) a public authority within the meaning of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus, Denmark, on 25 June 1998, or

(b) such other body as may be prescribed;

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

"public road" has the meaning assigned to it by the Roads Act 1993;

"record of protected structures" has the meaning assigned to it by *section 306*;

"regional assembly" means a body established in accordance with section 43 of the Local Government Act 1991;

"regional spatial and economic strategy" has the meaning assigned to it by *section 28*;

"register" has the meaning assigned to it by *section 382*;

"reserved function" has the meaning assigned to it by the Act of 2001;

"retention permission" means permission for retention of development that, immediately before the grant of such permission, was unauthorised development;

"retrospective consent" means retention permission for development in respect of which an appropriate assessment or an environmental impact assessment is required;

"road" has the meaning assigned to it by the Roads Act 1993;

"seashore" has the meaning assigned to it by the Act of 1933;

"Seveso III Directive" means Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012[6] on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC;

"share" means share in the share capital of a company, and includes stock;

"special planning control scheme" has the meaning assigned to it by *subsection (8)* of *section 336*;

"State authority" means, subject to *subsection (8)* of *section 155*—

(a) a Minister of the Government, or

(b) the Commissioners of Public Works in Ireland;

"statutory undertaker" means a person authorised under any enactment to—

6 OJ No. L197, 24.7.2012, p. 1

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

(b) carry out works for the provision of water, gas, electricity, telecommunications or wastewater services, or cause such works to be carried out, or

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

"strategic development zone" means a site or sites to which a planning scheme under section 169 of the Act of 2000 applies;

"strategic environmental assessment" means an environmental assessment carried out in accordance with the Strategic Environmental Assessment Directive and the Strategic Environmental Regulations;

"Strategic Environmental Assessment Directive" means Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001[7] on the assessment of the effects of certain plans and programmes on the environment;

"Strategic Environmental Assessment Regulations" means regulations for the time being in force made under any enactment (including *section 20*) giving effect or further effect to the Strategic Environmental Assessment Directive;

"structure" means—

(a) a building, edifice, construction, excavation, or other thing constructed or made on, in or under any land, or a maritime site, or any part thereof, or

(b) the land or maritime site on, in or under which such building, edifice, construction, excavation, other thing or part is situated;

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

(a) as permanent residential accommodation, or

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

"town" means a municipal district that has a population greater than 2,000;

"Transboundary Convention" means the Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo (Finland) on 25 February 1991;

"Transboundary Convention state" means a state (other than the State) that is a contracting party to the Transboundary Convention;

"unauthorised development" means, in relation to land or a maritime site—

7 OJ No. L197, 21.7.2001, p. 30

(a) unauthorised works (including the construction, erection or assembly of an unauthorised structure), or

(b) an unauthorised use;

"unauthorised structure" means a structure on, in, over or under land or a maritime site, other than—

(a) exempted development,

(b) development carried out in accordance with—

(i) a permission granted under Part IV of the Act of 1963 or deemed to be so granted under section 92 of that Act,

(ii) a permission granted under section 34, 37G, 37N or 293 of the Act of 2000,

(iii) a permission granted under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016, or

(iv) a permission granted under *Part 4*,

(c) *Chapter 6* State authority development within the meaning of *Part 4*,

(d) development required by—

(i) a notice under *section 339*,

(ii) an order under *section 341*,

(iii) an enforcement notice under *section 350*, or

(iv) a planning injunction under *section 351*,

or

(e) development carried out in accordance with—

(i) a licence under *section 13*, or

(ii) a licence under section 254 of the Act of 2000;

"unauthorised use" means, in relation to land or a maritime site, a use that is a material change in use of the land or maritime site, other than—

(a) exempted development, or

(b) development carried out in accordance with—

(i) a permission granted under Part IV of the Act of 1963 or deemed to be so granted under section 92 of that Act,

(ii) a permission granted under section 34, 37G, 37N or 293 of the Act of 2000,

(iii) a permission granted under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016, or

(iv) a permission granted under *Part 4*,

(c) *Chapter 6* State authority development within the meaning of *Part 4*,

(d) development required by—

(i) a notice under *section 339*,

(ii) an order under *section 341*,

(iii) an enforcement notice under *section 350*, or

(iv) a planning injunction under *section 351*,

or

(e) development carried out in accordance with—

(i) a licence under *section 13*, or

(ii) a licence under section 254 of the Act of 2000;

"unauthorised works" means any works on, in, over or under land or a maritime site, other than—

(a) exempted development,

(b) development carried out in accordance with—

(i) a permission granted under Part IV of the Act of 1963 or deemed to be so granted under section 92 of that Act,

(ii) a permission granted under section 34, 37G, 37N or 293 of the Act of 2000,

(iii) a permission granted under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016, or

(iv) a permission granted under *Part 4*,

(c) *Chapter 6* State authority development within the meaning of *Part 4*,

(d) development required by—

(i) a notice under *section 339*,

(ii) an order under *section 341*,

(iii) an enforcement notice under *section 350*, or

(iv) a planning injunction under *section 351*,

or

(e) development carried out in accordance with—

(i) a licence under *section 13*, or

(ii) a licence under section 254 of the Act of 2000;

"urban area plan" has the meaning assigned to it by *subsection (1)* of *section 71*;

"urban development zone" means a site to which an order under *section 621* applies;

"use" does not include the carrying out of works;

"warning letter" means a letter served in accordance with *section 349*;

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

"waste water discharge licence" means a licence under the Waste Water Discharge (Authorisation) Regulations 2007 (S.I. No. 684 of 2007);

"Water Framework Directive" means Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000[8] establishing a framework for Community action in the field of water policy;

"works" includes an act or operation—

(a) of construction, excavation, demolition, extension, alteration, repair or renewal (including in relation to a protected structure, a proposed protected structure or a structure situated in an architectural conservation area), on, in, over or under land or a maritime site,

(b) consisting of the application of plaster, paint, wallpaper, tiles or other material to the surface of a protected structure or proposed protected structure or the removal of plaster, paint, wallpaper, tiles or other material from such surface, and

(c) consisting of the application of plaster, paint, wallpaper, tiles or other material to the exterior of a structure situated in an architectural conservation area or the removal of plaster, paint, wallpaper, tiles or other material from such exterior.

Construction of reference to act of institution of European Community or European Union

3. (1) For the purposes of this Act, a reference to an act adopted by an institution of the European Community or the European Union is a reference to that act as amended by any other act adopted by an institution of the European Community or European Union that has effect for the time being.

(2) For the purposes of *subsection (1)*, an act adopted by an institution of the European Union amending an act referred to in that subsection does not have effect during the period beginning on the day on which the first-mentioned act was adopted and ending on the day immediately before the day by which the first-mentioned act is required to be transposed by the State.

Orders and regulations

4. (1) The Minister may by regulations provide for any matter referred to in this Act (other than *Chapter 2* of *Part 9*) as prescribed or to be prescribed.

(2) Regulations under this Act (other than *Chapter 2* of *Part 9*) may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

8 OJ No. L327, 22.12.2000, p. 1

(3) The Minister shall, before making regulations under this Act, consult with any State authority in which functions vest that he or she considers are connected with the matters to which the proposed regulations relate.

(4) Where regulations are proposed to be made under—

(a) *subsection (6)*,

(b) *subsection (1)* of *section 9*, or

(c) *subsection (2)* of *section 478*,

a draft of the regulations shall be laid before each House of the Oireachtas and the regulations shall not be made unless and until a resolution approving the draft is passed by each such House.

(5) Every order (other than an order under *subsection (3)* of *section 1*) of the Minister and every regulation (other than a regulation referred to in *subsection (4)*) of the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(6) If, in any respect, any difficulty arises in bringing any provision of this Act into operation or in relation to the operation of any such provision, the Minister may, by regulations, do anything which appears to him or her to be necessary or expedient for removing that difficulty, for bringing that provision into operation or for securing or facilitating its operation, and any such regulations may modify any provision of this Act in so far as may be necessary or expedient for carrying such provision into effect for the purposes aforesaid, but no regulations shall be made under this section in relation to any provision of this Act after the expiration of 3 years commencing on the day on which the provision comes into operation.

Expenses

5. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys provided by the Oireachtas.

Repeal

6. The Act of 2000 is repealed.

PART 2

CONCEPT OF DEVELOPMENT

Material change in use

7. For the purposes of this Act, material change in use of land or a maritime site includes—

(a) a change in the use of land or a maritime site, or any structure on land or a maritime site, to, or by the addition of, a use that consists of or includes the exhibition of advertisements,

(b) a change in the use of land or a maritime site to, or by the addition of, a use that consists of or includes the—

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

(ii) storage of caravans or tents, or

(iii) deposit of vehicles (whether or not usable in accordance with the purpose for which they were constructed or most recently used), old metal, mining or industrial waste, builder's waste, rubbish or debris,

(c) a change in use of a house or part of a house that was most recently used as a single dwelling to a use as 2 or more dwellings,

(d) a change in use of a house or part of a house situated in a rent pressure zone (within the meaning of *section 8*) to a use for short-term letting (within the meaning of *section 8*) purposes,

(e) in respect of premises used for retail purposes, a change in use from a prescribed retail purpose to another prescribed retail purpose,

(f) in respect of premises used for industrial purposes, a change in use from a prescribed industrial purpose to another prescribed industrial purpose, and

(g) such change of land or a maritime site from one use to another use as may be prescribed.

Short-term lettings

8. (1) In this section—

"rent pressure zone" means—

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

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

"short-term letting" means the letting of a house or part of a house for any period not exceeding 14 days, and includes a licence that permits the licensee to enter and reside

in the house or part thereof for any such period in consideration of the making by any person (whether or not the licensee) of a payment or payments to the licensor.

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

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

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

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

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

Exempted development

9. (1) Subject to *subsections (3)*, *(4)*, *(6)* and *(7)* the Minister may by regulations provide that development belonging to any class of development (including development commenced on or after the coming into operation of this section that would, but for the repeal of section 4 of the Act of 2000, be exempted development within the meaning of that Act) prescribed by the regulations is exempted development for the purposes of this Act where—

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

(b) he or she is satisfied that—

(i) such development or development of such class is authorised or permitted, or required to be authorised or permitted, by or under any enactment in accordance with a licence, consent, approval or other type of authorisation or permission (howsoever described), and

(ii) consultation with members of the public in relation to such development or development of such class is, in accordance with any enactment, required before the development may be so authorised or permitted.

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

(a) development of such class as is specified in the regulations,

(b) development of such class as is specified in the regulations situated in such place or area as is so specified,

(c) development of such class as is specified in the regulations that is compliant with such conditions as are so specified,

(d) the change (whether for a definite period or an indefinite period) in use of land or a maritime site, or any structure on land or a maritime site, of such class as is specified in the regulations to such use as is so specified, or

(e) development of such class as is specified in the regulations carried out by such person, or persons belonging to such class, as is so specified,

is exempted development for the purposes of this Act.

(3) Development shall not be exempted development for the purposes of this Act if an environmental impact assessment or an appropriate assessment of the development is required.

(4) Development (other than development that is exempted development by virtue of *subsection (1)* or *(2)* of *section 152*) shall not be exempted development for the purposes of this Act if—

(a) in the case of a protected structure or a proposed protected structure, it materially affects or would materially affect the character of—

(i) the structure, or

(ii) any element of the structure that contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest,

(b) it is situated, or proposed to be situated, in an area of special planning control and it contravenes or would, if carried out, contravene a special planning control scheme applying to that area, or

(c) in the case of development carried out or proposed to be carried out to the exterior of a structure situated in an architectural conservation area, it materially affects or would, if carried out, materially affect the character of that area.

(5) Development shall not be exempted development for the purposes of this Act if it consists of any works to, or change in use of, an unauthorised development.

(6) Notwithstanding *subsection (3)*, the Minister may make regulations prescribing development or any class of development, in respect of which an appropriate assessment or an environmental impact assessment is required, to be exempted development if—

(a) such development or development of such class is authorised or permitted, or required to be authorised or permitted, by or under any enactment (other than this Act) in accordance with a licence, consent, approval or other type of authorisation or permission (howsoever described), and

(b) in accordance with any such enactment, an appropriate assessment or an environmental impact assessment of that development or development of that class is required to be carried out before the development may be so authorised or permitted.

(7) Where the Minister proposes to make regulations under this section and considers that the proposed regulations are likely to affect the performance by a State authority of its

functions, he or she shall, before making the regulations, consult with that State authority in relation to the proposed regulations.

(8) Development carried out or commenced before the commencement of this section that was exempted development for the purposes of the Act of 2000 shall be exempted development for the purposes of this Act.

(9) Development in accordance with a notice under subsection (1) of section 59, or subsection (2) of section 60, of the Act of 2000 commenced on or after the repeal of that section by *section 6* shall be exempted development for the purposes of this Act.

(10) Development to which—

(a) a declaration under subsection (4) or (4A) of section 181B of the Act of 2000 applies, or

(b) a declaration under subparagraph (i) of paragraph (ba) of subsection (2A) of section 181 of the Act of 2000 applies,

shall be exempted development for the purposes of this Act.

Declaration on development, exempted development, etc.

10. (1) In this section—

"relevant act or operation" means—

(a) in relation to the making of a request by a person referred to in *paragraph (a)* of the definition of "relevant person", an act or operation carried out or proposed to be carried out on land owned by that person,

(b) in relation to the making of a request by a person referred to in *paragraph (b)* of the definition of "relevant person", an act or operation carried out or proposed to be carried out on the maritime site concerned,

(c) in relation to the making of a request by a person referred to in *paragraph (c)* or *(d)* of the definition of "relevant person", an act or operation carried out or proposed to be carried out on land by that person with the consent of the owner of the land,

(d) in relation to the making of a request by a person referred to in *paragraph (e)* or *(f)* of the definition of "relevant person", an act or operation carried out or proposed to be carried out on the land or maritime site concerned, or

(e) in relation to the making of a request by a statutory undertaker, an act or operation carried out or proposed to be carried out on land or a maritime site by or on behalf of that statutory undertaker;

"relevant change in use" means—

(a) in relation to the making of a request by a person referred to in *paragraph (a)* of the definition of "relevant person", a change in use or proposed change in use of land owned by that person,

(b) in relation to the making of a request by a person referred to in *paragraph (b)* of the definition of "relevant person", a change in use or proposed change in use of the maritime site concerned,

(c) in relation to the making of a request by a person referred to in *paragraph (c)* or *(d)* of the definition of "relevant person", a change in use or proposed change in use of land by that person with the consent of the owner of the land, or

(d) in relation to the making of a request by a person referred to in *paragraph (e)* or *(f)* of the definition of "relevant person", a change in use or proposed change in use of the land or maritime site concerned;

"relevant person" means—

(a) the owner of land,

(b) a person who, in accordance with *subsection (2)* of *section 85*, is eligible to make an application for permission for maritime development under *Chapter 3* or *4* of *Part 4*,

(c) the occupier of land who—

(i) carries out or proposes to carry out an act or operation on the land, or

(ii) makes or proposes to make a change in use of the land,

with the consent of the owner of the land,

(d) a person (other than the person referred to in *paragraph (c)*) who—

(i) carries out or proposes to carry out an act or operation on the land, or

(ii) makes or proposes to make a change in use of the land,

with the consent of the owner of the land,

(e) a company within the meaning of the Companies Act 2014—

(i) formed and registered not later than one year before the making of the request concerned,

(ii) whose constitution includes objects that relate to the promotion of environmental protection of relevance to the request concerned,

(iii) that has pursued those objects for a period of not less than one year before the making of the request concerned,

(iv) that has not fewer than 10 members at the time of the making of the request concerned, and

(v) that has passed a resolution—

(I) in accordance with the constitution of the company, and

(II) before the making of the request concerned,

authorising the company to make the request,

or

(f) a prescribed person.

(2) (a) Upon the payment of the prescribed fee, a relevant person or a statutory undertaker may, in relation to a relevant act or operation wholly outside the outer maritime area, make a request in writing to the planning authority within whose functional area the relevant act or operation is, or is proposed to be, carried out for a declaration on the question of—

(i) whether or not that act or operation constitutes or would constitute development, and

(ii) if it does or would constitute development, whether or not it constitutes or would constitute exempted development.

(b) Upon the payment of the prescribed fee, a relevant person may, in relation to a relevant change in use (wholly outside the outer maritime area), make a request in writing to the planning authority within whose functional area the relevant change in use is, or is proposed to be, made for a declaration on the question of—

(i) whether or not that change in use constitutes or would constitute development, and

(ii) if it does or would constitute development, whether or not it constitutes or would constitute exempted development.

(c) Upon the payment of the prescribed fee, a person who carries out or proposes to carry out development in accordance with a permission for such development granted under this Act or the Act of 2000 may, in relation to development (wholly outside the outer maritime area), make a request in writing to the planning authority within whose functional area the development is, or is proposed to be, situated for a declaration on any question relating to—

(i) the meaning or scope of the permission, or

(ii) any condition to which the permission is subject.

(3) (a) A request under *subsection (2)* shall be accompanied by all such information and documentation as is necessary to enable the planning authority to perform its functions under this section in relation to the request.

(b) For the purposes of the performance of its functions under this section, a planning authority may, by notice in writing, require a person who makes a request under *subsection (2)* to provide the planning authority with such further information and documentation as it may specify not later than 2 weeks (or such longer period as may be prescribed) from the date of the notice.

(c) A planning authority may, for the purpose of the performance of its functions under this section, request a person (other than the person who made the request under *subsection (2)*) by notice in writing to provide the planning authority with such information and documentation as is specified in the notice not later than 2 weeks (or such longer period as may be prescribed) from the date of the notice.

(4) Where a relevant person requests a declaration under *subsection (2)* in respect of land or a maritime site and the relevant person is not the owner of that land or maritime site, that relevant person shall, when making the request, notify the owner of the land or maritime site, as the case may be, in writing of the making of the request.

(5) A planning authority shall, when making a declaration under this section, have regard to the declarations contained in the copies of the records forwarded to it in accordance with *paragraph (d)* of *subsection (10)*.

(6) A planning authority shall, not later than the period of—

(a) 8 weeks from its receiving a request under *subsection (2)*, or

(b) 3 weeks from the expiration of the period or periods specified in a notice or notices under *paragraph (b)* or *(c)* of *subsection (3)*,

whichever occurs later, decide whether or not it has sufficient information to enable it to make a declaration under this section and, if it decides that it does have such sufficient information, it shall, within that period, make a declaration in relation to the request concerned and forward the declaration and the main reasons and considerations on which it is based—

(i) to the person who made that request, and

(ii) where that person is not the owner or occupier of land to which the request relates, to such owner or occupier.

(7) Where a planning authority decides under *subsection (6)* that it does not have sufficient information to make a declaration under this section—

(a) it shall, by notice in writing, inform the person who made the request under *subsection (2)*, and

(b) the request shall be deemed to have been withdrawn on the date specified in that notice.

(8) (a) A person (in this subsection referred to as the "appellant") to whom a declaration has been forwarded in accordance with *subsection (6)* may, not later than 4 weeks from the date of the declaration and on payment to the Commission of such fee as may be approved under *section 381*, appeal the declaration to the Commission.

(b) An appellant may withdraw an appeal under this subsection before the appeal is determined by the Commission.

(c) Subject to *paragraphs (d)*, *(e)*, *(f)*, *(g)* and *(h)*, this section shall apply to the Commission in relation to an appeal as it applies to a planning authority in relation to a request under *subsection (2)*, and for the purposes of such appeal—

(i) references in that subsection to a request under that subsection shall be construed as references to an appeal under this section,

(ii) references in this section to a person who made such a request shall be construed as references to the appellant, and

(iii) references in this section to the planning authority shall be construed as references to the Commission,

and a declaration of the Commission, or a decision of the Commission under *subsection (6)* that it does not have sufficient information to make a declaration under this section, in relation to an appeal under this section shall operate to annul the declaration of the planning authority from which the appeal was brought.

(d) For the purposes of the performance of its functions under this section in relation to an appeal, the Commission may, by notice in writing, require the appellant to provide it with such information and documentation as is specified in the notice within such period (which shall not be later than 2 weeks from the date of the service of the notice) as is so specified.

(e) Notwithstanding the failure of the appellant to comply with a requirement in a notice under *paragraph (d)*, the Commission may give a declaration in relation to the request concerned under *subsection (2)* where it is satisfied that it has sufficient information in relation to the matter to enable it to do so.

(f) For the purposes of the performance of its functions under this section in relation to an appeal, the Commission may, by notice in writing, request a person (other than the person who made the request under *subsection (2)*) to provide it with such information and documentation as is specified in the notice not later than 2 weeks from the date of the notice.

(g) Notwithstanding the failure of a person to whom a notice has been given under *paragraph (f)* to accede to the request in the notice, the Commission may make a declaration in relation to the request concerned under *subsection (2)* where it is satisfied that it has sufficient information in relation to the matter to enable it to do so.

(h) The Commission shall determine an appeal under this section within the period specified under *section 361*.

(9) Particulars of every declaration under this section of a planning authority or the Commission in relation to a request under *subsection (2)* shall be entered in the register.

(10) (a) In this subsection—

"decision" means—

(i) in relation to the consideration by a planning authority of a request under *subsection (2)*, the declaration made by the planning authority in relation to that request, and

(ii) in relation to the consideration by the Commission of an appeal under this section—

(I) a decision to dismiss the appeal, or

(II) a declaration under this section;

"relevant documents" means a copy of the question set out in the request under *subsection (2)* and any information, particulars, evidence, written study or further information received or obtained from—

(i) the person who made the request under that subsection or the person who brought the appeal under *subsection (8)*, as the case may be,

(ii) any other person,

(iii) a copy of any report prepared by or on behalf of the planning authority or the Commission, as may be appropriate, in relation to the request or appeal, or

(iv) a copy of the decision.

(b) The Commission shall keep a record of each appeal under this section, including the main reasons and considerations on which the declaration made in such appeal is based.

(c) Where the planning authority or the Commission makes a decision it shall, not later than 5 working days thereafter, cause the relevant documents to—

(i) be published on its internet website, and

(ii) be made available for inspection and purchase by members of the public during normal office hours at its offices during such period (which shall not be less than 8 weeks from the date of the making of the decision) as it considers appropriate.

(d) The Commission shall, from time to time and at least once a year, forward to each planning authority a copy of all records to which *paragraph (b)* applies made since—

(i) the commencement of this section, or

(ii) the most recent compliance by the Commission with this paragraph,

as may be appropriate.

(e) The Commission shall give a copy of a record to which *paragraph (b)* applies to the planning authority in relation to whose functional area the appeal concerned relates.

(11) (a) A planning authority shall, in the case of a declaration made upon a request under *paragraph (a)* or *(b)* of *subsection (2)* that the act, operation or change in use or proposed act, operation or change in use concerned constitutes or would constitute development, state—

(i) whether or not the development or proposed development is likely to have significant effects on the environment (including by virtue of its nature, size and location) and requires the carrying out of an environmental impact assessment, and

(ii) whether or not the development or proposed development, either individually or in combination with any plan or project (within the meaning of the

Habitats Directive), is likely to have significant effects on a European site and requires the carrying out of an appropriate assessment.

(b) The Commission shall, in the case of a declaration made on an appeal under *subsection (8)* that the act, operation or change in use or proposed act, operation or change in use concerned constitutes or would constitute development, state—

(i) whether or not the development or proposed development is likely to have significant effects on the environment (including by virtue of its nature, size and location) and requires the carrying out of an environmental impact assessment, and

(ii) whether or not the development or proposed development, either individually or in combination with any plan or project (within the meaning of the Habitats Directive), is likely to have significant effects on a European site and requires the carrying out of an appropriate assessment.

(12) A person is not entitled to make a request under *subsection (2)* for a declaration in relation to a question that is, in substance, the same as a question in respect of which the planning authority or the Commission has already made a declaration ("first declaration"), unless there has been a material change in circumstances since the making of the first declaration.

(13) The Minister may prescribe additional, consequential or supplementary matters as regards procedures in respect of a request under *subsection (2)* or an appeal under *subsection (8)*, including matters relating to—

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

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

(c) steps to be taken (including matters to which regard shall be had) in the course of the making of such declaration or decision.

(14) (a) The Minister may apply to the Commission under this subsection, without charge, for a declaration as to whether an activity requiring his or her consent—

(i) pursuant to a notification under paragraph (2) of regulation 4 of the European Communities (Natural Habitats) Regulations 1997 (S.I. No. 94 of 1997),

(ii) pursuant to a direction under paragraph (1) of regulation 28 or paragraph (1) of regulation 29 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011),

(iii) under any enactment—

(I) designating a site as a special area of conservation for the purposes of paragraph 4 of Article 4 of the Habitats Directive, or

(II) classifying a site as a special protection area for the purposes of paragraph 1 or 2 of Article 4 of the Birds Directive,

or

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

comprises development that is not exempted development, and the Commission shall, not later than 18 weeks from the application by the Minister, make such declaration and inform that Minister of the declaration and the reasons for the declaration.

(b) An application from the Minister under this subsection shall include—

(i) all other information and documentation submitted with that application for consent,

(ii) the reasons why he or she considers that the activity may not be exempted development,

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

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

(c) The Commission may request additional information from the Minister.

(d) If the Minister fails to comply with a request under *paragraph (c)* within such period as is specified in the request or such further period as the Commission may agree, the application of the Minister under this subsection shall be deemed to be withdrawn, and the Commission shall inform the Minister accordingly.

(15) (a) Upon the payment of such fee as may be approved under *section 381*, a relevant person or a statutory undertaker may, in relation to a relevant act or operation wholly or partly in the outer maritime area, make a request in writing to the Commission for a declaration on the question of—

(i) whether or not that act or operation constitutes or would constitute development, and

(ii) if it does or would constitute development, whether or not it constitutes or would constitute exempted development.

(b) Upon the payment of such fee as may be approved under *section 381*, a relevant person may, in relation to a relevant change in use wholly or partly in the outer maritime area, make a request in writing to the Commission for a declaration on the question of—

(i) whether or not that change in use constitutes or would constitute development, and

(ii) if it does or would constitute development, whether or not it constitutes or would constitute exempted development.

(c) Upon the payment of such fee as may be approved under *section 381*, a person who carries out or proposes to carry out development in accordance with a permission for such development granted under this Act or the Act of 2000 may, in relation to development wholly or partly in the outer maritime area, make a request in writing to the Commission for a declaration on any question relating to—

(i) the meaning or scope of the permission, or

(ii) any condition to which the permission is subject.

(16) This section shall apply in relation to a request under *subsection (15)* as if—

(a) in *paragraph (a)* of *subsection (3)*—

(i) "*subsection (15)*" were substituted for "*subsection (2)*",

(ii) "the Commission" were substituted for "the planning authority",

(b) in *paragraph (b)* of *subsection (3)*—

(i) "the Commission" were substituted for "a planning authority",

(ii) "*subsection (15)*" were substituted for "*subsection (2)*", and

(iii) "the Commission" were substituted for "the planning authority",

(c) in *paragraph (c)* of *subsection (3)*—

(i) "The Commission" were substituted for "A planning authority",

(ii) "*subsection (15)*" were substituted for "*subsection (2)*", and

(iii) "the Commission" were substituted for "the planning authority",

(d) in *subsection (4)*, "*subsection (15)*" were substituted for "*subsection (2)*",

(e) the following subsection were substituted for *subsection (5)*:

"(5) The Commission shall, when making a declaration upon a request under *subsection (15)*, have regard to all declarations contained in records to which *paragraph (b)* of *subsection (10)* applies.",

(f) in *subsection (6)*—

(i) "The Commission" were substituted for "A planning authority",

(ii) "*subsection (15)*" were substituted for "*subsection (2)*", and

(iii) the following paragraph were substituted for *subparagraph (ii)*:

"(ii) where that person is not the holder of a maritime area consent for the maritime site to which the request relates, the holder of such maritime area consent.",

(g) in *subsection (7)*—

(i) "the Commission" were substituted for "a planning authority", and

(ii) "*subsection (15)*" were substituted for "*subsection (2)*",

(h) *subsections (8)* and *(9)* were deleted,

(i) the following subsection were substituted for *subsection (10)*:

"(10) (a) In this subsection—

'decision' means in relation to the consideration by the Commission of a request under *subsection (15)*, the declaration made by the Commission in relation to that request;

'relevant documents' means a copy of the question set out in the request under *subsection (15)* and any information, particulars, evidence, written study or further information received or obtained from—

(i) the person who made the request under that subsection,

(ii) any other person,

(iii) a copy of any report prepared by or on behalf of the Commission, or

(iv) a copy of the decision.

(b) The Commission shall keep a record of each declaration made in relation to a request under *subsection (15)*, including the main reasons and considerations on which the declaration is based.

(c) Where the Commission makes a decision, it shall, not later than 5 working days thereafter, cause the relevant documents to—

(i) be published on its internet website, and

(ii) be made available for inspection and purchase by members of the public during normal office hours at its offices during such period (which shall not be less than 8 weeks from the date of the making of the decision) as it considers appropriate.",

(j) the following subsection were substituted for *subsection (11)*:

"(11) The Commission shall, in the case of a declaration made upon a request under *paragraph (a)* or *(b)* of *subsection (15)* that the act, operation or change in use or proposed act, operation or change in use concerned constitutes or would constitute development, state—

(a) whether or not the development or proposed development is likely to have significant effects on the environment (including by virtue of its nature, size and location) and requires the carrying out of an environmental impact assessment, and

(b) whether or not the development or proposed development, either individually or in combination with any plan or project (within the meaning of the Habitats Directive), is likely to have significant

effects on a European site and requires the carrying out of an appropriate assessment.",

(k) the following subsection were substituted for *subsection (12)*:

"(12) A person is not entitled to make a request under *subsection (15)* for a declaration in relation to a question that is, in substance, the same as a question in respect of which the Commission has already made a declaration ('first declaration'), unless there has been a material change in circumstances since the making of the first declaration.",

and

(l) in *subsection (13)*, "or *(15)*," were inserted after "*(2)*".

***Section 10* supplemental provision**

11. (1) A relevant declaration shall be conclusive evidence of the matters stated therein in relevant proceedings brought by an enforcement authority (within the meaning of *Part 11*) or the Director of Public Prosecutions against a person who requested the relevant declaration under *section 10*, unless—

(a) it is proved that—

(i) the person knowingly provided false or misleading information to the planning authority or the Commission, as the case may be, for the purposes of the making of the relevant declaration, and

(ii) the planning authority or the Commission, as the case may be, would not have made the relevant declaration had it been aware at the time of its making that the information was false or misleading,

or

(b) it is proved that—

(i) the person withheld information from the planning authority or the Commission, as the case may be, that he or she knew to be material to the question as to whether or not the act, operation or change in use concerned was development or exempted development, and

(ii) the planning authority or the Commission, as the case may be, would not have made the relevant declaration had the information not been so withheld.

(2) Subject to *subsection (1)*, a relevant declaration shall not be admissible in evidence in any proceedings relating to the act, operation or change in use in respect of which the relevant declaration was made.

(3) In this section—

"relevant declaration" means—

(a) in relation to a change in use—

(i) a declaration by a planning authority under *section 10*—

(I) that the change in use is not development or is exempted development, and

(II) that had not been annulled by the Commission under that section before the offence or contravention was alleged to have occurred,

or

(ii) a declaration by the Commission under that section that the change in use is not development or is exempted development,

or

(b) in relation to an act or operation—

(i) a declaration by a planning authority under *section 10* that—

(I) the act or operation is not development or is exempted development, and

(II) had not been annulled by the Commission under that section before the offence or contravention was alleged to have occurred,

or

(ii) a declaration by the Commission under that section that the act or operation is not development or is exempted development;

"relevant proceedings" means—

(a) proceedings for an offence under *section 347* or *350*, or

(b) proceedings under *section 351*.

Saver for declarations under section 5 of Act of 2000

12. (1) A declaration under section 5 of the Act of 2000 made before its repeal by *section 6* shall have effect on and after such repeal as if made under *section 10*.

(2) Notwithstanding the repeal of section 5 of the Act of 2000 effected by *section 6*, the Act of 2000 shall, subject to *Part 17*, continue to apply and have effect in relation to a request, application or appeal under that section made before that repeal.

Licensing of appliances and cables, etc., on public roads

13. (1) In this section "network operator" means a person providing, or authorised to provide—

(a) a public electronic communications network, within the meaning of Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018[9] establishing the European Electronic Communications Code, or

(b) any associated facilities within such meaning.

(2) Subject to *subsections (3)* and *(12)*, a person shall not erect, construct, place or maintain—

9 OJ No. L321, 17.12.2018, p. 36

(a) a vending machine,

(b) a town or landscape map for indicating directions or places,

(c) a hoarding, fence or scaffold,

(d) an advertisement structure,

(e) a cable, wire, duct or pipeline,

(f) electronic communications infrastructure or any associated physical infrastructure, whether overground or underground,

(g) a telephone kiosk or pedestal, or

(h) such other appliance, apparatus or structure as may be prescribed,

on, under, over or along a public road, save in accordance with a licence granted by a planning authority under this section.

(3) This section shall not apply to—

(a) an appliance, apparatus or structure that is authorised in accordance with a permission granted under *Part 4*,

(b) a temporary hoarding, fence or scaffold erected in accordance with a condition of permission granted under that Part,

(c) the erection, construction, placing or maintenance under a public road of a cable, wire, duct or pipeline by a statutory undertaker, or

(d) the carrying out of works in respect of which an appropriate assessment or an environmental impact assessment is required under *Part 6*.

(4) (a) A person may, in such form and manner (including by electronic means) as may be prescribed, apply to a planning authority for—

(i) a licence under this section,

(ii) the continuation of a licence granted under this section, or

(iii) the continuation of a licence referred to in *subsection (1)* of *section 14*, in force on the date of the making of the application concerned,

and the application shall be accompanied by—

(I) such fee as may be prescribed,

(II) such plans and other information concerning the position, design and capacity of the appliance, apparatus or structure referred to in *paragraph (a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(f)*, *(g)* or *(h)* of *subsection (2)* as the planning authority may require, and

(III) such other information as may be prescribed.

(b) Applicants for licences under this section for appliances, apparatuses or structures of such class or classes as may be prescribed shall give notice of such applications to the public in such manner and form as may be prescribed.

(c) A planning authority may require any person who made an application under *paragraph (a)* to submit further information with regard to the position, design and capacity of the appliance, apparatus or structure concerned for the purpose of enabling the planning authority to determine the application.

(d) Where a request for further information is not complied with within the period of 6 months from the date of the request for further information, or such additional period, not exceeding 3 months, as may be agreed with the planning authority, the application concerned shall be deemed to be withdrawn and the planning authority shall, as soon as may be thereafter, notify the applicant that the application is deemed to be withdrawn.

(5) A planning authority may, upon an application under this section—

(a) grant a licence under this section in respect of such period, and upon such conditions (including conditions relating to location and design), as the planning authority may specify,

(b) grant a continuation of a licence under this section in respect of such period, and upon such conditions (including conditions relating to location and design), as the planning authority may specify,

(c) grant a continuation of a licence referred to in *subsection (1)* of *section 14* in respect of such period, and upon such conditions (including conditions relating to location and design), as the planning authority may specify, or

(d) refuse to grant such licence or continuation.

(6) Where, in the opinion of the planning authority, an appliance, apparatus or structure for which a licence has been granted under this section or section 254 of the Act of 2000 causes an obstruction, or becomes dangerous, by reason of the increase or alteration of traffic on a road, the widening of a road or any improvement of or relating to a road, the planning authority may by notice in writing revoke the licence and require the licensee to remove the appliance, apparatus or structure at his or her own expense.

(7) In considering an application for a licence under this section, a planning authority, shall have regard to—

(a) the proper planning and sustainable development of the area,

(b) any relevant provisions of the development plan,

(c) the number and location of existing appliances, apparatuses or structures on, under, over or along the public road,

(d) the convenience and safety of road users including pedestrians, and

(e) the possibility that the purpose for which the application concerned is made may be served by an appliance, apparatus or structure that is already subject to—

(i) a licence under this section, or

(ii) a licence under section 254 of the Act of 2000 that is in force by virtue of *section 14*.

(8) (a) A planning authority shall—

(i) make a decision in relation to an application under this section, and

(ii) give a copy of that decision and the main reasons and considerations on which the decision is based to the person who made the application,

not later than—

(I) 8 weeks from the date of receipt of the application, or

(II) where a request for further information is made in accordance with *paragraph (b)* of *subsection (4)*, 4 weeks from the date by which that information is required to be provided in accordance with that subsection,

whichever occurs later.

(b) Where a planning authority fails to make a decision within the period referred to in *paragraph (a)* in relation to an application in respect of—

(i) overground electronic communications infrastructure, or

(ii) any associated physical infrastructure,

a decision (referred to in this subsection as a "deemed decision to grant a licence") of the planning authority to grant the licence shall be deemed to have been made on the day following the expiration of—

(I) the period of 8 weeks from the date of receipt of the application, or

(II) the period of 4 weeks from the date of receipt of the applicant's response to a request for additional information,

whichever occurs later.

(c) A deemed decision to grant a licence shall be subject to the condition that the network operator concerned shall, before commencing any works to erect, construct, place or maintain electronic communications infrastructure or any associated physical infrastructure, inform—

(i) the planning authority concerned,

(ii) where the planned works are on a national road, the National Roads Authority, and

(iii) where the planned works are on any regional or local road, the road authority in whose functional area the network operator proposes to carry out the works,

of the network operator's intention to commence such works.

(d) *Paragraphs (a)*, *(b)* and *(c)* shall not apply in respect of an application under this section if, not later than 8 weeks from the date on which the planning authority received the application, the planning authority notifies the applicant in writing

that for exceptional reasons stated in the notification it is not in a position to comply with *paragraph (a)* within the period specified in that paragraph, and where the planning authority so notifies the applicant, it shall—

(i) make a decision in relation to an application under this section, and

(ii) give a copy of that decision and the main reasons and considerations on which the decision is based to the person who made the application,

not later than 8 weeks from—

(I) the date of the notice, or

(II) the date of receipt of the applicant's response to a request for additional information,

whichever occurs later.

(9) (a) Any person may appeal the refusal by a planning authority of an application for a licence or continuation of a licence under this section to the Commission not later than 4 weeks from the date of the decision of the planning authority to refuse the application.

(b) Any person may appeal—

(i) the grant of a licence or continuation of a licence under this section by a planning authority, or

(ii) the decision of a planning authority to attach a condition to a licence under this section,

to the Commission not later than 4 weeks from the date of the decision to grant or continue the licence or, as the case may be, attach the condition concerned.

(c) Any person may appeal the revocation of a licence under this section by a planning authority to the Commission not later than 4 weeks from the date of the decision of the planning authority to revoke the licence.

(d) This section (other than *paragraphs (b)* and *(c)* of *subsection (8)* and this paragraph) shall apply for the purposes of an appeal under this section as it applies for the purposes of an application for a licence under this section as if—

(i) the following paragraph were substituted for *paragraph (a)* of *subsection (4)*:

"(a) The appeal from a decision of a planning authority under this section shall be accompanied by—

(i) such fee as may be approved under *section 381*,

(ii) such plans and other information concerning the position, design and capacity of the appliance, apparatus or structure referred to in *paragraph (a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(f)*, *(g)* or *(h)* of *subsection (2)* as the Commission may require, and

(iii) such other information as may be prescribed.",

(ii) in *paragraph (c)* of *subsection (4)*, "the appellant" were substituted for "any person who applied for a licence under this section or for the continuation of a licence granted under this section",

(iii) the following subsection were substituted for *subsection (5)*:

"(5) (a) The Commission may, upon an appeal under this section, affirm the decision of the planning authority.

(b) The Commission may, upon an appeal under this section—

(i) grant the appeal (in whole or in part), and for that purpose may—

(I) grant a licence under this section in respect of such period, and upon such conditions (including conditions relating to location and design) as the Commission may specify,

(II) grant a continuation of a licence under this section in respect of such period, and upon such conditions (including conditions relating to location and design) as the Commission may specify,

(III) amend or vary a licence or continuation of a licence granted under this section, or

(IV) attach a condition to, or remove or amend a condition of, a licence or continuation of a licence granted under this section,

or

(ii) refuse the appeal.",

(iv) references to applicant were references to appellant,

(v) the references to application or application for a licence were references to appeal under this section, and

(vi) references to the planning authority were references to the Commission.

(e) A decision of the Commission in relation to an appeal under this section shall operate to annul the decision of the planning authority from which the appeal was brought.

(f) Where a person appeals—

(i) the refusal by a planning authority of an application for the continuation of a licence under this section, or

(ii) the revocation by the planning authority of a licence under this section,

to the Commission, the licence shall, notwithstanding such refusal or revocation, remain in force pending the decision of the Commission in relation to the appeal.

(10) A person shall not be entitled solely by reason of a licence under this section to erect, construct, place or maintain on, under, over or along a public road any appliance, apparatus or structure.

(11) A person who—

(a) contravenes *subsection (2)*, or

(b) contravenes a condition attaching to a licence,

shall be guilty of an offence.

(12) (a) *Subsection (2)* shall not apply to a planning authority.

(b) This subsection shall not operate to entitle a planning authority to—

(i) hinder the reasonable use of a public road by the public or any person entitled to use it, or

(ii) create a nuisance to the owner or occupier of premises adjacent to a public road.

(13) A planning authority shall not, in relation to a national road in its functional area for which it is not the road authority (within the meaning of Part V of the Roads Act 1993)—

(a) grant a licence under this section, or

(b) do any act referred to in *subsection (2)*,

without first consulting with the road authority (within the said meaning) for such national road or regional road, as the case may be.

(14) A decision of a planning authority or the Commission under this section may be communicated to the applicant or the appellant concerned in such form and manner (including by electronic means) as may be prescribed.

(15) The Minister may, by regulations, require planning authorities and the Commission to enter on such database or databases as may be specified in the regulations such information as may be so specified in relation to applications and appeals under this section.

Licences under section 254 of Act of 2000

14. (1) A licence granted under section 254 of the Act of 2000 that was in force immediately before the repeal of that section by *section 6* shall remain in force and have effect on and after that repeal as if it were a licence granted under *section 13*.

(2) Notwithstanding the repeal of section 254 of the Act of 2000 by *section 6*, that section shall continue to apply and have effect for the purposes of any—

(a) application for a licence under the said section 254 pending immediately before that repeal,

(b) appeal referred to in the said section 254 pending immediately before that repeal, or

(c) any decision in relation to such an application or appeal made before that repeal.

Saving for national monuments

15. (1) This Act shall not operate to restrict or otherwise affect the functions of a Minister of the Government or the Commissioners under the National Monuments Acts 1930 to 2014 or the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023.

(2) The performance by a Minister of the Government of functions under this Act shall not operate to prejudice the performance by that Minister of the Government of functions under the National Monuments Acts 1930 to 2014 or the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023.

(3) The performance by the Commissioners of functions under this Act shall not operate to prejudice the performance by the Commissioners of functions under the National Monuments Acts 1930 to 2014 or the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023.

Quarries

16. (1) The repeal of section 261 of the Act of 2000 shall not have effect for the purpose of any notice issued under that section at any time before such repeal.

(2) The repeal of section 261A of the Act of 2000 shall not have effect for the purpose of any notice issued under that section at any time before such repeal.

PART 3

Plans, Policies and Related Matters

Chapter 1

Preliminary Matters

Definitions

17. In this Part—

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

"associate planning authority" means a planning authority that has been designated as an associate planning authority in a regional spatial and economic strategy in accordance with *paragraph (d)* of *subsection (10)* of *section 29*;

"built up area" means a collection of statistical small areas, identified by the Central Statistics Office as a built up area following a census of population of the State;

"compact urban development", in relation to an urban area, means development within the existing, built-up footprint of the area concerned on land which is suitable for

development, and "compact urban development site" is to be construed accordingly;

"coordinated area plan committee" means the committee appointed under *subsection (3)* of *section 73*;

"functional area" means—

(a) in relation to a planning authority (other than a coastal planning authority), its administrative area for the purposes of the Act of 2001, and

(b) in relation to a planning authority that is a coastal planning authority, its administrative area for the purposes of the Act of 2001 up to the high water mark;

"key town" means a settlement that has been identified and designated as a key town in a regional spatial and economic strategy in accordance with *subsection (8)* of *section 29*;

"Local Community Development Committee" means a committee established under section 49A of the Act of 2001;

"long-term strategic development site" means a site within an urban area that is large relative to the urban area and that is suitable for development that would require to be carried out over a period exceeding one development plan cycle of 10 years;

"material alteration" includes an alteration which is likely to have significant effects on the environment or on any European site;

"metropolitan area", in relation to a city, means the area defined by the geographical boundary as prescribed;

"metropolitan area strategic plan" has the meaning assigned to it by *subsection (2)* of *section 29*;

"National Biodiversity Action Plan" has the same meaning as it has in section 59A of the Wildlife (Amendment) Act 2000;

"Opinion on Development Plan Strategy" has the meaning assigned to it by *subsection (3)* of *section 53*;

"principal planning authority" means a planning authority that has been designated as a principal planning authority in a regional spatial and economic strategy in accordance with *paragraph (c)* of *subsection (10)* of *section 29*;

"regional growth centre" means any large settlement with a high level of self-sustaining employment and services that acts as a regional economic driver that has been designated as a regional growth centre in the National Planning Framework;

"screening assessment" means an assessment for the purposes of determining whether a strategic environmental assessment or an appropriate assessment, as the case may be, is or is not required;

"settlement" means a village, built up area or city identified by the Central Statistics Office following a census of population of the State, containing a minimum of 50 occupied dwellings with a maximum distance between any dwelling and the building closest to it of 100 metres, save where there are references to "part of the urban area of a settlement" in which case "settlement" means a town or city with a population of at least

1,500 persons;

"settlement hierarchy" means the settlement hierarchy set out in the written statement of a development plan in accordance with *paragraph (b)* of *subsection (3)* and *subsection (4)* of *section 43*;

"settlement-specific objectives" has the meaning assigned to it by *paragraph (a)* of *subsection (1)* of *section 52*;

"settlement strategy" means the settlement strategy set out in the written statement of a development plan in accordance with *paragraph (c)* of *subsection (3)* and *subsection (5)* of *section 43*;

"Strategic Issues and Options Paper" has the meaning assigned to it by *subsection (6)* of *section 53*;

"transport infrastructure" includes roads, railways and public transport (including infrastructure for cyclists and pedestrians);

"traveller" has the meaning assigned to it by the Housing (Traveller Accommodation) Act 1998;

"urban area" means an area in a town or city, being an area containing a minimum of 100 buildings each within a maximum distance of 65 metres of at least one other building, and includes roads and other surfaced areas such as car parks and yards and artificial green spaces such as parks and gardens, that are adjacent to or within the area;

"zoning objectives" means objectives for the zoning of land for a particular use or mixture of uses included in a development plan in accordance with *subsection (6)* of *section 43*.

Public inspection

18. Where this Part requires publication by the Minister, the Office of the Planning Regulator, a regional assembly or a planning authority of a notice stating that any matter or thing is or will be made available for inspection by the public, the Minister, the Office of the Planning Regulator, regional assembly or planning authority, as the case may be, shall ensure that the matter or thing is made available for inspection as stated in the notice for such period as may be provided for in or under this Part or stated in the notice or, where no such period is so provided or stated, for such period as the Minister, the Office of the Planning Regulator, regional assembly or planning authority, as the case may be, considers reasonable.

Evidence

19. (1) A document purporting to be a correct copy of a part or all of a plan, strategy or statement made under this Part and to be certified by an officer of—

(a) in the case of the National Planning Framework or a National Planning Statement, the Department of Housing, Local Government and Heritage,

(b) in the case of a regional spatial and economic strategy, a regional assembly, or

(c) in the case of a development plan, urban area plan, priority area plan or coordinated area plan, a planning authority,

shall be evidence of the plan, strategy or statement, or part, unless the contrary is shown, and it shall not be necessary to prove the signature of the officer or that he or she was in fact such an officer.

(2) Evidence of all or part of a plan, strategy or statement made under this Part may be given by production of a copy thereof certified in accordance with this section and it shall not be necessary to produce the plan, strategy or statement itself.

Regulations

20. The Minister may, for the purposes of giving further effect to the Strategic Environmental Assessment Directive, by regulations (in this Act referred to as the "Strategic Environmental Assessment Regulations") make further provision for the application of the Directive to any plan or programme within the meaning of the Directive which is made under this Part.

CHAPTER 2

National Planning Framework

National Planning Framework

21. (1) The Government shall prepare and publish a document to be known as the National Planning Framework.

(2) The National Planning Framework shall contain a statement setting out the Government's national plan in relation to the strategic planning and sustainable development of the State and shall include policies and proposals for the furtherance of the following objectives:

(a) securing national and regional development strategies, including maximising the potential of the regions;

(b) supporting proper planning and sustainable development in urban and rural areas;

(c) supporting the circular economy (within the meaning of section 6 of the Circular Economy and Miscellaneous Provisions Act 2022);

(d) securing the coordination of regional spatial and economic strategies and development plans;

(e) providing for land-sea interactions and securing coordination with the National Marine Planning Framework;

(f) the integration of the pursuit and achievement of the national climate objective and National Biodiversity Action Plan into plan-led development in the State.

(3) The National Planning Framework shall make provision for the following matters:

(a) identification of nationally strategic development requirements as respects cities, towns and rural areas in relation to employment, future population change, and associated housing, commercial and public infrastructure;

(b) indication of national infrastructure priorities linked to the strategic development requirements referred to in *paragraph (a)*, and in particular such priorities as relate to—

(i) transportation (including public transportation),

(ii) water services,

(iii) waste management,

(iv) energy and communications networks, and

(v) the provision of educational, healthcare, retail, cultural and recreational facilities;

(c) promotion of sustainable settlement patterns and transportation strategies in urban and rural areas, including the promotion of measures to—

(i) reduce anthropogenic greenhouse gas emissions,

(ii) take account of the need to adapt to and mitigate climate change, and

(iii) achieve the national climate objective;

(d) conservation of the environment and its amenities, including—

(i) landscape,

(ii) ecology,

(iii) biodiversity, and

(iv) archaeological, architectural and natural heritage;

(e) land-sea interactions and the promotion of coordination of development between the terrestrial and marine sectors;

(f) designation of regional growth centres.

(4) In making provision under *paragraph (e)* of *subsection (3)*, the Government shall have regard to the National Marine Planning Framework.

(5) The Government shall take such steps as are necessary to ensure that the National Planning Framework in effect at any given time makes provision for a period in the future of not less than 10 years and not more than 20 years from the coming into effect of the framework, which period shall be specified in the National Planning Framework.

(6) Notwithstanding *subsections (2)* and *(3)* and the repeal of section 20A of the Act of 2000 effected by *section 6*, the National Planning Framework under that section that was in force immediately before such repeal shall—

(a) continue in force for the period that it would have continued in force but for such repeal,

(b) be deemed to be the first National Planning Framework made under *subsection (1)*, and

(c) be reviewed in accordance with *section 22*.

Review of National Planning Framework

22. (1) The Government shall review the National Planning Framework in accordance with this section and *sections 23* and *24*.

(2) Each review shall be completed before the expiry of a period of 2 years, which period shall begin on the date of publication, by the Central Statistics Office, of the final results of the second occurrence of a census of population of the State held after the completion, in accordance with *subsection (6)*, of the previous review.

(3) Without prejudice to the requirement in *subsection (2)*, the Government may review the National Planning Framework before the expiry of a period of 2 years, which period shall begin on the date of publication, by the Central Statistics Office, of the final results of the first occurrence of a census of population of the State held after the completion, in accordance with *subsection (6)*, of the previous review.

(4) In this section "occurrence of a census of population of the State" means the beginning of the period provided for by order under section 25 of the Statistics Act 1993 in respect of which the information specified in the order is to be provided.

(5) Where the Government reviews the National Planning Framework, they shall, as appropriate—

(a) approve a revised National Planning Framework,

(b) approve a new National Planning Framework, or

(c) subject to *subsection (5)* of *section 21*, determine that no revision of the National Planning Framework or new National Planning Framework is required and publish a statement explaining the reasons for the determination.

(6) A review of the National Planning Framework is completed on the date that the Government publishes a revised National Planning Framework or new National Planning Framework in accordance with *subsection (5)* of *section 23* or the statement referred to in *paragraph (c)* of *subsection (5)*, as the case may be.

(7) A revised National Planning Framework shall continue in effect for the remainder of the period for which the National Planning Framework which it revises is specified, under *subsection (5)* of *section 21*, to be in effect.

(8) The Minister shall, within 10 days of publication of a statement under *paragraph (c)* of *subsection (5)*, lay a copy of the statement so published before each House of the Oireachtas.

Procedure for review of National Planning Framework

23. (1) Before carrying out a review under *section 22*, the Minister shall publish a notice of the Government's intention to do so.

(2) The Minister shall make provision for public consultation in the review of the National Planning Framework, including arrangements for consulting—

(a) members of the Oireachtas,

(b) regional assemblies,

(c) local authorities,

(d) the Commission,

(e) the Office of the Planning Regulator,

(f) the Environmental Protection Agency,

(g) the Maritime Area Regulatory Authority,

(h) members of the public,

(i) any Department or body in Northern Ireland having responsibility for regional development (where that Department or body agrees to such consultation), and

(j) such other persons or public bodies as the Minister considers appropriate.

(3) The revised or new National Planning Framework shall be subject to a screening assessment and if necessary a strategic environmental assessment or an appropriate assessment, or both, as the case may be, in accordance with the Strategic Environmental Assessment Directive (and Strategic Environmental Assessment Regulations) and the Habitats Directive (and *Part 6*).

(4) In carrying out a review under *section 22*, the Government shall have regard to any observations made on foot of the consultations under *subsection (2)*, including any resolution or report of the Oireachtas or any committee of the Oireachtas, in respect of the matters to be included in the National Planning Framework.

(5) Where after the Government has completed a review under *section 22* and approved a revised or new National Planning Framework, the Government shall, as soon as practicable, publish on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage—

(a) the revised or new National Planning Framework, as the case may be, and

(b) a summary of any observations made on foot of the consultations under *subsection (2)*.

(6) The Minister shall, within 10 days of publication under *paragraph (a)* of *subsection (5)*, lay a copy of the revised or new National Planning Framework so published before each House of the Oireachtas.

(7) A revised or new National Planning Framework shall take effect 4 weeks after the date of publication under *paragraph (a)* of *subsection (5)*.

(8) A failure to comply with *subsections (2)* and *(3)* of *section 22* and *subsection (6)* within the time period specified therein shall not of itself invalidate the National Planning Framework.

Regard to be had to other matters when carrying out review under *section 22*

24. (1) The Government may, when carrying out a review under *section 22*, have regard to such plans and other documents as they consider appropriate.

(2) Without prejudice to the generality of *subsection (1)*, the Government shall, when carrying out a review under *section 22*, have regard to—

(a) such plans or documents (if any) as may be prescribed and plans or documents of such class (if any) as may be prescribed, and

(b) such plans or documents (if any) as may be prescribed, and plans or documents of such class (if any) as may be prescribed, made or created by—

(i) an institution of the European Union,

(ii) the Government of a Member State of the European Union,

(iii) the Government of a Transboundary Convention State, or

(iv) a body that performs in such Member State or a Transboundary Convention State functions the same as or similar to those performed in the State by a regional assembly or a planning authority,

relating to maritime planning, land-use planning, strategic planning, spatial planning, economic planning or territorial planning.

CHAPTER 3

National Planning Statements

National Planning Statement

25. (1) The Minister may, at any time, with the approval of the Government, issue a statement (in this Act referred to as a "National Planning Statement") which shall comprise two parts as follows:

(a) national policies and measures on planning matters to support proper planning and sustainable development (in this Act referred to as "National Planning Policies and Measures");

(b) guidance as to the implementation of the policies and measures referred to in *paragraph (a)* (in this Act referred to as "National Planning Policy Guidance").

(2) The Minister may, with the approval of the Government, amend or revoke a National Planning Statement issued under this section.

(3) The Minister shall publish on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage—

(a) a National Planning Statement,

(b) notice of an amendment of a National Planning Statement and a copy of the National Planning Statement as amended, and

(c) notice of the revocation of any National Planning Statement.

(4) A National Planning Statement, amendment or revocation published under *subsection (3)* shall take effect on such date as may be specified therein or, where no date is specified, on the date of such publication.

(5) The Minister shall, within 10 days of publication under *subsection (3)*, lay a copy of a National Planning Statement, amendment or revocation so published before each House of the Oireachtas.

(6) The Minister shall, within 10 days of publication under *subsection (3)*, give a copy of a National Planning Statement, amendment or revocation so published to—

(a) each planning authority,

(b) each regional assembly,

(c) the Office of the Planning Regulator,

(d) the Commission,

(e) the Environmental Protection Agency, and

(f) the Maritime Area Regulatory Authority.

(7) A failure to comply with *subsections (5)* and *(6)* within the time period specified therein shall not of itself invalidate a National Planning Statement.

(8) Notwithstanding the repeal of section 52 of the Act of 2000 effected by *section 6*, any guideline issued under the said section 52 that was in force immediately before that repeal shall continue in force on and after that repeal until—

(a) revoked by the Minister under *subsection (9)*, or

(b) a National Planning Statement is issued under this Chapter with which the guideline conflicts.

(9) The Minister may revoke guidelines under section 52 of the Act of 2000 that, by virtue of *subsection (8)*, continue in force on and after the repeal of that section by *section 6*.

Considerations for issuance of National Planning Statement

26. (1) In deciding to issue and in formulating or amending a National Planning Statement under *section 25*, the Minister shall have regard to the desirability of setting out policy and providing guidance in relation to planning matters to support proper planning and sustainable development, including, but not limited to, the following:

(a) preparation of regional spatial and economic strategies, development plans, urban area plans, priority area plans, coordinated area plans and development schemes;

(b) the pattern, layout and format of development or of a particular type or types of development;

(c) the pattern, layout and form of amenity space;

(d) the promotion, regulation or restriction of development or of a particular type or types of development or a particular use or uses of land including housing and housing supply;

(e) the objective of achieving consolidation and regeneration of urban centres, including consideration of appropriate density of residential and other development in cities and towns;

(f) protection of the amenities, character and vitality of rural areas;

(g) prevention, reduction, amelioration and mitigation of risks of environmental damage and risks to human health and safety from natural and man-made causes, including from flooding, and the factoring of such risks in the location of development;

(h) the promotion and regulation of renewable energy development in appropriate locations;

(i) protection of landscapes, and features of natural, archaeological, architectural and cultural heritage of value;

(j) protection of structures, parts of structures, or specified features of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest;

(k) preserving the character of architectural conservation areas;

(l) creation of conditions conducive to commercial and industrial development and the creation of employment at appropriate locations;

(m) promotion of sustainable settlement patterns and transportation strategies in urban and rural areas including measures—

(i) to reduce anthropogenic greenhouse gas emissions,

(ii) to support adaptation to and mitigation of climate change,

(iii) as are necessary to achieve the national climate objective, and

(iv) to support the circular economy strategy (within the meaning of section 6 of the Circular Economy and Miscellaneous Provisions Act 2022);

(n) integration of appropriate architectural urban design and quality standards into development plans, urban area plans, priority area plans, coordinated area plans, the preparation of development schemes and the assessment of any application for development consent under *Part 4*;

(o) the performance by regional assemblies, planning authorities and the Commission of any of their functions under this Act;

(p) integration of relevant climate action related policies and measures of the Government, including those prepared pursuant to the Climate Action and Low Carbon Development Act 2015, into regional spatial and economic strategies, development plans, urban area plans, priority area plans and coordinated area plans;

(q) integration of relevant policies and measures of the Government relating to biodiversity, including those in respect of the National Biodiversity Action Plan, into regional spatial and economic strategies, development plans, urban area plans, priority area plans and coordinated area plans.

(2) Before issuing a National Planning Statement, the Minister may consult—

(a) such other Ministers of the Government as the Minister considers appropriate,

(b) such public bodies as the Minister considers appropriate,

(c) any stakeholders or other persons the Minister considers appropriate, and

(d) members of the public.

(3) Where the Minister consults a person under *subsection (2)*, the Minister shall have regard to any observations received before issuing a National Planning Statement.

(4) Before issuing a National Planning Statement, the Minister shall—

(a) determine whether the National Planning Statement which the Minister intends to issue is a plan or programme which comes within the scope of the requirements of the Strategic Environmental Assessment Directive, and, if so, determine, in accordance with the Strategic Environmental Assessment Regulations, whether it is likely to have significant effects on the environment such that a strategic environmental assessment is required,

(b) determine, in accordance with *Part 6*, whether it is necessary to carry out an appropriate assessment, and

(c) publish the determinations made under *paragraphs (a)* and *(b)* on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage.

(5) Where the Minister determines under *subsection (4)* that it is necessary to carry out a strategic environmental assessment or an appropriate assessment, the Minister shall, prior to issuing a National Planning Statement—

(a) conduct the strategic environmental assessment in accordance with the Strategic Environmental Assessment Regulations and this section or the appropriate assessment in accordance with *Part 6* (and the Minister shall be the competent authority (within the meaning of *Part 6*) for the purposes of conducting such assessments), and

(b) consult members of the public.

(6) Where the Minister determines under *subsection (4)* that it is necessary to carry out a strategic environmental assessment or an appropriate assessment, the Minister shall—

(a) publish—

(i) a draft of the proposed National Planning Statement, and

(ii) a copy of the environmental report or the Natura impact report, as the case may be,

(b) invite observations on the documents published under *paragraph (a)* before the expiry of such period as may be specified in the notice, and

(c) take account of any observations received before the expiry of the period specified in the notice.

(7) Where the Minister, having taken account of any observations received under *paragraph (c)* of *subsection (6)*, proposes to make amendments to the draft National Planning Statement, he or she shall determine whether it is necessary to carry out a strategic environmental assessment or an appropriate assessment in respect of the proposed amendments.

(8) Subject to *subsection (9)*, where, pursuant to a screening assessment carried out under *subsection (7)*, the Minister determines that the proposed amendments to the draft National Planning Statement require to be the subject of a strategic environmental assessment or an appropriate assessment, the procedure set out in *subsection (6)* shall be carried out in relation to the proposed amendments.

(9) Where the procedure set out in *subsection (6)* is carried out in relation to proposed amendments to a draft National Planning Statement in accordance with *subsection (8)*, the Minister shall, in taking account of any observations received under *paragraph (c)* of *subsection (6)* in relation to the proposed amendments, determine whether to issue the draft National Planning Statement with or without the proposed amendments subject only to any minor modifications that he or she considers necessary.

(10) For the purposes of *subsection (9)*, a modification shall be deemed to be minor where—

(a) it does not substantively or materially alter the draft National Planning Statement, and

(b) it is not likely to have significant effects on the environment or on any European site.

(11) For the purposes of conducting a screening assessment, strategic environmental assessment or appropriate assessment under this section, the Strategic Environmental Assessment Regulations or *Part 6*, the Minister may adopt, with or without modification, any such assessment carried out by a Department of State or consultant retained on behalf of the Minister.

(12) *Subsections (2)* to *(11)* shall apply to the amendment or revocation of a National Planning Statement as they apply to the issuance of a National Planning Statement and in the case of an amendment, a reference in *subsections (6)* to *(10)* to a draft National Planning Statement shall be construed as a reference to a draft of the proposed amendment.

Continuation in force of pre-commencement Ministerial guidelines

27. (1) Notwithstanding the repeal of section 28 of the Act of 2000 effected by *section 6*, any guideline issued under the said section 28 that was in force immediately before that repeal shall continue in force on and after that repeal until—

(a) revoked by the Minister under *subsection (3)*, or

(b) a National Planning Statement is issued under this Chapter with which the guideline conflicts.

(2) Any guidelines continued in force under *subsection (1)* shall be deemed to be National Planning Policy Guidance issued under this Chapter.

(3) The Minister may revoke any guidelines continued in force under *subsection (1)*.

(4) Prior to revoking any guidelines under *subsection (3)*, the Minister shall comply with any applicable requirements of the Strategic Environmental Assessment Directive (and the Strategic Environmental Assessment Directive Regulations) and the Habitats Directive (and *Part 6*).

(5) A reference in any guidelines continued in force under *subsection (1)* to a provision of the Act of 2000 shall be read as a reference to the provisions of this Act relating to the same subject-matter.

CHAPTER 4

Regional Spatial and Economic Strategies

Regional spatial and economic strategy

28. (1) A regional assembly shall, in accordance with this Chapter, make a long-term strategic planning and economic framework for the development of its region, which shall make provision for the matters set out in *section 29* (in this Act referred to as a "regional spatial and economic strategy").

(2) The objectives of a regional spatial and economic strategy shall be to support—

(a) the implementation of the National Planning Framework, and

(b) the economic policies and objectives of the Government.

(3) A regional spatial and economic strategy shall be in accordance with—

(a) the principles of proper planning and sustainable development, and

(b) the economic policies and objectives of the Government.

(4) A regional spatial and economic strategy shall make provision for a period that is not less than 10 years and not more than 20 years.

(5) A regional spatial and economic strategy shall be materially consistent with—

(a) the National Planning Framework,

(b) the National Marine Planning Framework, and

(c) any relevant National Planning Policies and Measures.

(6) The Minister may make regulations concerning the preparation, making and revision of regional spatial and economic strategies and related matters.

(7) Without prejudice to the generality of *subsection (6)*, regulations made under that subsection may direct two or more regional assemblies—

(a) to prepare and make a regional spatial and economic strategy jointly in respect of—

(i) the combined regions of those regional assemblies, or

(ii) such part of the combined regions of those regional assemblies as may be specified in the regulations,

and

(b) to cooperate in respect of such other matters as may be prescribed.

Content of regional spatial and economic strategy

29. (1) A regional spatial and economic strategy shall make provision for the following matters:

(a) the identification of sustainable settlement patterns and transportation strategies in urban and rural areas;

(b) the strategic location of employment-related development and industrial and commercial development;

(c) a strategy relating to retail matters, including consideration of the location of retail development;

(d) the location of housing, including provision to meet any national and regional population growth targets set out in the National Planning Framework as between the functional areas of the planning authorities in the region and the relevant population and housing targets to be included in the housing development strategy of each planning authority;

(e) a strategy relating to onshore renewable energy to—

(i) meet national targets,

(ii) identify and facilitate electricity grid infrastructure, including upgrade projects and support infrastructure,

(iii) make provision for energy security, and

(iv) promote steps for coordination and cooperation between public bodies;

(f) a strategy relating to climate change adaptation and mitigation that is consistent with national policies and measures, including those prepared pursuant to the Climate Action and Low Carbon Development Act 2015, which provides for the coordination of public bodies in pursuance of the strategy;

(g) a strategy relating to marine and coastal matters that facilitates the coordination of land-sea interactions for coastal planning authorities within the region;

(h) coastal zone management as a consequence of sea level change, including the identification of strategic infrastructure;

(i) the provision of transportation (including public transportation), water services, energy and communications networks and waste management facilities;

(j) the identification of facilities relating to third level education, healthcare and sports of such scale as would serve the region;

(k) the preservation and protection of the environment and its amenities, including integration of the National Biodiversity Action Plan and the archaeological, architectural and natural heritage of the region;

(l) as appropriate, the protection of the linguistic and cultural heritage of the Gaeltacht;

(m) a strategy relating to landscape and landscape character that coordinates the categorisation of landscapes, in terms of their capacity to absorb particular types of development, across the region so as to ensure a consistent approach to the protection of the landscape;

(n) a strategy relating to economic matters that—

(i) identifies regional strengths and opportunities having regard to economic and employment trends,

(ii) identifies the regional attributes that are essential to enhancing regional economic performance, including the quality of the environment, cities, towns and rural areas, the physical infrastructure, and the social, community and cultural facilities,

(iii) sets out proposals to maintain or augment the attributes referred to in *subparagraph (ii)* in such manner as will be implemented under the strategy through the activities of public bodies, private sector investment and the community, and

(iv) identifies the means of maintaining and augmenting overall regional economic performance in accordance with national economic policy;

(o) a flooding and flood management plan for the region;

(p) a statement of the actions being taken (or proposed) for the purpose of ensuring the effective integration of transport and land-use planning, including in particular—

(i) a statement explaining how the regional spatial and economic strategy proposes to make provision in relation to the matters identified in—

(I) any relevant transport strategy of the National Transport Authority,

(II) the report of the National Transport Authority prepared in accordance with *subsection (11)* of *section 31*, and

(III) the observations of the National Transport Authority submitted in accordance with *subsection (10)* of *section 32*,

and

(ii) where it is not proposed that the regional spatial and economic strategy should make provision in relation to any matter identified in the strategy, report or observations referred to in *subparagraph (i)*, a statement of the reasons for that decision;

(q) a statement confirming that the regional spatial and economic strategy is materially consistent with—

(i) the National Planning Framework,

(ii) the National Marine Planning Framework, and

(iii) any relevant National Planning Policies and Measures;

(r) a statement demonstrating how due account has been taken, in the regional spatial and economic strategy, of any relevant National Planning Policy Guidance and, where the strategy departs from any relevant National Planning Policy Guidance, a statement of the reasons why, in the opinion of the regional assembly, such departure is justified having regard to the proper planning and sustainable development of the region.

(2) Where a city specified in *subsection (3)* is within the region to which a regional spatial and economic strategy relates, the regional spatial and economic strategy shall include an integrated land-use and transportation strategy for the metropolitan area (in this Part referred to as a "metropolitan area strategic plan"), which shall be consistent with the regional spatial and economic strategy concerned.

(3) The cities referred to in *subsection (2)* are:

(a) Dublin;

(b) Cork;

(c) Limerick;

(d) Galway;

(e) Waterford;

(f) such other city as may be prescribed.

(4) Where a part of the metropolitan area of any city is located within a region to which a regional spatial and economic strategy relates notwithstanding that the city or the centre of the city concerned is located outside that region or outside the State, the regional spatial and economic strategy may include a metropolitan area strategic plan in respect of that part of the metropolitan area, which shall be consistent with the regional spatial and economic strategy concerned.

(5) For the purposes of *subsections (2)* and *(4)*, the "metropolitan area" of a city means the area consisting of the city and its surrounding area approximating to the extent of its commuting zone.

(6) A regional spatial and economic strategy may include objectives for the development of a specific part of the region which is designated as a strategic planning area (within the meaning of the Local Government Act 1991 (Regional Assemblies) (Establishment) Order 2014 (S.I. No. 573 of 2014)).

(7) Where a regional spatial and economic strategy includes objectives under *subsection (6)*, the objectives shall be consistent with the other provisions of the regional spatial and economic strategy concerned.

(8) A regional spatial and economic strategy shall identify and designate any key town in the region.

(9) For the purposes of *subsection (8)* a key town is a large, economically active settlement that provides employment and services for its surrounding area and has the capacity to complement a regional growth centre.

(10) Where the conditions in *subsection (11)* apply in relation to a settlement or a part of the urban area of a settlement, a regional spatial and economic strategy shall include provision—

(a) identifying the settlement or the part of the urban area of a settlement,

(b) requiring the preparation of a coordinated area plan for the settlement or the part of the urban area of a settlement identified in *paragraph (a)*,

(c) designating, in accordance with *subsection (12)*, a planning authority to be the principal planning authority for the purposes of *Chapter 6*,

(d) designating any other planning authority in whose functional area the settlement or the part of the urban area concerned is situate to be an associate planning authority for the purposes of *Chapter 6*,

(e) specifying the number of members from each planning authority referred to in *paragraphs (c)* and *(d)* to be appointed under *subsection (3)* of *section 73* to the coordinated area plan committee,

(f) identifying any planned population growth and associated housing development needs in the settlement or part of the urban area of a settlement in respect of which a coordinated area plan is to be made,

(g) identifying the amount of land required to accommodate the housing development needs referred to in *paragraph (f)*,

(h) identifying the amount of land required as between the principal planning authority and the associate planning authority, taking account of the proper planning and sustainable development of the settlement or the part of the urban area of a settlement concerned, including, in particular, the achievement of compact urban development, and

(i) specifying directions in relation to the appointment of a coordinated area plan committee, in accordance with the requirements of *section 73*.

(11) The conditions referred to in *subsection (10)* are that—

(a) the settlement, or the part of the urban area of a settlement, is within the functional area of more than one planning authority, and

(b) the regional assembly considers that the growth of the settlement, or the part of the urban area of a settlement, concerned is important to the population growth or employment growth of one or more of the relevant functional areas during the period to which any development plan applicable to any such relevant functional area relates.

(12) In determining which planning authority is to be designated as the principal planning authority, a regional assembly shall take account of—

(a) where relevant, the location of the town centre of the settlement or the part of the urban area of a settlement,

(b) the extent to which the settlement or the part of the urban area of a settlement is located within the respective functional areas of the planning authorities concerned, and

(c) the amount of population growth or employment growth allocated by the regional assembly to the respective functional areas of the planning authorities concerned.

(13) A regional spatial and economic strategy and a metropolitan area strategic plan within such a strategy shall include measures to secure the effective implementation and monitoring of the regional spatial and economic strategy and metropolitan area strategic plan, including—

(a) an indication of priorities for infrastructure of scale relating to transportation (including public transportation), water services, waste management, energy and communications networks and the provision of educational, healthcare, retail, cultural and recreational facilities,

(b) without prejudice to the generality of *paragraph (a)*, an order of priority for infrastructure provision,

(c) potential sources of funding for infrastructure,

(d) cross-sectoral investment and actions required to deliver planned growth and development,

(e) coordination between constituent local authorities, and the cooperation of public bodies, and

(f) the monitoring and reporting arrangements required to measure and evaluate progress in implementing the regional spatial and economic strategy and metropolitan area strategic plan.

Review of regional spatial and economic strategy

30. (1) Not later than 6 months after the publication of a revised or new National Planning Framework by the Government under *Chapter 2*, a regional assembly shall commence a review of any regional spatial and economic strategy for its region for the time being in force.

(2) Where a regional assembly reviews a regional spatial and economic strategy, it shall—

(a) make a new regional spatial and economic strategy in accordance with *section 32*,

(b) revise the existing regional spatial and economic strategy in accordance with *section 32*, or

(c) determine that no new regional spatial and economic strategy or revision is required and publish a statement explaining the reasons for that determination of the regional assembly.

(3) In carrying out a review under this section, a regional assembly shall—

(a) ensure that the regional spatial and economic strategy for its region is materially consistent with—

(i) the National Planning Framework,

(ii) the National Marine Planning Framework, and

(iii) any relevant National Planning Policies and Measures,

(b) take due account of—

(i) any relevant National Planning Policy Guidance,

(ii) matters relevant to the preparation and making of a regional spatial and economic strategy under this Act,

(iii) the content of any monitoring reports prepared in accordance with *section 35* since the making or revision of the regional spatial and economic strategy,

(iv) any relevant strategy of the National Transport Authority, and

(v) such other matters as may be prescribed,

and

(c) have regard to the marine planning policy statement prepared and published under section 6 of the Act of 2021.

Consultation about proposed new or revised regional spatial and economic strategy

31. (1) Before making or revising a regional spatial and economic strategy in accordance with *section 32*, a regional assembly shall—

(a) make such arrangements as may be necessary for the making or revision of a new regional spatial and economic strategy,

(b) consult—

(i) the local authorities within the region (or part thereof, as the case may be),

(ii) the Minister,

(iii) the Office of the Planning Regulator,

(iv) the Maritime Area Regulatory Authority,

(v) the National Transport Authority,

(vi) such of the following persons as the regional assembly considers appropriate—

(I) other Ministers of Government,

(II) other regional assemblies,

(III) other public bodies,

and

(vii) such other persons as may be prescribed,

and

(c) publish a notice of its intention to make or revise a regional spatial and economic strategy on a website maintained by or on behalf of the regional assembly and in at least one newspaper circulating in the region.

(2) A notice under *paragraph (c)* of *subsection (1)* shall—

(a) state that the regional assembly intends to make or revise a regional spatial and economic strategy,

(b) indicate the matters to be considered in a regional spatial and economic strategy, having regard to the requirements of *section 29*, and

(c) indicate that observations regarding the making or revision of a regional spatial and economic strategy may be made in writing to the regional assembly within a period specified in the notice (which shall not be less than 8 weeks after the date of the notice).

(3) (a) The regional assembly shall send a copy of the notice published under *paragraph (c)* of *subsection (1)* to—

(i) any person to be consulted under *paragraph (b)* of *subsection (1)*, and

(ii) the Commission.

(b) A copy of a notice sent under *paragraph (a)* to a local authority within the region (or part thereof, as the case may be) may be accompanied by a request by the regional assembly for assistance in the making or revision of a new regional spatial and economic strategy.

(4) Subject to *subsection (5)*, a local authority which receives a notice and request under *subsection (3)* shall assist and cooperate with a regional assembly in making the

arrangements referred to in *paragraph (a)* of *subsection (1)* and shall in particular agree upon—

(a) a procedure for preparing and making a regional spatial and economic strategy, or a revision to an existing strategy, in accordance with *section 32*,

(b) the establishment of committees to oversee and consider the preparation of the regional spatial and economic strategy or revision,

(c) the membership of the committees referred to in *paragraph (b)*, and

(d) the roles of those committees in—

(i) preparing the draft regional spatial and economic strategy or draft revision,

(ii) considering observations received under this section and *section 32*, and

(iii) drawing up such reports as may be necessary.

(5) If agreement is not reached between a regional assembly and a local authority under *subsection (4)* within 4 weeks of the sending of a notice and request under *subsection (3)* or such longer period not exceeding 8 weeks as the regional assembly considers reasonable, the regional assembly shall notify the Minister and the Minister may direct the local authority to cooperate with the regional assembly on such terms as are specified in the direction.

(6) A local authority shall comply with a direction made by the Minister under *subsection (5)*.

(7) The provision of assistance under *subsection (4)* shall include the provision of—

(a) reasonable financial assistance,

(b) services of staff,

(c) accommodation, and

(d) such other assistance as may be reasonably required.

(8) The provision of assistance under *subsection (4)* shall be based on the proportion of the population of the region to which a regional spatial and economic strategy relates who are resident in the functional areas of the local authorities concerned.

(9) A reasonable request for assistance made by a regional assembly by virtue of *paragraph (b)* of *subsection (3)* shall not be refused by a local authority, and any dispute as to the reasonableness of such request shall be referred to the Minister for adjudication having regard to *subsection (7)*.

(10) Any Minister of the Government or other public body consulted under *subsection (1)* shall—

(a) insofar as is practicable, assist and cooperate with the regional assembly in the preparation of a regional spatial and economic strategy or a revision to an existing regional spatial and economic strategy, and

(b) take such steps as are reasonable and appropriate to support the implementation of the regional spatial and economic strategy.

(11) On receipt of a notice published under *paragraph (c)* of *subsection (1)*, the National Transport Authority shall, within the period specified in that notice in accordance with *paragraph (c)* of *subsection (2)*, submit to the regional assembly a report on any matters which, in its opinion, should be considered by the regional assembly in making or revising the regional spatial and economic strategy and such a report shall set out—

(a) the matters which, in the opinion of the National Transport Authority, should be considered by the regional assembly in the preparation of the draft regional spatial and economic strategy or draft revision to an existing strategy,

(b) recommendations on the matters that require to be included in the draft regional spatial and economic strategy or draft revision to an existing strategy to ensure the effective integration of transport and land-use planning, and

(c) any recommendations on the matters that require to be included in the draft regional spatial and economic strategy having regard to a relevant transport strategy of the National Transport Authority,

and the Authority shall furnish a copy of the report submitted to the regional assembly under this subsection to the Minister, the Minister for Transport and the Office of the Planning Regulator.

(12) In making or revising a regional spatial and economic strategy, a regional assembly shall coordinate the development of the regional spatial and economic strategy, or the revision of it, in a manner that is, to the greatest extent possible, consistent with the policies of any public bodies consulted under this section.

Preparation or revision of regional spatial and economic strategy: process

32. (1) As soon as practicable after agreeing any necessary arrangements under *section 31*, a regional assembly shall prepare a draft regional spatial and economic strategy or a draft revision to an existing strategy, as the case may be.

(2) In preparing a draft regional spatial and economic strategy or draft revision to an existing strategy, the regional assembly shall—

(a) ensure that the draft regional spatial and economic strategy or draft revision to an existing strategy is materially consistent with—

(i) the National Planning Framework,

(ii) the National Marine Planning Framework, and

(iii) any relevant National Planning Policies and Measures,

(b) take due account of—

(i) any relevant National Planning Policy Guidance,

(ii) the proper planning and sustainable development of the region to which the regional spatial and economic strategy relates,

(iii) any other relevant policies or objectives for the time being of the Government or of any Minister of the Government, including any national plans, policies or strategies specified by the Minister to be of relevance to the determination of strategic economic policies,

(iv) where a regional spatial and economic strategy affects the Gaeltacht, the need to protect the linguistic and cultural heritage of the Gaeltacht, and

(v) any relevant transport strategy of the National Transport Authority,

and

(c) have regard to the marine planning policy statement prepared and published under section 6 of the Act of 2021.

(3) Before preparing a draft regional spatial and economic strategy or a draft revision to an existing strategy, a regional assembly shall consider any observations received under *paragraph (c)* of *subsection (2)* of *section 31*.

(4) The preparation, making and revision of a regional spatial and economic strategy shall be subject to the Strategic Environmental Assessment Directive (and the Strategic Environmental Assessment Regulations) and the Habitats Directive (and *Part 6*).

(5) A regional assembly shall conduct a strategic environmental assessment of a draft regional spatial and economic strategy in accordance with the Strategic Environmental Assessment Regulations.

(6) Before revising a regional spatial and economic strategy, a regional assembly shall determine, in accordance with the Strategic Environmental Assessment Regulations, whether it is necessary to carry a strategic environmental assessment of the proposed revision and, where it determines that it is necessary to do so, it shall conduct a strategic environmental assessment of the proposed revision in accordance with those Regulations.

(7) Before making or revising a regional spatial and economic strategy, a regional assembly shall determine, in accordance with *Part 6*, whether it is necessary to conduct an appropriate assessment and where it determines that it is necessary to do so, it shall carry out an appropriate assessment in accordance with that Part.

(8) As soon as practicable after preparing a draft regional spatial and economic strategy or draft revision to an existing strategy, a regional assembly shall—

(a) send notice and a copy of the draft strategy or draft revision to any person consulted under *paragraph (b)* of *subsection (1)* of *section 31*, and

(b) publish notice of the draft on a website maintained by or on behalf of the assembly and in at least one newspaper circulating in its region.

(9) A notice under *paragraph (b)* of *subsection (8)* shall state—

(a) that a copy of—

(i) the draft strategy or draft revision,

(ii) any determination made under *subsection (6)* or *(7)*,

(iii) any environmental report prepared in accordance with the Strategic Environmental Assessment Regulations, and

(iv) any Natura impact report prepared in accordance with *Part 6*, may be inspected at a place specified in the notice at times so specified and on a website maintained by or on behalf of the regional assembly during a period (being not less than 10 weeks from the date of the notice) so specified,

and

(b) that observations with respect to the draft strategy or draft revision made to the regional assembly in writing within a period specified in the notice (being not less than 10 weeks from the date of the notice) shall be taken into consideration before the regional spatial and economic strategy or revision to the strategy is made.

(10) On receipt of a notice and draft strategy or draft revision sent under *paragraph (a)* of *subsection (8)*, the National Transport Authority shall, within the period specified in the notice in accordance with *paragraph (b)* of *subsection (9)*, submit observations in writing to the regional assembly which shall—

(a) state whether the National Transport Authority considers that the draft regional spatial and economic strategy or draft revision to the strategy takes due account of any relevant transport strategy of the National Transport Authority, and

(b) where it considers that the draft regional spatial and economic strategy or draft revision does not take due account of such a transport strategy, set out the recommendations of the National Transport Authority as to the amendments that it considers should be made to the draft strategy or draft revision.

(11) A regional assembly shall have regard to any—

(a) observations and recommendations received by virtue of *paragraph (b)* of *subsection (9)* or *(10)*, and

(b) report from the committees referred to in *subsection (4)* of *section 31*.

(12) Where, having complied with *subsection (11)*, a regional assembly does not propose to make a material amendment to the draft regional spatial and economic strategy or the draft revision, the regional assembly shall, subject to *section 33*, make the regional spatial and economic strategy or revision, as the case may be, subject to any minor modifications that it considers necessary.

(13) For the purposes of *subsection (12)*, a modification shall be deemed to be minor where—

(a) it does not substantially or materially alter the draft regional spatial and economic strategy or draft revision, and

(b) it is not likely to have significant effects on the environment or on any European site.

(14) The making of a regional spatial and economic strategy or a revision to an existing strategy under *subsection (12)* shall be a matter for the members of the regional assembly concerned.

(15) Where, in making the regional spatial and economic strategy or revision, as the case may be, under *subsection (12)*, the members of the regional assembly do not comply with any observations made by the Minister or the Office of the Planning Regulator under *paragraph (b)* of *subsection (9)*, they shall so inform the Minister and the Office of the Planning Regulator as soon as practicable by notice in writing which notice shall contain a statement of the reasons for not complying with the observation concerned.

(16) Where, in making the regional spatial and economic strategy or revision, as the case may be, under *subsection (12)*, the members of the regional assembly do not comply with any recommendation made by the National Transport Authority under *paragraph (b)* of *subsection (10)*, they shall—

(a) so inform the National Transport Authority as soon as practicable by notice in writing which notice shall contain a statement of the reasons for not complying with the recommendation concerned, and

(b) provide a copy of such notice to the Minister and the Office of the Planning Regulator.

(17) A failure to comply with *subsection (1)* of *section 30*, *subsections (5)* and *(11)* of *section 31*, *subsections (3)* and *(4)* of *section 33* and *subsection (10)* within the time period specified therein shall not of itself invalidate a regional spatial and economic strategy.

Material alteration to draft regional spatial and economic strategy or draft revision

33. (1) Where, having complied with *subsection (11)* of *section 32*, a regional assembly proposes to make a material alteration to the draft regional spatial and economic strategy or the draft revision, the regional assembly shall determine, in accordance with the Strategic Environmental Assessment Regulations, whether it is necessary to carry out a strategic environmental assessment of the proposed material alteration, and where it determines that it is necessary to do so, it shall conduct a strategic environmental assessment in accordance with those Regulations.

(2) Where, having complied with *subsection (11)* of *section 32*, a regional assembly proposes to make a material alteration to the draft regional spatial and economic strategy or the draft revision, the regional assembly shall determine in accordance with *Part 6* whether it is necessary to conduct an appropriate assessment and where it determines that it is necessary to do so, it shall carry out an appropriate assessment in accordance with that Part.

(3) The determinations referred to in *subsections (1)* and *(2)* shall be made within a period (being not more than 12 weeks from the proposal to make a material alteration) specified by the director of the regional assembly.

(4) Any environmental report or Natura impact report requiring to be prepared on foot of a determination referred to in *subsection (1)* or *(2)* shall be prepared within a period (being not more than 12 weeks from the making of the determination) specified by the director of the regional assembly or such longer period as may be agreed with the Minister.

(5) The regional assembly shall publish and make available for inspection—

(a) the proposed material alteration,

(b) the determinations referred to in *subsections (1)* and *(2)*, and

(c) a copy of any environmental report or Natura impact report referred to in *subsection (4)*.

(6) The regional assembly shall—

(a) publish a notice on a website maintained by or on behalf of the regional assembly and in at least one newspaper circulating in the region which shall state—

(i) that a copy of—

(I) any proposed material alteration,

(II) any determination referred to in *subsection (1)* or *(2)*, and

(III) any environmental report or Natura impact report,

may be inspected at a place specified in the notice at a time so specified and on a website maintained by or on behalf of the regional assembly during a period (being not less than 6 weeks from the date of the notice) so specified, and

(ii) that observations with respect to the proposed material alteration and any strategic environmental assessment or appropriate assessment required in respect of it made to the regional assembly in writing within a period (being not less than 6 weeks from the date of the notice) specified in the notice shall be taken into account by the regional assembly before the regional spatial and economic strategy, or revision, is made,

and

(b) send a copy of the notice published under *paragraph (a)* and the documents referred to in *subparagraph (i)* of *paragraph (a)* to any person consulted under *paragraph (b)* of *subsection (1)* of *section 31*.

(7) Following consideration of observations received under *subsection (6)*, the regional assembly shall make the regional spatial and economic strategy, or the revision to an existing strategy, as the case may be, with or without the proposed material alteration, subject to any minor modifications that it considers necessary.

(8) For the purposes of *subsection (7)*, a modification shall be deemed to be minor where—

(a) it does not substantially or materially alter the draft regional spatial and economic strategy or draft revision, and

(b) it is not likely to have significant effects on the environment or on any European site.

(9) The making of a regional spatial and economic strategy or a revision to an existing strategy under *subsection (7)* shall be a matter for the members of the regional assembly concerned.

(10) Where, in making the regional spatial and economic strategy or revision, as the case may be, under *subsection (7)*, the members of the regional assembly do not comply with any observations made by the Minister or the Office of the Planning Regulator under *paragraph (b)* of *subsection (9)* of *section 32* or *subsection (6)*, they shall so inform the Minister and the Office of the Planning Regulator as soon as practicable by notice in writing which notice shall contain a statement of the reasons for not complying with the observation concerned.

(11) Where, in making the regional spatial and economic strategy or revision, as the case may be, under *subsection (7)*, the members of the regional assembly do not comply with any recommendation made by the National Transport Authority under *paragraph (b)* of *subsection (10)* of *section 32* or *subsection (6)*, they shall—

(a) so inform the National Transport Authority as soon as practicable by notice in writing which notice shall contain a statement of the reasons for not complying with the recommendation concerned, and

(b) provide a copy of such notice to the Minister and the Office of the Planning Regulator.

Publication of regional spatial and economic strategy

34. (1) Where a regional assembly makes a regional spatial and economic strategy or a revision to an existing strategy, it shall, within 4 weeks of the making of the strategy or revision, as the case may be—

(a) publish notice of the making of the strategy or the revision on a website maintained by or on behalf of the regional assembly and in at least one newspaper circulating in the functional area of each local authority in the region for which the strategy is prepared,

(b) send a copy of the notice to the persons specified in *subsection (3)*, and

(c) send a copy of the new regional spatial and economic strategy, or the strategy as revised, and any observations made by the Minister and the National Transport Authority under *sections 32* and *33* to the Office of the Planning Regulator.

(2) A notice under this section shall—

(a) state that a copy of the new regional spatial and economic strategy, or the strategy as revised, is available for inspection at a place specified in the notice and on a website maintained by or on behalf of the regional assembly, and

(b) comply with any applicable requirements of the Strategic Environmental Assessment Regulations and *Part 6*.

(3) The persons referred to in *paragraph (b)* of *subsection (1)* are—

(a) the Minister,

(b) the Office of the Planning Regulator,

(c) the Commission,

(d) the Maritime Area Regulatory Authority,

(e) the National Transport Authority,

(f) the local authorities within the regional assembly's region,

(g) other regional assemblies,

(h) such other persons as may be prescribed, and

(i) such other persons as the regional assembly considers appropriate.

(4) A regional spatial and economic strategy, or a revision of an existing strategy, shall take effect 6 weeks after the date on which it is made by the regional assembly under *section 32* or *33*.

Implementation and monitoring of regional spatial and economic strategy

35. (1) A regional assembly shall keep the implementation of the regional spatial and economic strategy for its region under review, having regard, in particular, to the monitoring and reporting arrangements included in the strategy in accordance with *paragraph (f)* of *subsection (13)* of *section 29*.

(2) A local authority within the region of a regional assembly shall, within 3 years of the first occasion on which a regional spatial and economic strategy is made or revised under this Chapter and every 3 years thereafter, prepare and submit a report to the regional assembly setting out progress made in supporting the objectives, relevant to that local authority, of the regional spatial and economic strategy.

(3) A regional assembly may, within 3 years of the first occasion on which a regional spatial and economic strategy is made or revised under this Chapter and thereafter within 3 years of the preparation of a report under *subsection (4)*, request any person referred to in *paragraph (b)* of *subsection (1)* of *section 31* to prepare and submit a report to the regional assembly setting out progress made in supporting the objectives, relevant to that person, of the regional spatial and economic strategy.

(4) A regional assembly shall, within 4 years of the first occasion on which a regional spatial and economic strategy is made or revised under this Chapter and every 4 years thereafter, prepare a report (in this section referred to as a "monitoring report") monitoring progress made in implementing the regional spatial and economic strategy.

(5) The monitoring report—

(a) shall specify the progress made in securing the overall objectives of the regional spatial and economic strategy (including any metropolitan area strategic plan), and

(b) may make any recommendations considered necessary in order to implement the regional spatial and economic strategy.

(6) A regional assembly shall send a copy of the monitoring report prepared by it to the Office of the Planning Regulator.

(7) The Office of the Planning Regulator—

(a) shall consider the monitoring report of each regional assembly, and

(b) may make recommendations to the Minister in relation to measures required to support the implementation of the regional spatial and economic strategy concerned.

Consequences of new or amended National Planning Statement for regional spatial and economic strategy

36. (1) Where the Minister issues or amends a National Planning Statement, each regional assembly shall, within 2 months of publication of the new or amended National Planning Statement, submit a report to the Office of the Planning Regulator setting out its view as to whether the regional spatial and economic strategy in force for its region is materially consistent with the National Planning Policies and Measures.

(2) Where a regional assembly is of the view that there is a material inconsistency for the purposes of *subsection (1)*, the report referred to in that subsection shall set out the steps that the regional assembly proposes to take to amend its regional spatial and economic strategy so as to remove the material inconsistency concerned.

(3) If the Office of the Planning Regulator, upon consideration of a report submitted to it under *subsection (1)*, is of the opinion that there is a material inconsistency for the purposes of that subsection and—

(a) is satisfied that the steps proposed by the regional assembly shall be sufficient to remove the material inconsistency concerned—

(i) the Office of the Planning Regulator shall, as soon as practicable thereafter, so inform the regional assembly, and

(ii) the director of the regional assembly shall invoke the expedited amendment procedure set out in *section 37*,

or

(b) is not satisfied that the steps proposed by the regional assembly shall be sufficient to remove the material inconsistency concerned, the Office of the Planning Regulator shall, as soon as practicable thereafter, make a recommendation to the Minister that a draft direction under *section 39* should be issued, which recommendation shall be accompanied by—

(i) proposed terms for the draft direction to specify the steps required to be taken to remove the material inconsistency concerned, having regard to *paragraphs (a)* and *(b)* of *subsection (1)* and *subsection (2)* of *section 39*, and

(ii) a statement of reasons for the recommendation.

(4) Where a regional assembly fails to submit a report in accordance with *subsection (1)* and the Office of the Planning Regulator is of the opinion that there is a material inconsistency for the purposes of that subsection, the Office of the Planning Regulator shall, as soon as practicable thereafter, make a recommendation to the Minister that a draft direction under *section 39* should be issued, which recommendation shall be accompanied by—

(a) proposed terms for the draft direction to specify the steps required to be taken to remove the material inconsistency concerned, having regard to *paragraphs (a)* and *(b)* of *subsection (1)* and *subsection (2)* of *section 39*, and

(b) a statement of reasons for the recommendation.

(5) If the Office of the Planning Regulator, upon consideration of a report submitted to it under *subsection (1)*, is satisfied that there is no material inconsistency for the purposes of that subsection, it shall, as soon as practicable thereafter, so inform the regional assembly.

(6) The Office of the Planning Regulator shall notify the regional assembly concerned of a recommendation under *paragraph (b)* of *subsection (3)* or *subsection (4)* and shall provide them with a copy of the documents accompanying the recommendation in accordance with those subsections.

(7) Subject to *subsections (8)* and *(9)*, the Minister shall, within 6 weeks of receipt of a recommendation of the Office of the Planning Regulator under *paragraph (b)* of *subsection (3)* or *subsection (4)*—

(a) consider the recommendation, statement of reasons and proposed terms for the draft direction, and

(b) make a decision, for stated reasons, as to whether to accept the recommendation of the Office of the Planning Regulator that a draft direction should be issued under *section 39*, whether with or without modifications.

(8) Where the Minister decides under *subsection (7)* that a draft direction should be issued under *section 39*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (7)* the material inconsistency for the purposes of *subsection (1)*, and

(b) direct the Office of the Planning Regulator to issue a draft direction under *section 39* in accordance with the proposed terms for the draft direction under *paragraph (b)* of *subsection (3)* or *subsection (4)*, with or without such modifications as may be specified by the Minister in the direction.

(9) Where the Minister decides under *subsection (7)* that a draft direction should not be issued under *section 39*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (7)* the material inconsistency for the purposes of *subsection (1)* and his or her reasons for deciding that a draft direction should not be issued, and

(b) direct the Office of the Planning Regulator not to issue the draft direction.

(10) The Office of the Planning Regulator shall provide the Minister with a copy of a report submitted to it under *subsection (1)* and shall advise the Minister of any decision made by the Office of the Planning Regulator under *paragraph (a)* of *subsection (3)* or *subsection (5)*.

(11) A direction issued under *paragraph (b)* of *subsection (9)* shall be laid before each House of the Oireachtas by the Minister.

Expedited amendment of regional spatial and economic strategy

37. (1) This section applies where amendments to a regional spatial and economic strategy for the time being in force—

(a) are necessitated by the issuance of a new or amended National Planning Statement,

(b) are being made for the purposes of ensuring that the regional spatial and economic strategy concerned is materially consistent with National Planning Policies and Measures contained in such a statement, and

(c) the Office of the Planning Regulator has informed the regional assembly under *subparagraph (i)* of *paragraph (a)* of *subsection (3)* of *section 36* that it is satisfied with the steps proposed by the regional assembly under *subsection (2)* of that section.

(2) Within 6 weeks of being informed by the Office of the Planning Regulator in accordance with *subparagraph (i)* of *paragraph (a)* of *subsection (3)* of *section 36* that the Office of the Planning Regulator is satisfied with the steps proposed by a regional assembly under *subsection (2)* of that section, the director of the regional assembly shall prepare a draft amendment to the regional spatial and economic strategy concerned and shall conduct a screening assessment for strategic environmental assessment in respect of the draft amendment in accordance with the Strategic Environmental Assessment Regulations and a screening for appropriate assessment in respect of the draft amendment in accordance with *Part 6*.

(3) In carrying out any screening assessment under *subsection (2)*, the director of the regional assembly shall, with a view to avoiding duplication of assessments, take account of the fact and content of any assessment that the Minister has conducted in respect of the relevant National Planning Statement.

(4) Where the director of the regional assembly determines that a strategic environmental assessment, an appropriate assessment, or both, as the case may be, is or are required in respect of a draft amendment, the draft amendment may only be made by way of a

revision to the regional spatial and economic strategy under *subsections (8)* to *(16)* of *section 32* and may not be made under this section.

(5) Where the director of the regional assembly determines that neither a strategic environmental assessment nor an appropriate assessment is required in respect of a draft amendment, the director of the regional assembly shall propose the draft amendment to the members of the regional assembly for adoption by resolution.

(6) Where the director of the regional assembly concerned proposes a draft amendment to the members of the regional assembly under *subsection (5)*, the proposed amendment shall be deemed to have been made at the expiration of a period of 6 weeks from the proposal, unless the members of the regional assembly, within that period, by resolution accept or reject the proposed amendment.

(7) Where an amendment is deemed to have been made or accepted by resolution of the members of the regional assembly under *subsection (6)*, the publication requirements under *subsections (1)*, *(2)* and *(3)* of *section 34* shall apply in respect of the regional spatial and economic strategy as amended.

(8) Where an amendment is deemed to have been made or accepted by resolution of the members of the regional assembly under *subsection (6)*, the amendment shall take effect 2 weeks after the deemed making of the amendment.

(9) Where, within the 6 week period referred to in *subsection (6)*, the members of the regional assembly by resolution reject the amendment proposed by the director of the regional assembly concerned—

(a) the director shall advise the Office of the Planning Regulator of this fact, and

(b) the Office of the Planning Regulator shall consider whether to make a recommendation under *subsection (10)*.

(10) Where, following a resolution under *subsection (9)*, the Office of the Planning Regulator is of the opinion that there is a material inconsistency for the purposes of *subsection (1)* of *section 36*, it shall make a recommendation to the Minister that a draft direction under *section 39* should be issued, which recommendation shall be accompanied by—

(a) proposed terms for the draft direction to specify the steps required to be taken to remove the material inconsistency concerned, having regard to *paragraphs (a)* and *(b)* of *subsection (1)* and *subsection (2)* of *section 39*, and

(b) a statement of reasons for the recommendation.

(11) Subject to *subsections (12)* and *(13)*, the Minister shall, within 6 weeks of receipt of a recommendation of the Office of the Planning Regulator under *subsection (10)*—

(a) consider the recommendation, statement of reasons and proposed terms for the draft direction, and

(b) make a decision, for stated reasons, as to whether to accept the recommendation of the Office of the Planning Regulator that a draft direction should be issued under *section 39*, whether with or without modifications.

(12) Where the Minister decides under *subsection (11)* that a draft direction should be issued under *section 39*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (11)* the material inconsistency for the purposes of *subsection (1)* of *section 36*, and

(b) direct the Office of the Planning Regulator to issue a draft direction under *section 39* in accordance with the proposed terms for the draft direction under *subsection (10)*, with or without such modifications as may be specified by the Minister in the direction.

(13) Where the Minister decides under *subsection (11)* that a draft direction should not be issued under *section 39*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (11)* the material inconsistency for the purposes of *subsection (1)* of *section 36* and his or her reasons for deciding that a draft direction should not be issued, and

(b) direct the Office of the Planning Regulator not to issue the draft direction.

(14) A direction issued under *paragraph (b)* of *subsection (13)* shall be laid before each House of the Oireachtas by the Minister.

Assessment of regional spatial economic strategy and revision by Office of Planning Regulator and recommendation to Minister

38. (1) The Office of the Planning Regulator shall, upon being notified by a regional assembly under this Chapter of—

(a) the making of a regional spatial and economic strategy,

(b) the making of any revision of a regional spatial and economic strategy, or

(c) the making of an amendment to a regional spatial and economic strategy under *section 37*,

carry out an assessment of the regional spatial and economic strategy, revision or amendment, as the case may be, by reference to the criteria set out in *subsection (3)*.

(2) (a) The Minister may, at any time, request the Office of the Planning Regulator to carry out an assessment of a regional spatial and economic strategy.

(b) The Minister or a regional assembly may, at any time, notify the Office of the Planning Regulator of any provision in a regional spatial and economic strategy (including, in the case of notification by a regional assembly under this paragraph, a regional spatial and economic strategy that relates to the region of a different regional assembly) that the Minister or regional assembly believes to be materially inconsistent with—

(i) the National Planning Framework,

(ii) the National Marine Planning Framework, or

(iii) National Planning Policies and Measures.

(c) Where the Office of the Planning Regulator receives a request under *paragraph (a)* or a notification under *paragraph (b)*, it shall carry out an assessment of the regional spatial and economic strategy concerned in accordance with *subsections (3)* and *(4)*.

(d) The Office of the Planning Regulator may, at any time, of its own initiative and for stated reasons, carry out an assessment of a regional spatial and economic strategy in accordance with *subsections (3)* and *(4)*.

(3) In carrying out an assessment under *subsection (1)* or *(2)*, the Office of the Planning Regulator shall, for the purposes of forming an opinion under *subsection (8)*, in particular, consider—

(a) the National Planning Framework,

(b) the National Marine Planning Framework,

(c) National Planning Policy and Measures,

(d) National Planning Policy Guidance,

(e) any relevant transport strategy published by the National Transport Authority,

(f) any submissions and recommendations made by the Minister, the Office of the Planning Regulator, the National Transport Authority or any other body as may be prescribed, under this Chapter in respect of a draft regional spatial and economic strategy or revision, or proposed material amendment thereto, and

(g) the requirements of this Chapter.

(4) Where the Office of the Planning Regulator, as part of an assessment under *subsection (1)* or *(2)*, forms a preliminary view that the regional spatial and economic strategy or any part or provision thereof should be suspended because it may be materially inconsistent with—

(a) the National Planning Framework,

(b) the National Marine Planning Framework, or

(c) National Planning Policies and Measures,

it may issue a notice to the regional assembly, which shall take effect immediately upon issuance and shall—

(i) suspend the effect of the regional spatial and economic strategy or part or provision thereof concerned pending the completion of the assessment, and

(ii) remain in effect pending the completion of the assessment and—

(I) the issuance by the Office of the Planning Regulator of a draft direction under *section 39*, in accordance with a direction of the Minister under *paragraph (b)* of *subsection (12)*,

(II) the issuance by the Minister of a direction under *paragraph (b)* of *subsection (13)* not to issue a draft direction, or

(III) the making of a recommendation by the Office of the Planning Regulator to the Minister under *subsection (9)* not to issue a draft direction.

(5) Where the Office of the Planning Regulator issues a notice to a regional assembly under *subsection (4)*, it shall on the same day provide a copy of the notice to the Minister and publish the notice on a website maintained by or on behalf of the Office of the Planning Regulator.

(6) The Office of the Planning Regulator, in carrying out an assessment under *subsection (1)* or *(2)*—

(a) shall consult with the director and members of the regional assembly concerned, and

(b) may—

(i) require the director of the regional assembly concerned to provide it with such information as it considers necessary, and

(ii) consult with any other person it considers necessary.

(7) A director of a regional assembly shall furnish the Office of the Planning Regulator with any documentation or additional information that may be requested by the Office of the Planning Regulator, within the period specified in such a request.

(8) Where, following an assessment carried out under *subsection (1)* or *(2)*, the Office of the Planning Regulator forms the opinion that the regional spatial and economic strategy or regional spatial and economic strategy as revised or amended, as the case may be—

(a) is materially inconsistent with—

(i) the National Planning Framework,

(ii) the National Marine Planning Framework, or

(iii) National Planning Policies and Measures,

(b) departs from any relevant guidance set out in National Planning Policy Guidance and, in the opinion of the Office of the Planning Regulator, no adequate explanation has been offered justifying that departure having regard to the proper planning and sustainable development of the region,

(c) departs from any relevant transport strategy of the National Transport Authority and, in the opinion of the Office of the Planning Regulator, no adequate explanation has been offered justifying that departure having regard to the proper planning and sustainable development of the region, or

(d) is otherwise in contravention of a requirement of this Act,

it shall make a recommendation to the Minister that a draft direction under *section 39* should be issued, which recommendation shall be accompanied by—

(i) proposed terms for the draft direction, having regard to *paragraphs (a)* and *(b)* of *subsection (1)* and *subsection (2)* of *section 39*, and

(ii) a statement of reasons for the recommendation.

(9) Where, following an assessment carried out under *subsection (1)* or *(2)*, the Office of the Planning Regulator forms the opinion that none of the criteria in *paragraphs (a)* to *(d)* of *subsection (8)* is met, it shall make a recommendation to the Minister that a draft direction under *section 39* should not be issued, which recommendation shall be accompanied by a statement of reasons for the recommendation.

(10) The Office of the Planning Regulator shall notify the regional assembly concerned, and where applicable, any other regional assembly which made a notification in accordance with *paragraph (b)* of *subsection (2)*, of a recommendation under *subsection (8)* or *(9)* and shall provide them with a copy of the documents accompanying the recommendation in accordance with those subsections.

(11) Subject to *subsections (12)* and *(13)*, the Minister shall, within 6 weeks of receipt of a recommendation of the Office of the Planning Regulator under *subsection (8)*—

(a) consider the recommendation, statement of reasons and proposed terms for the draft direction, and

(b) make a decision, for stated reasons, as to whether to accept the recommendation of the Office of the Planning Regulator that a draft direction should be issued under *section 39*, whether with or without modifications.

(12) Where the Minister decides under *subsection (11)* that a draft direction should be issued under *section 39*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (11)* which of the criteria in *paragraphs (a)* to *(d)* of *subsection (8)* the Minister considers to be met, and

(b) direct the Office of the Planning Regulator to issue a draft direction under *section 39* in accordance with the proposed terms for the draft direction under *subsection (8)*, with or without such modifications as may be specified by the Minister in the direction.

(13) Where the Minister decides under *subsection (11)* that a draft direction should not be issued under *section 39*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (11)* which of the criteria in *paragraphs (a)* to *(d)* of *subsection (8)* the Minister considers to be met and his or her reasons for deciding that a draft direction should not be issued, and

(b) direct the Office of the Planning Regulator not to issue the draft direction.

(14) Where the Minister issues a direction under *paragraph (b)* of *subsection (13)* and the Office of the Planning Regulator has issued a notice to a regional assembly under *subsection (4)*, the Office of the Planning Regulator shall notify the regional assembly concerned of the direction of the Minister for the purposes of *subparagraph (II)* of *paragraph (ii)* of *subsection (4)*.

(15) A direction issued under *paragraph (b)* of *subsection (13)* shall be laid before each House of the Oireachtas by the Minister.

Issuance of draft direction by Office of Planning Regulator

39. (1) On receipt of a direction of the Minister to issue a draft direction under this Chapter, the Office of the Planning Regulator shall within 10 working days, subject to *subsection (4)*, issue a draft direction, which if issued to a regional assembly in a direction issued by the Minister under *section 40* would require—

(a) a regional spatial and economic strategy to be amended in the manner specified in the draft direction, and

(b) the regional assembly to implement the amendment referred to in *paragraph (a)* and publish the regional spatial and economic strategy as so amended.

(2) A draft direction issued under *subsection (1)* may identify any provision of a regional spatial and economic strategy that is the subject of the draft direction the operation of which, in the opinion of the Office of the Planning Regulator, ought to be suspended pending the making of a recommendation under this section and consideration of the recommendation and the making of a decision by the Minister under *subsection (4)* of *section 40*.

(3) Where a draft direction issued under *subsection (1)* identifies a provision in accordance with *subsection (2)*, the operation of the provision concerned shall be suspended from the date of the draft direction until the date a decision is made by the Minister under *subsection (4)* of *section 40*.

(4) Before issuing a draft direction under *subsection (1)*, the Office of the Planning Regulator shall—

(a) conduct a screening assessment in accordance with the Strategic Environmental Assessment Regulations to determine whether the draft direction, if issued and complied with, would be likely to have significant effects on the environment, and

(b) conduct a screening assessment in accordance with *Part 6* to determine whether the draft direction, if issued and complied with, would be likely to have significant effects on any European site.

(5) (a) Where it is determined under *paragraph (a)* of *subsection (4)* that a strategic environmental assessment is required, the Office of the Planning Regulator shall prepare an environmental report in accordance with the Strategic Environmental Assessment Regulations.

(b) Where it is determined under *paragraph (b)* of *subsection (4)* that an appropriate assessment is required, the Office of the Planning Regulator shall prepare a Natura impact report in accordance with *Part 6.*

(6) Where the Office of the Planning Regulator issues a draft direction in accordance with *subsection (1)*, it shall—

(a) publish a notice of the issuance of the draft direction on a website maintained by or on behalf of the Office of the Planning Regulator and in one or more newspapers circulating in the region of the regional assembly that made the regional spatial and economic strategy concerned,

(b) direct the regional assembly to publish notice of the issuance of the draft direction on a website maintained by or on behalf of the regional assembly, and

(c) send a copy of the notice published under *paragraph (a)*, together with a copy of the draft direction, to—

(i) the Minister,

(ii) the director of the regional assembly,

(iii) the members of the regional assembly concerned,

(iv) where the region of the regional assembly includes a Gaeltacht, the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, Údarás na Gaeltachta, Foras na Gaeilge and Oifig an Choimisinéara Teanga,

(v) the Commission,

(vi) the National Transport Authority, and

(vii) any other body, as the Office of the Planning Regulator considers appropriate.

(7) A notice published under *paragraph (a)* of *subsection (6)* shall—

(a) state that the Office of the Planning Regulator has issued a draft direction in accordance with *subsection (1)*,

(b) state that a determination has been made that strategic environmental assessment, or appropriate assessment, or both, as the case may be, is or is not required in respect of the draft direction,

(c) state that copies of the draft direction, determinations made in accordance with *subsection (4)* and any environmental report or Natura impact report prepared in accordance with *subsection (5)* will be made available for inspection by members of the public at such place and for such period as is specified in the notice,

(d) state that such copies will also be available for inspection on the website maintained by or on behalf of the Office of the Planning Regulator and of the regional assembly concerned,

(e) invite written submissions with respect to the draft direction and, where applicable, the strategic environmental assessment or appropriate assessment, before the expiration of such period (being not less than 4 weeks from the date of the notice) as is specified in the notice, and

(f) state that any such submissions made within the period specified in the notice shall be taken into account by the Office of the Planning Regulator in making a recommendation to the Minister as to whether to issue a direction in the terms of the draft direction and in the summary of submissions submitted to the Minister

under *subsection (12)*, which will be considered by the Minister in deciding whether to issue a direction under *section 40*.

(8) Subject to *subsections (9)*, *(10)* and *(11)*, the Office of the Planning Regulator shall, not later than 6 weeks after the expiry of the period specified in a notice published under *paragraph (a)* of *subsection (6)*, and having considered any submissions received in relation to a draft direction issued under *subsection (1)*, including any submissions received from the director and members of the regional assembly—

(a) recommend that the Minister issue a direction under *section 40* in the terms of the draft direction,

(b) recommend that the Minister issue a direction under *section 40* in an amended form to take account of any submissions made pursuant to *subsection (7)*, or

(c) recommend that the Minister not issue a direction under *section 40*.

(9) Where the Office of the Planning Regulator, following consideration of any submissions received, is of the opinion that none of the criteria in *paragraphs (a)* to *(d)* of *subsection (8)* of *section 38* is met, the Office of the Planning Regulator shall make a recommendation under *paragraph (c)* of *subsection (8)*, without prejudice to the power of the Office of the Planning Regulator to carry out further assessments pursuant to *subsection (2)* of *section 38*.

(10) (a) Where it is determined under *paragraph (a)* of *subsection (4)* that a strategic environmental assessment is required, the Office of the Planning Regulator shall, prior to issuing a recommendation to the Minister under *paragraphs (a)* or *(b)* of *subsection (8)*, carry out a strategic environmental assessment in respect of the draft direction that it is recommending that the Minister issue.

(b) Where it is determined under *paragraph (b)* of *subsection (4)* that an appropriate assessment is required, the Office of the Planning Regulator shall, prior to issuing a recommendation to the Minister under *paragraphs (a)* or *(b)* of *subsection (8)*, carry out an appropriate assessment in respect of the draft direction that it is recommending that the Minister issue.

(11) A recommendation to the Minister under *subsection (8)* shall be accompanied by a report of the Office of the Planning Regulator setting out—

(a) a copy of the draft direction issued under *subsection (1)*,

(b) a summary of any written submissions received from the director and members of the regional assembly in relation to the draft direction,

(c) a summary of any written submissions received from any other person in relation to the draft direction (and the report may, for this purpose, group and summarise the issues raised in different submissions on a thematic basis),

(d) an analysis and evaluation by the Office of the Planning Regulator of any written submissions referred to in *paragraphs (b)* and *(c)*,

(e) the reasons for the recommendation of the Office of the Planning Regulator,

(f) where the Office of the Planning Regulator is recommending that the Minister issue a direction under *section 40* in an amended form, a copy of the proposed amended draft direction, and

(g) where required, the strategic environmental assessment or appropriate assessment, or both, as the case may be, carried out by the Office of the Planning Regulator under *subsection (10)* in relation to the direction which it is recommending that the Minister issue.

(12) A copy of the recommendation and report sent to the Minister under *subsections (8)* and *(11)*, and any submissions made in relation to the draft direction, shall be—

(a) made available on a website maintained by or on behalf of the Office of the Planning Regulator, and

(b) sent to the regional assembly concerned.

(13) The Minister may prescribe a period or periods that shall be disregarded for the purposes of reckoning any period referenced in this section.

Power of Minister to issue direction

40. (1) The Minister may, subject to this section, issue a direction to a regional assembly requiring—

(a) a regional spatial and economic strategy to be amended in the manner specified in the direction, and

(b) the regional assembly to implement the amendment referred to in *paragraph (a)* and publish the regional spatial and economic strategy as so amended.

(2) The Minister may only issue a direction under *subsection (1)* where the Office of the Planning Regulator has issued a draft direction under *subsection (1)* of *section 39* and made a recommendation under *subsection (8)* of that section.

(3) The Minister may only issue a direction under *subsection (1)* where he or she is satisfied that one or more of the criteria in *paragraphs (a)* to *(d)* of *subsection (8)* of *section 38* is met.

(4) Within 8 weeks of receipt of the recommendation and report of the Office of the Planning Regulator in accordance with *subsections (8)* and *(11)* of *section 39*, the Minister shall—

(a) consider the recommendation and report,

(b) consider any summary of submissions received by the Office of the Planning Regulator in relation to the draft direction issued under *subsection (1)* of *section 39*,

(c) make a decision, for stated reasons, as to whether to accept the recommendation of the Office of the Planning Regulator, and

(d) where the decision is to issue a direction under *subsection (1)*—

(i) identify in the stated reasons provided under *paragraph (c)* which of the criteria in *paragraphs (a)* to *(d)* of *subsection (8)* of *section 38* the Minister considers to be met, and

(ii) issue the direction in accordance with *subsection (5)*.

(5) The Minister may issue the direction under *subsection (1)* to the regional assembly—

(a) in the terms of the draft direction recommended by the Office of the Planning Regulator under *subsection (8)* of *section 39*,

(b) in the terms referred to in *paragraph (a)* with such minor modifications as the Minister considers appropriate, or

(c) subject to *subsection (8)*, in the terms referred to in *paragraph (a)* with such other modifications as the Minister considers appropriate.

(6) For the purposes of *paragraph (b)* of *subsection (5)*, a modification shall be deemed to be minor where it is not likely to have significant effects on the environment or on any European site.

(7) Prior to issuing a direction under *subsection (1)*, the Minister shall consider any strategic environmental assessment or appropriate assessment included in the Office of the Planning Regulator's report to the Minister in accordance with *paragraph (g)* of *subsection (11)* of *section 39* and may adopt such assessment or make his or her own assessment and determination in respect of the direction.

(8) Before issuing a direction under *paragraph (c)* of *subsection (5)*, the Minister shall request the Office of the Planning Regulator to—

(a) conduct a screening assessment in accordance with the Strategic Environmental Assessment Regulations to determine whether the modifications, if incorporated into the direction and issued and complied with, would be likely to have significant effects on the environment, and

(b) conduct a screening assessment in accordance with *Part 6* to determine whether the modifications, if incorporated into the direction and issued and complied with, would be likely to have significant effects on any European site.

(9) (a) Where it is determined under *paragraph (a)* of *subsection (8)* that a strategic environmental assessment is required, the Office of the Planning Regulator shall prepare an environmental report and proceed to conduct an assessment in accordance with the Strategic Environmental Assessment Regulations.

(b) Where it is determined under *paragraph (b)* of *subsection (8)* that an appropriate assessment is required, the Office of the Planning Regulator shall prepare a Natura impact report and proceed to conduct an assessment in accordance with *Part 6*.

(c) The Office of the Planning Regulator shall report the outcome of any assessment carried out under *paragraph (a)* or *(b)* to the Minister.

(10) Where the Minister decides, whether or not in accordance with a recommendation made by the Office of the Planning Regulator under *subsection (8)* of *section 39*, not

to issue a direction under *subsection (1)*, the Minister may request the Office of the Planning Regulator to carry out a further assessment under *subsection (2)* of *section 38*.

(11) A copy of a direction issued under *subsection (1)*, together with a statement of reasons for making the direction, shall, within 5 working days beginning on the date on which the direction is issued—

(a) be provided to the regional assembly concerned and the Office of the Planning Regulator,

(b) be provided to all planning authorities within the region of the regional assembly concerned,

(c) be provided to the Commission,

(d) be published on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage, and

(e) be laid before each House of the Oireachtas by the Minister.

(12) Within 5 working days of receipt of a direction in accordance with *subsection (11)*, the Office of the Planning Regulator and the regional assembly concerned shall each publish the direction on a website maintained by or on behalf of the Office of the Planning Regulator and the regional assembly.

(13) Where the Minister decides not to issue a direction under *subsection (1)*, he or she shall—

(a) provide a statement of reasons for deciding not to issue a direction to the regional assembly concerned and the Office of the Planning Regulator,

(b) give notice to the Commission of the decision not to issue a direction,

(c) cause a copy of the statement referred to in *paragraph (a)* to be laid before each House of the Oireachtas, and

(d) as soon as practicable, make the statement referred to in *paragraph (a)* available on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage.

(14) Where the Minister issues a direction under *subsection (1)*, the regional assembly shall, within 10 working days, comply with that direction and the director of the regional assembly or the members of the regional assembly shall not exercise any function conferred on them by or under this Act in a manner that contravenes the direction.

(15) A direction issued by the Minister under *subsection (1)* shall have immediate effect and its terms shall be deemed to be incorporated into the regional spatial and economic strategy, or, if appropriate, to constitute the regional spatial and economic strategy, pending the implementation and publication by the regional assembly, in accordance with the direction, of the regional spatial and economic strategy as amended by that direction.

(16) Where, in any application for judicial review of a direction made pursuant to this section in accordance with the Rules of the Superior Courts (S.I. No. 15 of 1986) and *Part 9*, the Court concludes that the Minister was not entitled to form the opinion that one or more of the criteria in *paragraphs (a)* to *(d)* of *subsection (8)* of *section 38* is met, this shall not warrant the quashing of the direction where—

(a) the Minister was also of the opinion that one or more of the other criteria in *paragraphs (a)* to *(d)* of *subsection (8)* of *section 38* is met, and

(b) the Court finds that the Minister was entitled to form such an opinion.

(17) Where two or more regional assemblies jointly make a regional spatial and economic strategy for the combined regions of those regional assemblies or part of the combined regions, or a revision of such a strategy, a reference in *sections 38* and *39* and this section to the regional assembly shall be construed as referring to each such regional assembly.

(18) The Minister may prescribe a period or periods that shall be disregarded for the purposes of reckoning any period referenced in this section.

Continuation in force of pre-commencement regional spatial and economic strategies

41. (1) Notwithstanding the repeal of section 21 of the Act of 2000 effected by *section 6*, any regional spatial and economic strategy made under that section that was in force in respect of the region of a regional assembly immediately before such repeal shall, subject to *subsection (3)* and *sections 36* and *37*, continue in force on and after that repeal—

(a) for the remainder of the period stated in the strategy for which it is to remain in force, or

(b) until a new regional spatial and economic strategy has been made under this Chapter in respect of the region to which the strategy relates,

whichever is the shorter period.

(2) A regional spatial and economic strategy continued in force under *subsection (1)* shall have effect as it if were a regional spatial and economic strategy made under this Chapter.

(3) The Minister may, by order, for the purposes of ensuring the effective operation of this Part and subject to *subsection (4)* of *section 40*, vary for such period as he or she considers appropriate, the period for which a regional spatial and economic strategy continued in force under *subsection (1)* is to remain in force.

(4) Prior to making an order under *subsection (3)*, the Minister shall comply with any applicable requirements of the Strategic Environmental Assessment Directive (and the Strategic Environmental Regulations) and the Habitats Directive (and *Part 6*).

(5) Where a provision of a regional spatial and economic strategy continued in force under *subsection (1)* conflicts with a provision of the National Planning Framework for the time being in force, the latter shall take precedence.

Chapter 5

Development Plans

Obligations to make and review development plan

42. (1) Subject to *paragraph (b)* of *subsection (5)*, a planning authority shall make a development plan for its functional area every 10 years.

(2) Not later than 8 years after the making of each development plan for the functional area of a planning authority, the planning authority shall commence a review of the development plan in accordance with *sections 53* and *54*, with a view to making a new development plan in accordance with *section 55*.

(3) The review of a development plan and preparation of a new development plan shall be strategic in nature for the purposes of enabling a planning authority to develop—

(a) an integrated overall strategy for the proper planning and sustainable development of the functional area to which the development plan relates,

(b) policies and objectives that are necessary for the purposes of such a strategy,

(c) the strategies and statements that are to be prepared under *sections 44* to *51*, and

(d) any settlement-specific objectives that the planning authority is required to prepare under *section 52*.

(4) A development plan shall relate to the whole functional area of the planning authority.

(5) (a) Subject to *paragraph (b)*, a development plan shall have effect for a period of 10 years beginning on the date on which it comes into effect under *subsection (17)* of *section 55*.

(b) Where the Minister, at the request of the chief executive of a planning authority, certifies in writing that exceptional circumstances exist warranting the extension of the period referred to in *paragraph (a)*, the Minister may extend that period by such further period of no more than 2 years as may be specified by the Minister.

(6) Any assessment carried out in relation to a development plan for the purposes of complying with the requirements of Article 6(3) of the Habitats Directive or the Strategic Environmental Assessment Directive shall take account of the fact that the development plan may, by virtue of *paragraph (b)* of *subsection (5)*, have effect for a period of 12 years.

(7) (a) In making or varying a development plan, a planning authority shall have regard to the development plans of adjoining planning authorities and shall, insofar as is practicable, coordinate the objectives in the development plan with the objectives in the plans of those authorities.

(b) The Minister may require two or more planning authorities to coordinate the development plans for their functional areas generally or in respect of specified matters and in a manner specified by the Minister.

(c) A planning authority shall comply with a requirement made of it under *paragraph (b)*.

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

(e) Where a planning authority fails to comply with a requirement made of it under *paragraph (b)*, the Minister may apply to the High Court for an order directing the planning authority to comply with the requirement.

(8) In reviewing a development plan in accordance with *sections 53* and *54* and making a development plan under *section 55* or a variation to a development plan under *section 58*, a planning authority shall—

(a) ensure the proper planning and sustainable development of the area to which the development plan relates,

(b) ensure that the development plan is materially consistent with—

(i) the National Planning Framework,

(ii) where the planning authority is a coastal planning authority, the National Marine Planning Framework,

(iii) the regional spatial and economic strategy for the region within which the planning authority's functional area is located, and

(iv) any relevant National Planning Policies and Measures,

(c) take due account of—

(i) any relevant National Planning Policy Guidance,

(ii) matters relevant to the preparation and making of a development plan under this Act,

(iii) any likely significant effects the implementation of the plan may have on the functional area of any adjoining planning authority,

(iv) any relevant transport strategy of the National Transport Authority which relates to all or any part of the functional area of the planning authority, and

(v) the protection of water sources,

and

(d) in the case of a coastal planning authority, have regard to the marine planning policy statement prepared and published under section 6 of the Act of 2021.

Content of development plan

43. (1) A development plan shall set out—

(a) an integrated overall strategy for the proper planning and sustainable development of the functional area to which the development plan relates,

(b) the strategies and statements prepared under *sections 44* to *51*,

(c) objectives for the promotion, management and protection of areas, uses and structures that are relevant to the implementation of the strategies referred to in *paragraph (b)*,

(d) any settlement-specific objectives that the planning authority is required to prepare under *section 52*, and

(e) a record of protected structures within the functional area of the planning authority, in accordance with *subsection (3)* of *section 306*.

(2) The integrated overall strategy for the proper planning and sustainable development of the area referred to in *paragraph (a)* of *subsection (1)* shall be set out in a written statement, with such accompanying maps or other diagrammatic or visual representations as the planning authority consider appropriate.

(3) The written statement referred to in *subsection (2)* shall form a clearly identifiable part of the development plan and shall include—

(a) a statement explaining how the following matters have been or, as appropriate, are being implemented in the development plan:

(i) national and regional development objectives, including in relation to population and housing, set out in the National Planning Framework and the regional spatial and economic strategy for the region within which the functional area to which the development plan relates is situated;

(ii) any national planning policy contained in National Planning Policies and Measures which is relevant and applies to the functional area to which the development plan relates,

(b) except where the functional area to which the development plan relates consists solely of a city, a settlement hierarchy,

(c) where the functional area to which the development plan relates consists of or includes a city, a settlement strategy for the city,

(d) a statement demonstrating the manner in which the plan coordinates land-use with existing and planned investment in necessary public infrastructure and services for the period to which the plan relates,

(e) a statement demonstrating the manner in which the plan provides a coherent and integrated framework for the implementation of the strategies and statements referred to in *paragraph (b)* of *subsection (1)*,

(f) a statement demonstrating the manner in which the plan is coordinated with the integrated overall strategy of the development plan of any adjoining planning authority and any matters specified by the Minister under *paragraph (b)* of *subsection (7)* of *section 42*,

(g) a statement demonstrating the manner in which the plan takes due account of any relevant transport strategy published by the National Transport Authority, and

(h) a statement demonstrating the manner in which the plan incorporates objectives to conserve and protect the environment of the area to which the development plan relates and supports the implementation of—

(i) the most recent climate action plan approved by the Government under section 4(9) of the Climate Action and Low Carbon Development Act 2015 and the national adaptation framework, long-term climate action strategy and any sectoral adaptation plans prepared under that Act,

(ii) the strategy relating to climate change adaptation and mitigation contained in the regional spatial and economic strategy for the region within which the functional area to which the development plan relates is situated, and

(iii) the local authority's climate action plan made under section 14B of the Climate Action and Low Carbon Development Act 2015 by the local authority for the area to which the development plan relates.

(4) For the purposes of *paragraph (b)* of *subsection (3)*, a settlement hierarchy is a ranking of settlements in the functional area of the planning authority taking account of their role and functions, having regard to—

(a) any relevant designations in the National Planning Framework and the regional spatial and economic strategy,

(b) the existing and planned population of each settlement,

(c) the type of services available in each settlement,

(d) existing and planned investment in the capacity of transport (including public transport), community facilities, water services, and utility infrastructure, and

(e) the potential for economic and social development of each settlement.

(5) For the purposes of *paragraph (c)* of *subsection (3)*, a settlement strategy is a strategy allocating planned development to areas of the city concerned taking account of—

(a) the existing and planned population of the city,

(b) the location and extent of the city centre,

(c) the location and extent of retail centres in the city,

(d) existing and planned investment in the capacity of transport (including public transport), community facilities, water services, and utility infrastructure, and

(e) the potential for economic and social development of the city.

(6) The written statement referred to in *subsection (2)* shall include objectives for the zoning of land for a particular use or mixture of uses and shall incorporate an accompanying map which illustrates the zoning objectives applicable to all land in the functional area of the planning authority.

(7) The written statement referred to in *subsection (2)* shall include confirmation of compliance by the planning authority with the requirements of *subsection (8)* of *section 42*.

(8) Where a development plan as made or varied departs from any relevant guidance contained in National Planning Policy Guidance, the written statement referred to in *subsection (2)* shall include a statement of the reasons why, in the opinion of the planning authority—

(a) the departure is not detrimental to the proper planning and sustainable development of the area, and

(b) the departure is justified having regard to the proper planning and sustainable development of the area.

(9) The planning authority shall ensure that the strategies and statements referred to in *paragraph (b)* of *subsection (1)* are coordinated and consistent with one another and with the integrated overall strategy for the proper planning and sustainable development of the area and shall ensure that the development plan overall is internally consistent and coherent.

(10) There shall be no presumption in law that any land zoned in a development plan for a particular use or mixture of uses shall remain so zoned in any subsequent development plan.

Obligation to prepare strategy for sustainable development and regeneration

44. (1) A planning authority shall prepare a strategy for the sustainable development and regeneration of the functional area of the planning authority.

(2) The strategy referred to in *subsection (1)* shall set out objectives relating to:

(a) the prioritisation of and measures to facilitate compact urban development, including the development and renewal of lands or sites within existing developed urban areas which are derelict, redundant or otherwise underutilised and have the capacity to accommodate development relative to the scale of the settlement;

(b) the provision, or facilitation of the provision, of sustainable integrated transport, public transport and road traffic systems (including appropriate parking provision), pedestrian and cycling infrastructure, air and sea transport, and the promotion of the development of local transport plans;

(c) the provision, or facilitation of the provision, of infrastructure including water supplies, waste water services, waste recovery and disposal facilities, energy generation infrastructure and facilities, including for the generation of renewable energy, communication facilities, and any ancillary facilities or services;

(d) the regulation of development, including the setting of appropriate development management policies and standards, for the purposes of promoting sustainable use of land, sustainable rural development, preserving the character of an area, and avoiding, reducing or mitigating significant adverse effects on the environment and residential amenity;

(e) such other matters as may be prescribed.

Obligation to prepare strategy relating to economic development

45. (1) A planning authority shall prepare a strategy for the appropriate economic development of the functional area of the planning authority, having regard to the proper planning and sustainable development of the area.

(2) The strategy referred to in *subsection (1)* shall set out objectives relating to:

(a) the promotion of sustainable economic development, employment generation and retail provision;

(b) the location of employment-related, industrial and commercial development, having regard to—

(i) economic and employment trends, and

(ii) the promotion of sustainable transport;

(c) enabling conditions for creating and sustaining jobs;

(d) the location of retail development, having regard to sustainable transport and the vibrancy of town centres;

(e) identifying the attributes of particular places within the functional area that are essential to enhancing economic performance, including the quality of the environment, cities, towns and rural areas, the physical infrastructure, and the social, community and cultural facilities;

(f) such other matters as may be prescribed.

Obligation to prepare housing development strategy

46. (1) A planning authority, other than one to which *subsection (1)* of *section 47* applies, shall prepare a housing development strategy for its functional area which—

(a) distributes planned population and housing growth within the area,

(b) identifies the spatial capacity of urban and rural locations to accommodate planned population, and

(c) prioritises infrastructural investment necessary for housing development.

(2) A housing development strategy prepared under *subsection (1)* shall be materially consistent with the housing strategy prepared under *section 242*.

(3) The housing development strategy shall include:

(a) population and housing growth targets in tabular form, consistent with the regional spatial and economic strategy, allocated over the period of the development plan to each of the following:

(i) each settlement with a population of 1,500 or more at the last census;

(ii) groups of settlements with a population of less than 1,500 at the last census;

(iii) the open countryside outside settlements identified in the settlement hierarchy;

(b) in relation to each settlement or group of settlements referred to in *subparagraphs (i)* and *(ii)* of *paragraph (a)*, an estimation of the land that is required to be zoned for residential use or a mix of residential and other uses to accommodate the allocated population and housing growth targets and to ensure that sufficient and suitable land is zoned having regard to—

(i) the settlement hierarchy,

(ii) existing capacity, and planned investment in capacity, in transport (including, in particular, transport infrastructure), community facilities, water services, utility infrastructure and any other necessary public infrastructural facilities and services,

(iii) residential density or a range of densities appropriate to the settlement,

(iv) an estimation of the capacity of compact urban development sites to accommodate development for residential use or a mixture of residential and other uses over the period of the plan,

(v) an estimation of the capacity of any part of long-term strategic development sites to deliver housing units over the period of the plan, and

(vi) the number of housing units permitted under existing permissions but not yet built and the expected timeframe within which those units will be completed;

(c) an analysis of vacant and derelict land or sites within the area and an estimation of the number of housing units that could be activated from the land or sites;

(d) a strategy to activate vacant and derelict land or sites into housing units;

(e) a statement of measures to prioritise compact urban development sites for residential use or a mixture of residential and other uses;

(f) where *subsection (6)* applies in respect of a settlement, a statement specifying that an urban area plan is required in respect of the settlement concerned;

(g) where *subsection (7)* applies in respect of part of a settlement, a statement specifying that a priority area plan is required in respect of the part of the settlement concerned;

(h) objectives to secure the implementation of the housing strategy, in particular, any of the matters referred to in *subsection (5)* of *section 242*, including objectives requiring that a specified percentage of land zoned solely for residential use, or for a mixture of residential and other uses, be made available for the provision of housing of the types referred to in *paragraph (f)* of *subsection (5)* and *subsection (6)* of *section 242*;

(i) objectives regarding the provision of accommodation for members of the traveller community and the use of particular areas for that purpose;

(j) objectives relating to the monitoring of the progress achieved in implementing the housing development strategy;

(k) objectives relating to such other matters as may be prescribed.

(4) The housing development strategy may—

(a) include specific objectives as referred to in *paragraph (h)* of *subsection (3)* in respect of each area zoned for residential use, or for a mixture of residential and other uses, and, where required by local circumstances relating to the amount of housing required as estimated in the housing strategy under *subsection (6)* of *section 242*, different specific objectives may be indicated in respect of different areas, subject to the specified percentage referred to in *subsection (10)* of *section 242* not being exceeded, and

(b) indicate in respect of any particular area referred to in *paragraph (a)* that there is no requirement for housing referred to in *subsection (6)* of *section 242* in respect of that area, or that a lower percentage than that specified in the housing strategy may instead be required in order to counteract undue segregation in housing between persons of different social backgrounds.

(5) Nothing in *paragraphs (b)* and *(h)* of *subsection (3)*, *subsection (4)* or *section 245* or *253* shall prevent any land zoned for residential use or a mix of residential and other uses being developed exclusively for housing of the types referred to in *paragraph (a)* or *(b)* of *subsection (6)* of *section 242*.

(6) This subsection applies in respect of a settlement where—

(a) the settlement is situated within the functional area of the planning authority,

(b) the settlement is a regional growth centre or key town, and

(c) in the opinion of the planning authority, the settlement is to be the subject of planned physical or population growth of such a scale as to require an integrated approach to the land-use and transportation planning for the entire urban area of the settlement.

(7) This subsection applies in respect of part of a settlement where the part concerned is situated within the functional area of the planning authority and—

(a) may be the subject of significant physical or population growth relative to the scale of the settlement in which the area is situated,

(b) is in need of physical, social or economic renewal, or

(c) requires the coordinated delivery of physical or other infrastructure that cannot otherwise be provided for in the settlement-specific objectives of the development plan for the settlement in which the part is situated.

Obligation to prepare housing development strategy where planning authority's functional area consists solely of city

47. (1) A planning authority whose functional area consists solely of a city shall prepare a housing development strategy which—

(a) distributes planned population and housing growth within the city,

(b) identifies the spatial capacity of different areas of the city to accommodate planned population, and

(c) prioritises infrastructural investment necessary for housing development.

(2) A housing development strategy prepared under *subsection (1)* shall be materially consistent with the housing strategy prepared under *section 242*.

(3) The housing development strategy shall include:

(a) population and housing growth targets for the city for the period to which the development plan relates;

(b) the number of housing units permitted under existing permissions but not yet built and the expected timeframe within which those units will be completed;

(c) an analysis of vacant and derelict land or sites within the area and an estimation of the number of housing units that could be activated from the land or sites;

(d) a strategy to activate vacant and derelict land or sites into housing units;

(e) a statement, with accompanying tables and maps—

(i) which estimates the land required to be zoned for residential use or a mix of residential and other uses to ensure that sufficient and suitable land is zoned, and

(ii) which identifies land that is suitable for significant development for residential use or a mixture of residential and other uses over the period of the development plan, including in particular an estimate of the capacity of each of the following to accommodate development for residential use or a mixture of residential and other uses during the period to which the development plan relates and targets as to the amount of housing to be provided within each of the following during that period:

(I) any long-term strategic development sites;

(II) any area within the city designated for the preparation of a coordinated area plan, priority area plan or urban area plan;

(III) any compact urban development sites identified as suitable for development for residential use or a mixture of residential and other uses;

(IV) any greenfield site identified as suitable for development for residential use or a mixture of residential and other uses;

(f) identification of existing capacity, and planned investment in capacity, in transport (including, in particular, transport infrastructure), community facilities, water services, utility infrastructure and any other necessary public infrastructural facilities and services;

(g) where *subsection (6)* applies in respect of part of the city, a statement specifying that a priority area plan is required in respect of that part of the city;

(h) objectives to secure the implementation of the housing strategy, in particular, any of the matters referred to in *subsection (5)* of *section 242*, including objectives requiring that a specified percentage of land zoned solely for residential use, or

for a mixture of residential and other uses, be made available for the provision of housing of the types referred to in *paragraph (f)* of *subsection (5)* and *subsection (6)* of *section 242*;

(i) objectives regarding the provision of accommodation for members of the traveller community and the use of particular areas for that purpose;

(j) objectives relating to the monitoring of the implementation of the strategy;

(k) objectives relating to such other matters as may be prescribed.

(4) The housing development strategy may:

(a) include specific objectives as referred to in *paragraph (h)* of *subsection (3)* in respect of each area zoned for residential use, or for a mixture of residential and other uses, and, where required by local circumstances relating to the amount of housing required as estimated in the housing strategy under *subsection (6)* of *section 242*, different specific objectives may be indicated in respect of different areas, subject to the specified percentage referred to in *subsection (10)* of *section 242* not being exceeded;

(b) indicate in respect of any particular area referred to in *paragraph (a)* that there is no requirement for housing referred to in *subsection (6)* of *section 242* in respect of that area, or that a lower percentage than that specified in the housing strategy may instead be required in order to counteract undue segregation in housing between persons of different social backgrounds.

(5) Nothing in *subparagraph (i)* of *paragraph (e)* or *paragraph (h)* of *subsection (3)*, *subsection (4)*, or *section 245* or *253* shall prevent any land zoned for residential use or a mix of residential and other uses being developed exclusively for housing of the types referred to in *paragraph (a)* or *paragraph (b)* of *subsection (6)* of *section 242*.

(6) This subsection applies in respect of part of the city where the part concerned is situated within the functional area of the planning authority and—

(a) may be the subject of significant physical or population growth relative to the scale of the expected physical or population growth of the city as a whole,

(b) is in need of physical, social or economic renewal, or

(c) requires the coordinated delivery of physical or other infrastructure that cannot otherwise be provided for in settlement-specific objectives included in the development plan in accordance with *subsection (2)* of *section 52* for the part of the city concerned.

(7) In this section, "greenfield site" means land that has not previously been built upon.

Obligation to prepare strategy relating to creation, improvement and preservation of sustainable places and communities

48. (1) A planning authority shall prepare a strategy for the creation, improvement and preservation of sustainable places and communities for the functional area of the planning authority.

(2) The strategy shall include objectives for:

(a) the provision, or the facilitation of the provision, improvement, extension and preservation of amenities, facilities and services to meet the social, community, recreational and cultural requirements of the functional area, including the needs of children, the elderly and persons with disabilities;

(b) the protection of the linguistic and cultural heritage, including the protection of Irish as the community language, of any Gaeltacht in the functional area to which the development plan relates;

(c) the promotion of high standards (including high standards in public areas) of urban design, architecture and landscaping to enhance, improve and maintain the quality and character of urban and rural areas;

(d) the reservation of land for use and cultivation as allotments and prescribed community gardens and the regulation, promotion, facilitation or control of the provision of land for that use;

(e) such other matters as may be prescribed.

(3) In this section—

"allotment" means an area of land comprising not more than 1,000 square metres let or available for letting to and cultivation by—

(a) a person who is a member of the local community and lives adjacent or near to that area of land, or

(b) more than one person, each of whom is a member of the local community and lives adjacent to or near to that area of land,

for the purpose of the production of vegetables or fruit mainly for consumption by the person or a member of his or her family;

"community garden" means an area of land that—

(a) is let or available for letting from a local authority to members of the local community for collective gardening purposes, and

(b) is used or intended for use—

(i) wholly or mainly for either or both of the following:

(I) the production of vegetables or fruit mainly for consumption by members of the local community;

(II) the propagation of plants for environmental or decorative purposes in the local community,

and

(ii) otherwise than for profit.

Obligation to prepare strategy relating to environment and climate change

49. (1) A planning authority shall prepare a strategy for the conservation, protection and improvement of the environment (including the facilitation of climate adaptation and mitigation) for the functional area of the planning authority.

(2) The strategy shall include objectives relating to:

(a) the facilitation of climate adaptation and mitigation as provided for in policies and measures of the Government and implementation of the local authority climate action plan made under section 14B of the Climate Action and Low Carbon Development Act 2015 by the local authority for the area to which the development plan relates in a manner consistent with—

(i) the strategy relating to climate change adaptation and mitigation in the regional spatial and economic strategy of the regional assembly for the region within whose area the functional area of the planning authority is situated, and

(ii) the climate action plan approved by the Government under section 4(9) of the Climate Action and Low Carbon Development Act 2015;

(b) the promotion of compliance with environmental standards in relation to water quality and status, having regard to the Water Framework Directive;

(c) the regulation, restriction and management of development on or under land in inland and coastal areas at risk of flooding and erosion;

(d) the reduction of the risk of serious danger to human health or the environment, including in areas at risk of erosion and other natural hazards, and the limitation and mitigation of the consequences and effects of natural hazards;

(e) the reduction of the risk of serious danger to human health or the environment arising from a major accident having regard to the Seveso III Directive, and the limitation and mitigation of the consequences and effects of major accidents;

(f) the control, regulation and, where appropriate, promotion of the exploitation of natural resources;

(g) such other matters as may be prescribed.

(3) A planning authority shall seek to ensure the coordination of the preparation of a strategy under *subsection (1)* with the preparation of a local authority climate action plan under section 14B of the Climate Action and Low Carbon Development Act 2015.

Obligation to prepare strategy for conservation, etc., of natural and built heritage

50. (1) A planning authority shall prepare a strategy for the conservation, protection, management and improvement of the natural, archaeological and built heritage and landscape in the functional area of the planning authority.

(2) The strategy shall include objectives for the conservation, protection, management and improvement of—

(a) European sites and the Natura 2000 network in accordance with the Habitats Directive and the Birds Directive (including objectives to encourage the management of the features of the landscape that are of major importance for wild flora and fauna in accordance with Article 10 of the Habitats Directive),

(b) biodiversity in accordance with the EU Biodiversity Strategy and the National Biodiversity Action Plan including in particular the protection of trees, groups of trees or other features of ecological significance,

(c) an area designated as a natural heritage area under section 18 of the Wildlife (Amendment) Act 2000,

(d) any—

(i) monuments or wrecks as defined by or designated under the National Monuments Acts 1930 to 2014, and

(ii) monuments, archaeological objects or historic objects as defined by, designated under or otherwise protected under the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023,

(e) World Heritage Properties, having due regard to the reasons for the inscription of the property on the World Heritage List under Article 11 of the World Heritage Convention,

(f) World Heritage candidate sites,

(g) archaeological sites,

(h) any architectural conservation area,

(i) any structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest,

(j) places, caves, sites, features and other objects of archaeological, geological, historical, scientific or ecological interest,

(k) landscapes, views and prospects in a manner consistent with the strategy referred to in *paragraph (m)* of *subsection (1)* of *section 29* and having due regard to any framework of any Minister or the Government for the management and planning of landscapes developed having regard to the European Landscape Convention done at Florence on 20 October 2000,

(l) places and features of natural beauty or interest, and

(m) such other land, or such other things relating to the natural, archaeological or built heritage, as may be prescribed.

(3) In this section—

"EU Biodiversity Strategy" means the EU Biodiversity Strategy for 2030 and associated action plan (Annex) or any document published by the European Commission which amends or replaces that strategy or associated plan;

"World Heritage candidate site" means a property included in the most recent inventory submitted on behalf of the State to the World Heritage Committee in accordance with Article 11 of the World Heritage Convention;

"World Heritage Convention" means the Convention Concerning the Protection of the World Cultural and Natural Heritage done in Paris on 23 November 1972;

"World Heritage Property" means a property included in the World Heritage List under Article 11 of the World Heritage Convention and which is situated in the State.

Obligation to prepare objectives for management of areas, uses and structures

51. (1) A planning authority shall prepare a statement containing objectives for the control of areas, uses of land and structures in its functional area (referred to in this section as a "development management statement").

(2) A development management statement may include objectives for any of the following:

(a) regulating and controlling the layout of areas and structures, including density, spacing, grouping and orientation of structures in relation to roads, open spaces and other structures;

(b) regulating and controlling the design, colour and materials of structures and groups of structures, including in particular streets and townscapes, and structures and groups of structures in rural areas;

(c) promoting design in structures for the purposes of flexible and sustainable use;

(d) regulating and controlling, either generally or in particular areas and in a manner that is materially consistent with relevant National Planning Policies and Measures, any of the following matters:

(i) the size, height, floor area and character of structures;

(ii) building lines, coverage, residential amenity space and other structures;

(iii) the extent of parking places required in, on or under structures of a particular class or size, or services or facilities for the parking, loading, unloading or fueling of vehicles;

(iv) the objects which may be affixed to structures;

(v) the purposes for and the manner in which structures may be used or occupied, including, in the case of a house, letting in separate units;

(e) regulating and controlling the disposition or layout of land and structures or structures of a particular type, including the reservation of sufficient open space in relation to the number, type and character of structures in any particular development proposal, road layout, landscaping and planting;

(f) regulating, restricting, controlling or promoting the use of any land or structure for a particular purpose, whether temporarily or permanently;

(g) preserving a specific public right of way, including a public right of way which gives access to any seashore, mountain, lakeshore, riverbank, monument or other place of natural beauty or recreational utility;

(h) improvement of any area to which a special amenity area order relates.

(3) An objective included in a development management statement may relate to the whole of or any part of the functional area or to a particular structure within the functional area.

(4) Nothing in this section shall affect the existence or validity of any public right of way.

(5) An objective included in a development plan under this section shall not be construed as affecting the power of a local authority to extinguish a public right of way under section 73 of the Roads Act 1993.

Settlement-specific objectives

52. (1) A planning authority shall prepare a statement containing—

(a) objectives of the types specified in *subsection (3)* (in this Part referred to as "settlement-specific objectives"), in respect of—

(i) all settlements with a population of 1,500 or more at the last census, other than a city,

(ii) settlements with a population of less than 1,500 at the last census, where the planning authority considers that the settlement concerned has the capacity to accommodate significant growth relative to the scale of the settlement,

(iii) any Gaeltacht to which *subsection (8)* applies, and

(iv) any inhabited offshore island to which *subsection (8)* applies,

(b) a summary of the role and function of each settlement for which settlement-specific objectives are provided under this section, consistent with the settlement hierarchy or the settlement strategy, as the case may be, and

(c) a map identifying—

(i) the boundaries of each settlement to which the settlement-specific objectives relate,

(ii) the zoning objectives applicable to the functional area as set out in the integrated overall strategy of the development plan in accordance with *subsection (6)* of *section 43*,

(iii) any area which has been designated as an area in respect of which a priority area plan is required to be prepared,

(iv) any area which has been designated in a regional spatial and economic strategy as an area in respect of which a coordinated area plan is required to be prepared,

(v) the core retail area of any town centre,

(vi) any area that is the subject of an objective under *subsection (4)* or *(5)*,

(vii) the indicative location or alignment of planned elements of physical infrastructure, including road infrastructure, rail infrastructure, pedestrian and cycling infrastructure, and air and sea transport infrastructure,

(viii) the location of elements of the natural and built heritage identified at *paragraph (a)* to *paragraph (m)* of *subsection (2)* of *section 50*, and

(ix) any European site.

(2) Where the functional area of a planning authority consists of or includes a city, the planning authority shall prepare settlement-specific objectives for—

(a) any part of the city in respect of which a priority area plan is required to be prepared, and

(b) any other part of the city containing lands that the planning authority considers—

(i) to be suitable for significant growth and regeneration, and

(ii) would benefit from being the subject of specific objectives,

and references in this section to a settlement shall, in such cases, be construed as references to the part of the city concerned.

(3) The settlement-specific objectives are—

(a) objectives for implementing in the settlement concerned the matters referred to in *paragraphs (a)* and *(b)* of *subsection (1)* of *section 43*,

(b) sustainable placemaking objectives relevant to the protection, renewal and growth of the settlement concerned, having regard to the physical, socio-economic, cultural and environmental context of the settlement, and

(c) objectives relating to such other matters as may be prescribed.

(4) Where *paragraph (a)* of *subsection (2)* applies, the settlement-specific objectives may also include any of the following for the purpose of guiding the preparation of the priority area plan:

(a) objectives of the type specified in *section 51* which shall be applicable to a particular site or particular land within the overall area to be the subject of a priority area plan;

(b) a specification, in a manner that is materially consistent with relevant National Planning Policies and Measures, of a range of densities and building heights within the site or land referred to in *paragraph (a)*;

(c) details of the estimated capacity of the overall area to be the subject of the priority area plan to accommodate development, having regard to the range of densities and building heights specified under *paragraph (b)*.

(5) Where *paragraph (b)* of *subsection (2)* applies, the settlement-specific objectives shall also include the following:

(a) objectives of the type specified in *section 51* which shall be applicable to a particular site or particular land within the part of the city concerned;

(b) a specification, in a manner that is materially consistent with relevant National Planning Policies and Measures, of a range of densities and building heights within the site or land referred to in *paragraph (a)*;

(c) details of the estimated capacity of that site or land to accommodate development, having regard to the range of densities and building heights specified under *paragraph (b)*.

(6) A statement prepared in accordance with *subsection (1)* may, subject to *subsection (7)*, set out reasons for which permission for a proposed development may be refused on the ground that a grant of permission would be premature pending the making of an urban area plan, priority area plan or coordinated area plan for an area which includes the site of the proposed development.

(7) The reasons which may be set out under *subsection (6)* shall be limited to—

(a) the need to prescribe in a plan referred to in *subsection (6)* a layout for infrastructure serving the site or area concerned prior to the grant of permission for proposed development,

(b) the need to designate in such a plan parts of the site or area concerned as being appropriate to accommodate necessary infrastructural, community and amenity facilities or uses prior to the grant of permission for proposed development, or

(c) the need to set out in such a plan, prior to the grant of permission, the sequence or phases in which the site or area concerned should be developed, having regard to the timing of the provision of infrastructure and community and amenity facilities or uses necessary for the development of sustainable communities.

(8) This subsection applies in respect of a Gaeltacht or inhabited offshore island situated within the functional area of the planning authority that is—

(a) in need of physical, social or economic renewal, or

(b) requires the coordinated delivery of physical or other infrastructure that cannot otherwise be provided for in settlement-specific objectives of the development plan in accordance with this section for the Gaeltacht or inhabited offshore island concerned.

Consultation with Office of Planning Regulator before preparation of draft development plan

53. (1) At least 3 months before commencing the review of a development plan referred to in *subsection (2)* of *section 42*, a planning authority shall consult the Office of the Planning Regulator on matters relevant to the preparation of an integrated overall strategy for the proper planning and sustainable development of the functional area to which the development plan relates, taking due account of—

(a) the requirement that the plan be materially consistent with—

(i) the National Planning Framework,

(ii) the National Marine Planning Framework,

(iii) the regional spatial and economic strategy for the region within which the functional area to which the development plan relates is situated, and

(iv) any relevant National Planning Policies and Measures,

(b) any relevant National Planning Policy Guidance,

(c) any relevant transport strategy of the National Transport Authority which relates to all or any part of the functional area of the planning authority, and

(d) the development plans of adjoining planning authorities.

(2) For the purposes of facilitating the consultation referred to in *subsection (1)*, a planning authority shall prepare and furnish to the Office of the Planning Regulator a development plan review report which shall provide—

(a) details of relevant changes, since the making of the development plan, to—

(i) the National Planning Framework,

(ii) the National Marine Planning Framework,

(iii) the regional spatial and economic strategy for the region within which the functional area to which the development plan relates is situated, and

(iv) National Planning Statements (including details of any new National Planning Statements issued since the making of the development plan),

(b) a summary of any variations made to the development plan since it came into effect,

(c) an overview of progress made in implementing the integrated overall strategy for the proper planning and sustainable development of the functional area to which the development plan relates, and

(d) a preliminary identification of the key strategic issues arising in the context of the review of the existing development plan and the preparation and making of a new development plan.

(3) Following the consultation referred to in *subsection (1)*, the Office of the Planning Regulator shall, after having regard to the matters referred to in *paragraphs (a)* to *(d)* of *subsection (1)*, issue a document (referred to in this Part as the "Opinion on Development Plan Strategy") identifying any matters relevant to the formulation of an integrated overall strategy for the proper planning and sustainable development of the functional area that require to be dealt with in the development plan.

(4) The Opinion on Development Plan Strategy shall be issued not later than 2 months after the commencement of the consultation under *subsection (1)*.

(5) A planning authority shall take due account of an Opinion on Development Plan Strategy in the preparation and making of a development plan.

(6) On the basis of the Opinion on Development Plan Strategy, the planning authority shall prepare a document (referred to in this Part as a "Strategic Issues and Options Paper") which—

(a) shall take due account of the matters referred to in *paragraphs (a)* to *(d)* of *subsection (1)*,

(b) shall set out in general terms the matters that are to be dealt with in—

(i) the integrated overall strategy for the proper planning and development of the functional area, and

(ii) the strategies and statements prepared under *sections 44* to *51*, that are to be included in the development plan,

and

(c) may set out for consideration alternative approaches relevant to the matters referred to in *paragraph (b)*.

Notice of intention to review development plan and preparation of draft development plan

54. (1) The review of a development plan referred to in *subsection (2)* of *section 42* shall be commenced by the publication by the planning authority for the functional area to which the development plan relates of notice of its intention to review the existing development plan and to make a new development plan.

(2) A notice under *subsection (1)* shall state—

(a) that the planning authority intends to review the existing development plan and to prepare a new development plan,

(b) that the planning authority intends to review the zoning objectives referred to in *subsection (6)* of *section 43* applicable to the functional area to which the development plan relates for the purposes of developing an integrated overall strategy for the proper planning and sustainable development of that area and the policies and objectives for the delivery of such an integrated overall strategy and that requests or proposals for a particular zoning objective to be applied to particular land shall not be considered at this stage,

(c) that the Office of the Planning Regulator has provided an Opinion on Development Plan Strategy to guide the preparation of the new development plan,

(d) that the planning authority has prepared a Strategic Issues and Options Paper to inform and guide the making of submissions from members of the public in relation to the new development plan,

(e) the time during which and the place where—

(i) any background papers or draft proposals relating to the review of the existing plan and the preparation of the new development plan,

(ii) the Opinion on Development Plan Strategy, and

(iii) the Strategic Issues and Options Paper,

may be inspected,

(f) that submissions regarding the matters specified in the Strategic Issues and Options Paper may be made in writing to the planning authority within a period (which shall not be less than 8 weeks from the date of the notice under *subsection (1)*) specified in the notice,

(g) that children, or groups representing the interests of children, are entitled to make submissions under *paragraph (f)*, and

(h) that submissions from members of the public in relation to a proposed development plan must be strategic in nature and should be confined to commenting on the matters specified in the Strategic Issues and Options Paper.

(3) A planning authority shall give a copy of a notice under *subsection (1)* to—

(a) the Minister,

(b) the Office of the Planning Regulator,

(c) the Maritime Area Regulatory Authority,

(d) the Commission,

(e) the regional assembly for the region within which the functional area to which the development plan relates is situated,

(f) where the functional area of the planning authority includes a Gaeltacht, Údarás na Gaeltachta, Foras na Gaeilge and Oifig an Choimisinéara Teanga,

(g) any Local Community Development Committee within the functional area of the planning authority,

(h) any adjoining planning authority,

(i) the National Transport Authority, and

(j) such other bodies (including, where appropriate, a regional assembly of an adjoining region) as may be prescribed.

(4) A notice under *subsection (1)* shall be published on a website maintained by or on behalf of the planning authority and in at least one newspaper circulating in the functional area of the planning authority.

(5) (a) As soon as practicable after the publication of a notice under *subsection (1)*, a planning authority shall take whatever additional measures it considers necessary to consult the general public and other interested persons.

(b) Without prejudice to the generality of *paragraph (a)*, a planning authority—

(i) shall consult members of the public in such manner (which shall include the holding of a public meeting or an online public meeting) as it considers

appropriate, and take such steps as it considers appropriate to elicit submissions in writing from members of the public, and

(ii) may invite oral submissions from members of the public on matters contained in the Strategic Issues and Options Paper.

(c) A planning authority shall take such measures as it considers appropriate to consult the providers of—

(i) energy,

(ii) telecommunications,

(iii) water services,

(iv) transport,

(v) any other infrastructure,

(vi) education,

(vii) health,

(viii) policing, and

(ix) any other services,

in order to ascertain any long-term plans for the provision of infrastructure and services in the functional area of the planning authority.

(6) (a) Written submissions received by a planning authority pursuant to *subsections (2)* and *(5)* and a brief summary of any oral submissions received pursuant to *subsection (5)* shall, subject to *paragraph (b)*, be published on a website maintained by or on behalf of the planning authority within 5 weeks from the date in each case of their receipt by that authority.

(b) *Paragraph (a)* does not apply—

(i) where the planning authority is of the opinion that the submission is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its publication,

(ii) where the planning authority has sought and received, either before or after the period of 5 weeks referred to in *paragraph (a)*, legal advice to the effect that it should not publish under that paragraph or should cease to so publish, as the case may be, the submission concerned,

(iii) to the extent that the planning authority has sought and received, either before or after the period of 5 weeks referred to in *paragraph (a)*, legal advice that part of the submission concerned should not be published on a website maintained by or on behalf of the planning authority or should cease to be so published, as the case may be, or

(iv) to the extent that the submission relates to such matters as may be prescribed.

(7) Where a notice under *subsection (1)* is received by the National Transport Authority, it shall—

(a) prepare and submit to the planning authority a report which shall set out—

(i) the matters which, in the opinion of the National Transport Authority, should be considered by the planning authority in the preparation of the new development plan,

(ii) recommendations regarding the optimal use, location, pattern and density of new development taking account of its transport strategy,

(iii) recommendations on the matters that require to be included in the new development plan to ensure the effective integration of transport and land-use planning, and

(iv) any recommendations on the matters that are required to be included in the new development plan so as to ensure that it takes due account of a relevant transport strategy of the National Transport Authority,

and

(b) furnish a copy of the report submitted to the planning authority under *paragraph (a)* to the Office of the Planning Regulator and the Minister for Transport.

(8) Where a notice under *subsection (1)* is received by a regional assembly, it shall—

(a) prepare and submit to the planning authority a report which shall set out—

(i) the matters which, in the opinion of the regional assembly, should be considered by the planning authority in the preparation of the draft development plan, and

(ii) recommendations on the matters that are required to be included in the draft development plan to ensure that the draft development plan is materially consistent with the regional spatial and economic strategy of the region concerned,

and

(b) furnish a copy of the report submitted to the planning authority under *paragraph (a)* to the Office of the Planning Regulator.

(9) For the purposes of preparing a draft development plan, the planning authority shall disregard any part of a submission received by it that comprises a request or proposal that a particular zoning objective be applied to any particular land in the functional area to which the plan relates.

(10) (a) Not later than 16 weeks after the date of the notice under *subsection (1)*, the chief executive of a planning authority shall prepare a report on any submissions received pursuant to *subsection (2)* or *(5)* and the matters arising out of any consultations held pursuant to *subsection (5)*.

(b) A copy of the report prepared under *paragraph (a)* shall be published on a website maintained by or on behalf of the planning authority concerned as soon as practicable following its preparation.

(c) A report under *paragraph (a)* shall—

(i) list the persons who made submissions and any persons consulted by the authority,

(ii) summarise the submissions (excluding any submission that is to be disregarded under *subsection (9)*), and, for that purpose, may group the issues raised in different submissions by reference to the matters specified in the Strategic Issues and Options Paper,

(iii) give the opinion of the chief executive of the planning authority on the issues raised, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area, and any relevant policies or objectives for the time being of the Government or of any Minister of the Government,

(iv) state the chief executive's recommendations as to the policies to be included in the draft development plan,

(v) summarise the matters raised and the recommendations made by the National Transport Authority in a report submitted under *subsection (7)* and outline the recommendations of the chief executive in relation to the manner in which those matters and recommendations should be taken account of in the draft development plan, and

(vi) summarise the matters raised and recommendations made by the relevant regional assembly in a report submitted under *subsection (8)* and outline the recommendations of the chief executive in relation to the manner in which those matters and recommendations should be taken account of in the draft development plan.

(d) A report under *paragraph (a)* shall be submitted to the members of the planning authority, or to a committee of the planning authority, as may be decided by the members of the authority.

(e) Following consideration of a report submitted to them under *paragraph (d)*, the members of the planning authority or of the committee, as the case may be, may, by resolution, issue a direction to the chief executive regarding the overall strategic approach to be adopted in the preparation of the integrated overall strategy and any of the strategies prepared under *sections 44* to *50*, but shall not issue more than one direction in respect of any particular strategy.

(f) Subject to *paragraph (g)*, the chief executive of a planning authority shall comply with any such direction in the preparation of a draft development plan.

(g) The chief executive of the planning authority shall not be obliged to comply with any part of a direction made under *paragraph (e)* which relates to the zoning

objective to be applied to any particular land in the functional area to which the plan relates.

(h) A direction under *paragraph (e)* shall be issued not later than 10 weeks after the date of the submission of a report under *paragraph (d)*.

(11) (a) The chief executive of a planning authority shall, not later than 18 weeks after the date of issuing of any direction under *paragraph (e)* of *subsection (10)* or, where no direction is issued, not later than 18 weeks after the expiry of the period of 10 weeks referred to in *paragraph (h)* of *subsection (10)*, prepare a draft development plan and submit it to the members of the planning authority.

(b) The members of a planning authority shall, as soon as may be, consider the draft development plan submitted by the chief executive in accordance with *paragraph (a)*.

(c) Where a draft development plan has been considered in accordance with *paragraph (b)*, it shall be deemed to be the draft development plan of the planning authority unless, within 8 weeks from the date of the submission of the draft development plan under *paragraph (a)*, the planning authority, by resolution, amends that draft development plan.

(d) Where a draft development plan is amended as mentioned in *paragraph (c)*, the draft development plan as submitted by the chief executive and as amended by resolution shall be the draft development plan of the planning authority.

(12) The preparation and making of a development plan shall be subject to the carrying out of a strategic environmental assessment in accordance with the Strategic Environmental Assessment Regulations.

(13) The preparation and making of a development plan shall be subject to *Part 6* in relation to the carrying out of a screening for appropriate assessment and, if required, an appropriate assessment.

Making development plan

55. (1) Where a draft development plan has been prepared in accordance with *section 54*, the planning authority shall within 4 weeks of the period referred to in *paragraph (c)* of *subsection (11)* of *section 54* or the adoption of a resolution in accordance with that last-mentioned section, as the case may be—

(a) send notice and a copy of the draft development plan to—

(i) the Minister,

(ii) the Office of the Planning Regulator,

(iii) the Maritime Area Regulatory Authority,

(iv) the Commission,

(v) the regional assembly for the region within which the functional area to which the development plan relates is situated,

(vi) where the functional area of the planning authority includes a Gaeltacht, Údaras na Gaeltachta, Foras na Gaeilge and Oifig an Choimisinéara Teanga,

(vii) any Local Community Development Committee within the functional area of the planning authority,

(viii) any adjoining planning authority,

(ix) the National Transport Authority,

(x) Uisce Éireann, and

(xi) such other bodies (including, where appropriate, a regional assembly of an adjoining region) as may be prescribed,

and

(b) publish notice of the preparation of the draft development plan on a website maintained by or on behalf of the planning authority and in at least one newspaper circulating in the functional area of the planning authority.

(2) A notice under *subsection (1)* shall state that—

(a) a copy of—

(i) the draft development plan,

(ii) any screening determination made under *Part 6*,

(iii) the environmental report prepared in accordance with the Strategic Environmental Assessment Regulations,

(iv) any Natura impact report prepared in accordance with *Part 6*, and

(v) any other accompanying documentation that the planning authority considers appropriate,

may be inspected on a website maintained by or on behalf of the planning authority and at a place specified in the notice at such times as may be so specified during a period (being a period of not less than 8 weeks from the date of the notice) as may be so specified, and

(b) written submissions with respect to the draft plan, the environmental report and any Natura impact report, made to the planning authority within the period specified under *paragraph (a)* will be taken into consideration before the making of the development plan.

(3) (a) The Minister and the Office of the Planning Regulator may, in relation to a draft development plan, make such recommendations as they consider appropriate.

(b) Without prejudice to the time period specified in *paragraph (a)* of *subsection (6)*, the Office of the Planning Regulator may make written submissions under *paragraph (b)* of *subsection (2)*, within a further period of 2 weeks following the period specified for the making of such submissions.

(4) (a) Where a draft development plan includes any provision relating to any addition to or deletion from the record of protected structures under *subsection (1)* of *section 307* of—

(i) particular structures,

(ii) specific parts of particular structures, or

(iii) specific features within the attendant grounds of particular structures,

the planning authority shall—

(I) serve a notice on each person who is the owner or occupier of, and any person appearing to the authority to have an interest in, the proposed protected structure or the protected structure, as the case may be, of the proposed addition, deletion or amendment, including the particulars of the proposed addition, deletion or amendment,

(II) send particulars of the proposed addition, deletion or amendment to the Minister and to any prescribed body, and

(III) cause notice of the proposed addition, deletion or amendment, including the particulars of the proposed addition, deletion or amendment, to be published in at least one newspaper circulating in its functional area.

(b) A notice under *subparagraphs (I)* and *(III)* under *paragraph (a)* shall state—

(i) that a copy of the proposed addition or deletion may be inspected at a specified place or places and at specified times during a specified period of not less than 8 weeks from the date of the notice,

(ii) that written submissions with respect to the proposed addition or deletion made to the planning authority within the period specified in *subparagraph (i)* will be taken into consideration before the making of the addition or deletion,

(iii) that, during the period specified in *subparagraph (i)*, each owner or occupier of the proposed protected structure may request the planning authority, in the manner provided for in the notice, to define the curtilage of the proposed protected structure and features within the attendant grounds that are to be protected, if not already specified, and that such detail shall be included in the record of protected structures where such proposal is approved by the members of the planning authority,

(iv) whether or not the proposed addition or deletion was recommended by the Minister, and

(v) that, if the proposed addition or deletion was recommended by the Minister, the planning authority shall forward to the Minister for his or her observations a copy of any submission made under *subparagraph (ii)* (and any such observations of the Minister shall be taken into consideration accordingly).

(5) Written submissions received by a planning authority under *subsection (2)* or *(4)* shall, unless one or more of the criteria set out in *paragraph (b)* of *subsection (6)* of *section 54* is met, be published on a website maintained by or on behalf of the authority within 10 working days of their receipt.

(6) (a) Not later than 22 weeks after giving notice under *subsection (1)* and, if appropriate, *subsection (4)*, the chief executive of a planning authority shall prepare a report on—

(i) any submissions received under *subsection (2)* or *(4)*,

(ii) any recommendations received from the Minister or the Office of the Planning Regulator under *paragraph (a)* of *subsection (3)*, and

(iii) any observations received from the Minister under *subparagraph (v)* of *paragraph (b)* of *subsection (4)*,

and submit the report to the members of the authority for their consideration.

(b) A chief executive's report prepared for the purposes of *paragraph (a)* shall be published on a website maintained by or on behalf of the planning authority concerned as soon as practicable following submission to the members of the authority under that paragraph.

(c) A report under *paragraph (a)* shall—

(i) list the persons who made submissions,

(ii) provide a summary of—

(I) any recommendations, submissions or observations made by the Minister,

(II) any recommendations and submissions made by the Office of the Planning Regulator, and

(III) any submissions made by any other persons in relation to the draft development plan in accordance with this section (and the report may, for this purpose, group and summarise the issues raised in different submissions on a thematic basis),

(iii) give the response of the chief executive to the issues raised, taking account of—

(I) any direction of the members of the authority or the committee under *paragraph (e)* of *subsection (10)* of *section 54*,

(II) the proper planning and sustainable development of the area,

(III) the statutory obligations of any local authority in the area,

(IV) any relevant policies or objectives of the Government or of any Minister of the Government, and

(V) if appropriate, any observations made by the Minister under *subparagraph (v)* of *paragraph (b)* of *subsection (4)*,

(iv) set out the recommendations of the chief executive as to how any recommendations made by the Minister and the Office of the Planning Regulator should be taken account of in the development plan,

(v) summarise the matters raised in any submissions made by the National Transport Authority and outline the recommendations of the chief executive in relation to the manner in which those matters should be taken account of in the development plan,

(vi) summarise the matters raised in any submissions made by the regional assembly for the region within which the functional area to which the development plan relates is situated and outline the recommendations of the chief executive in relation to the manner in which those matters should be taken account of in the development plan, and

(vii) include the assessment of the chief executive of the draft development plan for the purposes of strategic environmental assessment and appropriate assessment, if required, taking into account the submissions received under this section.

(7) (a) The members of a planning authority shall consider the draft development plan and the report of the chief executive under *subsection (6)*.

(b) The consideration of a draft development plan and the chief executive's report under *paragraph (a)* shall be completed within 12 weeks of the submission of the chief executive's report to the members of the planning authority.

(c) Where, following the consideration of the draft development plan and the chief executive's report, it appears to the members of the planning authority that the draft should be accepted or amended, they may, subject to *subsection (8)*, by resolution, accept or amend the draft and make the development plan accordingly.

(d) Where, in making the development plan under *paragraph (c)*, the members of the authority do not comply with any recommendation made by the Minister or the Office of the Planning Regulator under this section, they shall so inform the Minister or the Office of the Planning Regulator, as the case may be, as soon as practicable by notice in writing which notice shall contain a statement of the reasons for not complying with the recommendation or recommendations concerned.

(8) (a) Subject to *paragraphs (b)*, *(c)*, *(d)* and *(e)*, in a case where the members of the planning authority amend the draft plan under *paragraph (c)* of *subsection (7)* and the amendment made constitutes a material alteration of the draft concerned, the development plan shall not be considered to have been made and the planning authority shall, not later than 3 weeks after the passing of a resolution under *subsection (7)*, publish notice of the material alteration on a website maintained by or on behalf of the planning authority and in one or more newspaper circulating in the functional area of the planning authority and send notice and a copy of the material alteration to the persons specified in *paragraph (a)* of *subsection (1)*.

(b) The planning authority shall determine, in accordance with the Strategic Environmental Assessment Regulations, whether a strategic environmental assessment is or is not required to be carried out in respect of the material alteration of the draft development plan.

(c) The planning authority shall determine, in accordance with *Part 6*, if an appropriate assessment is or is not required to be carried out in respect of the material alteration of the draft development plan.

(d) Where the planning authority determines under *paragraph (b)* or *(c)* that a strategic environmental assessment or an appropriate assessment, as the case may be, is required to be carried out in relation to the material alteration, it shall prepare an environmental report or Natura impact report, as the case may be, in relation to the material alteration and the period of 3 weeks referred to in *paragraph (a)* may be extended by such period as the chief executive specifies as being necessary for this purpose.

(e) Where applicable, a notice given under *paragraph (a)* shall include notice of the making of a determination that an assessment referred to in *paragraph (b)* or *(c)* is or is not required.

(f) The notice referred to in *paragraph (a)* shall—

(i) state that a copy of—

(I) the material alteration,

(II) the determinations made by the authority under *paragraphs (b)* and *(c)*,

(III) any environmental report prepared in accordance with the Strategic Environmental Assessment Regulations, and

(IV) any Natura impact report prepared in accordance with *Part 6*,

may be inspected on a website maintained by or on behalf of the planning authority and at a place specified in the notice at such times as may be so specified during a period (being a period of not less than 4 weeks from the date of the notice) as may be so specified,

(ii) state that written submissions with respect to the material alteration, environmental report or Natura impact report made to the planning authority within the period specified in *subparagraph (i)* shall be taken into account by the authority before the development plan is made, and

(iii) be published on a website maintained by or on behalf of the planning authority and in at least one newspaper circulating in the functional area of the planning authority.

(9) (a) The Minister and the Office of the Planning Regulator may, in relation to a material alteration, make such recommendations as they consider appropriate.

(b) Without prejudice to the time period specified in *paragraph (a)* of *subsection (12)*, the Office of the Planning Regulator may make written submissions under *subparagraph (ii)* of *paragraph (f)* of *subsection (8)*, within a

further period of 1 week following the period specified for the making of such submissions.

(10) Written submissions received by a planning authority under *subsection (8)* shall, unless one or more of the criteria set out in *paragraph (b)* of *subsection (6)* of *section 54* is met, be published on a website maintained by or on behalf of the authority within 10 working days of their receipt by the authority.

(11) Where it has been determined under *paragraph (b)* or *(c)* of *subsection (8)* that a strategic environmental assessment or an appropriate assessment is required, the chief executive of the planning authority shall—

(a) before preparing a report in accordance with *subsection (12)* and taking account of the submissions received, carry out the assessment concerned of the material alteration of the draft development plan, and

(b) include that assessment in the report.

(12) (a) Not later than 8 weeks after giving notice under *subsection (8)*, the chief executive of a planning authority shall prepare a report on any submissions received on foot of the publication of the notice and submit the report to the members of the authority for their consideration.

(b) A report prepared under *paragraph (a)* shall be published on a website maintained by or on behalf of the planning authority concerned as soon as practicable following its submission to the members of the authority under that paragraph.

(c) A report under *paragraph (a)* shall—

(i) list the persons who made submissions in relation to the material alteration and any strategic environmental assessment or appropriate assessment of the alteration,

(ii) provide a summary of—

(I) the recommendations and submissions made by the Minister in relation to the material alteration and any strategic environmental assessment or appropriate assessment of the alteration,

(II) the recommendations and submissions made by the Office of the Planning Regulator in relation to the material alteration and any strategic environmental assessment or appropriate assessment of the alteration, and

(III) the submissions made by any other persons in relation to the material alteration and any strategic environmental assessment or appropriate assessment of the alteration (and the report may, for this purpose, group and summarise the issues raised in different submissions on a thematic basis),

(iii) set out the recommendations of the chief executive as to how any recommendations made by the Minister and the Office of the Planning Regulator should be taken account of in relation to the material alteration,

(iv) give the response of the chief executive to the matters raised in the submissions and the recommendations of the chief executive in relation to the material alteration, and

(v) include any assessment carried out by the chief executive in accordance with *subsection (11)*.

(13) (a) The members of a planning authority shall consider the material alteration and the report of the chief executive under *subsection (12)*.

(b) The consideration of the material alteration and the chief executive's report under *paragraph (a)* shall be completed not later than 6 weeks after the submission of the chief executive's report to the members of the authority.

(14) (a) Subject to *paragraphs (b)* and *(c)*, the members of the planning authority shall, by resolution, having considered the chief executive's report, make the plan with or without the material alteration.

(b) Where the members of the planning authority decide to make the plan with the material alteration, they may do so subject to any minor modifications to the material alteration that they consider necessary.

(c) For the purposes of *paragraph (b)*, a modification to the material alteration shall be deemed to be minor where it—

(i) does not substantially or materially alter the material alteration,

(ii) is not likely to have significant effects on the environment or on any European site, and

(iii) does not relate to—

(I) an increase in the area of land zoned for any purpose, or

(II) an addition to or deletion from the record of protected structures.

(d) Where, in making the development plan under this subsection, the members of the authority do not comply with any recommendation made by the Minister or the Office of the Planning Regulator under this section, they shall so inform the Minister or the Office of the Planning Regulator, as the case may be, as soon as practicable by notice in writing which notice shall contain a statement of the reasons for not complying with the recommendation concerned.

(15) (a) Where a planning authority makes a development plan, it shall publish, in at least one newspaper circulating in the functional area of the planning authority and on a website maintained by or on behalf of the planning authority, a notice of the making of the development plan within 2 weeks of the date of the making of the plan by the members of the authority under *paragraph (c)* of *subsection (7)* or *subsection (14)*.

(b) A notice under this subsection shall state that a copy of the development plan will be available for inspection on a website maintained by or on behalf of the planning authority and at a place specified in the notice on and from a date as may be so specified (being not more than 5 weeks after the date of the making of the development plan).

(c) The planning authority shall, within 5 weeks of the making of the development plan, send a copy of the development plan to—

(i) the Minister,

(ii) the Office of the Planning Regulator,

(iii) the Maritime Area Regulatory Authority,

(iv) the Commission,

(v) the regional assembly for the region within which the functional area to which the development plan relates is situated,

(vi) where the functional area of the planning authority includes a Gaeltacht, Údarás na Gaeltachta, Foras na Gaeilge and Oifig an Choimisinéara Teanga,

(vii) any Local Community Development Committee within the functional area of the planning authority,

(viii) any adjoining planning authority,

(ix) the National Transport Authority, and

(x) such other bodies, including, where appropriate, a regional assembly of an adjoining region, as may be prescribed.

(d) Where a planning authority sends a copy of any development plan to the Office of the Planning Regulator under *paragraph (c)*, the planning authority shall also send to the Office of the Planning Regulator any submissions received by the planning authority from the Minister, any regional assembly and the National Transport Authority in accordance with this section.

(e) A planning authority shall make a copy of the development plan available for purchase by any member of the public on payment of a specified fee not exceeding the reasonable cost of making a copy.

(16) As soon as may be after making a development plan which contains an addition to or a deletion from the record of protected structures under *subsection (1)* of *section 307* of—

(a) particular structures,

(b) specific parts of particular structures, or

(c) specific features within the attendant grounds of particular structures,

the planning authority shall serve on the owner and on the occupier of the structure concerned a notice of the addition or deletion, including the particulars.

(17) A development plan made under this section shall take effect 8 weeks from the date of the making of the plan under *paragraph (c)* of *subsection (7)* or *subsection (14)*.

(18) Notwithstanding this Part, where a planning authority fails to make a development plan—

(a) within a period of 2 years and 12 weeks from the date of the notice of intention to make a new development plan under *section 54*, where that notice was published at least 12 weeks prior to the period of 8 years referred to in *subsection (2)* of *section 42*, and

(b) within a period of 2 years from the date of the notice of intention to make a new development plan under *section 54*, where that notice was published otherwise in accordance with *subsection (2)* of *section 42*,

the chief executive shall make a development plan provided that so much of a draft plan as had been agreed by the members of the planning authority shall be included as part of the plan as made by the chief executive.

(19) Where, under *paragraph (b)* of *subsection (5)* of *section 42*, the Minister has extended the period during which a development plan has effect—

(a) the planning authority may make a new development plan in accordance with this section during the period of the extension, and

(b) the chief executive of a planning authority shall not make a new development plan under *subsection (18)* during the period of the extension.

(20) A failure to comply with *subsections (6)*, *(10)* and *(11)* of *section 54* and *subsections (1)*, *(5)*, *(6)*, *(7)*, *(8)*, *(10)*, *(12)*, *(13)* and *(15)* within the time period specified therein shall not of itself invalidate a development plan.

Interim report on implementation of development plan

56. (1) A planning authority shall take such steps as may be necessary for securing the objectives of the development plan and to monitor the implementation of those objectives.

(2) The chief executive of a planning authority shall, not earlier than 4 years and not later than 4 years and 9 months after the making of a development plan, give a report on the progress achieved towards securing the implementation of the development plan to the members of the authority (in this section referred to as an "interim implementation report").

(3) The interim implementation report shall include—

(a) details of any relevant changes, since the making of the development plan, to—

(i) the National Planning Framework,

(ii) where relevant, the National Marine Planning Framework,

(iii) the regional spatial and economic strategy for the region within which the functional area to which the development plan relates is situated,

(iv) National Planning Statements (including details of any new National Planning Statements issued since the making of the development plan),

(v) any relevant transport strategy of the National Transport Authority, and

(vi) in the case of a coastal planning authority, the marine planning policy statement prepared and published under section 6 of the Act of 2021,

(b) a statement of the progress made in implementing the integrated overall strategy for the proper planning and sustainable development of the functional area to which the development plan relates,

(c) a statement of the progress made in implementing each of the strategies and statements prepared under *sections 44* to *51* (which, in the case of a housing development strategy, shall measure progress made by reference to the housing strategy, the monitoring objectives included in the housing development strategy and having regard to any regulations made under *paragraph (k)* of *subsection (3)* of *section 46* or *paragraph (k)* of *subsection (3)* of *section 47* for the purposes of this paragraph),

(d) an outline of progress made towards the designation as an urban development zone of any area identified in the development plan as a candidate UDZ (within the meaning of *Part 22*) and the preparation and making of any development scheme for any site identified in the development plan, and the implications of such progress or the lack thereof for the implementation of the housing development strategy, and

(e) recommendations for consideration by the members as to proposed variations to the development plan for the purposes of—

(i) making it materially consistent with—

(I) the National Planning Framework,

(II) the National Marine Planning Framework,

(III) the regional spatial and economic strategy for the region within which the functional area to which the development plan relates is situated, and

(IV) any relevant National Planning Policies and Measures,

(ii) progressing the implementation of the integrated overall strategy for the proper planning and sustainable development of the area and the housing development strategy,

(iii) zoning for development, in the light of the contents of the outline of progress referred to in *paragraph (d)*, of all or part of the area of a candidate UDZ (within the meaning of *Part 22*) which has not been designated as an urban development zone where the planning authority considers that the area concerned is required to be made available to accommodate growth, and to remove the area concerned from the area of the candidate UDZ, or remove the designation of the entire candidate UDZ, as appropriate,

(iv) adjusting the housing development strategy or housing strategy, or both, where new or revised housing needs have been identified by the chief executive of the planning authority in accordance with *section 57*, and

(v) taking account of such other matters arising from the monitoring of the implementation of the development plan and preparation of the interim implementation report as the chief executive considers appropriate.

(4) Not later than 5 years after the making of the development plan, the members of a planning authority shall consider the interim implementation report from the chief executive and, by resolution, propose to make or not to make any such variation as recommended by the chief executive.

(5) Where, by resolution adopted under *subsection (4)*, the members of a planning authority propose not to make a variation recommended by the chief executive for the purposes set out in *subparagraph (i)* of *paragraph (e)* of *subsection (3)*, they shall so inform the Minister and the Office of the Planning Regulator as soon as practicable by notice in writing which notice shall contain a statement of the reasons for the decision not to make the recommended variation concerned.

(6) Where the members of a planning authority adopt a resolution under *subsection (4)* proposing to make a variation, that resolution shall be deemed to be a resolution adopted under *paragraph (c)* of *subsection (3)* of *section 58*.

Chief executive report on adjustment of housing development strategy and housing strategy

57. The chief executive of a planning authority shall, where he or she considers that there has been a change in the housing market or housing need, or both, as the case may be, that significantly affects the housing development strategy or housing strategy, or both, as the case may be, give a report on the matter to the members of the planning authority and, where he or she considers it necessary, the chief executive may recommend that the housing development strategy or housing strategy, or both, as the case may be, be adjusted, and that the development plan be varied accordingly.

Variation of development plan

58. (1) Subject to *subsection (2)*, *subsection (8)* of *section 42* and *section 59*, a planning authority may at any time, for stated reasons, decide to make a variation of a development plan for its functional area for the time being in force.

(2) A planning authority may not make a variation of a development plan which would have the effect of amending the settlement-specific objectives of a settlement or part of a settlement—

(a) in respect of which a coordinated area plan is in force under *Chapter 6*, or

(b) which is designated in a regional spatial and economic strategy for the time being in force as an area in respect of which a coordinated area plan is to be prepared,

unless the other planning authority or authorities which made the coordinated area plan concerned and the director of the regional assembly consent to the making of the variation.

(3) (a) The members of a planning authority may at any time, by resolution request the chief executive of the planning authority to prepare a report on a proposal by them to initiate a process to consider the variation of the development plan for the time being in force.

(b) The chief executive of a planning authority shall submit a report to the members further to a request under *paragraph (a)* within 4 weeks of the adoption of the resolution.

(c) The members of a planning authority shall, within 4 weeks of receipt of a report provided under *paragraph (b)*, consider the report and shall, by resolution, decide to propose or not to propose to make the variation concerned.

(4) The chief executive of the planning authority may at any time, for stated reasons, propose to make a variation of the development plan.

(5) A screening for strategic environmental assessment and, where required, a strategic environmental assessment of a variation proposed under *subsection (3)* or *(4)* shall be carried out in accordance with the Strategic Environmental Assessment Regulations.

(6) A screening for appropriate assessment and, where required, an appropriate assessment of a variation proposed under *subsection (3)* or *(4)* shall be carried out in accordance with *Part 6*.

(7) Where the members of a planning authority decide to propose to make a variation of a development plan under *subsection (3)* or the chief executive proposes to make a variation under *subsection (4)*, the planning authority shall, as soon as practicable after making the decision—

(a) send notice and a copy of the proposed variation of the development plan to—

(i) the Minister,

(ii) the Office of the Planning Regulator,

(iii) the Maritime Area Regulatory Authority,

(iv) the Commission,

(v) the relevant regional assembly,

(vi) where the functional area of the planning authority includes a Gaeltacht, Údarás na Gaeltachta, Foras na Gaeilge and Oifig an Choimisinéara Teanga,

(vii) any adjoining planning authority,

(viii) the National Transport Authority,

(ix) any Local Community Development Committee within the area of the development plan,

(x) such other persons as may be prescribed, and

(xi) where the variation is of a type that would have the effect referred to in *subsection (2)*, the chief executive of any other planning authority whose functional area includes part of the area to which the coordinated area plan relates,

and

(b) publish notice of the proposed variation of the development plan on a website maintained by or on behalf of the planning authority and in at least one newspaper circulating in the functional area of the planning authority.

(8) A notice under *subsection (7)* shall state—

(a) the reason for the proposed variation,

(b) that a copy of—

(i) the proposed variation,

(ii) any screening determination made in accordance with *subsection (5)* or *(6)*,

(iii) any environmental report prepared in accordance with the Strategic Environmental Assessment Regulations, and

(iv) any Natura impact report prepared in accordance with *Part 6*,

may be inspected on a website maintained by or on behalf of the planning authority and at a place specified in the notice at such times as may be so specified during a period (being a period of not less than 4 weeks from the date of the notice) as may be so specified, and

(c) that written submissions with respect to the proposed variation and any strategic environmental assessment or appropriate assessment of the proposed variation made to the planning authority within the period referred to in *paragraph (b)* will be taken into consideration before the making of the variation.

(9) The Minister and the Office of the Planning Regulator may, as part of any submission in relation to a proposed variation of a development plan, or a proposed material alteration to a proposed variation, make such recommendations as they consider appropriate.

(10) Written submissions received by a planning authority under this section shall, unless one or more of the criteria set out in *paragraph (b)* of *subsection (6)* of *section 54* is met, be published on a website maintained by or on behalf of the authority within 10 working days of their receipt.

(11) (a) Not later than 8 weeks from the date of the notice under *subsection (7)*, the chief executive of a planning authority shall—

(i) prepare a report on any submissions received on foot of the publication of the notice, and

(ii) submit the report to the members of the planning authority for their consideration.

(b) A report prepared under *subparagraph (i)* of *paragraph (a)* shall be published on a website maintained by or on behalf of the planning authority concerned as soon as practicable after its submission under *subparagraph (ii)* of *paragraph (a)*.

(c) A report prepared under *paragraph (a)* shall—

(i) list the persons who made submissions,

(ii) provide a summary of any—

(I) recommendations and submissions made by the Minister,

(II) recommendations and submissions made by the Office of the Planning Regulator,

(III) submissions made by the regional assembly and the National Transport Authority, and

(IV) submissions made by any other persons in relation to the proposed variation (and the report may, for this purpose, group and summarise the issues raised in different submissions on a thematic basis),

(iii) give the response of the chief executive to the issues raised in the submissions, taking account of the proper planning and sustainable development of the area, the statutory obligations of the planning authority and any relevant policies or objectives for the time being of the Government or of any Minister of the Government,

(iv) set out the recommendations of the chief executive as to how any recommendations made by the Minister and the Office of the Planning Regulator in any submissions made by them should be dealt with, and

(v) where required, include the assessment of the chief executive of the proposed variation for the purposes of strategic environmental assessment or appropriate assessment, taking into account the submissions received under this section.

(12) (a) The members of a planning authority shall consider the proposed variation and the report of the chief executive under *subsection (11)*.

(b) The consideration of the proposed variation and the chief executive's report under *paragraph (a)* shall be completed within 6 weeks from the date of the submission of the chief executive's report to the members of the planning authority.

(c) Where, following the consideration of the proposed variation and the chief executive's report, it appears to the members of the planning authority that the proposed variation should be made, they may, subject to *paragraph (d)*, by resolution make the proposed variation.

(d) Where, following the consideration of the proposed variation and the chief executive's report, it appears to the members of the authority that a modified version of the proposed variation should be made, they may, subject to *subsection (13)*, by resolution make a modified version of the proposed variation.

(e) Where, in making the proposed variation under *paragraph (c)* or a modified version of the proposed variation under *paragraph (d)*, the members of the authority do not comply with any recommendation made by the Minister or Office of the Planning Regulator under this section, they shall, as soon as practicable following the making of the variation, so inform the Minister, or the Office of the Planning Regulator, as the case may be, by notice in writing which notice shall contain a statement of the reasons for the decision not to comply with the recommendation concerned.

(13) (a) Subject to *paragraphs (b)*, *(c)*, *(d)* and *(g)*, where the members of a planning authority make a modified version of the proposed variation under *paragraph (d)* of *subsection (12)* and the modification to the proposed variation constitutes a material alteration of the proposed variation—

(i) the variation shall be deemed not to have been made, and

(ii) the planning authority shall, not later than 2 weeks after the passing of a resolution under *paragraph (d)* of *subsection (12)*, publish notice of the modification that constitutes a material alteration of the proposed variation on a website maintained by or on behalf of the planning authority and in one or more newspaper circulating in the functional area of the planning authority and send notice and a copy of the modification to the persons set out at *subparagraphs (i)* to *(ix)* of *paragraph (a)* of *subsection (7)*.

(b) The planning authority shall determine, in accordance with the Strategic Environmental Assessment Regulations, whether a strategic environmental assessment is or is not required to be carried out in respect of the modification that constitutes a material alteration of the proposed variation.

(c) The planning authority shall determine, in accordance with *Part 6*, if an appropriate assessment is or is not required to be carried out in respect of the modification that constitutes a material alteration of the proposed variation.

(d) Where the planning authority determines in accordance with *paragraph (b)* or *(c)* that a strategic environmental assessment or an appropriate assessment is required, it shall prepare an environmental report or Natura impact report in relation to the modification that constitutes a material alteration of the proposed variation and the 2 week period referred to in *subparagraph (ii)* of *paragraph (a)* may be extended by such period as the chief executive specifies as being necessary for this purpose.

(e) Where applicable, a notice under *paragraph (a)* shall include notice of the making of any determination that an assessment referred to in *paragraph (b)* or *(c)* is required.

(f) A notice under *paragraph (a)* shall state—

(i) that a copy of—

(I) the modification that constitutes a material alteration of the proposed variation,

(II) any determination by the authority that an assessment referred to in *paragraph (b)* or *(c)* is or is not required,

(III) any environmental report prepared in accordance with the Strategic Environmental Assessment Regulations, and

(IV) any Natura impact report prepared in accordance with *Part 6*,

may be inspected on a website maintained by or on behalf of the planning authority and at a place specified in the notice at such times as may be so specified during a period (being a period of not less than 4 weeks from the date of the notice) as may be so specified, and

(ii) that written submissions with respect to the modification that constitutes a material alteration of the proposed variation or an assessment referred to in *paragraph (b)* or *(c)* and made to the planning authority within the period specified in the notice shall be taken into account by the authority before the variation of the development plan is made.

(g) Where a strategic environmental assessment is required in accordance with *paragraph (b)* or an appropriate assessment is required in accordance with *paragraph (c)*, the chief executive of the planning authority shall, subsequent to receipt of the written submissions under this section and before finalisation of the report required under *subsection (15)*—

(i) carry out such assessment of the modification to the proposed variation of the draft development plan as is required, and

(ii) include that assessment in that report.

(14) Written submissions received by a planning authority on foot of publication of a notice under *subsection (13)* shall, unless one or more of the criteria set out in *paragraph (b)* of *subsection (6)* of *section 54* is met, be published on a website maintained by or on behalf of the planning authority within 10 working days of their receipt by the authority.

(15) (a) Not later than 12 weeks from the date of the notice under *subsection (13)* the chief executive shall—

(i) prepare a report on any submissions received on foot of the publication of the notice, and

(ii) submit the report to the members of the planning authority for their consideration.

(b) A report prepared under *subparagraph (i)* of *paragraph (a)* shall be published on a website maintained by or on behalf of the planning authority concerned as soon as practicable after its submission under *subparagraph (ii)* of *paragraph (a)*.

(c) A report prepared under *paragraph (a)* shall—

(i) list the persons who made submissions in relation to the modification to the proposed variation and any strategic environmental assessment or appropriate assessment of the modification,

(ii) provide a summary of any—

(I) recommendations and submissions made by the Minister in relation to the modification to the proposed variation and any strategic environmental assessment or appropriate assessment of the modification,

(II) recommendations and submissions made by the Office of the Planning Regulator in relation to the modification to the proposed variation and any strategic environmental assessment or appropriate assessment of the modification,

(III) submissions made by the regional assembly and the National Transport Authority, and

(IV) submissions made by any other person in relation to the modification to the proposed variation and any strategic environmental assessment or appropriate assessment of the modification (and the report may, for this purpose, group and summarise the issues raised in different submissions on a thematic basis),

(iii) set out the recommendations of the chief executive as to how any recommendations made by the Minister and the Office of the Planning Regulator should be taken account of in relation to the modification to the proposed variation,

(iv) give the response of the chief executive to the matters raised in the submissions and the recommendations of the chief executive in relation to the modification to the proposed variation, and

(v) include the assessment of the chief executive under *paragraph (g)* of *subsection (13)*.

(16) (a) The members of a planning authority shall consider the modification and the report of the chief executive under *subsection (15)*.

(b) The consideration of the modification and the chief executive's report under *paragraph (a)* shall be completed not later than 4 weeks from the date of the submission of the chief executive's report to the members of the planning authority.

(17) (a) Subject to *paragraph (b)*, the members of a planning authority shall, by resolution, having complied with *subsection (16)*—

(i) make the variation as originally proposed by the planning authority,

(ii) make the variation with the material alteration that was the subject of the notice under *subsection (13)*, or

(iii) refuse to make the variation.

(b) Where the members of a planning authority decide to make the variation with the material alteration that was the subject of the notice under *subsection (13)*, they may do so subject to any further minor modifications to the alteration that they consider appropriate.

(c) For the purposes of *paragraph (b)*, a modification to the material alteration shall be deemed to be minor where it—

(i) does not substantially or materially alter the material alteration,

(ii) is not likely to have significant effects on the environment or on any European site, and

(iii) does not relate to—

(I) an increase in the area of land zoned for any purpose, or

(II) an addition to or deletion from the record of protected structures.

(d) Where, in making a variation of the development plan under *paragraph (a)*, the members of a planning authority do not comply with any recommendation made by the Minister or Office of the Planning Regulator under this section, they shall, as soon as practicable following the making of the variation, so inform the Minister or the Office of the Planning Regulator, as the case may be, by notice in writing which notice shall contain a statement of the reasons for not complying with the recommendation concerned.

(18) (a) Where a planning authority makes a variation of a development plan, it shall publish, within 1 week of the making of the variation, in at least one newspaper circulating in the functional area of the planning authority and on a website maintained by or on behalf of the planning authority, notice of the making of the variation.

(b) A notice under this subsection shall state that a copy of the development plan as varied will be available for inspection on a website maintained by or on behalf of the planning authority and at a place specified in the notice on and from a date as may be so specified (being not more than 5 weeks after the date of the making of the variation of the development plan).

(c) A planning authority shall, within 1 week of the making of a variation of a development plan, send a copy of the variation to—

(i) the Minister,

(ii) the Office of the Planning Regulator,

(iii) the Maritime Area Regulatory Authority,

(iv) the Commission,

(v) the relevant regional assembly,

(vi) where the functional area of the planning authority includes a Gaeltacht, Údarás na Gaeltachta, Foras na Gaeilge and Oifig an Choimisinéara Teanga,

(vii) the National Transport Authority,

(viii) any adjoining planning authority,

(ix) any Local Community Development Committee within the area of the development plan, and

(x) such other persons as may be prescribed.

(d) Where a planning authority sends a copy of any variation to the Office of the Planning Regulator under *paragraph (c)*, the planning authority shall also send to the Office of the Planning Regulator any submissions received by the planning authority from the Minister, any regional assembly and the National Transport Authority in accordance with this section.

(e) A planning authority shall make a copy of the variation available for purchase by any member of the public on payment of a specified fee not exceeding the reasonable cost of making a copy.

(19) A failure to comply with *subsection (3)*, *(10)*, *(11)*, *(12)*, *(13)*, *(14)*, *(15)*, *(16)* or *(18)* within the time period specified therein shall not of itself invalidate a variation of a development plan.

(20) A variation made to a development plan shall take effect from the day that the variation is made.

Variation affecting settlement-specific objectives in urban area plan or priority area plan

59. (1) This section applies where a planning authority is considering, in accordance with *section 58*—

(a) a proposed variation of a development plan, or

(b) a material alteration to a proposed variation of a development plan,

that would have the effect of amending the settlement-specific objectives set out in the development plan for a specific settlement.

(2) The planning authority shall consider whether the making of the variation or material alteration to the variation concerned would necessitate amendment of any relevant area plan for the time being in force for such settlement, or part of such settlement, as the case may be, for the purposes of ensuring consistency of the relevant area plan with the settlement-specific objectives concerned.

(3) Where, having considered the matter in accordance with *subsection (2)*, the planning authority considers that a proposed variation to a development plan or a material alteration to a proposed variation would necessitate amendment of a relevant area plan for the time being in force, it shall include in any notice under *subsection (7)* of *section 58*—

(a) a statement that the proposed variation or material alteration to the proposed variation, as the case may be, necessitates amendment of a specified relevant area plan, and

(b) state that a draft of the necessary amendments to the relevant area plan will be included with the documents available for inspection and on which submissions may be made within the period specified in the notice.

(4) In preparing any report under *section 58*, the chief executive of the planning authority shall take account of any submissions received by virtue of *paragraph (b)* of *subsection (3)*.

(5) In making any decision for the purposes of *section 58*, the members of the planning authority shall take account of any submissions received by virtue of *paragraph (b)* of *subsection (3)*.

(6) Where the planning authority under *section 58* makes a variation of the development plan which necessitates amendment of any relevant area plan for the time being in force, the decision to make the variation shall be deemed also to be a decision to make the necessary consequential amendment of the relevant area plan concerned.

(7) Where *subsection (6)* applies, the notice required to be published in accordance with *subsection (18)* of *section 58* shall also refer to the amendment of the relevant area plan concerned and to the availability for inspection of a copy of the relevant area plan as amended and a copy of the amendment shall be included with the copy of the variation sent to the persons specified in *paragraph (c)* of *subsection (18)* of *section 58*.

(8) In this section, "relevant area plan" means—

(a) an urban area plan, or

(b) a priority area plan.

Public rights of way

60. (1) Where a planning authority proposes to include a provision in a development plan relating to the preservation of a specific public right of way, it shall, prior to the publication of notice of the preparation of the draft development plan under *section 55* or notice of the proposed variation of the development plan under *section 58*, serve notice (which shall include particulars of the provision and a map indicating the right of way) of its intention to do so on any owner and occupier of the land over which the right of way exists.

(2) A notice served under *subsection (1)* shall state—

(a) that a copy of the proposal may be inspected at a place specified in the notice at such times as may be so specified during a period (being a period of not less than 8 weeks from the date of the notice) as may be so specified,

(b) that written submissions with respect to the proposal made to the planning authority within the period specified under *paragraph (a)* will be taken into consideration by the planning authority, and

(c) that where, following consideration of any submissions received under this section, the planning authority considers that the provision should be included in the development plan, or included subject to modifications, a right of appeal to the Circuit Court exists in relation to such provision.

(3) The members of a planning authority, having considered the proposal and any submissions made in respect of it, may by resolution recommend—

(a) the inclusion of the proposed provision in the development plan, with or without modifications, or

(b) against such inclusion.

(4) Any person on whom notice has been served under *subsection (1)* shall be served with a copy of the recommendation made under *subsection (3)* accordingly and a copy of such notice shall be published on a website maintained by or on behalf of the planning authority and in at least one newspaper circulating in the functional area of the planning authority.

(5) Any person who has been served with a copy of the recommendation of the planning authority under *subsection (4)* may, before the expiry of the period of 21 days beginning on the date of service, appeal to the Circuit Court, on notice to the planning authority, against the inclusion in the development plan of the proposed provision, and the Court, if satisfied that no public right of way exists, shall so declare and the provision shall, subject to *subsection (7)*, accordingly not be included in the development plan.

(6) Where no appeal is brought within the period of 21 days referred to in *subsection (5)*, the planning authority may include the proposed provision in the development plan.

(7) Where an appeal is brought within the period of 21 days referred to in *subsection (5)*, the planning authority may, notwithstanding the appeal, include the proposed provision in the development plan or variation made under this Chapter subject to the following:

(a) the provision shall not come into effect until the appeal has been finally determined and *paragraph (a)* of *subsection (8)* applies;

(b) the provision shall be accompanied by a statement in the development plan to the effect that the provision is the subject of a pending appeal under *subsection (5)* and shall not come into effect until the appeal has been finally determined and *paragraph (a)* of *subsection (8)* applies.

(8) Where, upon the final determination of an appeal brought under *subsection (5)*, the Circuit Court declares that the public right of way exists, the proposed provision—

(a) if included in a development plan under *subsection (7)*, shall come into effect immediately, and

(b) if not included in a development plan, may in the future be included in a development plan without the necessity to comply with this section.

(9) Where, upon the final determination of an appeal brought under *subsection (5)*, the Circuit Court declares that the public right of way does not exist and the proposed provision has been included in a development plan under *subsection (7)*—

(a) the provision shall immediately be deemed not to be included in the development plan, and

(b) the planning authority shall, as soon as practicable thereafter, remove the provision from the published development plan.

(10) Any provision relating to the preservation of a public right of way contained in a development plan continued in force under *section 68* may be included in a subsequent development plan made under this Act without the necessity to comply with this section.

(11) Nothing in this section shall affect the existence or validity of any public right of way which is not included in a development plan.

(12) The inclusion of a public right of way in a development plan shall be evidence of the existence of such a right unless the contrary is shown.

Consequences of new or amended National Planning Statement for development plans

61. (1) Where the Minister issues or amends a National Planning Statement, each planning authority shall, within 2 months of the publication of National Planning Statement, submit a report to the Office of the Planning Regulator setting out its view as to whether the development plan in force for its functional area is materially consistent with the National Planning Policies and Measures.

(2) Where a planning authority is of the view that there is a material inconsistency for the purposes of *subsection (1)*, the report referred to in that subsection shall set out what steps the planning authority proposes to take so as to remove the material inconsistency concerned.

(3) If the Office of the Planning Regulator, upon consideration of a report submitted to it under *subsection (1)*, is of the opinion that there is a material inconsistency for the purposes of that subsection and—

(a) is satisfied that the steps proposed by the planning authority shall be sufficient to remove the material inconsistency concerned—

(i) the Office of the Planning Regulator shall so inform the planning authority, and

(ii) the chief executive of the planning authority shall invoke the expedited variation procedure set out in *section 62*,

or

(b) is not satisfied that the steps proposed by the planning authority shall be sufficient to remove the material inconsistency concerned, the Office of the Planning Regulator shall, as soon as practicable thereafter, make a recommendation to the Minister that a draft direction under *section 64* should be issued, which recommendation shall be accompanied by—

(i) proposed terms for the draft direction to specify the steps required to be taken to remove the material inconsistency concerned, having regard to *paragraphs (a)* and *(b)* of *subsection (1)* and *subsection (2)* of *section 64*, and

(ii) a statement of reasons for the recommendation.

(4) Where a planning authority fails to submit a report in accordance with *subsection (1)* and the Office of the Planning Regulator is of the opinion that there is a material inconsistency for the purposes of that subsection, the Office of the Planning Regulator shall, as soon as practicable thereafter, make a recommendation to the Minister that a draft direction under *section 64* should be issued, which recommendation shall be accompanied by—

(a) proposed terms for the draft direction to specify the steps required to be taken to remove the material inconsistency concerned, having regard to *paragraphs (a)* and *(b)* of *subsection (1)* and *subsection (2)* of *section 64*, and

(b) a statement of reasons for the recommendation.

(5) If the Office of the Planning Regulator, upon consideration of a report submitted to it under *subsection (1)*, is of the opinion that there is no material inconsistency for the purposes of that subsection, it shall so inform the planning authority.

(6) The Office of the Planning Regulator shall notify the planning authority concerned of a recommendation under *paragraph (b)* of *subsection (3)* or *subsection (4)* and shall provide them with a copy of the documents accompanying the recommendation in accordance with those subsections.

(7) Subject to *subsections (8)* and *(9)*, the Minister shall, within 6 weeks of receipt of a recommendation of the Office of the Planning Regulator under *paragraph (b)* of *subsection (3)* or *subsection (4)*—

(a) consider the recommendation, statement of reasons and proposed terms for the draft direction, and

(b) make a decision, for stated reasons, as to whether to accept the recommendation of the Office of the Planning Regulator that a draft direction should be issued under *section 64*, whether with or without modifications.

(8) Where the Minister decides under *subsection (7)* that a draft direction should be issued under *section 64*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (7)* the material inconsistency for the purposes of *subsection (1)*, and

(b) direct the Office of the Planning Regulator to issue a draft direction under *section 64* in accordance with the proposed terms for the draft direction under *paragraph (b)* of *subsection (3)* or *subsection (4)*, with or without such modifications as may be specified by the Minister in the direction.

(9) Where the Minister decides under *subsection (7)* that a draft direction should not be issued under *section 64*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (7)* the material inconsistency for the purposes of *subsection (1)* and his or her reasons for deciding that a draft direction should not be issued, and

(b) direct the Office of the Planning Regulator not to issue the draft direction.

(10) The Office of the Planning Regulator shall provide the Minister with a copy of a report submitted to it under *subsection (1)* and shall advise the Minister of any decision made by the Office of the Planning Regulator under *paragraph (a)* of *subsection (3)* or *subsection (5)*.

(11) A direction issued under *paragraph (b)* of *subsection (9)* shall be laid before each House of the Oireachtas by the Minister.

Expedited variation of development plan

62. (1) This section applies where variations to a development plan for the time being in force—

(a) are necessitated by the issuance of a new or amended National Planning Statement,

(b) are being made for the purposes of ensuring that the development plan concerned is materially consistent with National Planning Policies and Measures contained in such statement, and

(c) the Office of the Planning Regulator has informed the planning authority under *subparagraph (i)* of *paragraph (a)* of *subsection (3)* of *section 61* that it is satisfied with the steps proposed by the planning authority.

(2) Within 6 weeks of being informed by the Office of the Planning Regulator in accordance with *subparagraph (i)* of *paragraph (a)* of *subsection (3)* of *section 61* that the Office of the Planning Regulator is satisfied with the steps proposed by a planning authority under *subsection (2)* of that section, the chief executive of the planning authority shall prepare a draft variation to the development plan concerned and shall conduct a screening for strategic environmental assessment in respect of the draft variation in accordance with the Strategic Environmental Assessment Regulations and a screening for appropriate assessment in respect of the draft variation in accordance with *Part 6*.

(3) In carrying out any screening assessment under *subsection (2)*, the chief executive shall, with a view to avoiding duplication of assessments, take account of the fact and content of any assessment that the Minister has conducted in respect of the relevant National Planning Statement.

(4) Where the chief executive determines that a strategic environmental assessment or an appropriate assessment, or both, as the case may be, is or are required in respect of a draft variation, the draft variation may only be made by way of a variation to the development plan concerned under *section 58* and may not be made under this section.

(5) Where the chief executive determines that neither a strategic environmental assessment nor an appropriate assessment is required in respect of a draft variation, the chief executive shall propose the draft variation to the members of the planning authority for adoption by resolution.

(6) Where the chief executive proposes a draft variation to the planning authority under *subsection (5)*, the proposed variation shall be deemed to have been made at the

expiration of a period of 6 weeks from the date of the proposal unless the members of the planning authority, within that period, by resolution reject the proposed variation.

(7) Where a variation is deemed to have been made under *subsection (6)*, the publication requirements under *subsection (18)* of *section 58* shall apply in respect of the development plan as varied.

(8) Where, within the 6 week period referred to in *subsection (6)*, the members of the planning authority by resolution reject the variation proposed by the chief executive—

(a) the chief executive shall advise the Office of the Planning Regulator of this fact, and

(b) the Office of the Planning Regulator shall consider whether to make a recommendation under *subsection (9)*.

(9) Where, following a resolution under *subsection (8)*, the Office of the Planning Regulator is of the opinion that there is a material inconsistency for the purposes of *subsection (1)* of *section 61*, it shall make a recommendation to the Minister that a draft direction under *section 64* should be issued, which recommendation shall be accompanied by—

(a) proposed terms for the draft direction to specify the steps required to be taken to remove the material inconsistency concerned, having regard to *paragraphs (a)* and *(b)* of *subsection (1)* and *subsection (2)* of *section 64*, and

(b) a statement of reasons for the recommendation.

(10) Subject to *subsections (11)* and *(12)*, the Minister shall, within 6 weeks of receipt of a recommendation of the Office of the Planning Regulator under *subsection (9)*—

(a) consider the recommendation, statement of reasons and proposed terms for the draft direction, and

(b) make a decision, for stated reasons, as to whether to accept the recommendation of the Office of the Planning Regulator that a draft direction should be issued under *section 64*, whether with or without modifications.

(11) Where the Minister decides under *subsection (10)* that a draft direction should be issued under *section 64*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (10)* the material inconsistency for the purposes of *subsection (1)* of *section 61*, and

(b) direct the Office of the Planning Regulator to issue a draft direction under *section 64* in accordance with the proposed terms for the draft direction under *subsection (9)*, with or without such modifications as may be specified by the Minister in the direction.

(12) Where the Minister decides under *subsection (10)* that a draft direction should not be issued under *section 64*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (10)* the material inconsistency for the purposes of *subsection (1)* of *section 61* and his or her reasons for deciding that a draft direction should not be issued, and

(b) direct the Office of the Planning Regulator not to issue the draft direction.

(13) A direction issued under *paragraph (b)* of *subsection (12)* shall be laid before each House of the Oireachtas by the Minister.

Assessment of development plan and variation by Office of Planning Regulator and recommendation to Minister

63. (1) The Office of the Planning Regulator shall, upon being notified by a planning authority under this Chapter of—

(a) the making of a development plan, or

(b) the making of any variation to a development plan,

carry out an assessment of the development plan or variation, as the case may be, in accordance with *subsections (3)* and *(4)*.

(2) (a) The Minister may, at any time, request the Office of the Planning Regulator to carry out an assessment of a development plan.

(b) The Minister, a regional assembly or a planning authority may, at any time, notify the Office of the Planning Regulator of any provision in a development plan (including, in the case of notification by a planning authority under this paragraph, a development plan that relates to the functional area of a different planning authority) that the Minister, regional assembly or planning authority, as the case may be, believes to be materially inconsistent with—

(i) the National Planning Framework,

(ii) the National Marine Planning Framework,

(iii) the regional spatial and economic strategy for the relevant region, or

(iv) National Planning Policies and Measures.

(c) Where the Office of the Planning Regulator receives a request under *paragraph (a)* or a notification under *paragraph (b)*, it shall carry out an assessment of the development plan concerned in accordance with *subsections (3)* and *(4)*.

(d) The Office of the Planning Regulator may, at any time, of its own initiative and for stated reasons, carry out an assessment of a development plan in accordance with *subsections (3)* and *(4)*.

(3) In carrying out an assessment under *subsection (1)* or *(2)*, the Office of the Planning Regulator shall, for the purposes of forming an opinion under *subsection (10)*, in particular, consider—

(a) the National Planning Framework,

(b) where the planning authority is a coastal planning authority, the National Marine Planning Framework,

(c) the relevant regional spatial and economic strategy,

(d) National Planning Policies and Measures,

(e) National Planning Policy Guidance,

(f) any relevant transport strategy published by the National Transport Authority,

(g) any Opinion on Development Plan Strategy issued by the Office of the Planning Regulator to the planning authority concerned under *section 53*,

(h) any recommendations and submissions made by the Minister, the Office of the Planning Regulator, the National Transport Authority or any other body as may be prescribed, under this Chapter in respect of a draft development plan or variation, or proposed material alteration thereto, and

(i) the requirements of this Chapter.

(4) Without prejudice to *subsection (3)*, the Office of the Planning Regulator shall, in carrying out an assessment under *subsection (1)* or *(2)*, consider whether the development plan or development plan as varied, as the case may be, fails to establish an integrated overall strategy for the proper planning and sustainable development of the relevant area in accordance with the requirements of this Act.

(5) In its consideration under *subsection (4)*, the Office of the Planning Regulator shall have regard to whether the development plan or development plan as varied, as the case may be, contains a statement in accordance with the requirements of *subsections (2)* to *(8)* of *section 43*.

(6) Where the Office of the Planning Regulator, as part of an assessment under *subsection (1)* or *(2)*, forms a preliminary view that the development plan or any part or provision thereof should be suspended because it may be materially inconsistent with—

(a) the National Planning Framework,

(b) where the planning authority is a coastal planning authority, the National Marine Planning Framework,

(c) the regional spatial and economic strategy for the relevant region, or

(d) National Planning Policies and Measures,

it may issue a notice to the planning authority, which shall take effect immediately upon issuance and shall—

(i) suspend the effect of the development plan or part or provision thereof concerned pending the completion of the assessment, and

(ii) remain in effect pending the completion of the assessment and—

(I) the issuance by the Office of the Planning Regulator of a draft direction under *section 64*, in accordance with a direction of the Minister under *paragraph (b)* of *subsection (14)*,

(II) the issuance by the Minister of a direction under *paragraph (b)* of *subsection (15)* not to issue a draft direction, or

(III) the making of a recommendation by the Office of the Planning Regulator to the Minister under *subsection (11)* not to issue a draft direction.

(7) Where the Office of the Planning Regulator issues a notice to a planning authority under *subsection (6)*, it shall on the same day provide a copy of the notice to the Minister and publish the notice on a website maintained by or on behalf of the Office of the Planning Regulator.

(8) The Office of the Planning Regulator, in carrying out an assessment under *subsection (1)* or *(2)*—

(a) shall, where the assessment is being carried out under *subsection (2)*, consult with the chief executive and members of the planning authority, and

(b) may—

(i) require the planning authority to provide, within such period as may be specified by the Office of the Planning Regulator, such information as it considers necessary, and

(ii) consult with any other person it considers necessary.

(9) A planning authority shall furnish the Office of the Planning Regulator with any documentation or additional information that may be requested by the Office of the Planning Regulator, within the period specified in such a request.

(10) Where, following an assessment carried out under *subsection (1)* or *(2)*, the Office of the Planning Regulator forms the opinion that the development plan or development plan as varied, as the case may be—

(a) fails to establish an integrated overall strategy for the proper planning and sustainable development of the relevant area,

(b) is materially inconsistent with—

(i) the National Planning Framework,

(ii) where the planning authority is a coastal planning authority, the National Marine Planning Framework,

(iii) the relevant regional spatial and economic strategy, or

(iv) National Planning Policies and Measures,

(c) departs from any relevant guidance set out in National Planning Policy Guidance and, in the opinion of the Office of the Planning Regulator, no adequate explanation has been offered justifying that departure having regard to the proper planning and sustainable development of the area,

(d) departs from any relevant transport strategy of the National Transport Authority and, in the opinion of the Office of the Planning Regulator, no adequate explanation has been offered justifying that departure having regard to the proper planning and sustainable development of the area, or

(e) is otherwise in contravention of a requirement of this Act,

it shall make a recommendation to the Minister that a draft direction under *section 64* should be issued, which recommendation shall be accompanied by—

(i) proposed terms for the draft direction, having regard to *paragraphs (a)* and *(b)* of *subsection (1)* and *subsection (2)* of *section 64*, and

(ii) a statement of reasons for the recommendation.

(11) Where, following an assessment carried out under *subsection (1)* or *(2)*, the Office of the Planning Regulator forms the opinion that none of the criteria in *subsection (10)* is met, it shall make a recommendation to the Minister that a draft direction under *section 64* should not be issued, which recommendation shall be accompanied by a statement of reasons for the recommendation.

(12) The Office of the Planning Regulator shall notify the planning authority concerned, and where applicable, any planning authority or regional assembly which made a notification in accordance with *paragraph (b)* of *subsection (2)*, of a recommendation under *subsection (10)* or *(11)* and shall provide them with a copy of the documents accompanying the recommendation in accordance with those subsections.

(13) Subject to *subsections (14)* and *(15)*, the Minister shall, within 6 weeks of receipt of a recommendation of the Office of the Planning Regulator under *subsection (10)*—

(a) consider the recommendation, statement of reasons and proposed terms for the draft direction, and

(b) make a decision, for stated reasons, as to whether to accept the recommendation of the Office of the Planning Regulator that a draft direction should be issued under *section 64*, whether with or without modifications.

(14) Where the Minister decides under *subsection (13)* that a draft direction should be issued under *section 64*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (13)* which of the criteria in *paragraphs (a)* to *(e)* of *subsection (10)* the Minister considers to be met, and

(b) direct the Office of the Planning Regulator to issue a draft direction under *section 64* in accordance with the proposed terms for the draft direction under *subsection (10)*, with or without such modifications as may be specified by the Minister in the direction.

(15) Where the Minister decides under *subsection (13)* that a draft direction should not be issued under *section 64*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (13)* which of the criteria in *paragraphs (a)* to *(e)* of *subsection (10)* the Minister

considers to be met and his or her reasons for deciding that a draft direction should not be issued, and

(b) direct the Office of the Planning Regulator not to issue the draft direction.

(16) Where the Minister issues a direction under *paragraph (b)* of *subsection (15)* and the Office of the Planning Regulator has issued a notice to a planning authority under *subsection (6)*, the Office of the Planning Regulator shall notify the planning authority concerned of the direction of the Minister for the purposes of *subparagraph (II)* of *paragraph (ii)* of *subsection (6)*.

(17) A direction issued under *paragraph (b)* of *subsection (15)* shall be laid before each House of the Oireachtas by the Minister.

Issuance of draft direction by Office of Planning Regulator

64. (1) On receipt of a direction of the Minister to issue a draft direction under this Chapter, the Office of the Planning Regulator shall within 10 working days, subject to *subsection (5)*, issue a draft direction, which if issued to a planning authority in a direction issued by the Minister under *section 65* would require—

(a) a development plan to be varied in the manner specified in the direction, and

(b) the planning authority to implement the amendment referred to in *paragraph (a)* and publish the development plan as so amended.

(2) A draft direction issued under *subsection (1)* may identify any provision of a development plan that is the subject of the draft direction the operation of which, in the opinion of the Office of the Planning Regulator, ought to be suspended pending the making of a recommendation under this section and consideration of the recommendation and the making of a decision by the Minister under *subsection (4)* of *section 65*.

(3) Where a draft direction issued under *subsection (1)* identifies a provision in accordance with *subsection (2)*, the operation of the provision concerned shall be suspended from the date of the draft direction until the date a decision is made by the Minister under *subsection (4)* of *section 65*.

(4) (a) A planning authority or the Commission shall not determine any application for permission which would be materially affected by the provisions suspended in accordance with *subsection (3)* or by any amendment of a development plan specified in a draft direction issued under *subsection (1)* pending the making of a recommendation under this section and consideration of the recommendation and the making of a decision by the Minister under *subsection (4)* of *section 65*.

(b) Where a planning authority or the Commission is temporarily precluded from determining any application for permission under *paragraph (a)*, it shall notify the applicant.

(5) Before issuing a draft direction under *subsection (1)*, the Office of the Planning Regulator shall—

(a) conduct a screening assessment in accordance with the Strategic Environmental Assessment Regulations to determine whether the draft direction, if issued and complied with, would be likely to have significant effects on the environment, and

(b) conduct a screening assessment in accordance with *Part 6* to determine whether the draft direction, if issued and complied with, would be likely to have significant effects on any European site.

(6) (a) Where it is determined under *paragraph (a)* of *subsection (5)* that a strategic environmental assessment is required, the Office of the Planning Regulator shall prepare an environmental report in accordance with the Strategic Environmental Assessment Regulations.

(b) Where it is determined under *paragraph (b)* of *subsection (5)* that an appropriate assessment is required, the Office of the Planning Regulator shall prepare a Natura impact report in accordance with *Part 6*.

(7) Where the Office of the Planning Regulator issues a draft direction in accordance with *subsection (1)*, it shall—

(a) publish a notice of the issuance of the draft direction on a website maintained by or on behalf of the Office of the Planning Regulator and in one or more newspapers circulating in the functional area of the planning authority,

(b) direct the planning authority to publish notice of the issuance of the draft direction on a website maintained by or on behalf of the planning authority, and

(c) send a copy of the notice published under *paragraph (a)*, together with a copy of the draft direction, to—

(i) the Minister,

(ii) the chief executive of the planning authority,

(iii) the members of the planning authority,

(iv) the director of the relevant regional assembly,

(v) where the planning authority is a coastal planning authority, the Maritime Area Regulatory Authority,

(vi) where the functional area of the planning authority includes a Gaeltacht, the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, Údarás na Gaeltachta, Foras na Gaeilge and Oifig an Choimisinéara Teanga,

(vii) the Commission,

(viii) the National Transport Authority, and

(ix) any other body, as the Office of the Planning Regulator considers appropriate.

(8) A notice published under *paragraph (a)* of *subsection (7)* shall—

(a) state that the Office of the Planning Regulator has issued a draft direction in accordance with *subsection (1)*,

(b) where applicable, state that a determination has been made that strategic environmental assessment, or appropriate assessment, or both, as the case may be, is or is not required in respect of the draft direction,

(c) state that copies of the draft direction, the determination made in accordance with *subsection (5)* and any environmental report or Natura impact report referred to in *subsection (6)* will be made available for inspection by members of the public at such place and for such period as is specified in the notice,

(d) state that such copies will also be available for inspection on a website maintained by or on behalf of the Office of the Planning Regulator and of the planning authority concerned,

(e) invite written submissions with respect to the draft direction and, where applicable, the strategic environmental assessment or appropriate assessment, before the expiration of such period (being not less than 4 weeks from the date of the notice) as is specified in the notice, and

(f) state that any such submissions made within the period specified in the notice shall be taken into account by the Office of the Planning Regulator in making a recommendation to the Minister as to whether to issue a direction in the terms of the draft direction and in the summary of submissions submitted to the Minister under *subsection (12)*, which will be considered by the Minister in deciding whether to issue a direction under *section 65*.

(9) Subject to *subsections (10)*, *(11)* and *(12)*, the Office of the Planning Regulator shall, not later than 6 weeks after the expiry of the period specified in a notice published under *paragraph (a)* of *subsection (7)*, and having considered any submissions received in relation to a draft direction issued under *subsection (1)*, including any submissions received from the chief executive of the planning authority and the members of the planning authority—

(a) recommend that the Minister issue a direction under *section 65* in terms of the draft direction,

(b) recommend that the Minister issue a direction under *section 65* in an amended form to take account of any submissions made pursuant to *subsection (8)*, or

(c) recommend that the Minister not issue a direction under *section 65*.

(10) Where the Office of the Planning Regulator, following consideration of any submissions received, is of the opinion that none of the criteria in *paragraphs (a)* to *(e)* of *subsection (10)* of *section 63* is met, the Office of the Planning Regulator shall make a recommendation under *paragraph (c)* of *subsection (9)*, without prejudice to the power of the Office of the Planning Regulator to carry out further assessments pursuant to *subsection (2)* of *section 63*.

(11) (a) Where it is determined under *paragraph (a)* of *subsection (5)* that a strategic environmental assessment is required, the Office of the Planning Regulator shall,

prior to issuing a recommendation to the Minister under *paragraphs (a)* or *(b)* of *subsection (9)*, carry out a strategic environmental assessment in respect of the draft direction that it is recommending that the Minister issue.

(b) Where it is determined under *paragraph (b)* of *subsection (5)* that an appropriate assessment is required, the Office of the Planning Regulator shall, prior to issuing a recommendation to the Minister under *paragraphs (a)* or *(b)* of *subsection (9)*, carry out an appropriate assessment in respect of the draft direction that it is recommending that the Minister issue.

(12) A recommendation to the Minister under *subsection (9)* shall be accompanied by a report of the Office of the Planning Regulator setting out—

(a) a copy of the draft direction issued under *subsection (1)*,

(b) a summary of any written submissions received from the chief executive and the members of the planning authority in relation to the draft direction,

(c) a summary of any written submissions received from any other person in relation to the draft direction (and the report may, for this purpose, group and summarise the issues raised in different submissions on a thematic basis),

(d) an analysis and evaluation by the Office of the Planning Regulator of any written submissions referred to in *paragraphs (b)* and *(c)*,

(e) the reasons for the recommendation of the Office of the Planning Regulator,

(f) where the Office of the Planning Regulator is recommending that the Minister issue a direction under *section 65* in an amended form, a copy of the proposed amended draft direction, and

(g) where required, the strategic environmental assessment or appropriate assessment of the Office of the Planning Regulator, or both, as the case may be, carried out by the Office of the Planning Regulator in accordance with *subsection (11)* in relation to the direction which the Office of the Planning Regulator is recommending that the Minister issue.

(13) A copy of the recommendation and report sent to the Minister under *subsections (9)* and *(12)*, and any submissions made in relation to the draft direction, shall be—

(a) made available on a website maintained by or on behalf of the Office of the Planning Regulator, and

(b) sent to the relevant planning authority.

(14) The Minister may prescribe a period or periods that shall be disregarded for the purposes of reckoning any period referenced in this section.

Power of Minister to issue direction

65. (1) The Minister may, subject to this section, issue a direction to a planning authority requiring—

(a) a development plan to be varied in the manner specified in the direction, and

(b) the planning authority to implement the variation referred to in *paragraph (a)* and publish the development plan as so varied.

(2) The Minister may only issue a direction under *subsection (1)* where the Office of the Planning Regulator has issued a draft direction under *subsection (1)* of *section 64* and made a recommendation under *subsection (9)* of that section.

(3) The Minister may only issue a direction under *subsection (1)* where he or she is satisfied that one or more of the criteria in *paragraphs (a)* to *(e)* of *subsection (10)* of *section 63* is met.

(4) Within 8 weeks of receipt of a recommendation and report of the Office of the Planning Regulator in accordance with *subsections (9)* and *(12)* of *section 64*, the Minister shall—

(a) consider the recommendation and report,

(b) consider any summary of submissions received by the Office of the Planning Regulator in relation to the draft direction issued under *subsection (1)* of *section 64*,

(c) make a decision, for stated reasons, as to whether to accept the recommendation of the Office of the Planning Regulator, and

(d) where the decision is to issue a direction under *subsection (1)*—

(i) identify in the stated reasons provided under *paragraph (c)* which of the criteria in *paragraphs (a)* to *(e)* of *subsection (10)* of *section 63* the Minister considers to be met, and

(ii) issue the direction in accordance with *subsection (5)*.

(5) The Minister may issue the direction under *subsection (1)* to the planning authority—

(a) in the terms of the draft direction recommended by the Office of the Planning Regulator under *subsection (9)* of *section 64*,

(b) in the terms referred to in *paragraph (a)* with such minor modifications as the Minister considers appropriate, or

(c) subject to *subsection (8)*, in the terms referred to in *paragraph (a)* with such other modifications as the Minister considers appropriate.

(6) For the purposes of *paragraph (b)* of *subsection (5)*, a modification shall be deemed to be minor where it is not likely to have significant effects on the environment or on any European site.

(7) Prior to issuing a direction under *subsection (1)*, the Minister shall consider any strategic environmental assessment or appropriate assessment included in the Office of the Planning Regulator's report to the Minister in accordance with *paragraph (g)* of *subsection (12)* of *section 64* and may adopt such assessment or make his or her own assessment and determination in respect of the direction.

(8) Before issuing a direction under *paragraph (c)* of *subsection (5)*, the Minister shall request the Office of the Planning Regulator to—

(a) conduct a screening assessment in accordance with the Strategic Environmental Assessment Regulations to determine whether the modifications, if incorporated into the direction and issued and complied with, would be likely to have significant effects on the environment, and

(b) conduct a screening assessment in accordance with *Part 6* to determine whether the modifications, if incorporated into the direction and issued and complied with, would be likely to have significant effects on any European site.

(9) (a) Where it is determined under *paragraph (a)* of *subsection (8)* that a strategic environmental assessment is required, the Office of the Planning Regulator shall prepare an environmental report and proceed to conduct an assessment in accordance with the Strategic Environmental Assessment Regulations.

(b) Where it is determined under *paragraph (b)* of *subsection (8)* that an appropriate assessment is required, the Office of the Planning Regulator shall prepare a Natura impact report and proceed to conduct an assessment in accordance with *Part 6*.

(c) The Office of the Planning Regulator shall report the outcome of any assessment carried out under *paragraph (a)* or *(b)* to the Minister.

(10) Where the Minister decides, whether or not in accordance with a recommendation made by the Office of the Planning Regulator under *subsection (9)* of *section 64*, not to make a direction under *subsection (1)*, the Minister may request the Office of the Planning Regulator to carry out a further assessment under *subsection (2)* of *section 63*.

(11) A copy of a direction issued under *subsection (1)*, together with a statement of reasons for making the direction, shall, within 5 working days beginning on the date on which the direction is issued—

(a) be provided to the relevant planning authority, the Office of the Planning Regulator and the Commission,

(b) be published on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage, and

(c) be laid before each House of the Oireachtas by the Minister.

(12) Within 5 working days of receipt of a direction in accordance with *subsection (11)*, the Office of the Planning Regulator and the planning authority shall each publish the direction on a website maintained by or on behalf of the Office of the Planning Regulator and the planning authority.

(13) Where the Minister decides not to issue a direction under *subsection (1)*, he or she shall—

(a) provide a statement of reasons for deciding not to issue a direction to the relevant planning authority, the relevant regional assembly, the Office of the Planning Regulator and the Commission,

(b) cause a copy of the statement referred to in *paragraph (a)* to be laid before each House of the Oireachtas, and

(c) as soon as practicable, make the statement referred to in *paragraph (a)* available on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage.

(14) Where the Minister issues a direction under *subsection (1)*, the planning authority shall, as soon as practicable, comply with that direction and the chief executive or members shall not exercise any function conferred on them by or under this Act in a manner that contravenes the direction.

(15) A direction issued by the Minister under *subsection (1)* shall have immediate effect and its terms shall be deemed to be incorporated into the plan or, if appropriate, to constitute the plan, pending the implementation and publication by the planning authority, in accordance with the direction, of the development plan as varied by that direction.

(16) Where, in any application for judicial review of a direction made pursuant to this section in accordance with the Rules of the Superior Courts (S.I. No. 15 of 1986) and *Part 9*, the Court concludes that the Minister was not entitled to form the opinion that one or more of the criteria in *paragraphs (a)* to *(e)* of *subsection (10)* of *section 63*, is met, this shall not warrant the quashing of the direction where—

(a) the Minister was also of the opinion that one or more of the other criteria in *paragraphs (a)* to *(e)* of *subsection (10)* of *section 63* is met, and

(b) the Court finds that the Minister was entitled to form such an opinion.

(17) The Minister may prescribe a period or periods that shall be disregarded for the purposes of reckoning any period referenced in this section.

Direction affecting urban area plan, priority area plan or coordinated area plan

66. Where a draft direction issued under *section 64* or a direction issued under *section 65* would, if implemented, have the effect of causing any provision of an urban area plan, a priority area plan or a coordinated area plan to cease to have effect by virtue of *subsection (2)* of *section 74*, or would otherwise require consequential changes to be made to such a plan, the Office of the Planning Regulator, where so directed by the Minister, or the Minister, as the case may be, shall at the same time as issuing the draft direction under *section 64* or the direction under *section 65* also issue a draft direction under *section 79* or a direction under *section 80*, as the case may be, specifying the manner in which it requires the urban area plan, priority area plan or coordinated area plan to be amended.

Urgent direction requiring chief executive to vary development plan

67. (1) This section applies where the Minister is satisfied that—

(a) an event or situation with significant national, regional or strategic implications has occurred or is likely to occur,

(b) it is necessary for the Government to take action as a matter of urgency for the purpose of dealing with the implications or likely implications of the event or situation concerned, and

(c) the action to be taken includes the variation of a development plan.

(2) The Minister may, with the approval of the Government, issue a direction (referred to in this section as an "urgent direction") to a planning authority requiring the chief executive of the planning authority to vary the development plan for the functional area of the planning authority for the purpose specified in *subsection (3)* before the expiry of the period specified in the direction.

(3) The purpose referred to in *subsection (2)* is to make provision for or in connection with a class of infrastructure or other development of national or strategic importance specified in the urgent direction—

(a) at a location specified in the urgent direction, or

(b) at a location that is to be selected by the chief executive of the planning authority in accordance with criteria set out in the urgent direction.

(4) Before issuing an urgent direction, the Minister shall—

(a) consult the Office of the Planning Regulator,

(b) determine, in accordance with the Strategic Environmental Assessment Regulations, whether it is necessary to carry out a strategic environmental assessment and, where it determines that it is necessary to do so, carry out a strategic environmental assessment in accordance with those regulations,

(c) determine, in accordance with *Part 6*, whether it is necessary to carry out an appropriate assessment and, where it determines that it is necessary to do so, carry out an appropriate assessment in accordance with that Part,

(d) where the direction concerns the development plan of a single planning authority, notify the planning authority that he or she intends to issue a direction under this section, and

(e) publish notice of the determinations made under *paragraphs (b)* and *(c)* on a website maintained by or on behalf of the Minister.

(5) The chief executive of a planning authority shall—

(a) comply with an urgent direction, and

(b) make such consequential amendments of any urban area plan, priority area plan or coordinated area plan that is in force for the functional area of the planning authority as the chief executive considers necessary for the purpose of ensuring that any such plan is consistent with the development plan as varied by virtue of the urgent direction.

(6) The chief executive of a planning authority shall, as soon as may be after varying a development plan and amending any urban area plan, priority area plan or coordinated area plan under this section—

(a) publish notice of the making of the variations and amendments and a copy of the plan concerned as varied, and

(b) where the chief executive has amended a coordinated area plan under *paragraph (b)* of *subsection (5)*, give to each of the other planning authorities to whose functional area the coordinated area plan relates—

(i) notice of the amendments, and

(ii) a copy of the coordinated area plan as amended.

(7) A varied development plan or an amended urban area plan, priority area plan or coordinated area plan shall take effect on the making of the variation or amendment by the chief executive of the planning authority the subject of an urgent direction.

(8) A direction issued under *subsection (2)* shall, within 3 working days beginning on the date on which the direction is issued, be laid before each House of the Oireachtas by the Minister.

Continuation in force of pre-commencement development plan

68. (1) Notwithstanding the repeal of section 12 of the Act of 2000 effected by *section 6*, a development plan made under that section that was in force in respect of the functional area of a planning authority immediately before such repeal shall, subject to *subsection (3)* and *sections 61* and *62*, continue in force on and after that repeal—

(a) for the remainder of the period of 6 years from the coming into effect of the development plan concerned, or

(b) until a new development plan has been made under this Chapter in respect of the functional area to which the plan relates,

whichever is the shorter period.

(2) A development plan continued in force under *subsection (1)* shall have effect as if it were a development plan made under this Chapter.

(3) The Minister may, by order, for the purposes of ensuring the effective operation of this Part, vary for such period as he or she considers appropriate, the period for which a development plan continued in force under *subsection (1)* is to remain in force.

(4) Prior to making any order under *subsection (3)*, the Minister shall comply with any applicable requirements of the Strategic Environmental Assessment Directive (and the Strategic Environmental Assessment Regulations) and the Habitats Directive (and *Part 6*).

(5) Where a provision of a development plan continued in force under *subsection (1)* conflicts with a provision of the National Planning Framework or the relevant regional spatial and economic strategy for the time being in force, the provision of the National Planning Framework or the relevant regional spatial and economic strategy, as the case may be, shall take precedence.

Notices under section 11 of Act of 2000

69. Where a notice was given under section 11 of the Act of 2000 of the preparation of a new development plan before the repeal of Part II effected by *section 6*, that Part shall continue to apply and have effect on and after that repeal in relation to that notice, and any act done consequent upon the giving of that notice, until the making of the development plan concerned, and the development plan so made shall be deemed to have been made under and in accordance with *Part 3*.

CHAPTER 6

Urban Area Plans, Priority Area Plans and Coordinated Area Plans

Statutory obligations

70. In this Chapter, "statutory obligations" includes an obligation to ensure that a plan prepared under this Chapter is materially consistent with the objectives and strategies set out in the development plan and, in the case of a coordinated area plan, with the objectives and provisions of the regional spatial and economic strategy relating to the settlement or the part of a settlement to which the coordinated area plan relates.

Urban area plans

71. (1) Where a development plan identifies a settlement as requiring an urban area plan, the planning authority shall prepare, in accordance with the procedure set out in *section 75*, a plan (in this Act referred to as an "urban area plan") which shall—

(a) specify how the settlement-specific objectives set out in the development plan that apply to the settlement concerned will be implemented,

(b) specify how the integrated overall strategy for the proper planning and sustainable development of the functional area of the planning authority, as set out in the development plan in accordance with *section 43*, and the strategies and statements of the development plan prepared under *sections 44* to *51*, insofar as they are relevant to the settlement, will be implemented in respect of the settlement concerned, and

(c) include such other objectives in such detail as may be determined by the planning authority to ensure the proper planning and sustainable development of the settlement to which it applies, including objectives relating to community facilities and amenities and standards for the design and architecture of structures and public areas.

(2) An urban area plan shall—

(a) be materially consistent with—

(i) the settlement-specific objectives set out in the development plan which apply to the settlement concerned,

(ii) the zoning objectives of the development plan which apply to the settlement concerned,

(iii) the integrated overall strategy for the proper planning and sustainable development of the functional area of the planning authority as set out in the development plan in accordance with *section 43*, and

(iv) the strategies and statements prepared under *sections 44* to *51* of the development plan,

and

(b) take due account of any relevant transport strategy of the National Transport Authority.

Priority area plans

72. (1) Subject to *subsections (4)* and *(5)*, where a development plan identifies part of a settlement as requiring a priority area plan, the planning authority shall prepare, in accordance with the procedure set out in *section 75*, a plan (in this Act referred to as a "priority area plan") which shall—

(a) include an outline of any objectives included in the development plan under *subsection (4)* of *section 52* to guide and enable the development, renewal or regeneration of the part of the settlement to which it applies,

(b) specify how the settlement-specific objectives set out in the development plan, the integrated overall strategy for the proper planning and sustainable development of the functional area of the planning authority, as set out in the development plan in accordance with *section 43*, and the strategies and statements of the development plan prepared under *sections 44* to *51* insofar as they are relevant to the part of the settlement to which the priority area plan applies, will be implemented, and

(c) include such other objectives in such detail as may be determined by the planning authority for the proper planning and sustainable development of the part of the settlement to which the priority area plan applies, including objectives relating to community facilities and amenities and standards for the design and architecture of structures and public areas.

(2) A priority area plan shall—

(a) be materially consistent with—

(i) the settlement-specific objectives set out in the development plan which apply to the part of the settlement concerned, including any objectives under *subsection (4)* of *section 52* applicable to a site or land within the area of the priority area plan,

(ii) the zoning objectives of the development plan which apply to the part of the settlement concerned,

(iii) the integrated overall strategy for the proper planning and sustainable development of the functional area of the planning authority as set out in the development plan in accordance with *section 43*, and

(iv) the strategies and statements prepared under *sections 44* to *51* of the development plan,

and

(b) take due account of any relevant transport strategy of the National Transport Authority.

(3) A planning authority may appoint a sub-committee comprised of elected members from the part of the settlement to be the subject of a priority area plan for the purposes of liaising with the chief executive in relation to the preparation of a draft priority area plan under *section 75*.

(4) Where a development plan sets out settlement-specific objectives in respect of any Gaeltacht or inhabited offshore island in accordance with *subparagraph (iii)* or *(iv)* of *paragraph (a)* of *subsection (1)* of *section 52*, the planning authority shall prepare a priority area plan for one or more such Gaeltacht or inhabited offshore island.

(5) In the case of a priority area plan prepared under *subsection (4)*, a reference to "part of a settlement" in—

(a) *subsections (1)* to *(3)*, and

(b) *section 74*, *75*, *77* or *78*,

shall be read as a reference to the Gaeltacht or inhabited offshore island the subject of the plan.

Coordinated area plans

73. (1) Where a regional spatial and economic strategy designates a settlement or part of a settlement (in which case, the term "settlement" in this section shall be taken as referring to that part) as requiring a coordinated area plan, the principal planning authority and associate planning authority shall prepare, in accordance with the procedure set out in *section 76*, a plan (in this Act referred to as a "coordinated area plan") which shall—

(a) specify how the settlement-specific objectives, integrated overall strategy for the proper planning and sustainable development of the functional area of each planning authority, as set out in the development plans in accordance with *section 43*, and the strategies and statements prepared under *sections 44* to *51* of the development plans which apply to the settlement concerned, insofar as they are relevant to the settlement, will be implemented in respect of the settlement concerned, and

(b) include such other objectives in such detail as may be determined by the principal planning authority and the associate planning authority to ensure the proper planning and sustainable development of the settlement to which it applies, including objectives relating to community facilities and amenities and standards for the design and architecture of structures and public areas.

(2) A coordinated area plan shall—

(a) be materially consistent with—

(i) the objectives and provisions of the regional spatial and economic strategy relating to the area of the coordinated area plan concerned,

(ii) the settlement-specific objectives set out in the development plan for each planning authority in which the settlement concerned is situate which apply to the settlement concerned,

(iii) the zoning objectives of the development plan for each planning authority in which the settlement concerned is situate which apply to the settlement concerned,

(iv) the integrated overall strategy of the functional area of each planning authority in which the settlement concerned is situate, as set out in the development plan of each planning authority in accordance with *section 43*, and

(v) the strategies and statements prepared under *sections 44* to *51* of the development plan for each planning authority in which the settlement concerned is situate insofar as such strategies apply to the settlement or part of the settlement concerned,

and

(b) take due account of any relevant transport strategy of the National Transport Authority.

(3) A principal planning authority and an associate planning authority shall collectively appoint a coordinated area plan committee for the purposes of preparing a coordinated area plan.

(4) A coordinated area plan committee shall comprise of 11, 13 or 15 members from the principal planning authority and the associate planning authority who shall be appointed in accordance with the regional spatial and economic strategy.

(5) A coordinated area plan committee shall liaise with the chief executive of the principal planning authority in relation to the preparation of a draft coordinated area plan under *section 76*.

Conditions of urban area plans, priority area plans and coordinated area plans

74. (1) No settlement or part of a settlement may be the subject of, or be identified to be the subject of, more than one plan made under this Chapter.

(2) Where any provision of a plan made under this Chapter conflicts with a provision of a development plan which applies to the settlement or part of the settlement concerned, the conflicting provision of the plan made under this Chapter shall cease to have effect.

(3) An urban area plan or priority area plan shall take effect 4 weeks from the day on which the plan is made and shall, subject to *subsection (4)*, remain in force for a

period of 10 years or until the development plan which required that the plan be prepared is replaced, whichever is the shorter period.

(4) Where a planning authority, subsequent to the coming into effect of an urban area plan or priority area plan, makes a new development plan, the new development plan may provide that the urban area plan or priority area plan concerned shall continue to have effect for the period of 10 years referred to in *subsection (3)* provided that the planning authority is satisfied that the urban area plan or priority area plan—

(a) remains materially consistent with—

(i) the settlement-specific objectives set out in the new development plan which apply to the settlement or part of the settlement concerned (including, in the case of a priority area plan, any objectives under *subsection (4)* of *section 52* applicable to a site or land within the area of the priority area plan),

(ii) the zoning objectives of the new development plan which apply to the settlement or part of the settlement concerned,

(iii) the integrated overall strategy for the proper planning and sustainable development of the functional area of the planning authority, as set out in the new development plan in accordance with *section 43*, and

(iv) the strategies and statements prepared under *sections 44* to *51* of the new development plan,

and

(b) continues to take due account of any relevant transport strategy of the National Transport Authority.

(5) A coordinated area plan shall take effect 4 weeks from the day on which the plan is made and shall, subject to *subsection (6)*, remain in force for a period of 10 years or until the principal planning authority makes a new development plan, whichever is the shorter period.

(6) Where the principal planning authority, subsequent to the coming into effect of a coordinated area plan, makes a new development plan, the new development plan may provide that the coordinated area plan concerned shall continue to have effect for the period of 10 years referred to in *subsection (5)* provided that the principal planning authority—

(a) is satisfied that the coordinated area plan—

(i) remains materially consistent with—

(I) the settlement-specific objectives set out in the new development plan which apply to the settlement or the part of a settlement concerned,

(II) the zoning objectives of the new development plan which apply to the settlement or the part of a settlement concerned,

(III) the integrated overall strategy for the proper planning and sustainable development of the functional area of the planning authority, as set out in the new development plan in accordance with *section 43*, and

(IV) the strategies and statements prepared under *sections 44* to *51* of the new development plan,

and

(ii) continues to take due account of any relevant transport strategy of the National Transport Authority,

and

(b) has obtained the consent of—

(i) the associate planning authority, and

(ii) the director of the relevant regional assembly,

to such extension of the period of effect of the coordinated area plan.

(7) A planning authority may at any time amend or revoke an urban area plan or a priority area plan made by the authority and this Chapter shall apply to the amendment or revocation of any such plan as it applies to the making of the plan.

(8) A principal planning authority and associate planning authorities may at any time jointly amend or revoke a coordinated area plan made by the authorities and this Chapter shall apply to the amendment or revocation or any such plan as it applies to the making of the plan.

(9) The Minister may prescribe such other matters to be addressed in an urban area plan, priority area plan or coordinated area plan taking into account the principles of proper planning and sustainable development of the settlement or part of the settlement, the statutory obligations of any local authority in the area, and any relevant policies or objectives of the Government or of any Minister of the Government.

Procedure for preparing and making urban area plans and priority area plans

75. (1) A planning authority shall commence the preparation of an urban area plan and a priority area plan prior to the preparation of an interim report under *subsection (2)* of *section 56* on the progress achieved towards securing the implementation of the development plan for the functional area in which the part of the settlement concerned is situate.

(2) Before the sending and publication of a notice under *subsection (5)* of a proposal to make an urban area plan or a priority area plan—

(a) the chief executive of the planning authority shall consult the members of the planning authority or, in the case of a priority area plan where a sub-committee has been appointed under *subsection (3)* of *section 72*, the members of the sub-committee, and prepare a draft of the plan concerned, and

(b) the planning authority shall determine, in accordance with the Strategic Environmental Assessment Regulations, whether a strategic environmental assessment is required to be carried out in respect of the draft plan and shall determine, in accordance with *Part 6*, whether an appropriate assessment is required to be carried out in respect of the draft plan.

(3) Where the planning authority determines under *paragraph (b)* of *subsection (2)* that it is necessary to carry out a strategic environmental assessment, it shall prepare an environmental report in accordance with the Strategic Environmental Assessment Regulations.

(4) Where the planning authority determines under *paragraph (b)* of *subsection (2)* that it is necessary to carry out an appropriate assessment in respect of a draft urban area plan or priority area plan, it shall prepare a Natura impact report in accordance with *Part 6*.

(5) The planning authority shall—

(a) send notice of the proposal to make an urban area plan or priority area plan, as the case may be, a draft of the proposed plan and any environmental report referred to in *subsection (3)* or Natura impact report referred to in *subsection (4)* to—

(i) the Minister,

(ii) the Office of the Planning Regulator,

(iii) the Commission,

(iv) the regional assembly for the region in which the settlement or part of the settlement is situate,

(v) any planning authority whose functional area is contiguous to the settlement or part of the settlement to which the proposed plan relates,

(vi) where the settlement or part of the settlement to which the proposed plan relates includes a Gaeltacht, Údarás na Gaeltachta, Foras na Gaeilge and Oifig an Choimisinéara Teanga,

(vii) the National Transport Authority, and

(viii) such other persons as may be prescribed,

and

(b) publish a copy of the notice referred to in *paragraph (a)* in one or more newspapers circulating in the functional area of the planning authority and on a website maintained by or on behalf of the planning authority.

(6) A notice under *subsection (5)* shall state—

(a) that the planning authority proposes to make an urban area plan or priority area plan,

(b) the outcome of the determinations made under *paragraph (b)* of *subsection (2)*,

(c) that a draft of the proposed plan, the determinations made under *paragraph (b)* of *subsection (2)* and any environmental report prepared in accordance with *subsection (3)* or Natura impact report prepared in accordance with *subsection (4)* may be inspected at a place specified in the notice at such times as may be specified during a period (being a period of not less than 6 weeks from the date of the notice) as may be so specified,

(d) that written submissions received before the expiry of the period specified in the notice, will be taken into consideration before the making of the urban area plan or priority area plan, and

(e) that children, or groups representing the interests of children, are entitled to make submissions under *paragraph (d)*.

(7) Written submissions received by the planning authority in accordance with *paragraph (d)* of *subsection (6)* shall, unless one or more of the criteria set out in *paragraph (b)* of *subsection (6)* of *section 54* is met, be published on a website maintained by or on behalf of the authority within 10 working days of their receipt.

(8) Subsequent to the receipt of written submissions received in accordance with *paragraph (d)* of *subsection (6)* and before finalisation of his or her report in accordance with *subsection (9)*, the chief executive shall carry out in respect of the draft plan and any amendments which he or she proposes to recommend to the members of the planning authority, any assessment which is required in accordance with *subsection (3)* or *(4)*.

(9) Not later than 12 weeks from the date of the notice under *subsection (5)*, the chief executive of a planning authority shall prepare a report on any submissions received under *paragraph (d)* of *subsection (6)* and shall submit the report to the members of the planning authority for their consideration and publish it on a website maintained by or on behalf of the planning authority as soon as practicable following submission to the members.

(10) A report under *subsection (9)* shall—

(a) list the persons who made submissions,

(b) provide a summary of any submissions made by—

(i) the Office of the Planning Regulator, the Minister or regional assembly, and

(ii) other persons (and the report may, for this purpose, group and summarise the issues raised in different submissions made by other persons on a thematic basis),

in relation to the proposed plan,

(c) set out the opinion of the chief executive in relation to the matters raised in the submissions and his or her recommendations in relation to the proposed plan taking account of the principles of proper planning and sustainable development of the settlement or part of the settlement to which the plan relates, the statutory obligations of the planning authority in whose functional area the settlement or

part of the settlement is situated and any relevant policies or objectives of the Government or of any Minister of the Government,

(d) set out the opinion of the chief executive and his or her recommendations in relation to how any matters raised in submissions made by the Office of the Planning Regulator, Minister, or regional assembly in respect of the proposed plan should be addressed,

(e) set out the opinion of the chief executive and his or her recommendations in relation to how any matters raised in submissions made by the National Transport Authority in respect of the proposed plan should be addressed, and

(f) include any assessment of the chief executive under *subsection (8)*.

(11) The members of the planning authority shall consider a report of the chief executive prepared under *subsection (9)* and the urban area plan or priority area plan, as the case may be, shall be deemed to be made in accordance with the recommendations set out in the report of the chief executive 6 weeks after the date of furnishing of the report to the members of the planning authority unless the planning authority, by resolution passed before the expiry of the said period—

(a) subject to *subsection (12)*, decides to make the plan as recommended in the report of the chief executive,

(b) subject to *subsection (12)*, decides to make the plan otherwise than as recommended in the chief executive's report, or

(c) decides not to make the plan.

(12) Where the members of the planning authority resolve in accordance with *paragraph (a)* or *(b)* of *subsection (11)* to make an urban area plan or a priority area plan in a form that includes a material alteration, the plan shall not be considered to have been made and, subject to *subsections (13)* to *(15)*, the planning authority shall, not later than 3 weeks after the passing of a resolution under *paragraph (a)* or *(b)* of *subsection (11)*—

(a) publish notice of the proposed material alteration in at least one newspaper circulating in the functional area of the planning authority and on a website maintained by or on behalf of the planning authority, which notice shall state—

(i) that the planning authority proposes to make an urban area plan or priority area plan in form that include a material alteration to the draft plan,

(ii) the outcome of the determinations made by the planning authority under *subsections (13)* and *(14)*,

(iii) that a copy of the proposed material alteration, the determinations by the planning authority under *subsection (13)* and *(14)* and any environmental report or Natura impact report, may be inspected at a place specified in the notice at such times as may be specified during a period (being a period of not less than 4 weeks from the date of the notice) as may be so specified, and

(iv) that written submissions in respect of the proposed material alteration received within the period specified in the notice shall be taken into consideration and shall be published on a website maintained by or on behalf of the planning authority within 10 working days of receipt unless one or more of the criteria set out in *paragraph (b)* of *subsection (6)* of *section 54* is met,

and

(b) send notice of the proposed material alteration (enclosing a copy of the proposed material alteration) to the persons referred to in *paragraph (a)* of *subsection (5)*.

(13) Prior to the publication of a notice under *subsection (12)*, the planning authority shall determine, in accordance with the Strategic Environmental Assessment Regulations, whether a strategic environmental assessment is or is not required to be carried out in respect of the material alteration of the draft plan.

(14) Prior to the publication of a notice under *subsection (12)*, the planning authority shall determine, in accordance with *Part 6*, whether an appropriate assessment is or is not required to be carried out in respect of the material alteration of the draft plan.

(15) Where the planning authority determines under *subsection (13)* or *(14)* that a strategic environmental assessment or an appropriate assessment is required, it shall prepare an environmental report or Natura impact report in relation to the material alteration and the 3 week period referred to in *subsection (12)* may be extended by such period as the chief executive specifies as being necessary for this purpose.

(16) Subsequent to receipt of the written submissions under *subparagraph (iv)* of *paragraph (a)* of *subsection (12)* and before finalisation of his or her report in accordance with *subsection (17)*, the chief executive of the planning authority shall carry out in respect of the material alteration any assessment which has been determined in accordance with *subsection (13)* or *(14)* to be required.

(17) Not later than 8 weeks after the publication of a notice under *subsection (12)*, the chief executive shall prepare a report on any submissions received under *subparagraph (iv)* of *paragraph (a)* of that subsection and submit the report to the members of the planning authority for their consideration.

(18) A report prepared for the purposes of *subsection (17)* shall be published on a website maintained by or on behalf of the planning authority as soon as practicable following submission to the members of the planning authority.

(19) A report under *subsection (17)* shall—

(a) list the persons who made submissions under *subparagraph (iv)* of *paragraph (a)* of *subsection (12)*,

(b) provide a summary of any submissions made by—

(i) the Office of the Planning Regulator, the Minister or regional assembly, and

(ii) other persons (and the report may, for this purpose, group and summarise the issues raised in different submissions made by other persons on a thematic basis),

in relation to the proposed material alteration,

(c) set out the opinion of the chief executive in relation to the issues raised, and his or her recommendations in relation to the proposed material alteration, taking account of the principles of proper planning and sustainable development of the settlement or part of the settlement to which the plan relates, the statutory obligations of the planning authority in whose functional area the settlement or part of the settlement is situated and any relevant policies or objectives of the Government or of any Minister of the Government,

(d) set out the opinion of the chief executive and his or her recommendations in relation to how any issues raised in submissions made by the Office of the Planning Regulator, the Minister, or regional assembly in relation to the proposed material alteration should be addressed,

(e) set out the opinion of the chief executive and his or her recommendations in relation to how any issues raised in submissions made by the National Transport Authority in relation to the proposed material alteration should be addressed, and

(f) include the assessment of the chief executive under *subsection (16)*.

(20) The members of the planning authority shall consider the report of the chief executive prepared under *subsection (17)* and the urban area plan or priority area plan, as the case may be, shall be deemed to be made in accordance with the recommendations set out in the report of the chief executive 6 weeks after the date of furnishing of the report to the members of the planning authority unless the planning authority, by resolution passed before the expiry of the said period—

(a) decides to make the plan as recommended in the report of the chief executive,

(b) decides to make the plan with or without the proposed material alteration as published in accordance with *subsection (12)* or with a further minor modification of the proposed material alteration, or

(c) decides not to make the plan.

(21) For the purposes of *paragraph (b)* of *subsection (20)*, a modification to the material alteration shall be deemed to be minor where it—

(a) does not substantially or materially alter the material alteration, and

(b) is not likely to have significant effects on the environment or on any European site.

(22) A resolution referred to in *subsection (11)* or *(20)* shall require to be passed by not less than half of the members of the planning authority and the requirements of this subsection are in addition to, and not in substitution for, any other requirements applying in relation to such a resolution.

(23) As soon as practicable and not later than 4 weeks after the making of an urban area plan or a priority area plan under *paragraph (a)* or *(b)* of *subsection (11)* or *paragraph (a)* or *(b)* of *subsection (20)* or the deemed making of an urban area plan or a priority area plan under *subsection (11)* or *(20)*, a planning authority shall send a copy of the plan as made to the persons to which a notice was sent in accordance with *paragraph (a)* of *subsection (5)* and shall publish a copy of the plan on a website maintained by or on behalf of the planning authority.

(24) Where a planning authority in making an urban area plan or priority area plan under this section acts inconsistently with any submission made by the Office of the Planning Regulator or the Minister, the chief executive shall include notice of this fact, which notice shall contain a statement of the reasons for acting inconsistently with such submission, when sending a copy of the plan as made to the Office of the Planning Regulator and the Minister in accordance with *subsection (23)*.

(25) Where a planning authority sends a copy of an urban area plan or a priority area plan to the Office of the Planning Regulator under *subsection (23)*, the planning authority shall also send to the Office of the Planning Regulator any submissions received by the planning authority from the Minister, a regional assembly or the National Transport Authority in accordance with this section.

(26) A failure to comply with *subsections (1)*, *(7)*, *(9)*, *(12)*, *(17)* and *(23)* within the time period specified therein shall not of itself invalidate an urban area plan or priority area plan.

(27) The Minister may by regulations make further provision about—

(a) the preparation of, the making of and the amendment of urban area plans and priority area plans, and

(b) related matters.

Procedure for preparing and making coordinated area plans

76. (1) A principal planning authority shall commence the preparation of a coordinated area plan prior to the preparation by the principal planning authority of an interim report under *subsection (2)* of *section 56* on the progress achieved towards securing the implementation of the development plan for the functional area.

(2) Before the sending and publication of a notice under *subsection (5)* of a proposal to make a coordinated area plan—

(a) the chief executive of the principal planning authority shall consult the coordinated area plan committee appointed under *subsection (3)* of *section 73* and prepare a draft of the plan, and

(b) the principal planning authority shall determine, in accordance with the Strategic Environmental Assessment Regulations, whether a strategic environmental assessment is or is not required to be carried out in respect of the draft plan and shall determine, in accordance with *Part 6*, whether an appropriate assessment is or is not required to be carried out in respect of the draft plan.

(3) Where the principal planning authority determines under *paragraph (b)* of *subsection (2)* that it is necessary to carry out a strategic environmental assessment, it shall prepare an environmental report in accordance with the Strategic Environmental Assessment Regulations.

(4) Where the principal planning authority determines under *paragraph (b)* of *subsection (2)* that it is necessary to carry out an appropriate assessment, it shall prepare a Natura impact report in accordance with *Part 6*.

(5) The principal planning authority shall—

(a) send notice of the proposal to make a coordinated area plan, a draft of the proposed plan and any environmental report referred to in *subsection (3)* or Natura impact report referred to in *subsection (4)* to—

(i) the Minister,

(ii) the Office of the Planning Regulator,

(iii) the Commission,

(iv) the regional assembly for any region in which the settlement or the part of a settlement to which the proposed plan relates is situate,

(v) the associate planning authority,

(vi) any other planning authority whose functional area is contiguous with the settlement or the part of a settlement to which the proposed plan relates,

(vii) where the settlement or the part of a settlement to which the proposed plan relates includes a Gaeltacht, Údarás na Gaeltachta, Foras na Gaeilge and Oifig an Choimisinéara Teanga,

(viii) the National Transport Authority, and

(ix) such other persons as may be prescribed,

and

(b) publish a copy of the notice referred to in *paragraph (a)* in one or more newspapers circulating in the settlement or the part of a settlement to which the proposed plan relates and on a website maintained by or on behalf of the principal planning authority.

(6) A notice under *subsection (5)* shall state—

(a) that the principal planning authority and associate planning authority propose to make a coordinated area plan,

(b) the outcome of the determinations made under *paragraph (b)* of *subsection (2)*,

(c) that a draft of the proposed plan, the determinations made in accordance with *paragraph (b)* of *subsection (2)* and any environmental report referred to in *subsection (3)* or Natura impact report referred to in *subsection (4)* may be inspected at a place specified in the notice at such times as may be specified

during a period (being a period of not less than 6 weeks from the date of the notice) as may be so specified,

(d) that written submissions, received before the expiry of the period specified in the notice, will be taken into consideration before the making of the coordinated area plan, and

(e) that children, or groups representing the interests of children, are entitled to make submissions under *paragraph (d)*.

(7) Written submissions received by the principal planning authority in accordance with *paragraph (d)* of *subsection (6)* shall, unless one or more of the criteria set out in *paragraph (b)* of *subsection (6)* of *section 54* is met, be published on a website maintained by or on behalf of the authority within 10 working days of their receipt and a copy of the submissions shall also be provided to the associate planning authority within the said period.

(8) Subsequent to the receipt of written submissions under *paragraph (d)* of *subsection (6)* and before finalisation of his or her report in accordance with *subsection (9)*, the chief executive of the principal planning authority shall carry out any assessment which is required in accordance with *subsection (3)* or *(4)*.

(9) Not later than 12 weeks from the date of the notice under *subsection (5)*, the chief executive of the principal planning authority shall prepare a report on any submissions received under *paragraph (d)* of *subsection (6)* and shall submit the report to the members of the coordinated area plan committee for their consideration and publish it on a website maintained by or on behalf of the principal planning authority as soon as practicable following submission to the members of the committee.

(10) A report under *subsection (9)* shall—

(a) list the persons who made submissions,

(b) provide a summary of any submissions made by—

(i) the Office of the Planning Regulator, the Minister or regional assembly, and

(ii) other persons (and the report may, for this purpose, group and summarise the issues raised in different submissions made by other persons on a thematic basis),

in relation to the proposed plan,

(c) set out the opinion of the chief executive in relation to the matters raised in the submissions and his or her recommendations in relation to the proposed plan taking account of the principles of proper planning and sustainable development of the settlement or the part of a settlement to which the plan relates, the statutory obligations of any planning authorities in whose functional area the settlement or the part of a settlement is situated and any relevant policies or objectives of the Government or of any Minister of the Government,

(d) set out the opinion of the chief executive and his or her recommendations in relation to how any matters raised in submissions made by the Office of the Planning Regulator, the Minister, or regional assembly in respect of the proposed plan should be addressed,

(e) set out the opinion of the chief executive and his or her recommendations in relation to how any matters raised in submissions made by the National Transport Authority in respect of the proposed plan should be addressed, and

(f) include any assessment of the chief executive under *subsection (8)*.

(11) The members of the coordinated area plan committee shall consider a report of the chief executive prepared under *subsection (9)* and shall within 6 weeks after the date of furnishing of the report to the members of the coordinated area plan committee by resolution—

(a) make a recommendation to the principal planning authority and associate planning authority not to make the draft coordinated area plan,

(b) make a recommendation to the principal planning authority and associate planning authority to make the draft coordinated area plan with or without a non-material alteration, or

(c) subject to *subsection (14)*, propose an alteration to the draft coordinated area plan which, if made, would be a material alteration.

(12) Where the members of the coordinated area plan committee make a recommendation under *paragraph (a)* or *(b)* of *subsection (11)*, the principal planning authority and the associate planning authority shall consider the recommendation in accordance with *subsection (24)*.

(13) Where the members of the coordinated area plan committee fail to pass any resolution under *subsection (11)* within the period specified therein, the recommendation of the chief executive of the principal planning authority as set out in the report prepared under *subsection (9)* shall be deemed to be the recommendation of the coordinated area plan committee and the principal planning authority and the associate planning authority shall consider this recommendation in accordance with *subsection (24)*.

(14) Where the members of the coordinated area plan committee resolve in accordance with *paragraph (c)* of *subsection (11)* to propose a material alteration to the draft coordinated area plan, subject to *subsections (15)* to *(17)*, the principal planning authority shall, not later than 3 weeks after the passing of a resolution under *paragraph (c)* of *subsection (11)*—

(a) publish notice of the proposed material alteration in one or more newspapers circulating in the settlement or the part of a settlement to which the proposed coordinated area plan relates and on a website maintained by or on behalf of the principal planning authority, which notice shall state—

(i) that the members of the coordinated area plan committee have resolved to make a material alternation to the draft coordinated area plan,

(ii) the outcome of the determinations made by the principal planning authority under *subsections (15)* and *(16)*,

(iii) that a copy of the proposed material alteration, the determinations made by the principal planning authority in accordance with *subsection (15)* and *(16)* and any environmental report or Natura impact report, may be inspected at a place specified in the notice at such times as may be specified during a period (being a period of not less than 4 weeks from the date of the notice) as may be so specified, and

(iv) that written submissions in respect of the proposed material alteration received within the period specified in the notice shall be copied to the associate planning authority, shall be taken into consideration and shall, within 10 working days of receipt, be published on a website maintained by or on behalf of the principal planning authority unless one or more of the criteria set out in *paragraph (b)* of *subsection (6)* of *section 54* is met,

and

(b) send notice of the proposed material alteration (enclosing a copy of the proposed material alteration) to the persons referred to in *paragraph (a)* of *subsection (5)*.

(15) Prior to the publication of a notice under *subsection (14)*, the principal planning authority shall determine, in accordance with the Strategic Environmental Assessment Regulations, whether a strategic environmental assessment is or is not required to be carried out in respect of the material alteration of the draft plan.

(16) Prior to the publication of a notice under *subsection (14)*, the principal planning authority shall determine, in accordance with *Part 6*, whether an appropriate assessment is or is not required to be carried out in respect of the material alteration of the draft plan.

(17) Where the principal planning authority determines under *subsection (15)* or *(16)* that a strategic environmental assessment or an appropriate assessment is required, it shall prepare an environmental report or Natura impact report in relation to the material alteration and the 3 week period referred to in *subsection (14)* may be extended by such period as the chief executive of the principal planning authority specifies as being necessary for this purpose.

(18) Subsequent to receipt of the written submissions under *subparagraph (iv)* of *paragraph (a)* of *subsection (14)* and before finalisation of his or her report in accordance with *subsection (19)*, the chief executive of the principal planning authority shall carry out in respect of the material alteration any assessment which is required in accordance with *subsection (15)* or *(16)*.

(19) Not later than 8 weeks after the publication of a notice under *subsection (14)*, the chief executive of the principal planning authority shall prepare a report on any submissions received under *subparagraph (iv)* of *paragraph (a)* of that subsection and submit the report to the members of the coordinated area plan committee for their consideration.

(20) A report prepared for the purposes of *subsection (19)* shall be published on a website maintained by or on behalf of the principal planning authority as soon as practicable following submission to the members of the coordinated area plan committee.

(21) A report under *subsection (19)* shall—

(a) list the persons who made submissions under *subparagraph (iv)* of *paragraph (a)* of *subsection (14)*,

(b) provide a summary of any submissions made by—

(i) the Office of the Planning Regulator, the Minister or regional assembly, and

(ii) other persons (and the report may, for this purpose, group and summarise the issues raised in different submissions made by other persons on a thematic basis),

in relation to the proposed material alteration,

(c) contain the opinion of the chief executive in relation to the issues raised, and his or her recommendations in relation to the proposed material alteration, taking account of the principles of proper planning and sustainable development of the settlement or the part of a settlement to which the plan relates, the statutory obligations of the planning authorities in whose functional area the settlement or the part of a settlement is situated and any relevant policies or objectives of the Government or of any Minister of the Government,

(d) contain the opinion of the chief executive and his or her recommendations in relation to how any issues raised in submissions made by the Office of the Planning Regulator, the Minister, or regional assembly in relation to the proposed material alteration should be addressed,

(e) contain the opinion of the chief executive and his or her recommendations in relation to how any issues raised in submissions made by the National Transport Authority in relation to the proposed material alteration should be addressed, and

(f) include the assessment of the chief executive under *subsection (18)*.

(22) The members of the coordinated area plan committee shall consider a report of the chief executive prepared under *subsection (19)* and shall within 6 weeks after the furnishing of the report to the members of the coordinated area plan committee by resolution—

(a) make a recommendation to the principal planning authority and associate planning authority not to make the draft coordinated area plan, or

(b) make a recommendation to the principal planning authority and associate planning authority to make the draft coordinated area plan with or without the proposed material alteration,

and the principal planning authority and the associate planning authority shall consider such recommendation in accordance within *subsection (24)*.

(23) Where the members of the coordinated area plan committee fail to pass any resolution under *subsection (22)* within the period specified therein, the recommendation of the chief executive of the principal planning authority as set out in the report prepared under *subsection (19)* shall be deemed to be the recommendation of the coordinated area plan committee and the principal planning authority and the associate planning authority shall consider this recommendation in accordance with *subsection (24)*.

(24) (a) Within 4 weeks of receipt of a recommendation of a coordinated area plan committee under *subsection (11)*, *(13)*, *(22)* or *(23)*, the members of the principal planning authority and the associate planning authority shall vote by resolution on whether to accept the recommendation and whether or not to make the coordinated area plan with or without the proposed material alteration.

(b) Where the members of the planning authority decide to make the plan with the material alteration, they may do so subject to any minor modifications that they consider necessary.

(c) For the purposes of *paragraph (b)*, a modification to the material alteration shall be deemed to be minor where it—

(i) does not substantially or materially alter the material alteration, and

(ii) is not likely to have significant effects on the environment or on any European site.

(25) A resolution referred to in *subsection (24)* shall require to be passed—

(a) by the principal planning authority and the associate planning authority, and

(b) by not less than half of the total number of members of each planning authority,

and the requirements of this subsection are in addition to, and not in substitution for, any other requirements applying in relation to such a resolution.

(26) As soon as practicable and not later than 4 weeks after the making of a coordinated area plan under *subsection (24)*, a principal planning authority shall send a copy of the plan as made to the persons to which a notice was sent in accordance with *paragraph (a)* of *subsection (5)* and the principal planning authority and the associate planning authority shall each publish a copy of the plan on a website maintained by it or on its behalf.

(27) Where a principal planning authority and associate planning authority in making a coordinated area plan under this section act inconsistently with any submission made by the Office of the Planning Regulator or the Minister, the chief executive of the principal planning authority shall include notice of this fact, which notice shall contain a statement of the reasons for acting inconsistently with such submission, when sending a copy of the plan as made to the Office of the Planning Regulator and the Minister in accordance with *subsection (26)*.

(28) Where a principal planning authority sends a copy of the coordinated area plan to the Office of the Planning Regulator under *subsection (26)*, the principal planning authority shall also send any submissions received by the principal planning authority

from the Minister, the regional assembly and the National Transport Authority in accordance with this section.

(29) Where any notice, submission or report requires to be published by a principal planning authority under this section on a website maintained by or on behalf of the principal planning authority, an associate planning authority shall, within 2 working days of publication by the principal planning authority, publish a link to such publication on a website maintained by or on behalf of the associate planning authority.

(30) Where the members of the principal planning authority and the associate planning authority by resolution under *subsection (24)* decide not to make a plan, or where they fail to vote on a resolution within the 4 week period referred to in that subsection, the chief executive of the principal planning authority shall as soon as practicable recommence the procedures in this section.

(31) (a) Where a dispute arises between a principal planning authority and an associate planning authority in relation to the application of the procedures under this section, the principal planning authority or the associate planning authority may refer that dispute to the Minister for resolution.

(b) Where a dispute is referred to the Minister under *paragraph (a)*, the period of time from the date of such referral to the resolution of the dispute under *subsection (32)* shall be disregarded for the purposes of reckoning any period referred to in this section.

(32) Where a dispute is referred to the Minister under *subsection (31)*, the Minister—

(a) shall consult with the principal planning authority and associate planning authority, the Office of the Planning Regulator and regional assembly for the region in which the settlement or the part of a settlement to be the subject of the coordinated area plan is situate, and

(b) may, having complied with *paragraph (a)* and provided he or she is satisfied that a planning authority, a chief executive of a principal planning authority or a coordinated area plan committee appointed under *subsection (3)* of *section 73* has failed to discharge a statutory obligation imposed under this section, by notice require the planning authority, chief executive of a principal planning authority or coordinated area plan committee, as the case may be, to take such steps as are specified in the notice for the purposes of ensuring compliance with this section,

and the planning authority, chief executive of a principal planning authority or coordinated area plan committee, as the case may be, shall comply with any such notice.

(33) A failure to comply with *subsections (1)*, *(7)*, *(9)*, *(14)*, *(19)*, *(24)*, *(26)* and *(29)* within the time period specified therein shall of itself not invalidate a coordinated area plan.

(34) The Minister may by regulations make further provision about—

(a) the preparation of, the making of and the amendment of coordinated area plans, and

(b) related matters.

Automatic revocation of urban area plans, priority area plans and coordinated area plans in certain circumstances

77. (1) Where a planning authority varies a development plan or makes a new development plan and the development plan as varied or the new development plan, as the case may be, provides that a settlement or part of a settlement shall no longer be the subject of an urban area plan or a priority area plan, any such plan in force shall be deemed to be revoked and shall cease to have effect on the date upon which the variation or the new development plan comes into effect.

(2) In preparing a new development plan or a variation of an existing development plan, if *subsection (1)* would apply to the proposed new plan or the existing plan as proposed to be varied, the planning authority shall take account of the effects of the revocation of the urban area plan or priority area plan concerned in carrying out any—

(a) screening for strategic environmental assessment,

(b) strategic environmental assessment,

(c) screening for appropriate assessment, and

(d) appropriate assessment,

in respect of the proposed new plan or proposed variation, as the case may be.

(3) Where a regional assembly revises a regional spatial and economic strategy or makes a new regional spatial and economic strategy and the regional spatial and economic strategy as revised or the new regional spatial and economic strategy, as the case may be, provides that a settlement or the part of a settlement shall no longer be the subject of a coordinated area plan, any such plan in force shall be deemed to be revoked and shall cease to have effect on the date upon which the revised or new regional spatial and economic strategy comes into effect.

(4) In preparing a new regional spatial and economic strategy or a revision to an existing regional spatial and economic strategy, if *subsection (3)* would apply to the proposed new strategy or the existing strategy as proposed to be revised, the regional assembly shall take account of the effects of the revocation of the coordinated area plan concerned in carrying out any—

(a) screening for strategic environmental assessment,

(b) strategic environmental assessment,

(c) screening for appropriate assessment, and

(d) appropriate assessment,

in respect of the new strategy or proposed revision, as the case may be.

Assessment of urban area plans, priority area plans and coordinated area plans by Office of Planning Regulator and recommendation to Minister

78. (1) The Office of the Planning Regulator shall, upon being notified—

(a) by a planning authority of the making or amendment of an urban area plan or priority area plan, or

(b) by a chief executive of a principal planning authority of the making or amendment of a coordinated area plan,

carry out an assessment of the urban area plan, priority area plan or coordinated area plan, as the case may be, in accordance with *subsection (3)*.

(2) (a) The Minister may, at any time, request the Office of the Planning Regulator to carry out an assessment of an urban area plan, priority area plan or coordinated area plan.

(b) The Minister, a regional assembly or a planning authority may, at any time, notify the Office of the Planning Regulator of any matter in an urban area plan, priority area plan or coordinated area plan (including, in the case of a planning authority, an urban area plan, priority area plan or coordinated area plan that relates to the functional area of a different planning authority) that the Minister, regional assembly or planning authority, as the case may be, believes—

(i) to be materially inconsistent with—

(I) the settlement-specific objectives set out in a development plan which applies to the settlement or the part of a settlement concerned,

(II) the zoning objectives of a development plan which applies to the settlement or the part of a settlement concerned,

(III) the integrated overall strategy for the proper planning and sustainable development of the functional area of the planning authority, as set out in a development plan which applies to the settlement or the part of a settlement concerned in accordance with *section 43*,

(IV) the strategies and statements prepared under *sections 44* to *51* of a development plan which applies to the settlement or the part of a settlement concerned, or

(V) in the case of a coordinated area plan, the objectives and provisions of a regional spatial and economic strategy relating to the area of the coordinated area plan concerned,

or

(ii) fails to take due account of any relevant transport strategy of the National Transport Authority which applies to the settlement or the part of a settlement concerned.

(c) Where the Office of the Planning Regulator receives a request from the Minister under *paragraph (a)*, it shall carry out an assessment of the plan concerned in accordance with *subsection (3)*.

(d) Where the Office of the Planning Regulator receives a notification from the Minister, a regional assembly or a planning authority under *paragraph (b)*, it shall carry out an assessment of the alleged inconsistency in accordance with *subsection (3)*.

(e) At any time, the Office of the Planning Regulator may, at its own initiative and for stated reasons, carry out an assessment of an urban area plan, priority area plan or coordinated area plan in accordance with *subsection (3)*.

(3) In carrying out an assessment of an urban area plan, priority area plan or coordinated area plan under *subsection (1)* or *(2)*, the Office of the Planning Regulator shall, for the purposes of forming an opinion under *subsection (8)*, in particular, consider—

(a) any submissions made by the Minister, the Office of the Planning Regulator, a regional assembly, the National Transport Authority or any other body as may be prescribed, under this Chapter in respect of a draft plan or proposed amendment of such a plan,

(b) the settlement-specific objectives set out in a development plan which apply to the settlement or the part of a settlement concerned,

(c) the zoning objectives of a development plan which apply to the settlement or the part of a settlement concerned,

(d) the integrated overall strategy for the proper planning and sustainable development of the functional area of the planning authority, as set out in a development plan which applies to the settlement or the part of a settlement concerned in accordance with *section 43*,

(e) the strategies and statements prepared under *sections 44* to *51* of a development plan which apply to the settlement or the part of a settlement concerned,

(f) in the case of a coordinated area plan, the objectives and provisions of a regional spatial and economic strategy relating to the area of the coordinated area plan concerned,

(g) any relevant transport strategy of the National Transport Authority which applies to the settlement or the part of a settlement concerned, and

(h) the requirements of this Chapter.

(4) Where the Office of the Planning Regulator, as part of an assessment under *subsection (1)* or *(2)*, forms a preliminary view that the urban area plan, priority area plan or coordinated area plan concerned or any part or provision thereof should be suspended because it may be materially inconsistent with one or more of the items referred to in *subparagraphs (i)* to *(v)* of *paragraph (a)* of *subsection (8)*, it may issue a notice to the planning authority or, in the case of a coordinated area plan, the principal planning authority and the associate planning authority, which shall take effect immediately upon issuance and shall—

(a) suspend the effect of the plan or part or provision thereof concerned pending the completion of its assessment, and

(b) remain in effect pending the completion of—

(i) the issuance by the Office of the Planning Regulator of a draft direction under *section 79*, in accordance with a direction of the Minister under *paragraph (b)* of *subsection (12)*,

(ii) the issuance by the Minister of a direction under *paragraph (b)* of *subsection (13)* not to issue a draft direction, or

(iii) the making of a recommendation by the Office of the Planning Regulator to the Minister under *subsection (9)* not to make a draft direction.

(5) Where the Office of the Planning Regulator issues a notice under *subsection (4)*, it shall on the same day provide a copy of the notice to the Minister and the Commission and publish the notice on a website maintained by or on behalf of the Office of the Planning Regulator.

(6) The Office of the Planning Regulator, in carrying out an assessment under *subsection (1)* or *(2)*—

(a) shall, where the assessment is being carried out under *subsection (2)*—

(i) in the case of an urban area plan or a priority area plan, consult the chief executive and members of the planning authority, and

(ii) in the case of a coordinated area plan, consult the chief executive and the members of the principal planning authority and the chief executive and the members of the associate planning authority,

(b) may require a planning authority, principal planning authority or associate planning authority to provide it with such information as it considers necessary, and

(c) may consult with any other person it considers necessary.

(7) A planning authority, principal planning authority or associate planning authority, as the case may be, shall furnish the Office of the Planning Regulator with any documentation or information that may be requested by the Office of the Planning Regulator, within the period specified in such a request.

(8) Where, following an assessment carried out pursuant to *subsection (1)* or *(2)*, the Office of the Planning Regulator forms the opinion that an urban area plan, priority area plan or coordinated area plan—

(a) is materially inconsistent with—

(i) the settlement-specific objectives set out in a development plan which apply to the settlement or the part of a settlement concerned,

(ii) the zoning objectives of a development plan which apply to the settlement or the part of a settlement concerned,

(iii) the integrated overall strategy for the proper planning and sustainable development of the functional area of the planning authority, as set out in a

development plan which applies to the settlement or the part of a settlement concerned in accordance with *section 43*,

(iv) the strategies and statements prepared under *sections 44* to *51* of a development plan which apply to the settlement or the part of a settlement concerned, or

(v) in the case of a coordinated area plan, the objectives and provisions of a regional spatial and economic strategy relating to the area of the coordinated area plan concerned,

(b) fails to take due account of any relevant transport strategy of the National Transport Authority which applies to the settlement or the part of a settlement concerned, or

(c) is otherwise in contravention of a requirement of this Act,

it shall make a recommendation to the Minister that a draft direction under *section 79* should be issued, which recommendation shall be accompanied by—

(i) proposed terms for the draft direction, having regard to *paragraphs (a)* and *(b)* of *subsection (1)* and *subsection (2)* of *section 79*, and

(ii) a statement of the reasons for the recommendation.

(9) Where, following an assessment carried out pursuant to *subsection (1)* or *(2)*, the Office of the Planning Regulator forms the opinion that none of the criteria for the issuance of a draft direction set out in *subsection (8)* is met, it shall make a recommendation to the Minister that a draft direction under *section 79* should not be issued, which recommendation shall be accompanied by a statement of reasons for the recommendation.

(10) The Office of the Planning Regulator shall notify the planning authority concerned (which in the case of a coordinated area plan shall mean the principal planning authority and the associate planning authority) and, where applicable, any planning authority or regional assembly which initiated the assessment in accordance with *paragraph (b)* of *subsection (2)*, of its decision not to issue a draft direction and provide them with a statement of the reasons for that decision.

(11) Subject to *subsections (12)* and *(13)*, the Minister shall, within 6 weeks of receipt of a recommendation of the Office of the Planning Regulator under *subsection (8)*—

(a) consider the recommendation, statement of reasons and proposed terms for the draft direction, and

(b) make a decision, for stated reasons, as to whether to accept the recommendation of the Office of the Planning Regulator that a draft direction should be issued under *section 79*, whether with or without modifications.

(12) Where the Minister decides under *subsection (11)* that a draft direction should be issued under *section 79*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (11)* which of the criteria in *paragraphs (a)* to *(c)* of *subsection (8)* the Minister considers to be met, and

(b) direct the Office of the Planning Regulator to issue a draft direction under *section 79* in accordance with the proposed terms for the draft direction under *subsection (8)*, with or without such modifications as may be specified by the Minister in the direction.

(13) Where the Minister decides under *subsection (11)* that a draft direction should not be issued under *section 79*, he or she shall—

(a) identify in the stated reasons provided under *paragraph (b)* of *subsection (11)* which of the criteria in *paragraphs (a)* to *(c)* of *subsection (8)* the Minister considers to be met and his or her reasons for deciding that a draft direction should not be issued, and

(b) direct the Office of the Planning Regulator not to issue the draft direction.

(14) Where the Minister issues a direction under *paragraph (b)* of *subsection (13)* and the Office of the Planning Regulator has issued a notice to a planning authority under *subsection (4)*, the Office of the Planning Regulator shall notify the planning authority concerned of the direction of the Minister for the purposes of *subparagraph (ii)* of *paragraph (b)* of *subsection (4)*.

(15) A direction issued under *paragraph (b)* of *subsection (13)* shall be laid before each House of the Oireachtas by the Minister.

Issuance of draft direction by Office of Planning Regulator

79. (1) On receipt of a direction of the Minister to issue a draft direction pursuant to *paragraph (b)* of *subsection (12)* of *section 78*, the Office of the Planning Regulator may, subject to *subsection (5)*, issue a draft direction, which if issued to a planning authority in a direction issued by the Minister under *section 80* would require—

(a) an urban area plan, priority area plan or coordinated area plan to be amended in the manner specified in the direction, and

(b) the planning authority (which in the case of a coordinated area plan shall mean the principal planning authority) to implement the amendment referred to in *paragraph (a)* and publish the urban area plan, priority area plan or coordinated area plan, as the case may be, as so amended.

(2) A draft direction issued under *subsection (1)* may identify any provision of the plan that is the subject of the draft direction the operation of which, in the opinion of the Office of the Planning Regulator, ought to be suspended pending the making of a recommendation under this section and consideration of the recommendation and the making of a decision by the Minister under *subsection (4)* of *section 80*.

(3) Where a draft direction issued under *subsection (1)* identifies a provision in accordance with *subsection (2)*, the operation of the provision concerned shall be

suspended from the date of the draft direction until the date a decision is made by the Minister under *subsection (4)* of *section 80*.

(4) (a) A planning authority or the Commission shall not determine any application for permission which would be materially affected by a provision suspended in accordance with *subsection (3)* or by any amendment of an urban area plan, priority area plan or coordinated area plan specified in a draft direction issued under *subsection (1)* pending the making of a recommendation under this section and consideration of the recommendation and the making of a decision by the Minister under *subsection (4)* of *section 80*.

(b) Where a planning authority or the Commission is temporarily precluded from determining any application for permission under *paragraph (a)*, it shall notify the applicant.

(5) Before issuing a draft direction under *subsection (1)*, the Office of the Planning Regulator shall—

(a) conduct a screening assessment in accordance with the Strategic Environmental Assessment Regulations to determine whether the draft direction, if issued and complied with, would be likely to have significant effects on the environment, and

(b) conduct a screening assessment in accordance with *Part 6* to determine whether the draft direction, if issued and complied with, would be likely to have significant effects on any European site.

(6) (a) Where it is determined in accordance with *paragraph (a)* of *subsection (5)* that a strategic environmental assessment is required, the Office of the Planning Regulator shall prepare an environmental report in accordance with the Strategic Environmental Assessment Regulations.

(b) Where it is determined in accordance with *paragraph (b)* of *subsection (5)* that an appropriate assessment is required, the Office of the Planning Regulator shall prepare a Natura impact report in accordance with *Part 6*.

(7) Where the Office of the Planning Regulator issues a draft direction in accordance with *subsection (1)*, it shall—

(a) publish a notice of the issuance of the draft direction on a website maintained by or on behalf of the Office of the Planning Regulator and in one or more newspapers circulating in the area to which the plan concerned relates,

(b) direct the planning authority (which in the case of a coordinated area plan shall mean the principal planning authority and the associate planning authority) to publish notice of the issuance of the draft direction on a website maintained by or on behalf of the planning authority, and

(c) send a copy of the notice published under *paragraph (a)*, together with a copy of the draft direction, to—

(i) the Minister,

(ii) where the subject matter of the draft direction is an urban area plan or a priority area plan, the chief executive of the planning authority and the members of the planning authority,

(iii) where the subject matter of the draft direction is a coordinated area plan, the chief executive and the members of the principal planning authority and the chief executive and the members of the associate planning authority,

(iv) the director of the relevant regional assembly,

(v) where the planning authority (and where the subject matter of the draft direction is a coordinated area plan, the principal planning authority or the associate planning authority) is a coastal planning authority, the Maritime Area Regulatory Authority,

(vi) where the subject matter of the draft direction is an urban area plan, priority area plan or coordinated area plan that relates to a settlement or part of a settlement which includes a Gaeltacht, the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, Údarás na Gaeltachta, Foras na Gaeilge and Oifig an Choimisinéara Teanga,

(vii) the Commission,

(viii) the National Transport Authority, and

(ix) any other body, as the Office of the Planning Regulator considers appropriate.

(8) A notice published under *paragraph (a)* of *subsection (7)* shall—

(a) state that the Office of the Planning Regulator has issued a draft direction in accordance with *subsection (1)*,

(b) state the outcome of the determinations made in accordance with *subsection (5)*,

(c) state that copies of the draft direction, the determinations made in accordance with *subsection (5)* and any environmental report or Natura impact report referred to in *subsection (6)* will be made available for inspection by members of the public at such place and for such period as is specified in the notice,

(d) state that such copies will also be available for inspection on a website maintained by or on behalf of the Office of the Planning Regulator and of the planning authority concerned (and, in the case of a coordinated area plan, the notice shall refer to copies being available for inspection on websites maintained by or on behalf of the principal planning authority and the associate planning authority),

(e) invite written submissions with respect to the draft direction and, where applicable, the strategic environmental assessment or appropriate assessment, before the expiration of such period (being not less than 4 weeks from the date of the notice) as is specified in the notice, and

(f) state that any such submissions made within the period specified in the notice shall be taken into account by the Office of the Planning Regulator in making a

recommendation to the Minister as to whether to issue a direction in the terms of the draft direction and in the summary of submissions submitted to the Minister under *subsection (12)*, which will be considered by the Minister in deciding whether to issue a direction under *section 80*.

(9) Subject to *subsections (10)*, *(11)* and *(12)*, the Office of the Planning Regulator shall, not later than 6 weeks after the expiry of the period specified in a notice published under *paragraph (a)* of *subsection (7)*, and having considered the submissions received in relation to a draft direction issued under *subsection (1)*, including any submissions received from the chief executive and the members of the planning authority, principal planning authority and associate planning authority, as the case may be—

(a) recommend that the Minister issue a direction under *section 80* in the terms of the draft direction,

(b) recommend that the Minister issue a direction under *section 80* in an amended form to take account of any submissions made pursuant to *subsection (8)*, or

(c) recommend that the Minister not issue a direction under *section 80*.

(10) Where the Office of the Planning Regulator, following consideration of any submissions received, is of the opinion that none of the criteria in *paragraphs (a)* to *(c)* of *subsection (8)* of *section 78* is met, the Office of the Planning Regulator shall make a recommendation under *paragraph (c)* of *subsection (9)*, without prejudice to the power of the Office of the Planning Regulator to carry out further assessments pursuant to *subsection (2)* of *section 78*.

(11) (a) Where it is determined under *paragraph (a)* of *subsection (5)* that a strategic environmental assessment is required, the Office of the Planning Regulator shall, prior to issuing a recommendation to the Minister under *paragraph (a)* or *(b)* of *subsection (9)*, carry out a strategic environmental assessment in respect of the draft direction that it is recommending that the Minister issue.

(b) Where it is determined under *paragraph (b)* of *subsection (5)* that an appropriate assessment is required, the Office of the Planning Regulator shall, prior to issuing a recommendation to the Minister under *paragraph (a)* or *(b)* of *subsection (9)*, carry out an appropriate assessment in respect of the draft direction that it is recommending that the Minister issue.

(12) A recommendation to the Minister under *subsection (9)* shall be accompanied by a report of the Office of the Planning Regulator setting out—

(a) a copy of the draft direction issued under *subsection (1)*,

(b) a summary of any written submissions received from the chief executive and the members of the planning authority, the principal planning authority and the associate planning authority, as the case may be, in relation to the draft direction,

(c) a summary of any written submissions received from any other person in relation to the draft direction (and the report may, for this purpose, group and summarise the issues raised in different submissions on a thematic basis),

(d) an analysis and evaluation by the Office of the Planning Regulator of any written submissions referred to in *paragraphs (b)* and *(c)*,

(e) the reasons for the recommendation of the Office of the Planning Regulator,

(f) where the Office of the Planning Regulator is recommending that the Minister issue a direction under *section 80* in an amended form, a copy of the proposed amended draft direction, and

(g) where required, the strategic environmental assessment or appropriate assessment of the Office of the Planning Regulator, or both, as the case may be, carried out by the Office of the Planning Regulator in accordance with *subsection (11)* in relation to the direction which the Office of the Planning Regulator is recommending that the Minister issue.

(13) A copy of the report and recommendation sent to the Minister under *subsections (9)* and *(12)*, and any submissions made in relation to the draft direction, shall be—

(a) made available on a website maintained by or on behalf of the Office of the Planning Regulator, and

(b) sent to the relevant planning authority (which in the case of a coordinated area plan shall mean the principal planning authority and the associate planning authority).

(14) The Minister may prescribe a period or periods that shall be disregarded for the purposes of reckoning any period referenced in this section.

Power of Minister to issue direction

80. (1) The Minister may, subject to this section, issue a direction to a planning authority requiring—

(a) an urban area plan, priority area plan or coordinated area plan to be amended in the manner specified in the direction, and

(b) the planning authority (which in the case of a coordinated area plan shall mean the principal planning authority) to implement the amendment referred to in *paragraph (a)* and publish the urban area plan, priority area plan or coordinated area plan, as the case may be, as so amended.

(2) The Minister may only issue a direction under *subsection (1)* where the Office of the Planning Regulator has issued a draft direction under *subsection (1)* of *section 79* and made a recommendation under *subsection (9)* of that section.

(3) The Minister may only issue a direction under *subsection (1)* where he or she is satisfied that one or more of the criteria set out in *paragraphs (a)* to *(c)* of *subsection (8)* of *section 78* is met.

(4) Within 6 weeks of receipt of the recommendation and report of the Office of the Planning Regulator in accordance with *subsections (11)* and *(12)* of *section 79*, the Minister shall—

(a) consider the recommendation and report,

(b) consider any summary of submissions received by the Office of the Planning Regulator in relation to the draft direction issued under *subsection (1)* of *section 79*,

(c) make a decision, for stated reasons, as to whether to accept the recommendation of the Office of the Planning Regulator, and

(d) where the decision is to issue a direction under *subsection (1)*—

(i) identify in the stated reasons provided under *paragraph (c)* which of the criteria set out in *paragraphs (a)* to *(c)* of *subsection (8)* of *section 78* the Minister considers to be met, and

(ii) issue the direction in accordance with *subsection (5)*.

(5) The Minister may issue the direction under *subsection (1)* to the planning authority—

(a) in the terms of the draft direction recommended by the Office of the Planning Regulator under *subsection (9)* of *section 79*,

(b) in the terms referred to in *paragraph (a)* with such minor modifications as the Minister considers appropriate, or

(c) subject to *subsection (8)*, in the terms referred to in *paragraph (a)* with such other modifications as the Minister considers appropriate.

(6) For the purposes of *paragraph (b)* of *subsection (5)*, a modification shall be deemed to be minor where it is not likely to have significant effects on the environment or on any European site.

(7) Prior to issuing a direction under *subsection (1)*, the Minister shall consider any strategic environmental assessment or appropriate assessment included in the Office of the Planning Regulator's report to the Minister in accordance with *paragraph (g)* of *subsection (12)* of *section 79* and may adopt such assessment or make his or her own assessment and determination in respect of the direction.

(8) Before issuing a direction under *paragraph (c)* of *subsection (5)*, the Minister shall request the Office of the Planning Regulator to—

(a) conduct a screening assessment in accordance with the Strategic Environmental Assessment Regulations to determine whether the modifications, if incorporated into the direction and issued and complied with, would be likely to have significant effects on the environment, and

(b) conduct a screening assessment in accordance with *Part 6* to determine whether the modifications, if incorporated into the direction and issued and complied with, would be likely to have significant effects on any European site.

(9) (a) Where it is determined under *paragraph (a)* of *subsection (8)* that a strategic environmental assessment is required, the Office of the Planning Regulator shall prepare an environmental report and proceed to conduct an assessment in accordance with the Strategic Environmental Assessment Regulations.

(b) Where it is determined under *paragraph (b)* of *subsection (8)* that an appropriate assessment is required, the Office of the Planning Regulator shall prepare a Natura impact report and proceed to conduct an assessment in accordance with *Part 6*.

(c) The Office of the Planning Regulator shall report the outcome of any assessment carried out under *paragraph (a)* or *(b)* to the Minister.

(10) Where the Minister decides, whether or not in accordance with a recommendation made by the Office of the Planning Regulator under *subsection (9)* of *section 79*, not to make a direction under *subsection (1)*, the Minister may request the Office of the Planning Regulator to carry out a further assessment under *subsection (2)* of *section 78*.

(11) A copy of a direction issued under *subsection (1)*, together with a statement of reasons for making the direction, shall, within 5 working days beginning on the date on which the direction is issued, be—

(a) provided to the relevant planning authority (which in the case of a coordinated area plan shall mean the principal planning authority and the associate planning authority), the relevant regional assembly, the Office of the Planning Regulator and the Commission,

(b) published on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage, and

(c) laid before each House of the Oireachtas by the Minister.

(12) Within 5 working days of receipt of a direction in accordance with *subsection (11)*, the Office of the Planning Regulator and the planning authority (which in the case of a coordinated area plan shall mean the principal planning authority and the associate planning authority), shall publish the direction on a website maintained by or on behalf of the Office of the Planning Regulator and the planning authority.

(13) Where the Minister decides not to issue a direction under *subsection (1)*, he or she shall—

(a) provide a statement of reasons for the decision not to issue a direction to the relevant planning authority (which in the case of a coordinated area plan shall mean the principal planning authority and the associate planning authority), the relevant regional assembly, the Office of the Planning Regulator and the Commission,

(b) cause a copy of the statement referred to in *paragraph (a)* to be laid before each House of the Oireachtas, and

(c) as soon as practicable, make the statement referred to in *paragraph (a)* available on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage.

(14) Where the Minister issues a direction under *subsection (1)*, the planning authority (which in the case of a coordinated area plan shall mean the principal planning authority) shall, as soon as practicable, comply with that direction.

(15) The chief executive or members of a planning authority, principal planning authority or associate planning authority shall not exercise any function conferred on them by this Act in a manner that contravenes a direction issued by the Minister under *subsection (1)*.

(16) A direction issued by the Minister under *subsection (1)* shall have immediate effect and its terms shall be deemed to be incorporated into the urban area plan, priority area plan or coordinated area plan, as the case may be, or, if appropriate, to constitute the plan, pending the implementation of the direction and publication of the plan as amended by the direction by the planning authority (which in the case of a coordinated area plan shall mean the principal planning authority) in accordance with that direction.

(17) Where, in any application for judicial review of a direction made pursuant to this section in accordance with the Rules of the Superior Courts (S.I. No. 15 of 1986) and *Part 9*, the Court concludes that the Minister was not entitled to form the opinion that one or more of the criteria set out in *paragraphs (a)* to *(c)* of *subsection (8)* of *section 78* is met, this shall not warrant the quashing of the direction where—

(a) the Minister was also of the opinion that one or more of the other criteria set out in *paragraphs (a)* to *(c)* of *subsection (8)* of *section 78* is met, and

(b) the Court finds that the Minister was entitled to form such an opinion.

(18) The Minister may prescribe a period or periods that shall be disregarded for the purposes of reckoning any period referenced in this section.

Continuation in force of pre-commencement local area plans

81. (1) Notwithstanding the repeal of section 20 of the Act of 2000 effected by *section 6*, a local area plan made under that section that was in force in respect of any particular area within the functional area of a planning authority immediately before such repeal shall continue in force on and after that repeal—

(a) for the remainder of the period stated in the plan for which it is to remain in force, or

(b) until a new development plan has been made under *Chapter 5* in respect of the functional area to which the plan relates,

whichever is the shorter period.

(2) The members of a planning authority may, by resolution for the purposes of ensuring the effective operation of this Part, extend for such period as they consider appropriate, the period for which a local area plan continued in force under *subsection (1)* is to remain in force provided that a new development plan has not been made under *Chapter 5* in respect of the functional area to which the plan relates.

(3) Prior to adopting a resolution under *subsection (2)*, a planning authority shall comply with any applicable requirements of the Strategic Environmental Assessment Directive (and the Strategic Environmental Assessment Regulations) and the Habitats Directive (and *Part 6*).

(4) Where the members of the planning authority extend the period for which a local area plan is to remain in force under *subsection (2)* and a new development plan is made under *Chapter 5* before the expiry of the period as extended, the local area plan concerned shall cease to have effect upon the coming into effect of the new development plan.

(5) Where the members of the planning authority extend the period for which a local area plan is to remain in force under *subsection (2)*, the chief executive of the planning authority shall, as soon as practicable thereafter, notify the Minister of the extension.

(6) A planning authority may, during the period that a local area plan made by it remains in force by virtue of *subsection (1)*, amend that plan.

(7) Where a provision of a local area plan continued in force under *subsection (1)* conflicts with—

(a) a provision of the National Planning Framework or the relevant regional spatial and economic strategy for the time being in force, the provision of the National Planning Framework or the relevant regional spatial and economic strategy, as the case may be, shall take precedence,

(b) National Planning Policies and Measures contained in a National Planning Statement issued under *section 25*, the National Planning Policies and Measures shall take precedence, and

(c) a provision of a development plan continued in force under *subsection (1)* of *section 68*, the provision of the latter shall take precedence.

PART 4

Development Consents

Chapter 1

Preliminary and General

Interpretation

82. (1) In this Part—

"Act of 1999" means the Electricity Regulation Act 1999;

"airport" means Dublin airport;

"*Chapter 4* development" means—

(a) development for which retrospective consent is required, or

(b) subject to any regulations under *section 115* in relation to any particular development or class of development that would, but for such regulations, fall within any of the following classes, development of any of the following classes:

(i) strategic infrastructure development;

(ii) electricity transmission infrastructure development;

(iii) strategic gas infrastructure development;

(iv) *Chapter 4* maritime development;

(v) *Chapter 4* local authority development;

(vi) *Chapter 4* State authority development;

"*Chapter 4* local authority development" means local authority development in respect of which an environmental impact assessment or appropriate assessment is required;

"*Chapter 4* maritime development" means—

(a) development situated wholly in the outer maritime area,

(b) development situated partly in the outer maritime area and partly in—

(i) the nearshore area of a coastal planning authority, or

(ii) the nearshore areas of more than one coastal planning authority,

(c) development situated—

(i) partly in the outer maritime area,

(ii) partly in—

(I) the nearshore area of a coastal planning authority, or

(II) the nearshore areas of more than one coastal planning authority,

and

(iii) partly on land,

(d) development situated partly in the outer maritime area and partly on land,

(e) development situated—

(i) wholly in the nearshore areas of more than one coastal planning authority, or

(ii) partly on land and partly in the nearshore areas of more than one coastal planning authority,

or

(f) development of a class specified in *Schedule 2* situated—

(i) wholly in—

(I) the nearshore area of a coastal planning authority, or

(II) the nearshore areas of more than one coastal planning authority,

or

(ii) partly on land and partly in—

(I) the nearshore area of a coastal planning authority, or

(II) the nearshore areas of more than one coastal planning authority, but does not include—

(A) development in accordance with a permission under Part III of the Act of 2000 (whether or not granted before the repeal of Part XV of the Act of 2000) that, immediately before the repeal of Part XV of the Act of 2000, was required in accordance with section 225 of the Act of 2000,

(B) development in accordance with an approval under section 226 of the Act of 2000 (whether or not granted before the repeal of the said Part XV),

(C) development consisting of the erection of a building, pier, wall or other structure in accordance with a map, plan or specification approved in accordance with section 10 of the Act of 1933, or

(D) the deposit of any material in accordance with a consent referred to in section 13 of the Act of 1933;

"*Chapter 4* PAC notification" has the meaning assigned by *subsection (7)* of *section 116*;

"*Chapter 4* State authority development" means—

(a) State authority prescribed development in respect of which an appropriate assessment or environmental impact assessment is required,

(b) *Chapter 4* State authority emergency development, or

(c) State authority urgent development;

"*Chapter 4* State authority emergency development" has the meaning assigned to it by *subsection (3)* of *section 155*;

"*Chapter 6* State authority development" means—

(a) State authority prescribed development that does not require appropriate assessment or environmental impact assessment, or

(b) *Chapter 6* State authority emergency development;

"*Chapter 6* State authority emergency development" has the meaning assigned to it by *subsection (1)* of *section 155*;

"electricity transmission infrastructure development" means—

(a) development consisting of infrastructure for transmission within the meaning of Directive (EU) 2019/944/EC of the European Parliament and of the Council of 5 June 2019[10] on common rules for the internal market for electricity and amending Directive 2012/27/EU, or

(b) development for the purposes of such transmission,

10 OJ No. L158, 14.06.2019, p. 125

and includes an interconnector within such meaning;

"gross floor space" means, in relation to a building or part of a building, the area ascertained by the internal measurement of the floor space on each floor of the building or part of the building (including internal walls and partitions), disregarding any floor space provided for—

(a) the parking of vehicles by persons—

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

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

and

(b) in relation to applications for permission for large-scale residential development, ancillary residential services including gyms and child-care facilities;

"inspector" means a person assigned to report on an application, request, referral or appeal under this Part on behalf of the Commission under *section 376*;

"large-scale residential development" means development (wholly outside a strategic development zone, wholly outside an urban development zone and wholly outside a candidate UDZ) consisting of—

(a) not less than 100 housing units,

(b) student accommodation that contains not less than 200 bed spaces,

(c) not less than 100 housing units, and student accommodation, or

(d) student accommodation that contains not less than 200 bed spaces, and housing units,

provided that—

(i) in the case of development referred to in *paragraph (a)*, the gross floor space of the buildings comprising the housing units is not less than 70 per cent (or such other percentage as may be prescribed) of the gross floor space of the buildings comprising the development,

(ii) in the case of development referred to in *paragraph (b)*, the gross floor space of the student accommodation is not less than 70 per cent (or such other percentage as may be prescribed) of the gross floor space of the buildings comprising the development, and

(iii) in the case of development referred to in *paragraph (c)* or *(d)*, the gross floor space of the buildings comprising the housing units and the student accommodation is not less than 70 per cent (or such other percentage as may be prescribed) of the gross floor space of the buildings comprising the development;

"local authority development" means development by or on behalf of, or carried out jointly with, a local authority;

"LRD" means large-scale residential development;

"LRD appeal" means an appeal under *section 103* of a decision of a planning authority that relates to an application for permission for large-scale residential development;

"LRD applicant" means an applicant for permission for large-scale residential development;

"LRD meeting" has the meaning assigned to it by *section 91*;

"LRD opinion" has the meaning assigned to it by *section 92*;

"proposed application" means a proposed application for—

(a) permission for development, or

(b) retention permission,

under *Chapter 3* or *4* that is the subject of a pre-application consultation under *section 90* or *section 116*;

"proposed development" means—

(a) development that is the subject of—

(i) an application (other than an application for retention permission) under *Chapter 3* or *4*, or

(ii) a pre-application consultation,

(b) development that is the subject of a request or proposed request under *Chapter 5*, or

(c) proposed local authority development of a class prescribed under *subsection (1)* of *section 153*;

"proposed request" means a request for an alteration to, or extension of, a permission under *Chapter 5* that is the subject of a pre-application consultation under *section 139*;

"prospective LRD applicant" has the meaning given to it by *section 89*;

"standard development" means any development other than *Chapter 4* development;

"State authority development" means development by or on behalf of, or carried out jointly with, a State authority;

"State authority prescribed development" means State authority development—

(a) prescribed under *section 154*, or

(b) of a class prescribed under that section;

"State authority urgent development" has the meaning assigned to it by *section 157*;

"strategic downstream gas pipeline" means a gas pipeline (other than an upstream gas pipeline) that—

(a) is designed to operate at 16 bar or greater, and

(b) is longer than 20 kilometres;

"strategic gas infrastructure development" means a development comprising, or for the purposes of—

(a) a strategic downstream gas pipeline or a strategic upstream gas pipeline, and associated terminals, buildings and installations, whether above or below ground, including any associated discharge pipe,

(b) an industrial installation used for—

(i) the carriage of gas, steam or hot water with a potential heat output of not less than 300 megawatts, or

(ii) the transmission of electrical energy via overhead cables, the voltage of which would not be less than 220 kilovolts,

but does not include electricity transmission infrastructure development or proposed electricity transmission infrastructure development,

(c) an installation used for surface storage of natural gas, the storage capacity of which would exceed one million cubic metres,

(d) an installation used for underground storage of combustible gases, the storage capacity of which would exceed one million cubic metres,

(e) a terminal, building or installation (whether above or below ground or, in circumstances where it is situated in the maritime area, whether above or below the seabed),

(f) a terminal, building or installation (whether above or below ground or, in circumstances where it is situated in the maritime area, whether above or below the seabed) associated with—

(i) a terminal used for the liquefaction of natural gas or the importation, offloading and re-gasification of liquefied natural gas, or

(ii) the provision of services ancillary thereto,

(g) a terminal, building or installation ancillary to a natural gas storage facility (either above or below the surface of the water or seabed), the storage capacity of which would exceed 1 mscm, or

(h) a terminal, building or installation ancillary to a terminal that is used for the liquefaction of natural gas or the importation, offloading and re-gasification of liquefied natural gas, and ancillary services,

(i) an installation for the storage of—

(i) natural gas, where the storage capacity would exceed 200 tonnes,

(ii) combustible gases, where the storage capacity would exceed 200 tonnes, or

(iii) oil or coal, where the storage capacity would exceed 100,000 tonnes,

and

(j) an installation used—

(i) for the injection of natural gas, biomethane, hydrogen or other renewable gas directly into the transmission system, or

(ii) for the provision of services ancillary thereto;

"strategic infrastructure development" means a development specified in *Schedule 1*;

"strategic upstream gas pipeline" means such part of a gas pipeline operated or constructed—

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

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

as is situated in the functional area of a planning authority or the functional areas of more than one planning authority.

(2) For the purposes of this Part, each of the following shall be treated as being a party to an appeal to the Commission from a decision of a planning authority under this Part:

(a) the planning authority;

(b) the appellant in the appeal;

(c) the applicant for permission where the applicant for permission is not the appellant.

Obligation to seek permission for development

83. (1) Permission shall be required under this Part for—

(a) any development other than—

(i) exempted development,

(ii) *Chapter 6* State authority development,

(iii) development required by—

(I) a notice under *section 339*,

(II) an order under *section 341*,

(III) an enforcement notice under *section 350*, or

(IV) a planning injunction under *section 351*,

(iv) development in respect of which a licence under *section 13* has been granted or is required,

(v) maritime development consisting of electricity transmission infrastructure in respect of which a licence under section 3 of the Act of 1933 was granted on or before 31 December 2023, provided that—

(I) neither an environmental impact assessment nor an appropriate assessment was required, or

(II) where either an environmental impact assessment or an appropriate assessment was required, that assessment was carried out before the grant of the licence,

or

(vi) maritime development (other than maritime development referred to in *subparagraph (v)*) in respect of which a lease under section 2 of the Act of 1933, or a licence under section 3 of that Act, was granted during the period commencing on 1 October 2017 and expiring on 31 December 2023, provided that—

(I) neither an appropriate assessment nor an environmental impact assessment was required or, where either an appropriate assessment or an environmental impact assessment was required, that assessment was carried out before the making of the lease or grant of the licence, as the case may be,

(II) permission under Part III of the Act of 2000 was not required, and

(III) the development is completed before 31 December 2028,

and

(b) retention of unauthorised development.

(2) A person shall not carry out any development for which permission is required under *subsection (1)* except under and in accordance with a permission.

(3) A person shall not be entitled solely by reason of a permission under this Part or an exemption conferred by this Act to carry out any development.

Application for permission

84. (1) An application for permission for—

(a) standard development, or

(b) retention of standard development that is unauthorised development,

shall be made to the relevant planning authority in accordance with *Chapter 3*.

(2) An application for permission for *Chapter 4* development shall be made to the Commission in accordance with *Chapter 4*.

(3) A request for the material alteration of a permission under *Chapter 5* shall be made to the deciding authority within the meaning of that Chapter.

(4) If a person proposes to carry out development in the nearshore area consisting of the reclamation of land and the carrying out of other works on the reclaimed land, the person shall not be required to make more than one application for permission for the development.

(5) In this section "relevant planning authority" means—

(a) the planning authority within whose functional area the development or proposed development is or is proposed to be carried out, or

(b) in relation to development or proposed development that is or is proposed to be carried out in the functional areas of more than one planning authority, each of those planning authorities.

Eligibility to make application

85. (1) A person shall not be eligible to make an application for permission for land-based development under *Chapter 3* or *4*, unless that person—

(a) is the owner of the land on which the development is situated or proposed to be situated,

(b) is a person (other than a mortgagee not in possession) who has a legal or beneficial interest in the land on which the development is situated or proposed to be situated,

(c) has a power conferred, or an obligation imposed, by statute to carry out the development concerned whether or not any preconditions to the exercise of that power have been satisfied,

(d) has a power conferred by statute to acquire land compulsorily for the purposes of the development concerned whether or not any preconditions to the exercise of that power have been satisfied, or

(e) makes the application with the consent in writing, or on behalf, of—

(i) the owner of the land on which the development is situated or proposed to be situated,

(ii) a person (other than a mortgagee not in possession) who has a legal or beneficial interest in the land on which the development is situated or proposed to be situated, or

(iii) a person who has a power, or who is under an obligation, referred to in *paragraph (c)* or *(d)*.

(2) Subject to *section 174*, a person shall not be eligible to make an application for permission for maritime development under *Chapter 3* or *4*, unless that person—

(a) is the holder of—

(i) a maritime area consent granted for the occupation of a maritime site for the purposes of the proposed development, or

(ii) a licence granted under section 3 of the Act of 1933 in relation to a part of the foreshore that consists of, or includes, the maritime site on which the development is situated or proposed to be situated,

(b) is the owner of the maritime site on which the development is situated or proposed to be situated,

(c) is a person (other than a mortgagee not in possession) who has a legal or beneficial interest in the maritime site on which the development is situated or proposed to be situated,

(d) is the lessee under a lease under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which the development is situated or proposed to be situated,

(e) has a power conferred by statute to acquire a maritime site compulsorily for the purposes of the development concerned whether or not any preconditions to the exercise of that power have been satisfied, or

(f) makes the application with the consent in writing, or on behalf, of—

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

(ii) a person (other than a mortgagee not in possession) who has a legal or beneficial interest in the maritime site on which the development is situated or proposed to be situated.

(3) (a) A person shall not be entitled to question or challenge the eligibility under this section of a person to make an application for permission for land-based development under *Chapter 3* or *4* in a submission under this Act or in any proceedings before a court, unless that person is an interested person.

(b) In this subsection "interested person" means, in relation to an application for permission for land-based development under *Chapter 3* or *4*—

(i) the planning authority to whom the application is made,

(ii) the Commission,

(iii) the owner of the land to which the application relates, or

(iv) a person who has a legal or beneficial interest in the land to which the application relates.

(4) (a) A person shall not be entitled to question or challenge the eligibility under this section of a person to make an application for permission for maritime development under *Chapter 3* or *4* in a submission under this Act or in any proceedings before a court, unless that person is an interested person.

(b) In this subsection "interested person" means, in relation to an application for permission for maritime development under *Chapter 3* or *4*—

(i) the planning authority to whom the application is made,

(ii) the Commission,

(iii) the Maritime Area Regulatory Authority,

(iv) the owner of land to which the application relates, or

(v) a person who has a legal or beneficial interest in the maritime site to which the application relates.

Chapter 2

Obligations on Planning Authority and Commission

Matters to which planning authority and Commission shall have regard

86. (1) When performing any function under this Part, a planning authority or the Commission, as the case may be, shall—

(a) where the performance of the function is in respect of land-based development or proposed land-based development, have regard to principles of proper planning and sustainable development, and in particular—

(i) to any development plan, urban area plan, priority area plan or coordinated area plan applicable to the land on which the development is situated or proposed to be situated,

(ii) to such provisions of a National Planning Statement as are not the subject of any provision in a plan referred to in *subparagraph (i)*,

(iii) to any other information available to it relating to—

(I) the consequences or likely consequences of the development or proposed development for proper planning and sustainable development in the area in which the development is situated or proposed to be situated, and

(II) the likely effects on the environment of the development or proposed development,

(iv) in the case of development or proposed development that relates to a protected structure, to the protected status of the structure,

(v) in the case of development or proposed development that relates to a proposed protected structure, to the fact that it is proposed to add the structure to a record of protected structures,

(vi) in the case of development or proposed development that relates to land situated in an area of special planning control, to a special planning control scheme,

(vii) where applicable, to the policies and objectives of the Government, any State authority, the Minister, the planning authority concerned or a public body whose policies have, or may have, a bearing on the proper planning and sustainable development of cities, towns or other areas (whether urban or rural),

(viii) to the national interest and any effect that the performance of the function may have on issues of strategic economic or social importance to the State,

(ix) in the case of development or proposed development—

(I) for the purposes of the provision or modification of a major accident establishment, or

(II) within the vicinity of such an establishment,

to the effect that a major accident is likely to have on the area within which the development or proposed development is, or is proposed to be, situated,

(x) in the case of development or proposed development in an architectural conservation area, to any material effect that the proposed development is likely to have on the character of that area,

(xi) in the case of development or proposed development in a special amenity area, to the provisions of the special amenity conservation order concerned, and

(xii) to the local authority climate action plan made under section 14B of the Climate Action and Low Carbon Development Act 2015 by the local authority within whose functional area the development or proposed development is, or is proposed to be, situated,

and

(b) where the performance of the function is in respect of maritime development or proposed maritime development, have regard to—

(i) the National Marine Planning Framework and the National Planning Framework,

(ii) the marine planning policy statement prepared and published under section 6 of the Act of 2021,

(iii) guidelines issued under section 7 of the Act of 2021,

(iv) national planning statements,

(v) any regional spatial and economic strategy, or other sectoral strategy of a regional assembly—

(I) within whose functional area the development or proposed development is situated or proposed to be situated, or

(II) whose functional area adjoins the maritime site on which the development or proposed development is situated or proposed to be situated,

(vi) any plan made under this Act, applicable to a part of the functional area of—

(I) a planning authority on which the development is situated or proposed to be situated, and

(II) a planning authority whose functional area adjoins the maritime site on which the development is situated or proposed to be situated,

(vii) Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008[11] establishing a framework for community action in the field of

11 OJ No. L164, 25.6.2008, p. 19

marine environmental policy (Marine Strategy Framework Directive), and any enactment or instrument under an enactment that gives effect thereto,

(viii) land-sea interactions within the meaning of Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014[12] establishing a framework for maritime spatial planning,

(ix) objectives of maritime spatial planning, and

(x) principles of proper planning and sustainable development.

(2) An obligation under *subsection (1)* to have regard to any plan, guideline or national planning statement shall be construed as an obligation to have regard to the plan, guideline or statement as it has effect on the date the decision concerned is made, or the function concerned is performed, by the planning authority or the Commission.

(3) When making a decision in respect of an application for permission, the planning authority or the Commission, as the case may be, shall have regard—

(a) to the application for permission concerned,

(b) to any information relating to the application for permission furnished to it by the applicant or any other person in accordance with any provision or requirement of this Act or any regulations made under this Act,

(c) to any written submission concerning the application for permission made to it by any person in accordance with any provision or requirement of this Act or any regulations made under this Act,

(d) to any report, recommendation or record prepared in relation to the application for permission in accordance with any provision or requirement of this Act or any regulations made under this Act,

(e) to submissions or observations (if any) of a Member State of the European Union or other party to the Transboundary Convention in relation to the effects on the environment of the proposed development, and

(f) in the case of proposed development that comprises not fewer than 10 housing units, to—

(i) any information available to the planning authority or the Commission (whether or not provided by, or on behalf of, the applicant) relating to the carrying out by the applicant, or any person connected with the applicant, of any residential development during the period of 5 years immediately preceding the date of the application, and

(ii) the likelihood of the proposed development being completed within the duration of the permission.

(4) Save where otherwise provided under this Act, where a submission is—

(a) received after the expiration of any period of time specified for the making of such submission under this Act, or

12 OJ No. L257, 28.8.2014, p. 135

(b) is not in accordance with any other requirement under this Act,

the planning authority or the Commission, as appropriate, shall return that submission to the person who made it and shall not have regard to that submission in accordance with *paragraph (c)* of *subsection (3)*, unless—

(i) it is a submission from the Minister or a prescribed body received by the planning authority or the Commission not later than one week from such expiration, or

(ii) it is a submission from a Transboundary Convention state.

(5) Where a planning authority or the Commission makes a decision that, in any material respect, is inconsistent with a provision of a National Planning Statement it shall—

(a) identify that provision, and

(b) state the main reasons for making a decision that is inconsistent with that provision and the matters taken into consideration in regard thereto.

(6) Neither a planning authority nor the Commission shall refuse permission for proposed development for reasons that an urban area plan, priority area plan or coordinated area plan in respect of the area in which the development is proposed to be carried out has not been made, unless such reasons are specified in a development plan as reasons for refusing permission.

(7) Neither a planning authority nor the Commission shall refuse permission for proposed development for the reason only that the housing growth target included in the housing development strategy in respect of the settlement (within the meaning of *Part 3*) concerned has already been reached.

(8) Where the grant of a permission by a planning authority or the Commission would cause the housing growth target applicable to the settlement (within the meaning of *Part 3*) concerned to be exceeded, the planning authority or the Commission may grant the permission provided that—

(a) the grant of that permission would be consistent with—

(i) the objectives relating to that settlement specified in the development plan relating to the functional area in which the settlement is situated, and

(ii) any objectives relating to that settlement specified in—

(I) an urban area plan relating to an urban area in which the settlement is situated,

(II) a priority area plan relating to a priority area in which the settlement is situated, or

(III) a coordinated area plan relating to a coordinated area in which the settlement is situated,

and

(b) having regard to the size of the settlement, it considers that—

(i) the number of other permissions already granted in respect of development or proposed development that would cause the housing growth target in respect of that settlement to be exceeded does not undermine the underlying purpose of that housing growth target, and

(ii) the grant of the permission would not otherwise be inappropriate.

(9) In this section "application for permission" includes—

(a) an appeal to the Commission from a decision of a planning authority under *Chapter 3*, and

(b) a request for the alteration, or extension of the duration, of any existing permission under *Chapter 5*.

Conditions that may be attached to permission granted under Part

87. (1) A planning authority or the Commission may attach such conditions as it considers appropriate to—

(a) a permission granted by it under this Part, or

(b) a grant by it under *Chapter 5* of a material alteration to a permission.

(2) Without prejudice to the generality of *subsection (1)*, the planning authority or the Commission, as the case may be, shall attach to—

(a) a permission, or

(b) an alteration to, or extension of duration of, a permission,

such conditions as are attached to a grant of permission under *paragraph (c)* of *subsection (6)* of *section 217* or *subsection (6)* of *section 236*.

(3) Without prejudice to the generality of *subsection (1)*, a planning authority or the Commission may attach any one or more of the following conditions to a grant of permission:

(a) conditions regulating the development or use of any land or maritime site that—

(i) adjoins, abuts or is adjacent to the land or maritime site to be developed, and

(ii) is under the control of the applicant,

provided that the planning authority is satisfied that the imposition of such conditions is expedient—

(I) having regard to the development authorised by the permission, or

(II) for the purposes of or in connection with the conservation of any public amenity on any land or maritime site referred to in *subparagraph (i)* and appropriate for the management of the development concerned;

(b) conditions requiring the carrying out of works (including the provision of facilities) that are required for the purposes of the development authorised by the permission;

(c) conditions requiring the taking of measures to manage, limit or prevent—

(i) the emission of any noise or vibration from any structure or site comprised in the development authorised by the permission that might give reasonable cause for annoyance either to persons in any premises in the neighbourhood of the development or to persons lawfully using any public place in that neighbourhood,

(ii) the intrusion of any noise or vibration that might give reasonable cause for annoyance to any person lawfully occupying a structure or site, or

(iii) emissions to air, water or land during the construction or operation of the development that might give rise to adverse effects on the environment;

(d) conditions requiring provision of open spaces;

(e) conditions requiring the planting, maintenance and replacement of trees, shrubs or other plants or the landscaping of structures or other land;

(f) where the development includes the construction of not less than 2 housing units, conditions for requiring the satisfactory completion within a specified period (which shall not be less than 2 years from the commencement of any works) of the proposed development (including any roads, open spaces, car parks, sewers, water mains or drains or other public facilities);

(g) conditions requiring the giving and maintaining of adequate security for satisfactory completion of the proposed development;

(h) conditions determining the sequencing of works and the period within which works shall be carried out;

(i) conditions for the maintenance or management of the proposed development, which may include a requirement to—

(i) form a company within the meaning of the Companies Act 2014,

(ii) form an owners' management company within the meaning of the Multi-Unit Developments Act 2011, or

(iii) appoint a person or persons, to carry out such maintenance or management;

(j) conditions for the maintenance, until taken in charge by the local authority concerned, of roads, open spaces, car parks and other public facilities or, where there is an agreement with the local authority in relation to such maintenance, conditions for maintenance in accordance with the agreement;

(k) conditions for the maintenance, until taken in charge by Uisce Éireann, of sewers, watermains or drains or, where there is an agreement with Uisce Éireann in relation to such maintenance, conditions for maintenance in accordance with the agreement;

(l) conditions requiring the provision of such facilities for the collection or storage of recyclable materials for the purposes of the proposed development;

(m) conditions requiring construction and demolition waste to be recovered or disposed of in such manner and to such extent as may be specified by the planning authority;

(n) conditions requiring the provision of roads (including traffic calming measures), open spaces, car parking and storage spaces, sewers, watermains or drains, facilities for the collection or storage of recyclable materials and other public facilities in excess of the immediate needs of the proposed development, subject to the local authority or Uisce Éireann, as may be appropriate, paying for the cost of the additional works and taking them in charge or otherwise entering into an agreement with the applicant with respect to the provision of those public facilities;

(o) conditions requiring the removal of any structures authorised by the permission, or the discontinuance of any use of the land or maritime site so authorised, upon the expiration of a specified period, and the carrying out of any works required for the re-instatement of the land or maritime site at the expiration of that period;

(p) conditions in relation to appropriate naming and numbering of, and the provision of appropriate signage for, the proposed development;

(q) conditions requiring, in any case in which the development authorised by the permission would remove or alter any protected structure or any element of a protected structure that contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest—

(i) the preservation by a written and visual record (which may include measured architectural drawings, colour photographs or audio-visual aids, as considered appropriate) of that structure or element before the development authorised by the permission takes place, and

(ii) where appropriate, the architectural salvaging of any element, or the reinstatement of any element in a manner specified;

(r) conditions requiring, and relating to, the maintenance or management of the proposed development;

(s) conditions regulating the hours and days during which a business premises may operate;

(t) conditions requiring the applicant to submit information to a planning authority, the Commission or any other local or state authority, as the planning authority or the Commission may specify, before commencing development;

(u) conditions relating to the protection, preservation, archaeological excavation or recording of places, caves, sites, features, wrecks or objects of archaeological, geological, historical, scientific or ecological interest, whether situated on land or underwater.

(4) Without prejudice to the generality of *subsection (1)*, a planning authority or the Commission may, in addition to any condition that it may or is required to attach to a permission in accordance with any other provision of this section, attach any one or

more of the following conditions to a permission for maritime development under this Part:

(a) conditions requiring the recording, archaeological excavation or carrying out of works for the protection or preservation of—

(i) any site of archaeological interest,

(ii) any wreck within the meaning of the National Monuments (Amendment) Act 1987, or

(iii) any wreck within the meaning of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023;

(b) conditions requiring the carrying out of such works as the coastal planning authority may specify for the purposes of the development;

(c) for the purpose of ensuring compliance with the terms of the maritime area consent granted for the occupation of the maritime site concerned, conditions regulating the development or use of any part of the maritime area that adjoins that maritime site;

(d) conditions requiring—

(i) the provision, protection or maintenance of access to the maritime area and land adjoining the maritime area by members of the public or members of a class of the public, or

(ii) the carrying out of works for the purpose of such provision, protection or maintenance;

(e) conditions aimed at protecting rights to navigate in the maritime area;

(f) conditions aimed at protecting rights to fish in the maritime area;

(g) conditions for, or in connection with—

(i) the protection of the marine environment (including the protection of fisheries),

(ii) the safety of navigation, or

(iii) the protection of underwater cables, wires, pipelines or other similar apparatus used for the purpose of—

(I) transmitting electricity or telecommunications signals, or

(II) carrying gas, petroleum, oil or water;

(h) conditions requiring, and relating to—

(i) the provision to the coastal planning authority concerned, and

(ii) maintenance,

of adequate financial security for the purpose of ensuring the satisfactory completion of the proposed development;

(i) conditions requiring the person to whom the permission is granted to submit such information, as may be specified by the planning authority or the Commission, to the planning authority, the Commission, the Maritime Area Regulatory Authority or a public body prior to commencement of the development concerned.

(5) A planning authority or the Commission, as may be appropriate, may, in addition to any condition that it may or is required to attach to a permission in accordance with any other provision of this section, attach to the permission—

(a) a condition requiring—

(i) the construction, or the financing (in whole or in part) of the construction, of a facility in the area in which the development was carried out or is proposed to be carried out that, in the opinion of the planning authority or the Commission, as the case may be, would provide a substantial gain to the community, or

(ii) the provision, or the financing (in whole or in part) of the provision, of a service in the area in which the development was carried out or is proposed to be carried out that, in the opinion of the planning authority or the Commission, as the case may be, would provide a substantial gain to the community,

and

(b) conditions requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the functional area of any planning authority in which the development concerned is (in whole or in part) situated or proposed to be situated.

(6) A condition attached to a permission in accordance with *paragraph (a)* of *subsection (5)* shall not require such an amount of financial resources to be committed for the purposes of compliance with the condition as would substantially deprive the person in whose favour the permission operates of the benefits likely to accrue from the grant of the permission.

(7) Notwithstanding *subsection (1)*, where a planning authority or the Commission decides to grant permission under this Part for development that consists, or is for the purpose, of an activity for which—

(a) an industrial emissions licence,

(b) an integrated pollution control licence,

(c) a waste licence, or

(d) a waste water discharge licence,

is required, it shall not attach conditions to that permission that would be for the purpose of—

(i) controlling, preventing or limiting emissions resulting from the activity, or

(ii) controlling, preventing or limiting emissions related to, or consequential on, the cessation of the activity.

(8) Notwithstanding *subsection (1)*, where a planning authority or the Commission decides to grant permission under this Part for development that consists, or is for the purpose, of an activity for which an abstraction licence is required, it shall not attach conditions to that permission that would be for the purpose of controlling, preventing or limiting the abstraction concerned.

(9) (a) A planning authority or the Commission may, in addition to any condition that it may or is required to attach to a permission in accordance with any other provision of this section, attach to that permission a condition that the person who carries out the development agree points of detail relating to compliance with the permission—

(i) in the case of development or part of a development that is proposed to be situated on land, with the planning authority in whose functional area the development is proposed to be so situated,

(ii) in the case of development or part of a development that is proposed to be situated in the nearshore area of a coastal planning authority, with that coastal planning authority, and

(iii) in the case of development or part of a development that is proposed to be situated in the outer maritime area, with the Commission.

(b) A condition imposed under *paragraph (a)* shall—

(i) provide that the agreement be recorded in writing, and

(ii) specify the date, or point in the carrying out of the development, by which the agreement shall be made.

(10) (a) Where the person carrying out the development has submitted to the planning authority points of detail to be agreed with the planning authority in accordance with a condition under *subparagraph (i)* or *(ii)* of *paragraph (a)* of *subsection (9)*, the planning authority shall, not later than 8 weeks (or such longer period as may be agreed in writing by the planning authority with that person) from the submission of those points of detail, either—

(i) reach agreement with that person on those points, or

(ii) where the planning authority and that person cannot reach such agreement, either—

(I) inform that person in writing that it considers that such agreement cannot be reached, or

(II) refer the matter to the Commission for its determination.

(b) Where, in accordance with *clause (I)* of *subparagraph (ii)* of *paragraph (a)*, a planning authority informs the person concerned that it considers that agreement cannot be reached on points of detail in relation to a permission, the person may,

not later than 4 weeks from his or her being so informed, refer the matter to the Commission for its determination and the Commission shall determine the matter.

(11) Where no agreement is reached under *subsection (10)* or the matter is not referred to the Commission within the period specified in *subsection (10)*, or such longer period as may have been agreed, the planning authority shall be deemed not to have agreed to the points of detail as submitted.

(12) Where the person carrying out the development has submitted to the Commission points of detail to be agreed with the Commission in accordance with a condition under *subparagraph (iii)* of *paragraph (a)* of *subsection (9)*, the Commission shall, not later than 8 weeks (or such longer period as may be agreed in writing by the Commission with that person) from the submission of those points of detail, either—

(a) reach agreement with that person on those points, or

(b) where the Commission and that person cannot reach such agreement, determine the matter.

(13) Where no agreement is reached and the Commission has not determined the matter within the period of 4 weeks from the expiration of the period referred to in *subsection (12)*, the Commission shall be deemed to have agreed the points of detail as submitted by the person carrying out the development.

Chapter 3

Standard Development

General

88. (1) An application for permission for standard development shall be made in accordance with this Part.

(2) Applications for permission and requests for consultations and LRD meetings under this Chapter shall be made to the planning authority or planning authorities within whose functional area or functional areas it is proposed to carry out the development or any part of the development.

(3) Where development or proposed development is situated or proposed to be situated within the functional areas of more than one planning authority, thereby requiring that an application for permission in respect of the development or proposed development be made to each such planning authority, the planning authorities concerned shall co-operate in considering and determining each such application and in carrying out any consultation or convening any LRD meeting in relation thereto.

(4) The Minister may make regulations for the purposes of *subsection (3)*.

Pre-application consultation required for certain developments

89. (1) Subject to *subsection (2)*, a person shall not apply for permission under this Chapter for—

(a) development consisting of not less than 10 housing units,

(b) development consisting of student accommodation containing not less than 200 bed spaces,

(c) development (other than residential development) containing not less than 1000 square metres gross floor space, or

(d) such other development as may be prescribed,

unless in relation to the proposed development—

(i) he or she first requests a consultation under *section 90*,

(ii) in a case where the planning authority complies with *paragraph (a)* of *subsection (3)* of *section 90*, he or she participated in at least one consultation meeting under that section,

(iii) a certificate referred to in *subsection (9)* of *section 90* was given to him or her, or

(iv) he or she makes the application with the written consent, or on behalf, of a person who—

(I) has complied with *paragraph (i)* or *(ii)*, or

(II) is the holder of such a certificate.

(2) A person (in this Chapter referred to as a "prospective LRD applicant") shall not apply for permission for large-scale residential development—

(a) unless, in relation to the proposed development, he or she—

(i) obtains an LRD opinion under *section 92* in relation to the proposed development within the period of 6 months before he or she makes the application for permission,

(ii) obtains a certificate referred to in *subsection (9)* of *section 90* in relation to the proposed development within the period of 6 months before he or she makes the application for permission, or

(iii) makes the application with the written consent, or on behalf, of a person who has complied with *subparagraph (i)* or *(ii)*,

and

(b) unless the land on which the proposed development is to be carried out is zoned to allow such development to be carried out thereon.

(3) In this section "proposed development" means—

(a) in relation to an application for permission referred to in *subsection (1)*, development that is not materially different from development in respect of which a request for consultation under *section 90* was made, and

(b) in relation to an application for permission referred to in *subsection (2)*, development that is not materially different from development in respect of which an LRD opinion was obtained under *section 92*.

Pre-application consultation

90. (1) (a) Any person (in this section referred to as a "prospective applicant") who is eligible to apply for permission, and intends to apply for permission, for standard development may, prior to the making of an application for such permission, request a consultation meeting with the planning authority under this section.

(b) Any person (in this section also referred to as a "prospective applicant") who is of a class prescribed by the Minister may request a consultation meeting with the planning authority under this section.

(2) A request under this section shall be accompanied by—

(a) sufficient information to allow the planning authority to carry out its functions under this section, and

(b) any documentation or information as may be prescribed.

(3) Where a request is made under this section and is accompanied by the required documentation and information in accordance with *subsection (2)*, the planning authority shall hold a consultation meeting—

(a) in the case of development to which *subsection (1)* of *section 89* applies, within 4 weeks from the date of the request, or

(b) in the case of any other development, as soon as is practicable.

(4) Where a request under this section is made and, on the expiration of the period specified in *paragraph (a)* of *subsection (3)*, a consultation meeting has not taken place—

(a) the prospective applicant may make an application under *section 95* for permission for the development to which the request relates provided that the request does not relate to proposed large-scale residential development, or

(b) the planning authority shall, where the request relates to proposed large-scale residential development, proceed to convene the consultation meeting as soon as practicable and provide the applicant with a written explanation as to why the consultation meeting did not take place within the period referred to in *paragraph (a)* of *subsection (3)*.

(5) The holding of a consultation meeting under this section after the period referred to in *paragraph (a)* of *subsection (3)* shall not invalidate any steps taken by the planning authority.

(6) A planning authority may, for the purposes of the consultation meeting in relation to a proposed development, consult with any person who may, in the opinion of the planning authority, have information that is relevant for the purposes of the meeting.

(7) For the purposes of a consultation meeting under this section in relation to proposed development at the airport, a planning authority shall—

(a) consult with the competent authority (within the meaning of the Aircraft Noise (Dublin Airport) Regulation Act 2019), and

(b) upon the request of that competent authority—

(i) facilitate that competent authority's engagement in the consultation meeting, and

(ii) require the prospective applicant to furnish to the planning authority any specified types of drawings, plans, documents or other information in relation to that request as the competent authority may specify.

(8) For the purposes of a consultation meeting under this section, a planning authority—

(a) shall advise the prospective applicant of the procedures that apply to the consideration of a planning application by a planning authority,

(b) shall, as far as possible, indicate—

(i) the relevant objectives of the development plan and any applicable urban area plan, priority area plan or coordinated area plan, or

(ii) in the case of proposed maritime development, the relevant objectives of the National Marine Planning Framework,

that are likely to have a bearing on the decision of the planning authority,

(c) may advise the prospective applicant of the considerations related—

(i) to the environment,

(ii) to proper planning and sustainable development, or

(iii) in the case of proposed maritime development, to maritime spatial planning,

that, in the opinion of the planning authority, are likely to have a bearing on the decision of the planning authority, and

(d) may, on the request of the prospective applicant, advise him or her as to the type of documents that may be required to be submitted with the proposed application.

(9) (a) Where a planning authority receives a request under this section in relation to a proposed development that includes permitted development, and the planning authority is satisfied that—

(i) the proposed development is substantially the same as the permitted development, and

(ii) the nature, scale and effect of any difference between the permitted development and the proposed development would not require the holding of any further consultation,

the planning authority may determine that further consultation is not required under this section in relation to the proposed development, and where it so determines, it shall provide a certificate to that effect in writing to the person who made the request.

(b) In this subsection "permitted development" means such part of a proposed development as is the subject of—

(i) a permission granted under this Chapter for large-scale residential development,

(ii) a permission granted under the Act of 2000 for large-scale residential development within the meaning of that Act, or

(iii) a permission granted under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

(10) A written confirmation provided under subsection (7) of section 247 of the Act of 2000 shall, on and after the repeal of that subsection by *section 6*, be deemed to be a certificate provided under *subsection (9)*.

LRD meeting

91. (1) A prospective LRD applicant may, after having consulted with the planning authority in accordance with *section 90*, request a meeting (in this Part referred to as an "LRD meeting") with that planning authority.

(2) A request under *subsection (1)* of *section 93* may be included in a request under *subsection (1)*.

(3) A request under *subsection (1)* shall be in writing and shall be accompanied by such information and documentation as may be prescribed.

(4) If a request under *subsection (1)* of *section 93* is included in the request under *subsection (1)*, the prospective LRD applicant shall, in addition to complying with *subsection (3)*, comply with *subsection (2)* of the said *section 93*.

(5) The planning authority may, prior to the LRD meeting, consult with any person who may, in the opinion of the planning authority, have information that is relevant for the purposes of the LRD meeting.

(6) Where a prospective LRD applicant submits a request in accordance with *subsection (1)*, the planning authority shall convene an LRD meeting which shall take place within the period of 4 weeks from the date on which the planning authority receives the request.

(7) Where a request under *subsection (1)* of *section 93* is included in a request under *subsection (1)*, the LRD meeting shall be treated as having been convened for the purpose of that section and *section 94* (as well as for the purpose of this section and *section 92*), and accordingly the planning authority shall—

(a) in relation to the first-mentioned request, perform the functions conferred on it by *sections 93* (other than *subsections (4)* and *(7)*) and *94*, and

(b) in relation to the second-mentioned request, perform the functions conferred on it by this section and *section 92*.

(8) The following persons only shall be permitted to attend a meeting convened under *subsection (6)*:

(a) the planning authority;

(b) the prospective LRD applicant; and

(c) any person nominated by the prospective LRD applicant for the purpose of advising or representing him or her at the meeting.

(9) The planning authority shall ensure that any members of staff of the planning authority concerned attending the LRD meeting have a sufficient knowledge and expertise in relation to the matter to which the meeting relates.

(10) Where the LRD meeting does not take place before the expiry of the period specified in *subsection (6)*, the planning authority shall—

(a) convene the LRD meeting as soon as practicable thereafter, and

(b) provide the prospective LRD applicant with an explanation in writing of the reason why the LRD meeting did not take place within that period.

(11) The failure of a planning authority to comply with *subsection (6)* within the period specified therein shall not invalidate any act done by the planning authority.

LRD opinion

92. (1) The planning authority shall, within the period of 4 weeks from the date on which the LRD meeting takes place, provide an opinion (referred to in this Chapter as an "LRD opinion") to the prospective LRD applicant as to whether or not it considers that the documents submitted for the purposes of the meeting constitute a reasonable basis on which to make an application for permission for the proposed LRD.

(2) Where the opinion of the planning authority is that the documents submitted for the purposes of the meeting do not constitute a reasonable basis on which to make an application for permission for the proposed LRD, it shall specify in the LRD opinion—

(a) the extent to which the documents submitted do not constitute a reasonable basis on which to make the application, and

(b) any issues that, if dealt with by the relevant documents, could result in the documents constituting a reasonable basis on which to make the application.

(3) Where the planning authority fails to provide an LRD opinion within the period referred to in *subsection (1)*, the planning authority shall provide the applicant with a written explanation of the reason for the failure and provide that opinion as soon as practicable after the expiration of that period.

(4) An LRD opinion provided by a planning authority under *subsection (1)* shall be published and made available to the public, in such manner as may be prescribed, not later than 3 days from the day on which the planning authority receives an application for permission for the development to which the opinion relates.

(5) The failure by a planning authority to comply with this section within the period referred to in *subsection (1)* shall not invalidate any steps taken by the planning authority.

(6) An LRD opinion provided under section 32D of the Act of 2000 shall, on and after the repeal of that section by *section 6*, be deemed to be an LRD opinion provided under this section.

(7) Notwithstanding the repeal of section 32A, 32B, 32C, 32D, 32E, 32F and 32G of the Act of 2000 by *section 6*, each such section of the Act of 2000 shall continue to apply and have effect on and after its repeal in relation to a request under subsection (1) of the said section 32B.

Request for meeting where certain aspects of proposed development not confirmed

93. (1) Where a person (in this section referred to as a "prospective applicant") proposes to make an application for permission for development under this Chapter but not all aspects of the development are likely to be confirmed by the date of the application, he or she may, before making the application, request a meeting with the planning authority in whose functional area the development concerned is proposed to be situated.

(2) (a) A request under *subsection (1)* shall—

(i) be in writing,

(ii) include a description of—

(I) the aspects, or aspects falling within a specified category, of the proposed development that are not likely to be confirmed by the time the application is made, and

(II) the circumstances that would justify the making of the application before the confirmation of those aspects,

(iii) include such other information as may be prescribed,

(iv) be accompanied by an undertaking in writing given by the prospective applicant that, in relation to each aspect or category referred to in *clause (I)* of *subparagraph (ii)*, he or she will include with any such application—

(I) a description of not less than 2 approaches, or

(II) a statement of the range within which each such aspect or category (being an aspect or category in respect of which the prospective applicant has elected not to comply with *clause (I)*) falls,

and

(v) be accompanied by such fee as may be prescribed.

(b) Without prejudice to the generality of *clause (II)* of *subparagraph (ii)* of *paragraph (a)*, circumstances referred to in that clause may include—

(i) the unavailability, at the time that the prospective applicant intends to make the application, of technology that is likely to become available before the commencement of the part of the proposed development to which the aspect concerned relates, and

(ii) circumstances relating to any particular class of development as may be prescribed.

(3) A planning authority that receives a request under *subsection (1)* may, before a meeting under this section takes place, consult with any person who may, in the opinion of the planning authority, have information that is relevant to the subject matter of the meeting, and the planning authority shall prepare a record in writing of the consultation and keep that record with the documentation relating to any subsequent application for permission for the proposed development concerned.

(4) A planning authority shall, upon receiving a request under *subsection (1)*, convene a meeting (which shall take place not later than 4 weeks from the date on which the request was received by the planning authority) with the prospective applicant.

(5) The following persons shall be permitted to attend a meeting convened in accordance with *subsection (4)*:

(a) the planning authority;

(b) the prospective applicant; and

(c) any person or persons nominated by the prospective applicant for the purpose of advising or representing him or her at the meeting.

(6) The planning authority shall ensure that any members of staff of the planning authority attending the meeting have a sufficient knowledge and expertise in relation to the matters to which the meeting relates.

(7) Where a meeting referred to in *subsection (4)* does not take place within the period specified in that subsection, the planning authority shall—

(a) convene such meeting as soon as practicable thereafter, and

(b) provide the prospective applicant with an explanation in writing of the reason for the failure to convene a meeting within that period.

(8) The planning authority shall keep—

(a) a request under this section,

(b) all documents included with or accompanying that request in accordance with *subsection (2)*, and

(c) a record in writing of a meeting convened in accordance with *subsection (4)*,

with the documentation relating to any subsequent application for permission for the proposed development concerned.

(9) A request, document or record kept in accordance with *subsection (8)* shall be published and made available to the public, in such manner as may be prescribed, not later than 3 days from the day on which the planning authority receives an application for permission for the proposed development concerned.

(10) The failure by a planning authority to comply with *subsection (4)* within the period specified therein shall not invalidate any act done by the planning authority.

Opinion with regard to making of application where certain aspects of proposed development not confirmed

94. (1) The planning authority shall, not later than 4 weeks from the date on which the meeting convened under *subsection (4)* of *section 93* takes place, consider the description and information included in the request under that section, the undertaking that accompanied that request and any information provided at the meeting and—

(a) if the planning authority is satisfied that it would be appropriate for the application referred to in *subsection (1)* of that section to be made before the confirmation of all aspects of the development concerned, it shall provide the prospective applicant (within the meaning of *section 93*) with an opinion to that effect, or

(b) if the planning authority is not so satisfied, it shall notify the prospective applicant (within the meaning of *section 93*) thereof in writing.

(2) An opinion under *subsection (1)* shall specify—

(a) the aspects of the proposed development that may be confirmed after the making of the application,

(b) the circumstances relating to the proposed development that justify the making of the application before the confirmation of those aspects, and

(c) that the application shall, in addition to any other requirement imposed by or under this Act, include the description or statement referred to in the undertaking given in accordance with *subparagraph (iv)* of *paragraph (a)* of *subsection (2)* of *section 93*.

(3) An opinion under *subsection (1)* shall not be published unless and until a planning application for permission for the development concerned is made in accordance with this Chapter.

(4) Where the planning authority fails to comply with *subsection (1)* within the period specified therein, it shall perform the functions under that subsection as soon as practicable and provide the prospective applicant with an explanation in writing of the reason for the failure.

(5) The failure by a planning authority to comply with *subsection (1)* within the period specified therein shall not invalidate any act done by the planning authority.

(6) An opinion under subsection (2) of section 32I of the Act of 2000 shall operate as if it were an opinion under *paragraph (a)* of *subsection (1)*.

(7) A notification under subsection (3) of section 32I of the Act of 2000 shall operate as if it were a notification under *paragraph (b)* of *subsection (1)*.

Application for permission for standard development

95. (1) Before making an application for permission for standard development, the applicant shall, in addition to complying with *paragraph (d)* of *subsection (1)* of *section 216*

and *subsection (3)* of *section 234* (where applicable), comply with such public notice requirements as may be prescribed.

(2) An application for permission for standard development shall be in such form, and be accompanied by such documentation, as may be prescribed.

(3) Where a planning authority receives an application for permission for large-scale residential development it shall, as soon as may be thereafter—

(a) make the application available for inspection by the elected members of the planning authority, and

(b) notify the elected members of the planning authority of—

(i) the making of the application,

(ii) the place where the application is so available, and

(iii) such other matters in relation to the application as may be prescribed.

(4) Within such period as may be prescribed after the receipt of an application under this section by a planning authority, the planning authority shall, if it is satisfied that the application was made in accordance with this section, *section 89* (where applicable) and such regulations as are made for the purposes of this section, by notice in writing to the applicant—

(a) acknowledge receipt of the application, and

(b) confirm the date of receipt of the application.

(5) Subject to *subsection (7)*, an application that is not in accordance with this section, *section 89* (where applicable) or such regulations as are made for the purposes of this section shall be invalid.

(6) Following receipt by a planning authority of an application under this section for permission for land-based development, the planning authority shall, before the expiration of such period as may be prescribed, cause an inspection of the land on which it is proposed to carry out the development concerned to be carried out.

(7) Where the planning authority determines, following the carrying out of an inspection under *subsection (6)*, or at any other time after the acknowledgment of receipt of a planning application under *paragraph (a)* of *subsection (4)* but before the planning authority makes a decision in relation to the application under *section 98*, that the application was not made in accordance with this section, *section 89* (where applicable) or regulations made for the purposes of this section, then—

(a) if it is satisfied that the failure to make the application in accordance with those enactments—

(i) has not resulted in any failure to comply with any requirement under this Act to give public notice of the application, and

(ii) has not otherwise materially affected the ability of the planning authority to determine the application, or carry out any appropriate assessment or environmental impact assessment in relation to the application,

it shall treat the application as valid, or

(b) if it is not satisfied with regard to the matters referred to in *subparagraphs (i)* and *(ii)* of *paragraph (a)*, it shall treat the application as invalid and declare it to be so.

(8) (a) Notwithstanding *subsection (7)*, where, any time after the acknowledgment of receipt of a planning application in accordance with *paragraph (a)* of *subsection (4)* but before the planning authority makes a decision in relation to the application under *section 98*, the planning authority determines that—

(i) the development the subject of the application is not standard development, or

(ii) the applicant was not entitled to make the application in accordance with *subsection (1)* of *section 89* or did not comply with *subsection (2)* of that section before making the application,

it shall declare the application invalid.

(b) Where, following a screening for appropriate assessment under *section 212*, a planning authority makes a determination under that section, in relation to an application for retention permission, that the likelihood of the development concerned (either individually or in combination with any plan or other project within the meaning of the Habitats Directive) having significant effects on a European site cannot be excluded, it shall declare the application to be invalid.

(c) Where, following a screening for environmental impact assessment under *section 229*, a planning authority makes a determination under that section in relation to an application for retention permission that an environmental impact assessment is required, it shall declare the application to be invalid.

(d) Where a planning authority declares an application invalid under this subsection, it shall, as soon as may be, inform the applicant by notice in writing that an application for permission for the proposed development cannot be made to the planning authority under this Chapter and specifying the Chapter of this Part, if any, under which an application for permission for the proposed development may be made.

(e) *Paragraph (d)* is in addition to, and not in substitution for, *section 172*.

(9) The planning authority shall enter particulars of every application under this section in the register.

Outline permission

96. (1) An application under *section 95* may be made to a planning authority for permission (in this section referred to as "outline permission") for development consisting of not more than 4 housing units (other than a housing unit that is a protected structure).

(2) An outline permission shall not operate to authorise the carrying out of any development.

(3) An outline permission shall cease to have effect on the expiration of—

(a) 3 years, or

(b) such longer period (not exceeding 5 years) as may be specified by the planning authority,

from the date of the grant of outline permission.

(4) A planning authority shall not refuse to grant full permission for development in respect of which outline planning permission was granted on any ground that the planning authority decided was not a ground for refusal of the outline permission, provided that the planning authority is satisfied that the proposed development would not contravene the outline permission.

(5) An appeal under *section 103* from a decision of a planning authority to grant full permission for development in respect of which outline permission was granted shall not be granted on any ground that the planning authority decided was not a ground for refusal of the outline permission.

(6) The period of duration of a full permission for development shall be deemed to have commenced on the date of the grant of the outline permission for that development.

(7) A planning authority shall not grant outline permission for development in respect of which an appropriate assessment or environmental impact assessment is required in accordance with *Part 6*.

(8) A reference in this Chapter (other than *sections 89*, *91*, *92* and *101*) to permission includes a reference to outline permission.

(9) Regulations under *subsection (2)* of *section 95* may prescribe different documentation for an application for outline permission and an application for full permission.

(10) Outline permission granted under section 36 of the Act of 2000 shall, on and after the repeal of that section by *section 6*, be deemed to be outline permission granted under this section, and accordingly this section (other than *subsection (1)*) shall apply in respect of that outline permission.

(11) In this section—

"full permission" means permission (other than outline permission) for development granted under *section 98* upon an application under *section 95* made before an outline permission granted for that development ceases to have effect;

"outline permission" means permission granted in principle under *section 98* for development on land, subject to the making of a subsequent application for, and grant of, full permission for that development.

Procedural powers of planning authority

97. (1) Any person may, upon payment of the prescribed fee, make a submission in writing to a planning authority in relation to an application for permission for standard development in such manner and within such period as may be prescribed.

(2) Without prejudice to *paragraph (a)* of *subsection (2)* of *section 217* and *subsection (4)* or *(5)* of *section 235* and before determining any application for permission for standard development, a planning authority may, in such manner and within such period as may be prescribed, request the applicant to submit—

(a) further information to the planning authority, where in the opinion of the planning authority that information is necessary to enable it to determine the application, or

(b) revised particulars, plans or drawings in relation to the development or proposed development, where the planning authority is considering granting permission subject to the applicant complying with that request.

(3) Without prejudice to *subsection (1)* or *(7)* of *section 235*, where the planning authority receives—

(a) a submission under *subsection (1)*,

(b) further information or revised particulars, plans or drawings pursuant to a request under *subsection (2)*, or

(c) submissions or further information under any other provision of this Act or regulations under this Act or pursuant to a request under any such provision,

that it considers contain or contains additional material information (including information in relation to the effect of the proposed development on a European site or otherwise on the environment), it shall—

(i) make that additional material information available to the public for inspection (to the extent that such information is not already available to the public) in such manner and within such period as may be prescribed, and

(ii) notify the applicant that the applicant is required to give notice (in such manner and within such period as may be prescribed) to the public—

(I) that the additional material information is available for inspection,

(II) of the address of the place where the additional information may be inspected, and

(III) that the public are entitled to make submissions in relation to the additional material information within such period as may be prescribed.

(4) (a) Where an applicant for permission fails to comply with a request under *paragraph (a)* of *subsection (2)* or a requirement in a notification under *paragraph (a)* of *subsection (2)* within such period as may be prescribed, the application for permission shall be deemed to have been withdrawn.

(b) Where an applicant for permission fails to comply with a request under *paragraph (b)* of *subsection (2)* within such period as may be prescribed, the planning authority may—

(i) extend that period, where it considers it appropriate to do so, or

(ii) without further notice to the applicant, consider, and perform its functions in relation to, the application as if no such request had been made.

Decision in relation to standard planning application

98. (1) Subject to this Part and *Part 6*, where an application for permission is made to a planning authority under this Chapter, the planning authority may decide to—

(a) grant the permission, subject to such conditions (if any) as may be imposed under *section 87*,

(b) grant the permission subject to—

(i) any modifications to the proposed development as it may specify, and

(ii) subject to such conditions (if any) as may be imposed under *section 87*,

(c) grant permission in respect of part of the proposed development subject to—

(i) any modifications to that part as it may specify, and

(ii) subject to such conditions (if any) as may be imposed under *section 87*,

or

(d) refuse to grant the permission.

(2) A planning authority shall, in addition to any conditions that it may decide to attach to a grant of permission in accordance with *subsection (1)*, attach the following conditions to a grant of permission under that subsection where the application for permission concerned is an application to which an opinion under *section 94* applies:

(a) a condition requiring that each aspect of the proposed development concerned in respect of which confirmation has not yet been given to the planning authority—

(i) be limited to such proposed approaches as were included with the application for permission in accordance with the undertaking referred to in *subparagraph (iv)* of *paragraph (a)* of *subsection (2)* of *section 93*, or

(ii) fall within such range specified in the statement included with the application for permission in accordance with the undertaking referred to in the said *subparagraph (iv)*,

and

(b) a condition requiring the applicant for permission to inform the planning authority in writing of particulars of the aspect of the proposed development concerned (that has not yet been confirmed) before—

(i) the date of the commencement of the part of the proposed development to which that aspect relates, or

(ii) such earlier date as may be prescribed.

(3) When granting a permission under *subsection (1)* a planning authority shall comply with *subsection (2)* of *section 87* (where applicable).

(4) Where a planning authority considers that the performance by it of functions under this section in relation to an application under *section 95* has the potential to have a significant effect on the functional area of another planning authority, it shall, before making a decision under this section in relation to that application consult with, and have regard to the views expressed by, that other planning authority.

Application for permission for development in material contravention of development plan or National Marine Planning Framework

99. (1) (a) Where an application is made under *section 95* for permission for land-based development or proposed land-based development that materially contravenes, or would materially contravene, the development plan for the functional area of the planning authority, the planning authority shall, subject to *subsection (2)*, refuse permission under *section 98*.

(b) Where an application is made under *section 95* for permission for maritime development or proposed maritime development that materially contravenes, or would materially contravene, the National Marine Planning Framework, the planning authority shall, subject to *subsection (2)*, refuse permission under *section 98*.

(2) A planning authority may, by resolution (in this section referred to as a "material contravention resolution") in accordance with this section passed by not less than three-quarters of the total number of the members of the planning authority following a proposal of the chief executive of the planning authority, decide to grant permission under *section 98* for development or proposed development referred to in *paragraph (a)* or *(b)* of *subsection (1)* if—

(a) it considers that the grant of such permission is necessary or justified having regard—

(i) in the case of development or proposed development referred to in *paragraph (a)* or *(b)* of *subsection (1)*, to proper planning and sustainable development, or

(ii) in the case of development or proposed development referred to in *paragraph (b)* of *subsection (1)*, to the objectives of maritime spatial planning,

and

(b) in the case of development or proposed development referred to in *paragraph (a)* of *subsection (1)*, the development or proposed development is consistent with such provisions of the National Planning Framework, National Planning Policies and Measures or regional spatial and economic strategy as deal with the matters dealt with by provisions of the development plan to which the material contravention concerned applies,

and any such resolution passed without prior compliance with *subsection (3)* shall be invalid.

(3) A planning authority shall give notice, in such form and manner as may be prescribed, to the public and to such persons as may be prescribed of any motion for a material contravention resolution, and any person may, upon payment of a prescribed fee, make submissions in respect of such motion in such form and manner, and within such period, as may be prescribed.

(4) (a) Where a submission is received by the planning authority within the period prescribed for the purposes of *subsection (3)*, the planning authority shall acknowledge that submission in writing and the chief executive shall have regard to that submission when preparing his or her report in accordance with *paragraph (c)*.

(b) Where a submission is received by the planning authority after the expiration of the period prescribed for the purposes of *subsection (3)*, the planning authority shall return that submission to the person who made it and notify the person that the submission cannot be considered by the planning authority.

(c) The chief executive shall, within such period as may be prescribed, prepare, and submit to the members of the planning authority, a report—

(i) stating the main reasons and considerations on which the motion to grant permission in material contravention of the development plan or National Marine Planning Framework, as the case may be, is based, including the main reasons for considering that granting the permission may be necessary or justified having regard to the proper planning and sustainable development of the area, or the objectives of maritime spatial planning, as appropriate,

(ii) summarising the issues raised in any submissions validly received, and

(iii) advising the members of his or her opinion regarding the compliance, or otherwise, of the development or proposed development with National Planning Statements or any relevant policies or objectives of the Government or Minister of the Government or with any regional spatial and economic strategy,

and that report shall be considered by the members before a material contravention resolution is passed.

(5) A material contravention resolution shall record that the members are satisfied that the development or proposed development is necessary or justified having regard to the proper planning and sustainable development of the area and, where the proposed development is or includes maritime development, objectives of maritime spatial planning.

(6) It shall be necessary for the passing of a material contravention resolution that the number of the members of the planning authority voting in favour of the resolution is not less than three-quarters of the total number of the members of the planning authority or where the number so obtained is not a whole number, the whole number next below the number so obtained shall be sufficient, and the requirement of this

paragraph is in addition to and not in substitution for any other requirement applying in relation to such a resolution.

(7) Where a material contravention resolution has been passed by a planning authority, the planning authority shall—

(a) send a copy of the notice under *subsection (3)* that relates to the resolution to the regional assembly for the area and the Office of the Planning Regulator,

(b) at the same time, inform the regional assembly for the area and the Office of the Planning Regulator in writing that the resolution was passed, and

(c) enter particulars of the material contravention resolution in the register.

Notification of decision of planning authority

100. (1) A planning authority shall, not later than 3 working days from its having made a decision under *section 98*, give such notice as may be prescribed of that decision.

(2) (a) A notice under *subsection (1)* shall—

(i) state the main reasons and considerations on which the decision to which the notice relates is based,

(ii) where conditions are imposed in relation to the grant of any permission, state the main reasons for the imposition of any such conditions,

(iii) where the planning authority decides to grant a permission in accordance with *section 99*, the main reasons and considerations for granting permission for development that materially contravenes the development plan, and

(iv) where the planning authority decides to grant permission upon an application that was accompanied by an environmental impact assessment report—

(I) state that the planning authority is satisfied that the reasoned conclusion under *section 236* was up to date on the day that the decision to grant permission was made,

(II) include a summary of—

(A) the outcome of any consultations that took place for the purposes of the environmental impact assessment,

(B) the information collected for the purposes of the environmental impact assessment,

(C) submissions (if any) received from a Transboundary Convention state, and

(D) the manner in which that outcome, that information and any such submissions were taken account of in the making of the decision.

(b) Where a decision under *section 98* does not follow a recommendation in a report to the chief executive (or such other person delegated to make the decision) prepared in relation to the planning application concerned by a person duly

authorised to prepare such report by the planning authority, a statement under *paragraph (a)* shall specify the main reasons for not following the recommendation.

(3) (a) Where—

(i) a planning authority decides to grant permission under *section 98*,

(ii) the decision concerned is not appealed under this Part, and

(iii) no application for leave to appeal the decision under this Part is made,

the planning authority shall grant the permission as soon as may be after the expiration of the period for the bringing of an appeal from the decision.

(b) Where—

(i) a planning authority decides to grant permission under *section 98*,

(ii) the decision is appealed under this Part or an application for leave to appeal the decision under this Part is made, and

(iii) the appeal or application for leave to appeal is withdrawn, or dismissed or refused by the Commission,

the planning authority shall grant the permission as soon as may be after the withdrawal, dismissal or refusal, and where more than one appeal under this Part from the decision is brought or more than one such application is made, the planning authority shall not grant the permission unless and until all such appeals or applications are so withdrawn, dismissed or refused.

(c) Where—

(i) a planning authority decides to grant permission under *section 98*, and

(ii) on appeal under this Part from the decision, the Commission gives a direction under *section 112*,

the planning authority shall grant the permission as soon as may be after the date of the direction.

(4) A planning authority shall, when giving notice of a decision in accordance with this section—

(a) publish (if it has not already done so) its determination in relation to any appropriate assessment carried out in relation to the development or proposed development to which the decision applies,

(b) comply (if it has not already done so) with—

(i) *subsection (13)* of *section 219*, where the Minister issued a notice under *subsection (10)* or *(11)* of that section in relation to the development or proposed development to which the decision applies, or

(ii) *paragraph (b)* of *subsection (8)*, and *subsection (16)*, of *section 221*, where the Minister issued a notice under *subsection (12)*, *(13)*, *(14)* or *(15)* of that

section in relation to the development or proposed development to which the decision applies,

and

(c) comply (if it has not already done so) with *subsection (8)* of *section 236*, where an environmental impact assessment was carried out in relation to the development or proposed development to which the decision applies.

(5) A planning authority shall enter particulars of a decision under *section 98* in the register.

Time limit for decision of planning authority

101. (1) A planning authority shall, before the expiration of—

(a) the relevant period, or

(b) such longer period as the applicant may consent to in accordance with *subsection (2)*,

make a decision under *section 98* in relation to an application under *section 95*.

(2) An applicant for permission for standard development or proposed standard development may, before the expiration of the relevant period, consent in writing to the extension of the period for making a decision under *section 98*.

(3) The Minister may prescribe a period or periods that shall be disregarded for the purposes of reckoning the relevant period.

(4) Where the planning authority fails to make a decision under *section 98* in relation to an application under *section 95* within the relevant period (or such longer period as the applicant may consent to in accordance with *subsection (2)*), it shall notify the applicant thereof as soon as may be—

(a) stating why it has not been possible to make a decision within that period,

(b) identifying the additional period required by the planning authority to make a decision in relation to the application (which shall not exceed 4 weeks, or such longer period as the applicant may consent to in accordance with *subsection (2)*, from the expiration of the relevant period), and

(c) seeking the consent of the applicant to an extension of the period within which the planning authority shall make its decision.

(5) (a) If the applicant notifies the planning authority that he or she consents to an extension of time sought in a notification under *subsection (4)*, the planning authority shall make a decision in relation to the application as soon as may be and before the expiration of the period specified in that notification.

(b) If, within such period as may be prescribed, the applicant notifies the planning authority that he or she does not consent to the extension sought in a notification under *subsection (4)*, the application shall be deemed to be refused, and the applicant may appeal that deemed refusal to the Commission under *section 103*.

(c) If the applicant fails to notify the planning authority, within the period referred to in *paragraph (b)*, as to whether or not he or she consents to the extension sought in the notification under *subsection (4)*, the applicant shall be deemed to have consented to that extension.

(d) Where an application under *section 95* is deemed to have been refused in accordance with *paragraph (b)*, the planning authority shall—

(i) in circumstances where the applicant does not appeal the deemed refusal to the Commission, repay to the applicant all planning fees paid to the planning authority by the applicant in respect of the application, and

(ii) in circumstances where the applicant appeals the deemed refusal to the Commission, repay to the applicant all planning fees paid to the planning authority by the applicant in respect of the application and any fees paid to the Commission by the applicant in respect of the said appeal.

(6) (a) Where the applicant consents to an extension sought in a notification under *subsection (4)* and the planning authority fails to make a decision in relation to the application within the period specified in that notification, it shall—

(i) repay to the applicant all fees paid to the planning authority by the applicant in respect of the application,

(ii) pay to the applicant the additional sum in not more than 5 instalments, and

(iii) subject to *subsection (7)*, make a decision in relation to the application as soon as may be thereafter.

(b) In this subsection "additional sum" means the lesser of the following:

(i) such sum as is equal to 3 multiplied by the sum of the fees paid to the planning authority by the applicant in respect of the application; or

(ii) €10,000.

(7) (a) Where the applicant consents to an extension sought in a notification under *subsection (4)* and the planning authority fails to make a decision in relation to the application within the period specified in that notification, the applicant may notify the planning authority in writing that it does not consent to the planning authority's making of a decision in relation to the application after the expiration of that period.

(b) Where the planning authority receives a notification under *paragraph (a)*—

(i) the application shall be deemed to have been refused by the planning authority on the date of the notification, and

(ii) the applicant may appeal that deemed refusal to the Commission under *section 103*.

(c) Where the applicant brings an appeal referred to in *subparagraph (ii)* of *paragraph (b)*, the planning authority shall repay to the applicant any fees paid by the applicant to the Commission in respect of that appeal.

(8) A planning authority shall include in its annual report in accordance with section 221 of the Act of 2001—

(a) the numbers of planning applications decided within the relevant period,

(b) the number of planning applications not decided within that period,

(c) the number of planning applications deemed refused in accordance with *paragraph (b)* of *subsection (5)* or *subparagraph (i)* of *paragraph (b)* of *subsection (7)*,

(d) the number of repayments made pursuant to *paragraph (d)* of *subsection (5)* and the aggregate value of all such repayments,

(e) the number of payments and repayments made pursuant to *subsection (6)* and the aggregate value of all such payments and repayments, and

(f) the number of repayments made pursuant to *paragraph (c)* of *subsection (7)* and the aggregate value of all such repayments.

(9) The making of a decision by a planning authority under *section 98* after the period referred to in *subsection (1)*, shall not invalidate the decision.

(10) The Minister may give a direction to a planning authority requiring the planning authority to give priority to the making of decisions under *section 98* in relation to applications for permission of such class or classes as is specified in the direction, if he or she considers that, by reason of the strategic, economic or social importance to the State of the class or classes concerned, it is necessary or expedient that decisions under that section in relation to such applications be made as expeditiously as is consistent with objectives of maritime spatial planning and principles of proper planning and sustainable development.

(11) In this section "relevant period" means—

(a) in relation to an application under *section 95* in respect of which neither an appropriate assessment nor an environmental impact assessment is required under *Part 6*—

(i) 8 weeks from the date of the application, or

(ii) where the planning authority makes one or more than one request under *subsection (2)* of *section 97*, 4 weeks from the earlier of the following dates:

(I) the date by which the request or requests, as the case may be, is or are fully complied with;

(II) the date by which the request or requests, as the case may be, is or are required to be fully complied with,

or

(iii) where *subsection (3)* of *section 97* applies, 4 weeks from the date of the expiration of the period prescribed under *subparagraph (III)* of *paragraph (ii)* of the said *subsection (3)*,

or

(b) in relation to an application under *section 95* in respect of which an appropriate assessment or an environmental impact assessment is required under *Part 6*—

(i) 12 weeks from the date by which all submissions are required to have been given to the planning authority in accordance with this Part and *Part 6* in relation to the proposed development,

(ii) where the planning authority makes a request or more than one request for further information under *subsection (2)* of *section 97*, *paragraph (a)* of *subsection (2)* of *section 217* or *subsection (4)* or *(5)* of *section 235* in relation to the application, 8 weeks from the earlier of the following dates:

(I) the date by which the request or requests, as the case may be, is or are fully complied with;

(II) the date by which the request or requests, as the case may be, is or are required to be fully complied with,

(iii) where *subsection (3)* of *section 97* applies, 8 weeks from the date of the expiration of the period prescribed under *subparagraph (III) of paragraph (ii)* of the said *subsection (3)*, or

(iv) where more than one of the foregoing provisions of this paragraph applies, the period specified in those provisions that expires last.

Persons eligible to appeal decision of planning authority

102. (1) Subject to *subsections (5)* and *(6)*, the following persons may, on payment of such fee as may be approved in accordance with *section 381*, appeal the decision of a planning authority under *section 98* to the Commission:

(a) the applicant for the permission the subject of the decision; and

(b) any person (other than a prescribed body referred to in *paragraph (a)* of *subsection (2)* or a person referred to in *paragraph (b)* of that subsection) who made submissions in writing in relation to the planning application in accordance with any provision of this Act or regulations under this Act.

(2) Subject to *subsections (3)* and *(5)*, the following persons shall be eligible to appeal the decision of a planning authority under *section 98* to the Commission:

(a) a prescribed body that was entitled to be given notice of any planning application in accordance with regulations under this Act but was not given such notice; and

(b) in the case of a decision of a planning authority that relates to a development in respect of which an appropriate assessment or an environmental impact assessment was required to be submitted to the planning authority in accordance with *Part 6*, a company within the meaning of the Companies Act 2014—

(i) formed and registered not later than one year before the bringing of the appeal,

(ii) whose constitution includes objects that relate to the promotion of environmental protection of relevance to the appeal,

(iii) that has pursued those objects for a period of not less than one year before the bringing of the appeal,

(iv) that has not fewer than 10 members at the time of the bringing of the appeal, and

(v) that has passed a resolution, in accordance with the constitution of the company, before the bringing of the appeal authorising the company to bring the appeal.

(3) The Commission shall dismiss an appeal brought by a person who is not eligible to bring an appeal in accordance with *subsection (2)*, and where it dismisses such appeal it shall notify the person in writing of the dismissal.

(4) (a) Subject to *subsection (6)*, a person who has an interest in land adjoining land in respect of which a decision to grant permission has been made may, on payment of the appropriate fee, apply to the Commission for leave to appeal against a decision of the planning authority under *section 98*.

(b) An application under *paragraph (a)* shall state—

(i) the name and address of the person making the application, the grounds upon which the application is made, and

(ii) a description of the person's interest in the land.

(c) The Commission shall, by notice given not later than one week from the receipt of an application under *paragraph (a)*, require the planning authority concerned to submit to the Commission copies of such materials as may be prescribed, and the planning authority shall comply with such requirement within one week from the date of receiving the notice.

(d) The Commission shall grant leave to appeal the decision of the planning authority under *section 98* only where an applicant under this subsection shows that—

(i) the development or proposed development in respect of which a decision to grant permission has been made differs or will differ materially from the development as set out in the application for permission by reason of conditions imposed by the planning authority to which the grant is subject, and

(ii) the imposition of such conditions will materially affect the applicant's enjoyment of the land or reduce the value of the land.

(e) A decision to grant or refuse leave to appeal under this subsection shall be made within 4 weeks from the receipt of the application.

(f) The Commission shall notify the applicant and the planning authority of a decision to grant or refuse an application under this subsection within 3 days from the date the decision under *paragraph (e)* is made by the Commission.

(5) (a) An appeal under *subsection (1)* or *(2)*, or an application for leave to appeal under *subsection (4)*, must be made within the period of 4 weeks from the date of the decision of the planning authority.

(b) Where leave to appeal is granted under *subsection (4)*, the appellant shall bring the appeal within 2 weeks from the receipt of the notification under *paragraph (f)*.

(c) An appeal or an application for leave to appeal received by the Commission after the expiration of the period specified in *paragraph (a)* or *(b)* shall be invalid.

(6) A person who appeals a decision of a planning authority under *section 98* to the Commission and who claims to be eligible to bring that appeal by virtue of *paragraph (b)* of *subsection (2)* shall include with the notice of appeal a statutory declaration under the Statutory Declarations Act 1938 that it is a company within the meaning of the Companies Act 2014—

(a) formed and registered not later than one year before the bringing of the appeal,

(b) whose constitution includes objects that relate to the promotion of environmental protection of relevance to the appeal,

(c) that has pursued those objects for a period of not less than one year before the bringing of the appeal,

(d) that has not less than 10 members at the time of the bringing of the appeal, and

(e) that has passed a resolution, in accordance with the constitution of the company, before the bringing of the appeal authorising the company to bring the appeal.

Bringing of appeal to Commission

103. (1) An appeal to the Commission under this Chapter shall be brought in such manner as may be prescribed.

(2) (a) An appeal under this section shall be accompanied by such fee as may be approved in accordance with *section 381*.

(b) An appeal under this section—

(i) shall be accompanied by such information and documentation as may be prescribed, and

(ii) may be accompanied by such other documents, particulars or information, relating to the appeal, as the appellant considers necessary or appropriate.

(3) (a) Save as otherwise permitted by this Act, an appellant shall not be entitled to elaborate in writing upon, or make further submissions in writing in relation to, the grounds of appeal stated in the appeal or to submit further grounds of appeal and any such elaboration, submissions or further grounds of appeal that is or are received by the Commission shall not be considered by it.

(b) Save as otherwise provided by this Act, the Commission shall not consider any documents, particulars or other information submitted by an appellant other than the documents, particulars or other information that accompanied the appeal.

(4) (a) Where, in relation to an appeal under this Chapter, there has been a failure to comply with *paragraph (b)* of *subsection (2)*, the appeal shall be invalid, unless the Commission is satisfied that the lack of such compliance does not materially affect the ability of the Commission to—

(i) determine the appeal, or

(ii) carry out any appropriate assessment or environmental impact assessment in relation to the development or proposed development concerned.

(b) Where the Commission is satisfied, on appeal under this Chapter, that, in relation to the application to which the decision under appeal applies, there was a failure to comply with *section 89* or *95*, it shall declare the application to be invalid.

(5) Where the Commission determines at any time that the development the subject of the application to which the appeal relates is not standard development, the application shall be invalid and the Commission shall declare it to be invalid.

(6) An application for retention permission shall be invalid and the Commission shall declare it to be invalid where, on appeal under this section in relation to the development to which the application relates—

(a) the Commission makes a determination under *section 212* or *214* that the likelihood of the development concerned (either individually or in combination with any plan or other project within the meaning of the Habitats Directive) having significant effects on a European site cannot be excluded, or

(b) the Commission makes a determination under *section 229* or *232* that an environmental impact assessment is required.

(7) Where an appeal is brought under this section from a decision of the planning authority in relation to an application for permission for land-based development, the Commission may, before the expiration of such period as may be prescribed, carry out, or cause to be carried out, an inspection of the land on which the development or proposed development is situated or proposed to be situated.

(8) A person shall, before bringing an appeal under this section, comply with such public notice requirements as may be prescribed in relation to the bringing of such an appeal.

Adoption by Commission of determination of planning authority relating to screening for environmental impact assessment

104. The Commission may adopt a determination of the planning authority in respect of screening for environmental impact assessment under *section 229* or *232* where the Commission has determined that such screening was carried out adequately by the planning authority.

Submissions to Commission on appeal

105. (1) The Commission shall, as soon as may be after the commencement of an appeal from a decision of a planning authority, notify the planning authority and each other party to the appeal of the appeal.

(2) Upon receipt of a notification under *subsection (1)*, the planning authority shall within such period as may be prescribed—

(a) submit to the Commission copies of the materials prescribed under *paragraph (c)* of *subsection (4)* of *section 102* unless already submitted,

(b) notify any person who made a submission in accordance with the requirements of this Act or the regulations, and

(c) enter particulars of the appeal in the register.

(3) Submissions in writing may be made to the Commission within such period as may be prescribed by—

(a) each party to the appeal other than the appellant, and

(b) any person who is not a party to the appeal.

Revisions to plans for development on appeal

106. (1) Subject to *subsection (3)*, the appellant in an appeal to the Commission under this Part may, where he or she is the person who made the application for permission to which the appeal relates, include, with the notice of appeal, revised particulars, plans or drawings in relation to the development or proposed development concerned.

(2) Subject to *subsection (3)*, the respondent in an appeal to the Commission under this Part may, where he or she is the person who made the application for permission to which the appeal relates, include, with any submissions in relation to the appeal, revised particulars, plans or drawings in relation to the development or proposed development concerned.

(3) Revised particulars, plans or drawings included with a notice of appeal referred to in *subsection (1)* or submissions referred to in *subsection (2)* shall—

(a) be clearly identified as having been included in accordance with this section,

(b) not contain a proposed alteration of the development or proposed development that would substantially alter the nature of the development or proposed development, and

(c) comply with such additional requirements as may be prescribed,

and revised particulars, plans or drawings included with such a notice in relation to which there has not been full compliance with this subsection shall be disregarded by the Commission when performing its functions in relation to the appeal.

(4) The opinion of the Commission on the question of whether or not revised particulars, plans, or drawings comply with *paragraph (b)* of *subsection (3)* shall be conclusive.

Procedural powers of Commission on appeal

107. (1) Without prejudice to *paragraph (a)* of *subsection (2)* of *section 217* and *subsection (4)* or *(5)* of *section 235* and before determining an appeal under this Chapter, the Commission may, in such manner and within such period as may be prescribed—

(a) request any party to the appeal or any person who made submissions on the appeal to submit further information to the Commission,

(b) request that the applicant for permission concerned submit revised particulars, plans or drawings in relation to the development, where the Commission is considering granting permission subject to the applicant complying with that request,

(c) request any person to make submissions in relation to any matter that has arisen in relation to the appeal, where in the opinion of the Commission it is appropriate to do so,

(d) require any party to the appeal to give public notice in relation to the appeal as the Commission may specify in accordance with the regulations, or

(e) hold an oral hearing in accordance with *section 369* and *370*.

(2) Where the Commission receives—

(a) further information pursuant to a request under *paragraph (a)* of *subsection (1)*,

(b) revised particulars, plans or drawings pursuant to a request under *paragraph (b)* of *subsection (1)*,

(c) submissions pursuant to a request under *paragraph (c)* of *subsection (1)*, or

(d) any other information, documents or submissions under, or pursuant to a request or information under, any other provision of this Act,

that it considers contains or contain additional material information (including information in relation to the effects of the proposed development on a European site or otherwise on the environment), it shall—

(i) make that additional material information available to the public for inspection (to the extent that such information is not already available to the public) in such manner and within such period as may be prescribed, and

(ii) notify the applicant that he or she is required to give notice to the public, in such manner and within such period as may be prescribed—

(I) that the additional material information identified by the Commission is available for inspection,

(II) of the address of the place where the additional information may be inspected, and

(III) that the public are entitled to make submissions on the additional material information within such period as may be prescribed.

(3) (a) Where an appellant fails to comply with a request under *paragraph (a)* of *subsection (1)* within such period as may be prescribed then—

(i) if the appellant was the applicant for permission, the appeal shall be deemed to have been withdrawn, or

(ii) if the appellant was not the applicant for permission, the Commission shall proceed to determine the appeal.

(b) Where the planning authority or a person who made submissions in relation to the appeal fails to comply with a request under *paragraph (a)* of *subsection (1)* within such period as may be prescribed, the Commission may determine the appeal without further notice to the planning authority or that person.

(c) Where an applicant for permission fails to comply with a request under *paragraph (b)* of *subsection (1)* within such period as may be prescribed, the Commission may—

(i) extend that period, where it considers it appropriate to do so, or

(ii) continue to determine the appeal without further notice to the applicant.

(d) Where any person fails to comply with a request under *paragraph (c)* of *subsection (1)* within such period as may be prescribed, the Commission may—

(i) extend that period, where it considers it appropriate to do so, or

(ii) continue to determine the appeal without further notice to that person.

(e) Where an applicant for permission fails to comply with a request under *paragraph (d)* of *subsection (1)* or *paragraph (ii)* of *subsection (2)*, or an appellant fails to comply with a request under *paragraph (d)* of *subsection (1)*, within such period as may be prescribed, the Commission may—

(i) extend that period, where it considers it appropriate to do so, or

(ii) deem the application for permission or appeal, as appropriate, withdrawn.

Dismissal of appeals where vexatious, etc.

108. (1) The Commission may dismiss an appeal where, having considered the grounds of appeal or any other matter to which it may, by virtue of this Act, have regard for the purpose of dealing with or determining an appeal, it is of the opinion that the appeal—

(a) is vexatious, frivolous or without substance or foundation, or

(b) is brought for the purpose of—

(i) delaying the development or proposed development concerned, or

(ii) securing the payment of money, gifts, consideration or other inducement by any person.

(2) A decision under this section shall state the main reasons and considerations on which the decision is based.

(3) The Commission may hold an oral hearing in accordance with *section 369* to determine whether or not an appeal is made for a purpose referred to in *subparagraph (ii)* of *paragraph (b)* of *subsection (1)*.

Decision of Commission on appeal

109. (1) Where an appeal is brought against a decision of a planning authority and is not withdrawn, dismissed or deemed invalid, the Commission shall make a decision in relation to the application for permission concerned as if the application had been made to the Commission rather than the planning authority, and the decision of the Commission shall operate to annul the decision of the planning authority from the date of the decision of the planning authority.

(2) Subject to this Part and *Part 6*, the Commission may, upon an appeal referred to in *subsection (1)*, decide to—

(a) grant the permission, subject to such conditions (if any) as may be imposed under *section 87*,

(b) grant the permission subject to—

(i) any modifications to the proposed development as it may specify, and

(ii) subject to such conditions (if any) as may be imposed under *section 87*,

(c) grant permission in respect of part of the proposed development subject to—

(i) any modifications to that part as it may specify, and

(ii) subject to such conditions (if any) as may be imposed under *section 87*,

or

(d) refuse to grant the permission.

(3) The Commission shall, in addition to any conditions that it may decide to attach to a grant of permission in accordance with *subsection (2)*, attach the following conditions to a grant of permission under that subsection where the application for permission concerned is an application to which an opinion under *section 94* applies:

(a) a condition requiring that each aspect of the proposed development concerned in respect of which confirmation has not yet been given to the planning authority—

(i) be limited to such proposed approaches as were included with the application for permission in accordance with the undertaking referred to in *subparagraph (iv)* of *paragraph (a)* of *subsection (2)* of *section 93*, or

(ii) fall within such range specified in the statement included with the application for permission in accordance with the undertaking referred to in the said *subparagraph (iv)*,

and

(b) a condition requiring the applicant for permission to inform the planning authority in writing of particulars of the aspect of the proposed development concerned (that has not yet been confirmed) before—

(i) the date of the commencement of—

(I) the proposed development, or

(II) the part of the proposed development to which that aspect relates,

or

(ii) such earlier date as may be prescribed.

(4) When granting a permission under *subsection (2)*, the Commission shall comply with *subsection (2)* of *section 87* (where applicable).

(5) In deciding an appeal under this section the Commission may take into account matters that relate to proper planning and sustainable development or maritime spatial planning, other than those raised by the parties or by any person who made submissions to the Commission in relation to the appeal, provided that—

(a) the matters are matters to which, by virtue of this Act, the Commission is permitted to have regard, and

(b) the taking account of such matters is appropriate having regard to the circumstances.

(6) Where the Commission considers that the performance by it of functions under this section in relation to an appeal of a decision of a planning authority under this Chapter has the potential to have a significant effect on the functional area of another planning authority, it shall, before making a decision under this section in relation to that appeal, consult with, and have regard to the views expressed by, that other planning authority.

(7) The Commission shall not have power to grant permission, on appeal from a decision of a planning authority in relation to an application made by the appellant, that—

(a) is not substantially the same as the development or proposed development to which that decision relates, or

(b) in the case of an appeal that relates to part only of the development or proposed development to which that decision relates, is not substantially the same as that part.

(8) Particulars of a decision of the Commission under this section shall be entered in the register.

Decision of Commission in relation to development in contravention of certain plans

110. (1) Where an appeal under this Chapter relates to development, or proposed development—

(a) situated or proposed to be situated wholly or partly on land, and

(b) that materially contravenes, or would materially contravene, the development plan for the functional area of the planning authority concerned,

the Commission shall, subject to *subsections (3)* and *(5)* refuse permission for the development or proposed development under *section 109*.

(2) Where an appeal under this Chapter relates to development, or proposed development situated or proposed to be situated wholly or partly in the maritime area materially contravenes, or would materially contravene, the National Marine Planning Framework, the Commission shall, subject to *subsections (4)* and *(5)* refuse permission under *section 109*.

(3) The Commission may grant permission under *section 109* for development or proposed development to which *subsection (1)* applies if it is satisfied that—

(a) the development or proposed development is of strategic or national importance having regard to the policy of the Government,

(b) the development plan contains objectives that conflict with one another or are ambiguous with regard to their application to the development or proposed development concerned, or

(c) the development or proposed development is consistent with such provisions of the National Planning Framework, National Planning Policies and Measures or regional spatial and economic strategy as deal with the matters dealt with by provisions of the development plan to which the material contravention concerned applies.

(4) The Commission may grant permission under *section 109* for development or proposed development to which *subsection (2)* applies if it is satisfied that—

(a) the development or proposed development is of strategic or national importance having regard to the policy of the Government, or

(b) the National Marine Planning Framework contains objectives that conflict with one another or are ambiguous with regard to their application to the development or proposed development.

(5) (a) Subject to *paragraph (b)*, the Commission shall give public notice of an appeal to which this section applies and submissions may be made in respect of the material contravention in such form and manner, and within such period, as may be prescribed.

(b) The Commission shall not be required to give public notice of an appeal to which this section applies if—

(i) the material contravention concerned is one that was the subject of a motion for a material contravention resolution within the meaning of *section 99*, and

(ii) the planning authority complied with *subsection (3)* of that section in relation to the motion.

(c) The Commission shall—

(i) by notice in writing to each person who makes a submission in relation to an appeal to which this section applies, confirm receipt of that submission, and

(ii) have regard to—

(I) each such submission, and

(II) all submissions referred to in *subsection (6)*,

before making a decision in relation to the appeal.

(d) The Commission shall not grant permission for development to which this section applies where it has not complied with this subsection.

(6) A planning authority whose decision is the subject of an appeal to which this section applies shall, after having complied with *subsection (3)* of *section 99* in relation to the application for permission concerned, provide the Commission with copies of all submissions made to it in respect of the application.

Notification of decision in relation to appeal under this Chapter

111. (1) The Commission shall give notice of its decision under *section 109* in accordance with this section and in such form and manner as may be prescribed.

(2) A notice under *subsection (1)* shall—

(a) state the main reasons and considerations on which the decision to which the notice relates is based,

(b) where conditions are imposed in relation to the grant of any permission, state the main reasons for the imposition of any such conditions,

(c) where permission is granted under *section 109* in accordance with *subsection (3)* or *(4)* of *section 110* state—

(i) the main reasons for the decision to grant such permission in accordance with *section 110*, and

(ii) the matters taken into consideration in making the decision in accordance with *section 110*,

and

(d) where the Commission grants permission upon an application that was accompanied by an environmental impact assessment report—

(i) state that the Commission is satisfied that the reasoned conclusion under *section 236* was up to date on the day that the decision to grant permission was made, and

(ii) include a summary of—

(I) the outcome of any consultations that took place for the purposes of the environmental impact assessment,

(II) the information collected for the purposes of the environmental impact assessment,

(III) submissions (if any) received from a Transboundary Convention state, and

(IV) the manner in which that outcome, that information and any such submissions were taken account of in the making of the decision.

(3) Where a decision by the Commission under *section 109* does not follow a recommendation in a report of an inspector appointed to prepare a report for the purposes of the appeal, the statement under *paragraph (a)* of *subsection (2)* shall specify the main reasons for not following the recommendation.

(4) Where the Commission grants permission under *section 109* in circumstances to which *section 110* applies, it shall notify the planning authority concerned thereof and the planning authority shall enter details thereof in the register.

(5) The Commission shall, when giving notice of a decision under this section—

(a) publish (if it has not already done so) its determination in relation to any appropriate assessment carried out in relation to the development or proposed development to which the decision applies,

(b) comply (if it has not already done so) with—

(i) *subsection (13)* of *section 219*, where the Minister issued a notice under *subsection (10)* or *(11)* of that section in relation to the development or proposed development to which the decision applies, or

(ii) *paragraph (b)* of *subsection (8)*, and *subsection (16)*, of *section 221*, where the Minister issued a notice under *subsection (12)*, *(13)*, *(14)* or *(15)* of that section in relation to the development or proposed development to which the decision applies,

and

(c) comply (if it has not already done so) with *subsection (8)* of *section 236*, where an environmental impact assessment was carried out in relation to the development or proposed development to which the decision applies.

Appeals against conditions

112. (1) Where—

(a) an appeal to the Commission is brought against a decision of a planning authority to grant permission,

(b) the appeal relates only to a condition or conditions attached to the permission, and

(c) the Commission is satisfied, having regard to the nature of the condition or conditions, that the matter could be dealt with by the giving of directions to the

planning authority rather than by the substitution of the decision of the Commission for that of the planning authority,

the Commission may give such directions (including directions requiring the replacement, amendment or removal of a condition or conditions to the permission or the attachment of one, or more than one, new condition to the permission), and the planning authority shall comply with such directions.

(2) The Commission may, in the performance of functions under *subsection (1)*, have regard to any matter to which it is permitted to have regard when determining an appeal under *section 109*.

(3) A direction under *subsection (1)* may include a requirement that such party to the appeal as is specified in the direction give such notice of the appeal as the Commission may specify including—

(a) at the place where the development or proposed development concerned is or is proposed to be situated, and

(b) by publication in a newspaper.

(4) (a) Where a condition to which *subsection (1)* applies is a condition under *paragraph (c)* of *subsection (6)* of *section 217*, the Commission shall—

(i) have regard to the Natura impact statement prepared under *section 215*, and

(ii) only give such direction or directions as, when complied with, would not cause the determination under *subsection (6)* of *section 217* that the development will not adversely affect the integrity of any European site to cease to be accurate.

(b) The Commission shall not give a direction under *subsection (1)* that, if complied with, would cause the determination under *subsection (8)* of *section 229*, that an environmental impact assessment was not required, to cease to be up to date (within the meaning of the Environmental Impact Assessment Directive).

(c) Where a condition to which *subsection (1)* applies is a condition under *subsection (6)* of *section 236*, the Commission shall—

(i) have regard to the environmental impact assessment report prepared under *section 234* and the reasoned conclusion under *section 236*, and

(ii) not give a direction under *subsection (1)* that, if complied with, would cause the reasoned opinion to cease to be up to date (within the meaning of the Environmental Impact Assessment Directive).

Time limits for determination of appeal by Commission

113. (1) The Commission shall, before the expiration of the relevant period, make a decision under *section 109* in relation to an appeal under this Chapter.

(2) Provision may be made by regulations for periods that shall be disregarded for the purposes of reckoning the relevant period.

(3) (a) Where the Commission fails, within the relevant period, to make a decision in relation to an appeal under this Chapter that has neither been withdrawn nor deemed to have been withdrawn, it shall—

(i) determine the appeal notwithstanding that the period has expired,

(ii) notify the appellant and applicant for permission (where he or she is not the appellant) of—

(I) the reasons why it has not made a decision within that period, and

(II) the period within which it will make that decision (which shall not exceed 4 weeks, or such longer period as may be agreed to by the applicant, from the date of the expiration of the relevant period),

and

(iii) publish a notice on its internet website of the reasons and period referred to in *subparagraph (ii)*.

(b) Where the Commission fails, within the period specified in the notification under *clause (II)* of *subparagraph (ii)* of *paragraph (a)*, to make a decision on an appeal under this Chapter, it shall—

(i) determine the appeal notwithstanding that the period has expired,

(ii) notify the appellant and applicant for permission (where he or she is not the appellant) of—

(I) the reasons why it has not made a decision within that period, and

(II) the period within which it will make that decision (which shall not exceed 2 weeks from the date of the expiration of the period first mentioned in this paragraph),

(iii) publish a notice on its internet website of—

(I) the reasons and period referred to in *subparagraph (ii)*, and

(II) the sum paid to the applicant for permission in accordance with *subparagraph (iv)*,

and

(iv) pay to the applicant for permission a sum equal to such proportion of the fees paid to the Commission as may be prescribed.

(c) Where the Commission fails, within the period specified in the notification under *clause (II)* of *subparagraph (ii)* of *paragraph (b)*, to make a decision on an appeal under this Chapter, it shall—

(i) determine the appeal notwithstanding that the period has expired,

(ii) notify the appellant and applicant for permission (where he or she is not the appellant) of—

(I) the reasons why it has not made a decision within that period, and

(II) the period within which it will make that decision (which shall not exceed one week from the date of the expiration of the period first mentioned in this paragraph),

(iii) publish a notice on its internet website of the reasons and period referred to in *subparagraph (ii)*, and

(iv) notify the Minister and the Office of the Planning Regulator that it has not made the decision within the period specified in the notification under *clause (II)* of *subparagraph (ii)* of *paragraph (b)*.

(d) The Minister may, upon his or her receiving a notification under *subparagraph (iv)* of *paragraph (c)*, request the Office of the Planning Regulator to—

(i) conduct a review of the performance by the Commission of its functions under this Act, and

(ii) prepare, and submit to the Minister (within such period as the Minister shall specify), a report in relation to that review.

(4) Any sum payable under *subsection (3)* shall be paid not later than 4 weeks after the expiration of the relevant period applicable to the appeal.

(5) Each report under *section 522* shall, in relation to the period to which the report relates—

(a) contain a statement of—

(i) the number of appeals (other than LRD appeals) that the Commission has decided under *section 109*, and

(ii) the number of such appeals so decided within—

(I) the relevant period,

(II) a period notified in accordance with *subparagraph (ii)* of *paragraph (a)* of *subsection (3)*,

(III) a period notified in accordance with *subparagraph (ii)* of *paragraph (b)* of *subsection (3)*, and

(IV) a period notified in accordance with *subparagraph (ii)* of *paragraph (c)* of *subsection (3)*,

(b) contain a statement of—

(i) the number of LRD appeals that the Commission has decided under *section 109*, and

(ii) the number of such appeals so decided within—

(I) the relevant period,

(II) a period notified in accordance with *subparagraph (ii)* of *paragraph (a)* of *subsection (3)*,

(III) a period notified in accordance with *subparagraph (ii)* of *paragraph (b)* of *subsection (3)*, and

(IV) a period notified in accordance with *subparagraph (ii)* of *paragraph (c)* of *subsection (3)*,

(c) contain a statement of—

(i) the number, and the aggregate amount, of all sums (if any) payable, and the number, and the aggregate amount, of all such sums paid, by the Commission in accordance with *subparagraph (iv)* of *paragraph (b)* of *subsection (3)*, and

(ii) the details of each notification under *subsection (3)*,

and

(d) contain such other information as to the time taken to decide such appeals as the Minister may direct.

(6) The Minister may give a direction to the Commission requiring the Commission to give priority to the making of decisions under *section 109* in relation to appeals of such class or classes as is specified in the direction, if he or she considers that, by reason of the strategic, economic or social importance to the State of the class or classes concerned, it is necessary or expedient that decisions under that section in relation to such appeals be made as expeditiously as is consistent with objectives of maritime spatial planning and principles of proper planning and sustainable development.

(7) In this section "relevant period" means—

(a) in relation to an appeal under this Chapter in respect of which neither an appropriate assessment nor an environmental impact assessment is required under *Part 6*—

(i) 18 weeks from the date of the expiration of the period within which a person is required to bring an appeal in accordance with *subsection (5)* of *section 102*,

(ii) where the Commission makes a request under *paragraph (a)*, *(b)* or *(c)* of *subsection (1)* of *section 107*, 6 weeks from the earlier of the following dates:

(I) the date by which the request or requests, as the case may be, is or are fully complied with;

(II) the date by which the request or requests, as the case may be, is or are required to be fully complied with,

or

(iii) where *subsection (2)* of *section 107* applies, 6 weeks from the date of the expiration of the period prescribed under *paragraph (a)* of that subsection,

(b) in relation to an appeal under this Chapter in respect of which an appropriate assessment or an environmental impact assessment is required under *Part 6*—

(i) 26 weeks from—

(I) the date of the expiration of the period within which a person is required to bring an appeal in accordance with *subsection (5)* of *section 102*, or

(II) by which all submissions are required to have been given to the Commission in accordance with this Chapter and *Part 6* in relation to the proposed development,

whichever occurs later,

(ii) where the Commission makes a request or more than one request for further information under *paragraph (a)*, *(b)* or *(c)* of *subsection (1)* of *section 107*, *paragraph (a)* of *subsection (2)* of *section 217* or *subsection (4)* or *(5)* of *section 235* in relation to the appeal, 10 weeks from the earlier of the following dates:

(I) the date by which the request or requests, as the case may be, is or are fully complied with;

(II) the date by which the request or requests, as the case may be, is or are required to be fully complied with,

or

(iii) where *subsection (2)* of *section 107* applies, 10 weeks from the date of the expiration of the period prescribed under *paragraph (a)* of that subsection,

(c) in relation to an appeal under this Chapter in respect of which an oral hearing is held under *subsection (1)* of *section 107*, 12 weeks from the date of the conclusion of the oral hearing, or

(d) where more than one of the foregoing provisions of this subsection applies, the period specified in those provisions that expires last.

Chapter 4

Planning Applications Directly to Commission

Definitions

114. In this Chapter—

"appropriate planning authority" means—

(a) where an application relates to land-based development, the planning authority or authorities within whose functional area or functional areas it is proposed that the development or any part of the development will be carried out,

(b) where an application relates to maritime development, the planning authority or authorities—

(i) within whose functional area or functional areas it is proposed that the development or any part of the development will be carried out, or

(ii) whose functional area adjoins or whose functional areas adjoin a maritime site within which it is proposed to carry out the development or any part of the development,

or

(c) where an application relates to development that is partly land-based development and partly maritime development, the planning authorities specified at both *paragraphs (a)* and *(b)*;

"prospective applicant" has the meaning assigned to it by *subsection (1)* of *section 116*.

General

115. (1) The Minister may for the purposes of this Part prescribe—

(a) exceptions from any of the classes of development referred to in *paragraph (b)* of the definition of "*Chapter 4* development" in *section 82*, or

(b) limitations, in respect of any of those classes of development, on the extent to which development constitutes *Chapter 4* development.

(2) Where this Chapter applies to part only of a development, an application for permission for the entire development shall be made to the Commission under this Chapter.

(3) Where a statutory undertaker proposes to carry out works for the maintenance or improvement of existing infrastructure, being works which would constitute *Chapter 4* development, the statutory undertaker may, instead of applying under this Chapter for permission for the works, apply for permission under *Chapter 3*, and where such an application is made, the works are to be treated for the purposes of this Part as if they did not constitute *Chapter 4* development but instead constituted standard development.

(4) Any obligation under this Chapter—

(a) on an applicant for permission, a prospective applicant or the Commission, to provide notice to the appropriate planning authority, or

(b) on the appropriate planning authority, to provide any report or other information to the Commission,

shall not apply in either of the cases mentioned in *subsection (5)*.

(5) Those cases are where—

(a) the applicant for permission is a local authority or two or more local authorities acting jointly and the permission sought relates to proposed development within the functional area of that local authority or any of those local authorities, or

(b) the application for permission relates to proposed development that is wholly in the outer maritime area and the maritime site does not adjoin the nearshore area of any planning authority.

Pre-application consultation

116. (1) (a) A person (in this Chapter referred to as a "prospective applicant") who intends, and is eligible, to apply for permission for *Chapter 4* State authority emergency development may, prior to the making of an application for such permission, request a consultation with the Commission under this section.

(b) A person (in this Chapter also referred to as a "prospective applicant") who is of a class prescribed by the Minister may request a consultation with the Commission under this section.

(c) A person (in this Chapter also referred to as a "prospective applicant") who intends, and is eligible to apply, for permission for *Chapter 4* development (other than *Chapter 4* State authority emergency development) shall, prior to the making of the application concerned, request a consultation with the Commission under this section.

(2) A request for a consultation under this section shall be accompanied by—

(a) sufficient information to allow the Commission to carry out its functions under this section, and

(b) such documents or information as may be prescribed.

(3) Where a request for a consultation under this section is made by a prospective applicant, and is accompanied by the required documentation and information in accordance with *subsection (2)*, the Commission shall, as expeditiously as is practicable—

(a) subject to *subsection (4)* of *section 115*, notify the appropriate planning authority of the request, and

(b) subject to *subsection (6)*, enter into and carry out consultations under this section.

(4) Subject to *paragraph (b)* of *subsection (6)*, in any consultation under this section, the Commission—

(a) shall advise the prospective applicant as to the procedures that apply in relation to the consideration of an application for permission under this Chapter, including—

(i) the plans, particulars or other information the Commission will require for the purposes of considering the application,

(ii) the time periods and sequencing that will apply in relation to consideration and determination of the application,

(iii) any other matters in relation to the application process as the Commission considers appropriate, and

(iv) such other matters as may be prescribed,

(b) may advise the prospective applicant regarding—

(i) the considerations that may, in the opinion of the Commission, have a bearing on its decision in relation to any application for permission under this Chapter, related to—

(I) proper planning and sustainable development,

(II) the impact of the development on the environment or any European site,

(III) where the proposed development is or includes land-based development, the relevant objectives of the development plan and any urban area plan, priority area plan or coordinated area plan that are likely to have a bearing on the decision of the Commission, and

(IV) where the proposed development is or includes maritime development, the National Marine Planning Framework and the objectives of maritime spatial planning,

(ii) the need (if any) for the prospective applicant to create an internet website for the purpose of publishing the application and documentation accompanying the application,

(iii) the requirements as to the public notice prescribed under *section 120* to be complied with by the prospective applicant prior to making an application under that section, the persons to whom documentation must be furnished and the making of submissions in relation to the application,

(iv) the notification of prescribed bodies,

(v) the fees payable with respect to consultation under this section, and

(vi) such other matters as may be prescribed,

and

(c) may require the prospective applicant to give notice to the public or to carry out consultations with the public in advance of an application under *section 120* being submitted, in addition to the public notice to be provided in accordance with *subsection (1)* of that section, including by the erection or fixing of a site notice on the land or structure to which the proposed development relates in accordance with the requirements of the regulations.

(5) The Commission—

(a) must consult with such persons as may be prescribed, and

(b) may consult with any other person who may, in the opinion of the Commission, have information which is relevant for the purposes of consultations under this section in relation to a proposed development.

(6) Where, on receipt of a request for a consultation under this section, or following consultation under this section, the Commission forms the opinion that the proposed development would not, if carried out, constitute *Chapter 4* development—

(a) it shall notify the prospective applicant—

(i) that an application for permission for the proposed development may not be made to the Commission under this Chapter, and

(ii) of the Chapter (if any) of this Part under which an application for permission for the proposed development may be made,

and

(b) it shall not proceed further with any consultations under this section.

(7) Where, following consultations under this section the Commission forms the opinion that the proposed development would, if carried out, constitute *Chapter 4* development, it shall notify the prospective applicant that the proposed application should be made to the Commission under this Chapter (in this Part referred to as a "*Chapter 4* PAC notification").

(8) Subject to *subsection (4)* of *section 115*, the Commission shall give a copy of a notice under *subsection (6)* or *(7)*, as the case may be, to the appropriate planning authority.

(9) The Commission may, at any time, conclude a consultation under this section where it considers it appropriate to do so.

(10) Where a person is served with a notice under paragraph (a) of subsection (4) of section 37B of the Act of 2000 but does not make an application under section 37E of that Act before the repeal of the said section 37E by *section 6*, the notice shall be deemed to be a *Chapter 4* PAC notification.

Requirement to enter into pre-application consultation prior to making application under Chapter

117. (1) A prospective applicant shall not make an application for permission for *Chapter 4* development under this Chapter unless—

(a) the prospective applicant has been given a *Chapter 4* PAC notification in relation to the proposed development, or

(b) the prospective applicant makes the application with the consent in writing of a person who has been given a *Chapter 4* PAC notification in relation to the proposed development.

(2) *Subsection (1)* does not apply to an application for permission for *Chapter 4* State authority emergency development.

(3) In this section "proposed development" means, in relation to a *Chapter 4* PAC notification, development that is—

(a) the subject matter of the *Chapter 4* PAC notification, or

(b) not materially different from the development that is the subject matter of the *Chapter 4* PAC notification.

Request for meeting where certain aspects of proposed development not confirmed

118. (1) Where a prospective applicant proposes to make an application for permission for development under this Chapter but not all aspects of the development are likely to be confirmed by the date of the application, he or she may, before making the application, request a meeting with the Commission.

(2) (a) A request under *subsection (1)* shall—

(i) be in writing,

(ii) include a description of—

(I) the aspects, or aspects falling within a specified category, of the proposed development that are not likely to be confirmed by the time the application is made, and

(II) the circumstances that would justify the making of the application before the confirmation of those aspects,

(iii) include such other information as may be prescribed,

(iv) be accompanied by an undertaking in writing given by the prospective applicant that, in relation to each aspect or category referred to in *clause (I)* of *subparagraph (ii)*, he or she will include with any such application—

(I) a description of not less than 2 proposed approaches, or

(II) a statement of the range within which each such aspect or category (being an aspect or category in respect of which the prospective applicant has elected not to comply with *clause (I)*) falls,

and

(v) be accompanied by such fee as may be approved in accordance with *section 381*.

(b) Without prejudice to the generality of *clause (II)* of *subparagraph (ii)* of *paragraph (a)*, circumstances referred to in that clause may include—

(i) the unavailability, at the time that the prospective applicant intends to make the application, of technology that is likely to become available before the commencement of the part of the proposed development to which the aspect concerned relates, and

(ii) circumstances relating to any particular class of development as may be prescribed.

(3) The Commission may, before a meeting under this section takes place, consult with any person who may, in the opinion of the Commission, have information that is relevant to the subject matter of the meeting, and the Commission shall prepare a record in writing of the consultation and keep that record with the documentation relating to any subsequent application for permission for the proposed development concerned.

(4) The Commission shall, upon receiving a request under *subsection (1)*, convene a meeting with the prospective applicant which shall take place not later than 4 weeks from the date on which the request was received by the Commission.

(5) The following persons shall be permitted to attend a meeting convened under this section:

(a) the Commission;

(b) the prospective applicant;

(c) any person or persons nominated by the prospective applicant for the purpose of advising or representing him or her at the meeting.

(6) The Commission shall ensure that such members of staff of the Commission as attend the meeting have a sufficient knowledge and expertise in relation to the matters to which the meeting relates.

(7) Where a meeting referred to in *subsection (4)* does not take place within the period specified in that subsection, the Commission shall—

(a) convene such meeting as soon as practicable thereafter, and

(b) provide the prospective applicant with an explanation in writing of the reason for the failure to convene a meeting within that period.

(8) The Commission shall keep—

(a) a request under this section,

(b) all documents included with or accompanying that request in accordance with *subsection (2)*, and

(c) a record in writing of a meeting convened under *subsection (4)*,

with the documentation relating to any subsequent application for permission for the proposed development concerned.

(9) A request, document or record kept in accordance with *subsection (8)* shall be published and made available to the public, in such manner as may be prescribed, not later than 3 days from the day on which the Commission receives an application for permission for the proposed development concerned.

(10) A failure by the Commission to comply with *subsection (4)* within the time period specified therein shall not invalidate any act done by the Commission in relation to an application or proposed application for permission for *Chapter 4* development.

Opinion with regard to making of application where certain aspects of proposed development not confirmed

119. (1) The Commission shall, not later than 4 weeks from the date on which the meeting convened under *subsection (4)* of *section 118* takes place, consider the description and information included in the request under that section, the undertaking that accompanied that request and any information provided at the meeting and—

(a) if the Commission is satisfied that it would be appropriate for the application referred to in *subsection (1)* of that section to be made before the confirmation of all aspects of the proposed development concerned, it shall provide the prospective applicant with an opinion to that effect, or

(b) if the Commission is not so satisfied, it shall notify the prospective applicant thereof in writing.

(2) An opinion under *paragraph (a)* of *subsection (1)* shall specify—

(a) the aspects of the proposed development that may be confirmed after the making of the application,

(b) the circumstances relating to the proposed development that justify the making of the application before the confirmation of those aspects, and

(c) that the application shall, in addition to any other requirement imposed by or under this Act, include the description or statement referred to in the undertaking given in accordance with *subparagraph (iv)* of *paragraph (a)* of *subsection (2)* of *section 118*.

(3) An opinion under *paragraph (a)* of *subsection (1)* shall not be published unless and until an application for permission for the proposed development concerned is made in accordance with this Chapter.

(4) Where the Commission fails to comply with *subsection (1)* within the period specified therein, the Commission shall—

(a) perform the functions under that subsection as soon as practicable thereafter, and

(b) provide the prospective applicant with an explanation in writing of the reason for the failure.

(5) A failure by the Commission to comply with *subsection (1)* within the time period specified therein shall not invalidate any act done by the Commission in relation to an application or proposed application for permission for *Chapter 4* development.

(6) An opinion under subsection (2) of section 37CD or subsection (2) of section 287B of the Act of 2000 shall operate as if it were an opinion under *paragraph (a)* of *subsection (1)*.

(7) A notification under subsection (3) of section 37CD or subsection (3) of section 287B of the Act of 2000 shall operate as if it were a notification under *paragraph (b)* of *subsection (1)*.

Making of application to Commission

120. (1) Prior to making an application for permission for *Chapter 4* development, a prospective applicant shall, in addition to complying with *subsection (3)* of *section 234*, comply with such requirements as to public notice as may be prescribed.

(2) Applications for permission for *Chapter 4* development shall—

(a) be in such form, and be accompanied by such documents, as may be prescribed, and

(b) shall be accompanied by such fee as may be payable in respect of the application in accordance with *section 381*.

(3) On the date on which an application for permission for *Chapter 4* development is made, the applicant shall comply with such requirements as to the sending of copies of the application and other associated documents as may be prescribed to such persons or classes of person as may be prescribed.

(4) Within such period as may be prescribed after the receipt of an application under this section by the Commission, the Commission shall, if it is satisfied that the application was made in accordance with this section, by notice in writing to the applicant—

(a) acknowledge receipt of the application, and

(b) confirm the date of receipt of the application.

(5) Subject to *subsection (7)*, an application that is not in accordance with this section shall be invalid.

(6) Following receipt by the Commission of an application for permission for *Chapter 4* development that is land-based development, the Commission shall, before the expiration of such period as may be prescribed, cause an inspection to be carried out of the land on which it is proposed to carry out the development concerned.

(7) Where the Commission determines, following the carrying out of an inspection under *subsection (6)*, or at any other time after the acknowledgment of receipt of an application under *paragraph (a)* of *subsection (4)*, that the application was not made in accordance with this section—

(a) if it is satisfied that the failure to make the application in accordance with this section—

(i) has not resulted in any failure to comply with any requirement under this Act to give public notice of the application, and

(ii) has not otherwise materially affected the ability of the Commission to determine the application, or carry out any appropriate assessment or environmental impact assessment in relation to the application,

it shall treat the application as valid, or

(b) if it is not satisfied with regard to the matters referred to in *subparagraphs (i)* and *(ii)* of *paragraph (a)* it shall treat the application as invalid and declare it to be so.

(8) Particulars of every application under this section shall be entered in the register.

Report and information to be furnished by appropriate planning authority

121. (1) Subject to *subsection (4)* of *section 115*, where the appropriate planning authority receives a copy of an application for permission for *Chapter 4* development, the planning authority shall prepare and submit to the Commission a report setting out the

views of the planning authority in relation to the proposed development, having regard in particular to the matters specified in *section 86*.

(2) Where the application is for retrospective consent, the report under *subsection (1)* shall include the following:

(a) information relating to development (including development other than the development which is the subject of the application) carried out on the site where the development that is the subject of the application took place or is proposed to take place, and any application for permission made in relation to the site and the outcome of the application;

(b) information relating to any warning letter, enforcement notice (within the meaning of *Part 11*) or proceedings relating to offences under this Act that relate to the applicant;

(c) where the proposed development is or includes land-based development, information regarding the relevant provisions of the development plan and any urban area plan, priority area plan or coordinated area plan as they affect the site and the type of development concerned;

(d) where the proposed development is or includes maritime development, information regarding the relevant provisions of the National Maritime Planning Framework as they affect the site and the type of development concerned;

(e) any information that the planning authority may have concerning—

(i) current, anticipated or previous significant effects on the environment, or on a European site associated with the development that is the subject of the application or the site where the development took place or is proposed to take place and, if relevant, the area surrounding or near the development or site, or

(ii) any remedial measures recommended or undertaken;

(f) the opinion, including reasons therefor, of the chief executive of the planning authority as to—

(i) whether or not permission should be granted for the development, and

(ii) the conditions, if any, that should be attached to any grant of permission.

(3) The chief executive of the appropriate planning authority shall, before any report of the planning authority in relation to a proposed development is submitted to the Commission under *subsection (1)*, submit the report to the members of the planning authority and seek the views of the members on the proposed development.

(4) (a) The members of the appropriate planning authority may, by resolution, decide to attach recommendations specified in the resolution to the report of the planning authority.

(b) Where the members pass a resolution under *paragraph (a)* the recommendations specified in that resolution (together with the meetings administrator's record) shall be attached to the report submitted to the Commission under *subsection (1)*.

(c) In this subsection "the meetings administrator's record" means a record prepared by the meetings administrator (within the meaning of section 46 of the Local Government Act 2001) of the views expressed by the members on the proposed development.

(5) Subject to *subsection (4)* of *section 115*, in addition to the report referred to in *subsection (1)*, the Commission may, where it considers it necessary to do so, require the appropriate planning authority or any planning authority on whose functional area the proposed development would have a significant effect to furnish to the Commission such information as it may specify in relation to—

(a) the implications of the proposed development for proper planning and sustainable development in the functional area concerned,

(b) the likely effects of the proposed development on the environment, or

(c) where the proposed development is or includes maritime development, the implications of the proposed development for maritime spatial planning.

Procedural powers of Commission

122. (1) Any person may, upon payment of such fee as is payable in accordance with *section 381*, make a submission in writing to the Commission in relation to an application for permission for *Chapter 4* development.

(2) A submission under *subsection (1)* shall be made in such manner and within such period as may be prescribed.

(3) Without prejudice to *paragraph (a)* of *subsection (2)* of *section 217* and before determining an application for permission for *Chapter 4* development the Commission may, in such manner and within such period as may be prescribed—

(a) request that the applicant submit further information to the Commission, where in the opinion of the Commission that information is necessary to enable it to determine the application,

(b) request that the applicant submit revised particulars, plans or drawings in relation to the development, where the Commission is considering granting permission subject to the applicant complying with that request,

(c) request that further submissions be made to it, within such period as may be prescribed, by the applicant, any person who made submissions, or any other person who may, in the opinion of the Commission, have information which is relevant to the determination of the application,

(d) where the application relates to proposed development which comprises or is for the purposes of an activity for which—

(i) an industrial emissions licence,

(ii) an integrated pollution control licence,

(iii) a waste licence,

(iv) a waste water discharge licence, or

(v) an abstraction licence,

is required, request the Environmental Protection Agency to make submissions in relation to the proposed development,

(e) without prejudice to *subsection (6)*, notify any person or the public that information relating to the application is available for inspection and, if it considers appropriate, invite further submissions to be made to it within such period as it may specify,

(f) hold meetings with the applicant or any other person where it appears to the Commission to be necessary or expedient to do so for the purpose of—

(i) determining the application, or

(ii) resolving any issue with the application or any disagreement between the applicant and any other person, including resolving any issue or disagreement in advance of an oral hearing,

or

(g) hold an oral hearing in accordance with *sections 369* and *370*.

(4) Where the Commission holds a meeting in accordance with *paragraph (f)* of *subsection (3)*, it shall keep a written record of the meeting.

(5) The Commission, or an employee of the Commission duly authorised by the Commission, may appoint a person to hold a meeting referred to in *paragraph (f)* of *subsection (3)*.

(6) Where the Commission receives—

(a) a submission under *subsection (1)* or pursuant to a request under *paragraph (c)* or *(d)* of *subsection (3)*,

(b) further information or revised particulars, plans or drawings pursuant to a request under *subsection (3)*, or

(c) submissions or further information under any other provision of this Act or regulations under this Act or pursuant to a request under any such provision,

that it considers contain or contains additional material information (including information in relation to the effect of the proposed development on a European site or otherwise on the environment), it shall—

(i) make that additional material information available to the public for inspection (to the extent that such information is not already available to the public) in such manner and within such period as may be prescribed, and

(ii) notify the applicant that the applicant is required to give notice (in such manner and within such period as may be prescribed) to the public—

(I) that the additional material information is available for inspection,

(II) of the address of the place where the additional information may be inspected, and

(III) that the public are entitled to make submissions in relation to the additional material information within such period as may be prescribed.

(7) (a) Where an applicant for permission fails to comply with a request under *paragraph (a)* of *subsection (3)* within such period as may be prescribed, the Commission may treat the application for permission as having been withdrawn.

(b) Where an applicant for permission fails to comply with a request under *paragraph (b)* or *(c)* of *subsection (3)* within such period as may be prescribed, the Commission may—

(i) extend that period, where it considers it appropriate to do so, or

(ii) continue to determine the application without further notice to the applicant.

(c) Where an applicant for permission fails to comply with a requirement referred to in *paragraph (b)* of *subsection (6)* within such period as may be prescribed, the Commission may—

(i) extend that period, where it considers it appropriate to do so, or

(ii) treat the application for permission as having been withdrawn.

Decision of Commission

123. (1) Subject to this Part and *Part 6*, the Commission may, in respect of an application for permission for *Chapter 4* development, decide to—

(a) grant the permission, subject to such conditions (if any) as it may decide to attach under *section 87*,

(b) grant the permission, subject to—

(i) such modifications to the development or proposed development as it may specify, and

(ii) such conditions (if any) as it may decide to attach under *section 87*,

(c) grant permission in respect of part of the development or proposed development, subject to—

(i) such modifications to that part as it may specify, and

(ii) such conditions (if any) as it may decide to attach under *section 87*,

or

(d) refuse to grant the permission.

(2) The Commission shall, in addition to any conditions that it may decide to attach to a grant of permission in accordance with *subsection (1)*, attach the following conditions to a grant of permission for *Chapter 4* development where the application for permission concerned is an application to which an opinion under *section 119* applies:

(a) a condition requiring that each aspect of the proposed development concerned in respect of which confirmation has not yet been given to the Commission—

(i) be limited to such proposed approaches as were included with the application for permission in accordance with the undertaking referred to in *subparagraph (iv)* of *paragraph (a)* of *subsection (2)* of *section 118*, or

(ii) fall within such range specified in the statement included with the application for permission in accordance with the undertaking referred to in the said *subparagraph (iv)*,

and

(b) a condition requiring the applicant for permission to inform the appropriate planning authority in writing of particulars of the aspect of the proposed development concerned (that has not yet been confirmed) before—

(i) the date of the commencement of the part of the proposed development to which that aspect relates, or

(ii) such earlier date as may be prescribed.

(3) When making its decision in relation to an application for permission for *Chapter 4* development, the Commission may consider any relevant information before it or any other matter to which, by virtue of this Act, it can have regard.

(4) Where an application for permission for *Chapter 4* development relates to proposed development that consists, or is for the purpose, of an activity for which—

(a) an industrial emissions licence,

(b) an integrated pollution control licence,

(c) a waste licence,

(d) a waste water discharge licence, or

(e) an abstraction licence,

is required (whether or not such licence or authorisation has been granted), the Commission may decide to refuse to grant the permission if it is satisfied that the proposed development would not be consistent with objectives of maritime spatial planning or principles of proper planning and sustainable development.

(5) Where an application for permission for *Chapter 4* development relates to proposed development that consists, or is for the purposes, of an activity for which—

(a) an industrial emissions licence,

(b) an integrated pollution control licence,

(c) a waste licence,

(d) a waste water discharge licence, or

(e) an abstraction licence,

is required, the Commission may, in respect of that development, decide to refuse to grant the permission where the Commission considers that the development, notwithstanding the licensing of the activity, is unacceptable on environmental grounds, having regard to the proper planning and sustainable development of the area in which the development would be situated.

Decision on application for permission for development in material contravention of certain plans

124. (1) (a) Where an application for permission is made under this Chapter for development or proposed development that—

(i) is situated or proposed to be situated wholly or partly on land, and

(ii) materially contravenes, or would materially contravene, the development plan for the functional area of any planning authority,

the Commission shall, subject to *subsection (2)*, refuse to grant permission under *section 123*.

(b) Where an application for permission is made under this Chapter for development or proposed development that—

(i) is situated or proposed to be situated wholly or partly in the maritime area, and

(ii) that materially contravenes, or would materially contravene, the National Marine Planning Framework or maritime spatial plan,

the Commission shall, subject to *subsection (3)*, refuse to grant permission under *section 123*.

(2) The Commission may grant permission for development referred to in *paragraph (a)* of *subsection (1)*, if it is satisfied that—

(a) the development or proposed development is of strategic or national importance having regard to the policy of the Government,

(b) the development plan contains objectives that conflict with one another or that are ambiguous with regard to their application to the development or proposed development, or

(c) the development or proposed development is consistent with such provisions of the National Planning Framework, National Planning Statement or the relevant regional spatial and economic strategy as deal with the matter dealt with by provisions of the development plan to which the material contravention concerned applies.

(3) The Commission may grant permission for development referred to in *paragraph (b)* of *subsection (1)*, if it is satisfied that—

(a) the development or proposed development is of strategic or national importance having regard to the policy of the Government, or

(b) the National Marine Planning Framework contains objectives that conflict with one another or that are ambiguous with regard to their application to the development or proposed development.

Notification of decisions of Commission under Chapter

125. (1) The Commission shall give notice of its decision under *section 123* in such form and manner as may be prescribed.

(2) (a) A decision made under *section 123* and the notice of the decision under this section shall—

(i) state the main reasons for the decision and the main considerations on which the decision is based,

(ii) where conditions are attached to the grant of any permission, state the main reasons for the attachment of any such conditions,

(iii) where the Commission decides to grant a permission in accordance with *subsection (2)* or *(3)* of *section 124*, state the main reasons for deciding to grant permission for development that materially contravenes the development plan or, as the case may be, the National Marine Planning Framework and the main considerations on which the decision is based,

(iv) where the Commission decides to grant permission in respect of an application for permission that was accompanied by an environmental impact assessment report—

(I) state that the Commission is satisfied that the reasoned conclusion under *section 236* was up to date on the day that the decision to grant permission was made, and

(II) include a summary of—

(A) the outcome of any consultations that took place for the purposes of the environmental impact assessment,

(B) the information collected for the purposes of the environmental impact assessment,

(C) submissions (if any) received from a state party to the Transboundary Convention, and

(D) the manner in which that outcome, that information and any such submissions were taken account of in the making of the decision,

and

(v) specify any sum required to be paid by the applicant for permission under *section 127*.

(b) Where a decision made under *section 123* does not follow any recommendation in a report of an inspector assigned to report on the application concerned, the

notice under *paragraph (a)* shall state the main reasons for not following the recommendation in the report.

(3) The requirements of this section are without prejudice to any notification requirements under *Part 6*.

(4) A grant of permission shall be made as soon as may be after the making of the relevant decision under *section 123*.

(5) Particulars of the decision of the Commission under *section 123* shall be entered in the register.

(6) Where the requirements of *subsection (2)* or *(3)* of *section 124* in regard to the material contravention of a development plan have been complied with, the Commission shall notify the appropriate planning authority of that fact and a statement of that fact shall be entered in the register.

(7) The Commission shall, when giving notice of a decision under this section—

(a) publish (if it has not already done so) its determination in relation to any appropriate assessment carried out in relation to the development or proposed development to which the decision applies,

(b) comply (if it has not already done so) with *subsection (13)* of *section 219* where the Minister issued a notice under *subsection (10)* or *(11)* of that section in relation to the development or proposed development to which the decision applies,

(c) comply (if it has not already done so) with *paragraph (b)* of *subsection (8)*, and *subsection (16)*, of *section 221*, where the Minister issued a notice under *subsection (12)*, *(13)*, *(14)* or *(15)* of that section in relation to the development or proposed development to which the decision applies, and

(d) comply (if it has not already done so) with *subsection (8)* of *section 236* where an environmental impact assessment was carried out in relation to the development or proposed development to which the decision applies.

Time limit for decision of Commission

126. (1) The Commission may, at any time after the latest date specified in any notice or invitation to make submissions with respect to the application under any provision of this Act or the regulations, make a decision under *section 123* on the application.

(2) The Commission shall make a decision under *section 123* in relation to an application for permission for *Chapter 4* development before the expiration of—

(a) the relevant period, or

(b) such longer period from the date of the application as the applicant may consent to in accordance with *subsection (3)*.

(3) Where, prior to the making of an application for permission for *Chapter 4* development, or within the relevant period, the applicant gives to the Commission the applicant's consent in writing to the extension of the relevant period—

(a) the period for making a decision under *section 123* in relation to the application shall be extended for the period consented to by the applicant, and

(b) the Commission shall publish a notice on its website stating the period as extended and the reasons for the extension of the period.

(4) Provision may be made by regulations for time periods that are to be disregarded in reckoning any period of time for the purpose of *subsection (2)*.

(5) (a) Where the Commission fails to make a decision under *section 123* in relation to an application for permission for *Chapter 4* development within the relevant period, or such further period as is consented to under *subsection (3)*, it shall—

(i) determine the application notwithstanding that the period has expired,

(ii) notify the applicant of—

(I) the reasons why it has not made a decision within that period,

(II) the period within which it will make a decision (which shall not exceed 6 weeks, or such longer period as the applicant may consent to in accordance with *subsection (3)*, from the date of the expiration of the relevant period),

and

(iii) publish a notice on an internet website maintained by or on behalf of the Commission of the reasons and period referred to in *subparagraph (ii)*.

(b) Where the Commission fails, within the period specified in the notification under *clause (II)* of *subparagraph (ii)* of *paragraph (a)*, to make a decision in relation to an application for permission for *Chapter 4* development, it shall—

(i) determine the application notwithstanding that the period has expired,

(ii) notify the applicant of—

(I) the reasons why it has not made a decision within that period, and

(II) the period within which it will make that decision (which shall not exceed 6 weeks from the date of the expiration of the period first mentioned in this paragraph),

(iii) publish a notice on an internet website maintained by or on behalf of the Commission of—

(I) the reasons and period referred to in *subparagraph (ii)*, and

(II) the sum paid to the applicant in accordance with *subparagraph (iv)*,

and

(iv) pay to the applicant a sum equal to such proportion of the fees paid to the Commission as may be prescribed.

(c) Where the Commission fails, within the period specified in the notification under *clause (II)* of *subparagraph (ii)* of *paragraph (b)*, to make a decision on an application for permission for *Chapter 4* development, it shall—

(i) determine the application notwithstanding that the period has expired,

(ii) notify the applicant of—

(I) the reasons why it has not made a decision within that period, and

(II) the period within which it will make that decision (which shall not exceed one week from the date of the expiration of the period first mentioned in this paragraph),

(iii) publish a notice on an internet website maintained by or on behalf of the Commission of the reasons and period referred to in *subparagraph (ii)*, and

(iv) notify the Minister and the Office of the Planning Regulator that it has not made the decision within the period specified in the notification under *clause (II)* of *subparagraph (ii)* of *paragraph (b)*.

(d) The Minister may, upon receiving a notification under *subparagraph (iv)* of *paragraph (c)*, request the Office of the Planning Regulator to—

(i) conduct a review of the performance by the Commission of its functions under this Act, and

(ii) prepare, and submit to the Minister (within such period as the Minister shall specify), a report in relation to that review.

(6) Any sum payable under this section shall be paid not later than 4 weeks after the expiration of the relevant period applicable to the application.

(7) A failure by the Commission, in making a decision under *section 123* in relation to an application, to comply with a time period specified in this section shall not invalidate the decision.

(8) Where the Minister considers it necessary or expedient that decisions under *section 123*, in relation to applications of a particular class or classes, be determined as expeditiously as is consistent with objectives of maritime spatial planning and principles of proper planning and sustainable development, by reason of their being of special strategic, economic or social importance to the State, he or she may give a direction to the Commission to give priority to the making of such decisions, and the Commission shall comply with any such direction.

(9) Each report made under *section 522* shall—

(a) contain a statement of—

(i) the number of applications for permission for *Chapter 4* development in relation to which the Commission has made a decision under *section 123*, and

(ii) the number of those decisions which were made within—

(I) the relevant period,

(II) the period between the end of the relevant period and the end of any extended period under *subsection (3)*,

(III) a period notified in accordance with *subparagraph (ii)* of *paragraph (a)* of *subsection (5)*,

(IV) a period notified in accordance with *subparagraph (ii)* of *paragraph (b)* of *subsection (5)*,

(V) a period notified in accordance with *subparagraph (ii)* of *paragraph (c)* of *subsection (5)*,

during the period to which the report relates,

(b) contain a statement of—

(i) the number and the aggregate amount of all sums (if any) payable, and the number and the aggregate amount of all such sums paid, by the Commission in accordance with *subparagraph (iv)* of *paragraph (b)* of *subsection (5)*, and

(ii) the number of notifications under *subsection (5)*,

and

(c) such other information as to the time within which decisions are made by the Commission under *section 123* as the Minister may direct.

(10) In this section "relevant period" means—

(a) in relation to an application for permission for *Chapter 4* local authority development or *Chapter 4* state authority development—

(i) 26 weeks from the date by which all submissions in relation to the proposed development are required to be given to the Commission in accordance with this Part and *Part 6*,

(ii) where the Commission makes a request or more than one request for further information under *subsection (3)* of *section 122*, *paragraph (a)* of *subsection (2)* of *section 217* or *subsection (4)* or *(5)* of *section 235* in relation to the application, 12 weeks from the earlier of the following dates—

(I) the date by which the request or requests, as the case may be, is or are fully complied with,

(II) the date by which the request or requests, as the case may be, is or are required to be fully complied with,

(iii) where *subsection (6)* of *section 122* applies, 12 weeks from the date of the expiration of the period prescribed under *subparagraph (III)* of *paragraph (ii)* of that subsection, or

(iv) where more than one of the foregoing subparagraphs applies, the period specified in those subparagraphs that expires last,

(b) in relation to an application for permission for *Chapter 4* maritime development situated in the nearshore areas of more than one coastal planning authority—

(i) 18 weeks from the date by which all submissions in relation to the proposed development are required to be given to the Commission in accordance with this Part and *Part 6*,

(ii) where the Commission makes a request or more than one request for further information under *subsection (3)* of *section 122*, *paragraph (a)* of *subsection (2)* of *section 217* or *subsection (4)* or *(5)* of *section 235* in relation to the application, 6 weeks from the earlier of the following dates—

(I) the date by which the request or requests, as the case may be, is or are fully complied with,

(II) the date by which the request or requests, as the case may be, is or are required to be fully complied with,

(iii) where the Commission makes one or more than one such request and *subsection (6)* of *section 122* applies to the request or requests concerned, 6 weeks from the date of the expiration of the period prescribed under *subparagraph (III) of paragraph (ii)* of that subsection in relation to the request or requests concerned, or

(iv) where more than one of the foregoing subparagraphs applies, the period specified in those subparagraphs that expires last,

(c) in relation to an application for permission for any other *Chapter 4* development—

(i) 48 weeks from the date by which all submissions in relation to the proposed development are required to be given to the Commission in accordance with this Part and *Part 6*,

(ii) where the Commission makes a request or more than one request for further information under *subsection (3)* of *section 122*, *paragraph (a)* of *subsection (2)* of *section 217* or *subsection (4)* or *(5)* of *section 235* in relation to the application, 20 weeks from the earlier of the following dates—

(I) the date by which the request or requests, as the case may be, is or are fully complied with,

(II) the date by which the request or requests, as the case may be, is or are required to be fully complied with,

or

(iii) where *subsection (6)* of *section 122* applies, 12 weeks from the date of the expiration of the period prescribed under *subparagraph (III) of paragraph (ii)* of that subsection,

(d) in relation to an application under this Chapter in respect of which an oral hearing is held under *subsection (3)* of *section 122*, 12 weeks from the date of the conclusion of the oral hearing, or

(e) where more than one of the foregoing provisions of this subsection applies, the period specified in those provisions that expires last.

Reimbursement of Commission by applicant for permission

127. (1) The Commission may require an applicant for permission for *Chapter 4* development to pay the Commission a sum equal to the expenses incurred by the Commission—

(a) in the conduct of a consultation with the applicant under *section 116*,

(b) in acceding to a request by the applicant for an opinion under *section 233*, or

(c) in determining an application for *Chapter 4* development,

and that sum shall be recoverable by the Commission in any court of competent jurisdiction as a simple contract debt.

(2) The Commission may require an applicant for permission for *Chapter 4* development to pay to any person (including a planning authority) a sum equal to the expenses incurred by that person in the performance by that person of any functions, or the doing by that person of any act, necessary for the effective performance by the Commission of its functions in relation to the application for that permission, and that sum shall be recoverable by that person in any court of competent jurisdiction as a simple contract debt.

(3) An applicant for permission for *Chapter 4* development shall comply with a requirement under this section.

Additional provisions relevant to strategic gas infrastructure development and electricity transmission infrastructure development

128. (1) Where the proposed development to which an application to the Commission for permission for *Chapter 4* development relates comprises or is for the purposes of strategic gas infrastructure development, the Commission shall request the Commission for Regulation of Utilities (in this section referred to as the "CRU") to make observations on safety or operational matters including any relevant safety advice or to make specific recommendations which the CRU considers appropriate within such period as may be specified (which period shall not be less than 3 weeks from the date of the request).

(2) Where the Commission is considering not accepting the observations or any recommendation of the CRU it shall give notice of that fact and of the reasons therefor to, and consult with the CRU, and the Commission shall request the CRU to respond not later than the end of the period of 3 weeks beginning on the date of the giving of notice under this subsection.

(3) The Commission shall consider any response given by the CRU to a request under *subsection (1)* before it makes a decision under *section 123* in relation to the application.

(4) Where the Commission, in deciding to grant permission for a proposed development under *section 123*, or to refuse permission for a proposed development under that

section, does not follow the observations or any recommendations of the CRU or part thereof, it shall give reasons.

(5) In making observations on safety or operational matters including any relevant safety advice or specific recommendations which the CRU considers appropriate under this section, the CRU may, without prejudice to the generality of the entitlement to make such observations, refer to such matters as it considers appropriate, including—

(a) a LPG and natural gas safety regulatory framework established under subsection (1G) of section 9 of the Act of 1999,

(b) a risk-based petroleum safety framework established under section 13I of the Act of 1999,

(c) directions given by the Minister for Environment, Climate and Communications, under section 13J of the Act of 1999,

(d) safety case guidelines prepared under section 13L of the Act of 1999,

(e) a safety case within the meaning of subsection (1) of section 13A of the Act of 1999,

(f) a revised safety case within the meaning of subsection (1) of section 13A of the Act of 1999,

(g) a safety permit issued under section 13P of the Act of 1999,

(h) an improvement notice served under section 9JB of the Act of 1999,

(i) an improvement notice served under section 13Z of the Act of 1999,

(j) a prohibition notice served under section 9JC of the Act of 1999,

(k) a prohibition notice served under section 13AA of the Act of 1999,

(l) safety standards, guidelines and codes of practice referred to in the framework established under subsection (1G) of section 9 of the Act of 1999,

(m) safety standards referred to in guidelines issued under section 13L of the Act of 1999,

(n) standards and codes of practice referred to in paragraph (c) of subsection (3) of section 13L of the Act of 1999,

(o) conditions relating to licences issued under both subsection (1) of section 16 of the Gas (Interim) (Regulation) Act 2002 and section 9JE of the Act of 1999,

(p) conditions relating to petroleum authorisations within the meaning of subsection (1) of section 13A of the Act of 1999, and

(q) international safety practices and international safety learning.

(6) An application for permission for *Chapter 4* development referred to in *subsection (1)* shall, if the proposed development to which the application relates will consist of or include a pipeline, be accompanied by a certificate in relation to the pipeline provided

under section 26 of the Gas Act 1976 or section 20 of the Gas (Amendment) Act 2000 by—

(a) in the case of a strategic upstream gas pipeline, the Minister for Environment, Climate and Communications, or

(b) in the case of a strategic downstream gas pipeline, the CRU.

(7) Subject to *subsection (8)*, where the proposed development to which an application to the Commission for permission for *Chapter 4* development relates comprises or is for the purposes of strategic gas infrastructure development or electricity transmission infrastructure development, the Commission may grant an exemption from a requirement to prepare an environmental impact assessment report in respect of the proposed development if it is satisfied that—

(a) exceptional circumstances so warrant,

(b) the application of the requirement to prepare an environmental impact assessment report would adversely affect the purpose of the proposed development, and

(c) the objectives of the Environmental Impact Assessment Directive are otherwise met.

(8) No exemption may be granted in respect of proposed development under *subsection (7)* where another Member State of the European Union or a state which is a party to the Transboundary Convention, having been informed about the proposed development and its likely significant effects on the environment in that State or state, as the case may be, has indicated that it wishes to furnish views on those effects.

Applications for retrospective consent

129. (1) An application for retrospective consent shall be subject, in addition to the foregoing provisions of this Chapter, to the additional requirements in this section, *sections 130*, *131*, *132* and *133* and *Chapters 3* and *4* of *Part 6*.

(2) Where an application for retrospective consent is made in respect of development that includes development for which permission has been granted, that application may be made in relation to—

(a) that part of the development permitted under the permission which has been carried out at the time of the application, or

(b) subject to *subsection (3)*, that part of the development referred to in *paragraph (a)* and all or part of the development permitted under the permission which has not yet been carried out at the time of the application.

(3) (a) Where a person applies under this Chapter for retrospective consent for development, that person may also include in the application an application for permission for the following:

(i) other development on the same land or maritime site on which the development that is the subject of the application for retrospective consent is situated;

(ii) other development on land or a maritime site adjoining the land or maritime site on which the development that is the subject of the application for retrospective consent is situated.

(b) Development referred to in *subparagraph (i)* or *(ii)* of *paragraph (a)* is not required to be the same class or description as, the development that is the subject of the application for retrospective consent referred to in that paragraph.

(4) Any environmental impact assessment report (whether submitted with the application or following a screening determination by the Commission under *Chapter 4* of *Part 6*) shall be submitted in respect of the entire development, including any part of the development that has not been carried out at the time of the application.

(5) Any Natura impact statement (whether submitted with the application or following a determination by the Commission under *section 212*) shall be submitted in respect of the entire development, including any part of the development that has not been carried out at the time of the making of the application.

(6) Where an application under section 37L of the Act of 2000 was made before the repeal of that section by *section 6* but the Commission did not make a decision in relation to the application before such repeal—

(a) the said section 37L,

(b) sections 37M, 37N, 37O and 37Q of the Act of 2000, and

(c) regulations under section 37P of the Act of 2000,

shall, on and after that repeal and subject to subsection (9) of section 41 of the Planning and Development, Maritime and Valuation (Amendment) Act 2022, continue to apply and have effect for the purpose of that application.

(7) Where an application for substitute consent under section 177E of the Act of 2000 was made before the repeal of that section by *section 6* but the Commission did not make a decision under section 177K in relation to the development to which the application related before such repeal, Part XA shall, notwithstanding that repeal and subject to subsection (12) of section 41 of the Planning and Development, Maritime and Valuation (Amendment) Act 2022, continue to apply and have effect for the purpose of that application.

Submissions on applications for retrospective consent

130. (1) Without prejudice to any other public notice requirements under this Act, an applicant for retrospective consent shall give public notice, in such manner and within such period as may be prescribed—

(a) of the making of the application, and

(b) that the public are entitled to make submissions to the Commission on the application (including submissions as to the existence or absence of exceptional circumstances justifying a grant of retrospective consent) in such manner and within such period as may be prescribed.

(2) Any person (other than the applicant) or a planning authority may make submissions in writing (including submissions as to the existence or absence of exceptional circumstances justifying a grant of retrospective consent) to the Commission in relation to an application for retrospective consent.

(3) A submission under *subsection (2)* shall be made in such manner and within such period as may be prescribed.

Decision on application for retrospective consent

131. (1) The Commission shall not decide to grant retrospective consent under *section 123* (whether subject to conditions or not), unless it is satisfied in accordance with *section 135* that exceptional circumstances exist that justify the grant of such consent.

(2) Before deciding whether to grant retrospective consent under *section 123*, the Commission shall, in addition to consideration of the matters to which it is required to have regard pursuant to this Act, also consider the significant effects on the environment, or on a European site, that have occurred, are occurring or could reasonably be expected to occur by reason of the development that is the subject of the application for retrospective consent having been carried out.

(3) Where the Commission decides to grant retrospective consent under *section 123*, the Commission shall, in the decision and the notice of the decision under *section 125*, state the main reasons for being satisfied under *subsection (1)* that exceptional circumstances exist that justify the grant of the consent.

(4) Where an applicant for retrospective consent also applies for permission for development under *subparagraph (i)* or *(ii)* of *paragraph (a)* of *subsection (3)* of *section 129*, the Commission shall not grant permission for that development unless it also grants the retrospective consent.

(5) Where the Commission decides to grant retrospective consent under *section 123*, the Commission may, in addition to such conditions as may be attached under *section 87*, attach conditions requiring the taking of measures to remedy any significant adverse effects on the environment of the development and fixing a time within which such measures are to be taken.

Applications for retrospective consent: direction to cease

132. (1) Where the Commission has received an application for retrospective consent made in accordance with *section 120* and is considering that application, it may serve on the applicant a draft direction requiring the applicant to cease, within the period specified in the draft direction, all or part of the applicant's activity or operations on or at the site of the development the subject of the application, pending the determination of the application.

(2) The applicant may make a submission to the Commission in relation to the draft direction before the end of the period of 2 weeks beginning on the date of receipt of the draft direction as to the reasons why, in the applicant's opinion, the draft direction should not be confirmed, having regard to the likely significant effects or lack of

significant effect on the environment or on European sites should activity or operations continue pending the determination of the application.

(3) The Commission shall consider any submission submitted to it under *subsection (2)* and may do one of the following:

(a) serve notice on the applicant confirming the draft direction;

(b) give a direction to the applicant varying the draft direction (a "varied direction");

(c) withdraw the draft direction,

and shall send a copy of the direction as confirmed, or varied direction, to the appropriate planning authority, or inform the authority of its decision to withdraw the draft direction, as the case may be.

(4) Particulars of the giving, variation or withdrawal of a direction under this section shall be entered in the register.

(5) A person who fails to comply with—

(a) a direction as confirmed by a notice served on the person, or

(b) a varied direction given to the person,

by the Commission under *subsection (3)* within the time specified in the direction shall be guilty of an offence.

Refusal of retrospective consent: direction by Commission to take remedial measures

133. (1) Where the Commission decides under *section 123* to refuse to grant retrospective consent, it may serve a draft direction on the applicant concerned requiring the applicant to cease all activities and operations and take such remedial measures, within the period specified in the draft direction, as the Commission considers are necessary—

(a) to restore the site on or at which the development to which the application relates is situated, to a safe and environmentally sustainable condition, or

(b) to avoid, in a European site, the deterioration of natural habitats and the habitats of species or the disturbance of the species for which the site has been designated, insofar as such disturbance could be significant having regard to the objectives of the Habitats Directive.

(2) A draft direction referred to in *subsection (1)* shall give the reasons why the Commission considers that the specified remedial measures are necessary and shall inform the applicant on whom the draft direction is served that the applicant may make submissions to the Commission in relation to the draft direction before the end of the period of 4 weeks beginning on the date of service of the draft direction.

(3) Where the Commission serves a draft direction on an applicant under *subsection (1)*, it shall at the same time send a copy of the draft direction to the appropriate planning authority and shall inform the planning authority that it may make submissions to the

Commission in relation to the draft direction before the end of the period of 4 weeks beginning on the date of service of the draft direction.

(4) A draft direction served under *subsection (1)* shall require the person on whom the draft direction is served—

(a) to take the remedial measures specified in the draft direction,

(b) to keep records of the remedial measures being carried out in accordance with the draft direction,

(c) to carry out the remedial measures in such order, specified in the draft direction, as the Commission considers appropriate,

(d) to comply with any requirements relating to monitoring and inspection, by the appropriate planning authority, of the remedial measures specified in the draft direction, and

(e) to carry out the remedial measures within the period of time specified in the draft direction.

(5) The Commission shall consider any submissions in relation to the draft direction made to it, before the end of the period of 4 weeks beginning on the date of service of the draft direction by the applicant to whom the draft direction was issued or the appropriate planning authority and shall, as soon as may be thereafter do one of the following—

(a) serve notice on the applicant confirming the draft direction,

(b) give a direction to the applicant varying the draft direction (a "varied direction"), or

(c) withdraw the draft direction,

and shall send a copy of the draft direction, as so confirmed or varied to the appropriate planning authority, or inform the authority of its decision to withdraw the draft direction, as the case may be.

(6) Particulars of the giving, variation or withdrawal of a draft direction under this section shall be entered in the register.

(7) A person who fails to comply with—

(a) a direction as confirmed by a notice served on the person, or

(b) a varied direction given to the person,

by the Commission under *subsection (5)* within the period specified in the direction shall be guilty of an offence.

(8) A direction or draft direction under this section shall not require the taking of remedial measures in relation to a development to which *subsection (3)* of *section 353* applies that was carried out more than 7 years before the commencement of this subsection.

(9) Where requirements relating to monitoring and inspection of remedial measures by a planning authority are specified in a direction under this section, the planning authority shall carry out the monitoring and inspection in accordance with the direction.

(10) Notwithstanding the repeal of section 177L of the Act of 2000 by *section 6*, that section shall, on and after that repeal, continue to apply and have effect in relation to—

(a) a draft direction under subsection (1) of the said section 177L given before that repeal, or

(b) a direction under subsection (5) of the said section 177L issued before that repeal.

Retrospective consent: enforcement

134. (1) Where a development is being carried out in compliance with a grant of retrospective consent and any condition to which the retrospective consent is subject it shall be deemed to be authorised development.

(2) Where a development has not been or is not being carried out in compliance with a grant of retrospective consent or any condition to which the retrospective consent is subject it shall, notwithstanding any other provision in this Act, be unauthorised development.

(3) Where the Commission decides under *section 123* to refuse to grant retrospective consent (other than on the basis that retrospective consent is not required) the development concerned shall, notwithstanding any other provision in this Act, be deemed to be unauthorised development and the appropriate planning authority shall, as soon as may be after receipt of a copy of the decision to refuse consent from the Commission, serve an enforcement notice under *section 350* in relation to the development.

(4) Where the Commission has served a direction to cease activities and operations and to take remedial measures under *section 133* and the applicant has failed to comply with such a direction, the appropriate planning authority shall, as soon as may be after receipt of a copy of the Commission's direction, serve an enforcement notice under *section 350* requiring the taking of any additional steps as the planning authority considers appropriate.

(5) Land or a maritime site upon which unauthorised development referred to in *subsection (2)* or in respect of which *subsection (4)* applies has been carried out shall not be the subject of further applications for permission under this Act, until any remedial action required by a direction served under *section 133* is complete.

(6) In *subsections (4)* and *(5)*, references to a direction served under *section 133* are to a draft direction confirmed by notice served, or a varied direction given, under *subsection (5)* of *section 133*.

Exceptional circumstances

135. In considering whether exceptional circumstances exist under *subsection (1)* of *section 131*, the Commission shall have regard to the following:

(a) whether or not regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive;

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

(c) whether or not the ability to carry out an assessment of the environmental effects 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 or not the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development;

(g) such other matters as the Commission considers relevant.

Continued application of section 146B of Act of 2000 for certain purposes

136. Where a request under section 146B of the Act of 2000 was made before the repeal of that section by *section 6* but the Commission did not make a decision in relation to the request before that repeal, the said section 146B and sections 146C, 146CA and 146D of that Act shall, on and after that repeal, continue to apply and have effect in relation to the request.

Opinion under section 287 of Act of 2000 deemed to be *Chapter 4* PAC notification

137. Where an opinion is provided to a prospective applicant (within the meaning of Chapter III of Part XXI of the Act of 2000) under subsection (2) of section 287 of the Act of 2000 but the prospective applicant does not make an application under section 291 of that Act in relation to the development concerned before the repeal of the said section 291 by *section 6*, the opinion shall, on and after that repeal, be deemed to be a *Chapter 4* PAC notification.

Chapter 5

Alteration, Extension and Revocation of Permission

Interpretation

138. (1) In this Chapter—

"deciding authority" means—

(a) in relation to a permission granted by a planning authority under *Chapter 3* or under Part III of the Act of 2000, that planning authority,

(b) in relation to a permission granted by the Commission under *Chapter 4*, the Commission,

(c) in relation to a permission granted by the Commission under *section 109* on appeal from a decision of a planning authority under *Chapter 3*, that planning authority,

(d) in relation to a permission granted by An Bord Pleanála under Part III of the Act of 2000 otherwise than on appeal from a decision of a planning authority, the Commission,

(e) in relation to a permission granted by An Bord Pleanála under Part III of the Act of 2000 on appeal from a decision of a planning authority, that planning authority, and

(f) in relation to a permission granted by An Bord Pleanála under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016, the planning authority in whose functional area the development to which the permission relates is situated or proposed to be situated;

"material alteration" means an alteration or extension of the duration of a permission requested under *section 140*—

(a) that requires an appropriate assessment,

(b) that requires an environmental impact assessment,

(c) the request for which is accompanied by an environmental impact assessment report or a Natura impact statement, or both, in respect of the alteration or extension, or

(d) subject to *subsection (2)*, that the deciding authority determines under *subsection (7)* of *section 140* constitutes an alteration of the terms or extension of the duration of the permission that is otherwise material;

"material alteration request" has the meaning it has in *subsection (1)* of *section 143*;

"permission" includes a permission granted under the Act of 2000 or under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016 but does not include outline permission within the meaning of *section 96*;

"term" includes, in relation to a permission, a condition attaching to that permission.

(2) Without prejudice to the generality of *paragraph (d)* of the definition of material alteration in *subsection (1)*, the following matters shall not, for the purposes of that paragraph, be determined to constitute an alteration of the terms or extension of the duration of a permission that is otherwise material—

(a) a correction of a clerical error in the permission,

(b) an alteration of the terms of the permission for the purpose of facilitating the doing of a thing pursuant to the permission, where the doing of that thing may reasonably be regarded as having been contemplated by a particular term of the permission, or its terms as a whole, but was not expressly provided for in the permission, or

(c) a clarification of the terms of the permission.

Consultation before request under *section 140*

139. (1) A person may apply for a consultation with the deciding authority prior to making a request under *section 140*.

(2) An application under *subsection (1)* shall be accompanied by—

(a) sufficient information to allow the deciding authority to carry out its functions under this section,

(b) where the deciding authority—

(i) is a planning authority, such fee as may be prescribed, or

(ii) is the Commission, such fee as may be payable under *section 381*,

and

(c) such documents or information as may be prescribed.

(3) The deciding authority shall enter into the consultation as expeditiously as practicable after the making of an application under *subsection (1)*, unless it is of the opinion that the consultation is unnecessary having regard to the nature and scope of the alteration or extension proposed to be requested under *section 140*.

(4) In a consultation the deciding authority may, in addition to consulting with the person who made the application under *subsection (1)*, consult with any person who may in its opinion have information that is relevant for the purposes of the consultation.

(5) In a consultation the deciding authority may do one or more than one of the following:

(a) advise the person who made the application under *subsection (1)* as to the procedures and requirements under this Act relevant to the making and considering of a request under *section 140*;

(b) in so far as possible, indicate the objectives of the following that may, in the opinion of the deciding authority, have a bearing on its decision:

(i) the development plan, and any applicable urban area plan, priority area plan or coordinated area plan that applies to the land where it is proposed to carry out the proposed development;

(ii) where the request relates to proposed development in the maritime area, the National Marine Planning Framework;

(c) advise the person who made the application under *subsection (1)* regarding the considerations, related to the following matters, that may, in the opinion of the deciding authority, have a bearing on its decision:

(i) the impact of the proposed development on the environment;

(ii) proper planning and sustainable development;

(iii) where the consultation relates to proposed development in the maritime area or maritime development, maritime spatial planning;

(d) on the request of the person who made the application under *subsection (1)*, provide an opinion to him or her as to the adequacy of the documents intended to be submitted with the request under *section 140*.

Request for alteration or extension of permission

140. (1) Subject to *subsection (2)*, a person may—

(a) request the deciding authority to alter the terms of a permission, provided that any part of the development to which the permission relates that has been carried out is in compliance with the permission, or

(b) subject to *subsection (13)*, request the deciding authority to extend the duration of a permission, provided that—

(i) the request is made prior to the date of expiration of the permission, and

(ii) the development to which the permission relates has commenced.

(2) *Section 85* shall apply to a request under *subsection (1)* subject to—

(a) the modification that the references in *subsections (1)* and *(3)* of *section 85* to an application for permission for land-based development under *Chapter 3* or *4* shall be construed as references to a request under *subsection (1)* to alter or extend the duration of a permission for land-based development,

(b) the modification that the references in *subsections (2)* and *(4)* of *section 85* to an application for permission for maritime development under *Chapter 3* or *4* shall be construed as references to a request under *subsection (1)* to alter or extend the duration of a permission for maritime development, and

(c) all other necessary modifications.

(3) A request under *subsection (1)* shall specify—

(a) the particulars of the alteration requested,

(b) the period of the extension requested, or

(c) both those particulars and that period,

and shall be accompanied by—

(i) sufficient information to allow the deciding authority to assess the request, and

(ii) where the deciding authority—

(I) is a planning authority, such fee as may be prescribed, or

(II) is the Commission, such fee as may be payable under *section 381*,

and

(iii) such documents or information as may be prescribed.

(4) The Minister may prescribe the period prior to the date of expiration of the permission within which a request under *paragraph (b)* of *subsection (1)* may be made.

(5) Subject to *subsection (6)*, a request under *subsection (1)* that is not in accordance with this section or such regulations as are made for the purposes of this section shall be invalid.

(6) Where the deciding authority determines, at any time before the deciding authority makes an alteration of the terms or grants an extension of the duration of a permission under *subsection (1)* of *section 142* or makes a decision under *subsection (1)* of *section 143* in relation to the request, that the request was not made in accordance with this section or regulations made for the purposes of this section then—

(a) if it is satisfied that the failure to make the request in accordance with those enactments—

(i) has not resulted in any failure to comply with any requirement under this Act to give public notice of the request, and

(ii) has not otherwise materially affected the ability of the deciding authority to determine the request, or carry out any appropriate assessment or environmental impact assessment in relation to the request,

it shall treat the request as valid, or

(b) if it is not satisfied with regard to the matters referred to in *subparagraphs (i)* and *(ii)* of *paragraph (a)*, it shall treat the request as invalid and declare it to be so.

(7) Where an alteration or extension requested under *subsection (1)* is not a material alteration within the meaning of *paragraph (a)*, *(b)* or *(c)* of the definition of material alteration in *section 138*, the deciding authority shall, as soon as practicable after the making of the request, determine whether the alteration or extension is a material alteration within the meaning of *paragraph (d)* of that definition.

(8) Before making a determination under *subsection (7)*, the deciding authority may invite submissions on the alteration or extension to be made to it in writing by such person or class of person, including the public, as the deciding authority considers appropriate, and the deciding authority shall have regard to such submissions in making the determination.

(9) A deciding authority shall give notice, in such form and manner as may be prescribed, that a request under *subsection (1)* is a material alteration request to—

(a) the person who made the request, and

(b) any person who made submissions under *subsection (8)*.

(10) Following receipt of a notice under *subsection (9)*, the person who made the request shall comply with such requirements to give notice of the request to the public as may be prescribed.

(11) Where the deciding authority is the Commission, it shall notify the following of the receipt of a request under *subsection (1)*:

(a) where the permission relates primarily to land, the planning authority in whose functional area the development the subject of the permission is situated or proposed to be situated;

(b) where the permission relates primarily to a maritime site, the Maritime Area Regulatory Authority.

(12) Particulars of a request under *subsection (1)* shall be entered in the register.

(13) Where an application under section 42 of the Act of 2000 was made before the repeal of that section by *section 6* but—

(a) the planning authority did not make a decision in relation to the application before such repeal, or

(b) on appeal from a decision of a planning authority under the said section 42, the Board did not make a decision in relation to the appeal before such repeal,

the said section 42 and section 43 of that Act shall, on and after that repeal, continue to apply and have effect in relation to the application.

(14) Notwithstanding the repeal of section 42 of the Act of 2000, effected by *section 6*, the said section 42 and section 43 of the Act of 2000 shall, during the period of 3 years commencing on the passing of this Act, continue to apply and have effect in relation to—

(a) a permission granted under the Act of 2000, and

(b) a permission granted under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

Limitations on extension of duration of permission

141. (1) The duration of a permission shall not be extended under this Chapter (whether the extension is a material alteration or not) more than once.

(2) Where the duration of a permission is extended under this Chapter, the period of the extension shall be less than or equal to the duration of the permission being extended.

(3) Subject to *subsection (2)*, where the duration of a permission is extended under this Chapter, the period of the extension shall be no longer than the deciding authority

considers necessary to enable the development to which the permission relates to be completed.

Non-material alteration of permission

142. (1) Subject to this Part, where an alteration or extension requested under *subsection (1)* of *section 140* is not a material alteration, the deciding authority shall alter the permission, or extend the duration of the permission, as requested.

(2) The deciding authority shall, as soon as practicable after making the alteration or granting the extension under *subsection (1)*, notify the person who made the request under *subsection (1)* of *section 140* of the alteration or extension.

(3) Where the deciding authority is the Commission, it shall notify the following of the alteration or extension:

(a) where the permission relates primarily to land, the planning authority in whose functional area the development the subject of the permission altered or extended is situated or proposed to be situated;

(b) where the permission relates primarily to a maritime site, the Maritime Area Regulatory Authority.

Material alteration of permission

143. (1) Subject to this Part and *Part 6*, the deciding authority may, in relation to a request under *section 140* to make an alteration or grant an extension that is a material alteration (in this Chapter referred to as a "material alteration request"), decide to—

(a) make the alteration, or grant the extension, subject to such conditions (if any) as may be imposed under *section 87*,

(b) make the alteration or grant the extension, subject to such modifications to the terms of the alteration or to the duration of the extension, as the case may be, as the deciding authority considers appropriate, and such conditions (if any) as may be imposed under *section 87*, or

(c) refuse to make the alteration or grant the extension.

(2) For the purpose of making a decision under *subsection (1)* the deciding authority shall have regard to any submissions made in accordance with *section 144* or *145*, as the case may be.

(3) In making a decision under *subsection (1)* in relation to a material alteration request to alter or extend a permission for maritime development, the deciding authority shall, in addition to the matters set out in *section 86*, have regard to—

(a) any social or economic benefit that would likely accrue to the State or a part of the State by virtue of the making of the alteration or granting of the extension requested,

(b) contractual commitments entered into by the person who made the material alteration request in relation to the development concerned, and

(c) the extent to which the development concerned has already been advanced in accordance with the permission.

(4) A deciding authority shall give notice of a decision under *subsection (1)* in such form and manner, and to such persons, as may be prescribed.

(5) A notice under *subsection (4)* shall—

(a) state the main reasons and considerations for the decision,

(b) state the main reasons for the imposition of any conditions under *section 87*,

(c) where the deciding authority decides to make an alteration or grant an extension in accordance with *section 148*, state the main reasons and considerations for the decision in material contravention of the development plan or National Marine Planning Framework, as the case may be,

(d) where a decision is made to alter or extend a permission and an environmental impact assessment is required—

(i) state that the deciding authority is satisfied that the reasoned conclusion under *section 236* was up to date on the day that the decision was made, and

(ii) include a summary of—

(I) the outcome of any consultations that took place for the purposes of the environmental impact assessment,

(II) the information collected for the purposes of the environmental impact assessment,

(III) submissions (if any) received from a Transboundary Convention state, and

(IV) the manner in which the outcome, the information and such submissions were taken account of in the making of the decision,

and

(e) where the decision does not follow a recommendation in a report prepared by a person assigned to report on the material alteration request on behalf of the deciding authority, specify the main reasons for not following the recommendation.

(6) Where the deciding authority is—

(a) a planning authority, *subsection (4)* of *section 100* shall apply as if the notice of a decision referred to in that subsection were a notice of a decision referred to in *subsection (4)*, or

(b) the Commission, *subsection (7)* of *section 125* shall apply as if the notice of a decision referred to in that subsection were a notice of a decision referred to in *subsection (4)*.

(7) An appeal may be made under *Chapter 3* against a decision of a planning authority under *subsection (1)* as if the decision was a decision under *section 98*, and *Chapter 3*

shall apply accordingly for the purposes of such an appeal, subject to the following modifications—

(a) any such appeal shall be confined to an appeal regarding the alteration or extension requested, and references to the development or proposed development shall be construed as references to the alteration or extension requested,

(b) a reference to a decision of the planning authority under *section 98*, shall be construed as a reference to the decision of the planning authority under *subsection (1)*,

(c) a reference to a decision granting permission or a decision to grant permission shall be construed as a reference to a decision to make an alteration or grant an extension of the duration of the permission under *subsection (1)*, as the case may be,

(d) a reference to a decision refusing permission or a decision to refuse to grant permission shall be construed as a reference to a decision to refuse to make an alteration or grant an extension of the duration of the permission under *subsection (1)*,

(e) a reference to an applicant for permission shall be construed as a reference to the person who made the request referred to in *subsection (1)*,

(f) a reference to a planning application or application for permission shall be construed as a reference to the request referred to in *subsection (1)*, other than in *subsection (3)* of *section 109* where the reference to the "application for permission concerned" shall be construed as a reference to the application for permission the subject of the request referred to in *subsection (1)*,

(g) *paragraph (b)* of *subsection (4)* of *section 103*, and *subsections (5)* and *(6)* of *section 103* shall not apply,

(h) in *section 109*, a reference to modifications to the proposed development shall be construed as modifications to the alteration or modifications to the extension the subject of the request referred to in *subsection (1)*,

(i) in *section 110*, a reference to *section 99* shall be construed as a reference to *section 148*, and the reference to *subsection (3)* of *section 99*, shall be construed as a reference to *subsection (4)* of *section 148*, and

(j) all other necessary modifications.

(8) (a) Where—

(i) a planning authority decides to make an alteration or grant an extension under *subsection (1)*,

(ii) the decision concerned is not appealed under *subsection (7)*, and

(iii) no application for leave to appeal the decision under this Part is made,

the planning authority shall make the alteration or grant the extension as soon as may be after the expiration of the period for the bringing of an appeal from the decision.

(b) Where—

(i) a planning authority decides to make an alteration or grant an extension under *subsection (1)*,

(ii) the decision is appealed under *subsection (7)* or an application for leave to appeal the decision under this Part is made, and

(iii) the appeal or application for leave to appeal is withdrawn, or dismissed or refused by the Commission,

the planning authority shall make the alteration or grant the extension as soon as may be after the withdrawal, dismissal or refusal, and where more than one appeal from the decision is brought or more than one such application is made, the planning authority shall not make the alteration or grant the extension unless and until all such appeals or applications are so withdrawn, dismissed or refused.

(c) Where—

(i) a planning authority decides to make an alteration or grant an extension under *subsection (1)*, and

(ii) on appeal under *subsection (7)* from the decision, the Commission gives a direction under *section 112*,

the planning authority shall make the alteration or grant the extension as soon as may be after the date of the direction.

(9) Where the deciding authority is the Commission and it decides to make an alteration or grant an extension under *subsection (1)*, it shall make the alteration or grant the extension as soon as practicable after the making of the decision.

(10) Where the deciding authority is the Commission, it shall notify the planning authority in whose functional area the development the subject of the permission altered or extended is situated or proposed to be situated of the alteration or extension.

(11) Particulars of the making of an alteration or granting of an extension under *section 142* or this section, or by the Commission on an appeal under *subsection (7)*, and, where applicable, of compliance with the requirements of *section 148*, shall be entered in the register.

Procedural powers of planning authority in relation to material alteration request

144. (1) Where the deciding authority is a planning authority, any person may, upon payment of the prescribed fee, make a submission in writing to a planning authority in relation to a material alteration request, in such manner and within such period as may be prescribed.

(2) Without prejudice to *paragraph (a)* of *subsection (2)* of *section 217* and *subsection (4)* or *(5)* of *section 235* and before making a decision on a material alteration request,

a planning authority may request the person who made the material alteration request to submit, in such manner and within such period as may be prescribed—

(a) further information to the planning authority where, in the opinion of the planning authority, that information is necessary to enable it to make the decision, or

(b) revised particulars, plans or drawings in relation to the development or proposed development, where the planning authority is considering making the alteration or granting the extension subject to the person submitting such revised particulars, plans or drawings.

(3) Without prejudice to *subsection (1)* of *section 235*, where the planning authority receives submissions, further information, or revised particulars, plans or drawings under *subsection (1)* or *(2)*, or any other provision of this Act or regulations under this Act that it considers contain or contains additional material information (including information in relation to the effect of the proposed development on a European site or otherwise on the environment), it shall—

(a) make the additional material information available to the public for inspection (to the extent that such information is not already available to the public) in such manner and within such period as may be prescribed, and

(b) notify the person who made the material alteration request that he or she is required to give notice (in such manner and within such period as may be prescribed) to the public—

(i) that the additional material information is available for inspection,

(ii) of the place where the additional material information may be inspected, and

(iii) that the public are entitled to make submissions in relation to the additional material information within such period as may be prescribed.

(4) Where the person who made the material alteration request fails to submit the further information in accordance with *paragraph (a)* of *subsection (2)* or fails to comply with a requirement under *paragraph (b)* of *subsection (3)* within such period as may be prescribed, the material alteration request shall be deemed to have been withdrawn.

(5) Where the person who made the material alteration request fails to submit the revised particulars, plans or drawings referred to in *paragraph (b)* of *subsection (2)* within such period as may be prescribed, the planning authority may—

(a) extend that period, where it considers it appropriate to do so, or

(b) without further notice to the person, consider, and perform its functions in relation to, the material alteration request as if the person had not been requested to submit the revised particulars, plans or drawings under *paragraph (b)* of *subsection (2)*.

Procedural powers of Commission in relation to material alteration request

145. (1) Where the deciding authority is the Commission, any person may, upon payment of such fee as is payable in accordance with *section 381*, make a submission in writing to the Commission in relation to a material alteration request, in such manner and within such period as may be prescribed.

(2) Without prejudice to *paragraph (a)* of *subsection (2)* of *section 217* and *subsection (4)* or *(5)* of *section 235*, before making a decision on a material alteration request, the Commission may, in such manner and within such period as may be prescribed—

(a) request the person who made the material alteration request to submit further information to the Commission, where in the opinion of the Commission that information is necessary to enable it to make the decision,

(b) request the person who made the material alteration request to submit revised particulars, plans or drawings in relation to the development, where the Commission is considering making the alteration or granting the extension under *section 143* subject to the person submitting such revised particulars, plans or drawings,

(c) request that further submissions be made to it, within such period as may be prescribed, by the person who made the material alteration request, any person who made submissions, or any other person who may, in the opinion of the Commission, have information which is relevant to the decision,

(d) where a material alteration request relates to development that consists, or is for the purpose, of an activity for which—

(i) an industrial emissions licence,

(ii) an integrated pollution control licence,

(iii) a waste licence,

(iv) a waste water discharge licence, or

(v) an abstraction licence,

is required, request the Environmental Protection Agency to make submissions in relation to the proposed material alteration,

(e) without prejudice to *subsection (5)*, make any information relating to the material alteration request available for inspection, notify any person or the public that the information is so available and, if it considers appropriate, invite further submissions to be made to it within such period as it may specify,

(f) hold meetings with the person who made the material alteration request or any other person where it appears to the Commission to be necessary or expedient to do so for the purpose of—

(i) making the decision, or

(ii) resolving any issue with the material alteration request or any disagreement between the person who made the material alteration request and any other

person, including resolving any issue or disagreement in advance of an oral hearing,

or

(g) hold an oral hearing in accordance with *sections 369* and *370*.

(3) Where the Commission holds a meeting in accordance with *paragraph (f)* of *subsection (2)*, it shall keep a written record of the meeting.

(4) The Commission, or an employee of the Commission duly authorised by the Commission, may appoint a person to hold a meeting referred to in *paragraph (f)* of *subsection (2)*.

(5) Where the Commission receives submissions, further information, or documents under *subsection (1)* or *(2)*, or any other provision of this Act or regulations under this Act, that it considers contain or contains additional material information, including information in relation to the impact of the proposed development on the environment, it shall—

(a) make that additional material information available to the public for inspection (to the extent that such information is not already available for inspection by the public) in such manner and within such period as may be prescribed, and

(b) notify the person who made the material alteration request that he or she is required, in such manner and within such period as may be prescribed, to give notice to the public—

(i) that the additional material information is available for inspection and of the place where it may be inspected, and

(ii) that the public are entitled to make submissions on the additional material information, within such period as may be prescribed.

(6) Where a person who made the material alteration request fails to submit the further information referred to in *paragraph (a)* of *subsection (2)* within such period as may be prescribed, the Commission may treat the request as having been withdrawn.

(7) Where a person who made the material alteration request fails to submit the revised particulars, plans or drawings referred to in *paragraph (b)* of *subsection (2)* or make the further submissions referred to in *paragraph (c)* of *subsection (2)* within such period as may be prescribed, the Commission may—

(a) extend that period, where it considers it appropriate to do so, or

(b) decide the material alteration request without further notice to the person who made the material alteration request.

(8) Where a person who made the material alteration request fails to comply with a requirement referred to in *paragraph (b)* of *subsection (5)* within such period as may be prescribed, the Commission may—

(a) extend that period, where it considers it appropriate to do so, or

(b) treat the material alteration request as having been withdrawn.

Time limits for deciding material alteration request where deciding authority is planning authority

146. (1) Where the deciding authority is a planning authority, it shall make a decision under *subsection (1)* of *section 143* in relation to a material alteration request, before the expiration of—

(a) the relevant period, or

(b) such longer period as the person who made the material alteration request may consent to under *subsection (2)*.

(2) A person who made a material alteration request may, before the expiration of the relevant period, consent in writing to the extension of the period for making a decision in relation to the material alteration request under *subsection (1)* of *section 143*.

(3) Where the planning authority fails to make a decision in relation to a material alteration request under *subsection (1)* of *section 143* within the relevant period or such longer period as the person who made the material alteration request may consent to under *subsection (2)*, it shall notify the person who made the material alteration request of that fact as soon as may be—

(a) stating why it has not been possible to make a decision within that period,

(b) specifying the additional period required by the planning authority to make a decision in relation to the material alteration request (which shall not exceed 4 weeks from the expiration of the relevant period, or such longer period as may be consented to under *subsection (2)*), and

(c) seeking the consent of the person to an extension of the time within which the planning authority shall make its decision.

(4) If the person who made the material alteration request notifies the planning authority that he or she consents to an extension of time sought in a notice under *subsection (3)*, the planning authority shall make a decision in relation to the material alteration request as soon as may be and before the expiration of the period specified in that notice.

(5) If, within such period as may be prescribed, the person who made the material alteration request notifies the planning authority that he or she does not consent to an extension of time sought in a notice under *subsection (3)*, the material alteration request shall be deemed to be refused, and the person who made that material alteration request may appeal that deemed refusal to the Commission under *section 103* as if it were a deemed refusal referred to in *subsection (5)* of *section 101*, and *Chapter 3* shall apply for the purposes of that appeal accordingly, subject to the modifications referred to in *subsection (7)* of *section 143*.

(6) If the person who made the material alteration request fails to notify the planning authority, within the period referred to in *subsection (5)*, as to whether or not he or she consents to the extension of time sought in the notice under *subsection (3)*, the person who made the material alteration request shall be deemed to have consented to that extension of time.

(7) Where a material alteration request is deemed to have been refused under *subsection (5)*, the planning authority shall—

(a) where the person who made the material alteration request does not appeal the deemed refusal to the Commission, repay to the person all fees paid to the planning authority by the person in respect of the material alteration request, and

(b) where the person appeals the deemed refusal to the Commission, repay to the person all fees paid to the planning authority by the person in respect of the material alteration request and repay to the person any fees paid to the Commission by the person in respect of the appeal.

(8) (a) Where the person who made the material alteration request consents to an extension of time sought in a notice under *subsection (3)* and the planning authority fails to make a decision in relation to the material alteration request within the period specified in that notice, it shall—

(i) repay to the person all fees paid to the planning authority by the person in respect of the material alteration request,

(ii) pay to the person the additional sum in not more than 5 instalments, and

(iii) subject to *subsection (9)*, make a decision in relation to the material alteration request as soon as may be thereafter.

(b) In *paragraph (a)*, "additional sum" means the lesser of the following:

(i) such sum as is equal to 3 multiplied by the sum of the fees paid to the planning authority by the person under *subparagraph (I)* of *paragraph (ii)* of *subsection (3)* of *section 140* in respect of the material alteration request, and

(ii) €10,000.

(9) Where the person who made the material alteration request consents to an extension of time sought in a notice under *subsection (3)* and the planning authority fails to make a decision in relation to the material alteration request within the period specified in that notice, the person who made the material alteration request may notify the planning authority in writing that it does not consent to the planning authority making a decision in relation to the material alteration request after the expiration of that period.

(10) Where the planning authority receives a notification under *subsection (9)*—

(a) the material alteration request shall be deemed to have been refused by the planning authority on the date of the notification, and

(b) the person who made the material alteration request may appeal that deemed refusal to the Commission under *section 103* as if it were a deemed refusal referred to in *paragraph (b)* of *subsection (7)* of *section 101* and *Chapter 3* shall apply accordingly to the appeal, subject to the modifications referred to in *subsection (7)* of *section 143*.

(11) Where the person who made the material alteration request brings an appeal under *paragraph (b)* of *subsection (10)*, the planning authority shall repay to the person any

fees paid by the person who made the material alteration request to the Commission in respect of that appeal.

(12) A failure by a planning authority to make a decision under *subsection (1)* of *section 143* within the period or periods provided for under this section shall not invalidate the decision of the planning authority under that subsection.

(13) Provision may be made by regulations for periods that shall be disregarded in reckoning any period for the purpose of *subsection (1)*.

(14) A planning authority shall include in its annual report in accordance with section 221 of the Act of 2001—

(a) the number of material alteration requests decided by it within the relevant period,

(b) the number of material alteration requests made to it but not decided by it within that period,

(c) the number of material alteration requests deemed refused by it pursuant to *subsection (5)*, and the number of payments made by it pursuant to *subsection (7)* and the aggregate value of all such payments,

(d) the number of payments made by it pursuant to *subsection (8)* and the aggregate value of all such payments, and

(e) the number of payments made by it pursuant to *subsection (11)* and the aggregate value of all such payments.

(15) In this section "relevant period", in relation to a material alteration request, means—

(a) where neither an appropriate assessment nor an environmental impact assessment is required—

(i) 8 weeks from the date of the notice that the request is a material alteration request under *paragraph (a)* of *subsection (9)* of *section 140*,

(ii) where the planning authority makes one or more than one request under *subsection (2)* of *section 144*, 4 weeks from the earlier of the following dates:

(I) the date by which the request or requests under *subsection (2)* of *section 144*, as the case may be, is or are fully complied with;

(II) the date by which the request or requests under *subsection (2)* of *section 144*, as the case may be, is or are required to be fully complied with,

(iii) where *subsection (3)* of *section 144* applies, 4 weeks from the date of the expiration of the prescribed period referred to in *subparagraph (iii)* of *paragraph (b)* of *subsection (3)* of *section 144*, or

(iv) where more than one of the foregoing subparagraphs applies, the period specified in those subparagraphs that expires last,

or

(b) where an appropriate assessment or an environmental impact assessment is required—

(i) 12 weeks from the date by which all submissions are required to have been given to the planning authority in accordance with this Part and *Part 6* in relation to the proposed development, or

(ii) where the planning authority makes one or more than one request under *subsection (2)* of *section 144*, *paragraph (a)* of *subsection (2)* of *section 217* or *subsection (4)* or *(5)* of *section 235* in relation to the material alteration request, 8 weeks from the earlier of the following dates:

(I) the date by which the request or requests under *section 144*, *217*, or *235*, as the case may be, is or are fully complied with;

(II) the date by which the request or requests under *section 144*, *217*, or *235*, as the case may be, is or are required to be fully complied with,

(iii) where *subsection (3)* of *section 144* applies, 8 weeks from the date of the expiration of the prescribed period referred to in *subparagraph (iii)* of *paragraph (b)* of *subsection (3)* of *section 144*, or

(iv) where more than one of the foregoing subparagraphs applies, the period specified in those subparagraphs that expires last.

Time limits for deciding material alteration request where deciding authority is Commission

147. (1) Where the deciding authority is the Commission, it shall make a decision under *subsection (1)* of *section 143* in relation to a material alteration request, before the expiration of—

(a) the relevant period, or

(b) such longer period from the date of the material alteration request as the person who made the request may consent to in accordance with *subsection (2)*.

(2) Where, within the relevant period, the person who made the material alteration request gives to the Commission his or her consent in writing to the extension of the relevant period—

(a) the period under *subsection (1)* for making the decision in relation to the material alteration request shall be extended for the period consented to by the person, and

(b) the Commission shall publish a notice on its website stating the period as extended and the reasons for the extension of the period.

(3) The Minister may prescribe periods that are to be disregarded in reckoning any period for the purpose of *subsection (1)*.

(4) (a) Where the Commission fails to make a decision under *subsection (1)* of *section 143* on a material alteration request within the relevant period, or such longer period as is consented to under *subsection (2)*, it shall—

(i) determine the material alteration request notwithstanding that the period has expired,

(ii) notify the person who made the material alteration request of—

(I) the reasons why it has not made a decision within that period,

(II) the period within which it shall make that decision (which shall not exceed 6 weeks from the date of the expiration of the relevant period, or such longer period as may be consented to under *subsection (2)*),

and

(iii) publish a notice on its website of the reasons and period referred to in *subparagraph (ii)*.

(b) Where the Commission fails, within the period specified in the notification under *clause (II)* of *subparagraph (ii)* of *paragraph (a)*, to make a decision under *subsection (1)* of *section 143*, it shall—

(i) make the decision notwithstanding that the period has expired,

(ii) notify the person who made the material alteration request of—

(I) the reasons why it has not made a decision within that period, and

(II) the period within which it shall make that decision (which shall not exceed 6 weeks from the date of the expiration of the period first mentioned in this paragraph),

and

(iii) publish a notice on its website of—

(I) the reasons and period referred to in *subparagraph (ii)*, and

(II) the sum paid to the person who made the material alteration request in accordance with *subparagraph (iv)*,

and

(iv) pay to the person who made the material alteration request a sum equal to such proportion of the fees paid to the Commission as may be prescribed.

(c) Where the Commission fails, within the period specified in the notification under *clause (II)* of *subparagraph (ii)* of *paragraph (b)*, to make a decision under *subsection (1)* of *section 143*, it shall—

(i) make the decision notwithstanding that the period has expired,

(ii) notify the person who made the material alteration request of—

(I) the reasons why it has not made a decision within that period, and

(II) the period within which it shall make that decision (which shall not exceed one week from the expiration of the period first mentioned in this paragraph),

(iii) publish a notice on its website of the reasons and period referred to in *subparagraph (ii)*, and

(iv) notify the Minister and the Office of the Planning Regulator that it has not made the decision within the period specified in the notification under *clause (II)* of *subparagraph (ii)* of *paragraph (b)*.

(d) The Minister may, upon his or her receiving a notification under *subparagraph (iv)* of *paragraph (c)*, request the Office of the Planning Regulator to—

(i) conduct a review of the performance by the Commission of its functions under this Act, and

(ii) prepare, and submit to the Minister (within such period as the Minister shall specify), a report in relation to that review.

(5) A sum payable under *subparagraph (iv)* of *paragraph (b)* of *subsection (4)* shall be paid not later than 4 weeks after the expiration of the period for the making of the decision on the material alteration request referred to in *clause (II)* of *subparagraph (ii)* of *paragraph (a)* of that subsection.

(6) A failure by the Commission to make a decision under *subsection (1)* of *section 143* within the period or periods provided for under this section shall not invalidate the decision of the Commission under that subsection.

(7) Where the Minister considers it necessary or expedient that decisions under *subsection (1)* of *section 143*, in relation to material alteration requests of a particular class or classes, be determined as expeditiously as is consistent with objectives of maritime spatial planning and principles of proper planning and sustainable development, by reason of their being of special strategic, economic or social importance to the State, he or she may give a direction to the Commission to give priority to the making of such decisions, and the Commission shall comply with any such direction.

(8) Each annual report under *section 522* shall contain a statement of—

(a) the number of material alteration requests decided under *subsection (1)* of *section 143*,

(b) the number of material alteration requests decided within—

(i) the relevant period,

(ii) a period notified in accordance with *subparagraph (ii)* of *paragraph (a)* of *subsection (4)*,

(iii) a period notified in accordance with *subparagraph (ii)* of *paragraph (b)* of *subsection (4)*, and

(iv) a period notified in accordance with *subparagraph (ii)* of *paragraph (c)* of *subsection (4)*,

during the period to which the report relates,

(c) the number and the aggregate amount of all sums (if any) payable, and the number and the aggregate amount of all such sums paid, by the Commission in accordance with *subparagraph (iv)* of *paragraph (b)* of *subsection (4)*,

(d) the number of notifications under *subsection (4)*, and

(e) such other information as to the time taken to determine material alteration requests under this Chapter as the Minister may direct.

(9) In this section "relevant period", in relation to a material alteration request, means—

(a) in a case—

(i) where submissions are required to be given to the Commission in accordance with this Chapter or *Part 6* in relation to the proposed development, 18 weeks from the date by which all such submissions are required to be given,

(ii) where the Commission makes a request or more than one request for further information, documents or submissions under *subsection (2)* of *section 145*, *paragraph (a)* of *subsection (2)* of *section 217* or *subsection (4)* or *(5)* of *section 235* in relation to the material alteration request, 6 weeks from the earlier of the following dates—

(I) the date by which the request or requests under *section 145*, *217* or *235*, as the case may be, is or are fully complied with, or

(II) the date by which the request or requests under *section 145*, *217* or *235*, as the case may be, is or are required to be fully complied with,

(iii) where *subsection (5)* of *section 145* applies, 6 weeks from the date of the expiration of the period prescribed under *subparagraph (ii)* of *paragraph (b)* of *subsection (5)* of *section 145*, or

(iv) where more than one of the foregoing subparagraphs applies, the period specified in those subparagraphs that expires last,

or

(b) in relation to a material alteration request in respect of which an oral hearing is held under *paragraph (g)* of *subsection (2)* of *section 145*, and notwithstanding *paragraph (a)*, 12 weeks from the date of the conclusion of the oral hearing.

Material contravention of development plan or National Marine Planning Framework

148. (1) Subject to *subsections (2)* and *(12)*, a deciding authority shall refuse to alter or extend a permission under *section 142* or *143* where—

(a) the development or proposed development is, or is proposed to be, situated wholly or partly on land and the development or proposed development to which the permission altered or extended would relate, would materially contravene the development plan for the functional area in which the development is, or is proposed to be, situated, or

(b) the development or proposed development is, or is proposed to be, situated wholly or partly in the maritime area and the development or proposed development to which the permission altered or extended would relate would materially contravene the National Marine Planning Framework.

(2) A planning authority may decide to make an alteration of a permission or grant an extension of the duration of a permission to which *subsection (1)* applies by resolution (in this section referred to as a "material contravention resolution"), following a proposal of the chief executive of the planning authority, in accordance with *subsections (3)* to *(11)*.

(3) A material contravention resolution may be passed by the planning authority if—

(a) it considers that the alteration or extension is necessary or justified having regard—

(i) in the case of development or proposed development referred to in *paragraph (a)* or *(b)* of *subsection (1)*, to proper planning and sustainable development, or

(ii) in the case of development or proposed development referred to in *paragraph (b)* of *subsection (1)*, to the objectives of maritime spatial planning,

and

(b) in the case of development or proposed development referred to in *paragraph (a)* of *subsection (1)*, the development or proposed development is consistent with such provisions of the National Planning Framework, National Planning Policies and Measures or regional spatial and economic strategy as deal with the matters dealt with by provisions of the development plan to which the material contravention concerned applies.

(4) A planning authority shall give notice, in such form and manner as may be prescribed, to the public and to such persons as may be prescribed of any motion for a material contravention resolution, and submissions may be made in respect of such motion in such form and manner, and within such period, as may be prescribed.

(5) A resolution passed without prior compliance with *subsection (4)* shall be invalid.

(6) Where a submission is received by the planning authority within the period prescribed for the purposes of *subsection (4)*, the planning authority shall acknowledge that submission in writing and the chief executive shall have regard to that submission when preparing his or her report in accordance with *subsection (8)*.

(7) Where a submission is received by the planning authority after the expiration of the period prescribed for the purposes of *subsection (4)*, the planning authority shall return that submission to the person who made it and notify the person that the submission cannot be considered by the planning authority.

(8) The chief executive shall, within such period as may be prescribed, prepare and submit to the members of the planning authority, a report—

(a) stating the main reasons and considerations on which the motion to make the alteration or grant the extension in material contravention of the development plan or National Marine Planning Framework, as the case may be, is based, including the main reasons for considering that making the alteration or granting the extension may be necessary or justified having regard to the proper planning and sustainable development of the area, or the objectives of maritime spatial planning, as appropriate,

(b) summarising the issues raised in any submissions validly received, and

(c) advising the members of his or her opinion regarding the compliance, or otherwise, of the development or proposed development with National Planning Statements or any relevant policies or objectives of the Government or Minister of the Government or with any regional spatial and economic strategy,

and that report shall be considered by the members before a material contravention resolution is passed.

(9) A material contravention resolution shall record that the members are satisfied that the development or proposed development is necessary or justified having regard to the proper planning and sustainable development of the area and, where the proposed development is or includes maritime development, objectives of maritime spatial planning.

(10) It shall be necessary for the passing of a material contravention resolution that the number of the members of the planning authority voting in favour of the resolution is not less than three-quarters of the total number of the members of the planning authority or where the number so obtained is not a whole number, the whole number next below the number so obtained shall be sufficient, and the requirement of this subsection is in addition to and not in substitution for any other requirement applying in relation to such a resolution.

(11) Where a material contravention resolution has been passed by a planning authority, the planning authority shall—

(a) send a copy of the notice under *subsection (4)* that relates to the resolution to the regional assembly for the area and the Office of the Planning Regulator,

(b) at the same time, inform the regional assembly for the area and the Office of the Planning Regulator in writing that the resolution was passed, and

(c) enter particulars of the material contravention resolution in the register.

(12) The Commission may decide to make an alteration of a permission or grant an extension of the duration of a permission—

(a) to which *paragraph (a)* of *subsection (1)* applies, where it is satisfied that—

(i) the development or proposed development is of strategic or national importance having regard to the policy of the Government,

(ii) the development plan contains objectives that conflict with one another or are ambiguous with regard to their application to the development or proposed development concerned, or

(iii) the development or proposed development is consistent with such provisions of the National Planning Framework, National Planning Policies and Measures or regional spatial and economic strategy as deal with the matters dealt with by provisions of the development plan to which the material contravention concerned applies,

and

(b) to which *paragraph (b)* of *subsection (1)* applies, where it is satisfied that—

(i) the development or proposed development is of strategic or national importance having regard to the policy of the Government, or

(ii) the National Marine Planning Framework contains objectives that conflict with one another or are ambiguous with regard to their application to the development or proposed development.

Revocation or modification of permission by planning authority

149. (1) If a planning authority considers that it is appropriate that a permission relating to land-based development within its functional area should be revoked or modified because the development is a development referred to in *subsection (4)*, it may serve a notice proposing to do so in accordance with *subsection (5)* on the applicant for permission, the owner and occupier of the lands where the development to which the permission relates is, or is proposed to be, situate, and on any other person who, in its opinion, will be materially affected by the revocation or modification.

(2) Subject to *subsection (3)*, if a planning authority considers that it is appropriate that a permission relating to maritime development within its functional area should be revoked or modified because the development is a development referred to in *subsection (4)*, it may serve a notice proposing to do so in accordance with *subsection (5)* on the applicant for permission, the owner and occupier of the maritime site where the development to which the permission relates is, or is proposed to be, situate, the holder of a maritime area consent granted for the occupation of that maritime site for the purposes of the development, and on any other person who, in its opinion, will be materially affected by the revocation or modification.

(3) A reference in *subsection (2)* to "owner" shall not include a reference to a Minister of the Government in whom the maritime site vests by virtue of section 5 of the State Property Act 1954.

(4) A planning authority may propose to revoke or modify a permission under *subsection (1)* or *(2)* where the development to which the permission relates—

(a) would be contrary to the requirements of proper planning and sustainable development or maritime spatial planning, as appropriate, and

(b) no longer conforms to the provisions of the development plan, or any applicable urban area plan, priority area plan or coordinated area plan, or the National Marine Planning Framework, that applies to the land or maritime site where it is proposed to carry out the development, or would frustrate the objectives of one or more than one of such plans or of the National Marine Planning Framework.

(5) The notice referred to in *subsections (1)* and *(2)* shall—

(a) specify the permission concerned,

(b) specify the reasons for the proposal, and

(c) invite the person on whom the notice is served to make submissions to the planning authority in writing within the period specified in the notice (which shall be before the end of the period of 4 weeks from the date of the service of the notice) concerning the proposal.

(6) A planning authority may decide to revoke or modify a permission where the development to which the permission relates is a development referred to in *subsection (4)* and, when making its decision, shall have regard to any submissions made under *paragraph (c)* of *subsection (5)*.

(7) Where a planning authority decides to revoke or modify a permission under *subsection (6)*, it shall specify in the decision the provisions of the plan or National Marine Planning Framework referred to in *subsection (4)* to which the development no longer conforms or the objectives of the plan or National Marine Planning Framework that the development would frustrate, and the main reasons and considerations on which the decision is based.

(8) A person served with a notice under *subsection (1)* or *(2)* may, at any time within the period of 4 weeks beginning on the date of the decision under *subsection (6)*, appeal to the Commission against the decision.

(9) Where an appeal is brought under *subsection (8)* against a decision, the Commission may confirm the decision with or without modifications, or annul the decision, and it shall specify the main reasons and considerations for its determination on the appeal.

(10) Any development carried out in contravention of a decision under *subsection (6)*, or where an appeal is brought under *subsection (8)*, in contravention of a decision confirmed under *subsection (9)*, shall be unauthorised development.

(11) A notice of a proposal to revoke a permission may only be served prior to commencement of the development to which the permission relates.

(12) A notice of a proposal to modify a permission may only be served prior to completion of the development to which the permission relates, and where the development has commenced, the planning authority shall not propose to modify any part of the development that has been completed in accordance with the permission.

(13) A planning authority may, for stated reasons, by notice, withdraw a notice served under *subsection (1)* or *(2)* and, where a notice is withdrawn, the period between the serving of the notice and the withdrawal shall not be reckonable for the purpose of calculating the period since the granting of the permission.

(14) Particulars of a notice served under *subsection (1)* or *(2)*, an appeal under *subsection (8)*, a determination of the Commission on appeal under *subsection (9)*, and the withdrawal of a notice under *subsection (13)* shall be entered in the register.

Revocation or modification of permission by Minister

150. (1) The Minister may, upon the request of the Minister for Justice, the Minister for Foreign Affairs, the Minister for Defence, or the Minister for Health, and with the approval of the Government, make an order revoking or modifying (whether by extension of its duration or alteration of its terms) a permission, if the first-mentioned Minister is satisfied that—

(a) the carrying out of the development to which the permission relates is likely to be harmful to—

(i) the security or defence of the State,

(ii) the State's relations with other states, or

(iii) public health,

and

(b) the revocation or modification is necessary in the public interest.

(2) The Minister may, before making an order under this section, consult with—

(a) a planning authority in whose functional area any part of the development to which the permission relates is situated or proposed to be situated,

(b) the person to whom the permission was granted, and

(c) any other person who, in the opinion of the Minister, is likely to be materially affected by the making of the order,

but shall not so consult if the Minister considers that to do so would be harmful to the security or defence of the State or to the State's relations with other states.

(3) The Minister shall, as soon as practicable after making an order under this section, give a copy of it to—

(a) the planning authority that granted the permission or, where the permission was granted by the Commission, the Commission, and

(b) where the permission was granted by the Commission and does not relate to development in the outer maritime area, the planning authority in whose functional area the development to which the permission relates is situated or proposed to be situated.

(4) The planning authority that granted the permission to which an order under this section relates or, where the permission was granted by the Commission, the Commission, shall, within such period as may be specified in the order, serve—

(a) a notice on—

(i) the person to whom the permission was granted, and

(ii) any other person specified in the order,

informing him or her of the revocation or modification effected by the order, and

(b) a notice—

(i) in the case of development commenced but not completed, on any person carrying out the development to which the permission relates, or on whose behalf the development is being carried out, requiring him or her to cease the development and restore the land or maritime site on which the development is being carried out to the condition it was in before the development commenced, or

(ii) in the case of development completed, on any person who carried out the development, or on whose behalf the development was carried out, requiring him or her to restore the land or maritime site on which the development was carried out to the condition it was in before the development was commenced.

(5) A person on whom a notice is served under *paragraph (b)* of *subsection (4)* shall comply with the notice.

(6) A permission to which an order under this section applies shall stand revoked or modified, as the case may be, upon the making of the order.

(7) Any development carried out in contravention of an order under this section shall be unauthorised development.

(8) Where the Minister makes an order revoking an order made under *subsection (1)*—

(a) the order revoked shall, for all purposes, be deemed never to have been made, and the register shall be amended accordingly,

(b) the period between the making of the order revoked and the revocation shall not be reckonable for the purpose of calculating the period since the granting of the permission, and

(c) the Minister shall give notice of the revocation to such persons as he or she considers appropriate.

(9) The making of an order under this section shall be entered in the register as soon as may be after it is made.

(10) (a) Proceedings before a court relating to an order made under *subparagraph (i)* or *(ii)* of *paragraph (a)* of *subsection (1)* shall be heard in private.

(b) A court before which proceedings relating to an order under *subparagraph (i)* or *(ii)* of *paragraph (a)* of *subsection (1)* are heard shall take all reasonable precautions to prevent the disclosure—

(i) to the public, or

(ii) where the court considers it appropriate, to any party to the proceedings,

of any evidence given or document submitted for the purposes of the proceedings, the disclosure of which could reasonably be considered to be harmful to the security or defence of the State or to the State's relations with other states.

(c) Without prejudice to the generality of *paragraph (b)*, precautions referred to in that paragraph may include—

(i) the prohibition of the disclosure of such evidence or document as the court may determine, and

(ii) the hearing, in the absence of any person, including any party to the proceedings, of any evidence or the examination of any witness or document that, in the opinion of the court, could reasonably be considered to be harmful to the security or defence of the State or to the State's relations with other states.

Chapter 6

Local Authority Development and State Authority Development

Definition

151. In this Chapter "development subject to confirmation" means—

(a) local authority development of a class prescribed in regulations under *subsection (1)* of *section 153*,

(b) State authority prescribed development that does not require appropriate assessment or environmental impact assessment, and

(c) *Chapter 6* State authority emergency development in respect of which compliance with *sections 158* and *160* is required pursuant to an order under *subsection (1)* of *section 155*.

Local authority development

152. (1) Subject to *subsections (2)* and *(4)*, and *subsection (3)* of *section 9*, local authority development (other than *Chapter 4* local authority development) by a local authority in the functional area of the local authority shall be exempted development for the purposes of this Act.

(2) Subject to *subsection (4)*, and *subsection (3)* of *section 9*, local authority development (other than *Chapter 4* local authority development) by a local authority that is a coastal planning authority on a maritime site in the nearshore area of that coastal planning authority shall not be exempted development unless the local authority is—

(a) the owner of the maritime site, or

(b) the holder of a maritime area consent granted for the occupation of the maritime site for the purposes of carrying out the proposed development.

(3) Subject to *subsection (4)*, and *subsection (3)* of *section 9*, local authority development by a local authority outside the functional area of the local authority consisting of the carrying out of any works—

(a) required for the construction of a new road or the maintenance or improvement of an existing road,

(b) for the purpose of inspecting, repairing, renewing, altering or removing any sewers, mains, pipes, district heating systems, cables, overhead wires, or other apparatus, or

(c) required for the excavation, for a purpose referred to in *paragraph (b)*, of any street, other land or maritime site,

shall be exempted development.

(4) Local authority development—

(a) that materially contravenes any development plan applicable to such development, or

(b) in the maritime area that materially contravenes the National Marine Planning Framework,

shall not be carried out.

Local authority development requiring public notice

153. (1) The Minister may, if of the opinion that, by reason of the nature, scale or location of local authority development (other than development excluded from the application of this subsection by *subsection (2)*) of a particular class or classes, such development shall not be carried out unless confirmed under *section 159*, prescribe that class or classes for the purposes of this Chapter.

(2) Local authority development of the following classes is excluded from the application of *subsection (1)*:

(a) local authority development that includes or comprises works of maintenance or repair, other than works to—

(i) a protected structure, or a proposed protected structure that would materially affect the character of—

(I) the protected structure or proposed protected structure, or

(II) any element of such structure that contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest,

or

(ii) the exterior of a structure that is located within an architectural conservation area that would materially affect the character of the area concerned;

(b) local authority development that is necessary for the purpose of dealing with any situation that the chief executive of the local authority concerned considers is an emergency situation calling for immediate action;

(c) local authority development that consists of works, other than works involving road widening, to provide—

(i) traffic signs under section 95 of the Road Traffic Act 1961, or

(ii) traffic calming measures to enhance public bus services or improve facilities for cyclists under section 38 of the Act of 1994;

(d) local authority development that consists of works that a local authority is required to undertake—

(i) by or under any enactment,

(ii) by or under a European act within the meaning of the European Communities Act 2007, or

(iii) by order of a court;

(e) *Chapter 4* local authority development.

(3) Sections 138, 139 and 140 of the Act of 2001 shall not apply to local authority development of a class prescribed under *subsection (1)*.

(4) In this section—

"Act of 1994" means the Road Traffic Act 1994;

"public bus service" and "traffic calming measures" have the same meanings as they have in section 38 of the Act of 1994.

State authority prescribed development

154. (1) The Minister may prescribe a State authority development or class of State authority development for the purposes of this Chapter, if of the opinion that—

(a) the development or the class of development is in connection with, or for the purposes of, public safety or order, the administration of justice, or national security or defence, or

(b) an event or situation with significant national or strategic implications has occurred, or is likely to occur, and it is necessary to so prescribe the development or class of development in order to address such implications.

(2) A State authority shall not carry out, or make an arrangement with another person for the carrying out of, *Chapter 6* State authority development in the maritime area, unless the State authority—

(a) is the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of carrying out the development concerned,

(b) is the owner of the maritime site on which it is proposed to carry out the development concerned, or

(c) carries out the development with the consent of the owner of the maritime site on which it is proposed to carry out the development concerned.

State authority development emergency order

155. (1) The Minister concerned may by order provide that permission is not required for a specified State authority development or State authority development of such class as is specified in the order, where he or she is satisfied that—

(a) the carrying out of such development or development of such class is required by reason of an accident or emergency, and

(b) such development or development of such class does not require appropriate assessment or environmental impact assessment,

(and such development or development of such class is in this Part referred to as "*Chapter 6* State authority emergency development").

(2) An order under *subsection (1)* may include a provision requiring compliance with *sections 158* and *160* before the carrying out of any development to which the order applies.

(3) Where the Minister concerned is satisfied that the carrying out of a State authority development requiring appropriate assessment or environmental impact assessment is required by reason of an accident or emergency, the Minister concerned may by order provide that any application for permission for that State authority development (in this Part referred to as "*Chapter 4* State authority emergency development") shall be made to the Commission under *Chapter 4*.

(4) Where a Minister of the Government other than the Minister is the Minister concerned, the Minister concerned shall, before making an order under *subsection (1)*, inform the Minister of his or her intention to make such order and provide the Minister with a draft of the order.

(5) Where the Minister concerned is of the opinion that the making of an order under *subsection (1)* would affect the exercise by another State authority of the functions of that State authority, the Minister concerned shall, before making the order, inform that State authority of his or her intention to make the order and provide to the State authority a draft of the order.

(6) The Minister concerned shall, in such manner as may be prescribed, give notice of the making of an order under *subsection (1)*—

(a) where a person was informed of the intention of the Minister concerned to make the order in accordance with *subsection (4)* or *(5)*, to such person, and

(b) to such other persons as may be prescribed.

(7) The Minister concerned may, where he or she considers it appropriate to do so, revoke an order under *subsection (1)*.

(8) In this section—

"Minister concerned" means—

(a) in relation to State authority development proposed to be carried out by, on behalf of, or jointly with, a Minister of the Government, that Minister of the Government,

(b) in relation to State authority development proposed to be carried out by, on behalf of, a statutory undertaker, the Minister of the Government who is required to authorise the carrying out of development by that statutory undertaker, or

(c) in relation to any other proposed State authority development, the Minister for Public Expenditure, National Development Plan Delivery and Reform;

"State authority" includes a statutory undertaker.

State authority development not requiring permission

156. Permission shall not be required for *Chapter 6* State authority development.

State authority urgent development order

157. (1) Where the Minister concerned is satisfied that the carrying out of a State authority development requiring appropriate assessment or environmental impact assessment is urgent in order to preserve, protect or improve the quality of the environment or protect human health, he or she may by order require that an application for permission for that State authority development (in this Part referred to as "State authority urgent development") shall be made to the Commission under *Chapter 4*.

(2) In this section "Minister concerned" means—

(a) in relation to State authority development proposed to be carried out by, on behalf of, or jointly with, a Minister of the Government, that Minister of the Government, or

(b) in relation to any other proposed State authority development, the Minister for Public Expenditure, National Development Plan Delivery and Reform.

Public notification procedure

158. (1) The relevant authority shall publish, in such manner as may be prescribed, a notice of any proposed development that is development subject to confirmation, and such notice shall—

(a) identify the relevant authority that proposes to carry out development or on whose behalf, or jointly with whom, the development is proposed to be carried out, and

(b) contain such other information as may be prescribed.

(2) The relevant authority shall send a copy of a notice under *subsection (1)* relating to development proposed to be carried out by, on behalf of, or jointly with, the authority—

(a) where the relevant authority is a local authority, to such person or persons as may be prescribed, and

(b) where the relevant authority is a State authority, to the planning authority for any functional area in which the development is proposed to be situated.

(3) Where proposed development that is development subject to confirmation includes or comprises the carrying out of works—

(a) that would materially affect the character of—

(i) a protected structure or a proposed protected structure, or

(ii) any element of such structure that contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest,

or

(b) to the exterior of a structure located within an architectural conservation area that would result in the character of the area concerned being materially affected,

the relevant authority shall notify the Minister of such development.

(4) Any person may, in accordance with regulations under *subsection (5)* and on payment of a prescribed fee, make a submission in writing to the relevant authority in relation to a proposed development that is development subject to confirmation that is to be carried out by, or on behalf of, the relevant authority or jointly with the relevant authority.

(5) The Minister may make regulations for the purposes of *subsection (4)*, including in relation to—

(a) the content of submissions under that subsection,

(b) the form and manner of such submissions, and

(c) the period within which such submissions may be made.

(6) In this section "relevant authority" means—

(a) in relation to local authority development, the local authority concerned, and

(b) in relation to State authority development, the State authority concerned.

Confirmation by local authority

159. (1) The chief executive of a local authority shall, before the making of a decision by the local authority under *subsection (3)* in relation to proposed local authority development that is development subject to confirmation—

(a) prepare a report in writing in relation to the proposed development in accordance with this section, and

(b) submit the report to the members of the local authority not later than—

(i) 8 weeks from the expiration of such period as may be prescribed under *subsection (5)* of *section 158* for the making of submissions, or

(ii) the expiration of such period as may be specified in regulations under *subsection (15)* of *section 230* where those regulations apply to the proposed development.

(2) A report prepared in accordance with *subsection (1)* shall—

(a) describe the nature and extent of the proposed development and the principal features thereof,

(b) include a plan of the development and a map of such of the area surrounding the proposed development as the chief executive considers appropriate,

(c) recommend the attachment of such conditions to the carrying out of the proposed development as the chief executive considers appropriate,

(d) include an evaluation of whether or not the proposed development would be consistent with—

(i) in the case of land-based development, the proper planning and sustainable development of the area to which the development relates, having regard to the provisions of the development plan, or

(ii) in the case of maritime development, the objectives of maritime spatial planning relevant to the area to which the development relates, having regard to the provisions of the National Marine Planning Framework,

and give the reasons and the considerations for the evaluation,

(e) include copies of—

(i) any determination under *section 212* as to whether or not an appropriate assessment is required, and

(ii) any determination in accordance with *section 229* as to whether or not an environmental impact assessment is required,

(f) list the persons who made submissions with respect to the proposed development under *subsection (4)* of *section 158*,

(g) include—

(i) in the case of land-based development, a summary of the issues raised by any such submissions with respect to the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development, or

(ii) in the case of maritime development, having regard to the National Marine Planning Framework, a summary of the issues raised by any such submissions with respect to the objectives of maritime spatial planning applicable to the part of the maritime area in which it is proposed to carry out the development,

and observations of the chief executive to those submissions, and

(h) include—

(i) a recommendation as to whether or not the proposed development should be carried out as proposed, and

(ii) in the case of a recommendation that the proposed development should be carried out, any modification to the proposed development recommended by the chief executive.

(3) The members of a local authority shall, not later than 6 weeks from the submission of the report under *subsection (1)*, consider the report, and, by resolution, decide that—

(a) the proposed development be carried out in accordance with recommendations (if any) set out in the report under *subsection (1)*,

(b) the proposed development be carried out subject to such modifications (other than, or in addition to, any modifications specified in the report under *subsection (1)*) as are specified in the resolution, or

(c) the proposed development not be carried out.

(4) If the members of the local authority fail to pass a resolution under *subsection (3)* within the period specified in that subsection, the members of the local authority shall, upon the expiration of that period, be deemed to have passed a resolution referred to in *paragraph (a)* of that subsection.

(5) Local authority development that is development subject to confirmation shall not be carried out—

(a) before the passing of a resolution under *subsection (3)*, or the deemed passing of such a resolution pursuant to *subsection (4)*, in relation to the development, or

(b) in a manner that contravenes the terms of a resolution to which *paragraph (a)* or *(b)* of *subsection (3)* applies.

(6) (a) A local authority shall, as soon as may be after the passing of a resolution under *subsection (3)* (or in circumstances to which *subsection (4)* applies, the expiration of the period referred to in that subsection)—

(i) notify the Minister and each person to whom a copy of the notice under *subsection (1)* of *section 158* in relation to the proposed development concerned was given in accordance with *subsection (2)* of *section 158*,

(ii) subject to *paragraph (b)*, notify each person who made a submission in respect of the proposed development in accordance with *subsection (4)* of *section 158*, and

(iii) publish notice on an internet website maintained by or on behalf of the local authority and in at least one newspaper,

of the passing of the resolution or, as the case may be, of the application of *subsection (4)* in relation to the proposed development and the expiration of the period referred to therein.

(b) A local authority shall not be required to comply with *subparagraph (ii)* of *paragraph (a)*—

(i) where the number of persons who made submissions in respect of the proposed development in accordance with *subsection (4)* of *section 158* exceeds 100, or

(ii) in relation to any person referred to in that paragraph whose name or address is not readily ascertainable by the local authority.

(c) A notification or notice referred under *paragraph (a)* shall state the terms of the resolution concerned.

(7) Particulars of a resolution passed under *subsection (3)* or deemed to have been passed under *subsection (4)* shall be entered in the register.

(8) (a) Where a development is carried out in accordance with a recommendation in a report under subsection (3) of section 179 of the Act of 2000 that the development be proceeded with as proposed, it shall, on and after the repeal of that section by *section 6*, be treated as if it were carried out in accordance with a decision under *paragraph (a)* of *subsection (3)* of this section, whether or not the development was commenced before that repeal.

(b) A decision under subsection (4) of section 179 of the Act of 2000 to vary or modify a development shall, on and after the repeal of that section by *section 6*, operate as if it were a decision under *paragraph (b)* of *subsection (3)* of this section.

(c) A decision under subsection (4) of section 179 of the Act of 2000 not to proceed with a development shall, on and after the repeal of that section by *section 6*, operate as if it were a decision under *paragraph (c)* of *subsection (3)* of this section.

Confirmation by State authority

160. (1) A State authority may, in relation to proposed State authority development that is development subject to confirmation—

(a) following compliance by it with *section 158* in relation to the proposed development, and

(b) having had regard to any submissions made by a planning authority, or by any other person under *subsection (4)* of that section in relation to the proposed development,

decide that the proposed development—

(i) shall be carried out (with or without modifications to the original proposed development), or

(ii) shall not be carried out.

(2) A decision made under *subsection (1)* shall state the main reasons and considerations on which the decision is based.

(3) State authority development that is development subject to confirmation shall not be carried out—

(a) before the making of a decision under *subsection (1)* in relation to the development, or

(b) in a manner that contravenes the terms of that decision.

(4) (a) A State authority shall, as soon as may be after making a decision under *subsection (1)*—

(i) notify the planning authority within whose functional area it is proposed to carry out the development concerned,

(ii) subject to *paragraph (b)*, notify each person who made a submission in respect of the proposed development in accordance with *subsection (4)* of *section 158*, and

(iii) publish a notice on an internet website maintained by or on behalf of the State authority and in at least one newspaper,

of the making of the decision.

(b) A local authority shall not be required to comply with *subparagraph (ii)* of *paragraph (a)*—

(i) where the number of persons who made submissions in respect of the proposed development in accordance with *subsection (4)* of *section 158* exceeds 100, or

(ii) in relation to any person referred to in that paragraph whose name or address is not readily ascertainable by the local authority.

(c) A notification or notice under *paragraph (a)* shall state the terms of the decision under *subsection (1)* concerned.

(5) Where a planning authority is notified under *subparagraph (i)* of *paragraph (a)* of *subsection (4)* of the making of a decision under *subsection (1)*, the planning authority shall publish the notice on an internet website maintained by or on behalf of the planning authority.

(6) Particulars of a decision under *subsection (1)* shall be entered in the register.

Local authority housing development

161. (1) The chief executive of a local authority shall, before the carrying out of a local authority housing development by, on behalf of or jointly with that local authority—

(a) inform the members of the local authority of the intention to carry out that development, and

(b) provide those members with such documents, particulars and plans as relate to that development.

(2) The Minister may make regulations providing for any or all of the following matters in respect of local authority housing development:

(a) the giving of public notice by the local authority of the intention to carry out the development;

(b) the publication by a local authority of any specified notice in respect of the development;

(c) the making available for inspection, including by members of the public, of such documents, particulars or plans as relate to the development;

(d) notification of bodies prescribed for the purposes of this section of the intention to carry out the development;

(e) the entry of particulars of the development in the register;

(f) a requirement that local authorities provide the Minister with information of such a type as is specified in the regulations and at such intervals as is so specified.

(3) Sections 138, 139 and 140 of the Local Government Act 2001 shall not apply in respect of local authority housing development.

(4) In this section—

"housing development" means the construction or erection of one or more than one house and includes—

(a) the construction of a new road, or the widening or realignment of an existing road, to any such house,

(b) the construction or erection of pumping stations, treatment works, holding tanks or outfall facilities for waste water or storm water, to serve any such house,

(c) the laying underground of sewers, mains, pipes or other apparatus to serve any such house,

(d) the provision of open spaces, recreational and community facilities and amenities and landscaping works to serve any such house, and

(e) the provision of car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure, to serve any such house;

"local authority housing development" means local authority development commenced on or before 31 December 2025 that—

(a) is housing development,

(b) does not materially contravene a development plan, urban area plan, priority area plan or joint area plan,

(c) is in accordance with the strategy included in the development plan for the area in accordance with *subsection (1)* of *section 242*,

(d) is situated on land—

(i) owned by a local authority or a public authority,

(ii) zoned for residential use, and

(iii) that allows for access, or connection, to public infrastructure and facilities;

"public authority' means—

(a) a Minister of the Government,

(b) an Education and Training Board established under the Education and Training Boards Act 2013,

(c) the Courts Service,

(d) the Digital Hub Development Agency,

(e) the Dublin Institute for Advanced Studies,

(f) Enterprise Ireland,

(g) the Environmental Protection Agency,

(h) An Garda Síochána,

(i) the Health Service Executive,

(j) the Housing and Sustainable Communities Agency,

(k) the Industrial Development Agency (Ireland),

(l) an institute of technology that is a college within the meaning of the Regional Technical Colleges Act 1992,

(m) the Institute of Public Administration,

(n) the part of the Department of Justice charged with the management of prisons,

(o) the Legal Aid Board,

(p) the Marine Institute,

(q) the National Archives,

(r) Oberstown Children Detention Campus,

(s) the Commissioners of Public Works in Ireland,

(t) Ordnance Survey Ireland,

(u) Sport Ireland,

(v) the State Laboratory,

(w) Teagasc,

(x) a technological university within the meaning of the Technological Universities Act 2018, or

(y) An tSeirbhís Oideachais Leanúnaigh agus Scileanna;

"public infrastructure and facilities" includes, in relation to local authority housing development—

(a) roads,

(b) footpaths,

(c) public lighting,

(d) foul sewer drainage,

(e) surface water drainage, and

(f) water supply,

provided in connection with, or that otherwise serve, the development.

Continued operation of Parts X and XAB of Act of 2000 for certain purposes

162. (1) Where an application for approval was made under subsection (3) of section 175 of the Act of 2000 before the repeal of that section by *section 6* but the Commission did not make a decision under subsection (9) of the said section 175 in relation to the application before such repeal, Part X of that Act shall, on and after that repeal, continue to apply and have effect for the purpose of that application.

(2) Where an application for approval was made under subsection (3) of section 177AE of the Act of 2000 before the repeal of that section by *section 6* but the Commission did not make a decision under subsection (8) of the said section 177AE in relation to the application before such repeal, Part XAB of that Act shall, on and after that repeal, continue to apply and have effect for the purpose of that application.

Continued operation of section 181 of Act of 2000 for certain purposes

163. (1) Where an application for approval was made under subsection (2A) of section 181 of the Act of 2000 before the repeal of that section by *section 6* but the Commission did not make a decision under subsection (2L) of the said section 181 in relation to the application before such repeal, the said section 181 shall, on and after that repeal, continue to apply and have effect for the purpose of that application.

(2) Where an application for approval was made under paragraph (c) of subsection (3) of section 181 of the Act of 2000 before the repeal of that section by *section 6* but the Commission did not make a decision in relation to the application before such repeal, the said subsection (3) shall, on and after that repeal, continue to apply and have effect for the purpose of that application.

(3) Notwithstanding the repeal of paragraph (a) of subsection (1) of section 181 of the Act of 2000 by *section 6*, this Act shall not apply to development—

(a) of a class specified in regulations under that paragraph, and

(b) that was commenced before that repeal,

and accordingly the said section 181 and sections 181A, 181B and 181C of the Act of 2000 shall, on and after that repeal, continue to apply and have effect in relation to such development.

(4) Notwithstanding the repeal of paragraph (a) of subsection (2) of section 181 of the Act of 2000 by *section 6*, this Act shall not apply to development to which an order (for the time being in force) under that paragraph applies.

Continued operation of sections 181A and 181B of Act of 2000 for certain purposes

164. Where an application for approval was made under section 181A of the Act of 2000 before the repeal of that section by *section 6* but the Commission did not make a decision under section 181B of that Act in relation to the application before such repeal, the said sections 181A and 181B shall, on and after that repeal, continue to apply and have effect for the purpose of that application.

Continued operation of sections 182A, 182AA and 182B of Act of 2000 for certain purposes

165. Where an application for approval was made under section 182A of the Act of 2000 before the repeal of that section by *section 6* but the Commission did not make a decision under section 182B of that Act in relation to the application before such repeal, the said sections 182A and 182B and section 182AA of that Act shall, on and after that repeal, continue to apply and have effect for the purpose of that application.

Continued operation of sections 182C and 182D of Act of 2000 for certain purposes

166. Where an application for approval was made under section 182C of the Act of 2000 before the repeal of that section by *section 6* but the Commission did not make a decision under section 182D of that Act in relation to the application before such repeal, the said sections 182C and 182D shall, on and after that repeal, continue to apply and have effect for the purpose of that application.

CHAPTER 7

Miscellaneous

Consultations under Part

167. (1) The following matters shall not prejudice the performance by a planning authority or the Commission of its functions by or under this Act or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings:

(a) the carrying out of any consultation under this Part;

(b) the making of a determination under *subsection (9)* of *section 90*;

(c) the taking place of an LRD meeting;

(d) the provision of an LRD opinion;

(e) the taking place of a meeting under *section 93* or *118*;

(f) the provision of an opinion under *section 94* or *119*.

(2) The planning authority or the Commission, as the case may be, shall keep a record in writing of—

(a) any consultation or request for a consultation, including the names of the person who made the request for a consultation and the persons who participated in the consultation,

(b) any LRD meeting or request for an LRD meeting, including—

(i) a copy of the information and documentation that accompanied the request in accordance with *subsection (3)* of *section 91*,

(ii) the names of the persons who attended the meeting and any explanation provided under *subsection (10)* of *section 91* or *subsection (3)* of *section 92*,

or

(c) any meeting under *subsection (4)* of *section 93* or *subsection (4)* of *section 118* or requests for a meeting under those sections, including—

(i) a copy of the documents that accompanied the request under *subsection (2)* of *section 93* or *subsection (2)* of *section 118*,

(ii) the names of the persons who attended the meeting, and

(iii) any explanation provided under *subsection (7)* of *section 93*, *subsection (4)* of *section 94*, *subsection (7)* of *section 118* or *subsection (4)* of *section 119*.

(3) The planning authority or the Commission, as the case may be, shall place and keep a copy of any record in writing under *subsection (2)* with the documents to which any application in respect of that proposed development relates.

(4) A record kept by a planning authority under *subsection (3)* shall only be made available to the public when an application or request in respect of the proposed development is made under this Part.

(5) In this section "consultation" means a consultation meeting under *section 90* or *116* or a consultation under *section 139* and "request for consultation" shall be construed accordingly.

Submissions or observations under Part

168. The making of submissions or observations by—

(a) the Maritime Area Regulatory Authority,

(b) a coastal planning authority,

(c) the Environmental Protection Agency,

(d) the Minister, or

(e) any other Minister of the Government,

under this Part shall not prejudice the performance by it, or him or her, of any of its, or his or her, functions under this Act or any other enactment, and accordingly the making

of such submissions or observations cannot be relied upon to question such performance—

(i) in relation to the consideration by a planning authority of an application for permission under this Act,

(ii) in relation to the consideration by the Commission of an application for permission or appeal under this Act, or

(iii) in proceedings before a court relating to an application for permission or an appeal under this Act.

Seveso III Directive

169. The applicant and the planning authority or the Commission shall comply with the relevant law transposing the Seveso III Directive in the case of development or proposed development—

(a) for the purposes of the provision or modification of a major accident establishment within the meaning of the Seveso III Directive, or

(b) within the vicinity of such an establishment, having regard to the effect that a major accident is likely to have on the area within which the development or proposed development is, or is proposed to be, situated.

Permission for demolition of protected structure

170. Notwithstanding any other provision of this Act, permission shall not be granted under this Part for development that would involve or require the demolition of a protected structure, or a proposed protected structure, unless the planning authority or the Commission, as the case may be, is satisfied that exceptional circumstances exist that justify that grant of permission.

Permission in breach of agreement with planning authority

171. Notwithstanding any other provision of this Act, permission shall not be granted under this Part if, in the opinion of the planning authority or the Commission, as the case may be, the implementation of the permission for development sought would amount to, or would be likely to occasion, a breach of an agreement with a planning authority under *section 257*.

Withdrawal or invalidity of planning applications and appeals

172. (1) A person who has—

(a) made an application under *Chapter 3* or *4*,

(b) brought an appeal under *Chapter 3*, or

(c) made a request for an alteration or extension of a permission under *Chapter 5*,

may withdraw (in writing) the application, appeal or request at any time before that application, appeal or request is determined by the planning authority or the Commission.

(2) (a) Without prejudice to *subsection (1)*, where the planning authority or the Commission is of the opinion that an application, appeal or request made to it has been abandoned, it may serve on the person who made the application, appeal or request, as the case may be, a notice stating that opinion.

(b) A notice under *paragraph (a)* shall require the person on whom it is served to make a submission to the planning authority or the Commission as to why the application, appeal or request should not be regarded as having been withdrawn, within such period as shall be specified in the notice (which shall be not less than two weeks, and not more than four weeks, beginning on the date of service of the notice).

(c) Where a notice has been served under *paragraph (a)*, the planning authority or the Commission may, at any time after the expiration of the period specified in the notice in accordance with *paragraph (b)*, declare in writing that the application, appeal or request, as the case may be, shall be regarded as having been withdrawn.

(d) When making a declaration under *paragraph (c)*, the planning authority or the Commission shall have regard to the submission (if any) made within the period specified in accordance with *paragraph (b)*.

(3) Where—

(a) a person withdraws an application, appeal or request under *subsection (1)*,

(b) a planning authority or the Commission declares an application, appeal or request to be withdrawn under *subsection (2)* or any other provision of this Part, or

(c) a planning authority or the Commission declares an application, appeal or request to be invalid under any provision of this Part,

the planning authority or the Commission shall not further consider such application, appeal or request.

(4) Where a planning authority or the Commission decides to declare an application invalid on the basis that—

(a) it was not accompanied by an LRD Opinion,

(b) it was not accompanied by a *Chapter 4* PAC notification, or

(c) the development the subject of the application was not standard development,

the planning authority or the Commission shall notify the applicant in writing and return the application to the applicant, together with any fee received from the applicant in respect of the application, and shall give reasons for its decision to the applicant.

(5) Where an appeal was brought to the Commission under *Chapter 3* in relation to an application under *Chapter 3* or request under *Chapter 5* and, subsequent to the bringing of the appeal, the application or request is withdrawn, declared withdrawn or declared invalid under this section, the following provisions shall apply:

(a) the appeal shall be regarded as having been withdrawn and shall not be determined by the Commission;

(b) in the case of an application, notwithstanding any previous decision under *section 98* by a planning authority as regards the application, no permission shall be granted under that section by the planning authority on foot of that application;

(c) in the case of a request, notwithstanding any previous decision under *section 143* by a planning authority as regards the request, no alteration or extension of a permission shall be granted under that section by the planning authority on foot of that request.

(6) Where *paragraph (a)*, *(b)* or *(c)* of *subsection (3)* applies to an appeal to the Commission of a decision of a planning authority under *section 98* or *143*, the Commission shall continue to consider any other appeal of that decision or application for leave to appeal relating to that decision of the planning authority.

(7) Particulars of any withdrawal under *subsection (1)*, declaration under *subsection (2)* or decision under *subsection (4)* shall be entered in the register.

Refusal of planning permission for past failures to comply

173. (1) When considering any application for permission under this Part, where the planning authority or the Commission is satisfied that a person to whom this section applies—

(a) is not in compliance with—

(i) a permission,

(ii) a permission within the meaning of the Act of 2000, or

(iii) a permission under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016,

(in this section referred to as a "previous permission") granted to the person,

(b) is not in compliance with a condition to which a previous permission is subject,

(c) has carried out a substantial unauthorised development, or

(d) has been convicted of an offence under this Act or the Act of 2000,

the authority or the Commission may form the opinion—

(i) that there is a real and substantial risk that the proposed development in respect of which the application relates would not be completed in accordance with such permission if granted, or with a condition to which such permission if granted would be subject, and

(ii) that accordingly planning permission should not be granted to the person concerned in respect of that development.

(2) (a) In forming its opinion under *subsection (1)*, the planning authority or the Commission shall have regard to—

(i) any information furnished to the planning authority or the Commission in connection with the application,

(ii) any information available to the planning authority or the Commission concerning development carried out by a person to whom this section applies pursuant to a previous permission,

(iii) any information otherwise available to the planning authority or the Commission concerning a substantial unauthorised development carried out by a person to whom this section applies, or

(iv) any information concerning a conviction for an offence under this Act or the Act of 2000.

(b) In forming its opinion under *subsection (1)*, the planning authority or the Commission shall only consider those failures to comply with any previous permission, or with any condition to which that permission is subject, that are of a substantial nature.

(3) An opinion under *subsection (1)* shall not be a decision on an application for permission for the purposes of this Part.

(4) If the planning authority or the Commission considers that there are good grounds for it being able to form the opinion under *subsection (1)* and, accordingly, to exercise its power under *subsection (5)*, it shall serve a notice on the applicant to that effect specifying—

(a) the grounds under *subsection (1)* that the planning authority or the Commission intends to take into consideration in the proposed exercise of its power under *subsection (5)*, and

(b) that the applicant is invited to make submissions to the planning authority or the Commission, within a period specified in the notice, as to why the planning authority or the Commission should not exercise its power under *subsection (5)*, including that the views of the planning authority or the Commission are incorrect or that there are not good grounds for forming the opinion under *subsection (1)*.

(5) If the planning authority or the Commission, having considered any submissions made to it in accordance with a notice under *subsection (4)*, proceeds to form the opinion under *subsection (1)* in relation to the application concerned, it shall refuse to grant the permission concerned and notify the applicant accordingly.

(6) The applicant may, within 8 weeks beginning on the date of receipt of the notification under *subsection (5)*, notwithstanding *section 379* and *Part 9*, apply, by motion on notice to the planning authority or the Commission, to the High Court for an order annulling the decision of the planning authority or the Commission and, on the

hearing of such application, the High Court may, as it considers appropriate, confirm the decision of the planning authority or the Commission, annul the decision and direct the planning authority or the Commission to consider the applicant's application for permission without reference to this section or make such other order as it sees fit.

(7) If, in pursuance of *subsection (6)*, the High Court directs the planning authority or the Commission to consider the applicant's application for planning permission without reference to this section, the planning authority or the Commission shall make its decision on the application in accordance with this Part.

(8) No appeal shall lie to the Commission from a decision of a planning authority to refuse to grant planning permission under *subsection (5)*.

(9) A reference in this section to an application for permission shall be construed as a reference to—

(a) an application for permission for development under *Chapter 3* or *Chapter 4*,

(b) an application for retention permission under *Chapter 3*,

(c) an application for retrospective consent under *Chapter 4*,

(d) an appeal to the Commission of any decision by a planning authority under *Chapter 3*, and

(e) a request for the alteration or extension of any permission under *Chapter 5*.

(10) In this section "a person to whom this section applies" means—

(a) the applicant for the permission concerned,

(b) a partnership of which the applicant is or was a member and which, during the membership of that applicant, carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act,

(c) a registered society under the Industrial and Provident Societies Acts 1893 to 2021 that—

(i) carried out a development pursuant to a previous permission,

(ii) carried out a substantial unauthorised development, or

(iii) has been convicted of an offence under this Act,

or, during any period to which *subparagraph (i)* or *(ii)* relates or to which any conviction under *subparagraph (iii)* relates, the registered society was, during that period, controlled by the applicant—

(I) where, pursuant to section 15 of the Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Act 2014, "control" has the same meaning as in subsection (5) of section 220 of the Companies Act 2014, or

(II) as a shadow director within the meaning of subsection (1) of section 2 of the Companies Act 2014,

(d) a company (within the meaning of the Companies Act 2014) that—

(i) is related (for the purposes of subsection (10) of section 2 of the Companies Act 2014) to the applicant for the proposed development, or

(ii) has control (within the meaning of subsection (5) of section 220 of the Companies Act 2014) of such applicant, and that has—

(I) carried out development pursuant to a previous permission,

(II) carried out a substantial unauthorised development, or

(III) has been convicted of an offence under this Act,

or

(e) a company (within the meaning of the Companies Act 2014) that carried out development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act, where—

(i) the company is under the control (within the meaning of subsection (5) of section 220 of the Companies Act 2014) of the applicant for the proposed development, or

(ii) the applicant for the proposed development is a shadow director (within the meaning of the Companies Act 2014) of the company.

Effect of judicial review of Maritime Area Consent on application or appeal under Part

174. (1) Where the Maritime Area Regulatory Authority grants a maritime area consent, the person who applied for that consent shall, notwithstanding the making by any other person of an application under *Part 9* or under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) for judicial review of the decision to grant that consent, be eligible to make an application under *Chapter 3* or *Chapter 4* for permission for development.

(2) Where a person makes an application in accordance with *Chapter 3* or *Chapter 4* for permission for development in circumstances to which *subsection (1)* applies, the coastal planning authority concerned or the Commission shall, notwithstanding any pending application for judicial review referred to in that subsection, perform the functions conferred on it by and in accordance with *Chapter 3* or *Chapter 4* in relation to that application for permission as if no such application for judicial review had been made.

(3) Where an application for permission for development made under *Chapter 3* in circumstances to which *subsection (1)* applies is refused by a coastal planning authority and the applicant for such permission appeals the refusal to the Commission under *Chapter 3*, the Commission shall, notwithstanding any pending application for judicial review referred to in *subsection (1)*, perform the functions conferred on it

under this Act in relation to the appeal concerned as if no such application for judicial review had been made.

(4) A permission granted under this Part for development in circumstances to which this section applies shall not come into effect unless and until—

(a) final judgment is given—

(i) in relation to the application for judicial review referred to in *subsection (1)*, and

(ii) upholding the grant of the maritime area consent concerned in respect of which that application was made,

or

(b) the application for judicial review referred to in *subsection (1)* is withdrawn.

Effect of revocation of Maritime Area Consent on application under Part

175. Notwithstanding *subsection (4)* of *section 85*, where a planning authority or the Commission receives notice under section 156 of the Act of 2021 from the Maritime Area Regulatory Authority of the revocation or suspension of a maritime area consent on which an application for permission is based, the planning authority or the Commission, as the case may be, shall deem the application for permission to be invalid and shall notify the applicant in writing that the application for permission is deemed invalid.

Effect of appeal to Commission under *Chapter 3* on making application under Part

176. (1) Notwithstanding any other provision of this Part, where an appeal to the Commission has been made under *Chapter 3*, no application for permission for the same development shall be made under this Part before—

(a) the Commission has made its decision on the appeal,

(b) the appeal is declared invalid pursuant to *subsection (4)*, *(5)* or *(6)* of *section 103* or withdrawn or declared invalid pursuant to *section 172*, or

(c) the appeal is dismissed by the Commission pursuant to *section 108*.

(2) Where an application for permission referred to in *subsection (1)* is made to a planning authority, the planning authority shall refuse to consider the application and shall notify the applicant that the application cannot be considered.

(3) Where an application for permission referred to in *subsection (1)* is made to a planning authority, any dispute as to whether that application for permission is for the same development as an application for permission that is the subject of an appeal to the Commission may be referred, by the planning authority or the applicant for permission, to the Commission for determination.

Duration of permission granted under Part

177. (1) Subject to *section 180*, the duration of a permission for development granted under this Part shall be 5 years from the date of grant, or, subject to *subsection (3)*, such other period from the date of grant as may be specified in the grant of permission.

(2) (a) On making an application for permission under this Part, an applicant may request a duration other than the period of 5 years specified at *subsection (1)*.

(b) Where a duration other than the period of 5 years specified at *subsection (1)* is requested under *paragraph (a)*, any public notice of the proposed development required by or under this Act shall specify the duration sought.

(3) On granting a permission for development under this Part, a planning authority or the Commission may—

(a) where requested by the applicant under *subsection (2)* or at its own discretion, specify the duration of the permission, which duration shall be not less than 2 years and not more than 10 years from the date of grant, or

(b) in relation to *Chapter 4* development specify that the duration of a permission may be more than 10 years.

(4) A planning authority or the Commission shall have regard to the nature and extent of the proposed development and any other material considerations, in determining the duration of a permission under *subsection (3)*.

(5) A decision of a planning authority or the Commission to exercise, or refuse to exercise, the power conferred on it by this section to specify the duration of the permission shall form part of the decision of the planning authority or the Commission on the application for permission under this Part.

Phasing plans

178. (1) Where an application for permission under this Part relates to a proposed residential development consisting of not fewer than 10 housing units, the application for permission shall—

(a) specify the duration of permission sought, and

(b) be accompanied by a phasing plan.

(2) A phasing plan referred to in *subsection (1)* shall specify—

(a) the sequencing of the proposed development,

(b) the schedule of works for the proposed development,

(c) the periods within which specified phases of the proposed development are required to be completed, and

(d) such further information as may be prescribed.

(3) Where an application is required to be accompanied by a phasing plan, the planning authority or the Commission may attach as a condition to any grant of permission a

requirement that the development comply with any specified provision of the phasing plan.

(4) A condition under *subsection (3)* shall provide that any sequence or period specified in the phasing plan may be amended with the prior written agreement of the planning authority.

(5) In this section "phasing plan" means a plan—

(a) submitted by an applicant under this Part for residential development consisting of not fewer than 10 housing units,

(b) that describes the intended sequencing and scheduling of the construction and commissioning activities of the development, and

(c) that contains such other information as may be prescribed.

Effect of expiration of duration of permission

179. (1) Subject to *section 180*, development, or such part thereof, completed in accordance with and prior to the expiration of the duration of a permission shall not be unauthorised development.

(2) Subject to *subsection (3)*, a permission granted under this Part shall, on the expiration of its duration, cease to have effect as regards—

(a) the entire development, where the development to which the permission relates is not commenced prior to the expiration of the duration of the permission, or

(b) so much of the development as is not completed within the duration of the permission, where the development to which the permission relates is commenced within that duration.

(3) (a) *Subsection (2)* shall not apply—

(i) in relation to retention permission for any unauthorised structure,

(ii) in relation to any permission granted either for a limited period only or subject to a condition specified in *paragraph (o)* of *subsection (3)* of *section 87*,

(iii) in the case of a house, shop, office or other building which itself has been completed, in relation to the provision of any structure or works included in the relevant permission and which are either necessary for or ancillary or incidental to the use of the building in accordance with that permission, or

(iv) in the case of a development comprising a number of buildings of which only some have been completed, in relation to the provision of roads, services, community facilities or open spaces included in the relevant permission and which are necessary for or ancillary or incidental to the completed buildings.

(b) *Subsection (2)* shall not affect—

(i) the continuance of any use of land or a maritime site in accordance with a permission, or

(ii) the obligation of any person to comply with any condition attached to the relevant permission in respect of a development that has been completed (whether to an extent specified in *subsection (2)* or otherwise), whereby something is required either to be done or not to be done.

Suspension of running of duration of permission during judicial review proceedings

180. (1) Where *Part 9* judicial review proceedings in which a party questions the validity of a permission to which this section applies are commenced, the person who is carrying out or proposes to carry out the development to which the permission relates may give notice, in writing, to the following of the commencement of the proceedings and of the date of the commencement of the proceedings (within the meaning of *subsection (5)* of *section 280*)—

(a) where the permission relates primarily to land, the planning authority in whose functional area the land is situated, or

(b) where the permission relates primarily to a maritime site, the Maritime Area Regulatory Authority.

(2) Where notice is given in accordance with *subsection (1)*—

(a) the running of the duration of the permission shall be considered to be suspended for the period beginning on the date of the commencement of the proceedings and ending on the date the proceedings are finally concluded (in this section referred to as the "relevant period"),

(b) during the relevant period the permission shall, subject to *subsection (8)* and other than in so far as is necessary for the purposes of the proceedings, not have effect for the purposes of this Act,

(c) the duration of the permission shall continue to run from the day following the date the proceedings are finally concluded, in so far as the permission continues to have effect in accordance with the decision of the court that finally concluded the proceedings, and

(d) in reckoning the duration of the permission for the purposes of this Act, the relevant period shall be disregarded.

(3) Where notice is given under *subsection (1)*, the person who is carrying out or proposes to carry out the development to which the permission relates shall give notice, in writing, to the planning authority or the Maritime Area Regulatory Authority notified under *subsection (1)* of the following matters:

(a) the fact that the proceedings are finally concluded and the date the proceedings are finally concluded,

(b) the decision of the court that finally concluded the proceedings, and

(c) such other matters as the Minister may prescribe.

(4) The Minister may prescribe—

(a) the form and manner in which, and the period within which, the notices referred to in *subsections (1)* and *(3)* shall be given, and

(b) the form and manner in which, and the period within which, receipt of the notices may be confirmed by the planning authority or the Maritime Area Regulatory Authority.

(5) A notice that is not given in accordance with this section or regulations under this section shall be invalid for the purposes of this section.

(6) The planning authority or the Maritime Area Regulatory Authority, as the case may be, shall enter the following information in the register:

(a) the date of the commencement of the proceedings;

(b) the date the proceedings are finally concluded;

(c) particulars of the decision of the court that finally concluded the proceedings;

(d) particulars of a notice given under *subsection (1)* or *(3)*;

(e) the date the duration of the permission expires in accordance with this section;

(f) such other information as the Minister may prescribe.

(7) For the purposes of this section, *Part 9* judicial review proceedings are finally concluded on the earlier of—

(a) the date of the determination of the proceedings by a decision of a court against which no further appeal lies, or against which an appeal lies within a period which has expired without an appeal being taken, or

(b) the date on which it is confirmed by a decision of a court against which no further appeal lies, or against which an appeal lies within a period which has expired without an appeal being taken, that the validity of the permission is no longer questioned in the proceedings.

(8) Nothing in this section shall be construed as meaning that development carried out in accordance with the permission before the giving of a notice referred to in *subsection (1)* is, by reason only of the giving of the notice, unauthorised development.

(9) This section applies to—

(a) a permission under this Act, other than—

(i) a permission that is a retention permission under *Chapter 3* or permission that is for development for which retrospective consent is required under *Chapter 4*, or

(ii) a permission that is an extension of the duration of a permission under *Chapter 5*,

and

(b) a permission or approval under the Act of 2000 deemed under *section 188* to be a permission under this Act, other than permission for retention of development

(under the Act of 2000) or substitute consent (within the meaning of the Act of 2000),

but does not apply to an outline permission (within the meaning of *section 96*).

(10) This section shall apply to an application for judicial review brought on or after the date of the commencement of this subsection under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) on foot of section 50 leave (within the meaning of section 50A of the Act of 2000) as it applies to *Part 9* judicial review proceedings, subject to the following modifications—

(a) references in this section to a permission shall include references to—

(i) a permission under this Act, other than—

(I) a permission that is a retention permission under *Chapter 3* or permission that is for development for which retrospective consent is required under *Chapter 4*, or

(II) a permission that is an extension of the duration of a permission under *Chapter 5*,

but does not include an outline permission (within the meaning of *section 96*),

(ii) a permission or approval under the Act of 2000 deemed under *section 188* to be a permission under this Act, other than a permission for retention of development (under the Act of 2000) or substitute consent (within the meaning of the Act of 2000), and

(iii) a permission under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016,

(b) references in this section to the commencement of *Part 9* judicial review proceedings shall be construed as references to the bringing of an application for judicial review on foot of section 50 leave by the issuing from the High Court of the originating document in respect of the application or, where an order is made by the High Court that an application for section 50 leave be treated as if it were the hearing of the application for judicial review, to the making of that order,

(c) references in this section to the date of the commencement of *Part 9* judicial review proceedings shall be construed as references to the date on which the originating document in respect of the application for judicial review on foot of section 50 leave is issued from the High Court or, where an order is made by the High Court that an application for section 50 leave be treated as if it were the hearing of the application for judicial review, the date of the making of that order, and

(d) all other necessary modifications.

(11) In this section "*Part 9* judicial review proceedings" has the meaning it has in *section 278*.

Effect of grant of permission under Part

181. (1) Where permission for development or retention permission is granted under this Part, except as may be otherwise provided by the permission, the grant of permission shall enure for the benefit of the land or maritime site and of all persons for the time being interested therein.

(2) Where permission is granted under this Part for a structure, the grant of permission may—

(a) specify the purposes for which the structure may or may not be used, and

(b) where the grant specifies use as a dwelling as a purpose for which the structure may be used, be subject to a condition specifying that the use of the structure as a dwelling shall be restricted to use by persons of a particular class or description and the requirement to that effect may be embodied in an agreement under *section 257*.

(3) (a) Where permission for development of land is granted under this Part for a limited period only, nothing in this Part shall be construed as requiring permission to be obtained thereunder for the resumption, at the expiration of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.

(b) In determining for the purposes of *paragraph (a)* the purposes for which land was normally used before the grant of permission, no account shall be taken of any use of the land taking place in contravention of this Part.

(4) (a) With reference to development of land, where permission is granted under this Part solely for a material change of use of any structure or other land, the person carrying out the development shall, no less than 2 weeks prior to the date on which the material change of use occurs, lodge a notice with the planning authority in whose functional area the development is situated, specifying the date on which that change of use will occur.

(b) With reference to maritime development, where permission is granted under this Part solely for a material change of use of any structure or maritime site, the person carrying out the development shall, no less than 2 weeks prior to the date on which the material change of use occurs, lodge a notice—

(i) in the case of development wholly or partly in the nearshore area, with the coastal planning authority in whose functional area the development is situated, if any, and

(ii) in the case of development wholly or partly in the outer maritime area, with the Maritime Area Regulatory Authority,

specifying the date on which that change of use will occur.

(5) If no purpose is specified pursuant to *subsection (2)* in a permission, a permission shall be construed as precluding such uses as are not consistent with—

(a) the design of any structure as permitted, or

(b) such permitted use of the structure as may be implied from the permission,

and in considering the foregoing, regard may be had to the fact that the planning authority or the Commission decided not to specify in the permission the purpose for which the structure is permitted to be used.

(6) Notwithstanding anything in this Part, permission shall not be required under this Part, in the case of land which, on 1 October 1964, was normally used for one purpose and was also used on occasions, whether at regular intervals or not, for any other purpose, for the use of the land for that other purpose on similar occasions after 1 October 1964.

Nuclear fission

182. Nothing in this Act shall be construed as enabling the authorisation of development consisting of an installation for the generation of electricity by nuclear fission.

Regulations under Part

183. (1) The Minister may—

(a) prescribe such additional, incidental, consequential or supplemental matters with respect to procedures under this Part as appear to the Minister to be necessary or expedient, and

(b) prescribe differently for different circumstances or cases, classes or types.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may prescribe matters related to any one or more of the following:

(a) matters relating to the holding of consultations under this Part including—

(i) prescribing the manner in which requests for consultations are to be made,

(ii) requiring planning authorities or the Commission, as appropriate, to acknowledge in writing the receipt of requests for consultations,

(iii) requiring any person making a request for a consultation to furnish to the planning authority or the Commission, as appropriate, any prescribed information, drawings, plans or documents in relation to that request,

(iv) prescribing matters that are required to be considered at the consultation,

(v) prescribing matters that may be considered at the consultation,

(vi) prescribing the manner in which the consultation is to be conducted, or

(vii) in the case of a consultation under *section 116*, requiring the provision of a *Chapter 4* PAC notification in such form and within such period as may be prescribed;

(b) matters related to the holding of an LRD meeting under *section 91*, including—

(i) specifying the manner in which requests for LRD meetings are to be made to the planning authority,

(ii) requiring planning authorities to acknowledge in writing the receipt of requests for LRD meetings,

(iii) requiring any person to furnish to the planning authority any specified information, drawings, plans or documents in relation to an LRD meeting, including with respect to—

(I) the proposed types of houses and student accommodation units and their design, including proposed internal floor areas, housing density, plot ratio, site coverage, building heights, proposed layout and aspect,

(II) the provision of public and private open spaces, landscaping, play facilities, pedestrian permeability, vehicular access and parking provision, where relevant,

(III) the provision of ancillary services, where required, including child care facilities,

(IV) any proposals to address or, where relevant, integrate the proposed development with surrounding land-use,

(V) road infrastructure,

(VI) any proposals to provide for services infrastructure (including water, wastewater and cabling, including broadband provision), and any phasing proposals,

(VII) the provision of a phasing plan under *subsection (1)* of *section 178*,

(VIII) proposals under *Part 7*, where relevant,

(IX) details of any monument or place recorded in the record of monuments and places under section 12 of the National Monuments (Amendment) Act 1994,

(X) any monument to which general protection (within the meaning of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023) applies,

(XI) any monument to which special protection (within the meaning of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023) applies, or

(XII) any aspect of the proposed development likely to have significant effects on the environment or significant effects on a European site,

(iv) prescribing matters that are required to be considered at the LRD meeting,

(v) prescribing matters that may be considered at the LRD meeting, or

(vi) prescribing the manner in which the LRD meeting is to be conducted;

(c) matters related to the provision of an LRD opinion by the planning authority under *section 92*, including the form of the opinion;

(d) matters related to the holding of a meeting convened under *subsection (6)* of *section 91*, *subsection (4)* of *section 93* or *subsection (4)* of *section 118* including—

(i) prescribing the manner in which a request for such a meeting is to be made,

(ii) requiring planning authorities or the Commission, as appropriate, to acknowledge in writing the receipt of a request for such a meeting,

(iii) requiring any person making a request for such a meeting to furnish to the planning authority or the Commission, as appropriate, any specified information, drawings, plans or documents in relation to that request,

(iv) prescribing matters that are required to be considered at the meeting,

(v) prescribing matters that may be considered at the meeting,

(vi) prescribing the manner in which the meeting is to be conducted;

(e) matters related to the provision of an opinion by the planning authority under *subsection (1)* of *section 94* or by the Commission under *subsection (1)* of *section 119*, including the form of the opinion;

(f) matters related to the making of an application for permission under this Part, including—

(i) prescribing the manner and form in which applications for permission are to be made,

(ii) requiring the submission of information in respect of applications for permission,

(iii) requiring applicants, or in the case of an appeal under *Chapter 3* or *Chapter 5* any party to the appeal, to publish any prescribed notices with respect to applications for permission,

(iv) requiring applicants to furnish to any prescribed persons any prescribed information with respect to applications for permission,

(v) requiring planning authorities or the Commission, as appropriate, to—

(I) notify prescribed authorities of such proposed development or classes of development as may be prescribed, or consult with them in respect thereof, and

(II) give to them such documents, particulars, plans or other information in respect thereof as may be prescribed,

(vi) facilitating the making and processing by electronic means of—

(I) applications for permission, submissions and consents under this Act, and

(II) the payment of fees, the issuing of decisions and setting out of requirements to which *subparagraph (i)* relates,

(vii) requiring the inputting of data by planning authorities and the Commission into such databases or national planning systems as may be prescribed,

(viii) requiring an applicant to submit specified information to the planning authority or the Commission, as appropriate, with respect to development, or any class of development, carried out by a person to whom *section 173* applies pursuant to a permission granted to the applicant or to any other person under this Part or under Part III of the Act of 2000 or under Part IV of the Act of 1963,

(ix) specifying additional requirements that a company referred to in *paragraph (b)* of *subsection (2)* of *section 102* must satisfy in order to be eligible under *subsection (2)* of *section 102* to make an appeal of a decision of a planning authority under *section 98* being, requirements of a general nature and for the purposes of promoting transparency and accountability in the operation of such companies, including, without prejudice to the generality of *subsection (2)* of *section 102*, requirements—

(I) in relation to its membership,

(II) that the pursuit of its aims or objectives be otherwise than for profit,

(III) in relation to the possession of a specified legal personality and the possession of a constitution or rules, or

(IV) that the area of environmental protection to which its aims or objectives relate is relevant to the class of matter into which the decision, the subject of the appeal, falls,

or

(x) specifying additional requirements with respect to revised particulars, plans or drawings included with a notice of appeal under *section 106*;

(g) matters related to the procedural powers and obligations of the planning authority and the Commission under this Part including—

(i) providing for the inviting or making of submissions under any provision of this Part in such manner and within such period as may be prescribed,

(ii) providing for the waiving or reduction of a fee to which *subparagraph (i)* would relate, or the payment of a different fee, in respect of submissions made by a person in his or her capacity as a member of a local authority,

(iii) requiring planning authorities or the Commission, as appropriate, to acknowledge in writing the receipt of submissions,

(iv) providing for the making of requests by planning authorities or the Commission, as appropriate, for further information from any person under any provision of this Part in such manner and within such period as may be prescribed and, in respect of different classes or descriptions of development, providing for the information or type of information which may be requested and the number of requests that may be made,

(v) requiring the submission of further information requested by the planning authorities or the Commission by any person under any provision of this Part, in such manner and within such period as may be prescribed,

(vi) providing for planning authorities or the Commission, as appropriate, to invite applicants to submit to them revised particulars, plans or drawings under any provision of this Part, in such manner and within such period as may be prescribed,

(vii) requiring the production of any evidence to verify any particulars of information given by any applicants or, in the case of appeals under *Chapter 3* or *Chapter 5*, by any party to the appeal,

(viii) providing for planning authorities or the Commission, as appropriate, to make material information received by either of them for the purposes of an application for permission available to the public under any provision of this Part in such manner and within such period as may be prescribed,

(ix) providing for applicants to give public notice of material information when required by the planning authorities or the Commission, as appropriate, to do so under any provision of this Part in such manner and within such period as may be prescribed,

(x) procedures for planning authorities or the Commission, as appropriate, to make information relating to the application for permission available for inspection or notify any person or the public of that information,

(xi) requiring planning authorities or the Commission, as appropriate, to furnish to the Minister and to any other prescribed person any prescribed information with respect to applications and the manner in which they have been dealt with,

(xii) requiring planning authorities to give notice, in such manner as may be prescribed, of any motion for a material contravention resolution under *subsection (3)* of *section 99*,

(xiii) requiring the submission of the chief executive's report to the planning authority under *paragraph (c)* of *subsection (4)* of *section 99* in such manner and within such period as may be prescribed,

(xiv) prescribing the materials required to be submitted by planning authorities to the Commission under *subsection (2)* of *section 105* and the manner in which and period within which such information is required to be provided,

(xv) providing for the submission of a report under *section 121* by a planning authority to the Commission in such form and within such period as may be prescribed,

(xvi) providing for matters of procedure relating to the making of submissions by the Environmental Protection Agency under *paragraph (d)* of *subsection (3)* of *section 122* and matters connected therewith,

(xvii) procedures for the holding of meetings under *paragraph (f)* of *subsection (3)* of *section 122*, or

(xviii) making provision, after consultation with the Minister for Environment, Climate and Communications, for matters of procedure relating to the making of a request of the Commission for Regulation of Utilities under *subsection (2)* of *section 128* and the making of observations by the Commission for Regulation of Utilities on foot of such a request;

(h) matters related to the making and notification of decisions or determinations with respect to applications for permission under this Part, including requiring planning authorities or the Commission, as appropriate, to publish or give notice of their decisions or determinations in respect of applications for permission, including the giving of notice thereof to prescribed bodies and to persons who made submissions in respect of such applications;

(i) in relation to development subject to confirmation under *Chapter 6*, matters related to the public notification procedure under *section 158* and confirmation procedure under *sections 159* and *160*, including—

(i) requiring the publication by a local authority or State authority of any prescribed notice with respect to proposed development,

(ii) requiring the giving by a State authority, to the planning authority for the area in which proposed development is to be carried out, or any other prescribed person, of any prescribed notice, documents, particulars, plans or other information with respect to the proposed development,

(iii) requiring local authorities to—

(I) notify prescribed authorities of such proposed development or classes of proposed development as may be prescribed, or consult with them in respect thereof, and

(II) give to them such documents, particulars, plans or other information in respect thereof as may be prescribed,

(iv) requiring the making available for inspection, by members of the public, of any prescribed documents, particulars, plans or other information with respect to proposed development,

(v) procedures regarding the making of submissions to a local authority or a State authority with respect to proposed development in such form and within such period as may be prescribed,

(vi) enabling the reference to a specified person of any dispute or disagreement, with respect to the proposed development, referred to in *paragraph (b)* or *(c)* of the definition of "development subject to confirmation" in *section 151*, between a State authority and the planning authority for the area in which the proposed development is to be carried out, or

(vii) requiring a State authority, in deciding whether the proposed development is to be carried out, to have regard to any prescribed matters or considerations;

(j) making such incidental, consequential or supplementary provision as may appear to the Minister to be necessary or proper to give full effect to *sections 175* and *176*.

(3) (a) Regulations under this section may, for the purposes of securing the attainment of an objective included in a strategy for the creation, improvement and preservation of places of high quality and sustainable communities for the functional area of the planning authority pursuant to *paragraph (b)* of *subsection (2)* of *section 48*, prescribe a requirement that any applicant for permission should provide the planning authority with such information, in respect of development (including development of a particular class) that the applicant proposes to carry out in a Gaeltacht, as may be specified by the planning authority.

(b) Before making regulations containing a requirement to which *paragraph (a)* applies, the Minister shall consult with the Minister for Tourism, Culture, Arts, Gaeltacht, Sports and Media.

(4) Regulations under this section may make different provision with respect to applications for permission for development made by the Central Bank of Ireland in cases where the disclosure of information in relation to the application concerned might prejudice the security, externally or internally, of the development or the land concerned or facilitate any unauthorised access to or from the land by any person, and such regulations may make provision modifying the operation of *Chapter 4* of *Part 12* in relation to applications in those cases.

(5) In this section, "application for permission" means—

(a) an application for permission for development under *Chapter 3* or *Chapter 4*,

(b) an application for retention permission under *Chapter 3*,

(c) an application for retrospective consent under *Chapter 4*,

(d) an appeal to the Commission of a decision of a planning authority under *Chapter 3* or *Chapter 5*, and

(e) a request for the amendment, alteration, or extension of the duration, of any existing permission under *Chapter 5* or the modification or revocation of any existing permission under *section 149* or *150*.

Disclosure of details of certain internal arrangements of proposed State authority development

184. Nothing in this Part shall require the disclosure by a Minister of the Government, the Commissioners or the Commission of details of the internal arrangements of a proposed State authority development that might prejudice the internal or external security of the development or facilitate any unauthorised entrance to, or exit from, the development of any person.

Continued application of section 45 of Act of 2000 for certain purposes

185. Notwithstanding *section 6*—

(a) section 45 of the Act of 2000 shall continue to apply and have effect—

(i) in relation to a request made under paragraph (c) of subsection (1) of the said section 45 before the repeal of that section by *section 6*,

(ii) in relation to, and for the purposes of, a notice published under the said section 45 before that repeal,

(iii) in relation to an appeal brought under subsection (3) of section 45 before that repeal, and

(iv) in relation to land to which an order referred to in *paragraph (b)* applies,

and

(b) an order under subsection (5) of the said section 45 in force immediately before the repeal of that section by *section 6* shall remain in force and have effect on and after that repeal.

Continued operation of sections 285, 291, 292, 293, 294 and 295 of Act of 2000 for certain purposes

186. Where an application for approval was made under section 291 of the Act of 2000 before the repeal of that section by *section 6* but the Commission did not make a decision under section 293 of that Act in relation to the application before such repeal, the said sections 291 and 293 and sections 285, 292, 294 and 295 of that Act shall, on and after that repeal, continue to apply and have effect for the purpose of that application.

Continued operation of sections 297, 298, 299, 300, 301 and 302 of Act of 2000 for certain purposes

187. Where a request was made to the Board under section 297 of the Act of 2000 before the repeal of that section by *section 6* but the Commission did not commence or complete the performance of the functions under section 298 or 299 of that Act in relation to the request before such repeal, the said sections 297, 298 and 299 and sections 300, 301 and 302 of that Act shall, on and after that repeal, continue to apply and have effect for the purpose of that request.

Status of permission, consent, approval granted under Act of 2000

188. (1) A permission granted under section 34 of the Act of 2000 shall, on and after the repeal of that section by *section 6*, be deemed to be a permission granted under *section 98*.

(2) A permission granted under section 37 of the Act of 2000 shall, on and after the repeal of that section by *section 6*, be deemed to be a permission granted under *section 109*.

(3) A permission granted under section 37G, 37N or 293 of the Act of 2000 shall, on and after the repeal of that section by *section 6*, be deemed to be a permission granted under *section 123*.

(4) An approval under subsection (9) of section 175 of the Act of 2000 shall, on and after the repeal of that section by *section 6*, be deemed to be a permission granted under *section 123*.

(5) A substitute consent granted under section 177K of the Act of 2000 shall, on and after the repeal of that section by *section 6*, be deemed to be a retrospective consent granted under *section 123*.

(6) An approval under subsection (8) of section 177AE of the Act of 2000 shall, on and after the repeal of that section by *section 6*, be deemed to be a permission granted under *section 123*.

(7) An approval under subsection (2L) of section 181 of the Act of 2000 shall, on and after the repeal of that section by *section 6*, be deemed to be a permission granted under *section 123*.

(8) An approval under subsection (6) of section 181B of the Act of 2000 shall, on and after the repeal of that section by *section 6*, be deemed to be a permission granted under *section 123*.

(9) An approval under subsection (5) of section 182B of the Act of 2000 shall, on and after the repeal of that section by *section 6*, be deemed to be a permission granted under *section 123*.

(10) An approval under subsection (5) of section 182D of the Act of 2000 shall, on and after the repeal of that section by *section 6*, be deemed to be a permission granted under *section 123*.

PART 5

Developments at Dublin Airport

Interpretation

189. (1) In this Part—

"Act of 2019" means the Aircraft Noise (Dublin Airport) Regulation Act 2019;

"Aircraft Noise Regulation" means Regulation (EU) No 598/2014 of the European Parliament and of the Council of 16 April 2014[13] on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC;

"airport" means Dublin Airport and includes, as appropriate, the area around the airport significantly affected by aircraft noise;

"airport authority" means daa public limited company;

"appeal body" shall be construed in accordance with subsection (1) of section 10 of the Act of 2019;

13 OJ No. L173, 12.6.2014, p. 65

"competent authority" means the competent authority designated by section 3 of the Act of 2019 to be the competent authority for the purposes of the Aircraft Noise Regulation;

"Environmental Noise Directive" means Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002[14] relating to the assessment and management of environmental noise;

"introduced" includes implemented;

"measure" includes a restriction;

"noise" means aircraft noise;

"noise abatement objective" means the noise abatement objective for the airport;

"noise mitigation measure" means a noise mitigation measure in place at the airport and includes—

(a) a land-use planning and management measure intended to reduce noise at source, and

(b) a noise abatement operational measure,

that do not restrict the capacity of the airport but does not include an operating restriction;

"operating restriction" means an operating restriction in place at the airport;

"relevant authority" means—

(a) the planning authority, or

(b) the competent authority;

"specified" means, in relation to a form, specified under section 28 of the Act of 2019.

(2) (a) A word or expression that is used in this Part and in the Aircraft Noise Regulation has the meaning in this Part that it has in that Regulation.

(b) A word or expression that is used in this Part and in the Environmental Noise Directive has the meaning in this Part that it has in that Directive.

(3) Where a provision of this Act or regulations under this Act provides for the specification of a period in a notice or direction, the period specified shall be a period that is reasonable in all the circumstances of the case.

Application of Part

190. This Part (as well as *Part 4*) applies to an application for permission for development or proposed development at the airport.

14 OJ No. L189, 18.7.2002, p. 12

Proposed development at Dublin Airport

191. (1) (a) (i) Where the planning authority receives an application under *Chapter 3* of *Part 4* for development at the airport, it shall, as soon as is practicable after such receipt—

(I) give a copy of the application to the competent authority, and

(II) enter into consultations with the competent authority for the purpose of giving such assistance as the competent authority may require in order to enable the competent authority, subject to *subparagraph (ii)*, within 4 weeks of the competent authority receiving such copy, to consider the application and either form the opinion referred to in *subparagraph (iv)* or to conclude that it is not of that opinion.

(ii) The competent authority may extend, by such period as may be specified by the competent authority, the 4 week period referred to in *clause (II)* of *subparagraph (i)*, where it appears to it to be necessary, by virtue of the complexity of the application, to do so and shall give a notice in writing to the planning authority stating its reasons for such extension.

(iii) The competent authority shall, where it concludes that it is not of the opinion referred to in *subparagraph (iv)*, as soon as is practicable after it so concludes, give notice of that conclusion to the planning authority.

(iv) The following provisions of this section apply where the competent authority, in considering the application, forms the opinion that the development—

(I) contains a proposal requiring the assessment for the need for a noise-related action, or

(II) indicates that a new operating restriction may be required.

(b) Subsections (1) to (3) of section 9 of the Act of 2019 shall, with all necessary modifications, apply to the performance by the competent authority of its functions under this section.

(c) Subsections (4) to (7) of section 9 of the Act of 2019 shall, with all necessary modifications, apply to measures referred to in this section as those subsections apply to measures referred to in those subsections.

(2) The competent authority shall, as soon as is practicable after it forms the opinion referred to in *subparagraph (iv)* of *paragraph (a)* of *subsection (1)*, give notice to the planning authority of that opinion and the planning authority shall, as soon as is practicable after receiving the notice, and thereafter as necessary consult with the competent authority in relation to, as appropriate, one or more of the following matters:

(a) any aspect of the development relating to noise that may arise in the operation of the development if it is carried out (including any such aspect relating to appropriate assessment or environmental impact assessment);

(b) any noise problem that would arise from the carrying out of the development as proposed, taking account of any noise mitigation measures or operating restrictions (if any), or any combination thereof, proposed in the application and any further information subsequently sought by the relevant authority from the applicant in relation to those matters and given by the applicant to the planning authority and the competent authority;

(c) where a noise problem would arise from the carrying out of the development as proposed—

(i) any information on the application of the Balanced Approach to the consideration of the inclusion of noise mitigation measures or operating restrictions (if any), or any combination thereof, in the application and any further information subsequently sought under *paragraph (b)* by the relevant authority from the applicant in relation to those matters and given by the applicant to the planning authority and the competent authority,

(ii) whether noise mitigation measures or operating restrictions (if any), or any combination thereof, not proposed in the application are or is required and any information or plans subsequently sought by the relevant authority from the applicant in relation to such measures or restrictions, or combination thereof, as the case may be, and given by the applicant to the planning authority and the competent authority,

(iii) any information subsequently sought by the relevant authority from the applicant in relation to the application of the Balanced Approach to the noise mitigation measures or operating restrictions, or combination thereof, referred to in *subparagraph (ii)* and given by the applicant to the planning authority and the competent authority, and

(iv) subject to *subsection (4)*, whether permission could, in so far as noise-related issues are concerned, be granted for the development subject to conditions specified by the competent authority relating to noise mitigation measures or operating restrictions (if any), or any combination thereof.

(3) Where the applicant gives any information or plans referred to in *subsection (2)* to a relevant authority, the applicant shall, on the same date (or as soon as practicable thereafter), give copies of such information or plans, as the case may be, to the other relevant authority.

(4) Notwithstanding any other provision of this Act, the planning authority shall neither decide to refuse permission for the development nor decide to grant such permission subject to or without conditions until it receives a notice under *subsection (5)* or *subparagraph (ii)* of *paragraph (a)* of *subsection (15)* from the competent authority in respect of the application.

(5) (a) *Paragraph (b)* applies where the competent authority is satisfied that permission should not be granted for the development for the reason that inadequate provision has been made in the application (or in any plans or further information, or both, subsequently given by the applicant to the planning

authority and the competent authority) to deal with the noise problem that would arise from the carrying out of the development as proposed.

(b) The competent authority shall, as soon as is practicable after it is so satisfied, give a notice to the planning authority, stating the competent authority's reasons why it is so satisfied, and directing the planning authority to refuse permission for the development.

(c) The planning authority shall comply with a direction given to it under *paragraph (b)* as soon as is practicable after it receives the notice concerned referred to in that paragraph and shall incorporate such notice in its decision to refuse permission for the development.

(d) Notwithstanding that a refusal referred to in *paragraph (c)* arises from a direction given by the competent authority to the planning authority, such refusal and the reasons for it shall, for the purposes of *Chapter 3* of *Part 4* as read with *section 193* be treated as the decision, or part of the decision, as appropriate, of the planning authority on the application, and the other provisions of this Act shall be construed accordingly.

(6) *Subsection (7)* applies where the competent authority has applied the Balanced Approach to the noise problem referred to in *subsection (2)* and, in accordance with the Balanced Approach, assessed the noise mitigation measures or operating restrictions (if any), or any combination thereof, that may be required to be introduced as part of the development, and whether or not such measures or restrictions, or combination thereof, as the case may be, are or is in addition to, or in replacement of, one or more—

(a) noise mitigation measures or operating restrictions (if any), or any combination thereof, proposed in the application, or

(b) existing noise mitigation measures or operating restrictions (if any), or any combination thereof.

(7) The competent authority shall, as soon as it is practicable for it to do so, by notice in writing given to the applicant and copied to the planning authority—

(a) inform the applicant of the noise mitigation measures or operating restrictions (if any), or any combination thereof, it proposes shall be required in a decision (if any) to grant permission for the development and its reasons for so proposing, and

(b) stating that the applicant may, within the period specified in the notice (being a period of not less than 4 weeks), make submissions on such noise mitigation measures or operating restrictions (if any), or any combination thereof, as the case may be, and on such reasons, which submissions may include counterproposals and be made by notice given to the competent authority and copied to the planning authority.

(8) The competent authority shall apply the Balanced Approach to its consideration of the counterproposals (if any) given to it by the applicant before the expiration of the period specified in the notice under *subsection (7)* concerned.

(9) Subject to *subsection (10)*, the competent authority shall, as soon as is practicable after it complies with *subsection (7)* and, if applicable, *subsection (8)* and (at its discretion) having consulted with the applicant or any other person that it wishes to, in accordance with the Aircraft Noise Regulation and the Act of 2019, make, and publish on its website, a draft regulatory decision—

(a) on the noise mitigation measures or operating restrictions (if any), or any combination thereof, that it proposes to direct the planning authority to include as conditions of the planning authority's decision (if any) to grant permission for the development, or

(b) that no such conditions are required to be included in the planning authority's decision (if any) to grant permission for the development.

(10) The competent authority shall prepare, and publish on its website on the same date as the draft regulatory decision, a report in relation thereto which shall state the competent authority's reasons for such decision and include therein, as appropriate:

(a) a summary of the data examined (including any data relating to appropriate assessment or environmental impact assessment);

(b) the noise abatement objective;

(c) the measures considered by it to address any noise problem;

(d) an evaluation of the cost-effectiveness of the various measures considered by it;

(e) the application by it of the Balanced Approach;

(f) the identification of additional or alternative measures (other than those proposed in the draft regulatory decision) that have been considered by it;

(g) particulars of any proposed noise mitigation measures and operating restrictions (if any) proposed by it to be introduced;

(h) if applicable, the reasons for the proposed introduction of any noise mitigation measures and operating restrictions (if any);

(i) the relevant technical information in relation to any proposed noise mitigation measures and operating restrictions (if any) proposed by it to be introduced;

(j) a non-technical summary of such of the matters concerned referred to in *paragraphs (a)* to *(i)*.

(11) (a) Where *paragraph (a)* of *subsection (9)* applies, the competent authority shall, as soon as is practicable after it complies with *paragraph (a)* of that subsection, give a notice to the airport authority directing it to—

(i) engage in discussions with the Irish Aviation Authority, the Irish Air Navigation Service and operators of aircraft in the airport concerning the technical feasibility of, and other alternatives to, the noise mitigation measures or operating restrictions (if any), or the combination thereof, the subject of the draft regulatory decision referred to in *subsection (9)*, and

(ii) inform the competent authority of the outcome of those discussions before the expiration of the 14 weeks referred to in *paragraph (c)* of *subsection (12)*.

(b) The airport authority shall comply with a direction given to it under *paragraph (a)*.

(12) The competent authority shall, as soon as is practicable after it complies with *subsections (9)* and *(10)*, publish, in a national newspaper, a notice—

(a) stating that the competent authority has—

(i) made a draft regulatory decision under *subsection (9)*, and

(ii) prepared the related report under *subsection (10)*,

(b) stating particulars of how persons may view or otherwise have access to the draft regulatory decision and related report (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the competent authority during office hours),

(c) inviting persons to make submissions in writing (and to provide a return address with such submissions) in the specified form (if any) on the draft regulatory decision or related report, or both, before the expiration of 14 weeks beginning on the date of publication of the notice in the national newspaper, and

(d) stating particulars of the addresses (which shall include an electronic address) to which such submissions may be sent.

(13) (a) The competent authority shall, as soon as is practicable after it complies with *subsections (9)* and *(10)*, give to each of the applicant, the airport authority and the planning authority a copy of the draft regulatory decision that it made under *subsection (9)* and the related report that it prepared and published under *subsection (10)*.

(b) For the avoidance of doubt, it is hereby declared that the applicant, the airport authority and the planning authority may each make submissions referred to in *paragraph (c)* of *subsection (12)* in accordance with that subsection.

(14) The competent authority shall, as soon as is practicable after the expiration of the 14 weeks referred to in *paragraph (c)* of *subsection (12)* and having regard to the submissions (if any) referred to in that subsection received by it within such 14 weeks and any information provided to the competent authority under *subparagraph (ii)* of *paragraph (a)* of *subsection (11)*—

(a) make a regulatory decision consisting of the adoption by it of the draft regulatory decision made by it under *subsection (9)* without any amendments or with such amendments as it considers appropriate, and

(b) revise the related report prepared under *subsection (10)* to take into account such submissions (if any) and such adoption and to state the competent authority's reasons for such regulatory decision.

(15) The competent authority shall—

(a) as soon as is practicable after it complies with *subsection (14)*—

(i) publish on its website the regulatory decision it has adopted under *paragraph (a)* of *subsection (14)* and the related report it has revised under *paragraph (b)* of *subsection (14)*, and

(ii) send a copy of such decision, together with a copy of the notice referred to in *paragraph (b)* (whether before or after the notice is published in accordance with that paragraph), to—

(I) the applicant,

(II) the airport authority,

(III) the planning authority,

(IV) the elected members of Fingal County Council,

(V) the elected members of Dáil Éireann, and

(VI) the return addresses of the persons who have made submissions referred to in *paragraph (c)* of *subsection (12)* in accordance with that subsection on the draft regulatory decision or related report concerned,

and

(b) as soon as is practicable after it complies with *subparagraph (i)* of *paragraph (a)*, publish, in a national newspaper, a notice stating—

(i) that the competent authority has made a regulatory decision under *paragraph (a)* of *subsection (14)*,

(ii) that the competent authority has revised the related report under *paragraph (b)* of *subsection (14)*,

(iii) particulars of how persons may view or otherwise have access to such regulatory decision and such related report (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the competent authority during office hours), and

(iv) that a right of appeal to the Commission against the regulatory decision exists under *sections 103* to *113* as read with *section 193*.

(16) (a) The planning authority shall—

(i) incorporate the competent authority's regulatory decision under *paragraph (a)* of *subsection (14)*, the subject of the notice given to the planning authority under *subparagraph (ii)* of *paragraph (a)* of *subsection (15)*, and the competent authority's reasons for such decision in the planning authority's decision on the application and shall do so regardless of whether the planning authority's decision is to refuse permission for the development or to grant permission for the development, and

(ii) notwithstanding any other provision of this Act, if necessary, revoke, revoke and replace, or amend the terms of, a condition of the permission granted in order to make the permission compatible with that regulatory decision.

(b) Notwithstanding that a regulatory decision referred to in *paragraph (a)* is made by the competent authority, such decision and the reasons for it shall, for the purposes of *Chapter 3* of *Part 4* as read with *section 193*, be treated as the decision, or part of the decision, as appropriate, of the planning authority on the application, and the other provisions of this Act shall be construed accordingly.

(c) The planning authority shall make its decision on the application as soon as is practicable after it receives, pursuant to *subparagraph (ii)* of *paragraph (a)* of *subsection (15)*, a copy of the competent authority's regulatory decision under *paragraph (a)* of *subsection (14)*.

(17) Subject to *subsection (18)*, a noise mitigation measure to be introduced by virtue of a regulatory decision adopted under *paragraph (a)* of *subsection (14)* shall—

(a) if no appeal under *section 103* as read with *section 193*, is made, within the period referred to in *subsection (5)* of *section 102* against the planning authority's decision on the application, come into effect on the expiration of such period, and

(b) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(18) The competent authority may, by notice published on its website on the same date as the regulatory decision made under *paragraph (a)* of *subsection (14)* is, pursuant to *subparagraph (i)* of *paragraph (a)* of *subsection (15)*, also so published—

(a) authorise, for reasons stated in the notice, a lead in time for the coming into effect of a noise mitigation measure to be introduced by virtue of that decision, and

(b) specify the date, or the occurrence of the event, on which such noise mitigation measure shall come into effect.

(19) Subject to paragraph (b) of section 26 of the Act of 2019, the competent authority shall, in relation to an operating restriction to be introduced by virtue of a regulatory decision adopted under *paragraph (a)* of *subsection (14)*, take such steps as it considers appropriate to cause Article 8 of the Aircraft Noise Regulation to be complied with as soon as is practicable after it applies to such restriction.

(20) Subject to *subsection (21)*, an operating restriction referred to in *subsection (19)* shall—

(a) come into effect on the day immediately following the day on which the operation of Article 8 of the Aircraft Noise Regulation ceases to further prevent the coming into effect of the operating restriction, and

(b) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(21) The competent authority may, by notice published on its website at any time before the day first-mentioned in *paragraph (a)* of *subsection (20)*—

(a) authorise, for reasons stated in the notice, a lead in time for the coming into effect of the operating restriction referred to in *subsection (19)*, and

(b) specify the date, or the occurrence of the event, on which such operating restriction shall come into effect.

(22) *Subsections (2)* to *(5)* of *section 99* shall not apply where the competent authority forms the opinion that a noise problem that would arise from the carrying out of the development as proposed would contravene materially the development plan.

Supplementary provisions relating to operating restriction included in planning permission

192. (1) (a) The person in whose favour a relevant permission operates may, by virtue of this subsection and notwithstanding any other provision of this Act, make a request to the planning authority under *section 140* where the request is only for a relevant action to be taken.

(b) *Section 140* and the other provisions of this Act shall be read with all necessary modifications to take account of the relevant application.

(c) Subsections (4) to (7) of section 9 of the Act of 2019 shall, with all necessary modifications, apply to measures referred to in this section as those subsections apply to measures referred to in those subsections.

(2) The planning authority shall give the competent authority a copy of the relevant application and consult with the competent authority in relation to, as appropriate, one or more of the following matters—

(a) any noise problem that would arise from taking the relevant action as proposed (including any implications that would arise therefrom in relation to appropriate assessment or environmental impact assessment matters) and any further information subsequently sought by the relevant authority from the applicant in relation to such action and given by the applicant to the planning authority and the competent authority;

(b) where a noise problem would arise from taking the relevant action as proposed—

(i) any information in the relevant application on the application of the Balanced Approach to the relevant action and any further information or plans subsequently sought by the relevant authority from the applicant in relation to the relevant action or Balanced Approach and given by the applicant to the planning authority and the competent authority,

(ii) whether noise mitigation measures or operating restrictions (if any), or any combination thereof, not proposed in the relevant application are or is required and any information or plans subsequently sought by the relevant authority from the applicant in relation to such measures or restrictions, or combination thereof, as the case may be, and given by the applicant to the planning authority and the competent authority,

(iii) any information subsequently sought by the relevant authority from the applicant in relation to the application of the Balanced Approach to the noise mitigation measures or operating restrictions, or combination thereof, referred to in *subparagraph (ii)* and given by the applicant to the planning authority and the competent authority, and

(iv) subject to *subsection (4)*, whether permission could be granted for the taking of the relevant action subject to conditions specified by the competent authority relating to noise mitigation measures or operating restrictions (if any), or any combination thereof.

(3) Where the applicant gives any information or plans referred to in *subsection (2)* to a relevant authority, the applicant shall, on the same date (or as soon as practicable thereafter), give copies of such information or plans, as the case may be, to the other relevant authority.

(4) Where this section applies and notwithstanding any other provision of this Act, the planning authority shall neither decide to refuse the relevant application nor grant the relevant application subject to or without conditions until it receives a notice under *subsection (5)* or *subparagraph (ii)* of *paragraph (a)* of *subsection (16)* from the competent authority in respect of the relevant application.

(5) (a) *Paragraph (b)* applies where the competent authority is satisfied that permission should not be granted for the relevant application for the reason that inadequate provision has been made in the application (or in any plans or further information, or both, subsequently given by the applicant to the planning authority and the competent authority) to deal with the noise problem that would arise from the carrying out of the relevant action as proposed.

(b) The competent authority shall, as soon as is practicable after it is so satisfied, give a notice to the planning authority, stating the competent authority's reasons why it is so satisfied, and directing the planning authority to refuse the relevant application.

(c) The planning authority shall comply with a direction given to it under *paragraph (b)* as soon as is practicable after it receives the notice referred to in that paragraph and shall incorporate such notice in its decision to refuse the relevant application.

(d) Notwithstanding that a refusal referred to in *paragraph (c)* arises from a direction given by the competent authority to the planning authority, such refusal and the reasons for it shall, for the purposes of *section 143* as read with *section 193*, be treated as the decision of the planning authority on the relevant application, and the other provisions of this Act shall be construed accordingly.

(6) The planning authority shall, in determining the relevant application, consider whether taking the relevant action requires the reconsideration of any other aspect of the relevant permission and, after having consulted with the competent authority, may, in accordance with regulations made under *section 183*, request and consider further information from the applicant in that regard.

(7) *Subsection (8)* applies where the competent authority has applied the Balanced Approach to the noise problem referred to in *subsection (2)* and, in accordance with the Balanced Approach, assessed the noise mitigation measures or operating restrictions (if any), or any combination thereof, that may be required to be introduced, and whether or not such measures or restrictions, or combination thereof, as the case may be, are or is in addition to, or in replacement of, one or more—

(a) noise mitigation measures or operating restrictions (if any), or any combination thereof, proposed in the relevant action, or

(b) existing noise mitigation measures or operating restrictions, or combination thereof.

(8) The competent authority shall, as soon as it is practicable for it to do so, by notice given to the applicant and copied to the planning authority—

(a) inform the applicant of the noise mitigation measures or operating restrictions (if any), or combination thereof, proposed to be required in a decision (if any) to grant the relevant application and its reasons for so proposing, and

(b) stating that the applicant may, within the period specified in the notice (being a period of not less than 4 weeks), make submissions on such noise mitigation measures or operating restrictions (if any), or combination thereof, as the case may be, and on such reasons, including counterproposals, by notice in writing given to the competent authority and copied to the planning authority.

(9) The competent authority shall apply the Balanced Approach to its consideration of the counterproposals (if any) given to it by the applicant before the expiration of the period specified in the notice under *subsection (8)* concerned.

(10) Subject to *subsection (11)*, the competent authority shall, as soon as is practicable after it complies with *subsection (8)* and, if applicable, *subsection (9)* and (at its discretion) having consulted with the applicant or any other person that it wishes to, in accordance with the Aircraft Noise Regulation and the Act of 2019, make, and publish on its website, a draft regulatory decision—

(a) on the noise mitigation measures or operating restrictions (if any), or combination thereof, that it proposes to direct the planning authority to include as conditions of the planning authority's decision (if any) to grant the relevant application, or

(b) that no such conditions are required to be included in the planning authority's decision (if any) to grant the relevant application.

(11) The competent authority shall prepare, and publish on its website on the same date as the draft regulatory decision, a report in relation thereto which shall state the planning authority's reasons for such decision and include therein, as appropriate:

(a) a summary of the data examined (including any data relating to appropriate assessment or environmental impact assessment);

(b) the noise abatement objective;

(c) the measures considered by it to address any noise problem;

(d) an evaluation of the cost-effectiveness of the various measures considered by it;

(e) the application by it of the Balanced Approach;

(f) the identification of additional or alternative measures (other than those proposed in the draft regulatory decision) that have been considered by it;

(g) particulars of any proposed noise mitigation measures and operating restrictions (if any) proposed by it;

(h) if applicable, the reasons for the proposed introduction of any noise mitigation measures and operating restrictions (if any) proposed by it;

(i) the relevant technical information in relation to any proposed noise mitigation measures and operating restrictions (if any) proposed by it;

(j) a non-technical summary of such of the matters concerned referred to in *paragraphs (a)* to *(i)*.

(12) (a) Where *paragraph (a)* of *subsection (10)* applies, the competent authority shall, as soon as is practicable after it complies with *paragraph (a)* of that subsection, give a notice to the airport authority directing it to—

(i) engage in discussions with the Irish Aviation Authority, Irish Air Navigation Service and operators of aircraft in the airport concerning the technical feasibility of, and other alternatives to, the noise mitigation measures or operating restrictions (if any), or the combination thereof, the subject of the draft regulatory decision referred to in *subsection (10)*, and

(ii) inform the competent authority of the outcome of those discussions before the expiration of the 14 weeks referred to in *paragraph (c)* of *subsection (14)*.

(b) The airport authority shall comply with a direction given to it under *paragraph (a)*.

(13) (a) The competent authority shall, as soon as is practicable after it complies with *subsections (10)* and *(11)*, give to each of the applicant, the airport authority and the planning authority a copy of the draft regulatory decision that it made under *subsection (10)* and the related report that it prepared and published under *subsection (11)*.

(b) For the avoidance of doubt, it is hereby declared that the applicant, the airport authority and the planning authority may each make submissions referred to in *paragraph (c)* of *subsection (14)* in accordance with that subsection.

(14) The competent authority shall, as soon as is practicable after it complies with *subsections (10)* and *(11)*, publish, in a national newspaper, a notice—

(a) stating that the competent authority has—

(i) made a draft regulatory decision under *subsection (10)*, and

(ii) prepared the related report under *subsection (11)*,

(b) stating particulars of how persons may view or otherwise have access to the draft regulatory decision and related report (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the competent authority during office hours),

(c) inviting persons to make submissions in writing (and to provide a return address with such submissions) in the specified form (if any) on the draft regulatory decision or related report, or both, before the expiration of 14 weeks beginning on the date of publication of the notice in the national newspaper, and

(d) stating particulars of the addresses (which shall include an electronic address) to which such submissions may be sent.

(15) The competent authority shall, as soon as is practicable after the expiration of the 14 weeks referred to in *paragraph (c)* of *subsection (14)* and having regard to the submissions (if any) referred to in that subsection received by it within such 14 weeks and any information provided to the competent authority under *subparagraph (ii)* of *paragraph (a)* of *subsection (12)*—

(a) make a regulatory decision consisting of the adoption by it of the draft regulatory decision made by it under *subsection (10)* without any amendments or with such amendments as it considers appropriate, and

(b) revise the related report prepared under *subsection (11)* to take into account such submissions (if any) and such adoption and to state the competent authority's reasons for such regulatory decision.

(16) The competent authority shall—

(a) as soon as is practicable after it complies with *subsection (15)*—

(i) publish on its website the regulatory decision it has made under *paragraph (a)* of *subsection (15)* and the related report it has revised under *paragraph (b)* of *subsection (15)*, and

(ii) send a copy of such decision, together with a copy of the notice referred to in *paragraph (b)* (whether before or after the notice is published), to—

(I) the applicant,

(II) the airport authority,

(III) the planning authority,

(IV) the elected members of Fingal County Council,

(V) the elected members of Dáil Éireann, and

(VI) the return addresses of the persons who have made submissions referred to in *paragraph (c)* of *subsection (14)* in accordance with that subsection on the draft regulatory decision or related report concerned,

and

(b) as soon as is practicable after it complies with *subparagraph (i)* of *paragraph (a)*, publish, in a national newspaper, a notice stating—

(i) that the competent authority has made a regulatory decision under *paragraph (a)* of *subsection (15)*,

(ii) that the competent authority has revised the related report under *paragraph (b)* of *subsection (15)*,

(iii) particulars of how persons may view or otherwise have access to such regulatory decision and such related report (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the competent authority during office hours), and

(iv) that a right to appeal to the Commission against the regulatory decision exists under *sections 103* to *113* as read with *section 193*.

(17) (a) The planning authority shall—

(i) incorporate the competent authority's regulatory decision under *paragraph (a)* of *subsection (15)*, the subject of the notice given to the planning authority under *subparagraph (ii)* of *paragraph (a)* of *subsection (16)*, and the competent authority's reasons for such decision in the planning authority's decision on the application and shall do so regardless of whether the planning authority's decision is to refuse the relevant application or to grant the relevant application, and

(ii) notwithstanding any other provision of this Act, if necessary, revoke, revoke and replace, or amend the terms of, a condition of the permission granted in order to make the permission compatible with that regulatory decision.

(b) Notwithstanding that a regulatory decision referred to in *paragraph (a)* is a decision made by the competent authority, such decision and the reasons for it shall, for the purposes of *section 143* as read with *section 193*, be treated as the decision of the planning authority on the relevant application, and the other provisions of this Act shall be construed accordingly.

(c) The planning authority shall make its decision on the application as soon as is practicable after it receives, pursuant to *subparagraph (ii)* of *paragraph (a)* of *subsection (16)*, a copy of the competent authority's regulatory decision under *paragraph (a)* of *subsection (15)*.

(18) Subject to *subsection (19)*, a noise mitigation measure to be introduced by virtue of a regulatory decision adopted under *paragraph (a)* of *subsection (15)* shall—

(a) if no appeal under *subsection (7)* of *section 143* as read with *section 193* is made, within the period for bringing an appeal under *subsection (5)* of *section 102*, against the planning authority's decision on the application, come into effect on the expiration of such period, and

(b) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(19) The competent authority may, by notice published on its website on the same date as the regulatory decision made under *paragraph (a)* of *subsection (15)* is, pursuant to *subparagraph (i)* of *paragraph (a)* of *subsection (16)*, also so published—

(a) authorise, for reasons stated in the notice, a lead in time for the coming into effect of a noise mitigation measure to be introduced by virtue of that decision, and

(b) specify the date, or the occurrence of the event, on which such noise mitigation measure shall come into effect.

(20) Subject to paragraph (b) of section 26 of the Act of 2019, the competent authority shall, in relation to an operating restriction to be introduced by virtue of a regulatory decision adopted under *paragraph (a)* of *subsection (15)*, take such steps as it considers appropriate to cause Article 8 of the Aircraft Noise Regulation to be complied with as soon as is practicable after it applies to such restriction.

(21) Subject to *subsection (22)*, an operating restriction referred to in *subsection (20)* shall—

(a) come into effect on the day immediately following the day on which the operation of Article 8 of the Aircraft Noise Regulation ceases to further prevent the coming into effect of the operating restriction, and

(b) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(22) The competent authority may, by notice published on its website at any time before the day first-mentioned in *paragraph (a)* of *subsection (21)*—

(a) authorise, for reasons stated in the notice, a lead in time for the coming into effect of the operating restriction referred to in *subsection (20)*, and

(b) specify the date, or the occurrence of the event, on which such operating restriction shall come into effect.

(23) In this Part, health aspects shall be assessed in accordance with the Environmental Noise Directive and the European Communities (Environmental Noise) Regulations 2018 (S.I. No. 549 of 2018).

(24) In this section—

"relevant action", in relation to a relevant operating restriction the subject of a relevant application, means—

(a) to revoke the operating restriction,

(b) to amend the terms of the operating restriction in the manner specified in the application,

(c) to replace the operating restriction with the alternative operating restriction specified in the application,

(d) to take an action referred to in *paragraph (a)*, *(b)* or *(c)* together with introducing new noise mitigation measures or revoking, revoking and replacing, or amending the terms of, existing noise mitigation measures, or a combination thereof,

(e) if the relevant application relates to 2 or more relevant operating restrictions, to take any combination of any of the actions referred to in *paragraphs (a)* to *(d)*, or

(f) to take an action referred to in *paragraph (a)*, *(b)*, *(c)*, *(d)* or *(e)* together with revoking, revoking and replacing, or amending the terms of, a condition of the relevant permission;

"relevant application" means a request referred to in *paragraph (a)* of *subsection (1)*;

"relevant operating restriction", in relation to a relevant permission, means an operating restriction included in that permission;

"relevant permission" means a permission granted under *Chapter 3* of *Part 4*—

(a) for development at the airport, and

(b) that includes an operating restriction.

Supplementary provisions relating to decisions on certain applications referred to in *subsection (1)* of *section 191* or *subsection (1)* of *section 192* that were not refused

193. (1) (a) This section applies in addition to *Chapter 3* of *Part 4* in the case of an appeal under *section 103* against a decision of the planning authority under *section 98* where, pursuant to *subsection (16)* of *section 191* or *subsection (17)* of *section 192*, that decision incorporates a regulatory decision of the competent authority under *paragraph (a)* of *subsection (14)* of *section 191* or *paragraph (a)* of *subsection (15)* of *section 192*, as the case may be.

(b) The competent authority shall be a party to the appeal notwithstanding *paragraph (b)* of *subsection (16)* of *section 191* or *paragraph (b)* of *subsection (17)* of *section 192*.

(2) For the purposes of a relevant appeal, the reference in *subsection (1)* of *section 102* to "any person who made submissions in writing in relation to the planning application to the planning authority" includes any person who made submissions in writing referred to in *paragraph (c)* of *subsection (12)* of *section 191* or *paragraph (c)* of *subsection (14)* of *section 192* to the competent authority in relation to the draft regulatory decision or related report referred to in *subsection (9)* or *(10)*, as the case may be, of *section 191* or *subsection (10)* or *(11)*, as the case may be, of *section 192*.

(3) (a) Subsections (1) to (3) of section 9 of the Act of 2019 shall apply to the Commission's consideration of the relevant appeal, subject to the modification that any reference to the competent authority in those subsections shall be read as a reference to the Commission and subject to any other necessary modification.

(b) Subsections (4) to (7) of section 9 of the Act of 2019 shall, with all necessary modifications, apply to measures forming part of the Commission's consideration of the relevant appeal as those subsections apply to measures referred to in those subsections.

(c) The Commission may, in its decision on the relevant appeal and its related report (*paragraph (a)* of *subsection (7)*), accept or reject all or any part of—

(i) the relevant regulatory decision the subject of the appeal, or

(ii) the report prepared under *subsection (10)* of *section 191* and revised under *paragraph (b)* of *subsection (14)* of *section 191*, or prepared under *subsection (11)* of *section 192* and revised under *paragraph (b)* of *subsection (15)* of *section 192*, as appropriate, which relates to such relevant regulatory decision.

(4) (a) *Paragraphs (b)* and *(c)* shall apply where the Commission is considering, in its determination of the relevant appeal in so far as the appeal relates to the relevant regulatory decision, adopting noise mitigation measures or operating restrictions (if any), or a combination thereof, which were not, during the process that gave rise to the relevant regulatory decision, the subject of previous consultation conducted by the competent authority pursuant to *section 191* or *192*, as the case may be.

(b) Subsection (12) of section 9 of the Act of 2019 shall apply to the Commission and the decision it is minded to make on the relevant appeal, subject to the modifications that—

(i) any reference to the competent authority in that subsection were a reference to the Commission, and

(ii) any reference in that subsection to the draft regulatory decision were a reference to the decision that the Commission is minded to make on the relevant appeal.

(c) The Commission shall—

(i) publish on its website a draft of the decision it is minded to make on the relevant appeal in so far as the decision relates to the relevant regulatory decision which shall—

(I) identify all the noise mitigation measures and operating restrictions (if any) proposed to be adopted by the Commission and not just such measures (if any) referred to in *paragraph (a)*, and

(II) stating, at a minimum, the Commission's reasons for the draft decision and having annexed to it the related report (*paragraph (b)* of *subsection (4)*),

and

(ii) on the same date as complying with *subparagraph (i)* (or as soon as is practicable thereafter), publish a notice on its website and in a national newspaper—

(I) stating that the Commission has made a draft decision under *subparagraph (i)* of *paragraph (c)* on the relevant appeal in so far as the appeal relates to the relevant regulatory decision and prepared the related report (*paragraph (b)* of *subsection (4)*),

(II) stating particulars of how persons may view or otherwise have access to the draft decision and related report (*paragraph (b)* of *subsection (4)*) (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the Commission during office hours),

(III) inviting persons to make submissions in writing (and to provide a return address with such submissions) in the form specified by the Commission (if any) on the draft decision (including any annex thereto) before the expiration of 14 weeks beginning on the date on which the notice was so published in the national newspaper, and

(IV) stating particulars of the addresses (which shall include an electronic address) to which such submissions may be sent.

(5) (a) The Commission shall, as soon as is practicable after it complies with *subsection (4)*, give each of the appellant and the other parties to the relevant appeal a copy of the draft decision referred to in *subparagraph (i)* of *paragraph (c)* of *subsection (4)*.

(b) For the avoidance of doubt, it is hereby declared that the appellant and the other parties to the relevant appeal may each make submissions referred to in *clause (III)* of *subparagraph (ii)* of *paragraph (c)* of *subsection (4)* in accordance with that subsection.

(6) (a) Where *subsection (4)* applies, the Commission shall, as soon as is practicable after it complies with *paragraph (c)* of that subsection, by notice direct the airport authority to—

(i) engage in discussions with the Irish Aviation Authority and operators of aircraft in the airport concerning the technical feasibility of, and other alternatives to, the noise mitigation measures or operating restrictions (if any), or the combination thereof, the subject of the draft decision referred to in *subparagraph (i)* of *paragraph (c)* of *subsection (4)*, and

(ii) inform the Commission of the outcome of those discussions before the expiration of the 14 weeks referred to in *clause (III)* of *subparagraph (ii)* of *paragraph (c)* of *subsection (4)*.

(b) The airport authority shall comply with a direction given to it under *paragraph (a)*.

(7) The Commission shall, as soon as is practicable after it makes a decision on the relevant appeal, in so far as the appeal relates to the relevant regulatory decision—

(a) publish on its website the first-mentioned decision, in so far as it so relates, to which is annexed a report prepared by the Commission in relation to such decision stating the Commission's reasons for such decision and including therein—

(i) such of the matters referred to in *paragraphs (a)* to *(j)* of *subsection (10)* of *section 191* or *paragraphs (a)* to *(j)* of *subsection (11)* of *section 192*, as the

case may be, as are appropriate (which inclusion may be achieved, at the Commission's discretion, by the adoption by it of any part of the report concerned referred to in *subparagraph (ii)* of *paragraph (c)* of *subsection (3)*), and

(ii) if *subsection (4)* applies, the related report (*paragraph (b)* of *subsection (4)*) revised by the Commission to take into account all documents, submissions (if any), and such other information, given to it pursuant to a provision of this section and to take into account the first-mentioned decision in so far as it so relates,

(b) on the same date as complying with *paragraph (a)* (or as soon as is practicable thereafter), publish a notice on its website and in a national newspaper stating—

(i) that it has made a decision on the relevant appeal in so far as the appeal relates to the relevant regulatory decision,

(ii) particulars of how persons may view or otherwise have access to such decision (including any annex thereto) in so far as it so relates (which shall include being able to view the decision, or purchase a copy of the decision at a reasonable cost, at the offices of the Commission during office hours), and

(iii) that a person may question the validity of the Commission's decision on the relevant appeal (including such decision in so far as it relates to the relevant regulatory decision) by way of an application for judicial review in accordance with *Part 9*,

(c) send a copy of the first-mentioned decision (whether with or without any annex thereto), together with the notice referred to in *paragraph (b)* (whether before or after the notice is published), to the appellant, the other parties to the relevant appeal and (if the airport authority is neither the appellant nor another party to the relevant appeal) the airport authority, and

(d) if *subsection (4)* applied, send a copy of the first-mentioned decision (whether with or without any annex thereto), together with the notice referred to in *paragraph (b)* (whether before or after the notice is published), to the return addresses of the persons who have made submissions referred to in *clause (III)* of *subparagraph (ii)* of *paragraph (c)* of *subsection (4)* in accordance with that subsection on the draft decision concerned.

(8) Where the Commission has failed to make a decision under *section 109* as read with this section in relation to the relevant appeal within the period it is required to do so by a provision of this Act and becomes aware, whether through notification by the appellant or otherwise, that it has so failed, the Commission shall nevertheless proceed to make such decision and the decision so made shall be considered to have been made under *section 109* notwithstanding such failure.

(9) A failure by the Commission to determine an appeal under this Chapter within the period or periods specified in, or prescribed under, this section shall not invalidate the decision of the Commission in relation to the appeal.

(10) Subject to *subsection (11)*, a noise mitigation measure to be introduced by virtue of a decision on the relevant appeal in so far as the decision relates to the relevant regulatory decision shall—

(a) come into effect on the day immediately following the day on which, pursuant to *subsection (7)*, that first-mentioned decision is published on the website of the Commission, and

(b) after coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the Commission.

(11) The Commission may, by notice published on its website on the same date as the decision first-mentioned in *subsection (10)* is, pursuant to *subsection (7)*, also so published—

(a) authorise, for reasons stated in the notice, a lead in time for the coming into effect of a noise mitigation measure to be introduced by virtue of that decision, and

(b) specify the date, or the occurrence of the event, on which such noise mitigation measure shall come into effect.

(12) Subject to paragraph (b) of section 26 of the Act of 2019, the Commission shall, in relation to an operating restriction to be introduced by virtue of a decision on the relevant appeal in so far as the decision relates to the relevant regulatory decision, take such steps as it considers appropriate to cause Article 8 of the Aircraft Noise Regulation to be complied with as soon as is practicable after it applies to such restriction.

(13) Subject to *subsection (14)*, an operating restriction to which *subsection (12)* applies shall—

(a) come into effect on the day immediately following the day on which the operation of Article 8 of the Aircraft Noise Regulation ceases to further prevent the coming into effect of the operating restriction, and

(b) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(14) The Commission may, by notice published on its website at any time before the day first-mentioned in *paragraph (a)* of *subsection (13)*—

(a) authorise, for reasons stated in the notice, a lead in time for the coming into effect of the operating restriction to which *subsection (12)* applies, and

(b) specify the date, or the occurrence of the event, on which such operating restriction shall come into effect.

(15) In this section—

"related report (*paragraph (b)* of *subsection (4)*)" means the report (if any) prepared by the Commission pursuant to *paragraph (b)* of *subsection (4)*;

"related report (*paragraph (a)* of *subsection (7)*)" means the report prepared by the Commission pursuant to *paragraph (a)* of *subsection (7)*;

"relevant appeal" means an appeal referred to in *paragraph (a)* of *subsection (1)*;

"relevant regulatory decision", in relation to a relevant appeal, means the relevant regulatory decision referred to in *subsection (1)* which is incorporated into the planning authority's decision under *section 98* that is the subject of the relevant appeal.

Supplementary provisions relating to decisions on applications referred to in *subsection (1)* of *section 191* or *subsection (1)* of *section 192*

194. (1) (a) This section applies in addition to *Chapter 3* of *Part 4* in the case of an appeal under *section 103* against a decision of the planning authority under *section 98* where—

(i) pursuant to *paragraph (a)* of *subsection (1)* of *section 191*, the competent authority concludes that it is not of the opinion referred to in *subparagraph (iii)* of *paragraph (a)* of *subsection (1)* of *section 191*, or

(ii) pursuant to *subsection (5)* of *section 191* or *subsection (5)* of *section 192*, the competent authority decides to refuse the application concerned.

(b) The competent authority shall be a party to the appeal notwithstanding *paragraph (d)* of *subsection (5)* of *section 191* or *paragraph (d)* of *subsection (5)* of *section 192*.

(2) Without prejudice to the generality of the Commission's powers under *Chapter 3* of *Part 4*, or under *Chapter 3* of *Part 4* as read with any other provision of this Act, the Commission shall, in determining the appeal—

(a) where *subparagraph (i)* of *paragraph (a)* of *subsection (1)* applies, take into account *section 191* following *subsection (1)* of such *section 191*, and of paragraph (b) of section 26 (with all necessary modifications) of the Act of 2019 as are, in the Commission's opinion, relevant to the appeal,

(b) where the refusal referred to in *subparagraph (ii)* of *paragraph (a)* of *subsection (1)* arises from the operation of *subsection (5)* of *section 191*, take account of *section 191* following *subsection (5)* of such *section 191*, and paragraph (b) of section 26 (with all necessary modifications) of the Act of 2019, as are, in the Commission's opinion, relevant to the appeal, or

(c) where the refusal referred to in *subparagraph (ii)* of *paragraph (a)* of *subsection (1)* arises from the operation of *subsection (5)* of *section 192*, take account of *section 192* following *subsection (5)* of such *section 192*, and of paragraph (b) of section 26 (with all necessary modifications) of the Act of 2019, as are, in the Commission's opinion, relevant to the appeal.

(3) Subsections (1) to (3) of section 9 of the Act of 2019 shall, with all necessary modifications, apply to—

(a) the Commission's consideration of the appeal in so far as such consideration relates to—

(i) a conclusion referred to in *subparagraph (i)* of *paragraph (a)* of *subsection (1)*, or

(ii) a refusal referred to in *subparagraph (ii)* of *paragraph (a)* of *subsection (1)*,

and

(b) the Commission's determination of the appeal in so far as it so relates as referred to in *paragraph (a)*,

as if any reference to the competent authority in those subsections (1) to (3) of that section 9 were a reference to the Commission.

(4) Subsections (4) to (7) of section 9 of the Act of 2019 shall, with all necessary modifications, apply to measures forming part of the Commission's consideration of the appeal as those subsections apply to measures referred to in those subsections.

(5) Subsection (12) of section 9 of the Act of 2019 shall, with all necessary modifications, apply to—

(a) the Commission and the decision it is minded to make on the appeal in so far as such decision relates to—

(i) a conclusion referred to in *subparagraph (i)* of *paragraph (a)* of *subsection (1)*, or

(ii) a refusal referred to in *subparagraph (ii)* of *paragraph (a)* of *subsection (1)*,

and

(b) the Commission's determination of the appeal in so far as it so relates as referred to in *paragraph (a)*,

as if any reference to the competent authority in such subsection (12) were a reference to the Commission and as if any reference in such subsection (12) to the draft regulatory decision were a reference to the decision that the Commission is minded to make on such appeal.

PART 6

Environmental Assessments

Chapter 1

Preliminary and General

Definitions

195. In this Part—

"applicant for permission" includes a person who makes a request for an alteration of the terms, or extension of the duration, of a permission under *subsection (1)* of *section 140*;

"application for permission" includes a request for an alteration of the terms, or

extension of the duration, of a permission under *subsection (1)* of *section 140*;

"energy from renewable sources" has the meaning assigned to it by Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018[15] on the promotion of the use of energy from renewable sources;

"environmental impact assessment" shall be construed in accordance with *Chapter 4*;

"permission" means—

(a) permission for development under *Chapter 3* of *Part 4*,

(b) permission for development (including retrospective consent) under *Chapter 4* of *Part 4*, and

(c) an alteration of the terms, or extension of duration, of a permission requested under *subsection (1)* of *section 140*;

"relevant development" means—

(a) development,

(b) proposed development, or

(c) a proposed alteration of the terms, or extension of duration, of a permission requested under *subsection (1)* of *section 140*.

Duties of independence, confidentiality, etc.

196. (1) A competent authority (within the meaning of *Chapter 2*, *3* or *4*) shall be independent and impartial in the performance of its functions.

(2) (a) A requirement imposed on a developer by this Act to consult with a planning authority shall not apply if that planning authority is the developer.

(b) A requirement imposed on a developer by this Act to consult with a public authority shall not apply if that public authority is the developer.

(3) This Part shall not operate to require a competent authority (within the meaning of *Chapter 2*, *3* or *4*) to contravene any prohibition or limitation on the disclosure of information imposed by law for the purposes of safeguarding commercial and industrial confidentiality (including in relation to intellectual property) or the public interest.

Access to expertise

197. A competent authority (within the meaning of *Chapter 2*, *3* or *4*) shall ensure that it has access to such expertise as is necessary to enable it to perform its functions under this Part and, for that purpose, it may engage such consultants or advisers as it considers appropriate.

15 OJ No. L328, 21.12.2018, p. 82

Chapter 2

Appropriate Assessment of Plans

Interpretation

198. (1) In this Chapter—

"competent authority" means—

(a) in relation to a National Planning Framework proposed to be published in accordance with *subsection (1) of section 21* or a proposed revision of a National Planning Framework under that Chapter, the Minister,

(b) in relation to a National Planning Statement proposed to be issued under *Chapter 3* of *Part 3* or a proposed amendment to or revocation of a National Planning Statement under that Chapter, the Minister,

(c) in relation to the proposed revocation of any guidelines issued by the Minister under section 28 of the Act of 2000 and continued in force by virtue of *section 27*, the Minister,

(d) in relation to a regional spatial and economic strategy proposed to be made under *Chapter 4* of *Part 3* or a proposed revision of a regional spatial and economic strategy under that Chapter, the regional assembly for the region to which the regional spatial and economic strategy concerned relates,

(e) in relation to a draft amendment to a regional spatial and economic strategy as provided for in *subsection (2)* of *section 37*, the director of the regional assembly for the region to which the regional spatial and economic strategy concerned relates,

(f) in relation to a development plan proposed to be made under *Chapter 5* of *Part 3* or a proposed variation of a development plan under that Chapter, the planning authority to whose functional area the development plan concerned relates,

(g) in relation to a draft amendment to a development plan as provided for in *subsection (2)* of *section 62*, the chief executive of the planning authority in whose functional area the development plan concerned relates,

(h) in relation to an urban area plan proposed to be made under *Chapter 6* of *Part 3* or a proposed amendment to or revocation of an urban area plan under that Chapter, the planning authority within whose functional area the settlement to which the urban area plan concerned relates is situate,

(i) in relation to a priority area plan proposed to be made under *Chapter 6* of *Part 3* or a proposed amendment to or revocation of a priority area plan under that Chapter, the planning authority within whose functional area the part of a settlement to which the priority area plan concerned relates is situate,

(j) in relation to a coordinated area plan proposed to be made under *Chapter 6* of *Part 3* or a proposed amendment to or revocation of a coordinated area plan under that Chapter, other than a revocation of a coordinated area plan in

accordance with *subsection (3)* of *section 77*, the principal planning authority (within the meaning of *Part 3*) in relation to the coordinated area plan concerned,

(k) in relation to a direction proposed to be issued by the Minister under *section 40* in respect of a regional spatial and economic strategy and subject to *subsection (2)* of *section 200*, the Office and the Minister,

(l) in relation to a direction proposed to be issued by the Minister under *section 65* in respect of a development plan, the Office and the Minister,

(m) in relation to an order proposed to be made under *subsection (3)* of *section 68*, the Minister;

(n) in relation to a direction proposed to be issued by the Minister under *section 80* in respect of an urban area plan, a priority area plan or a coordinated area plan, the Office and the Minister, and

(o) in relation to an urgent direction proposed to be issued by the Minister under *section 67* in respect of a development plan, the Minister;

"make" includes—

(a) in relation to a National Planning Framework, publish in accordance with *subsection (1)* of *section 21*,

(b) in relation to—

(i) a National Planning Statement,

(ii) a direction as provided for in *section 40*, *section 65* or *section 80*, and

(iii) an urgent direction as provided for in *section 67*,

issue, and

(c) in relation to the revocation of—

(i) any guidelines issued by the Minister under section 28 of the Act of 2000 and continued in force by virtue of *section 27*,

(ii) an urban area plan,

(iii) a priority area plan, or

(iv) a coordinated area plan,

the making of the decision to revoke the guidelines, urban area plan, priority area plan or coordinated area plan, as the case may be;

"plan" means—

(a) a National Planning Framework or a revision to a National Planning Framework,

(b) a National Planning Statement, an amendment to a National Planning Statement or a revocation of a National Planning Statement,

(c) a revocation of guidelines issued by the Minister under section 28 of the Act of 2000 and continued in force by virtue of *section 27*,

(d) a regional spatial and economic strategy or a revision to a regional spatial and economic strategy,

(e) an amendment to a regional spatial and economic strategy as provided for in *subsection (2)* of *section 37*,

(f) a development plan or a variation of a development plan,

(g) an amendment to a development plan as provided for in *subsection (2)* of *section 62*,

(h) an urban area plan, an amendment to an urban area plan or a revocation of an urban area plan,

(i) a priority area plan, an amendment to a priority area plan or a revocation of a priority area plan,

(j) a coordinated area plan, an amendment to a coordinated area plan or a revocation of a coordinated area plan other than a revocation in accordance with *subsection (3)* of *section 77*,

(k) a direction in respect of a regional spatial and economic strategy as provided for in *section 40*,

(l) an order under *subsection (3)* of *section 68*,

(m) a direction in respect of a development plan as provided for in *section 65*,

(n) a direction in respect of an urban area plan, a priority area plan or a coordinated area plan as provided for in *section 80*, and

(o) an urgent direction in respect of a development plan as provided for in *section 67*;

"proposed plan" means a plan that is proposed to be made;

"screening for appropriate assessment" means, in relation to a plan, an assessment carried out in accordance with *section 202*.

(2) A word or expression that is used in this Chapter and in the Habitats Directive has the meaning in this Chapter that it has in that directive.

(3) A word or expression that is used in this Chapter and in the Birds Directive has the meaning in this Chapter that it has in that directive.

(4) This Chapter shall be construed in accordance with the Habitats Directive and the Birds Directive.

Purpose of Chapter

199. The purpose of this Chapter is to give effect to the State's obligations under paragraphs 3 and 4 of Article 6 of the Habitats Directive in relation to plans.

Performance of functions by competent authority

200. (1) A competent authority shall, in performing the functions conferred on it by or under this Chapter, take appropriate steps to avoid in a European site the deterioration of natural habitats and the habitats of species as well as the disturbance of the species for which the site has been designated, insofar as such disturbance could be significant having regard to the objectives of the Habitats Directive.

(2) The functions of the competent authority, in relation to a direction proposed to be issued by the Minister under *section 40* in respect of a regional spatial and economic strategy, shall be performed by the Office and the Minister in accordance with *sections 39* and *40* and *subsection (6)* of *section 206*.

(3) The functions of the competent authority, in relation to a direction proposed to be issued by the Minister under *section 65* in respect of a development plan, shall be performed by the Office and the Minister in accordance with *sections 64* and *65* and *subsection (6)* of *section 206*.

(4) The functions of the competent authority, in relation to a direction proposed to be issued by the Minister under *section 80* in respect of an urban area plan, a priority area plan or a coordinated area plan, shall be performed by the Office and the Minister in accordance with *sections 79* and *80* and *subsection (6)* of *section 206*.

Prohibition on making of plans except in certain circumstances

201. A plan shall not be made under *Part 3* unless—

(a) the competent authority has made a determination in accordance with *subsection (4)* of *section 202* that an appropriate assessment is not required,

(b) the competent authority has carried out an appropriate assessment and has made a determination under *subsection (5)* of *section 205* that the proposed plan will not adversely affect the integrity of a European site,

(c) the competent authority has carried out an appropriate assessment and the plan is proposed to be made in accordance with *paragraph (b)* of *subsection (7)* of *section 205*,

(d) the Minister has come to the conclusion referred to in *subsection (11)* of *section 206*, or

(e) the Minister has—

(i) come to the conclusion referred to in *paragraph (a)* of *subsection (11)* of *section 207*, or

(ii) come to the conclusion referred to in *subparagraph (i)* of *paragraph (b)* of *subsection (11)* of *section 207* and received an opinion referred to in *subparagraph (ii)* of the said *paragraph (b)* from the European Commission.

Obligation to carry out screening for appropriate assessment of plans

202. (1) The competent authority shall carry out a screening for appropriate assessment of a proposed plan that is not directly connected with, or necessary for, the management of a European site, for the purpose of determining whether or not the proposed plan (either individually or in combination with any project or other plan) is likely to have a significant effect on a European site having regard to the conservation objectives of that European site.

(2) For the purpose of the carrying out of a screening for appropriate assessment under this section, the competent authority may consult with such persons as the competent authority considers appropriate.

(3) (a) Where, on the basis of a screening for appropriate assessment carried out under this section, the competent authority determines that the likelihood of a proposed plan (either individually or in combination with any project or other plan) having significant effects on a European site cannot be excluded, the competent authority shall, before the making of the plan, carry out an appropriate assessment of the proposed plan in accordance with *section 205*.

(b) In this subsection "proposed plan" includes a proposed modification, amendment or alteration of a proposed plan.

(4) (a) Where, on the basis of a screening for appropriate assessment carried out under this section, the competent authority determines that the likelihood of a proposed plan (either individually or in combination with any project or other plan) having significant effects on a European site can be excluded, an appropriate assessment of the proposed plan concerned shall not be required.

(b) In this subsection "proposed plan" includes a proposed modification, amendment or alteration of a proposed plan.

(5) Where, subsequent to the making of a determination under *subsection (3)* or *subsection (4)* and before a plan is made, it is proposed to—

(a) modify (other than in accordance with a determination under *subsection (7)* of *section 205*), or

(b) otherwise amend or alter,

the proposed plan to which the determination under *subsection (3)* or *(4)* applies, the competent authority shall—

(i) carry out a screening for appropriate assessment of the proposed modification, amendment or alteration of the proposed plan concerned, and

(ii) make a determination under *subsection (3)* or *(4)* in relation to the proposed modification, amendment or alteration.

(6) Where, on the basis of a screening for appropriate assessment carried out in accordance with *subsection (5)*, the competent authority determines that the likelihood of a proposed modification, amendment or alteration of a proposed plan (either individually or in combination with any project or other plan) having significant effects on a European site cannot be excluded, the competent authority shall—

(a) in the case of a proposed plan—

(i) that is proposed to be modified, amended or altered,

(ii) that has been the subject of a determination under *subsection (3)*, and

(iii) in respect of which a Natura impact report relating to the proposed modification, amendment or alteration has been prepared in accordance with *section 203* and public consultation has occurred in accordance with *section 204*,

comply with *sections 203* and *204* in respect of the modification, amendment or alteration concerned for the purposes of ensuring that an appropriate assessment of the proposed plan as so modified, amended or altered is carried out in accordance with *section 205*, or

(b) in the case of a proposed plan—

(i) that is proposed to be modified, amended or altered, and

(ii) that has been the subject of a determination under *subsection (4)*,

carry out an appropriate assessment of the proposed plan as so modified, amended or altered in accordance with *sections 203*, *204* and *205*.

(7) (a) Where a competent authority makes a determination under *subsection (3)* or *(4)*, it shall publish a notice of the determination and the reasons therefor on an internet website maintained by it or on its behalf.

(b) Where the competent authority is a regional assembly or a planning authority and it makes a determination under *subsection (3)* or *(4)*, it shall, in addition to complying with *paragraph (a)*, make a copy of the determination and the reasons therefor available for inspection (free of charge) at its offices during normal office hours by members of the public.

(8) Where a competent authority is required to publish a notice in accordance with *paragraph (a)* of *subsection (7)* it shall, to the extent required by *Part 3*, publish that notice with the notice of the proposal to make the plan concerned.

Natura impact report

203. (1) Where a competent authority has made a determination under *subsection (3)* of *section 202* that the likelihood of a proposed plan (either individually or in combination with any project or other plan) having significant effects on a European site cannot be excluded, the competent authority shall prepare, or cause to be prepared, a Natura impact report in relation to the plan concerned.

(2) A Natura impact report prepared under *subsection (1)* shall—

(a) be prepared by a person with the necessary scientific competence to do so,

(b) specify all of the habitat types and species—

(i) for which the relevant European site is designated, and

(ii) in relation to which the likelihood of significant effects arising from the proposed plan cannot be excluded,

(c) having regard to the European site's conservation objectives—

(i) identify all potential significant effects of the proposed plan on the European site, whether such effects arise from the plan itself or the plan in combination with any project or other plan, and

(ii) assess the effects identified in accordance with *subparagraph (i)* and the implications of the plan for the European site,

(d) identify any measures proposed to be taken for the purposes of avoiding or reducing any adverse effects (identified in accordance with *paragraph (c)*) of the plan on the European site,

(e) having regard to—

(i) the habitat types and species specified in accordance with *paragraph (b)*,

(ii) the potential significant effects identified and assessments made in accordance with *paragraph (c)*, and

(iii) any measures identified in accordance with *paragraph (d)*,

conclude either—

(I) that the proposed plan will adversely affect the integrity of a European site, or

(II) that the proposed plan will not adversely affect the integrity of a European site,

and

(f) include such other information as may be prescribed.

Consultation on Natura impact report

204. (1) Where a competent authority has prepared a Natura impact report under *section 203*, it shall—

(a) publish the Natura impact report on an internet website maintained by it or on its behalf,

(b) publish a notice on that website—

(i) stating that a determination has been made under *subsection (3)* of *section 202* that the likelihood of a proposed plan (either individually or in combination with any project or other plan) having significant effects on a European site cannot be excluded and that, as a consequence and having regard to the conservation objectives relating to the European site, an appropriate assessment of the proposed plan is required to be carried out,

(ii) inviting submissions by members of the public with respect to the implications of the proposed plan for any European site having regard to the conservation objectives relating to that site, and

(iii) specifying the period during which, and the manner in which, such submissions may be made,

and

(c) where the competent authority is a regional assembly or a planning authority—

(i) make the Natura impact report available for inspection (free of charge) by members of the public at its offices during normal office hours, and

(ii) specify, in the notice published in accordance with *paragraph (b)*, the times and places at which, and the period during which, a copy of that Natura impact report may be inspected.

(2) The competent authority shall—

(a) send a copy of the proposed plan and the Natura impact report to—

(i) such persons as are required to be consulted under *Part 3* in relation to the proposed plan, and

(ii) such other person or persons (if any) as may be prescribed,

and

(b) invite each such person to make, during the period referred to in *subparagraph (iii)* of *paragraph (b)* of *subsection (1)*, submissions with respect to the implications of the proposed plan for any European site having regard to the conservation objectives relating to that site.

(3) (a) Where a competent authority complies with *subsections (1)* and *(2)*, it shall, to the extent that any requirement under either of those subsections is a requirement under *Part 3*, be deemed to have complied with the said requirement under *Part 3*.

(b) Where a competent authority is required by this Part to give notice to any person of, or in relation to, any matter, neither this Part nor *Part 3* shall be construed as preventing the competent authority from using that notice to comply with a requirement under *Part 3* to give notice to that person of, or in relation to, any other matter.

(c) Where a competent authority is required by this Part to publish any information or material, neither this Part nor *Part 3* shall be construed as preventing the competent authority from publishing, with that information or material, any information or material that the competent authority is required to publish under *Part 3*.

Appropriate assessment of plans

205. (1) Prior to the making of a plan to which a determination under *subsection (3)* of *section 202* applies, the competent authority shall carry out an appropriate assessment of the proposed plan.

(2) For the purpose of carrying out an appropriate assessment under this section, the competent authority may—

(a) consult with such persons (other than persons who made submissions pursuant to an invitation under *subsection (2)* of *section 204*) as the competent authority considers appropriate, or

(b) further consult with such persons who made submissions pursuant to an invitation under *subsection (2)* of *section 204* as it considers appropriate.

(3) The competent authority shall take into account each of the following when carrying out an appropriate assessment under this section:

(a) the Natura impact report;

(b) the results of any consultation carried out by the competent authority in accordance with *subsection (2)*;

(c) any written submissions made to the competent authority pursuant to an invitation—

(i) in a notice under *subsection (1)* of *section 204*, or

(ii) under *subsection (2)* of that section;

and

(d) any other information that the competent authority considers relevant.

(4) When carrying out an appropriate assessment under this section, the competent authority shall, based on the best scientific knowledge and having regard to the conservation objectives relating to the European site concerned—

(a) identify all likely significant effects of the proposed plan on the site,

(b) assess the extent of those effects and their implications for the site,

(c) where relevant, consider the likely effectiveness of any measures proposed to be taken to avoid or reduce potential adverse effects to the site, and

(d) having regard to the matters identified and assessments made in accordance with *paragraphs (a)* and *(b)* and any proposed measures referred to in *paragraph (c)*, make a determination as to whether or not any reasonable scientific doubt exists as to the absence of adverse effects on the integrity of any European site.

(5) (a) Where, on the basis of an appropriate assessment carried out under this section, the competent authority concludes that no reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site, it shall make a determination to that effect.

(b) Where a competent authority makes a determination under *paragraph (a)*, the plan concerned may be made in accordance with *Part 3*.

(6) (a) Where, on the basis of an appropriate assessment carried out under this section, the competent authority concludes that a reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site, it shall make a determination to that effect.

(b) Where a competent authority makes a determination under *paragraph (a)*, then, subject to *subsection (7)* and *sections 206* and *207*, the plan concerned shall not be made under *Part 3*.

(7) (a) Where, on the basis of an appropriate assessment carried out under this section, the competent authority concludes that no reasonable scientific doubt would exist as to the absence of adverse effects on the integrity of a European site were the proposed plan to be modified by the omission of a specified part or element of the plan, the competent authority may make a determination to that effect.

(b) Where—

(i) a competent authority makes a determination under *paragraph (a)*, and

(ii) the proposed plan is modified by the omission of the part or element specified by the competent authority under *paragraph (a)*,

the proposed plan as so modified may be made in accordance with *Part 3*.

(8) (a) The competent authority shall publish a determination under this section and the reasons therefor on an internet website maintained by it or on its behalf.

(b) Where the competent authority is a regional assembly or a planning authority and it makes a determination under this section, it shall, in addition to complying with *paragraph (a)*, make a copy of the determination and the reasons therefor available for inspection (free of charge) at its offices during normal office hours by members of the public.

(c) The competent authority shall comply with such other notification requirements as are provided for under *Part 3*.

(9) Where a competent authority is required to publish a determination in accordance with *paragraph (a)* of *subsection (8)* it shall, to the extent required by *Part 3*, publish such determination with the notice of the making of the plan concerned.

Imperative reasons of overriding public interest (no priority habitat or priority species)

206. (1) In this section "relevant plan" means a proposed plan in respect of which the competent authority has made a determination under *paragraph (a)* of *subsection (6)* of *section 205* relating to a European site that does not host a priority habitat or priority species.

(2) Where, in relation to a relevant plan, a competent authority (other than the Minister) considers that—

(a) there is an absence of alternative solutions to the relevant plan,

(b) imperative reasons (which may include reasons of a social or economic nature) of overriding public interest exist for the making of the relevant plan, and

(c) the compensatory measures proposed by it are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

the competent authority may prepare, and submit to the Minister, a statement to that effect.

(3) Where, in relation to a relevant plan, the competent authority is the Minister and he or she considers that—

(a) there is an absence of alternative solutions to the relevant plan,

(b) imperative reasons (which may include reasons of a social or economic nature) of overriding public interest exist for the making of the relevant plan, and

(c) the compensatory measures proposed by it are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

he or she shall prepare a statement to that effect.

(4) A statement under *subsection (2)* or *(3)* shall—

(a) specify the determination made under *subsection (6)* of *section 205*,

(b) specify the considerations that caused the competent authority to make the determination under *subsection (6)* of *section 205* that a reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site,

(c) specify the reasons for which the competent authority considers that there are no alternative solutions to the making of the relevant plan,

(d) specify the imperative reasons of overriding public interest (which may include reasons of a social or economic nature) that the competent authority considers exist for the making of the relevant plan,

(e) specify the compensatory measures that the competent authority proposes,

(f) state that the competent authority is satisfied that those proposed compensatory measures are adequate to ensure that the overall coherence of the Natura 2000 network is protected, and

(g) include such other information (if any) as the competent authority considers to be of relevance.

(5) A statement submitted to the Minister under *subsection (2)* shall be accompanied by—

(a) a copy of the relevant plan, and

(b) the Natura impact report in respect of the relevant plan.

(6) (a) The Office may, where it makes a recommendation to the Minister that he or she issue a direction, prepare and submit to the Minister a statement under *subsection (2)* in relation to the proposed direction.

(b) The Minister may, where he or she receives a recommendation referred to in *paragraph (a)*, prepare a statement under *subsection (3)*.

(c) In this subsection "direction" means—

(i) a direction in respect of a regional spatial and economic strategy as provided for in *section 40*,

(ii) a direction in respect of a development plan as provided for in *section 65*, or

(iii) a direction in respect of an urban area plan, priority area plan or coordinated area plan as provided for in *section 80*.

(7) Where the Minister receives a statement submitted under *subsection (2)* or prepares a statement under *subsection (3)*, he or she shall—

(a) publish the statement on an internet website maintained by him or her or on his or her behalf,

(b) publish a notice on that internet website—

(i) inviting members of the public to make submissions to the Minister in relation to the statement, and

(ii) specifying the period during which, and the manner in which, such submissions may be made,

(c) in the case of a statement submitted to him or her under *subsection (2)*, direct the competent authority to—

(i) publish a copy of the statement and the notice referred to in *paragraph (b)* on an internet website maintained by it or on its behalf, and

(ii) send a copy of the statement to—

(I) any person who made a submission to the competent authority pursuant to an invitation in a notice under *subsection (1)* of *section 204* or an invitation under *subsection (2)* of that section, or in the course of a consultation under *subsection (2)* of *section 205*, and

(II) such other persons (if any) as may be prescribed,

and invite each such person to make a submission to the Minister in relation to the statement within the period, and in the manner, specified in accordance with *subparagraph (ii)* of *paragraph (b)*,

and

(d) in the case of a statement prepared under *subsection (3)*—

(i) send a copy of the statement to—

(I) any person who made a submission to the competent authority pursuant to an invitation in a notice under *subsection (1)* of *section 204* or an invitation under *subsection (2)* of that section, or in the course of a consultation under *subsection (2)* of *section 205*, and

(II) such other persons (if any) as may be prescribed,

and invite each such person to make a submission to the Minister in relation to the statement within the period, and in the manner, specified in accordance with *subparagraph (ii)* of *paragraph (b)*, and

(ii) consult the Office in relation to the statement.

(8) The Minister may, for the purpose of performing his or her functions under *subsection (9)*, consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister of the Government.

(9) The Minister shall, after having considered a statement submitted under *subsection (2)* or a statement prepared by him or her under *subsection (3)* and after having taken account of any submissions in relation to such statement received pursuant to an invitation under *subsection (7)*, come to a conclusion in relation to the relevant plan as to whether or not—

(a) there is an absence of alternative solutions to the relevant plan,

(b) imperative reasons (which may include reasons of a social or economic nature) of overriding public interest exist for the making of the relevant plan, and

(c) the compensatory measures proposed are adequate to ensure that the overall coherence of the Natura 2000 network is protected.

(10) Where a statement was submitted to the Minister under *subsection (2)*, the Minister shall give notice of his or her conclusion under *subsection (9)* to the competent authority that submitted the statement.

(11) A relevant plan shall not be made under *Part 3* unless the Minister has come to a conclusion under *subsection (9)* that—

(a) there is an absence of alternative solutions to the relevant plan,

(b) imperative reasons (which may include reasons of a social or economic nature) of overriding public interest exist for the making of the relevant plan, and

(c) the compensatory measures proposed are adequate to ensure that the overall coherence of the Natura 2000 network is protected.

(12) Where a relevant plan is necessary in order to enable—

(a) the construction or operation of plants producing energy from renewable sources,

(b) the storage of energy produced by such plants, or

(c) the connection of such plants to electricity, gas or heat grids,

imperative reasons of overriding public interest shall, in accordance with Article 16f of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018[16] on the promotion of the use of energy from renewable sources laying down a framework to accelerate the deployment of renewable energy, be deemed to exist in relation to the relevant plan.

16 OJ No. L328, 12.12.2018, p. 82

(13) If a plan is made consequent upon the Minister's coming to a conclusion under *subsection (9)* that—

(a) there is an absence of alternative solutions to the relevant plan,

(b) imperative reasons (which may include reasons of a social or economic nature) of overriding public interest exist for the making of the relevant plan, and

(c) the compensatory measures proposed are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

the person making the plan shall implement, or cause the implementation of, those compensatory measures.

(14) The Minister shall, as soon as may be after the making of a plan consequent upon his or her coming to a conclusion referred to in *subsection (13)*, inform the European Commission of the compensatory measures required to be implemented in relation to that plan in accordance with that subsection.

(15) When giving notice, in accordance with *Part 3*, of a decision to make or a decision not to make a relevant plan, a competent authority shall—

(a) publish a copy of the Minister's conclusion under *subsection (9)* on an internet website maintained by or on behalf of the competent authority, and

(b) notify, in writing, any person who made a submission pursuant to an invitation under *subsection (7)* of the contents of the Minister's conclusion.

Imperative reasons of overriding public interest (priority habitat or priority species)

207. (1) In this section—

"imperative reasons of overriding public interest" means—

(a) reasons relating to human health or public safety,

(b) reasons that the relevant plan will have beneficial consequences of primary importance to the environment, or

(c) reasons that, in the opinion (given upon a request under *subsection (10)*) of the European Commission, constitute other imperative reasons of overriding public interest within the meaning of paragraph 4 of Article 6 of the Habitats Directive;

"relevant plan" means a proposed plan in respect of which the competent authority has made a determination under *paragraph (a)* of *subsection (6)* of *section 205* relating to a European site that hosts a priority habitat or priority species.

(2) Where, in relation to a relevant plan, a competent authority (other than the Minister) considers that—

(a) there is an absence of alternative solutions to the relevant plan,

(b) imperative reasons of overriding public interest exist or may, subject to the opinion of the European Commission, exist for the making of the relevant plan, and

(c) the compensatory measures proposed by it are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

the competent authority may prepare, and submit to the Minister, a statement to that effect.

(3) Where, in relation to a relevant plan, the competent authority is the Minister and he or she considers that—

(a) there is an absence of alternative solutions to the relevant plan,

(b) imperative reasons of overriding public interest exist or may, subject to the opinion of the European Commission, exist for the making of the relevant plan, and

(c) the compensatory measures proposed by him or her are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

he or she shall prepare a statement to that effect.

(4) A statement under *subsection (2)* or *(3)* shall—

(a) specify the determination made under *subsection (6)* of *section 205*,

(b) specify the considerations that caused the competent authority to make the determination under *subsection (6)* of *section 205* that a reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site,

(c) specify the reasons for which the competent authority is satisfied that there are no alternative solutions to the making of the relevant plan,

(d) specify the imperative reasons of overriding public interest that the competent authority considers exist, or, subject to the opinion of the European Commission, may exist for the making of the relevant plan,

(e) specify the compensatory measures that the competent authority proposes,

(f) state that the competent authority is satisfied that those proposed compensatory measures are adequate to ensure that the overall coherence of the Natura 2000 network is protected, and

(g) include such other information (if any) as the competent authority considers to be of relevance.

(5) A statement submitted to the Minister under *subsection (2)* shall be accompanied by—

(a) a copy of the relevant plan, and

(b) the Natura impact report in respect of the relevant plan.

(6) (a) The Office may, where it makes a recommendation to the Minister that he or she issue a direction, prepare and submit to the Minister a statement under *subsection (2)* in relation to the proposed direction.

(b) The Minister may, where he or she receives a recommendation referred to in *paragraph (a)*, prepare a statement under *subsection (3)*.

(c) In this subsection "direction" means—

(i) a direction in respect of a regional spatial and economic strategy as provided for in *section 40*,

(ii) a direction in respect of a development plan as provided for in *section 65*, or

(iii) a direction in respect of an urban area plan, priority area plan or coordinated area plan as provided for in *section 80*.

(7) Where the Minister receives a statement submitted under *subsection (2)* or prepares a statement under *subsection (3)*, he or she shall—

(a) publish the statement on an internet website maintained by him or her or on his or her behalf,

(b) publish a notice on that internet website—

(i) inviting members of the public to make submissions to the Minister in relation to the statement, and

(ii) specifying the period during which, and the manner in which, such submissions may be made,

(c) in the case of a statement submitted to him or her under *subsection (2)*, direct the competent authority to—

(i) publish a copy of the statement and the notice referred to in *paragraph (b)* on an internet website maintained by it or on its behalf, and

(ii) send a copy of the statement to—

(I) any person who made a submission to the competent authority pursuant to an invitation in a notice under *subsection (1)* of *section 204* or an invitation under *subsection (2)* of that section, or in the course of a consultation under *subsection (2)* of *section 205*, and

(II) such other persons (if any) as may be prescribed,

and invite each such person to make a submission to the Minister in relation to the statement within the period, and in the manner, specified in accordance with *subparagraph (ii)* of *paragraph (b)*, and

(d) in the case of a statement prepared under *subsection (3)*—

(i) send a copy of the statement to—

(I) any person who made a submission to the competent authority pursuant to an invitation in a notice under *subsection (1)* of *section 204* or an invitation under *subsection (2)* of that section, or in the course of a consultation under *subsection (2)* of *section 205*, and

(II) such other persons (if any) as may be prescribed,

and invite each such person to make a submission to the Minister in relation to the statement within the period, and in the manner, specified in accordance with *subparagraph (ii)* of *paragraph (b)*, and

(ii) consult the Office in relation to the statement.

(8) The Minister may, for the purpose of performing his or her functions under *subsection (9)* and *(10)*, consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister of the Government.

(9) The Minister shall, after—

(a) having considered a statement submitted under *subsection (2)* or a statement prepared by him or her under *subsection (3)*, and

(b) having taken account of any submissions in relation to such statement received pursuant to an invitation under *subsection (7)*,

come to a conclusion in relation to the relevant plan concerned as to whether or not—

(i) there is an absence of alternative solutions to the relevant plan,

(ii) imperative reasons of overriding public interest exist, or may, subject to the opinion of the European Commission, exist for the making of the relevant plan, and

(iii) the compensatory measures proposed by the competent authority are adequate to ensure that the overall coherence of the Natura 2000 network is protected.

(10) The Minister may—

(a) after having considered—

(i) a statement submitted under *subsection (2)* or prepared by him or her under *subsection (3)*, and

(ii) any submissions in relation to such statement received pursuant to an invitation under *subsection (7)*,

and

(b) if satisfied that—

(i) there is an absence of alternative solutions to the relevant plan, and

(ii) the compensatory measures proposed by the competent authority are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

request the European Commission to provide him or her with its opinion as to whether or not other imperative reasons of overriding public interest within the meaning of paragraph 4 of Article 6 of the Habitats Directive exist in relation to the relevant plan concerned.

(11) A relevant plan shall not be made under *Part 3*—

(a) unless the Minister has concluded that—

(i) there is an absence of alternative solutions to the relevant plan, and

(ii) imperative reasons of overriding public interest—

(I) relating to human health or public safety, or

(II) that the relevant plan will have beneficial consequences of primary importance to the environment,

exist for the making of the relevant plan, and

(iii) compensatory measures proposed by the competent authority are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

or

(b) unless—

(i) the Minister has concluded that—

(I) compensatory measures proposed by the competent authority are adequate to ensure that the overall coherence of the Natura 2000 network is protected, and

(II) the competent authority is satisfied that there is an absence of alternative solutions to the relevant plan,

and

(ii) the Minister has received an opinion from the European Commission (pursuant to a request under *subsection (10)*) that states that it is satisfied that other imperative reasons of overriding public interest within the meaning of paragraph 4 of Article 6 of the Habitats Directive exist for the making of the relevant plan.

(12) (a) If a plan is made consequent upon the Minister's coming to the conclusion referred to in *paragraph (a)* of *subsection (11)*, the person making the plan shall implement, or cause the implementation of, the compensatory measures to which *subparagraph (iii)* of the said *paragraph (a)* applies.

(b) If a plan is made consequent upon—

(i) the Minister's coming to the conclusion referred to in *subparagraph (i)* of *paragraph (b)* of *subsection (11)*, and

(ii) the receipt by the Minister of an opinion referred to in *subparagraph (ii)* of the said *paragraph (b)*,

the person making the plan shall implement, or cause the implementation of, the compensatory measures to which *clause (I)* of the said *subparagraph (i)* applies.

(13) The Minister shall, as soon as may be after the making of a plan consequent upon his or her coming to a conclusion referred to in *subsection (11)*, inform the European

Commission of the compensatory measures required to be implemented in relation to that plan in accordance with *paragraph (a)* or *(b)* of *subsection (12)*.

(14) When giving notice under *Part 3* of a decision as to whether or not to make a relevant plan, a competent authority shall—

(a) publish a copy of the Minister's conclusion under *subsection (9)* on an internet website maintained by or on behalf of the competent authority,

(b) publish a copy of the opinion of the European Commission received by the Minister pursuant to any request under *subsection (11)*, and

(c) notify, in writing, any person who made a submission pursuant to an invitation under *subsection (7)* of the contents of that conclusion and any such opinion.

CHAPTER 3

Appropriate Assessment of Development and Proposed Development

Interpretation

208. (1) In this section—

"competent authority" means—

(a) in relation to relevant development for which permission is required under *Chapter 3* of *Part 4*, the planning authority to which an application for such permission is required to be made,

(b) in relation to relevant development in respect of which a decision—

(i) under *section 98* has been made, and

(ii) that is appealed or appealable under *section 103*,

the Commission,

(c) in relation to proposed development for which permission is required under *Chapter 4* of *Part 4*, the Commission,

(d) in relation to development for which retrospective consent is required under *Chapter 4* of *Part 4*, the Commission,

(e) in relation to a request for an alteration of the terms or extension of the duration of a permission under *subsection (1)* of *section 140*, the deciding authority to which the request under *section 140* is made or, where a decision under *section 143* in respect of the request is appealed under *subsection (7)* of *section 143*, the Commission,

(f) for the purpose of carrying out a screening for appropriate assessment of a relevant development (other than an alteration, or extension of duration, of permission requested under *subsection (1)* of *section 140*) consisting of local authority development, the local authority concerned,

(g) for the purpose of carrying out a screening for appropriate assessment of a relevant development (other than an alteration, or extension of duration, of permission requested under *subsection (1)* of *section 140*) consisting of State authority development, the State authority concerned,

(h) in relation to relevant development (other than development in respect of which an application for retrospective consent has been made) in respect of which a request under *section 10* is made, the planning authority to which the request is made, and

(i) in relation to relevant development (other than development in respect of which an application for retrospective consent has been made) in respect of which an appeal under *section 10* is brought, the Commission;

"screening for appropriate assessment" means, in relation to a relevant development, an assessment carried out in accordance with *section 212*, *213* or *214*.

(2) A word or expression that is used in this Chapter and in the Habitats Directive has the meaning in this Chapter that it has in that directive.

(3) A word or expression that is used in this Chapter and in the Birds Directive has the meaning in this Chapter that it has in that directive.

(4) This Chapter shall be construed in accordance with the Habitats Directive and the Birds Directive.

Performance of functions by competent authority

209. A competent authority shall, in performing the functions conferred on it by or under this Chapter, take appropriate steps to avoid in a European site the deterioration of natural habitats and the habitats of species as well as the disturbance (insofar as such disturbance could be significant having regard to the objectives of the Habitats Directive) of the species for which the site has been designated.

Purpose of Chapter

210. The purpose of this Chapter is to give effect to the State's obligations under paragraphs 3 and 4 of Article 6 of the Habitats Directive in relation to development and proposed development.

Prohibition on grant of permission except in certain circumstances

211. The competent authority shall not grant permission unless—

(a) the competent authority has made a determination under *subsection (6)* of *section 212* that an appropriate assessment is not required,

(b) the competent authority has made a determination under *subsection (5)* of *section 213*, or the Commission has made a determination under *subsection (11)* of that section, that an appropriate assessment is not required,

(c) the competent authority has carried out an appropriate assessment and has made a determination under *paragraph (a)* of *subsection (6)* of *section 217*—

(i) in the case of an application for permission for proposed development under *Chapter 3* or *4* of *Part 4*, that the proposed development will not adversely affect the integrity of a European site,

(ii) in the case of an application for retrospective consent under *Chapter 4* of *Part 4*, that the development—

(I) has not adversely affected,

(II) is not adversely affecting, and

(III) will not adversely affect,

the integrity of a European site, or

(iii) in the case of a request under *Chapter 5* of *Part 4* that is a material alteration request (within the meaning of the said *Chapter 5*), that the material alteration will not adversely affect the integrity of a European site,

or

(d) the Minister has issued a notice under *subsection (10)* of *section 219* or *subsection (12)* or *(14)* of *section 221*.

Screening for appropriate assessment of relevant development

212. (1) The competent authority shall carry out a screening for appropriate assessment of a relevant development (other than local authority development or State authority development)—

(a) for which an application for permission for relevant development is made, and

(b) that is not directly connected with, or necessary for, the management of a European site,

for the purpose of determining whether or not—

(i) in the case of proposed development in respect of which an application for permission under *Chapter 3* or *4* of *Part 4* is made, the proposed development (either individually or in combination with any plan or other project) is likely to have a significant effect on a European site having regard to the conservation objectives of that European site, or

(ii) in the case of development in respect of which an application for retention permission under *Chapter 3* of *Part 4* is made, the development (either individually or in combination with any plan or other project) has had, is having or is likely to have a significant effect on a European site having regard to the conservation objectives of that European site.

(2) The competent authority shall carry out a screening for appropriate assessment of a relevant development—

(a) consisting of—

(i) an alteration of the terms, or extension of duration, of a permission for development (other than local authority development or State authority development) requested under *subsection (1)* of *section 140*, or

(ii) an alteration of the terms, or extension of duration, of a permission for local authority development or State authority development requested under *subsection (1)* of *section 140*,

and

(b) that is not directly connected with, or necessary for, the management of a European site,

for the purpose of determining whether or not the alteration or extension (either individually or in combination with any plan or other project) is likely to have a significant effect on a European site having regard to the conservation objectives of that European site.

(3) For the purpose of carrying out a screening for appropriate assessment under this section, the competent authority may—

(a) request such information or such further information or clarification from the applicant for permission as it considers necessary to enable it to carry out that screening, or

(b) consult with such persons as the competent authority considers appropriate,

and the competent authority may make more than one request under *paragraph (a)*.

(4) Where the applicant for permission does not provide the competent authority with the information requested under *paragraph (a)* of *subsection (3)*—

(a) within such period as may be specified in the request, or,

(b) within such further period as the competent authority may subsequently agree to, at the request of the applicant for permission,

the application for permission shall be deemed to have been withdrawn.

(5) Where, on the basis of a screening for appropriate assessment carried out under this section, the competent authority makes a determination that—

(a) a relevant development (either individually or in combination with any plan or other project) has had, or is having, significant effects on a European site, or

(b) the likelihood of a relevant development (either individually or in combination with any plan or other project) having significant effects on a European site cannot be excluded,

the competent authority shall, before determining the application for permission for that relevant development, carry out an appropriate assessment of the relevant development in accordance with *section 217*.

(6) Where, on the basis of a screening for appropriate assessment carried out under this section, the competent authority—

(a) makes a determination in relation to relevant development to which *paragraph (ii)* of *subsection (1)* applies that—

(i) the relevant development (either individually or in combination with any plan or other project) has not had, and is not having, significant effects on a European site, and

(ii) the likelihood of the relevant development (either individually or in combination with any plan or other project) having significant effects on a European site can be excluded,

or

(b) makes a determination in relation to relevant development (other than relevant development referred to in *paragraph (a)*) that the likelihood of the relevant development (either individually or in combination with any plan or other project) having significant effects on a European site can be excluded,

an appropriate assessment of the relevant development concerned shall not be required.

(7) Notwithstanding a determination under *subsection (6)*, a competent authority may, at any time following the making of the application for permission concerned, determine that the carrying out of an appropriate assessment of the relevant development concerned in accordance with *section 217* is required before the competent authority determines the application, but only where, subsequent to the making of the determination under *subsection (6)*, it has formed the view that—

(a) the relevant development (either individually or in combination with any plan or other project) has had, or is having, significant effects on a European site, or

(b) the likelihood of the relevant development (either individually or in combination with any plan or other project) having significant effects on a European site cannot be excluded.

(8) Where the competent authority makes a determination under *subsection (7)* it shall carry out an appropriate assessment of the relevant development concerned in accordance with *section 217*.

(9) (a) Where a competent authority makes a determination under *subsection (5)* or *(7)*, it shall give a notice to the applicant for permission requiring him or her to provide the competent authority with a Natura impact statement in relation to the relevant development concerned within—

(i) such period as is specified in the notice, or

(ii) within such further period as the competent authority may subsequently agree to, at the request of the applicant for permission.

(b) Where an applicant for permission to whom a notice is given under *paragraph (a)* fails to comply with a requirement of the notice, the application for permission concerned shall be deemed to be withdrawn.

(c) *Paragraph (a)* shall not apply where the application for permission for the relevant development concerned was accompanied by a Natura impact statement.

(10) A competent authority shall, as soon as may be after making a decision under *Part 4* in relation to an application for permission—

(a) give notice of any determination under this section (including the reasons for the determination) to—

(i) the applicant,

(ii) any person who made a submission in accordance with *section 97* or *105* or in the course of a consultation under *paragraph (b)* of *subsection (3)*, and

(iii) where applicable, any party to an appeal from a decision in relation to the application for permission,

(b) make available for inspection (free of charge) by members of the public at its offices during normal office hours any determination (including the reasons for the determination) made under this section, and

(c) publish a notice of any determination (including the reasons for the determination) under this section on an internet website maintained by or on behalf of the competent authority.

Screening for appropriate assessment of local authority development and State authority development

213. (1) The competent authority shall carry out a screening for appropriate assessment of a relevant development—

(a) consisting of local authority development, and

(b) that is not directly connected with, or necessary for, the management of a European site,

for the purpose of determining whether or not—

(i) in the case of proposed development, the proposed development (either individually or in combination with any plan or other project) is likely to have a significant effect on a European site having regard to the conservation objectives of that European site, or

(ii) in the case of development already carried out, the development (either individually or in combination with any plan or other project) has had, is having or is likely to have a significant effect on a European site having regard to the conservation objectives of that European site.

(2) The competent authority shall carry out a screening for appropriate assessment of relevant development—

(a) consisting of State authority development, and

(b) that is not directly connected with, or necessary for, the management of a European site,

for the purpose of determining whether or not—

(i) in the case of proposed development, the proposed development (either individually or in combination with any plan or other project) is likely to have a significant effect on a European site having regard to the conservation objectives of that European site, or

(ii) in the case of development already carried out, the development (either individually or in combination with any plan or other project) has had, is having or is likely to have a significant effect on a European site having regard to the conservation objectives of that European site.

(3) For the purpose of carrying out a screening for appropriate assessment under this section, the competent authority may consult with such persons as the competent authority considers appropriate.

(4) Where, on the basis of a screening for appropriate assessment carried out under this section, the competent authority makes a determination that—

(a) a relevant development (either individually or in combination with any plan or other project) has had, or is having, significant effects on a European site, or

(b) the likelihood of a relevant development (either individually or in combination with any plan or other project) having significant effects on a European site cannot be excluded,

the following provisions shall apply:

(i) an appropriate assessment of the relevant development in accordance with *section 217* shall be required; and

(ii) an application for permission for the relevant development shall be made under *Chapter 4* of *Part 4* by the local authority or State authority concerned.

(5) Where, on the basis of a screening for appropriate assessment carried out under this section, the competent authority—

(a) makes a determination in relation to relevant development to which *paragraph (i)* of *subsection (1)* or *paragraph (i)* of *subsection (2)* applies that the likelihood of the relevant development (either individually or in combination with any plan or other project) having significant effects on a European site can be excluded, or

(b) makes a determination in relation to relevant development to which *paragraph (ii)* of *subsection (1)* or *paragraph (ii)* of *subsection (2)* applies that—

(i) the relevant development (either individually or in combination with any plan or other project) has not had, and is not having, significant effects on a European site, and

(ii) the likelihood of the relevant development (either individually or in combination with any plan or other project) having significant effects on a European site can be excluded,

then, subject to any determination of the Commission referred to in *subsection (10)*, an appropriate assessment of the relevant development concerned shall not be required.

(6) A competent authority shall, as soon as may be after making a determination under this section—

(a) give notice of the determination (including the reasons for the determination) to any person who made submissions, or provided information, to the competent authority during the course of a consultation under *subsection (3)*,

(b) make the determination (including the reasons for the determination) available for inspection (free of charge) by members of the public at its offices during normal office hours, and

(c) publish a notice of the determination (including the reasons for the determination) on an internet website maintained by or on behalf of the competent authority.

(7) The competent authority shall, not later than 3 days after the making of a determination under this section, comply with *subsection (6)*.

(8) Where the competent authority makes a determination under this section that an appropriate assessment is not required, any person may, not later than 4 weeks from the date of the publication of a notice in accordance with *paragraph (c)* of *subsection (6)*, appeal that determination to the Commission.

(9) Where the Commission receives a notice of appeal from a determination of the competent authority under this section, it shall—

(a) carry out a screening for appropriate assessment of the relevant development concerned, and

(b) make a determination as to whether or not—

(i) the relevant development (either individually or in combination with any plan or other project) has had, or is having, significant effects on a European site, or

(ii) the likelihood of the relevant development (either individually or in combination with any plan or other project) having significant effects on a European site can be excluded.

(10) Where, on the basis of a screening for appropriate assessment carried out under this section, the Commission makes a determination that—

(a) a relevant development (either individually or in combination with any plan or other project) has had, or is having, significant effects on a European site, or

(b) the likelihood of a relevant development (either individually or in combination with any plan or other project) having significant effects on a European site cannot be excluded,

the following provisions shall apply:

(i) an appropriate assessment of the relevant development concerned in accordance with *section 217* shall be required; and

(ii) an application for permission for the relevant development shall be made under *Chapter 4* of *Part 4* by the local authority or State authority concerned.

(11) Where, on the basis of a screening for appropriate assessment carried out under this section, the Commission—

(a) makes a determination in relation to relevant development to which *paragraph (i)* of *subsection (1)* or *paragraph (i)* of *subsection (2)* applies, that the likelihood of the relevant development (either individually or in combination with any plan or other project) having significant effects on a European site can be excluded, or

(b) makes a determination in relation to relevant development to which *paragraph (ii)* of *subsection (1)* or *paragraph (ii)* of *subsection (2)* applies, that—

(i) the relevant development (either individually or in combination with any plan or other project) has not had, and is not having, significant effects on a European site, and

(ii) the likelihood of the relevant development (either individually or in combination with any plan or other project) having significant effects on a European site can be excluded,

an appropriate assessment of the relevant development concerned shall not be required.

(12) The Commission shall—

(a) give notice of a determination (including the reasons for the determination) under *subsection (9)* to the local authority or State authority concerned,

(b) give notice of the determination (including the reasons for the determination) to any person who made submissions, or provided information, to the competent authority during the course of a consultation under *subsection (3)*,

(c) make the determination (including the reasons for the determination) available for inspection (free of charge) by members of the public at its offices during normal office hours, and

(d) publish a notice of the determination (including the reasons for the determination) on an internet website maintained by or on behalf of the competent authority.

(13) (a) The officers or members of staff of a local authority or State authority performing, or who have performed, any functions (other than functions under this Chapter)—

(i) in relation to the formulation of the proposal to carry out the relevant development concerned, or

(ii) otherwise in relation to the relevant development (including the facilitating of the development),

shall not carry out a screening for appropriate assessment of the development under this section.

(b) The officers or members of staff of a local authority or State authority carrying out a screening for appropriate assessment of a relevant development under this section shall not, in relation to the carrying out of such screening, be subject to the direction, control or supervision (direct or indirect) of any officer or member of staff of the local authority or State authority, as the case may be, who performs or has performed any function (other than a function under this Chapter)—

(i) in relation to the formulation of the proposal to carry out the relevant development concerned, or

(ii) otherwise in relation to the relevant development (including the facilitating of the development).

(c) In this subsection—

"local authority" means a local authority that—

(i) has carried out or proposes to carry out a relevant development, and

(ii) is the competent authority for the purposes of the carrying out of a screening for appropriate assessment of that relevant development under this section;

"State authority" means a State authority that—

(i) has carried out or proposes to carry out a relevant development, and

(ii) is the competent authority for the purposes of the carrying out of a screening for appropriate assessment of that relevant development under this section.

(14) The Minister may make regulations for the purpose of this section, including regulations—

(a) specifying the criteria for making a determination under this section in relation to local authority housing development within the meaning of *section 161*, and

(b) relating to the making of requests by the competent authority or Commission for information from a local authority or State authority for the purpose of the performance by the competent authority or the Commission of its functions under this section.

Screening for appropriate assessment for purposes of determining if development is exempted development

214. (1) The competent authority shall carry out a screening for appropriate assessment of a relevant development—

(a) in respect of which—

(i) a request under *section 10* is made for a declaration on the question of whether or not relevant development is exempted development, or

(ii) an appeal against any such declaration is brought,

and

(b) that is not directly connected with, or necessary for, the management of a European site,

for the purpose of determining whether or not—

(i) in the case of proposed development in respect of which a request or an appeal referred to in *paragraph (a)* is made or brought, the proposed development (either individually or in combination with any plan or other project) is likely to have a significant effect on a European site having regard to the conservation objectives of that European site, or

(ii) in the case of development in respect of which a request or an appeal referred to in *paragraph (a)* is made, the development (either individually or in combination with any plan or other project) has had, is having or is likely to have a significant effect on a European site having regard to the conservation objectives of that European site.

(2) For the purpose of performing its functions under this section, the competent authority may—

(a) require—

(i) the person who made the request under *section 10*,

(ii) any person who brought an appeal under *section 10*, or

(iii) any other person as the competent authority considers appropriate,

to provide the competent authority with such information as it considers necessary to enable it to carry out the screening of the development for appropriate assessment, or

(b) consult with such persons as the competent authority considers appropriate.

(3) Where a person referred to in *subparagraph (i)* of *paragraph (a)* of *subsection (2)* fails to comply with a requirement under that subsection—

(a) within such period as may be specified in the requirement, or

(b) within such further period as the competent authority may subsequently agree to at the request of that person,

the request under *section 10* shall be deemed to have been withdrawn.

(4) Where a person referred to in *subparagraph (ii)* of *paragraph (a)* of *subsection (2)* fails to comply with a requirement under that subsection—

(a) within such period as may be specified in the requirement, or

(b) within such further period as the competent authority may subsequently agree to, at the request of that person,

the appeal under *section 10* shall be deemed to have been withdrawn.

(5) Where, on the basis of a screening for appropriate assessment carried out under this section, the competent authority makes a determination that—

(a) a relevant development (either individually or in combination with any plan or other project) has had, or is having, significant effects on a European site, or

(b) the likelihood of a relevant development (either individually or in combination with any plan or other project) having significant effects on a European site cannot be excluded,

the relevant development shall not be exempted development and an appropriate assessment of the relevant development shall be required.

(6) The competent authority shall, as soon as may be after making a determination under this section—

(a) give notice of the determination (including the reasons for the determination) to—

(i) the person who made the request under *section 10*, and

(ii) the parties to any appeal under *section 10* from a declaration under that section in relation to the request,

(b) make the determination (including the reasons for the determination) available for inspection (free of charge) by members of the public at its offices during normal office hours, and

(c) publish the determination (including the reasons for the determination) on its internet website.

Natura impact statement

215. (1) An applicant for permission may prepare, and submit to the competent authority with his or her application for permission, a Natura impact statement in relation to a relevant development to which that application relates.

(2) A Natura impact statement prepared under *subsection (1)* or pursuant to a requirement in a notice under *subsection (9)* of *section 212* shall—

(a) be prepared by a person with the necessary scientific competence to do so,

(b) specify all of the habitat types and species—

(i) for which the relevant European site is designated, and

(ii) in relation to which the likelihood of significant effects arising from the relevant development cannot be excluded,

(c) having regard to the European site's conservation objectives—

(i) identify all potential significant effects of the relevant development on the European site, whether such effects arise from the relevant development itself or the relevant development in combination with any plan or other project, and

(ii) assess the effects identified in accordance with *subparagraph (i)* and the implications of the relevant development for the European site,

(d) identify any measures proposed to be taken for the purposes of avoiding or reducing any adverse effects (identified in accordance with *paragraph (c)*) of the relevant development on the European site,

(e) having regard to the matters identified and assessments made in accordance with *paragraphs (b)*, *(c)* and *(d)*—

(i) conclude, in the case of an application for proposed development under *Chapter 3* or *4* of *Part 4*, either—

(I) that the proposed development will adversely affect the integrity of a European site, or

(II) that the proposed development will not adversely affect the integrity of a European site,

(ii) conclude, in the case of development in respect of which an application for retrospective consent is made under *Chapter 4* of *Part 4*—

(I) either—

(A) that the development has adversely affected the integrity of a European site, or

(B) that the development has not adversely affected the integrity of a European site,

(II) either—

(A) that the development is adversely affecting the integrity of a European site, or

(B) that the development is not adversely affecting the integrity of a European site,

and

(III) either—

(A) that the development will adversely affect the integrity of a European site, or

(B) that the development will not adversely affect the integrity of a European site,

(iii) conclude, in the case of a request under *subsection (1)* of *section 140* for an alteration of the terms or extension of the duration of a permission, either—

(I) that the proposed alteration or extension will adversely affect the integrity of a European site, or

(II) that the proposed alteration or extension will not adversely affect the integrity of a European site,

and

(f) include such other information as may be prescribed.

(3) A Natura impact statement included with an application for permission for a relevant development that concludes—

(a) in the case of an application for proposed development under *Chapter 3* or *4* of *Part 4*, that the proposed development concerned may adversely affect the integrity of a European site,

(b) in the case of development in respect of which an application for retrospective consent is made under *Chapter 4* of *Part 4*, that the development has adversely affected, is adversely affecting or may adversely affect the integrity of a European site, or

(c) in the case of a request under *subsection (1)* of *section 140* for an alteration of the terms or extension of the duration of a permission, that the proposed alteration or extension may adversely affect the integrity of a European site,

may be accompanied by a request (set out in a document separate from the Natura impact statement) in writing that the competent authority submit a statement to the Minister under *subsection (7)* of *section 219* or *subsection (7)* of *section 221*, in relation to the development, proposed development or alteration or extension concerned.

(4) A request under *subsection (3)* shall contain an explanation of—

(a) the reasons why the applicant for permission believes that—

(i) there are no alternative solutions to the relevant development, and

(ii) there are imperative reasons of overriding public interest (within the meaning of *section 219* or *221*) for—

(I) the carrying out of the relevant development, or

(II) in the case of development in respect of which an application for retrospective consent is made under *Chapter 4* of *Part 4*, for the retention of the development,

(b) the compensatory measures that the applicant for permission will take for the purpose of ensuring that the overall coherence of the Natura 2000 network is protected.

(5) A request under *subsection (3)* (including the explanation that it contains in accordance with *subsection (4)*) and any submissions made in respect of that request pursuant to an invitation under *subsection (3)* of *section 216*, shall not be considered by the competent authority unless and until it has made a determination under

paragraph (a) of *subsection (7)* of *section 217* that a reasonable scientific doubt exists as to the absence of adverse effects of the relevant development on the integrity of a European site.

Consultation on Natura impact statement

216. (1) Where a Natura impact statement has been received by the competent authority, it shall—

(a) publish the Natura impact statement and the application for permission concerned on an internet website maintained by it or on its behalf,

(b) publish any request referred to in *subsection (3)* of *section 215* and the explanation in accordance with *subsection (4)* of that section on such internet website,

(c) make the Natura impact statement available for inspection (free of charge) at its offices by members of the public during normal office hours, and

(d) publish a notice on that website—

(i) specifying the times and places at which, and the period during which, a copy of that Natura impact statement and any request and explanation referred to in *paragraph (b)* may be inspected,

(ii) inviting submissions by members of the public with respect to the implications of the relevant development for any European site having regard to the conservation objectives relating to that site, and

(iii) specifying the period during which, and the manner in which, such submissions may be made.

(2) The competent authority shall—

(a) send a copy of the application for permission for the relevant development and the Natura impact statement to—

(i) such persons as are required to be consulted under *Part 4* in relation to the application for permission, and

(ii) such other person or persons (if any) as may be prescribed,

and

(b) invite each such person to make, during the period referred to in *subparagraph (iii)* of *paragraph (d)* of *subsection (1)*, submissions with respect to the implications of the relevant development for a European site having regard to the conservation objectives relating to that site.

(3) Where a Natura impact statement includes a request referred to in *subsection (3)* of *section 215* containing an explanation in accordance with *subsection (4)* of that section—

(a) the notice published under *paragraph (d)* of *subsection (1)* shall include—

(i) a statement to that effect,

(ii) an invitation to members of the public—

(I) to make submissions to the competent authority in relation to that explanation, and

(II) specifying the period during which, and the manner in which, such submissions may be made,

and

(iii) a statement to the effect that the request (including the explanation that it contains in accordance with the said *subsection (4)*) and any submissions made pursuant to an invitation under *subparagraph (ii)* shall not be considered by the competent authority unless and until it has made a determination under *paragraph (a)* of *subsection (7)* of *section 217* that a reasonable scientific doubt exists as to the absence of adverse effects of the relevant development on the integrity of a European site,

and

(b) the competent authority shall—

(i) send a copy of that notice to such persons (if any) as may be prescribed for the purposes of this paragraph, and

(ii) invite each such person to make submissions to the competent authority in relation to that explanation within the period and in the manner specified under *clause (II)* of *subparagraph (ii)* of *paragraph (a)*.

(4) (a) Where a competent authority is required by this Part to give notice to any person of, or in relation to, any matter, neither this Part nor *Part 4* shall be construed as preventing the competent authority from using that notice to comply with a requirement under *Part 4* to give notice to that person of, or in relation to, any other matter.

(b) Where a competent authority is required by this Part to publish any information or material, neither this Part nor *Part 4* shall be construed as preventing the competent authority from publishing, with that information or material, any information or material that the competent authority is required to publish under *Part 4*.

Appropriate assessment of relevant development

217. (1) Prior to deciding whether or not to grant permission, the competent authority shall carry out an appropriate assessment of a relevant development to which a determination under *subsection (5)* or *(7)* of *section 212* applies.

(2) For the purpose of carrying out an appropriate assessment under this section, the competent authority may—

(a) request such information (including a revised Natura impact statement) or such further information or clarification from the applicant for permission as it considers necessary to enable it to carry out that assessment, or

(b) consult with such persons as the competent authority considers appropriate,

and the competent authority may make more than one request under *paragraph (a)*.

(3) Where the applicant for permission does not provide the competent authority with the information requested under *paragraph (a)* of *subsection (2)* within—

(a) such period as is specified in the request under that paragraph, or

(b) any further period (commencing on the expiration of the first-mentioned period) to which the competent authority may, at the request of the applicant, agree,

the application for permission shall be deemed to have been withdrawn.

(4) The competent authority shall take into account each of the following when carrying out an appropriate assessment under this section:

(a) the Natura impact statement (but not any request or explanation referred to in *subsection (3)* or *(4)* of *section 215*);

(b) any information obtained by the competent authority pursuant to a request under *paragraph (a)* of *subsection (2)*;

(c) the results of any consultation carried out by the competent authority in accordance with *paragraph (b)* of *subsection (2)*;

(d) any written submissions made to the competent authority pursuant to an invitation under *subsection (1)* or *(2)* of *section 216*;

(e) any other information that the competent authority considers relevant.

(5) When carrying out an appropriate assessment, the competent authority shall, based on the best scientific knowledge and having regard to the conservation objectives relating to the European site concerned—

(a) identify all likely significant effects of the relevant development on the site,

(b) assess the extent of those effects and their implications for the site,

(c) where relevant, consider the likely effectiveness of any measures—

(i) proposed by the applicant for permission, or

(ii) that the competent authority considers it appropriate to require the applicant to take in accordance with a condition attached to any subsequent grant of permission,

to avoid or reduce potential effects to the site, and

(d) having regard to—

(i) the matters identified and assessments made in accordance with *paragraphs (a)* and *(b)*, and

(ii) the effectiveness of any measures referred to in *paragraph (c)*,

make a determination as to whether or not any reasonable scientific doubt exists as to the absence of adverse effects on the integrity of any European site.

(6) (a) Where, on the basis of an appropriate assessment under this section, the competent authority concludes that no reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site it shall make a determination to that effect.

(b) Where a competent authority makes a determination under *paragraph (a)*, it may grant permission for the relevant development concerned in accordance with *Part 4*.

(c) Where a determination under *paragraph (a)* is based wholly or partly on the implementation of measures referred to in *paragraph (c)* of *subsection (5)*, the competent authority shall attach a condition to the grant of permission concerned requiring that those measures be implemented.

(7) (a) Where, on the basis of an appropriate assessment under this section, the competent authority concludes that a reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site it shall make a determination to that effect.

(b) Where a competent authority makes a determination under *paragraph (a)*, it shall, subject to *sections 219* and *221*, refuse to grant permission under *Part 4* for the relevant development concerned.

(8) The competent authority shall, as soon as may be after making a decision under *Part 4* in relation to an application for permission—

(a) give notice of a determination under this section (including the reasons for the determination) to—

(i) the applicant for permission,

(ii) any person who made submissions to the competent authority in relation to the application for permission concerned, and

(iii) where applicable, any party to an appeal of a decision in relation to an application for such permission,

(b) make a determination under this section (including the reasons for the determination) available for inspection (free of charge) by members of the public at its offices during normal office hours, and

(c) publish a determination under this section (including the reasons for the determination) on an internet website maintained by it or on its behalf.

Additional provisions applicable to application in connection with development already carried out

218. (1) In carrying out a screening for appropriate assessment under *section 212* in relation to development, a competent authority shall take account of any significant effects on a European site that—

(a) have occurred,

(b) are occurring, or

(c) can reasonably be expected to occur,

by reason of the development's having already been carried out.

(2) A Natura impact statement prepared in accordance with *section 215* in relation to an application for retrospective consent shall include—

(a) a statement of the significant effects (if any) on a European site that—

(i) have occurred,

(ii) are occurring, or

(iii) can reasonably be expected to occur,

by reason of the development's having already been carried out,

(b) details of—

(i) any measures already undertaken to remedy or mitigate any significant effects on the European site concerned that have already occurred by reason of the development's having already been carried out, and

(ii) any observed effects that those measures have had by the date of the preparation of the statement,

(c) details of any measures proposed to be undertaken by the applicant for retrospective consent to remedy or mitigate any significant effects on the European site concerned that—

(i) have already occurred by reason of the development's having already been carried out, or

(ii) can reasonably be expected to occur by reason of the development's having already been carried out,

and

(d) such other information as may be prescribed.

(3) In carrying out an appropriate assessment under *section 217* in relation to an application for retrospective consent, a competent authority shall—

(a) identify any significant effects on a European site that—

(i) have occurred,

(ii) are occurring, or

(iii) can reasonably be expected to occur,

by reason of the development's having already been carried out,

(b) assess the extent of the effects identified under *paragraph (a)* and their implications for the site, having regard to the site's conservation objectives,

(c) consider—

(i) any measures already undertaken to remedy or mitigate any significant effects on the European site concerned that have already occurred by reason of the development's having already been carried out, and

(ii) any observed effects that those measures have had by the date of the carrying out of the appropriate assessment,

(d) consider any measures that the applicant for retrospective consent proposes to take, or any condition that the competent authority would propose to attach to any grant of retrospective consent, for the purpose of avoiding or reducing potential harmful effects on the site that—

(i) have occurred,

(ii) are occurring, or

(iii) can reasonably be expected to occur,

by reason of the development's having already been carried out, and

(e) having performed the functions under the foregoing paragraphs of this subsection, make a determination as to whether or not any reasonable scientific doubt exists as to the absence of adverse effects on the integrity of any European site.

Imperative reasons of overriding public interest (no priority habitat or priority species)

219. (1) In this section "development concerned" means a relevant development in respect of which the competent authority has made a determination under *paragraph (a)* of *subsection (7)* of *section 217* relating to a European site or European sites that does not, or do not, host a priority habitat or priority species.

(2) (a) Where, in relation to a development concerned, the competent authority has received a request referred to in *subsection (3)* of *section 215*, it shall consider that request and the explanation referred to in *subsection (4)* of that section, but only after it has made a determination under *paragraph (a)* of *subsection (7)* of *section 217* that a reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site.

(b) The competent authority shall, after having considered the request and explanation referred to in *paragraph (a)*, come to a conclusion in relation to the development concerned as to whether or not—

(i) there is an absence of alternative solutions to the carrying out of the development concerned,

(ii) imperative reasons (which may include reasons of a social or economic nature) of overriding public interest exist for the carrying out of the development concerned, and

(iii) the compensatory measures proposed by the applicant for permission are adequate to ensure that the overall coherence of the Natura 2000 network is protected.

(c) The competent authority shall, for the purpose of reaching a conclusion under *paragraph (b)*, have regard to—

(i) the Natura impact statement,

(ii) the explanation referred to in *paragraph (a)*, and

(iii) where applicable, any submission received—

(I) pursuant to an invitation under *paragraph (a)* of *subsection (3)*,

(II) pursuant to an invitation under *subsection (3)* of *section 216*, or

(III) consequent upon the taking of measures prescribed under *subsection (4)* of *section 220* by the competent authority,

in relation to the matters referred to in *subparagraphs (i)*, *(ii)* and *(iii)* of *paragraph (b)*.

(3) (a) A competent authority may—

(i) at any time after having made a determination under *paragraph (a)* of *subsection (7)* of *section 217* in respect of a development concerned to which a request referred to in *subsection (3)* of *section 215* relates, and

(ii) for the purpose of reaching a conclusion under *paragraph (b)* of *subsection (2)*,

invite any person to make submissions to it in relation to the matters referred to in *subparagraphs (i)*, *(ii)* and *(iii)* of the said *paragraph (b).*

(b) An invitation under *paragraph (a)* shall specify the period during which, and the manner in which, submissions may be made pursuant to that invitation.

(4) Where a development concerned or any part thereof consists of—

(a) the construction or operation of plants producing energy from renewable sources,

(b) the storage of energy produced by such plants, or

(c) the connection of such plants to electricity, gas or heat grids,

imperative reasons of overriding public interest shall, in accordance with Article 16f of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018[17] on the promotion of the use of energy from renewable sources laying down a framework to accelerate the deployment of renewable energy, be

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deemed to exist in relation to that development concerned or that part, as the case may be.

(5) (a) Where the competent authority concludes that—

(i) there is an absence of alternative solutions to the carrying out of the development concerned, and

(ii) imperative reasons of overriding public interest (which may include reasons of a social or economic nature) exist for the carrying out of the development concerned,

but is not satisfied that the compensatory measures proposed by the applicant for permission are adequate to ensure that the overall coherence of the Natura 2000 network is protected, it may consult with the applicant for permission for the purpose of ascertaining the feasibility and adequacy of alternative compensatory measures.

(b) Where, following a consultation under *paragraph (a)*, the applicant for permission proposes alternative compensatory measures (in this section referred to as the "revised proposal") that the competent authority is satisfied are adequate to ensure that the overall coherence of the Natura 2000 network is protected, the competent authority shall—

(i) publish the revised proposal on an internet website maintained by or on behalf of the competent authority,

(ii) publish a notice on that internet website—

(I) inviting members of the public to make submissions to the competent authority in relation to the revised proposal, and

(II) specifying the period during which, and the manner in which, such submissions may be made,

and

(iii) send a copy of the revised proposal to such persons (if any) as may be prescribed, and invite each such person to make submissions to the competent authority in relation to the revised proposal.

(c) The competent authority shall consider—

(i) the revised proposal,

(ii) any submissions received by the competent authority pursuant to a notice under *subparagraph (ii)* of *paragraph (b)*, and

(iii) any submissions received by the competent authority pursuant to an invitation under *subparagraph (iii)* of *paragraph (b)*.

(6) (a) Subject to *paragraph (a)* of *subsection (5)*, where, in relation to a development concerned, a competent authority concludes under *paragraph (b)* of *subsection (2)* that—

(i) there are alternative solutions to the carrying out of the development concerned,

(ii) imperative reasons (which may include reasons of a social or economic nature) of overriding public interest do not exist for the carrying out of the development concerned, or

(iii) the compensatory measures proposed by the applicant for permission are not adequate to ensure that the overall coherence of the Natura 2000 network is protected,

it shall refuse to grant permission for the development concerned under *Part 4*.

(b) Where, after having considered a revised proposal under *paragraph (c)* of *subsection (5)*, a competent authority is still not satisfied that the compensatory measures proposed by the applicant for permission are adequate to ensure that the overall coherence of the Natura 2000 network is protected, it shall refuse to grant permission for the development concerned under *Part 4*.

(c) Where *paragraph (a)* or *(b)* applies in relation to a development concerned, the competent authority shall, forthwith, inform the applicant for permission for the development concerned of its conclusion and the reasons therefor.

(7) Where, in relation to a development concerned, the competent authority comes to a conclusion under *paragraph (b)* of *subsection (2)* that—

(a) there is an absence of alternative solutions to the carrying out of the development concerned,

(b) imperative reasons (which may include reasons of a social or economic nature) of overriding public interest exist for the carrying out of the development concerned, and

(c) the compensatory measures proposed by the applicant for permission are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

or where the competent authority comes to that conclusion after consideration of a revised proposal under *subsection (5)*, it shall prepare, and submit to the Minister, a statement in relation to the development concerned specifying—

(i) the considerations that caused the competent authority to conclude that a reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site under *paragraph (a)* of *subsection (7)* of *section 217*,

(ii) the reasons for which the competent authority has concluded that there are no alternative solutions to the carrying out of the development concerned,

(iii) the imperative reasons of overriding public interest that the competent authority has concluded exist for the carrying out of the development concerned,

(iv) the proposed compensatory measures that the competent authority is satisfied are adequate to ensure that the overall coherence of the Natura 2000 network is protected, and

(v) such other information (if any) as the competent authority considers to be of relevance.

(8) (a) A statement submitted to the Minister in accordance with *subsection (7)* shall be accompanied by—

(i) a copy of the application for permission for the development concerned,

(ii) the Natura impact statement in respect of the development concerned,

(iii) the explanation referred to in *subsection (4)* of *section 215*, and

(iv) any submissions received by the competent authority in accordance with this section or *section 216* in relation to the development concerned.

(b) A statement submitted to the Minister in accordance with *subsection (7)* shall, as soon as may be after its submission to the Minister in accordance with that subsection, be published by the competent authority on an internet website maintained by or on its behalf.

(9) For the purpose of the performance by the Minister of functions under *subsection (10)* or *(11)* or in relation to a request under *subsection (12)*, the Minister—

(a) may consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister of the Government, or

(b) shall consult with the competent authority, which may, with the consent of the applicant for permission, submit—

(i) a proposed revised or modified development concerned, or

(ii) proposed revised or modified compensatory measures.

(10) Where the Minister is satisfied that, in relation to a development concerned to which a statement submitted to him or her in accordance with *subsection (7)* applies, the compensatory measures proposed are adequate to ensure that the overall coherence of the Natura 2000 network is protected, he or she shall, forthwith, issue a notice to that effect to the competent authority and the competent authority may, upon receipt of that notice and subject to *Part 4* and *subsection (14)*, grant permission under *Part 4* for the development concerned.

(11) Where the Minister is not satisfied that, in relation to a development concerned to which a statement submitted to him or her in accordance with *subsection (7)* applies, the compensatory measures proposed are adequate to ensure that the overall coherence of the Natura 2000 network is protected, he or she shall forthwith issue a notice to that effect to the competent authority and the competent authority shall not grant permission under *Part 4* for the development concerned.

(12) (a) Notwithstanding the other provisions of this section, where—

(i) the competent authority is a planning authority, and

(ii) in the opinion of the competent authority, the question of whether imperative reasons of overriding public interest (which may include reasons of a social

or economic nature) exist requires the consideration of matters that fall outside considerations relating to the proper planning and sustainable development of the functional area of the planning authority,

the competent authority may, when submitting a statement to the Minister in accordance with *subsection (7)*, request the Minister to decide whether imperative reasons of overriding public interest (which may include reasons of a social or economic nature) exist for the carrying out of the development concerned.

(b) Where the Minister receives a request under *paragraph (a)*, he or she shall include in any notice issued to the competent authority under *subsection (10)* or *(11)* his or her decision in relation to the question of whether or not imperative reasons of overriding public interest (which may include reasons of a social or economic nature) exist for the carrying out of the development concerned.

(c) Where a notice under *subsection (10)* includes the decision of the Minister in accordance with *paragraph (a)* that imperative reasons of overriding public interest (which may include reasons of a social or economic nature) do not exist for the carrying out of the development concerned, the competent authority shall not grant permission under *Part 4* for the development concerned.

(13) The competent authority shall, when publishing its decision in relation to the application for permission for the development concerned—

(a) publish a copy of the notice under *subsection (10)* or *(11)* on an internet website maintained by or on behalf of the competent authority, and

(b) notify, in writing—

(i) the applicant for permission,

(ii) any person who appealed a decision in relation to the application for permission for the development concerned under *section 103*,

(iii) any person who made a submission in accordance with *Part 4* in relation to the application for permission,

(iv) any person who made a submission pursuant to an invitation under *section 216* or in the course of a consultation under *subsection (2)* of *section 217* in relation to the development concerned, and

(v) any person who made a submission pursuant to an invitation under *paragraph (a)* of *subsection (3)* or *subparagraph (ii)* or *(iii)* of *paragraph (b)* of *subsection (5)*,

of the contents of the notice under *subsection (10)* or *(11)*.

(14) (a) Where the competent authority receives a notice under *subsection (10)* in respect of a development concerned, the implementation of the proposed compensatory measures that the Minister is satisfied are adequate to ensure that the overall coherence of the Natura 2000 network is protected shall be a condition of any permission for the development concerned.

(b) The competent authority may attach to a grant of permission for a development concerned a condition requiring the person—

(i) who will carry out, is carrying out or has carried out the development concerned, or

(ii) on whose behalf the development will be, is being or has been carried out,

to make one, or more than one, financial contribution for the purpose of securing the implementation of any compensatory measures that the competent authority, planning authority (where the Commission is the competent authority) or Minister may have to carry out.

(15) (a) The competent authority shall inform the European Commission of the compensatory measures required to be implemented under, or in connection with, a grant of permission for a development concerned intended to ensure that the overall coherence of the Natura 2000 network is protected.

(b) The competent authority shall send a copy of any communication with the European Commission under or in connection with *paragraph (a)* to the Minister.

Invitation to applicant for permission to make request under *subsection (3)* of *section 215* (no priority habitat or priority species)

220. (1) Where a Natura impact statement is not accompanied by a request referred to in *subsection (3)* of *section 215* and the competent authority considers that a reasonable case may be made that—

(a) there is an absence of alternative solutions to the carrying out of the relevant development concerned,

(b) imperative reasons (which may include reasons of a social or economic nature) of overriding public interest exist for the carrying out of the relevant development concerned, and

(c) the compensatory measures proposed by the applicant for permission are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

the competent authority may, having made a determination under *paragraph (a)* of *subsection (7)* of *section 217* and before making a decision on the application for permission, invite the applicant for permission to submit to the competent authority, within such period as the competent authority may specify, a request referred to in *subsection (3)* of *section 215* that complies with *subsection (4)* of *section 215*.

(2) Where the applicant for permission, on receipt of an invitation under *subsection (1)*, does not submit to the competent authority a request referred to in *subsection (3)* of *section 215* or fails to comply with *subsection (4)* of that section in relation to any such request—

(a) within such period as may be specified in the invitation, or

(b) within such further period as the competent authority may subsequently agree to, at the request of the applicant for permission,

the competent authority shall as soon as may be after the expiration of the said period or further period, as the case may be, refuse to grant permission under *Part 4* for the relevant development concerned.

(3) Where, pursuant to an invitation under *subsection (1)*, the applicant for permission submits a request referred to in *subsection (3)* of *section 215* to the competent authority that complies with *subsection (4)* of that section—

(a) within such period as may be specified in the invitation, or

(b) within such further period as the competent authority may subsequently agree to, at the request of the applicant for permission,

the competent authority shall take such measures as are prescribed under *subsection (4)*.

(4) The Minister may, for the purpose of ensuring—

(a) that members of the public (including persons who have made submissions in relation to the application for permission concerned), and

(b) such persons as may be prescribed,

are given an opportunity to make submissions in relation to an explanation contained in a request referred to in *subsection (3)* of *section 215* submitted to the competent authority pursuant to an invitation under this section, prescribe the measures that shall be taken by the competent authority under *subsection (3)*.

(5) *Section 219* shall apply to a request made, in accordance with this section and in relation to which there has been compliance by the competent authority with *subsection (3)*, subject to any necessary modifications.

Imperative reasons of overriding public interest (priority habitat or priority species)

221. (1) In this section—

"development concerned" means a relevant development in respect of which the competent authority has made a determination under *paragraph (a)* of *subsection (7)* of *section 217* relating to a European site that hosts a priority habitat or priority species;

"imperative reasons of overriding public interest" means—

(a) reasons relating to human health or public safety,

(b) reasons that the development will have beneficial consequences of primary importance to the environment, or

(c) reasons that, in the opinion (given upon a request under *subsection (11)*) of the European Commission, constitute other imperative reasons of overriding public interest within the meaning of paragraph 4 of Article 6 of the Habitats Directive.

(2) (a) Where, in relation to a development concerned, the competent authority has received a request referred to in *subsection (3)* of *section 215*, it shall consider that request and the explanation referred to in *subsection (4)* of that section, but only after it has made a determination under *paragraph (a)* of *subsection (7)* of *section 217* that a reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site.

(b) The competent authority shall, after having considered the request and explanation referred to in *paragraph (a)*, come to a conclusion in relation to the development concerned as to whether or not—

(i) there is an absence of alternative solutions to the carrying out of the development concerned,

(ii) imperative reasons of overriding public interest exist or, subject to the opinion of the Commission, may exist for the carrying out of the development concerned, and

(iii) the compensatory measures proposed by the applicant for permission are adequate to ensure that the overall coherence of the Natura 2000 network is protected.

(c) The competent authority shall, for the purpose of reaching a conclusion under *paragraph (b)*, have regard to—

(i) the Natura impact statement,

(ii) the explanation referred to in *paragraph (a)*, and

(iii) where applicable, any submission received—

(I) pursuant to an invitation under *paragraph (a)* of *subsection (3)*,

(II) pursuant to an invitation under *subsection (3)* of *section 216*, or

(III) consequent upon the taking of measures prescribed under *subsection (4)* of *section 222* by the competent authority,

in relation to the matters referred to in *subparagraphs (i)*, *(ii)* and *(iii)* of *paragraph (b)*.

(3) (a) A competent authority may—

(i) at any time after having made a determination under *paragraph (a)* of *subsection (7)* of *section 217* in respect of a development concerned to which a request referred to in *subsection (3)* of *section 215* relates, and

(ii) for the purposes of reaching a conclusion under *paragraph (b)* of *subsection (2)*,

invite any person to make submissions to it in relation to the matters referred to in *subparagraphs (i)*, *(ii)* and *(iii)* of the said *paragraph (b).*

(b) An invitation under *paragraph (a)* shall specify the period during which, and the manner in which, submissions may be made pursuant to that invitation.

(4) Where a development concerned or any part thereof consists of—

(a) the construction or operation of plants producing energy from renewable sources,

(b) the storage of energy produced by such plants, or

(c) the connection of such plants to electricity, gas or heat grids,

imperative reasons of overriding public interest shall, in accordance with Article 16f of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018[18] on the promotion of the use of energy from renewable sources laying down a framework to accelerate the deployment of renewable energy, be deemed to exist in relation to that development concerned or that part, as the case may be.

(5) (a) Where the competent authority concludes that—

(i) there is an absence of alternative solutions to the carrying out of the development concerned, and

(ii) imperative reasons of overriding public interest for the carrying out of a development concerned exist or, subject to the opinion of the Commission, may exist,

but is not satisfied that the compensatory measures proposed by the applicant for permission are adequate to ensure that the overall coherence of the Natura 2000 network is protected, it may consult with the applicant for permission for the purpose of ascertaining the feasibility and adequacy of alternative compensatory measures.

(b) Where, following a consultation under *paragraph (a)*, the applicant for permission proposes alternative compensatory measures (in this section referred to as the "revised proposal") that the competent authority is satisfied are adequate to ensure that the overall coherence of the Natura 2000 network is protected, the competent authority shall—

(i) publish the revised proposal on an internet website maintained by or on behalf of the competent authority,

(ii) publish a notice on that internet website—

(I) inviting members of the public to make submissions to the competent authority in relation to the revised proposal, and

(II) specifying the period during which, and the manner in which, such submissions may be made,

and

(iii) send a copy of the revised proposal to such persons (if any) as may be prescribed, and invite each such person to make submissions to the competent authority in relation to the revised proposal.

(c) The competent authority shall consider—

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(i) the revised proposal,

(ii) any submissions received by the competent authority pursuant to a notice under *subparagraph (ii)* of *paragraph (b)*, and

(iii) any submissions received by the competent authority pursuant to an invitation under *subparagraph (iii)* of *paragraph (b)*.

(6) (a) Subject to *paragraph (a)* of *subsection (5)*, where, in relation to a development concerned, a competent authority concludes under *paragraph (b)* of *subsection (2)* that—

(i) there are alternative solutions to the carrying out of the development concerned,

(ii) imperative reasons of overriding public interest do not exist for the carrying out of the development concerned, or

(iii) the compensatory measures proposed by the applicant for permission are not adequate to ensure that the overall coherence of the Natura 2000 network is protected,

it shall refuse to grant permission for the development concerned under *Part 4*.

(b) Where, after having considered a revised proposal under *paragraph (c)* of *subsection (5)*, a competent authority is still not satisfied that the compensatory measures proposed by the applicant for permission are adequate to ensure that the overall coherence of the Natura 2000 network is protected, it shall refuse to grant permission for the development concerned under *Part 4*.

(c) Where *paragraph (a)* or *(b)* applies in relation to a development concerned, the competent authority shall, forthwith, inform the applicant for permission for the development concerned of its conclusion and the reasons therefor.

(7) Where, in relation to a development concerned, the competent authority comes to a conclusion under *paragraph (b)* of *subsection (2)* that—

(a) there is an absence of alternative solutions to the carrying out of the development concerned,

(b) imperative reasons of overriding public interest exist for the carrying out of the development concerned, and

(c) the compensatory measures proposed by the applicant for permission are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

or where the competent authority comes to that conclusion after consideration of a revised proposal under *paragraph (c)* of *subsection (5)*, it shall prepare, and submit to the Minister, a statement in relation to the development concerned—

(i) specifying the considerations that caused the competent authority to conclude that a reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site under *paragraph (a)* of *subsection (7)* of *section 217*,

(ii) specifying the reasons for which the competent authority has concluded that there are no alternative solutions to the carrying out of the development concerned,

(iii) specifying the imperative reasons of overriding public interest that the competent authority has concluded exist or, subject to the opinion of the Commission, may exist for the carrying out of the development concerned,

(iv) in circumstances where the competent authority has concluded that other imperative reasons of overriding public interest within the meaning of paragraph 4 of Article 6 of the Habitats Directive may exist for the carrying out of the development concerned—

(I) specifying the reasons for its having so concluded, and

(II) requesting the Minister to make a request under *subsection (11)* in relation to the development concerned,

(v) specifying the proposed compensatory measures that the competent authority is satisfied are adequate to ensure that the overall coherence of the Natura 2000 network is protected, and

(vi) providing such other information (if any) as the competent authority considers to be of relevance.

(8) (a) A statement submitted to the Minister in accordance with *subsection (7)* shall be accompanied by—

(i) a copy of the application for permission for the development concerned,

(ii) the Natura impact statement in respect of the development concerned,

(iii) the explanation referred to in *subsection (4)* of *section 215*, and

(iv) any submissions received by the competent authority in accordance with this section or *section 216* in relation to the development concerned.

(b) A statement submitted to the Minister in accordance with *subsection (7)* shall, as soon as may be after its submission to the Minister in accordance with that subsection, be published by the competent authority on an internet website maintained by or on its behalf.

(9) The Minister shall, as soon as may be after having received a statement under *subsection (8)*, perform the functions conferred on him or her by *subsection (11)*, *(12)*, *(13)*, *(14)* or *(15)*.

(10) The Minister may, for the purpose of performing his or her functions under *subsection (11)*, *(12)*, *(13)*, *(14)* or *(15)* consult with—

(a) such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister of the Government, or

(b) the competent authority, which may, with the consent of the applicant for permission, submit—

(i) a proposed revised or modified development concerned, or

(ii) proposed revised or modified compensatory measures.

(11) The Minister may—

(a) upon receipt of a statement under *subsection (7)* containing a request from the competent authority under *subparagraph (iv)* of that section, and

(b) if satisfied that the compensatory measures proposed are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

request the European Commission to provide him or her with its opinion as to whether or not other imperative reasons of overriding public interest within the meaning of paragraph (4) of Article 6 of the Habitats Directive exist in relation to the development concerned.

(12) Where, in relation to a development concerned to which a statement submitted to him or her in accordance with *subsection (7)* applies, the Minister—

(a) is satisfied that imperative reasons of overriding public interest consisting of—

(i) reasons relating to human health or public safety, or

(ii) reasons that the development will have beneficial consequences of primary importance to the environment,

exist, and

(b) is satisfied that the compensatory measures proposed are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

he or she shall, forthwith, issue a notice to that effect to the competent authority, and the competent authority may, upon receipt of that notice and subject to *Part 4* and *subsection (17)*, grant permission for the development concerned.

(13) Where, in relation to a development concerned to which a statement submitted to him or her in accordance with *subsection (7)* applies, the Minister—

(a) is not satisfied that imperative reasons of overriding public interest consisting of—

(i) reasons relating to human health or public safety, or

(ii) reasons that the development will have beneficial consequences of primary importance to the environment,

exist, or

(b) is not satisfied that the compensatory measures proposed are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

then, subject to *subsection (14)*, he or she shall, forthwith, issue a notice to that effect to the competent authority, and the competent authority shall not grant permission for the development concerned.

(14) Where, in relation to a development concerned to which a statement submitted to him or her in accordance with *subsection (7)* applies—

(a) the Minister receives an opinion from the European Commission (pursuant to a request under *subsection (11)*) that states that, in relation to the development concerned, it is satisfied that imperative reasons of overriding public interest within the meaning of paragraph 4 of Article 6 of the Habitats Directive exist, and

(b) the Minister is satisfied that the compensatory measures proposed are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

he or she shall, forthwith, issue a notice to that effect to the competent authority, and the competent authority may, upon receipt of that notice and subject to *Part 4* and *subsection (17)*, grant permission for the development concerned.

(15) Where, in relation to a development concerned to which a statement submitted to him or her in accordance with *subsection (7)* applies—

(a) the Minister receives an opinion from the European Commission (pursuant to a request under *subsection (11)*) that states that, in relation to the development concerned, it is not satisfied that imperative reasons of overriding public interest within the meaning of paragraph 4 of Article 6 of the Habitats Directive exist, or

(b) the Minister is not satisfied that the compensatory measures proposed are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

he or she shall, forthwith, issue a notice to that effect to the competent authority, and the competent authority shall not grant permission for the development concerned.

(16) The competent authority shall, when publishing its decision in relation to the application for permission for the development concerned—

(a) publish a copy of the notice under *subsection (12)*, *(13)*, *(14)* or *(15)* on an internet website maintained by or on behalf of the competent authority,

(b) publish a copy of the opinion of the European Commission received by the Minister pursuant to any request under *subsection (11)*, and

(c) notify, in writing—

(i) the applicant for permission,

(ii) any person who appealed a decision in relation to the application for permission for the development concerned under *section 103*,

(iii) any person who made a submission in accordance with *Part 4* in relation to the application for permission,

(iv) any person who made a submission pursuant to an invitation under *section 216* or *subsection (2)* of *section 217* in relation to the development concerned, and

(v) any person who made a submission pursuant to an invitation under *paragraph (a)* of *subsection (3)* or *subparagraph (ii)* or *(iii)* of *paragraph (b)* of *subsection (5)*,

of the contents of the notice under *subsection (12)*, *(13)*, *(14)* or *(15)*.

(17) (a) Where the competent authority receives a notice under *subsection (12)* or *(14)* in respect of a development concerned, the implementation of the proposed compensatory measures that the Minister is satisfied are adequate to ensure that the overall coherence of the Natura 2000 network is protected shall be a condition of any permission for the development concerned.

(b) The competent authority may attach to a grant of permission for a development concerned a condition requiring the person—

(i) who will carry out, is carrying out or has carried out the development concerned, or

(ii) on whose behalf the development concerned will be, is being or has been carried out,

to make one, or more than one, financial contribution for the purpose of securing the implementation of any compensatory measures that the competent authority, planning authority (where the Commission is the competent authority) or Minister may have to carry out.

(18) (a) The competent authority shall inform the European Commission of the compensatory measures required to be implemented under, or in connection with, a grant of permission for a development concerned aimed at ensuring that the overall coherence of the Natura 2000 network is protected.

(b) The competent authority shall send a copy of any communication with the European Commission under or in connection with *paragraph (a)* to the Minister.

Invitation to applicant for permission to make request under *subsection (3)* of *section 215* (priority habitat or priority species)

222. (1) Where a Natura impact statement is not accompanied by a request referred to in *subsection (3)* of *section 215* and the competent authority considers that a reasonable case may be made that—

(a) there is an absence of alternative solutions to the carrying out of the relevant development concerned,

(b) imperative reasons of overriding public interest exist for the carrying out of the relevant development concerned, and

(c) the compensatory measures proposed by the applicant for permission are adequate to ensure that the overall coherence of the Natura 2000 network is protected,

the competent authority may, having made a determination under *paragraph (a)* of *subsection (7)* of *section 217* and before making a decision on the application for permission, invite the applicant for permission to submit to the competent authority, within such period as the competent authority may specify, a request referred to in *subsection (3)* of *section 215* that complies with *subsection (4)* of *section 215.*

(2) Where the applicant for permission, on receipt of an invitation under *subsection (1)*, does not submit to the competent authority a request referred to in *subsection (3)* of *section 215* or fails to comply with *subsection (4)* of that section in relation to any such request—

(a) within such period as may be specified in the invitation, or

(b) within such further period as the competent authority may subsequently agree to, at the request of the applicant for permission,

the competent authority shall as soon as may be after the expiration of the said period or further period, as the case may be, refuse to grant permission under *Part 4* for the relevant development concerned.

(3) Where, pursuant to an invitation under *subsection (1)*, the applicant for permission submits a request referred to in *subsection (3)* of *section 215* to the competent authority that complies with *subsection (4)* of that section—

(a) within such period as may be specified in the invitation, or

(b) within such further period as the competent authority may subsequently agree to, at the request of the applicant for permission,

the competent authority shall take such measures as are prescribed under *subsection (4)*.

(4) The Minister may, for the purpose of ensuring—

(a) that members of the public (including persons who have made submissions in relation to the application for permission concerned), and

(b) such persons as may be prescribed,

are given an opportunity to make submissions in relation to an explanation contained in a request referred to in *subsection (3)* of *section 215* submitted to the competent authority pursuant to an invitation under this section, prescribe the measures that shall be taken by the competent authority under *subsection (3)*.

(5) *Section 221* shall apply to a request made, in accordance with this section and in relation to which there has been compliance by the competent authority with *subsection (3)*, subject to any necessary modifications.

Chapter 4

Environmental Assessment of Development

Interpretation

223. (1) In this Chapter—

"competent authority" means—

(a) in relation to relevant development for which permission is required under *Chapter 3* of *Part 4*, the planning authority to which an application for such permission is required to be made,

(b) in relation to relevant development in respect of which a decision—

(i) under *section 98* has been made, and

(ii) that is appealed or appealable under *Chapter 3* of *Part 4*,

the Commission,

(c) in relation to proposed development for which permission is required under *Chapter 4* of *Part 4*, the Commission,

(d) in relation to development for which retrospective consent is required under *Chapter 4* of *Part 4*, the Commission,

(e) in relation to a request for an alteration of the terms or extension of the duration of a permission under *subsection (1)* of *section 140*, the deciding authority to which the request under *section 140* is made or, where a decision under *section 143* in respect of the request is appealed under *subsection (8)* of *section 143*, the Commission,

(f) for the purpose of carrying out a screening for environmental impact assessment of a relevant development (other than an alteration, or extension of duration, of permission requested under *subsection (1)* of *section 140*) consisting of local authority development, the local authority concerned,

(g) for the purpose of carrying out a screening for environmental impact assessment of a relevant development (other than an alteration, or extension of duration, of permission requested under *subsection (1)* of *section 140*) consisting of State authority development, the State authority concerned,

(h) in relation to relevant development (other than development in respect of which an application for retrospective consent has been made) in respect of which a request under *section 10* is made, the planning authority to which the request is made, and

(i) in relation to relevant development (other than development in respect of which an application for retrospective consent has been made) in respect of which an appeal under *section 10* is brought, the Commission;

"screening determination" means a determination made in accordance with *section 229*, *230* or *232* as to whether a relevant development is required to be the subject of an environmental impact assessment;

"screening for environmental impact assessment" means an assessment carried out in accordance with *section 229*, *230*, *231* or *232.*

(2) A word or expression that is used in this Chapter and in the Environmental Impact Assessment Directive has the meaning in this Chapter that it has in that directive.

(3) This Chapter shall be construed in accordance with the Environmental Impact Assessment Directive.

Purpose of Chapter

224. The purpose of this Chapter is to give effect to the State's obligations under the Environmental Impact Assessment Directive.

Obligation to carry out screening for environmental impact assessment and environmental impact assessment

225. (1) (a) The Minister may prescribe a class of relevant development for the purposes of this subsection.

(b) A competent authority shall carry out an environmental impact assessment of relevant development of a class prescribed under *paragraph (a)* before it makes a decision under *Chapter 3*, *4* or *5* of *Part 4* in relation to an application for permission for that relevant development.

(2) (a) The Minister may—

(i) prescribe a class of relevant development for the purposes of this subsection, and

(ii) prescribe a threshold in respect of relevant development of that class.

(b) Where, in relation to relevant development of a class prescribed under *paragraph (a)*, the threshold prescribed under *subparagraph (ii)* of that paragraph in relation to relevant development of that class is reached or exceeded, then, before the competent authority makes a decision under *Chapter 3*, *4* or *5* of *Part 4* in relation to an application for permission for that relevant development, the competent authority shall carry out an environmental impact assessment of that relevant development.

(c) Where, in relation to a relevant development of a class prescribed under *paragraph (a)*, the threshold prescribed under *subparagraph (ii)* of that paragraph in relation to that class is not reached, then, before the competent authority makes a decision under *Chapter 3*, *4* or *5* of *Part 4* in relation to an application for permission for that relevant development, the competent authority shall—

(i) carry out a screening for environmental impact assessment of that relevant development, and

(ii) if, having carried out such screening, it determines that the relevant development (either of itself or cumulatively with any other project) has had, is having or is likely to have significant effects on the environment, carry out an environmental impact assessment of the relevant development.

(d) *Paragraph (c)* shall apply, in relation to—

(i) the performance by a local authority or State authority of its functions as competent authority under *subparagraph (i)* of that paragraph, and

(ii) the performance by the Commission, on an appeal under *section 230*, of its functions under the said *subparagraph (i)*,

as if the words "then, before the competent authority makes a decision under *Chapter 3*, *4* or *5* of *Part 4* in relation to an application for permission for that relevant development," were deleted.

(e) References in *paragraph (c)* to competent authority shall, for the purposes of the carrying out of a screening for environmental impact assessment of a relevant development by the Commission on an appeal under *section 230*, be construed as including references to the Commission.

(f) The Minister may prescribe the manner in which, and criteria by reference to which, a screening determination shall be made in accordance with *paragraph (c)*.

(3) (a) The Minister may—

(i) prescribe a class of relevant development for the purposes of this subsection, and

(ii) prescribe a threshold in respect of relevant development of that class.

(b) Where relevant development of a class prescribed under *paragraph (a)* does not reach the threshold prescribed in respect of that class under *subparagraph (ii)* of that paragraph, then, before the competent authority makes a decision under *Chapter 3*, *4* or *5* of *Part 4* in relation to an application for permission for that relevant development, the competent authority shall—

(i) carry out an examination of the nature and location of that relevant development,

(ii) if, having carried out such examination, it is not satisfied that the possibility of significant effects on the environment resulting from the relevant development can be excluded, carry out a screening for environmental impact assessment of that relevant development, and

(iii) if, having carried out such screening, it determines that the relevant development (either of itself or cumulatively with any other project) has had, is having or is likely to have significant effects on the environment, carry out an environmental impact assessment of the relevant development.

(c) The Minister may prescribe the manner in which, and criteria by reference to which, a screening determination shall be made in accordance with *paragraph (b)*.

(4) (a) Where, following the conduct of an examination under *subparagraph (i)* of *paragraph (b)* of *subsection (3)* in relation to a relevant development consisting of local authority development or State authority development, the competent authority is satisfied that the possibility of significant effects on the environment resulting from the relevant development can be excluded, it shall declare in writing that it is so satisfied.

(b) Any person may appeal a declaration under *paragraph (a)* to the Commission.

(c) *Paragraph (b)* of *subsection (3)* shall apply, in relation to—

(i) the performance by a local authority or State authority of its functions as competent authority under *subparagraph (i)* or *(ii)* of that paragraph, and

(ii) the carrying out of—

(I) an examination in accordance with *subparagraph (i)* of that paragraph by the Commission on appeal under this subsection, or

(II) a screening for environmental impact assessment in accordance with *subparagraph (ii)* of that paragraph by the Commission, on an appeal under *section 230*,

as if the words "then, before the competent authority makes a decision under *Chapter 3*, *4* or *5* of *Part 4* in relation to an application for permission for that relevant development," were deleted.

(d) References, in *paragraph (b)* of *subsection (3)*, to the competent authority shall, for the purposes of—

(i) the carrying out of an examination in accordance with *subparagraph (i)* of that paragraph by the Commission on an appeal under this subsection, or

(ii) the carrying out of a screening for environmental impact assessment of a relevant development under *subparagraph (ii)* of that paragraph by the Commission on an appeal under *section 230*,

be construed as including references to the Commission.

(e) The Minister may make regulations for the purposes of the conduct of examinations under *subparagraph (i)* of *paragraph (b)* of *subsection (3)* and the bringing and conduct of appeals under *paragraph (b)* of this subsection, including—

(i) the manner in which an examination shall be conducted,

(ii) the matters that shall be taken into consideration when conducting an examination,

(iii) the publication and giving of notice of the outcome of an examination, and

(iv) the manner in which an appeal under *paragraph (b)* may be brought.

(5) (a) The officers or members of staff of a local authority or State authority performing, or who have performed, any functions (other than functions under this Chapter)—

(i) in relation to the formulation of the proposal to carry out the relevant development concerned, or

(ii) otherwise in relation to the relevant development (including the facilitating of the development),

shall not carry out an examination of the development under *subparagraph (i)* of *paragraph (b)* of *subsection (3)*.

(b) The officers or members of staff of a local authority or State authority carrying out an examination of a relevant development under *subparagraph (i)* of *paragraph (b)* of *subsection (3)* shall not, in relation to the carrying out of such examination, be subject to the direction, control or supervision (direct or indirect) of any officer or member of staff of the local authority or State authority, as the case may be, who performs or has performed any function (other than a function under this Chapter)—

(i) in relation to the formulation of the proposal to carry out the relevant development concerned, or

(ii) otherwise in relation to the relevant development (including the facilitating of the development).

(c) In this subsection—

"local authority" means a local authority that—

(i) has carried out or proposes to carry out a relevant development, and

(ii) is the competent authority for the purposes of the carrying out of an examination of that relevant development under *subparagraph (i)* of *paragraph (b)* of *subsection (3)*;

"State authority" means a State authority that—

(i) has carried out or proposes to carry out a relevant development, and

(ii) is the competent authority for the purposes of the carrying out of an examination of that relevant development under *subparagraph (i)* of *paragraph (b)* of *subsection (3)*.

(6) An environmental impact assessment of a relevant development shall not be required except in accordance with this section.

Prohibition on grant of permission except in certain circumstances

226. (1) (a) The competent authority shall not grant permission for relevant development prescribed for the purposes of *subsection (1)* of *section 225* unless, in relation to the relevant development—

(i) *paragraph (b)* of that subsection has been complied with,

(ii) the Commission has granted an exemption under *section 227*, or

(iii) the Minister has made an order under *section 228*.

(b) The competent authority shall not grant permission for relevant development of a class prescribed for the purposes of *subsection (2)* of *section 225* in relation to which the threshold prescribed under that subsection in respect of that class is reached or exceeded unless, in relation to the relevant development—

(i) *paragraph (b)* of that subsection has been complied with,

(ii) the Commission has granted an exemption under *section 227*, or

(iii) the Minister has made an order under *section 228*.

(c) The competent authority shall not grant permission for relevant development of a class prescribed for the purposes of *subsection (2)* of *section 225* in relation to which the threshold prescribed under that subsection in respect of that class is not reached unless, in relation to the relevant development—

(i) *paragraph (c)* of that subsection has been complied with,

(ii) the Commission has granted an exemption under *section 227*, or

(iii) the Minister has made an order under *section 228*.

(d) The competent authority shall not grant permission for relevant development prescribed for the purposes of *subsection (3)* of *section 225* in relation to which the threshold prescribed under that subsection in respect of that class is not reached unless, in relation to the relevant development—

(i) *paragraph (b)* of that subsection has been complied with,

(ii) the Commission has granted an exemption under *section 227*, or

(iii) the Minister has made an order under *section 228*.

(2) Notwithstanding *subsection (1)*, where an application for permission for a relevant development is accompanied by an environmental impact assessment report—

(a) the competent authority shall not be required to carry out a screening for environmental impact assessment in respect of the relevant development concerned, and

(b) the competent authority shall not grant permission unless it has carried out an environmental impact assessment in respect of the relevant development concerned.

Exemption from requirement for assessment by Commission

227. (1) A person may, before making an application for permission for relevant development, (other than development for which retrospective consent is required) under *Chapter 4* of *Part 4*, request the Commission to grant an exemption in relation to the relevant development from the requirements of the Environmental Impact Assessment Directive and *sections 229* and *236* and the Commission may, subject to this section, grant such exemption.

(2) Before deciding on a request made to it under *subsection (1)*, the Commission shall—

(a) invite a planning authority in whose functional area the relevant development is proposed to be carried out to make observations to the Commission in relation to the request within such period as the Commission may specify,

(b) consider whether any Member State of the European Union or a Transboundary Convention state should be informed about the relevant development and, if the Commission considers that it should, invite that state to make observations to the

Commission in relation to the request within such period as the Commission may specify, and

(c) consider any observations made in accordance with an invitation under *paragraph (a)* or *(b)*.

(3) The Commission shall not grant an exemption under this section unless it is satisfied that—

(a) exceptional circumstances warrant the granting of such exemption,

(b) the application of the requirements of the Environmental Impact Assessment Directive and *sections 229* and *236* would adversely affect the purpose of the relevant development concerned, and

(c) the objectives of the Environmental Impact Assessment Directive will be achieved by other means.

(4) Notwithstanding *subsection (3)*, an exemption shall not be granted under this section in respect of a relevant development if any Member State of the European Union or a Transboundary Convention state, after having been informed about the relevant development concerned in accordance with *paragraph (b)* of *subsection (2)*, informs the Commission that—

(a) it does not consider that the request for an exemption should be granted, or

(b) it wishes to be given an opportunity to make observations on the likely significant effects of the relevant development concerned on the environment.

(5) Where the Commission grants an exemption under this section, it shall—

(a) specify requirements in relation to the assessment of the effects (if any) of the relevant development concerned on the environment by means referred to in *paragraph (c)* of *subsection (3)*,

(b) publish a notice of the grant, any requirements specified under *paragraph (a)*, and the reasons for the grant—

(i) on an internet website maintained by it or on its behalf, and

(ii) in a national newspaper,

and

(c) send a copy of the notice published in accordance with *paragraph (b)* to—

(i) a planning authority in whose functional area the relevant development concerned is intended to be carried out,

(ii) any Member State of the European Union or a Transboundary Convention state that the Commission invited to make observations in accordance with *paragraph (b)* of *subsection (2)*, and

(iii) the European Commission.

(6) Where the Commission specifies requirements in accordance with *paragraph (a)* of *subsection (5)*, a planning authority and the Commission shall comply with those requirements in determining any subsequent application for permission for the relevant development concerned.

(7) An application for permission for a relevant development shall not be made while a request under *subsection (1)* is pending before the Commission and any application made in contravention of this requirement shall not be a valid application for the purposes of *Part 4*.

(8) The Commission shall, before granting an exemption under this section, inform the European Commission in writing of the reasons justifying the exemption.

Exemption from requirement for assessment by Minister

228. (1) The Minister may, subject to *subsection (2)*, by order declare that the requirements of the Environmental Impact Assessment Directive and *sections 229*, *230* and *236* shall not apply in relation to a relevant development or a specified part of relevant development (other than development or part of a development for which retrospective consent is required) proposed to be carried out, by or on behalf of a State authority or statutory undertaker.

(2) The Minister may, after having consulted such other Ministers of the Government as he or she considers appropriate, make an order under *subsection (1)* if he or she—

(a) is satisfied that the carrying out of the relevant development or part of a relevant development concerned is for the sole purpose of the defence of the State or responding to a civil emergency, and

(b) considers that the application of the Environmental Impact Assessment Directive and *sections 229*, *230* and *236* to the relevant development or part of a relevant development concerned would adversely affect that purpose.

(3) Where the Minister makes an order under *subsection (1)*, he or she shall publish a notice of the order and the reasons for the making of the order—

(a) on an internet website maintained by the Minister or on his or her behalf, and

(b) in a national newspaper.

Screening for environmental impact assessment of relevant development

229. (1) The competent authority shall carry out a screening for environmental impact assessment of a relevant development where—

(a) in relation to relevant development in respect of which the applicant has applied or intends to apply for permission, an application for a screening determination is made to it under *section 231*,

(b) an application for permission for a relevant development to which *paragraph (c)* of *subsection (2)* of *section 225* applies is made to it, or

(c) an application for permission for a relevant development of a class prescribed under *paragraph (a)* of *subsection (3)* of *section 225* applies is made to it and the competent authority has carried out an examination in accordance with *paragraph (b)* of the said *subsection (3)* and determined that the possibility of significant effects on the environment arising from the relevant development concerned cannot be excluded,

for the purpose of determining whether or not—

(i) in the case of proposed development in respect of which an application for permission under *Chapter 3* or *4* of *Part 4* is made or intended to be made, the proposed development is likely to have significant effects on the environment, or

(ii) in the case of development in respect of which an application for retention permission under *Chapter 3* of *Part 4* is made or intended to be made, the development has had, is having or is likely to have significant effects on the environment.

(2) The competent authority shall, where required to do so in accordance with *section 225*, carry out a screening for environmental impact assessment of relevant development consisting of—

(a) an alteration of the terms, or extension of duration, of a permission for development (other than local authority development or State authority development) requested under *subsection (1)* of *section 140*, or

(b) an alteration of the terms, or extension of duration, of a permission for local authority development or State authority development requested under *subsection (1)* of *section 140*,

for the purpose of determining whether or not the alteration or extension (either individually or in combination with any plan or other project) is likely to have significant effects on the environment.

(3) For the purpose of the carrying out of a screening for environmental impact assessment by the competent authority under this section, an applicant for a screening determination or an applicant for permission for relevant development, as the case may be, shall provide the competent authority with the following information:

(a) the name of the applicant and the address in the State where he or she normally resides (or where the applicant is a body corporate or unincorporated body of persons, the address of its principal office in the State),

(b) a map identifying the location of the relevant development concerned;

(c) a description of the relevant development, including in particular—

(i) a description of the physical characteristics of the relevant development and, where applicable, of demolition works, and

(ii) a description of the location of the relevant development, with particular regard to the environmental sensitivity of geographical areas likely to be affected;

(d) a description of the aspects of the environment significantly affected or likely to be significantly affected by the relevant development (whether of itself or cumulatively with any other project);

(e) a description (to the extent that the information is available) of any, or any likely, significant effects on the environment resulting from—

(i) any expected residues, emissions or waste, or

(ii) the use of natural resources, in particular soil, land, water and biodiversity,

attributable to the carrying out of the relevant development;

(f) a description of any features of the relevant development, or measures proposed in connection with the relevant development, that it is envisaged will avoid or prevent what might otherwise have been significant adverse effects on the environment; and

(g) the result of any other assessment of the effects of the relevant development on the environment carried out under—

(i) an act (other than the Environmental Impact Assessment Directive) of the European Union, or

(ii) an Act of the Oireachtas, or instrument under an Act of the Oireachtas, giving effect to an act (other than the Environmental Impact Assessment Directive) of the European Union.

(4) For the purpose of the carrying out of a screening for environmental impact assessment under this section, the competent authority may—

(a) where the applicant for a screening determination or the applicant for permission, as the case may be, has failed to provide any of the information specified in *subsection (3)*, request such information,

(b) request such additional information from the applicant for a screening determination or the applicant for permission, as the case may be, as it considers necessary to enable it to carry out that assessment, or

(c) consult with such persons as the competent authority considers appropriate.

(5) Where the applicant for a screening determination or the applicant for permission, as the case may be, does not provide the competent authority with any information requested under *paragraph (a)* or *(b)* of *subsection (4)*—

(a) within such period as may be specified in the request, or

(b) within such further period as the competent authority may subsequently agree to, at the request of the applicant for permission,

the application for permission shall be deemed to have been withdrawn.

(6) The competent authority shall, for the purpose of determining whether or not a relevant development has had, is having or is likely to have significant effects on the environment, assess the nature and location or proposed location of the relevant

development concerned and the nature of its potential impact on the environment, having regard to the criteria prescribed under *paragraph (f)* of *subsection (2)* of *section 225*.

(7) Where, on the basis of a screening for environmental impact assessment carried out under this section, the competent authority makes a determination that the relevant development concerned (either of itself or cumulatively with any other project) has had, is having or is likely to have significant effects on the environment, the competent authority shall, subject to *subsection (6)* of *section 225* and before determining any application for permission for that development, carry out an environmental impact assessment of the relevant development in accordance with *section 236*.

(8) Where, on the basis of a screening for environmental impact assessment carried out under this section, the competent authority makes a determination that the relevant development concerned (either of itself or cumulatively with any other project) has not had, is not having and is not likely to have significant effects on the environment, an environmental impact assessment of the relevant development shall not be required.

(9) Notwithstanding a determination under *subsection (8)*, a competent authority may, at any time following the making of an application for permission, determine that the carrying out of an environmental impact assessment of the relevant development concerned in accordance with *section 236* is required before the competent authority determines the application, but only where, subsequent to the making of the determination under *subsection (8)*, it has formed the view that the relevant development (either of itself or cumulatively with any other project) has had, is having or is likely to have significant effects on the environment.

(10) (a) Where a competent authority makes a determination under *subsection (7)* or *(9)*, it may give a notice to the applicant for permission requiring him or her to provide the competent authority with an environmental impact assessment report in relation to the relevant development concerned within—

(i) such period as is specified in the notice, or

(ii) such further period as the competent authority may subsequently agree to, at the request of the applicant for permission.

(b) Where an applicant for permission to whom a notice is given under *paragraph (a)* fails to comply with a requirement of the notice, the application for permission concerned shall be deemed to be withdrawn.

(11) Where, on the basis of a screening for environmental impact assessment carried out under this section upon an application for a screening determination made to it under *section 231*, the competent authority makes a determination that the relevant development concerned (either of itself or cumulatively with any other project) has had, is having or is likely to have significant effects on the environment, an environmental impact assessment report shall be submitted with any subsequent application for permission for the relevant development to which the screening determination relates.

(12) Where, on the basis of a screening for environmental impact assessment carried out under this section upon an application for a screening determination made to it under *section 231*, the competent authority makes a determination that the relevant development concerned (either of itself or cumulatively with any other project) has not had, is not having and is not likely to have significant effects on the environment, it shall not be necessary to submit an environmental impact assessment report with any subsequent application for permission for the relevant development to which the screening determination relates.

(13) Notwithstanding a determination under *subsection (12)*, a competent authority may, at any time following the making of an application for permission for the relevant development to which that determination relates, determine that the carrying out of an environmental impact assessment of the relevant development concerned in accordance with *section 236* is required before the competent authority determines the application, but only where, subsequent to the making of the planning application, it has formed the view that the relevant development (either of itself or cumulatively with any other project) has had, is having or is likely to have significant effects on the environment.

(14) (a) Where *subsection (13)* applies—

(i) the competent authority may give a notice to the applicant for permission requiring him or her to provide the competent authority with an environmental impact assessment report in relation to the relevant development concerned within—

(I) such period as is specified in the notice, or

(II) within such further period as the competent authority may subsequently agree to, at the request of the applicant for permission,

and

(ii) the competent authority shall, before determining the application for permission, carry out an environmental impact assessment of the relevant development concerned in accordance with *section 236*.

(b) Where an applicant for permission to whom a notice is given under *subparagraph (i)* of *paragraph (a)* fails to comply with a requirement specified in the notice, the application for permission concerned shall be deemed to be withdrawn.

(15) A competent authority shall, as soon as may be after making a decision under *Part 4* in relation to an application for permission—

(a) give notice of any determination under this section (including the reasons for the determination) to—

(i) the applicant,

(ii) any person who made a submission in accordance with the applicable provisions of *Part 4* or in the course of a consultation under *paragraph (c)* of *subsection (4)*, and

(iii) where applicable, any party to an appeal from a decision in relation to the application for permission,

(b) make available for inspection (free of charge) by members of the public at its offices during normal office hours any determination (including the reasons for the determination) made under this section, and

(c) publish notice of any determination (including the reasons for the determination) under this section on a website maintained by or on behalf of the competent authority.

Screening for environmental impact assessment of local authority development and State authority development

230. (1) (a) The competent authority shall carry out a screening for environmental impact assessment of relevant development consisting of local authority development where required to do so in accordance with *section 225*, for the purpose of determining whether or not—

(i) in the case of proposed development, the proposed development (either of itself or cumulatively with any other project) is likely to have significant effects on the environment, or

(ii) in the case of development already carried out, the development (either of itself or cumulatively with any other project) has had, is having or is likely to have significant effects on the environment.

(b) The competent authority shall carry out a screening for environmental impact assessment of relevant development consisting of State authority development where required to do so in accordance with *section 225*, for the purpose of determining whether or not—

(i) in the case of proposed development, the proposed development (either of itself or cumulatively with any other project) is likely to have significant effects on the environment, or

(ii) in the case of development already carried out, the development (either of itself or cumulatively with any other project) has had, is having or is likely to have significant effects on the environment.

(2) For the purpose of the carrying out of a screening for environmental impact assessment under this section, the local authority or State authority concerned shall prepare the following information:

(a) a map identifying the location of the relevant development concerned;

(b) a description of the relevant development, including in particular—

(i) a description of the physical characteristics of the relevant development and, where applicable, of demolition works, and

(ii) a description of the location of the relevant development, with particular regard to the environmental sensitivity of geographical areas likely to be affected;

(c) a description of the aspects of the environment that have been, are being or are likely to be significantly affected by the relevant development (whether of itself or cumulatively with any other project);

(d) a description (to the extent that the information is available) of any, or any likely, significant effects on the environment resulting from—

(i) any expected residues, emissions or waste, or

(ii) the use of natural resources, in particular soil, land, water and biodiversity,

attributable to the carrying out of the relevant development;

(e) a description of any features of the relevant development, or measures proposed in connection with the relevant development, that it is envisaged will avoid or prevent what might otherwise have been significant adverse effects on the environment; and

(f) the result of any other assessment of the effects of the relevant development on the environment carried out under—

(i) an act (other than the Environmental Impact Assessment Directive) of the European Union, or

(ii) an enactment giving effect to an act (other than the Environmental Impact Assessment Directive) of the European Union.

(3) For the purpose of the carrying out of a screening for environmental impact assessment under this section, the competent authority may consult with such persons as the competent authority considers appropriate.

(4) The competent authority shall, for the purpose of determining whether or not a relevant development consisting of local authority development or State authority development (either of itself or cumulatively with any other project) has had, is having or is likely to have significant effects on the environment, assess the nature and location or proposed location of the relevant development concerned and the nature of its potential impact on the environment, having regard to the information prepared in accordance with *subsection (1)* and to the criteria prescribed under *paragraph (f)* of *subsection (2)* of *section 225*.

(5) Where, on the basis of a screening for environmental impact assessment carried out under this section, the competent authority makes a determination that a relevant development consisting of local authority development or State authority development (either of itself or cumulatively with any other project) has had, is having or is likely to have significant effects on the environment, then, subject to *subsection (4)* of *section 225*—

(a) an environmental impact assessment of the relevant development in accordance with *section 236* shall be required, and

(b) an application for permission for the relevant development shall be made under *Chapter 4* of *Part 4* by the local authority or State authority concerned.

(6) Where, on the basis of a screening for environmental impact assessment carried out under this section, the competent authority makes a determination that a relevant development consisting of local authority development or State authority development (either of itself or cumulatively with any other project) has not had, is not having and is not likely to have significant effects on the environment, an environmental impact assessment of the relevant development shall, subject to any determination of the Commission referred to in *subsection (11)*, not be required.

(7) A competent authority shall, as soon as may be after making a determination under this section—

(a) give notice of the determination (including the reasons for the determination) to any person who made a submission or provided information to the competent authority during the course of a consultation under *subsection (3)*,

(b) make the determination (including the reasons for the determination) available for inspection (free of charge) by members of the public at its offices during normal office hours, and

(c) publish a notice of the determination (including the reasons for the determination) on an internet website maintained by or on behalf of the competent authority.

(8) The competent authority shall, not later than 3 days after the making of a determination under this section, comply with *subsection (7)*.

(9) Where the competent authority makes a determination under this section that an environmental impact assessment is not required, any person may, not later than 4 weeks from the date of the publication of a notice in accordance with *paragraph (c)* of *subsection (7)*, appeal that determination to the Commission.

(10) Where the Commission receives a notice of appeal from a determination of the competent authority under this section, it shall—

(a) carry out a screening for environmental impact assessment of the relevant development concerned, and

(b) make a determination as to whether or not that relevant development has had, is having or is likely to have significant effects on the environment,

and *subsection (4)* shall apply for the purposes of this subsection as if references therein to competent authority included references to the Commission.

(11) Where, on the basis of a screening for environmental impact assessment carried out under this section, the Commission makes a determination that a relevant development (either of itself or cumulatively with any other project) has had, is having or is likely to have significant effects on the environment—

(a) an environmental impact assessment of the relevant development in accordance with *section 236* shall be required, and

(b) an application for permission for the relevant development shall be made under *Chapter 4* of *Part 4* by the local authority or State authority concerned.

(12) Where, on the basis of a screening for environmental impact assessment carried out under this section, the Commission makes a determination that a relevant development (either of itself or cumulatively with any other project) has not had, is not having and is not likely to have significant effects on the environment, an environmental impact assessment of the relevant development shall not be required.

(13) The Commission shall—

(a) give notice of a determination (including the reasons for the determination) under *subsection (10)* to the local authority or State authority concerned,

(b) give notice of the determination (including the reasons for the determination) to any person who made submissions or provided information to the competent authority during the course of a consultation under *subsection (3)*,

(c) make the determination (including the reasons for the determination) available for inspection (free of charge) by members of the public at its offices during normal office hours, and

(d) publish a notice of the determination (including the reasons for the determination) on an internet website maintained by or on behalf of the competent authority.

(14) (a) The officers or members of staff of a local authority or State authority performing, or who have performed, any functions (other than functions under this Chapter)—

(i) in relation to the formulation of the proposal to carry out the relevant development concerned, or

(ii) otherwise in relation to the relevant development (including the facilitating of the development),

shall not carry out a screening for environmental impact assessment of the development under this section.

(b) The officers or members of staff of a local authority or State authority carrying out a screening for environmental impact assessment of a relevant development under this section shall not, in relation to the carrying out of such screening, be subject to the direction, control or supervision (direct or indirect) of any officer or member of staff of the local authority or State authority, as the case may be, who performs or has performed any function (other than a function under this Chapter)—

(i) in relation to the formulation of the proposal to carry out the relevant development concerned, or

(ii) otherwise in relation to the relevant development (including the facilitating of the development).

(c) In this subsection—

"local authority" means a local authority that—

(i) has carried out or proposes to carry out a relevant development, and

(ii) is the competent authority for the purposes of the carrying out of a screening for environmental impact assessment of that relevant development under this section;

"State authority" means a State authority that—

(i) has carried out or proposes to carry out a relevant development, and

(ii) is the competent authority for the purposes of the carrying out of a screening for environmental impact assessment of that relevant development under this section.

(15) The Minister may make regulations for the purpose of this section, including regulations—

(a) specifying the criteria for making a determination under this section in relation to local authority housing development within the meaning of *section 161*, and

(b) relating to the making of requests by the competent authority or the Commission for information from a local authority or State authority for the purpose of the performance by the competent authority or the Commission of its functions under this section.

Application for screening determination prior to application for permission for relevant development

231. (1) A person intending to apply for permission for a relevant development may, before making an application for permission, apply to the competent authority to which such an application for permission is required to be made under *Part 4* for a screening determination as to whether an environmental impact assessment is required to be carried out in respect of the relevant development concerned.

(2) Subject to *subsections (3)*, *(4)*, *(5)* and *(6)*, where a competent authority receives an application for a screening determination under *subsection (1)*, it shall carry out a screening for environmental impact assessment and make a screening determination in accordance with *section 229*.

(3) An application for a screening determination under *subsection (1)* shall include—

(a) the name of the applicant and the address in the State where he or she normally resides (or where the applicant is a body corporate or unincorporated body of persons, the address of its principal office in the State),

(b) where the applicant for the screening determination is not the owner of the land on which the relevant development is proposed to be carried out, the name of that owner and the address in the State where he or she normally resides (or where that owner is a body corporate or unincorporated body of persons, the address of its principal office in the State), and

(c) where neither the applicant for the screening determination nor the owner of the land on which the relevant development is proposed to be carried out is the occupier of that land, the name of the occupier of that land and the address in the State where he or she normally resides (or where that occupier is a body corporate or unincorporated body of persons, the address of its principal office in the State).

(4) Where the applicant for a screening determination under *subsection (1)* is not the owner of the land on which the relevant development is proposed to be carried out, the competent authority shall, by notice in writing, invite—

(a) the owner (if any), and

(b) where neither the owner nor the applicant for the screening determination is the occupier of the land, the occupier (if any) of that land,

to make a submission to the competent authority in relation to the application for a screening determination within such period as may be specified in the notice.

(5) Where a competent authority considers that an application made to it under *subsection (1)* is incomplete in any material detail, it may, at its discretion—

(a) reject the application, giving notice of its decision and the reasons therefor to the applicant and any person consulted or required to be consulted under *subsection (4)*, or

(b) request further information from the applicant for a screening determination in accordance with *subsection (4)* of *section 229*.

(6) (a) A competent authority shall, subject to *paragraph (b)*, make a screening determination on an application made to it under *subsection (1)* not later than 90 days after receipt from the applicant for the screening determination of the information required to be submitted in accordance with *subsection (3)* of *section 229*.

(b) Where a competent authority considers that exceptional circumstances (which may include those relating to the nature, complexity, location or size of the proposed relevant development) exist that prevent it from making a screening determination within the period of 90 days referred to in *paragraph (a)*, it may extend the period and, where it does so, it shall, by notice in writing, inform—

(i) the applicant for the screening determination, and

(ii) any person who made a submission in accordance with *subsection (4)* or who was consulted in accordance with *paragraph (c)* of *subsection (4)* of *section 229*,

of the reasons therefor and of the date when it expects to make its determination.

(7) A competent authority shall, as soon as may be after making a screening determination on an application made to it under *subsection (1)*—

(a) give notice of the determination (including the reasons for the determination) to—

(i) the applicant for the screening determination, and

(ii) any person who made a submission in accordance with *subsection (4)* or who was consulted in accordance with *paragraph (c)* of *subsection (4)* of *section 229*,

(b) make the determination (including the reasons for the determination) available for inspection (free of charge) by members of the public at its offices during normal office hours, and

(c) publish notice of the determination (including the reasons for the determination) on a website maintained by or on behalf of the competent authority.

Screening for environmental impact assessment for purposes of determining if development is exempted development

232. (1) The competent authority shall carry out a screening for environmental impact assessment of a relevant development in respect of which—

(a) a request under *section 10* is made for a declaration on the question of whether or not that relevant development is exempted development, or

(b) an appeal against any such declaration is brought,

for the purpose of determining whether or not—

(i) in the case of proposed development in respect of which such request or appeal is made or brought, the proposed development (either individually or cumulatively with any other project) is likely to have significant effects on environment, or

(ii) in the case of development in respect of which such request or appeal is made or brought, the development (either individually or cumulatively with any other project) has had, is having or is likely to have significant effects on the environment.

(2) For the purpose of performing its functions under this section, the competent authority may—

(a) require—

(i) the person who made the request under *section 10*,

(ii) any person who brought an appeal under *section 10*, or

(iii) any other person as the competent authority considers appropriate,

to provide the competent authority with the information referred to in *subsection (3)* of *section 229*, and such other information as it considers necessary to enable it to carry out the screening of the development for environmental impact assessment, or

(b) consult with such persons as the competent authority considers appropriate.

(3) Where a person referred to in *subparagraph (i)* of *paragraph (a)* of *subsection (2)* fails to comply with a requirement under that subsection—

(a) within such period as may be specified in the requirement, or

(b) within such further period as the competent authority may subsequently agree to at the request of that person,

the request under *section 10* shall be deemed to have been withdrawn.

(4) Where a person referred to in *subparagraph (ii)* of *paragraph (a)* of *subsection (2)* fails to comply with a requirement under that subsection—

(a) within such period as may be specified in the requirement, or

(b) within such further period as the competent authority may subsequently agree to, at the request of that person,

the appeal under *section 10* shall be deemed to have been withdrawn.

(5) Where, on the basis of a screening for environmental impact assessment carried out under this section, the competent authority makes a determination that the relevant development (either individually or cumulatively with any other project) has had or is likely to have significant effects on the environment—

(a) an environmental impact assessment of the relevant development shall be required, and

(b) the development shall not be exempted development.

(6) The competent authority shall, as soon as may be after making a determination under this section—

(a) give notice of the determination (including the reasons for the determination) to—

(i) the person who made the request under *section 10*, and

(ii) the parties to any appeal under *section 10* from a declaration under that section in relation to the request,

(b) make the determination (including the reasons for the determination) available for inspection (free of charge) by members of the public at its offices during normal office hours, and

(c) publish the determination (including the reasons for the determination) on an internet website maintained by it or on its behalf.

Request for scoping opinion

233. (1) A person intending to apply for permission for a relevant development in respect of which an environmental impact assessment is required in accordance with *section 225* may, before making an application for permission, request the competent authority to which such an application for permission requires to be made under *Part 4* to give him or her a written opinion (in this section referred to as a "scoping opinion") on the scope and the level of detail of the information that should be included in an environmental impact assessment report to be submitted with the application for permission.

(2) A request under *subsection (1)* shall contain information on the specific characteristics of the relevant development concerned, including its location and technical capacity and its likely impact on the environment.

(3) An applicant for permission for a relevant development on whom a notice has been served by a competent authority under *subsection (10)* or *(14)* of *section 229* requiring the applicant to submit an environmental impact assessment report may, before submitting the environmental impact assessment report, request the competent authority concerned to give a written opinion (in this section also referred to as a "scoping opinion") on the scope and the level of detail of the information that should be included in the environmental impact assessment report.

(4) In considering a request for a scoping opinion, the competent authority—

(a) shall take into account—

(i) in the case of a request made under *subsection (1)*, the information provided, in accordance with *subsection (2)*, by the person who made the request, or

(ii) in the case of a request made under *subsection (3)*, the information provided to the competent authority for the purposes of carrying out a screening for environmental impact assessment under *section 229* and the conclusions of the screening for environmental impact assessment,

(b) shall consult with such persons as may be prescribed by the Minister, and

(c) may take into consideration any other information or documentation available to the competent authority that the competent authority considers relevant.

(5) (a) The competent authority shall give a scoping opinion to a person who made a request under *subsection (1)* as soon as is practicable and, at the latest, before the making of an application for permission for the relevant development concerned.

(b) The competent authority shall give a scoping opinion to a person who made a request under *subsection (3)* as soon as is practicable and, at the latest, before the submission of the environmental impact assessment report to the competent authority.

(6) The failure of the competent authority to comply with *paragraph (a)* of *subsection (5)* shall not affect the entitlement of the person who made the request under *subsection (1)* to make an application for permission for the relevant development concerned.

(7) Where a scoping opinion has been provided under this section, the environmental impact assessment report shall—

(a) be consistent with that opinion with regard to content and the manner of its preparation, and

(b) include such information as may reasonably be required to enable the competent authority to reach a reasoned conclusion on the significant effects on the environment of the relevant development.

(8) The giving of a scoping opinion under this section shall not operate to prevent the competent authority from performing any function under this Act to require the person

to whom the opinion was given to submit further information to the competent authority in relation to the application for permission for the relevant development concerned.

Preparation and submission of environmental impact assessment report

234. (1) An applicant for permission may prepare and submit to the competent authority with the application for permission concerned, an environmental impact assessment report in relation to a relevant development to which that application relates.

(2) An environmental impact assessment report prepared in accordance with *subsection (1)* or prepared and submitted to a competent authority pursuant to a requirement in a notice under *subsection (10)* or *(14)* of *section 229* shall—

(a) be prepared by a person with the competence and expertise to so do,

(b) contain the information specified in Annex IV of the Environmental Impact Assessment Directive, and

(c) include such other information as may be prescribed.

(3) Where an applicant for permission intends to submit an environmental impact assessment report with an application for permission in accordance with *subsection (1)* or submits an environmental impact assessment report to a competent authority pursuant to a requirement in a notice under *subsection (10)* or *(14)* of *section 229*, the applicant shall publish a notice in a newspaper stating—

(a) that he or she has applied or intends to apply, as the case may be, for permission for a relevant development,

(b) that an environmental impact assessment report has been submitted or will be submitted, as the case may be, to the competent authority and that an environmental impact assessment of the relevant development will be carried out,

(c) in circumstances where a competent authority has made a screening determination in respect of the relevant development concerned, that such a screening determination was made,

(d) in circumstances where the environmental impact assessment report concludes that the relevant development has had, is having or is likely to have significant effects on the environment of the State, another Member State of the European Union or a Transboundary Convention state, that the report so concludes,

(e) the name and address of the principal office of the competent authority,

(f) the nature of the decisions that the competent authority is permitted to make upon the carrying out of such assessment,

(g) that the environmental impact assessment report and other documentation submitted by the applicant to the competent authority in connection with the application will be available for inspection (free of charge) by members of the public at the offices of the competent authority during normal office hours,

(h) that the environmental impact assessment report and other documentation submitted by the developer will be published on an internet website maintained by or on behalf of the competent authority, and

(i) that any person may make submissions within such period as is specified in the notice.

(4) Where an applicant for permission intends to submit an environmental impact assessment report with an application for permission in accordance with *subsection (1)*, the obligation in *subsection (3)* shall be discharged by the inclusion of the information specified in that subsection in any public notice of the application that is required to be published under *Part 4*.

(5) Where an applicant for permission submits an environmental impact assessment report to the competent authority pursuant to a requirement in a notice under *subsection (10)* or *(14)* of *section 229*, the notice referred to in *subsection (3)* shall be published not later than 3 days after the submission of the environmental impact assessment report to the competent authority.

(6) The period to be specified in a notice under *paragraph (i)* of *subsection (3)* shall—

(a) in circumstances where the obligation under *subsection (3)* is discharged in the manner specified in *subsection (4)*, be—

(i) the period prescribed for the making of submissions in relation to the application for permission in accordance with the applicable provisions of *Part 4*, or

(ii) the period of 30 days from the date of the notice,

whichever expires later,

(b) in all other cases, be the period of 5 weeks, or such other period as may be prescribed by the Minister, from the date of the notice.

Consultation on environmental impact assessment report

235. (1) Where an environmental impact assessment report has been received by the competent authority it shall—

(a) publish the environmental impact assessment report on an internet website maintained by it or on its behalf,

(b) make the environmental impact assessment report available for inspection (free of charge) at its offices by members of the public during normal office hours, and

(c) publish a notice on that website—

(i) specifying where, the times at which, and the period during which, the environmental impact assessment report may be inspected in accordance with *paragraph (b)*,

(ii) inviting submissions by members of the public with respect to the significant effects or likely significant effects of the relevant development on the environment, and

(iii) specifying the period during which, and the manner in which, such submissions may be made.

(2) The competent authority shall—

(a) send a copy of the application for permission and the environmental impact assessment report to such person or persons (if any) as may be prescribed, and

(b) invite each such person to make, during the period referred to in *subparagraph (iii)* of *paragraph (c)* of *subsection (1)*, submissions with respect to the significant effects or likely significant effects of the relevant development on the environment.

(3) Without prejudice to *paragraph (a)* of *subsection (2)*, the Minister may prescribe persons who, in the opinion of the Minister have recognised environmental responsibilities, and any person so prescribed shall be consulted in relation to applications for permission for relevant development by reference to the nature, type or class of such development or the nature of the effects or likely effects of such development on the environment.

(4) Where a competent authority considers that an environmental impact assessment report submitted to it does not comply with the requirements of *subsection (2)* of *section 234*, it shall request the applicant for permission to provide the competent authority with such information as it considers necessary to ensure compliance by that applicant with that subsection, unless it considers that the environmental impact assessment report submitted is so deficient that permission should be refused, in which case, it may refuse permission.

(5) For the purpose of carrying out an environmental impact assessment under *section 236*, the competent authority may at any time before it makes a decision under *Part 4* in relation to an application for permission for a relevant development—

(a) request such additional information from the applicant for permission as it considers necessary to enable it to carry out the environmental impact assessment, or

(b) consult with such persons as the competent authority considers appropriate.

(6) Where the applicant for permission does not provide the competent authority with any information requested under *subsection (4)* or *paragraph (a)* of *subsection (5)*—

(a) within such period as may be specified in the request, or

(b) within such further period as the competent authority may subsequently agree to, at the request of the applicant for permission,

the application for permission shall be deemed to have been withdrawn.

(7) Where, pursuant to a request under *subsection (4)* or *paragraph (a)* of *subsection (5)*, a competent authority receives from an applicant for permission for a relevant

development information that the competent authority considers to be significant additional information concerning the significant effects or likely significant effects of the relevant development concerned on the environment, the competent authority shall—

(a) require the applicant for permission to publish a notice in a newspaper stating—

(i) that he or she has submitted to the competent authority significant additional information concerning the significant effects or likely significant effects of the relevant development concerned on the environment,

(ii) that the additional information submitted will be available for inspection (free of charge) by members of the public at the offices of the competent authority during normal office hours,

(iii) that the additional information will be published on an internet website maintained by or on behalf of the competent authority, and

(iv) that any person may make submissions within such period (which shall not be less than 30 days from the date of the notice) as is specified by the competent authority,

(b) publish the additional information on an internet website maintained by it or on its behalf,

(c) make the additional information available for inspection (free of charge) at its offices by members of the public during normal office hours,

(d) send a copy of the additional information to any person prescribed for the purposes of *paragraph (a)* of *subsection (2)* or under *subsection (3)*, and

(e) invite each person so prescribed to make, during the period referred to in *subparagraph (iv)* of *paragraph (a)*, submissions with respect to the significant effects or likely significant effects of the relevant development on the environment.

(8) (a) Where a competent authority is required by this Chapter to give notice to any person of, or in relation to, any matter, neither this Chapter nor *Part 4* shall be construed in a manner that would prevent the competent authority from using that notice to comply with a requirement under *Part 4* to give notice to that person of, or in relation to, any other matter.

(b) Where a competent authority is required by this Part to publish any information or material, neither this Part nor *Part 4* shall be construed in a manner that would prevent the competent authority from publishing, with that information or material, any information or material that the competent authority is required to publish under *Part 4*.

Environmental impact assessment of relevant development

236. (1) A competent authority shall, before deciding whether or not to grant permission for a relevant development, carry out an environmental impact assessment of a relevant development—

(a) in respect of which an environmental impact assessment report was submitted to the competent authority with the application for permission for the relevant development, or

(b) to which a screening determination under *subsection (7)*, *(9)* or *(13)* of *section 229* or *230* applies.

(2) An environmental impact assessment carried out under this section shall identify, describe and assess the direct and indirect significant effects of the relevant development concerned on the following:

(a) population and human health;

(b) biodiversity, with particular attention given to species and habitats protected under the Habitats Directive and the Birds Directive;

(c) land, soil, water, air and climate;

(d) material assets, cultural heritage and the landscape; and

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

(3) The identification, description and assessment of the effects of the relevant development concerned on the factors referred to in *subsection (2)* shall include the identification, description and assessment of expected effects deriving from any vulnerability of the relevant development to a risk of major accidents or disasters.

(4) The competent authority shall, for the purposes of carrying out the environmental impact assessment under this section—

(a) consider and examine—

(i) the environmental impact assessment report,

(ii) any information submitted to the competent authority pursuant to a request under *subsection (4)* of *section 235* or *paragraph (a)* of *subsection (5)* of that section,

(iii) any submissions made to the competent authority in accordance with—

(I) a notice under *subsection (3)* of *section 234*,

(II) a notice under *paragraph (c)* of *subsection (1)*, or *paragraph (a)* of *subsection (7)*, of *section 235*, or

(III) an invitation under *subsection (2)* or *(7)* of *section 235*,

(iv) the results of any consultation carried out by the competent authority in accordance with *subsection (3)*, or *paragraph (b)* of *subsection (5)*, of *section 235*,

(v) any information provided or submissions made by a Member State of the European Union or a Transboundary Convention state in relation to potential transboundary environmental effects of the relevant development in accordance with regulations under *section 238*, and

(vi) any other information that the competent authority considers relevant,

(b) reach a reasoned conclusion on the significant effects (if any) of the relevant development on the environment, and

(c) integrate that reasoned conclusion into its decision in relation to the application for permission under *Part 4*.

(5) (a) A competent authority shall ensure that its reasoned conclusion in relation to a relevant development is up to date at the time when it makes a decision under *Part 4* in relation to the application for permission concerned.

(b) Where the competent authority considers that a reasoned conclusion reached in accordance with *paragraph (b)* of *subsection (4)* is not up to date at the time when the competent authority is making its decision in relation to the application for permission concerned, the competent authority shall, before making that decision—

(i) exercise such of its powers under *subsection (5)* and *(7)* of *section 235* as it considers necessary for the purpose of obtaining up to date information in relation to the relevant development concerned, and

(ii) set aside the reasoned conclusion already reached in relation to the relevant development and reach a new reasoned conclusion in accordance with *subsection (4)* in relation to the relevant development.

(6) Where a competent authority decides to grant permission for a relevant development in respect of which an environmental impact assessment has been carried out under this section, it may, in addition to any other condition that may be attached to the grant of permission in accordance with *Part 4*, attach any of the following to the grant of permission:

(a) conditions requiring the implementation of any measures proposed by the applicant for permission for the purpose of avoiding, preventing, reducing or offsetting any likely significant adverse effects of the relevant development on the environment;

(b) conditions requiring the taking of such specified measures as the competent authority considers necessary or appropriate for the purpose of avoiding, preventing, reducing or offsetting any likely significant adverse effects of the relevant development on the environment;

(c) conditions requiring the making of arrangements for the monitoring of any likely significant adverse effects of the relevant development on the environment.

(7) A competent authority shall ensure that any conditions attached to a grant of permission in accordance with *paragraph (c)* of *subsection (6)* are proportionate having regard to the nature, location and size of the relevant development concerned and the likely significance of its effects on the environment.

(8) A competent authority shall—

(a) publish each reasoned conclusion reached by it under this section and any conditions attached to a grant of permission in accordance with *subsection (6)* on an internet website maintained by it or on its behalf,

(b) make the reasoned conclusion and any such conditions available for inspection (free of charge) by members of the public at its offices during normal office hours, and

(c) by notice in writing inform—

(i) the applicant for permission,

(ii) any person (including any member state of the European Union or Transboundary Convention state) who made submissions to the competent authority in relation to the application for permission concerned, and

(iii) any party to an appeal under *Chapter 3* of *Part 4* of a decision in relation to an application for such permission,

of the reasoned conclusion and any such conditions.

Additional provisions applicable to application in connection with development already carried out

237. (1) A competent authority shall, for the purpose of carrying out a screening for environmental impact assessment under *section 229* in relation to a relevant development that has been or is being carried out, take account of any likely significant effects on the environment that—

(a) have occurred,

(b) are occurring, or

(c) could reasonably be expected to occur,

by reason of the development having already been carried out.

(2) An environmental impact assessment report prepared in accordance with *section 234* in relation to an application for retrospective consent shall include—

(a) a statement of the likely significant effects (if any) on the environment that—

(i) have occurred,

(ii) are occurring, or

(iii) could reasonably be expected to occur,

by reason of the development having already been carried out,

(b) details of any measures already undertaken to avoid, prevent, remedy, mitigate, reduce or offset such significant adverse effects on the environment,

(c) details of measures proposed to be undertaken by the applicant for retrospective consent to remedy, mitigate, reduce or offset any significant adverse effects on

the environment that have already occurred by reason of the development having already been carried out,

(d) details of measures proposed to be undertaken by the applicant for retrospective consent to avoid, prevent, reduce or offset any likely significant effects on the environment that could reasonably be expected to occur by reason of the development having already been carried out, and

(e) such other information as may be prescribed.

(3) A competent authority shall, for the purpose of carrying out an environmental impact assessment under *section 236* in relation to an application for retrospective consent—

(a) identify, describe and assess the direct and indirect significant effects of the relevant development concerned on the environment that—

(i) have occurred,

(ii) are occurring, or

(iii) could reasonably be expected to occur,

by reason of the development having already been carried out,

(b) consider any measures already undertaken to remedy, mitigate, reduce or offset any significant effects on the environment that have already occurred by reason of the development having already been carried out,

(c) consider any measures that the applicant for retrospective consent proposes to take in the future, or any condition that the competent authority is considering attaching to a grant of retrospective consent, for the purpose of avoiding, preventing, remedying, mitigating, reducing or offsetting significant adverse effects on the environment that—

(i) have occurred,

(ii) are occurring, or

(iii) could reasonably be expected to occur,

by reason of the development having already been carried out, and

(d) reach a reasoned conclusion on the significant effects (if any) of the development on the environment.

Transboundary environmental impacts

238. (1) The Minister may prescribe arrangements for—

(a) consultation by a competent authority to whom an application for permission for relevant development requiring an environmental impact assessment is made with a Member State of the European Union or a Transboundary Convention state where—

(i) the competent authority considers that the relevant development has had, is having or is likely to have significant effects on the environment of that state, or

(ii) that Member State or Transboundary Convention state considers that the relevant development is likely to have such effects,

and

(b) consultation by the Minister or a planning authority with a Member State of the European Union or a Transboundary Convention state within which a project that has had, is having or is likely to have a transboundary impact (within the meaning of the Transboundary Convention) on the State is, or is proposed to be, located, where—

(i) the Minister or that planning authority considers that the project has had, is having or is likely to have significant effects on the environment of the State (including the exclusive economic zone of the State), or

(ii) that Member State or Transboundary Convention state considers that the project has had, is having or is likely to have such effects.

(2) Without prejudice to the generality of *subsection (1)*, regulations under that subsection may make provision for—

(a) the notification of the Minister by the competent authority of the application for permission for a relevant development that has had, is having or is likely to have significant effects on the environment in a Member State of the European Union or a Transboundary Convention state,

(b) the provision of information relating to the application, including any environmental impact assessment report, by the competent authority to the Minister,

(c) the notification of a Member State of the European Union or a Transboundary Convention state and the provision of information relating to the application for permission, including any environmental impact assessment report, to that state,

(d) the provision of information and the making of submissions (including submissions in relation to an environmental impact assessment report) by a Member State of the European Union or a Transboundary Convention state regarding the application for permission for the relevant development concerned and its significant effects or likely significant effects on the environment of a Member State of the European Union or a Transboundary Convention state concerned and the transmission of such information and submissions to the competent authority, and

(e) time limits for consultations with a Member State of the European Union or a Transboundary Convention state and, where necessary, the extension of time limits for the taking of steps and the making of decisions under this Act in order to facilitate consultations with the Member State of the European Union or a Transboundary Convention state.

(3) Where a Member State of the European Union or a Transboundary Convention state provides information or makes submissions regarding an application for permission for a relevant development and its significant effects or likely significant effects on the environment of that state, the competent authority concerned shall take such information or submissions into account when carrying out any environmental impact assessment or making a decision under *Part 4* in relation to the application for permission.

(4) A competent authority may, following the taking into account of any information provided or submissions made by a Member State of the European Union or a Transboundary Convention state in accordance with *subsection (3)*, attach to any grant of permission for the relevant development concerned conditions of a type referred to in *subsection (6)* of *section 236* that are for the purpose of avoiding, preventing or reducing transboundary environmental effects of the relevant development.

(5) Without prejudice to the generality of *subsection (1)*, regulations under that subsection may make provision for:

(a) the transmission by the Minister to the competent authority or State authority of any notification received by the Minister from another Member State of the European Union or a Transboundary Convention state in respect of a project in that state that has had, is having or may be likely to have significant environmental effects on the State or the exclusive economic zone of the State;

(b) the making of a request by a competent authority or State authority, whether in response to a notification of the type referred to in *paragraph (a)* or otherwise, for information in relation to a project in another Member State of the European Union (or its exclusive economic zone) or a Transboundary Convention state (or its exclusive economic zone) that the competent authority or State authority, as the case may be, considers has had, is having or is likely to have significant environmental effects in the State or the exclusive economic zone of the State;

(c) the forwarding by the Minister to the Member State of the European Union or a Transboundary Convention state concerned of a request of the type referred to in *paragraph (b)* or the making of a request of that type by the Minister to that Member State of the European Union or Transboundary Convention state;

(d) the provision of information received by the Minister from the Member State of the European Union or a Transboundary Convention state concerned in relation to the project concerned, including any environmental impact assessment report, to the relevant competent authority in the State or State authority;

(e) the notification of the public of any information received by the Minister from the Member State of the European Union or a Transboundary Convention state concerned in relation to the project concerned, including any environmental impact assessment report, and the making of submissions by the public in relation to the information so notified;

(f) the transmission by the Minister to the Member State of the European Union or a Transboundary Convention state concerned of any information or submissions

received from a competent authority, State authority or the public in relation to the project concerned;

(g) the provision of information or making of submissions by the Minister, a State authority or a competent authority to the Member State of the European Union or a Transboundary Convention state concerned in relation to the project concerned;

(h) the initiation and conduct of discussions or consultations with the Member State of the European Union or a Transboundary Convention state concerned for the purpose of ensuring that the transboundary environmental effects in the State (including in the exclusive economic zone of the State) of any project carried out or proposed to be carried out in that Member State or Transboundary Convention state, are taken into account in accordance with the requirements of the Environmental Impact Assessment Directive and the Transboundary Convention.

Joint environmental assessment of relevant development by competent authority

239. (1) Where, in relation to a relevant development—

(a) an appropriate assessment is required to be carried out in accordance with *section 217*, and

(b) an environmental impact assessment is required to be carried out in accordance with *section 236*,

a competent authority may, for the purpose of avoiding unnecessary duplication of effort, carry out both assessments jointly to the extent that the carrying out of both assessments jointly would not hinder compliance with any of the requirements of this Part in relation to either such assessment.

(2) Notwithstanding *subsection (1)*, where a competent authority carries out an appropriate assessment and an environmental impact assessment jointly in accordance with that subsection, it shall ensure that—

(a) its determination in relation to the appropriate assessment and the reasons therefor, and

(b) its reasoned conclusion in relation to the environmental impact assessment are separately stated and clearly distinguishable.

(3) The Minister may make regulations for the purposes of this section.

Coordination of environmental impact assessments under different enactments

240. (1) Where a relevant development in respect of which—

(a) an application for permission is made, and

(b) an environmental impact assessment is required to be carried out in accordance with *section 236*,

cannot lawfully be carried out or retained without the grant of a permission, licence, authorisation or consent (howsoever described) under any enactment (other than this Act), a competent authority shall for the purpose of coordinating—

(i) the performance of its functions in relation to the carrying out of an environmental impact assessment of the relevant development under this Act, and

(ii) the performance by the competent authority under the said enactment of functions in relation to the carrying out of an environmental impact assessment of the relevant development under the said enactment,

consult with the competent authority referred to in *paragraph (ii)*.

(2) The Minister may, after consultation with the other responsible Minister make regulations prescribing the order in which an application for permission under *Part 4* for relevant development and an application for a permission, licence, authorisation or consent (howsoever described) for that relevant development under the enactment referred to in *subsection (1)* shall be made and decided upon.

(3) The Minister may, after consultation with the other responsible Minister make regulations for the purposes of *subsection (1)* including regulations—

(a) prescribing the procedures to be followed for the purposes of compliance with that subsection, and

(b) providing for—

(i) consultation by a competent authority with the Environmental Protection Agency where a relevant development requires a permission under *Part 4* and any one or more of the following:

(I) an integrated pollution control licence;

(II) an industrial emissions licence;

(III) a waste licence;

(IV) a waste water discharge licence;

(V) an abstraction licence,

and

(ii) the coordination by a competent authority and the Environmental Protection Agency of the performance by them of functions in relation to the relevant development.

(4) In this section "other responsible Minister" means—

(a) in relation to an enactment referred to in *subsection (1)*, any Minister of the Government on whom power is conferred to make regulations under that enactment, and

(b) in relation to an enactment referred to in *subsection (3)*, any Minister of the Government on whom power is conferred to make regulations under that enactment.

Environmental impact assessment portal

241. (1) Notwithstanding the repeal of section 172A of the Act of 2000, the Minister shall continue to operate and maintain the internet website (which shall be known as the "environmental impact assessment portal") provided for by that section—

(a) for the purposes of this Chapter, and

(b) for the same purposes as he or she operated and maintained it immediately before such repeal.

(2) The Minister may make regulations for the purposes of this section.

(3) Without prejudice to the generality of *subsection (2)*, regulations under that subsection may include provisions requiring such persons, or persons of such class or classes, as are specified in the regulations to give to the Minister within such period or periods, as may be so specified, such information, or information of such class or classes, as may be so specified, for the purpose of enabling him or her to—

(a) comply with *subsection (1)*, and

(b) ensure compliance by the State with its obligations in relation to the environmental impact assessment portal under the Environmental Impact Assessment Directive.

PART 7

Housing Strategy and Supply

Chapter 1

Housing Strategy

Housing strategy

242. (1) Prior to making a development plan under *Part 3*, a planning authority shall prepare a strategy (in this Act referred to as a "housing strategy") for the purpose of ensuring that the housing development strategy makes adequate provision for the housing of the existing and future population of the area of the development plan in accordance with the proper planning and sustainable development of the area.

(2) A housing strategy—

(a) may be prepared jointly by 2 or more planning authorities in respect of the combined area of their development plans, or

(b) shall, where the Minister so directs, be prepared jointly by 2 or more planning authorities in respect of the combined area of their development plans.

(3) A housing strategy shall relate to the period of the development plan.

(4) In preparing a housing strategy, a planning authority shall—

(a) have regard to the overall housing needs of the population of its functional area, taking account of the matters specified in *subsection (5)*,

(b) have regard to the most recent summary of social housing assessments prepared under section 21 of the Housing (Miscellaneous Provisions) Act 2009 that relate to the area of the development plan,

(c) consult with such approved housing bodies in its functional area as it considers appropriate, and

(d) have regard to relevant policies or objectives for the time being of the Government or any Minister of the Government, and any National Planning Statement, that relate to housing or social integration in the provision of housing services.

(5) A housing strategy shall take into account—

(a) the existing need, and the likely future need, for housing, based on national and regional population growth targets set out in the National Planning Framework and the regional spatial and economic strategy for the region within which the functional area to which the housing strategy relates is situated,

(b) the existing need, and the likely future need, for housing for the purposes of—

(i) the provision of social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009,

(ii) eligible applicants within the meaning of Part 2 of the Affordable Housing Act 2021, and

(iii) cost rental dwellings within the meaning of Part 3 of the Affordable Housing Act 2021,

(c) the need to ensure that housing is available for persons who have different levels of income,

(d) the need to ensure that a mixture of house types and sizes is developed to reasonably match the requirements of different categories of households (including the special requirements of elderly persons and persons with disabilities), as may be determined by the planning authority,

(e) the need to counteract and prevent undue segregation in housing between persons of different social backgrounds,

(f) the existing need and the likely future need for housing, in particular houses and duplexes, for purchase by intending owner-occupiers,

(g) the existing tenure mix of the area of the development plan,

(h) the demographics of the area of the development plan,

(i) any assessment relating to housing need or demand prepared by the planning authority pursuant to the National Planning Framework or any National Planning Statement,

(j) any planned or existing development under Part 9 of the Land Development Agency Act 2021 in, or affecting the functional area of, the planning authority,

(k) such other matters as the planning authority considers appropriate, and

(l) such further or additional matters as may be prescribed.

(6) A housing strategy shall include an estimate of the amount of—

(a) housing for the purposes of the provision of social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009,

(b) housing for eligible applicants within the meaning of Part 2 of the Affordable Housing Act 2021, and

(c) cost rental dwellings within the meaning of Part 3 of the Affordable Housing Act 2021,

required in the area of the development plan during the period of the development plan and the estimate may state different requirements for the purposes of one or more of *paragraphs (a)* to *(c)* for different areas within the area of the development plan.

(7) When making an estimate under *paragraph (b)* of *subsection (6)*, the planning authority shall have regard to the following:

(a) the supply of, and demand for, houses generally or houses of a particular class or classes, in the whole or part of the area of the development plan;

(b) the price of houses generally, or houses of a particular class or classes, in the whole or part of the area of the development plan;

(c) the income of persons generally, or of a particular class or classes of person who require houses in the area of the development plan;

(d) the rates of interest on mortgage loans;

(e) the relationship between the price of housing under *paragraph (b)*, incomes under *paragraph (c)* and rates of interest under *paragraph (d)* for the purpose of establishing the affordability of houses in the area of the development plan;

(f) such other matters as the planning authority considers appropriate;

(g) such other matters as may be prescribed for the purposes of this subsection.

(8) When making an estimate under *paragraph (c)* of *subsection (6)*, the planning authority shall have regard to the following:

(a) the supply of, and demand for, houses for rent in the whole or part of the area of the development plan;

(b) the cost of rents applicable to houses generally, or to houses of a particular class or classes, in the whole or part of the area of the development plan;

(c) the income of persons generally, or of a particular class or classes of person, who require houses for rent in the area of the development plan;

(d) the relationship between the cost of rents referred to in *paragraph (b)* and incomes referred to in *paragraph (c)* for the purpose of establishing the affordability of housing for rent in the area of the development plan;

(e) such other matters as the planning authority considers appropriate;

(f) such other matters as may be prescribed for the purposes of this subsection.

(9) Regulations made for the purposes of *subsections (7)* and *(8)* shall not affect any of the following that are in effect at the time those regulations come into operation:

(a) a housing development strategy;

(b) a housing strategy within the meaning of the Act of 2000;

(c) the objectives of any development plan.

(10) Subject to *subsection (11)*, a housing strategy shall provide that as a general policy a specified percentage, not being more than 20 per cent, of—

(a) the land zoned for residential use, or for a mixture of residential and other uses, and

(b) any land not zoned either for residential use or for a mixture of residential and other uses, and in respect of which permission for the development of houses is granted,

shall be reserved for the provision of housing for the purposes of one or more of the following:

(i) housing for the purposes of the provision of social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009;

(ii) housing for eligible applicants within the meaning of Part 2 of the Affordable Housing Act 2021;

(iii) cost rental dwellings within the meaning of Part 3 of the Affordable Housing Act 2021.

(11) *Subsection (10)* shall not operate to prevent any person (including a local authority) at its election from using more than 20 per cent of land in respect of which permission for the development of houses is granted for the provision of housing to which *paragraphs (i)* to *(iii)* of *subsection (10)* apply.

(12) A housing strategy within the meaning of Part V of the Act of 2000 included in a development plan under Part II of that Act and continued in force by virtue of *section 68* shall, until the replacement of that development plan in accordance with *Part 3*, constitute the housing strategy of the planning authority in respect of whose functional area the development plan applies.

Development plans for which housing strategy has already been made

243. (1) This section applies where—

(a) a development plan includes a housing strategy, within the meaning of the Act of 2000, on the date on which *section 242* comes into operation, and

(b) the chief executive of the planning authority has not prepared an estimate referred to in *subsection (2)* on or after 2 September 2021.

(2) Where this section applies, the chief executive of the planning authority shall make an estimate of the amount of housing referred to in—

(a) *paragraph (f)* of *subsection (5)* of *section 242* required in the area of the development plan during the period of the development plan, and

(b) *paragraphs (ii)* and *(iii)* of *subsection (10)* of *section 242* required in the area of the development plan during the period of the development plan.

(3) An estimate under *subsection (2)*—

(a) may state different requirements for housing for different areas within the area of the development plan, and

(b) shall be deemed to be included in the housing strategy referred to in *subsection (1)*.

CHAPTER 2

Housing Supply

Interpretation

244. In this Chapter—

"certificate" has the meaning given to it by *subsection (3)* of *section 254*;

"existing use value", in relation to the value of land on the date permission relating to the land is granted, means the value of the land calculated—

(a) by reference to its use immediately before the permission was granted, and

(b) as if, on and from the date of such grant, it would have been unlawful to carry out development in relation to that land other than exempted development;

"market value"—

(a) in relation to the value of a house on a particular date, means the price that the house would fetch if sold with good marketable title on the open market on that date, and

(b) in relation to the value of land other than a house in respect of which permission is granted, means the price that the land would have fetched if it had been sold with good marketable title on the open market immediately following the grant of the permission;

"net monetary value" means, where permission to which this Chapter applies is granted in relation to land, the market value of the land on the date of the grant less the existing use value of the land on that date;

"owner" means—

(a) a person, other than a mortgagee not in possession, who is for the time being entitled to dispose (whether in possession or reversion) of the fee simple of the land, or

(b) a person who, under a lease or agreement the unexpired term of which exceeds 5 years, holds or is entitled to the rents or profits of the land.

Application of Chapter

245. (1) Subject to *section 254* and *subsection (2)*, and without prejudice to *section 98* and, where applicable, Part 9 of the Land Development Agency Act 2021, this Chapter shall apply to an application for permission (and to a grant of permission to which such an application applies, as the case may be) for the development of houses on land, or where an application relates to a mixture of developments, to that part of the application relating to the development of houses on such land.

(2) This Chapter shall not apply to applications for permission for—

(a) the development of holiday homes,

(b) development consisting of the provision of cost rental housing or houses by an approved housing body, for the provision of housing required for households assessed under section 20 of the Housing (Miscellaneous Provisions) Act 2009 as being qualified for social housing support, where all houses in the development are to be made available for letting or sale,

(c) the conversion of an existing building or the reconstruction of a building to create one or more dwellings where 50 per cent or more of the existing external fabric of the building is retained,

(d) the carrying out of works to an existing house,

(e) the development of houses pursuant to an agreement under this Chapter, or

(f) the development of student accommodation.

Provision of social and affordable housing, etc.

246. A planning authority, or the Commission on appeal, shall require as a condition of a grant of permission that the applicant, or any other person with an interest in the land to which the application relates, enter into an agreement under this Chapter with the planning authority prior to the lodgement of a commencement notice within the meaning of Part II of the Building Control Regulations 1997.

Agreement relating to transfers to planning authority

247. (1) Subject to *subsections (2)*, *(10)* and *(12)*, an agreement under this Chapter shall provide for the transfer to the planning authority, with good marketable title, of the ownership of 20 per cent of the land that is subject to the application for permission

for the provision of housing referred to in *paragraphs (i)*, *(ii)* and *(iii)* of *subsection (10)* of *section 242*.

(2) Instead of the transfer of land referred to in *subsection (1)*, an agreement under this Chapter may provide for—

(a) the building and transfer, on completion, to the ownership of the planning authority, or to the ownership of persons nominated by the authority, in accordance with this Part, of such number and description of houses on the land which is subject to the application for permission as may be specified in the agreement,

(b) the transfer to the ownership of the planning authority, or to the ownership of persons nominated by the authority, in accordance with this Part, of houses of such number and description as may be specified in the agreement on any other land within the functional area of the planning authority,

(c) the grant to the planning authority, or persons nominated by the authority, in accordance with this Part, of a lease under the Housing Acts 1966 to 2021 of houses of such number and description as may be specified in the agreement on the land which is subject to the application for permission, or on any other land within the functional area of the planning authority,

(d) a combination of a transfer of the ownership of less than 20 per cent of the land referred to in *subsection (1)* and the doing of one or more of the things referred to in *paragraphs (a)* to *(c)*, or

(e) any combination of the matters referred to in *paragraphs (a)* to *(c)*,

provided that the agreement provides for the sum of the following amounting to no less than the net monetary value that the planning authority would receive if the agreement solely provided for a transfer of land under *subsection (1)*:

(i) land or houses transferred to the planning authority under the agreement;

(ii) any reduction in rent payable over the term of a lease referred to in *paragraph (c)* (excluding any reduction for maintenance, management and void periods specified in such lease).

(3) Where land is transferred to a planning authority under *subsection (1)*, the planning authority shall use at least half of that land for the provision of housing for the purposes of the provision of social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009.

(4) Where land or houses are transferred to a planning authority under *subsection (2)*, or where there is a reduction in rent payable over the term of a lease referred to in *paragraph (c)* of *subsection (2)* (excluding any reduction for maintenance, management and void periods specified in such lease), the planning authority shall use at least half of the net monetary value that the planning authority would receive if the agreement solely provided for a transfer of land in accordance with *subsection (1)* for the provision of social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009.

(5) In considering whether to enter into an agreement under *subsection (2)*, a planning authority shall consider each of the following:

(a) whether such an agreement will contribute effectively and efficiently to the achievement of the objectives of the housing development strategy;

(b) whether such an agreement will constitute the best use of the resources available to it to ensure an adequate supply of housing;

(c) any financial implications of the agreement for its functions;

(d) the need to counteract and prevent undue segregation in housing between persons of different social backgrounds in the area of the local authority;

(e) whether such an agreement is in accordance with the provisions of the development plan;

(f) the period within which housing referred to in *paragraphs (i)* to *(iii)* of *subsection (10)* of *section 242* is likely to be provided as a consequence of the agreement.

(6) Where houses are to be transferred to the planning authority, or to persons nominated by the authority, pursuant to an agreement under *subsection (2)*, the price of such houses shall be determined on the basis of—

(a) the sum payable by the planning authority under *section 250* for the land on which a house is built (including external parts for use exclusively in connection with the house), and

(b) the costs, including normal construction and development costs and profit on those costs, calculated at open market rates that would have been incurred by the planning authority had it retained an independent builder to undertake the works, including the appropriate share of any common development works, as agreed between the authority and the developer.

(7) Where an agreement under this Chapter provides for the transfer of land or houses or both, such land and such houses shall, whether in one or more parts, be identified in the agreement.

(8) In so far as it is known to the planning authority at the time of the agreement, the planning authority shall indicate to the applicant for permission its proposed provision of housing on the land to be transferred, or to be the subject of a lease, in accordance with *subsection (1)* or *(2)*, and such indication shall include a description of the proposed houses.

(9) Nothing in this section shall be construed as requiring an applicant for permission or any other person (other than the planning authority) to enter into an agreement under *subsection (2)* instead of an agreement under *subsection (1)*.

(10) In considering whether to enter into an agreement under *subsection (1)* or *(2)*, the planning authority shall consider—

(a) the proper planning and sustainable development of the area to which the application relates,

(b) the housing development strategy and the specific objectives of the development plan relating to the implementation of the strategy,

(c) the need to ensure the overall coherence of the development to which the application relates, where appropriate, and

(d) the views of the applicant in relation to the impact of the agreement on the development.

(11) Government guidelines on public procurement shall not apply to an agreement made under *subsection (1)* or *(2)* except in the case of an agreement that is subject to the requirements of Council Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014[19] on public procurement and repealing Directive 2004/18/EC and any directive amending or replacing the first mentioned directive.

(12) Where—

(a) a permission to which this Chapter applies is granted before 1 August 2021, or

(b) a permission to which this Chapter applies is granted during the period beginning on 1 August 2021 and ending on 31 July 2026 and the land to which the application for permission relates was purchased by the applicant, or the person on whose behalf the application is made, pursuant to a legally enforceable agreement entered into, or in exercise of an option in writing, to purchase the land, during the period beginning on 1 September 2015 and ending on 31 July 2021,

then the references to "20 per cent of the land" in *subsection (1)* and *paragraph (d)* of *subsection (2)* shall be read as "10 per cent of the land", the reference in *subsection (3)* to "at least half of that land" shall be read as "all of that land" and the reference in *subsection (4)* to "at least half of the net monetary value" shall be read as "the entire net monetary value".

Applicant to specify manner of proposed compliance with condition under *section 246*

248. When making an application to which this Chapter applies, the applicant shall specify the manner in which he or she proposes to comply with a condition that may be imposed by the planning authority under *section 246* on foot of such application, and where the planning authority grants permission to the applicant subject to any such condition it shall have regard to any proposals so specified.

Dispute in relation to agreement

249. (1) Subject to *subsection (2)*, a planning authority, a party to an agreement under this Chapter, or a prospective party to an agreement under this Chapter, may refer a dispute in relation to any matter subject to such an agreement to the Commission.

(2) Where a dispute in relation to any matter subject to an agreement under this Chapter relates to a matter falling within *section 251*, the dispute shall be referred to the property arbitrator.

19 OJ No. L94, 28.3.2014, p. 65

(3) The Commission or the property arbitrator, as the case may be, shall determine a dispute referred to them as soon as practicable.

Compensation

250. (1) Where ownership of land is transferred to a planning authority pursuant to an agreement under this Chapter, the planning authority shall, by way of compensation, pay to the owner of the land a sum equal to the greater of—

(a) (i) in the case of—

(I) land purchased by the applicant before 25 August 1999, or

(II) land purchased by the applicant pursuant to a legally enforceable agreement entered into before that date or in exercise of an option in writing to purchase the land granted or acquired before that date,

the price paid for the land, or the price agreed to be paid for the land pursuant to the agreement or option, together with such sum in respect of interest thereon (including, in circumstances where a loan is secured by mortgage on the land, interest paid in respect of the loan to the extent that the value of the land does not exceed the amount of the loan) as may be determined by the property arbitrator,

(ii) in the case of land the ownership of which was acquired by the applicant by way of a gift or inheritance taken (within the meaning of the Capital Acquisitions Tax Consolidation Act 2003) before 25 August 1999, a sum equal to the market value of the land on the valuation date (within the meaning of that Act) estimated in accordance with section 26 of that Act, or

(iii) where the applicant for permission is a mortgagee in possession of land that was—

(I) purchased before 25 August 1999, or

(II) purchased pursuant to a legally enforceable agreement to purchase the land entered into before that date, or in exercise of an option in writing to purchase the land granted or acquired before that date,

the price paid for the land, or the price agreed to be paid for the land pursuant to the agreement or option, together with such sum in respect of interest thereon calculated from that date (including any interest accruing and not paid in respect of the loan secured by the mortgage to the extent that the value of the land does not exceed the amount of the loan) as may be determined by the property arbitrator,

or

(b) the existing use value of the land.

(2) *Section 450* shall apply to compensation payable under this section.

Property arbitrator

251. (1) A property arbitrator appointed under section 2 of the Property Values (Arbitrations and Appeals) Act 1960, shall, in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919, in default of agreement, fix any one or more of the following where appropriate:

(a) the number and price of houses to be transferred under *paragraph (a)*, *(b)*, *(d)* or *(e)* of *subsection (2)* of *section 247*;

(b) in the case of an agreement referred to in *paragraph (c)* of *subsection (2)* of *section 247*, the number of houses subject to, and the rent payable under, such an agreement;

(c) the compensation payable under *section 250* by a planning authority to the owner of land;

(d) the payment of an amount to the planning authority under an agreement referred to in *paragraph (d)* or *(e)* of *subsection (2)* of *section 247*.

(2) For the purpose of determining any matter in *subsection (1)*, the property arbitrator appointed shall have regard to any material difference between the houses in terms of size and location within the development.

(3) In selecting the type of sites and houses to be transferred, the property arbitrator shall have regard to the reasonable requirements of the planning authority as to the type of accommodation which it needs to supply for the purposes of *paragraphs (i)* to *(iii)* of *subsection (10)* of *section 242*.

(4) For the purposes of *subsection (1)*, subsection (2) of section 2 of the Acquisition of Land (Assessment of Compensation) Act 1919 shall not apply and the property arbitrator shall calculate the value of the land based on its existing use value.

(5) The property arbitrator appointed shall determine the matter as soon as practicable.

Transfers

252. (1) Where ownership of land is transferred to a planning authority in accordance with *section 247*, the authority may—

(a) provide, or arrange for the provision of, housing on the land of the type referred to in any of *paragraphs (i)* to *(iii)* of *subsection (10)* of *section 242*,

(b) make land available to—

(i) persons eligible for social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009, or

(ii) eligible applicants within the meaning of Part 2 of the Affordable Housing Act 2021,

for the development of houses by them for their own occupation, or

(c) make land available to an approved housing body, for the provision on the land of housing of the type referred to in any of *paragraphs (i)* to *(iii)* of *subsection (10)* of *section 242*.

(2) Pending the provision of housing in accordance with *paragraph (a)* of *subsection (1)*, or the making available of land in accordance with *paragraph (b)* or *(c)* of *subsection (1)*, the planning authority shall maintain the land or sites in a manner that does not detract, and is not likely to detract, to a material degree from the amenity, character or appearance of land or houses in the neighbourhood of the land or sites.

(3) Where a house is transferred to a planning authority or its nominees under *subsection (2)* of *section 247*, it shall be used for the housing of persons eligible under regulations under subsection (3) of section 31 of the Affordable Housing Act 2021 to be tenants of cost rental dwellings, persons eligible for social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009 or eligible applicants within the meaning of Part 2 of the Affordable Housing Act 2021.

(4) A nominee of a planning authority may be a person eligible for social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009, an eligible applicant within the meaning of Part 2 of the Affordable Housing Act 2021 or an approved housing body for the provision of housing of the type referred to in any of *paragraphs (i)* to *(iii)* of *subsection (10)* of *section 242*.

(5) Notwithstanding any provision of this or any other enactment, if a planning authority is satisfied that land, a site or a house transferred to it under *section 247* is no longer required for the purposes specified in *subsections (1)* to *(4)*, it may—

(a) use the land, site or house for another purpose connected with its functions and, where it does so, it shall pay an amount equal to the following into the separate account referred to in *subsection (6)*:

(i) in the case of land, or a site, without a house, the market value of the land or site;

(ii) in the case of a house, the market value of the house on the date permission relating to that house was granted,

or

(b) sell the land, site or house for the best price reasonably obtainable, and, where it does so, it shall pay an amount equal to the proceeds of the sale into the separate account referred to in *subsection (6)*.

(6) Any amount referred to in *subsection (5)* and any amount paid to a planning authority in accordance with an agreement referred to in *paragraph (d)* or *(e)* of *subsection (2)* of *section 247* shall be accounted for in a separate account and shall only be applied as capital for its functions in relation to the provision of housing under the Housing Acts 1966 to 2021.

(7) A dwelling that is the subject of an agreement referred to in section 75 of the Land Development Agency Act 2021 shall not be reckoned in determining whether or not a condition imposed by *section 246* has been complied with.

Sale, lease or exchange of land

253. A planning authority may, for the purposes of an agreement under this Chapter, agree to sell, lease or exchange any land within its ownership to the party to the agreement under *section 247*, in accordance with *section 406*.

Certification of development to which this Chapter does not apply

254. (1) In this section—

"applicant" includes a person on whose behalf another person applies for a certificate;

"court" means the Circuit Court for the circuit in which all or part of the development to which the application under *subsection (3)* relates is situated.

(2) For the purposes of this section—

(a) 2 or more persons shall be deemed to be acting in concert if, pursuant to an agreement, arrangement or understanding, at least one of them makes an application under *subsection (3)* or causes such an application to be made, and

(b) land shall not be deemed to be in the immediate vicinity of other land unless it is 400 metres or less from the other land.

(3) A person may, before applying for permission in respect of a development—

(a) consisting of the provision of 4 or fewer houses, or

(b) for housing on land of 0.1 hectares or less,

apply to the planning authority concerned for a certificate stating that this Chapter shall not apply to a grant of permission in respect of the development concerned (in this section referred to as a "certificate"), and where the planning authority grants a certificate, this Chapter shall not apply to a grant of permission in respect of the development concerned.

(4) Subject to—

(a) *subsections (6)* and *(11)*, and

(b) the applicant for a certificate providing the planning authority with such information as the planning authority may reasonably require to enable it to perform its functions under this Chapter,

a planning authority to which an application for a certificate has been made under and in accordance with this section shall grant a certificate to the applicant.

(5) An application for a certificate shall be accompanied by a statutory declaration made by the applicant—

(a) giving, in respect of the period of 5 years preceding the application, all particulars that are within the applicant's knowledge or procurement of the legal and beneficial ownership of the land on which it is proposed to carry out the development to which the application relates,

(b) identifying any person with whom the applicant is acting in concert,

(c) giving particulars of—

(i) any interest that the applicant has, or had at any time during the period of 5 years preceding the application, in any land in the immediate vicinity of the land on which it is proposed to carry out the development to which the application relates, and

(ii) any interest, of which the applicant has knowledge, that any person with whom the applicant is acting in concert has, or had at any time during the period of 5 years preceding the application, in any land in the said immediate vicinity,

(d) stating that the applicant is not aware of any facts or circumstances that would constitute grounds under *subsection (11)* for the refusal by the planning authority to grant a certificate, and

(e) giving such other information as may be prescribed.

(6) (a) A planning authority may, no later than 4 weeks from the date of the application to it under this section, require an applicant for a certificate to provide it with such further information or documentation as it considers reasonably necessary to enable it to perform its functions under this section.

(b) Where an applicant refuses to comply with a requirement under *paragraph (a)* or fails, within a period of 8 weeks from the date of the making of the requirement, to so comply to the planning authority's satisfaction, the planning authority shall refuse to grant the applicant a certificate.

(7) A planning authority may, for the purpose of performing its functions under this section, make such further inquiries of an applicant or any other person as it considers appropriate.

(8) The Minister may make regulations in relation to the making of an application under this section.

(9) Where a planning authority fails either to grant or refuse to grant a certificate within the period of 4 weeks from the later of—

(a) the making of an application to it under this section, or

(b) where it has made a requirement under *subsection (6)* within the period of 4 weeks from the making of an application to it under this section, the date of receipt by it of the information or documentation to which the requirement relates,

the planning authority shall, on the expiry of that period, be deemed to have granted a certificate to the applicant concerned.

(10) Particulars of a certificate shall be entered in the register.

(11) Subject to *subsection (12)*, a planning authority shall not grant a certificate in relation to a development if the applicant for the certificate, or any person with whom the applicant is acting in concert—

(a) has been granted, not earlier than 5 years before the date of the application, a certificate in respect of a development on the land on which it is proposed to carry out the first-mentioned development, or land in its immediate vicinity, and the certificate at the time of the application remains in force, or

(b) has carried out, or has been granted permission to carry out, a development referred to in *subsection (3)*, not earlier than 5 years before the date of the application in respect of the land on which it is proposed to carry out the first-mentioned development, or land in its immediate vicinity.

(12) A planning authority may, where *paragraph (a)* or *(b)* of *subsection (11)* applies to the applicant for the certificate or any person with whom the applicant is acting in concert, grant a certificate in relation to a development if—

(a) the aggregate of any development to which *paragraph (a)* or *(b)* of *subsection (11)* relates and the first-mentioned development referred to in *subsection (11)* would not, if carried out, exceed 4 houses, or

(b) in circumstances where the said aggregate would exceed 4 houses, the aggregate of the land on which any development to which *paragraph (a)* or *(b)* of *subsection (11)* relates and the land on which it is proposed to carry out the first-mentioned development referred to in *subsection (11)* does not exceed 0.1 hectares.

(13) Where a planning authority refuses to grant a certificate, it shall by notice inform the applicant of the reasons for the refusal.

(14) (a) Where a planning authority to which an application for a certificate has been made refuses to grant the certificate, the applicant may, not later than 3 weeks from the date on which the applicant receives notification of the refusal, or such later date as may be permitted by the court, appeal to the court for an order directing the planning authority to grant the applicant a certificate in respect of the development.

(b) The court may, at the hearing of an appeal under *paragraph (a)*—

(i) dismiss the appeal and affirm the refusal of the planning authority to grant the certificate, or

(ii) allow the appeal and direct the planning authority to grant the applicant a certificate in respect of the development concerned.

(15) A planning authority shall comply with a direction of the court under *subsection (14)*.

(16) (a) Subject to *paragraph (b)*, a planning authority shall revoke a certificate, upon application in that behalf being made to it by the owner of land to which the certificate relates, or by any other person acting with the permission of such owner.

(b) A planning authority shall not revoke a certificate under this subsection where permission has been granted in respect of the development to which the certificate relates.

(17) A person shall not, solely by reason of having been granted a certificate, be entitled to a grant of permission in respect of the development to which the certificate relates.

(18) A certificate under section 97 of the Act of 2000 granted before the repeal of that section by *section 6* shall have effect on and after that repeal as if granted under this section.

Offences in relation to certificate

255. (1) A person who, knowingly or recklessly—

(a) makes a statutory declaration under *subsection (5)* of *section 254*, or

(b) provides a planning authority with information or documentation in purported compliance with a requirement under *subsection (6)* of *section 254*,

that is false or misleading in a material respect, or who believes any such statutory declaration made by him or her, or information or documentation provided by him or her in purported compliance with such requirement, not to be true, shall be guilty of an offence and shall be liable—

(i) on summary conviction to a class A fine or to imprisonment for a term not exceeding 6 months, or both, or

(ii) on conviction on indictment to a fine not exceeding €635,000 or to imprisonment for a term not exceeding 5 years, or both.

(2) A person who—

(a) forges or utters, knowing it to be forged, a certificate purporting to have been granted under *section 254* (in this section referred to as a "forged certificate"),

(b) alters with intent to deceive or defraud, or utters, knowing it to be so altered, a certificate (in this section referred to as an "altered certificate"), or

(c) without lawful authority or other reasonable excuse, has in his or her possession a forged certificate or an altered certificate,

shall be guilty of an offence and shall be liable—

(i) on summary conviction to a class A fine or imprisonment for a term not exceeding 6 months, or both, or

(ii) on conviction on indictment to a fine not exceeding €635,000 or imprisonment for a term not exceeding 5 years, or both.

(3) Where a person is convicted on indictment of an offence under this section, the court may, in addition to any fine or term of imprisonment imposed by the court, order the payment into court by the person of an amount that, in the opinion of the court, is equal to the amount of any gain accruing to that person by reason of the grant of a certificate on foot of the statutory declaration, information or documentation, as the case may be, to which the offence relates, and such sum shall, when paid in accordance with such order, stand forfeited.

(4) All sums that stand forfeited under *subsection (3)* shall be paid to the planning authority named in, or uttered to have granted, the purported certificate concerned and shall be accounted for in the account referred to in *subsection (6)* of *section 252* and be applied only for the purposes specified in that subsection.

(5) Where a person is convicted of an offence under this section, the court may revoke a certificate granted on foot of a statutory declaration, information or documentation to which the offence relates, upon application being made to it in that behalf by the planning authority that granted the certificate.

Planning authority functions concerning housing

256. Where a planning authority performs a function under this Part in an area, and the planning authority is not the local authority for that area, the planning authority shall consult with the local authority for the area with respect to the performance of that function.

PART 8

Miscellaneous Powers of Planning Authorities

Chapter 1

Control of Development

Agreements restricting or regulating development or use of land

257. (1) A planning authority may make an agreement with an owner of land in its functional area for the purposes of restricting or regulating the development or use of the land, either permanently or during such period as may be specified by the agreement, and the agreement may contain such incidental and consequential provisions (including provisions in respect of the ownership of land, and charges and other provisions of a financial character) as appear to the planning authority to be necessary or expedient for the purposes of the agreement.

(2) A planning authority may join with a body prescribed under *paragraph (j)* of *subsection (3)* of *section 54* in making an agreement under *subsection (1)*.

(3) An agreement under *subsection (1)* may be enforced by the planning authority, or a prescribed body that joined with it (if any), against the owner of the land with whom the agreement was made or a person deriving title under that owner in respect of that land as if the planning authority or body, as the case may be, were possessed of adjacent land, and as if the agreement had been expressed to be made for the benefit of that adjacent land.

(4) Without prejudice to *subsection (3)*, where the agreement, or part of it, is made pursuant to a condition attached to a permission, a breach of the agreement, or that part, shall constitute a breach of the condition unless the condition otherwise provides.

(5) The owner of the land (or part of the land) with whom an agreement is made under *subsection (1)*, or a person deriving title under that owner in respect of that land (or part), may apply to the planning authority for the discharge or modification of the agreement.

(6) The planning authority shall give notice of an application made under *subsection (5)* to a prescribed body (if any) that joined with it in making the agreement and the prescribed body may, within such period as is specified in the notice, make submissions in writing to the planning authority in relation to the application.

(7) A planning authority may discharge or modify an agreement under *subsection (1)* only where an application is made to it under *subsection (5)* and it is satisfied that continued compliance with the agreement would be unduly burdensome for the person that made the application, or is unnecessary, having regard to the following matters:

(a) the circumstances in which, and the purposes for which, the agreement was made;

(b) any benefits accrued to persons interested in the land or the part of the land in consequence of the making of the agreement;

(c) the time that has elapsed since the agreement was made;

(d) any changes in the character of the land or the part of the land or of its neighbourhood since the agreement was made;

(e) any changes in the objectives in any development plan, urban area plan, priority area plan or coordinated area plan relating to the land or the part of the land or of its neighbourhood since the agreement was made;

(f) whether the agreement secures or is capable of securing any practical benefit and, if so, the nature and extent of that benefit;

(g) the likely consequences of any discharge or modification of the agreement;

(h) any submissions made pursuant to a notice under *subsection (6)* or by any person interested in the performance of the agreement pursuant to any notice given under regulations under *subsection (12)*;

(i) any other relevant factors particular to the agreement and the land or the part of the land.

(8) Subject to any regulations under *subsection (12)*, the planning authority may make such inquiries or give such notifications, or require the submission of such information or the giving of such notifications, as it considers appropriate for the purposes of performing its functions under *subsection (7)*.

(9) Nothing in this section, or in any agreement under *subsection (1)*, shall be construed as restricting the exercise, in relation to land which is the subject of such an agreement, of any powers exercisable by the Minister, the Commission or the planning authority under this Act.

(10) Particulars of an agreement under *subsection (1)*, and of any discharge or modification of the agreement under *subsection (7)*, shall be entered in the register.

(11) (a) An agreement under *subsection (1)* may be registered—

(i) in the Registry of Deeds, as an act of the owner of the land concerned, or

(ii) in the Land Registry, as a burden on any part of the land concerned that is registered in the Land Registry.

(b) Where an agreement under *subsection (1)* is modified under *subsection (7)*, an entry may be made in the Registry of Deeds or the Land Registry to that effect.

(c) Where an agreement under *subsection (1)* is discharged in whole or in part under *subsection (7)*—

(i) the discharge or partial discharge may be registered in the Registry of Deeds, or

(ii) a burden registered in the Land Registry in respect of the agreement may be cancelled or amended as required.

(d) The cost of registering—

(i) an agreement under *subsection (1)*, shall be borne by the planning authority that made the agreement, and

(ii) any matter pursuant to *paragraph (b)* or *(c)*, shall be borne by the person applying for the modification or discharge under *subsection (5)*.

(12) The Minister may make regulations in relation to—

(a) the making, registration and enforcement of agreements under this section, and

(b) the making of applications under *subsection (5)*, including the giving of notice of applications to particular persons or the public and the making by persons interested in the performance of the agreement of submissions to the planning authority in relation to such applications.

(13) An agreement under section 47 of the Act of 2000 or section 38 of the Local Government (Planning and Development) Act 1963 that was—

(a) made for the purpose of restricting or regulating the development of land, and

(b) in force immediately before the repeal of the said section 47 by *section 6*,

shall, on and after that repeal, be deemed to be an agreement made under this section, and accordingly this section shall apply to that agreement.

(14) An agreement under section 47 of the Act of 2000 or section 38 of the Local Government (Planning and Development) Act 1963 that was—

(a) made for the purpose of restricting or regulating the development of a maritime site, and

(b) in force immediately before the repeal of the said section 47 by *section 6*,

shall, on and after that repeal, be deemed to be an agreement made under this section, and accordingly, for the purposes of the application of this section to that agreement—

(i) references in this section to land shall be construed as including references to a maritime site, and

(ii) references in this section to the land shall be construed as including references to the maritime site.

Notice requiring discontinuance of works or use or removal or alteration of structure

258. (1) If a planning authority considers in relation to land in its functional area that, in exceptional circumstances—

(a) any works on the land should be discontinued,

(b) any structure on the land should be demolished, removed, altered or replaced,

(c) any use of the land should be discontinued, or

(d) any conditions should be imposed on the continuance of works on the land or of a use of the land,

the planning authority may serve a notice on one or more than one of the following persons specifying the steps which the person is required to take in relation to the works, structure or use:

(i) the owner of the land;

(ii) the occupier of the land;

(iii) any other person who, in the opinion of the planning authority, is in a position to take or facilitate the taking of the steps.

(2) If the Maritime Area Regulatory Authority considers in relation to a maritime site that, in exceptional circumstances—

(a) any works in the site should be discontinued,

(b) any structure in the site should be demolished, removed, altered or replaced,

(c) any use of the site should be discontinued, or

(d) any conditions should be imposed on the continuance of works on the site or of a use of the site,

the Maritime Area Regulatory Authority may serve a notice on one or more than one of the following persons specifying the steps which the person is required to take in relation to the works, structure or use:

(i) the holder of a maritime area consent in respect of the maritime site;

(ii) the occupier of the maritime site;

(iii) any other person who, in the opinion of the Maritime Area Regulatory Authority, is in a position to take or facilitate the taking of the steps.

(3) *Subsections (1)* and *(2)* shall not apply to any works that are, or any use that is, unauthorised development unless enforcement action (within the meaning of *Part 11*)

may not be taken, by virtue of *section 353*, in respect of the unauthorised development.

(4) A notice referred to in *subsection (1)* or *(2)* shall—

(a) identify the works, structure or use, and the location of the land or maritime site concerned,

(b) specify the steps required to be taken including, where appropriate—

(i) the demolition, removal, alteration or replacement of any structure,

(ii) the discontinuance of any works or use, or

(iii) the steps necessary for compliance with conditions imposed on the continuance of any works or use,

(c) specify the period after the confirmation of the notice under *subsection (6)* within which the steps are required to be taken,

(d) state the reasons for the service of the notice,

(e) invite any person served with the notice to make written submissions to the planning authority or the Maritime Area Regulatory Authority, as appropriate, in respect of the matters referred to in the notice within a period specified in the notice (being not less than 4 weeks from the date of service of the notice), and

(f) state that the notice requires confirmation by the Commission and that any submissions received, and not withdrawn, within the period specified under *paragraph (e)*, shall be considered by the Commission before the notice is confirmed.

(5) As soon as practicable after the expiry of the period for making submissions specified under *paragraph (e)* of *subsection (4)*, the planning authority or the Maritime Area Regulatory Authority shall refer the notice (accompanied by any submissions made under that subsection and not withdrawn) to the Commission for confirmation.

(6) The Commission shall consider the notice and any submissions referred to in *subsection (5)* and may confirm the notice, with or without modifications, or refuse to confirm it.

(7) Without prejudice to the generality of *subsection (6)*, a modification referred to in that subsection may include the removal of a requirement that a person served with the notice take, or facilitate the taking of, steps referred to in the notice where the Commission is of the opinion that he or she is not in a position to take, or facilitate the taking of, the steps.

(8) The Commission, in deciding whether to confirm a notice under *subsection (6)*, shall consider—

(a) the principles of proper planning and sustainable development and, where applicable, the objectives of maritime spatial planning,

(b) any applicable provisions of—

(i) the National Planning Framework,

(ii) regional spatial and economic strategies,

(iii) development plans,

(iv) urban area plans,

(v) coordinated area plans,

(vi) priority area plans,

(vii) the National Marine Planning Framework, and

(viii) maritime spatial plans,

(c) any relevant special amenity area order or European Site,

(d) any relevant strategy under *section 50*, and

(e) any other relevant provision of this Act or any regulations made under it.

(9) A notice under this section shall take effect when confirmed by the Commission.

Provisions consequential on notice under *section 258*

259. (1) If, within the period specified for that purpose in a notice confirmed under *subsection (6)* of *section 258*, or within such further period as the planning authority or the Maritime Area Regulatory Authority, as appropriate, may allow, any step required by the notice has not been taken, an authorised person appointed by the planning authority or the Maritime Area Regulatory Authority under *section 393* may enter the lands or maritime site concerned and any structure on the land or in the site under *section 394* and take the step.

(2) Where a notice confirmed under *subsection (6)* of *section 258* is complied with, the planning authority or the Maritime Area Regulatory Authority, as appropriate, shall pay to the person complying with the notice the expenses reasonably incurred by the person in taking the steps specified in the notice, less the value of any salvageable materials.

(3) Where a person served with a notice confirmed under *subsection (6)* of *section 258* fails to comply with the notice, or causes or permits a failure by another person to comply with the notice, he or she shall be guilty of an offence.

(4) (a) In proceedings for an offence under *subsection (3)* that consists of a failure by the defendant to comply with a notice under that subsection, it shall be a defence for him or her to show that he or she took all reasonable steps to comply with the notice.

(b) In proceedings for an offence under *subsection (3)* that consists of causing or permitting another person to fail to comply with a notice under that subsection, it shall be a defence for the defendant to show that he or she took all reasonable steps to secure compliance by the said person with the notice.

(5) In any proceedings for an offence under *subsection (3)*, a document which purports to be a notice confirmed under *subsection (6)* of *section 258* shall be taken to be such a notice unless the contrary is shown.

(6) A planning authority or the Maritime Area Regulatory Authority, as appropriate, may, prior to or after confirmation of the notice by the Commission, for stated reasons, withdraw a notice served under *section 258* by notice in writing served on the person on whom the first-mentioned notice was served.

(7) Particulars of a notice confirmed under *subsection (6)* of *section 258*, and of a withdrawal of such a notice under *subsection (6)*, shall be entered in the register.

CHAPTER 2

Public Components of Certain Developments

Application of Chapter and definitions

260. (1) This Chapter applies to land-based development that is being, or has been, carried out—

(a) that includes not less than 2 houses (whether or not it also includes development other than houses) and public components, and

(b) for which permission has been granted under *Chapter 3* of *Part 4*.

(2) Notwithstanding *subsection (1)*, where the circumstances referred to in *paragraph (c)* of *subsection (1)* of *section 264* arise, *section 264* applies to land-based development that is being, or has been, carried out—

(a) that includes public components, and

(b) for which permission has been granted under *Chapter 3* of *Part 4*.

(3) In this Chapter—

"industrial and provident society" means an industrial and provident society within the meaning of the Industrial and Provident Societies Acts 1893 to 2021;

"owners' management company" means—

(a) a company,

(b) an industrial and provident society,

(c) a partnership, or

(d) an unincorporated body or group of persons,

having the purpose of managing, maintaining and repairing the public components of a development referred to in *subsection (1)* or *(2)*;

"public components", in relation to a development, means those parts of a development which are described in the permission referred to in *subsection (1)* or *(2)*, or expressly or impliedly required on foot of the permission, or are otherwise dedicated, as being for the use or enjoyment of the public, and includes roads, open

spaces, car parks, lighting, water works or waste water works and such other parts as are prescribed;

"waste water works" means sewers and their accessories, and all other associated physical elements used for collection, storage or treatment of waste water, and any related land;

"water works" means water sources, water mains and their accessories, and all other associated physical elements used for the abstraction, treatment, storage or distribution of water, and any related land.

Taking in charge of public components of developments by planning authority

261. (1) Subject to *subsections (2)* and *(4)*, where the developer of, the owners' management company of, or a majority of the owners of the houses in, a development requests that all or part of the public components of the development be taken in charge by the planning authority in whose functional area the development is located, the planning authority may decide whether to commence the procedure in *subsection (6)* for taking all or part of the public components the subject of the request in charge.

(2) Where a request under *subsection (1)* relates wholly or partly to public components that are water works or waste water works, or such other public components as are prescribed for the purpose of this subsection, the planning authority shall—

(a) give notice of the request to Uisce Éireann seeking its consent, within a period specified in the notice, to the taking in charge by the planning authority of such of the water works, waste water works or other public components as is specified in the notice, or

(b) refer the request, in so far as it relates to such of the water works, waste water works or other public components as is specified in the referral, to Uisce Éireann for its consideration under *section 262*.

(3) The planning authority shall endeavour to make a decision under *subsection (1)* within 6 months of the making of the request (or, where a notice is given under *paragraph (a)* of *subsection (2)*, within such longer period as results from the extension of the period of 6 months by the period specified in the notice), but a decision under *subsection (1)* shall not be invalidated by reason that the decision was not made within that period.

(4) Subject to *section 264*, a planning authority to which a request under *subsection (1)* is made shall commence the procedure in *subsection (6)* if—

(a) the development has been completed to the satisfaction of the planning authority in compliance with the permission for the development and any conditions to which the permission is subject,

(b) the development has not been completed to the satisfaction of the planning authority in compliance with the permission for the development and any conditions to which the permission is subject, and the planning authority has not taken enforcement action (within the meaning of *Part 11*) in relation to such non-compliance within 7 years of the expiry of the permission, or

(c) such other case as may be prescribed applies.

(5) Where the planning authority decides under *subsection (1)* not to commence the procedure in *subsection (6)* or to omit from the procedure any part of the public components the subject of the request, the planning authority shall notify the person making the request of that decision and of the reasons for it.

(6) Where the planning authority decides to commence the procedure for taking all or part of the public components the subject of the request in charge—

(a) it shall prepare a report setting out in relation to the public components—

(i) a description of them,

(ii) a statement as to their general public utility, and

(iii) a statement as to the financial implications for the planning authority of taking them in charge,

(b) it shall publish notice, in at least one newspaper circulating in its functional area, of the proposal to take the public components in charge, indicating the times at which, the period (which shall be not less than one month) during which, and the place where, the report referred to in *paragraph (a)* may be inspected, and stating that submissions may be made in writing to the planning authority in relation to the proposal before a specified date (which shall be not less than 2 weeks after the end of the period for inspection specified in the notice),

(c) the chief executive of the planning authority shall, not later than 4 weeks after the expiry of the period for making submissions under *paragraph (b)*, prepare a report on any submissions so received and not withdrawn, and submit it to the members of the planning authority for their consideration,

(d) the planning authority shall consider, subject to *subsection (9)*, the reports referred to in *paragraphs (a)* and *(c)*, and

(e) subject to *subsection (7)*, the planning authority shall make an order taking all or part of the public components the subject of the request into its charge, as it considers appropriate, or refusing to take any of the public components into its charge.

(7) The planning authority shall not make an order under *paragraph (e)* of *subsection (6)* taking public components that are water works or waste water works or other public components prescribed for the purposes of *subsection (2)* in charge unless it has received the consent of Uisce Éireann to do so.

(8) The consideration of reports under *paragraph (d)* of *subsection (6)* and the making of an order under *paragraph (e)* of *subsection (6)* shall be reserved functions.

(9) The Minister may prescribe circumstances in which the planning authority, in deciding whether to take any public components in charge, shall be required to disregard the financial implications for it of so doing.

(10) A road or part of a road taken in charge by a planning authority pursuant to this section shall be deemed to be a public road within the meaning of the Roads Act 1993.

(11) Without prejudice to any other of its powers in relation to public components taken in charge by it under this section, the planning authority may undertake on any public components taken in charge by it any works which, in its opinion, are necessary—

(a) for the completion of the public components in accordance with any applicable permission, or

(b) to make the public components safe,

and may recover the costs of such works from the developer of the development of which the public components are part (and for that purpose apply any bond or other security held by it towards the costs of such works).

(12) Where public components of a development are taken in charge under this section, the planning authority may access parts of the development not so taken in charge, in so far as it is reasonably necessary to do so for the purpose of maintaining or managing the public components or performing its functions under *subsection (11)*.

(13) The planning authority may hold a plebiscite for the purposes of ascertaining the wishes of the owners of the houses referred to in *subsection (1)*.

Taking in charge of certain public components of developments by Uisce Éireann

262. (1) Where Uisce Éireann receives—

(a) a request from the developer of, the owners' management company of, or a majority of the owners of the houses in, a development, to take public components of the development that are water works or waste water works, or such other public components as may, having regard to the functions of Uisce Éireann, be prescribed for the purposes of this section, in charge, or

(b) a referral under *paragraph (b)* of *subsection (2)* of *section 261* relating to public components of a development that are water works or waste water works, or such other public components as are prescribed for the purposes of that subsection,

Uisce Éireann may, following consultation with the planning authority in whose functional area the water works, waste water works or other public component is or are situated, by order, take all or any of the water works, waste water works or other public component into its charge.

(2) Without prejudice to any other of its powers in relation to public components taken in charge by it under this section, Uisce Éireann may undertake on any public components taken in charge by it any works which, in its opinion are necessary—

(a) for the completion of the public components in accordance with any applicable permission, or

(b) to make the public components safe,

and may recover the costs of such works from the developer of the development of which the public components are part (and for that purpose apply any bond or other security held by it towards the costs of such works).

(3) Where public components of a development are taken in charge under *subsection (1)*, Uisce Éireann may access parts of the development not so taken in charge, in so far as it is reasonably necessary to do so for the purpose of maintaining or managing the public components taken in charge or performing its functions under *subsection (2)*.

Continued application of section 180 of Act of 2000 for certain purposes

263. Section 180 of the Act of 2000 shall, notwithstanding its repeal by *section 6*, continue to apply and have effect on and after that repeal in relation to any request under the said section 180 made before that repeal.

Acquisition by planning authority of public components of certain developments

264. (1) Where a development is being, or has been, carried out, and—

(a) any public components of the development are taken in charge under *subsection (6)* of *section 261*,

(b) a request is at any time made under *subsection (1)* of *section 261* in relation to any public components of the development, or

(c) the public components of the development are not completed in compliance with the requirements of the permission for the development and any conditions attaching to the permission to the satisfaction of the planning authority before the expiry of the permission, or within such reasonable period as is specified in a notice given by the planning authority to the developer after the expiry of the permission warning of its intention to exercise powers under this subsection (notwithstanding any enforcement action, within the meaning of *Part 11*, that may have been taken in relation to such non-compliance),

the planning authority may, by agreement with the owner of the public components or compulsorily, in accordance with this section—

(i) acquire all or part of the public components, and

(ii) where acquiring public components, may acquire the land on, in, over or under which the public components are situated.

(2) Where a planning authority proposes to compulsorily acquire public components or land under *subsection (1)*, it shall—

(a) serve notice on the owner of the public components or the land, and

(b) publish a notice in at least one newspaper circulating in its functional area,

of its intention to acquire the public components or the land, as more particularly described in the notice, and the notice (in this section referred to as an "acquisition notice") shall specify a period (being a period of not less than 4 weeks from the date

on which the notice is served or published, whichever is the later) within which an appeal may be brought under *subsection (3)*.

(3) A person having an interest in the public components or the land to which an acquisition notice relates may, within the period specified in the acquisition notice, appeal against the acquisition notice to the Commission.

(4) The Commission may, where an appeal is brought against an acquisition notice under *subsection (3)*—

(a) annul the acquisition notice, or

(b) confirm the acquisition notice, with or without modification, in respect of all or such part of the public components, or all or such part of the land, as the Commission considers reasonable.

(5) If a planning authority publishes an acquisition notice and—

(a) the period for bringing an appeal against the notice has expired and no appeal has been brought, or

(b) an appeal has been brought against the notice and the appeal has been withdrawn or the notice has been confirmed with or without modifications,

the planning authority may make an order, in the prescribed form, which shall be expressed and shall operate to vest the public components and the land to which the acquisition notice (if applicable, as confirmed) relates in the planning authority on a specified date in accordance with *subsection (7)*.

(6) Where a request is made under *subsection (1)* of *section 261* and the planning authority proposes to compulsorily acquire public components the subject of the request in the circumstances referred to in *paragraph (b)* of *subsection (1)*, but the acquisition notice served is annulled by the Commission under *paragraph (a)* of *subsection (4)*, *paragraph (b)* of *subsection (1)* shall not apply to the request and *section 261* shall apply as if the acquisition notice had not been served, subject to the modification that, in calculating the period referred to in *subsection (3)* of *section 261*, the period from the date of the service of the acquisition notice to its annulment shall be excluded.

(7) An order under *subsection (5)* shall vest the public components and the land the subject of the order in the planning authority—

(a) for all the estate of the persons entitled to the public components or the land in possession or in reversion,

(b) together with all easements, rights and privileges appurtenant to the public components or the land,

(c) subject to—

(i) all or any easements, rights and privileges previously granted for the benefit of any houses or other units in the development,

(ii) any purchase annuity, payment in lieu of rent, or other annual sum (not being merely a rent under a contract of tenancy) payable to the Minister for Agriculture, Food and the Marine or to the Commissioners, in respect of the public components or land, provided that, in a case where the public components or land are subject thereto in conjunction with other land, the liability of the planning authority shall be for such portion thereof as shall be apportioned by that Minister, or by the Commissioners, on the public components or land as if they had been transferred to the authority by the owner thereof on the date of the order,

(iii) any easements, rights, privileges or other interests excluded from the order,

(iv) any rights or obligations of Uisce Éireann where the public components have been taken in charge under *section 262*,

(v) all or any easements, rights, privileges or interests reinstated under *paragraph (d)* of *subsection (10)*, and

(vi) the obligation on the part of the planning authority—

(I) to undertake within a reasonable period any works which, in the opinion of the authority, are necessary for the satisfactory completion of the public components of the development, subject to the right to recover the costs of such works from the developer, and

(II) to grant all easements, rights and privileges reasonably necessary to enable the owner of each house in the development to enjoy the quiet and peaceful occupation of the house of which he or she is the owner, in so far as possible in accordance with any existing scheme of common easements, rights and privileges for the development, to be determined by agreement between such owner and the planning authority or in default of agreement by application in a summary manner to the Circuit Court,

but

(d) freed of all other estates, rights and interests, including those of the State.

(8) A road or part of a road acquired by a planning authority pursuant to this section shall be deemed to be a public road within the meaning of the Roads Act 1993.

(9) A person holding an interest in or over the public components or land to which an order under *subsection (5)* relates that is extinguished by virtue of such order may claim compensation arising from the making of the order.

(10) Where a claim is made under *subsection (9)*, it shall, in default of agreement, be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act 1919 as if the claim arose in relation to the compulsory acquisition of land, but subject to the proviso that the arbitrator shall have jurisdiction to make a nil award and to the following provisions—

(a) the arbitrator shall make a nil award unless it is shown by or on behalf of the claimant that an amount equal to the value of the land to which the permission

relates, being the value at the time the application for the permission was made, had the development been carried out at that time, has not been recovered and would not be recoverable by disposing of the land to which the permission relates less any land to which the order relates,

(b) in the assessment of the value of the land to which the order relates, no regard shall be had to its value for use other than as public components of the development,

(c) any sum due to the planning authority by the claimant may be set off against the compensation (if any) to which the claimant may be entitled, and

(d) where any person claims compensation for the loss of any easement, right, privilege or interest in the public components or land the subject of an order under *subsection (5)*, the planning authority may make an order reinstating the easement, right, privilege or interest, and in such case, the easement, right, privilege or interest in question shall be deemed to have continued in existence as if the acquisition had not taken place, and no compensation shall be payable save in respect of temporary loss or damage (if any) arising in the period between the making of the order under *subsection (5)* and the order reinstating the easement, right, privilege or interest in question.

Supplementary provisions relating to *sections 261*, *262* and *264*

265. (1) The exercise of the powers of a planning authority or Uisce Éireann under *section 261*, *262* or *264* to take public components of a development in charge or to acquire public components of a development or land on, in, over or under which the public components are situated, shall not prejudice any right of the planning authority—

(a) to bring or continue enforcement action (within the meaning of *Part 11*) in respect of any part of the development that is unauthorised development, or

(b) to apply any security given pursuant to any condition in a permission which relates to the development to the satisfactory completion of the development or any part thereof.

(2) The Minister may make regulations for the purposes of:

(a) identifying further parts of developments which are to be considered public components of developments for the purposes of the definition of "public components" in *subsection (3)* of *section 260*;

(b) requiring the inclusion (whether on the making of the application or on the request of a planning authority) in applications for permission for developments referred to in *subsection (1)* or *(2)* of *section 260* of details of the parts of the development the subject of the application that are proposed to be public components;

(c) specifying requirements in respect of the giving of notice to the owner or occupier of land for the purposes of entry onto the land under *subsection (12)* of *section 261* or *subsection (3)* of *section 262*;

(d) specifying the procedure for the carrying out of a plebiscite under *subsection (13)* of *section 261*;

(e) specifying, subject to *sections 261*, *262* and *264*, the form and content of any request, notice, report, procedure or order under *section 261*, *262* or *264*;

(f) providing for the manner in which the apportionment of obligations of planning authorities under *clause (I)* of *subparagraph (vi)* of *paragraph (c)* of *subsection (7)* of *section 264* shall be agreed between them, or differences in relation to such apportionment resolved.

(3) The following matters shall be entered in the register:

(a) particulars of a request under *subsection (1)* of *section 261*;

(b) particulars of a decision under *subsection (1)* of *section 261* not to commence the procedure under *subsection (6)* of *section 261*;

(c) particulars of an order under *paragraph (e)* of *subsection (6)* of *section 261*;

(d) particulars of a notice under *paragraph (a)* of *subsection (2)* of *section 264*;

(e) particulars of an appeal under *subsection (3)* of *section 264*;

(f) particulars of an annulment or confirmation under *subsection (4)* of *section 264*;

(g) particulars of an order under *subsection (5)* of *section 264*.

CHAPTER 3

Amenities

Area of special amenity

266. (1) Where, in the opinion of the planning authority, by reason of—

(a) its outstanding natural beauty, or

(b) its special recreational value,

and having regard to any benefits for nature conservation, an area of land should be declared to be an area of special amenity, it may, by resolution, make an order to do so and the order may state the objective of the planning authority in relation to the preservation or enhancement of the character or special features of the area, including objectives for the prevention or limitation of development in the area.

(2) Where it appears to the Minister that an area of land should be declared to be an area of special amenity by reason of—

(a) its outstanding natural beauty, or

(b) its special recreational value,

and having regard to any benefits for nature conservation, he or she may, if he or she considers it necessary, direct a planning authority to make an order under *subsection (1)* in relation to the area of land specified in the direction and may, if he or she thinks

fit, require that objectives specified in the direction be included by the planning authority in the order in respect of matters and in a manner so specified.

(3) If the Minister gives a direction under *subsection (2)* the planning authority concerned shall comply with the direction, and where the direction is that the order shall also be in respect of an area of land in or partly in the functional area of another planning authority, that planning authority shall not withhold its consent under *subsection (4)*.

(4) Where the functional areas of two planning authorities are contiguous, either authority may, with the consent of the other, make an order under *subsection (1)* in respect of an area of land in or partly in the functional area of the other.

(5) As soon as may be after it has made an order under *subsection (1)*, a planning authority shall publish in at least one newspaper circulating in its functional area, and in the functional area of any planning authority which has given its consent under *subsection (4)*, a notice—

(a) stating the fact of the order having been made, and describing the area to which it relates,

(b) naming a place where a copy of the order and of any map referred to in it may be seen during office hours,

(c) specifying the period (not being less than 4 weeks) within which, and the manner in which, submissions in relation to the order may be made to the planning authority, and

(d) specifying that the order requires confirmation by the Commission and that, where any submissions are duly made and are not withdrawn, an oral hearing may be held and the submissions will be considered before the order is confirmed.

(6) As soon as may be after the period for making submissions has expired, the planning authority shall refer the order to the Commission for confirmation and provide, with the referral, any submissions duly made and not withdrawn to the Commission.

(7) The Commission shall consider the order and any submissions provided to it and may confirm the order, with or without modifications, or refuse to confirm it.

(8) An order under *subsection (1)* shall come into operation on being confirmed by the Commission, whether with or without modification, under *subsection (7)*.

(9) An order made and confirmed under this section may be revoked or amended in the same manner in which an order is made and confirmed under this section (and in the case of the revocation or amendment of an order made pursuant to a direction under *subsection (2)*, only on the direction of or with the consent of the Minister).

(10) A reference in this Act, or any other enactment, to a special amenity area order shall be construed as a reference to an order confirmed under *subsection (7)*.

(11) Particulars of an order under *subsection (1)*, a confirmation or refusal to confirm under *subsection (7)*, and of a revocation or amendment of an order under *subsection (9)* shall be entered in the register.

(12) (a) An order under section 202 of the Act of 2000 made (but not confirmed under section 203 of that Act) before the repeal of that section by *section 6* shall be deemed to be an order made but not confirmed under this section.

(b) An order under section 202 of the Act of 2000 that, immediately before the repeal of that section by *section 6* was a special amenity area order within the meaning of that Act shall remain in force on and after that repeal and be deemed to be an order confirmed under this section.

(13) (a) Section 202 of the Act of 2000 shall continue to have effect on and after the repeal of that section by *section 6* in relation to a direction given (but not complied with) under that section before such repeal, and accordingly the planning authority shall comply with the direction as soon as may be after such repeal in accordance with the said section 202.

(b) An order under section 202 of the Act of 2000 made in accordance with a direction referred to in *paragraph (a)* shall be deemed to be an order made, but not confirmed, under this section.

Tree preservation orders

267. (1) If it appears to a planning authority that it is expedient, in the interests of amenity or the environment, to make provision for the preservation of any tree, group of trees or woodland, it may, for that purpose, make an order with respect to any such tree, group of trees or woodland as may be specified in the order.

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

(a) prohibit (subject to any conditions or exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of any tree or trees, and

(b) require the owner or occupier of the land, or both, affected by the order to enter into an agreement with the planning authority to ensure the proper management of any tree, group of trees or woodland (including the replanting of trees), subject to the planning authority providing assistance, including financial assistance, towards such management as may be agreed.

(3) Without prejudice to any other exemption for which provision may be made by an order under this section, no such order shall prevent the cutting down, topping or lopping of trees which are dying or dead or have become dangerous, or the cutting down, topping or lopping of any trees in compliance with any obligation imposed by or under any enactment or so far as may be necessary for the prevention or abatement of a nuisance or hazard.

(4) (a) Where a planning authority proposes to make an order under this section, it shall—

(i) serve notice of the proposal on the owner and the occupier of the land affected by the proposed order, and

(ii) cause notice of the proposed order to be published in at least one newspaper circulating in its functional area.

(b) A notice under *subparagraph (i)* of *paragraph (a)* shall be accompanied by a map indicating the location of the tree, group of trees or woodland the subject of the proposed order.

(5) A notice under *subsection (4)* shall give particulars of the tree, group of trees or woodland to be preserved, and of the proposed order, and shall state—

(a) that the planning authority proposes to make an order preserving the tree, group of trees or woodland,

(b) the grounds on which it is proposed to make the order,

(c) that submissions regarding the proposed order may be made to the planning authority within a stated period of not less than 6 weeks from the date of the notice, and that the submissions will be considered by the planning authority, and

(d) that any person who contravenes an order or, pending the resolution of a planning authority under *subsection (7)*, a proposed order, shall be guilty of an offence.

(6) Not later than 4 weeks after the expiry of the period for making submissions under *paragraph (c)* of *subsection (5)*, the chief executive of the planning authority shall prepare a report on any submissions received and not withdrawn, and submit the report to the members of the planning authority for their consideration.

(7) The planning authority shall consider the report referred to in *subsection (6)* and may by resolution make the order, with or without modifications, or refuse to make the order, and any person on whom notice has been served under *subsection (4)* shall be notified accordingly.

(8) (a) Where a planning authority proposes to make an order to amend or revoke an order made under *subsection (7)*, the planning authority shall—

(i) serve notice of the proposal on the owner and the occupier of the land affected by the proposed order, and

(ii) cause notice of the proposed order to be published in at least one newspaper circulating in its functional area.

(b) A notice under *subparagraph (i)* of *paragraph (a)* shall be accompanied by a map indicating the location of the tree, group of trees or woodland the subject of the proposed order.

(9) A notice under *subsection (8)* shall give particulars of the tree, group of trees or woodland the subject of the order proposed to be revoked or amended, and shall state that—

(a) the planning authority proposes to amend or revoke the order (with particulars of the proposed amendment or revocation),

(b) submissions regarding the proposed order may be made to the planning authority within a stated period of not less than 6 weeks from the date of the notice, and that the submissions will be considered by the planning authority, and

(c) any person who contravenes an order under *subsection (11)* that amends an order made under *subsection (7)* or, pending the resolution of a planning authority under *subsection (11)*, an order proposed under *subsection (8)* to amend an order made under *subsection (7)*, shall be guilty of an offence.

(10) Not later than 4 weeks after the expiry of the period for making submissions under *paragraph (b)* of *subsection (9)*, the chief executive of the planning authority shall prepare a report on any submissions received and not withdrawn, and submit the report to the members of the planning authority for their consideration.

(11) The planning authority shall consider the report referred to in *subsection (10)* and may by resolution make an order revoking or amending the order made under *subsection (7)*, with or without modifications, or refuse to do so, and any person on whom notice has been served under *subsection (8)* shall be notified accordingly.

(12) A person, in writing, or the members of the planning authority, by resolution, may request the planning authority to propose the making of an order in accordance with *subsection (4)* or *(8)* and the planning authority may, where it considers it appropriate, do so.

(13) *Subsection (12)* is without prejudice to the power of the planning authority to propose the making of an order in accordance with *subsection (4)* or *(8)* of its own motion.

(14) A person who contravenes an order under *subsection (7)* or *(11)* or, pending the resolution of a planning authority, a proposed order under *subsection (4)* or *(8)*, without reasonable excuse, shall be guilty of an offence.

(15) Particulars of a notice under *subsection (4)*, a resolution under *subsection (7)*, a notice under *subsection (8)* and a resolution under *subsection (11)* shall be entered in the register.

Creation of public rights of way by agreement

268. (1) A planning authority may enter into an agreement with a person having the necessary power in that behalf for the creation, by dedication by that person, of a public right of way over land.

(2) An agreement made under this section shall be on such terms as to payment or otherwise as may be specified in the agreement, and may, if it is so agreed, provide for limitations or conditions affecting the public right of way.

(3) Where an agreement has been made under this section, it shall be the duty of the planning authority to take all necessary steps for securing that the creation of the public right of way is effected in accordance with the agreement.

(4) Particulars of an agreement made under this section shall be entered in the register.

Creation of public rights of way compulsorily

269. (1) If it appears to a planning authority that there is need for a public right of way over any land, the planning authority may, by resolution, make an order creating a public right of way over the land.

(2) (a) Where a planning authority proposes to make an order under this section (in this section referred to as a "proposed order"), it shall—

(i) serve a notice (which shall include particulars of the proposed order) of its intention to do so on the owner and the occupier of the land over which the public right of way is proposed to be created and on any other person who in its opinion will be affected by the creation of the public right of way, and

(ii) cause notice of the proposed order to be published in at least one newspaper circulating in its functional area.

(b) A notice under *subparagraph (i)* of *paragraph (a)* shall be accompanied by a map indicating the location of the public right of way to be created.

(3) A notice under *subsection (2)* shall state that—

(a) the planning authority proposes to make an order creating the public right of way, and

(b) submissions regarding the proposed order may be made to the planning authority within a stated period of not less than 6 weeks from the date of the notice, and that the submissions will be taken into consideration by the planning authority.

(4) Not later than 4 weeks after the expiry of the period for making submissions under *paragraph (b)* of *subsection (3)*, the chief executive of the planning authority shall prepare a report on any submissions received and not withdrawn, and submit the report to the members of the planning authority for their consideration.

(5) The planning authority shall consider the proposal and the report referred to in *subsection (4)* and may by resolution make the order, with or without modifications, or refuse to make the order and where the order is made shall notify the persons served with a notice under *subparagraph (i)* of *paragraph (a)* of *subsection (2)* accordingly.

(6) Any person who has been notified of the making of an order under *subsection (5)* may, within 4 weeks of being notified under that subsection, appeal to the Commission against the order.

(7) Where an appeal is brought under *subsection (6)* against an order, the Commission may confirm the order with or without modifications or annul the order.

(8) An order under this section shall take effect—

(a) where no appeal against it is brought, on the expiry of the period for bringing an appeal, or

(b) where an appeal is brought against it, either when the appeal has been withdrawn or when the order is confirmed on appeal.

(9) Particulars of a right of way created under this section shall be entered in the register.

(10) A public right of way created under an enactment repealed by this Act or by the Act of 2000 that was in force immediately before the commencement of this section shall be deemed to have been created under this section.

(11) The exercise by the planning authority of any powers under this section or *section 270* shall be without prejudice to the entitlement of any person (including the planning authority) to assert in any other proceedings (including in a claim for compensation under *section 444*) that the land over which the public right of way is created under this section was already the subject of a public right of way other than under this section.

Supplemental provisions with respect to public rights of way

270. (1) Where a public right of way is created or deemed to have been created under this Act, or where a provision in a development plan in force on the commencement of this section relates to the preservation of a public right of way, the way shall be maintained by the planning authority.

(2) Where a right of way is required by this section to be maintained by a planning authority, a person shall not damage or obstruct the way, or hinder or interfere with the exercise of the right of way.

(3) A person who contravenes *subsection (2)* shall be guilty of an offence.

(4) Where a right of way required by this section to be maintained by a planning authority is damaged or obstructed by any person, the planning authority concerned may repair the damage or remove the obstruction, and the expenses incurred by it in the repair or removal shall be paid to it by that person.

Orders and notices under section 205 of Act of 2000

271. (1) An order under section 205 of the Act of 2000 in force immediately before the repeal of that section by *section 6* shall—

(a) continue in force and have effect on and after such repeal, and

(b) be deemed to be an order made under *section 267*,

and may be amended or revoked accordingly.

(2) Section 205 of the Act of 2000 shall, in relation to a notice served and published in accordance with subsection (3) or (7) of that section before the repeal of that section by *section 6*, continue to have effect on and after such repeal.

Agreements under section 206 of Act of 2000

272. Section 206 of the Act of 2000 shall, in relation to an agreement under that section made before the repeal of that section by *section 6*, continue to have effect on and after such repeal as if it were an agreement under *section 268*.

Orders, notices and appeals under section 207 of Act of 2000

273. (1) An order under section 207 of the Act of 2000 in force immediately before the repeal of that section by *section 6* shall—

(a) continue in force and have effect on and after such repeal, and

(b) be deemed to be an order made under *section 269*,

and may be amended or revoked accordingly.

(2) Section 207 of the Act of 2000 shall continue in force and have effect on and after the repeal of that section by *section 6* in relation to—

(a) a notice served and published in accordance with the said section 207 before the said repeal, and

(b) the appeal of an order under the said section 207 pending immediately before the said repeal.

CHAPTER 4

Miscellaneous

Repair and tidying of advertisement structures and advertisements

274. (1) If it appears to a planning authority that, having regard to the interests of public safety or amenity, an advertisement structure or advertisement in its functional area should be repaired or tidied, the planning authority may serve a notice on the owner, or person having control, of the structure or advertisement, requiring him or her to repair or tidy the structure or advertisement within a specified period.

(2) If it appears to a planning authority that an advertisement structure or advertisement in its functional area is derelict, the planning authority may serve a notice on the owner, or person having control, of the structure or advertisement requiring him or her to remove the structure or advertisement within a specified period.

(3) If, within the period specified in a notice under this section, the advertisement structure or advertisement is not repaired or tidied, or removed, as the case may be, the planning authority may enter on the land on which the structure is situate or the advertisement is exhibited and repair, tidy or remove the structure or advertisement and the owner, or person having control, of the structure or advertisement shall pay the planning authority any expenses reasonably incurred by it in that behalf.

(4) Section 209 of the Act of 2000 shall, in relation to a notice served under that section before the repeal of that section by *section 6*, continue to have effect on and after such repeal.

Cables, wires and pipelines (land)

275. (1) Subject to *subsection (11)* and *Part 4*, where it considers it necessary to do so, a planning authority may—

(a) place, construct, lay or connect cables, wires, ducts or pipelines (including water pipes, sewers, drains and district heating systems) and any ancillary apparatus, on, into, under or over any land,

(b) attach to or erect on any land, or any structure on the land, any bracket or other fixture required for the carrying or support of the cables, wires, ducts or pipelines and ancillary apparatus, or

(c) erect or affix, and maintain, on any land, or on any structure on the land, notices indicating the position of the cables, wires, ducts or pipelines and ancillary apparatus.

(2) A power under *subsection (1)* shall not be exercised unless the owner and the occupier of the land concerned have given their consent in the manner provided for in *subsection (4)* or an order has been made by the Commission under *paragraph (a)* of *subsection (5)*.

(3) Where a planning authority proposes to exercise a power under *subsection (1)*, it shall first serve notice of the proposal on the owner and the occupier, as appropriate, of the land concerned, which notice shall—

(a) describe the power which it proposes to exercise and the location, by reference to a map, at which it is intended to be exercised,

(b) request the consent of the owner and the occupier, as appropriate, to the exercise of the power, to be provided by executing the form of consent referred to in *paragraph (c)*,

(c) enclose the prescribed form of consent,

(d) state that, where consent has not been given by the owner and the occupier within 28 days of service of the notice, the planning authority may apply to the Commission for an order confirming the notice, which order, if granted, will entitle the planning authority to exercise the power the subject of the notice without such consent,

(e) state that, where the planning authority is authorised to exercise the power described by the notice, it shall be entitled to the rights and subject to the obligations specified in *subsection (7)*, and

(f) state that, where the planning authority is authorised to exercise the power described under *paragraph (a)*, *subsection (8)* shall apply to anything done in exercise of the power.

(4) (a) A person on whom notice under *subsection (3)* is served may give consent, in the prescribed form, to the exercise of a power under *subsection (1)*.

(b) Where a person on whom a notice under *subsection (3)* has been served has not given consent in the prescribed form within 28 days of service of the notice, the planning authority may (without prejudice to its entitlement to accept consent at any time thereafter) apply to the Commission for an order confirming the notice.

(5) The Commission, in considering an application under *paragraph (b)* of *subsection (4)*, may, by order—

(a) confirm the notice, with or without variation, or

(b) set the notice aside,

but shall not determine any matter to which *section 443* refers.

(6) Where the Commission confirms the notice under *paragraph (a)* of *subsection (5)*, the planning authority may exercise the power described in the notice under *paragraph (a)* of *subsection (3)* without the consent of the owner and occupier.

(7) Where a power referred to in *subsection (1)* is exercised, the planning authority—

(a) may, in the course of exercising the power, make minor modifications to the location at which the power is exercised as identified in the notice under *subsection (3)*, where the modification is immaterial,

(b) may, from time to time after the exercise of the power, inspect, repair, alter, renew or remove any thing done in exercising the power,

(c) may license the use of the cables, wires, ducts or pipelines (including water pipes, sewers, drains and district heating systems) and ancillary apparatus by third parties, and

(d) shall make good any loss or damage caused to an owner of the land or structure referred to in *subsection (1)* occurring in the course of the exercise of the power or any inspection, repair, alteration, renewal or removal under *paragraph (b)*, or reimburse the owner the reasonable costs and expenses of such making good.

(8) Where anything is done pursuant to *subsection (1)* or *paragraph (b)* of *subsection (7)*, a person shall not, without the prior written consent of the planning authority, damage, obstruct or otherwise interfere with the thing done.

(9) (a) Where consent has been given pursuant to *paragraph (a)* of *subsection (4)* or an order confirming a notice has been made under *paragraph (a)* of *subsection (5)*, the consent or order may be registered—

(i) in the Registry of Deeds, as an act of the owner of the land concerned, or

(ii) in the Land Registry, as a burden on any part of the land concerned that is registered in the Land Registry.

(b) The cost of registering the consent or order shall be borne by the planning authority that served the notice under *subsection (3)*.

(10) Particulars of a notice under *subsection (3)*, a consent under *subsection (4)* and an order under *subsection (5)* shall be entered in the register.

(11) *Subsection (1)* shall not apply to—

(a) any land forming part of a public road or any land that is State land or land owned by a State authority within the meaning of subsection (1) of section 2 of the State Property Act 1954, or

(b) any structure on land forming part of a public road or on such State land or such land owned by a State authority.

(12) (a) A consent referred to in section 182 of the Act of 2000 given, before the repeal of that section by *section 6*, by the owner or the owner and the occupier, as the case may be, of land shall be deemed to be a consent under *subsection (4)* given by that owner or that owner and that occupier, as may be appropriate.

(b) Notwithstanding the repeal of section 182 of the Act of 2000 by *section 6*, the said section 182 shall continue to apply and have effect on and after that repeal for the purposes of an appeal brought under paragraph (b) of subsection (4) of the said section 182 before that repeal.

Cables, wires and pipelines (maritime sites)

276. (1) Subject to *subsection (12)* and *Part 4*, where it considers it necessary to do so, a planning authority may—

(a) place, construct, lay or connect cables, wires, ducts or pipelines (including water pipes, sewers, drains and district heating systems) and any ancillary apparatus, on, into, under or over any maritime site,

(b) attach to or erect on any maritime site, or structure therein any bracket or other fixture required for the carrying or support of the cables, wires, ducts or pipelines and ancillary apparatus, or

(c) erect or affix on any maritime site, or structure therein, and maintain, notices indicating the position of the cables, wires, ducts or pipelines and ancillary apparatus.

(2) A power under *subsection (1)* shall not be exercised unless the owner and the occupier (if any) of the maritime site concerned have given consent in the manner provided for in *subsection (5)* or an order has been made by the Commission under *paragraph (a)* of *subsection (6)*.

(3) Where a planning authority proposes to exercise a power under *subsection (1)*, it shall, following consultation with the Maritime Area Regulatory Authority, first serve notice of the proposal on the owner and the occupier of the maritime site concerned, which notice shall—

(a) describe the power which it proposes to exercise and the location, by reference to a map, at which it is intended to be exercised,

(b) request the consent of the owner and the occupier, to be provided by executing the form of consent referred to in *paragraph (c)*,

(c) enclose the prescribed form of consent,

(d) state that, where consent has not been given by the owner and the occupier within 28 days of the service of the notice, the planning authority may apply to the Commission for an order confirming the notice, which order, if granted, will entitle the planning authority to exercise the power the subject of the notice without such consent,

(e) state that, where the planning authority is authorised to exercise the power described by the notice, it shall be entitled to the rights and subject to the obligations specified in *subsection (8)*, and

(f) state that, where the planning authority is authorised to exercise the power described by the notice, *subsection (9)* shall apply to anything done in exercise of the power.

(4) The planning authority shall give a copy of the notice referred to in *subsection (3)* to the Maritime Area Regulatory Authority.

(5) (a) A person on whom a notice under *subsection (3)* is served may, in the prescribed form, give consent to the exercise of a power under *subsection (1)*.

(b) Where a person on whom a notice under *subsection (3)* has been served has not given consent in the prescribed form within 28 days from the date of the service of the notice, the planning authority may (without prejudice to its entitlement to accept a consent at any time thereafter) apply to the Commission for an order confirming the notice.

(6) The Commission, in considering an application under *paragraph (b)* of *subsection (5)* may, by order—

(a) confirm the notice, with or without variation, or

(b) set the notice aside.

(7) Where the Commission confirms the notice under *paragraph (a)* of *subsection (6)*, the planning authority may exercise the power described in the notice under *paragraph (a)* of *subsection (3)* without the consent of the owner and occupier.

(8) Where a power referred to in *subsection (1)* is exercised, the planning authority—

(a) may, in the course of exercising the power, make minor modifications to the location at which the power is exercised as described in the notice under *subsection (3)*, where the modification is immaterial,

(b) may, from time to time after the exercise of the power, inspect, repair, alter, renew or remove any thing done in exercising the power,

(c) may license the use of the cables, wires, ducts or pipelines (including water pipes, sewers, drains and district heating systems) and ancillary apparatus by third parties, and

(d) shall make good any loss or damage caused to an owner of the maritime site or structure referred to in *subsection (1)* occurring in the course of the exercise of the power or any inspection, repair, alteration, renewal or removal under *paragraph (b)*, or reimburse the owner the reasonable costs and expenses of such making good.

(9) Where anything is done pursuant to *subsection (1)* or *paragraph (b)* of *subsection (8)*, a person shall not, without the prior written consent of the planning authority, damage, obstruct or otherwise interfere with the thing done.

(10) (a) Where consent has been given by the owner and the occupier pursuant to *paragraph (a)* of *subsection (5)* or an order confirming a notice has been made under *paragraph (a)* of *subsection (6)*, the consent or order may be registered—

(i) in the Registry of Deeds, as an act of the owner of the maritime site concerned, or

(ii) in the Land Registry, as a burden on any part of the maritime site concerned that is registered in the Land Registry.

(b) The cost of registering the consent or order shall be borne by the planning authority that served the notice under *subsection (3)*.

(11) Particulars of a notice under *subsection (3)*, a consent under *subsection (5)* and an order under *subsection (6)* shall be entered in the register.

(12) *Subsection (1)* shall not apply to—

(a) a maritime site that is State land or land owned by a State authority within the meaning of subsection (1) of section 2 of the State Property Act 1954, or

(b) any structure in such a maritime site.

(13) An approval referred to in subsection (1A) of section 182 of the Act of 2000 given before the repeal of that section by *section 6* for development on a maritime site shall be deemed to be a consent under *subsection (5)* given by that owner or that owner and occupier, as may be appropriate.

Amendment of permission by planning authority

277. (1) The chief executive or deputy chief executive of a planning authority may authorise a member of the staff of the planning authority to amend a permission granted by the planning authority for the purposes of—

(a) correcting a clerical error in the permission,

(b) facilitating the doing of a thing pursuant to the permission, where the doing of that thing may reasonably be regarded as having been contemplated by a particular term of the permission, or its terms as a whole, but was not expressly provided for in the permission,

(c) clarifying the terms of the permission, or

(d) facilitating the implementation or operation of the permission,

and the member of the staff shall make that amendment in accordance with the terms of the authorisation.

(2) The chief executive or deputy chief executive shall not exercise the power under *subsection (1)* if to do so would result in a material alteration of the terms of the development the subject of the permission.

(3) Before the chief executive or deputy chief executive decides whether to make an authorisation under *subsection (1)* in a particular case, the chief executive or deputy chief executive may invite submissions in relation to the matter to be made by any

person who made submissions to the planning authority in relation to the permission, and the chief executive or deputy chief executive shall have regard to any submissions made on foot of that invitation.

(4) In this section "permission" includes a permission granted by a planning authority under the Act of 2000 but does not include outline permission within the meaning of *section 96*.

PART 9

Judicial Review and Decision-Making

Chapter 1

Part 9 Judicial Review

Interpretation

278. (1) In this Part—

"environmental legal costs financial assistance mechanism" means the scheme established by *section 295*;

"legal practitioner" has the meaning it has in the Legal Services Regulation Act 2015;

"*Part 9* judicial review" shall be construed in accordance with *section 279*;

"*Part 9* judicial review proceedings" means proceedings relating to *Part 9* judicial review including any interim or interlocutory applications arising from such proceedings;

"relevant body" means—

(a) a planning authority or local authority,

(b) the Commission,

(c) a Minister of the Government,

(d) the Office of the Planning Regulator,

(e) the competent authority within the meaning of the Aircraft Noise (Dublin Airport) Regulation Act 2019,

(f) the Government, or

(g) a regional assembly;

"sufficient interest" shall be construed in accordance with *section 286*.

(2) A reference in this Part to the date on which a relevant body fails to perform a function shall, in relation to *Part 9* judicial review proceedings concerning a decision that is alleged to have been made (in whole or in part) as a result of the failure or alleged failure, be read as a reference to the date of that decision.

Application of Chapter

279. (1) This Chapter applies to an application for judicial review (in this Part referred to as "*Part 9* judicial review") made to the High Court in which a party—

(a) questions the validity of any decision made or act done in the performance, or purported performance, of a function by a relevant body under this Act, or questions the alleged failure of a relevant body to perform such a function, and

(b) seeks an order of certiorari, mandamus, prohibition or quo warranto, or seeks declaratory relief.

(2) A person shall not—

(a) question the validity of any decision made or act done in the performance, or purported performance, of any function under this Act by a relevant body, or

(b) question the alleged failure of a relevant body to perform a function referred to in *paragraph (a)*,

otherwise than by way of an application for judicial review brought in accordance with this Part and with the applicable Rules of the Superior Courts.

Procedure for commencing *Part 9* judicial review

280. (1) *Part 9* judicial review shall be commenced by making an application to the High Court by originating notice of motion in accordance with the applicable Rules of the Superior Courts.

(2) No later than the day on which *Part 9* judicial review proceedings are issued, the party making the application under *subsection (1)* shall notify each of the following that it intends to apply for *Part 9* judicial review:

(a) the relevant body that the decision, act or alleged failure of which the *Part 9* judicial review relates;

(b) any other party that the party intends to name as respondent in the application;

(c) each notice party.

(3) The application referred to in *subsection (1)* shall not be accepted by the High Court unless—

(a) the motion is grounded upon a statement in accordance with the applicable Rules of the Superior Courts,

(b) the applicant has complied with *subsection (2)*,

(c) the motion is accompanied by an affidavit, prepared in accordance with the applicable Rules of the Superior Courts, that—

(i) is sworn by or on behalf of the applicant which verifies all of the facts relied upon in the statement referred to in *paragraph (a)*,

(ii) exhibits a copy of each of the required notifications referred to in *subsection (2)*, and

(iii) where *subsection (4)* of *section 286* applies to the applicant, complies with that subsection,

and

(d) it is made within the period—

(i) referred to in *subsection (1)* of *section 281*, or

(ii) ordered under *subsection (2)* of that section.

(4) Leave of the High Court shall not be required in order to make an application for judicial review under this Part.

(5) A reference in this Part to the date on which *Part 9* judicial review proceedings are commenced shall be read as the date on which a notice of motion is issued from the High Court in respect of an application under this section.

Time limits applicable to *Part 9* judicial review

281. (1) Subject to *subsections (2)* and *(4)*, *Part 9* judicial review shall not be commenced after the expiry of the period of 8 weeks beginning on the date of—

(a) the decision to which the proceedings relate, or would relate if the proceedings were commenced,

(b) the doing of the act to which the proceedings relate, or would relate if the proceedings were commenced, or

(c) the failure to perform the function to which the proceedings relate, or would relate if the proceedings were commenced,

as the case may be.

(2) A party may, by motion on notice (grounded in the manner specified in the applicable Rules of the Superior Courts) apply to the High Court for an order granting the party an extension of time to commence *Part 9* judicial review proceedings outside the period referred to in *subsection (1)*.

(3) The High Court may grant an order under *subsection (2)*, and make such consequential orders as it considers appropriate in the circumstances, if it is satisfied that—

(a) there is good and sufficient reason for doing so, and

(b) the circumstances that resulted in—

(i) the proceedings being brought outside the period referred to in *subsection (1)*, and

(ii) the delay, if any, between the expiry of the period referred to in *subsection (1)* and the proceedings being brought,

were outside the control of the party applying for the extension and the legal practitioners advising that party in relation to the application.

(4) Without prejudice to applicable Rules of the Superior Courts, where the period within which *Part 9* judicial review proceedings must be taken expires on a day that is a Saturday, a Sunday or a public holiday, the period shall be deemed to expire on the next day, following that day, that is not a Saturday, a Sunday or a public holiday.

Conduct of *Part 9* judicial review

282. (1) Subject to *subsection (2)*, an applicant shall not rely on a ground in *Part 9* judicial review proceedings other than the grounds set out in the statement referred to in *paragraph (a)* of *subsection (3)* of *section 280*.

(2) An applicant shall not be entitled to amend the statement referred to in *paragraph (a)* of *subsection (3)* of *section 280* after *Part 9* judicial review proceedings have commenced without applying to the High Court, on notice to all respondents and notice parties, for leave to do so, and such leave shall not be granted unless the Court is satisfied that—

(a) there is good and sufficient reason for allowing the applicant to do so, and

(b) the circumstances that resulted in the failure to include the matter to which the amendment relates in the original statement were outside the control of—

(i) the applicant, and

(ii) the legal practitioners advising that party in relation to the application.

Applications to strike out *Part 9* judicial review

283. (1) A party to *Part 9* judicial review proceedings may, by motion on notice (grounded in the manner specified in the applicable Rules of the Superior Courts), apply to the High Court at any time for an order striking out the proceedings for any number of the following reasons:

(a) the applicant does not have a sufficient interest in the grounds pleaded in the *Part 9* judicial review proceedings;

(b) the proceedings were not brought within the period—

(i) referred to in *subsection (1)* of *section 281*, or

(ii) ordered under *subsection (2)* of that section;

(c) the applicant has failed to exhaust any available appeal procedures or any other administrative remedy available in respect of the decision or act concerned;

(d) the grounds pleaded by the applicant disclose no arguable case or are bound to fail.

(2) The High Court may make an order striking out the *Part 9* judicial review proceedings to which an application under *subsection (1)* relates where it is satisfied that at least one of the reasons referred to in *paragraphs (a)* to *(d)* of that subsection apply to the proceedings.

(3) Without prejudice to *subsection (2)*, where—

(a) a party applies for an order under this section for the reason that an applicant does not have a sufficient interest in a matter to which a ground pleaded in *Part 9* judicial review proceedings relates, and

(b) the High Court is satisfied that some, but not all, of the applicants in the proceedings do not have such a sufficient interest, or that an applicant has such a sufficient interest in some, but not all, of the matters to which a ground pleaded in *Part 9* judicial review proceedings relates,

the Court may do one or more of the following as it sees fit:

(i) without striking out the proceedings in their entirety, strike out the proceedings as against any applicant it is satisfied does not have such a sufficient interest;

(ii) direct that an applicant shall not continue the proceedings in relation to a specified matter in respect of which the Court is satisfied that the applicant does not have a sufficient interest;

(iii) make orders consequential on, or necessary to give effect to, a decision under *paragraph (i)* or *(ii)*.

(4) Without prejudice to *subsection (2)*, where—

(a) a party applies for an order under this section for the reason that the grounds pleaded by an applicant disclose no arguable case or are bound to fail, and

(b) the High Court is satisfied that some, but not all, such grounds disclose no arguable case or are bound to fail,

the Court may—

(i) without striking out the proceedings, direct that an applicant shall not continue the proceedings in relation to a ground or grounds that it considers to disclose no arguable case or to be bound to fail, and

(ii) make orders consequential on, or necessary to give effect to, such direction.

Stays on *Part 9* judicial review

284. Where *Part 9* judicial review proceedings relate—

(a) in whole or in part, to the decision, act or alleged failure of a relevant body, and

(b) to a matter for the time being before the relevant body or any other relevant body,

the relevant body referred to in *paragraph (a)* may, by motion on notice (grounded in the manner specified in the applicable Rules of the Superior Courts), apply to the High Court to stay the proceedings pending the making of a decision by the relevant body referred to in *paragraph (b)* in relation to the matter concerned.

Entitlement to bring proceedings

285. A party shall not be permitted to plead a ground in *Part 9* judicial review proceedings unless the party has a sufficient interest in the matter to which the ground relates.

Sufficient interest

286. (1) Subject to *subsections (2)* and *(3)*, an applicant shall not be regarded as having a sufficient interest in a matter to which a ground pleaded in *Part 9* judicial review proceedings relates unless the applicant is, or may be, directly or indirectly materially affected by the matter.

(2) Where *Part 9* judicial review proceedings relate to a development that is likely to have significant effects on the environment or on a European site, or to an act or omission by any person that contravenes a provision of this Act, or an enactment under this Act, relating to the environment, an applicant shall be regarded as having a sufficient interest in a matter to which the proceedings relate (regardless of whether the applicant is, or may be, directly or indirectly materially affected by the matter) where—

(a) the applicant has existed for a period of not less than one year prior to the date on which proceedings were brought and is—

(i) a company, or

(ii) an undertaking incorporated under the laws of a Member State that has—

(I) limited liability, and

(II) a constitution,

(b) the constitution of the applicant includes an object related to the promotion of environmental protection relevant to the matters to which the proceedings relate and the applicant has pursued the object for a period of not less than one year prior to bringing the proceedings,

(c) the applicant has no fewer than 10 members at the time the proceedings are brought, and

(d) the board of directors (or equivalent governing body) of the applicant has passed a resolution in accordance with its constitution authorising the bringing of the proceedings prior to bringing them.

(3) An applicant other than an unincorporated body of persons shall be regarded as having a sufficient interest in a matter (regardless of whether it is, or may be, directly or indirectly materially affected by the matter) where the applicant—

(a) made submissions of a material nature to or before the relevant body whose decision, act or failure is at issue in the proceedings, and

(b) made the submissions referred to in *paragraph (a)* in accordance with the requirements applicable to such submissions.

(4) Without prejudice to *subsection (1)*, an unincorporated body of persons shall not be regarded as having a sufficient interest in a matter to which a ground pleaded in *Part 9* judicial review proceedings relates, unless—

(a) it is a partnership within the meaning of the Partnership Act 1890,

(b) it is a limited partnership within the meaning of the Limited Partnerships Act 1907,

(c) it may sue or be sued in the High Court in its own name under Order 14 of the Rules of the Superior Courts (S.I. No. 15 of 1986), or

(d) the body—

(i) has a constitution,

(ii) holds a vote among its members, in accordance with its constitution, on whether to apply for *Part 9* judicial review proceedings in relation to the ground,

(iii) is authorised to bring the proceedings in relation to the ground by no less than two thirds of the members casting a vote, and

(iv) provides, with its application for *Part 9* judicial review proceedings, an affidavit sworn or attested to by a person on behalf of the body—

(I) in which the person avers to—

(A) the body's compliance with *subparagraphs (i)* to *(iii)*, and

(B) the total number of members of the body,

and

(II) to which is exhibited a list of the names and addresses of the members of the body who, in the vote referred to in *subparagraph (ii)*, cast a vote in favour of bringing the proceedings.

(5) For the avoidance of doubt, a sufficient interest shall not be limited to an interest in land or a financial interest.

(6) In this section, "constitution", in relation to an unincorporated body of persons or an undertaking that is not a company, means a written document that governs the operation of the body or undertaking in a manner comparable to the constitution of a company.

***Part 9* judicial review - appeals**

287. (1) The determination of the High Court of *Part 9* judicial review proceedings, and any order made by the High Court in such proceedings, shall be final and no appeal shall lie from the decision of that Court to the Court of Appeal.

(2) No appeal to the Supreme Court shall lie from the determination of the High Court in *Part 9* judicial review proceedings save on the basis of an application for leave to appeal under Article 34.5.4° of the Constitution.

(3) *Subsection (2)* shall not apply to a determination of the High Court in so far as it involves a question as to the validity of any law having regard to the provisions of the Constitution.

Amendments of decisions or documents subject to *Part 9* judicial review

288. (1) This section applies to *Part 9* judicial review proceedings in which an order of certiorari is sought and where—

(a) an applicant succeeds on at least one ground and the High Court is satisfied that—

(i) the ground concerned is based on an error with a decision or act, including an error on the face of the record, of a relevant body,

(ii) making an amendment to a decision or document would address the ground, render the ground moot in whole or in part, or act as a satisfactory remedy in respect of the ground, and

(iii) it is within the jurisdiction of the relevant body to make the amendment referred to in *subparagraph (ii)*,

or

(b) in relation to a ground pleaded concerning an error, including an error on the face of the record, of a relevant body that is a respondent or notice party in the proceedings—

(i) the relevant body—

(I) admits or acknowledges that it made the error so pleaded, and

(II) pleads that the error is one in which it is appropriate for the High Court to exercise its powers under this section,

and

(ii) the High Court is satisfied that the error is one in which it is appropriate for it to exercise its powers under this section.

(2) Where this section applies, a court may, instead of granting an order of certiorari—

(a) order the relevant body to give effect to the amendment referred to in *subparagraph (ii)* of *paragraph (a)* of *subsection (1)*, within such period as it may direct, which period shall be no longer than is necessary in order to give effect to the amendment,

(b) order an adjournment of the *Part 9* judicial review proceedings in order for the relevant body to perform a function or exercise a power, and

(c) make such orders consequential on, or necessary to give effect to, a decision under this section as it sees fit.

(3) The power of the High Court under *subsection (2)* is without prejudice to its power to—

(a) award any remedy within its jurisdiction, other than an order of certiorari, in respect of the ground concerned, and

(b) award any remedy within its jurisdiction in respect of a ground to which *subsection (1)* does not apply.

(4) Where the High Court is satisfied that, after any period of adjournment referred to in *paragraph (b)* of *subsection (2)*—

(a) the relevant body has given effect to an order under that subsection, and

(b) doing so has addressed the ground to which such an order relates, or rendered it moot in whole or in part,

it may make an order striking out the ground.

Declarations of invalidity

289. Where the High Court considers that a decision, failure or act by a relevant body subject to *Part 9* judicial review is invalid or ought to be quashed, it may, where it considers it appropriate to do so and without prejudice to its power to grant remedies referred to in *paragraph (b)* of *subsection (1)* of *section 279*, take any number of the following actions:

(a) declare to be invalid or quash any particular, provision or aspect of such decision, failure or act, without declaring invalid or quashing the remainder of the decision, failure or act;

(b) remit a matter to the relevant body in light of its order accompanied by, where the Court considers it appropriate, a direction to that body to take such additional steps, or refrain from taking such steps, as the Court may specify;

(c) make orders consequential on, or necessary to give effect to, any matter referred to in *paragraph (a)* or *(b)*.

Provisions generally applicable to *Part 9* judicial review

290. *Part 9* judicial review proceedings, and an appeal from such proceedings, shall be determined by a court dealing with such matters as expeditiously as possible consistent with the administration of justice.

CHAPTER 2

Costs Relating to Certain Proceedings

Interpretation

291. In this Chapter—

"Aarhus Convention proceedings" means—

(a) *Part 9* judicial review proceedings, and

(b) proceedings, other than *Part 9* judicial review proceedings, in which an applicant challenges an act or omission by any person that contravenes a provision of this Act, or an enactment made under this Act, relating to the environment,

but does not include—

(i) a claim against any public body acting in a judicial or legislative capacity,

(ii) proceedings, or any part of proceedings, for which damages, arising from damage to persons or property, are sought, or

(iii) proceedings instituted by a body established by or under statute, a local authority within the meaning of the Local Government Act 2001 or a Minister of the Government;

"applicant" includes plaintiff;

"prescribed" means prescribed by regulations made by the Minister for the Environment, Climate and Communications, and "prescribe" shall be construed accordingly.

Application of Chapter

292. This Chapter applies to the following types of proceedings:

(a) Aarhus Convention proceedings;

(b) an appeal taken in relation to Aarhus Convention proceedings;

(c) a case stated in relation to Aarhus Convention proceedings;

(d) a motion under *section 298* in relation to Aarhus Convention proceedings;

(e) a reference under Article 267 of the Treaty on the Functioning of the European Union made by a court dealing with matters referred to in *paragraph (a)* or *(b)*;

(f) interim or interlocutory applications arising from any proceedings or matters referred to in *paragraphs (a)* to *(e)*.

Costs in relation to certain proceedings

293. (1) Notwithstanding section 169 of the Legal Services Regulation Act 2015 and Order 99 of the Rules of the Superior Courts (S.I. No. 15 of 1986), and subject to *subsections (2)*, *(3)*, *(4)* and *(7)* of *section 298*, each party (including a notice party) to proceedings to which this Chapter applies shall bear its own costs.

(2) Subject to *subsection (7)* of *section 298*, the costs of proceedings, or a portion of such costs, as are appropriate, may be awarded to the applicant in proceedings to which this Chapter applies to the extent that the applicant succeeds in obtaining relief, and any of those costs shall be borne by the respondent or notice party, or both of them, to the extent that the actions or omissions of the respondent or notice party, or both of them, contributed to the applicant obtaining relief.

(3) A court may order such costs as it considers reasonable to be paid by a party in proceedings to which this Chapter applies to another party in such proceedings where the court considers it appropriate to do so—

(a) because the court considers that a claim or counterclaim by the party is frivolous or vexatious,

(b) because the court considers that the proceedings are brought for the sole purpose of—

(i) delaying a development, or proposed development, to which the proceedings relate, or

(ii) securing the payment of money, gifts, consideration or other inducement, by any person to any other person,

(c) because of the manner in which the party has conducted the proceedings, or

(d) where the party is in contempt of court.

(4) The costs that a party is ordered to pay to an applicant under *subsection (2)* shall not exceed the monetary amount prescribed in respect of those costs under *section 294* unless the court awarding such costs is satisfied that, due to the exceptional circumstances presented by a particular case—

(a) there is a reason of exceptional public importance for awarding costs exceeding that amount, and

(b) it is in the interests of justice to so award.

(5) An applicant taking proceedings to which this Chapter applies—

(a) shall not be obliged to provide security for costs, and

(b) shall not be obliged to give an undertaking as to damages.

Regulation of costs payable in respect of prescribed matters

294. (1) Subject to *subsections (3)* and *(4)* of *section 293*, and notwithstanding section 169 of the Legal Services Regulation Act 2015 and Order 99 of the Rules of the Superior Courts (S.I. No. 15 of 1986), the following shall be in accordance with the monetary amounts prescribed under *subsection (2)* in relation to each matter so prescribed:

(a) the costs awarded to an applicant, in respect of proceedings to which this Chapter applies and in which the applicant succeeds in obtaining relief;

(b) the contribution made from the environmental legal costs financial assistance mechanism to the costs of an applicant in relation to whom a determination under *paragraph (b)* or *(c)* of *subsection (3)* of *section 297* and under *paragraph (b)* or *(c)* of *subsection (4)* of *section 297* is made, in respect of proceedings to which this Chapter applies and in which the applicant does not succeed in obtaining relief, or succeeds in obtaining relief only in part;

(c) the contribution made from the environmental legal costs financial assistance mechanism to the costs awarded to the applicant under *subsection (7)* of *section 298*.

(2) The Minister for the Environment, Climate and Communications shall—

(a) after consulting with the Minister and the Minister for Justice, and

(b) with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform,

prescribe monetary amounts for the purposes of *subsection (1)*, and in doing so may prescribe different such amounts in respect of any or all of the following:

(i) different types of legal work conducted by legal practitioners;

(ii) different types of legal proceedings and applications;

(iii) different court jurisdictions in which proceedings are taken;

(iv) proceedings of differing durations;

(v) work carried out by different categories of legal practitioners, including by reference to the amount of experience possessed by, and the nature of legal qualification of, the legal practitioner.

(3) Before making regulations under *subsection (2)*, the Minister for the Environment, Climate and Communications shall have regard to—

(a) the need to ensure that proceedings to which this Chapter applies can be taken by applicants in a manner that is not prohibitively expensive,

(b) the need for equitable and orderly access to the courts for all persons to be ensured in accordance with law,

(c) the need to ensure that court and judicial resources are utilised for the common good and in the interests of justice, and

(d) the cost to the Exchequer of matters provided for in such regulations.

(4) The Minister for the Environment, Climate and Communications shall conduct a review of the monetary amounts prescribed in regulations made under *subsection (2)*, in consultation with the Minister and the Minister for Justice, not less than once in every period of 5 years after the making of the regulations.

Environmental legal costs financial assistance mechanism

295. (1) On the coming into operation of this section there is established a scheme to be known as the environmental legal costs financial assistance mechanism, which shall be operated under and in accordance with this Chapter.

(2) The purpose of the environmental legal costs financial assistance mechanism is to contribute (in accordance with this Chapter and any regulations made under *section 299*) to the legal costs incurred by applicants that do not succeed in obtaining relief in proceedings to which this Chapter applies, or that succeed in obtaining such relief only in part.

(3) It shall be a function of the Minister for the Environment, Climate and Communications to operate and administer the environmental legal costs financial assistance mechanism, without prejudice to the power of that Minister to authorise another person, by regulations under *section 299*, to administer the environmental legal costs financial assistance mechanism for the time being on behalf of that Minister.

(4) Moneys payable under the environmental legal costs financial assistance mechanism shall be paid by the Minister for the Environment, Climate and Communications, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, out of moneys provided by the Oireachtas for the purposes of the environmental legal costs financial assistance mechanism.

(5) The expenses incurred by the Minister for the Environment, Climate and Communications in the administration of this Chapter shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys provided by the Oireachtas.

Applications for contribution to costs to be made from environmental legal costs financial assistance mechanism

296. (1) Subject to *paragraph (b)* of *subsection (1)* of *section 294* and *subsection (2)*, an applicant that does not succeed in obtaining relief in proceedings to which this Chapter applies, or that succeeds in obtaining such relief only in part, is entitled, in accordance with this Part and regulations made under *section 299*, to have a contribution made to the costs properly incurred by the applicant, in preparation for and representation at such proceedings, out of moneys provided under the environmental legal costs financial assistance mechanism.

(2) An applicant shall not be entitled to moneys from the environmental legal costs financial assistance mechanism—

(a) where the applicant (or the applicant when an intending applicant) fails to submit a statement of financial resources, in such form and manner as may be prescribed, to the relevant person, under *subsection (1)* of *section 297*,

(b) where the applicant (or the applicant when an intending applicant) fails to submit a statement of eligibility, in such form and manner as may be prescribed, to the relevant person under *subsection (2)* of *section 297*,

(c) where a determination is made in respect of the applicant (or the applicant when an intending applicant) under *paragraph (a)* of *subsection (3)* of *section 297* or *paragraph (a)* of *subsection (4)* of *section 297*,

(d) where costs are awarded against the applicant under *subsection (3)* of *section 293* in the proceedings,

(e) where the High Court makes an order in the proceedings, of its own motion or upon application to it under *subsection (3)*, to the effect that—

(i) the proceedings, or any part of them, were frivolous or vexatious,

(ii) the manner in which the applicant conducted the proceedings is such as to render it inappropriate for moneys from the environmental legal costs financial assistance mechanism to be available to the applicant,

(iii) the proceedings were brought for the sole purpose of—

(I) delaying a development, or proposed development, to which the proceedings relate, or

(II) securing the payment of money, gifts, consideration or other inducement, by any person to any other person,

(iv) the party is, or has been at any time during the conduct of the proceedings to which the application relates, in contempt of court, or

(v) it would not be in the interests of justice for moneys from the environmental legal costs financial assistance mechanism to be available to the applicant,

(f) in relation to a ground pleaded in the proceedings in which the applicant did not have a sufficient interest, or

(g) where an order was made under *subsection (2)* of *section 283* striking out the proceedings, or in respect of grounds in the proceedings in respect of which an order is made under *paragraph (i)* of *subsection (4)* of *section 283*.

(3) An application referred to in *paragraph (e)* of *subsection (2)*—

(a) may be made by—

(i) the Minister for the Environment, Climate and Communications,

(ii) the person authorised by regulations under *section 299* to administer the environmental legal costs financial assistance mechanism for the time being on behalf of that Minister, or

(iii) any party to the proceedings,

and

(b) shall be made—

(i) where the application is made by a person other than the applicant in the proceedings to which that application relates, on notice to that applicant,

(ii) where the application is made by a person other than the Minister for the Environment, Climate and Communications, on notice to that Minister,

(iii) within 8 weeks of the determination of the proceedings, and

(iv) subject to any applicable rules of court.

(4) In this section, "relevant person" means—

(a) the Minister for the Environment, Climate and Communications, or

(b) the person authorised by regulations under *section 299* to administer the environmental legal costs financial assistance mechanism for the time being on behalf of that Minister.

Application in respect of certain payments relevant to Aarhus Convention proceedings

297. (1) An applicant or intending applicant in Aarhus Convention proceedings may submit a statement of financial resources to the relevant person at any time before the initiation of the proceedings or during the proceedings.

(2) An applicant or intending applicant in Aarhus Convention proceedings may submit a statement of eligibility to the relevant person at any time before the initiation of the proceedings or during the proceedings.

(3) The relevant person shall, by reference to the statement of financial resources submitted under *subsection (1)* and in accordance with regulations under *section 299*, calculate the financial resources of the applicant or intending applicant and, as a result of such calculation, determine if the financial resources of the applicant or intending applicant are, having regard to amounts and calculations prescribed—

(a) sufficient to result in the applicant or intending applicant being disentitled to receive a contribution to costs paid from the environmental legal costs financial assistance mechanism,

(b) sufficient to result in the applicant or intending applicant being entitled to receive a contribution to costs paid from the environmental legal costs financial assistance mechanism only in respect of part of the costs incurred by the applicant or intending applicant, or

(c) of a level that the applicant or intending applicant is entitled to receive a contribution to costs paid from the environmental legal costs financial assistance mechanism in respect of the entirety of the costs incurred by the applicant or intending applicant.

(4) The relevant person shall, by reference to the statement of eligibility submitted under *subsection (2)*, and in accordance with regulations under *section 299*, assess the eligibility of the applicant or intending applicant and as a result of that assessment determine whether the applicant or intending applicant is, having regard to the criteria of eligibility prescribed—

(a) disentitled to receive a contribution to costs paid from the environmental legal costs financial assistance mechanism,

(b) entitled to receive a contribution to costs paid from the environmental legal costs financial assistance mechanism in respect of part of the costs incurred by the applicant or intending applicant, or

(c) entitled to receive a contribution to costs paid from the environmental legal costs financial assistance mechanism in respect of the entirety of the costs incurred by the applicant or intending applicant.

(5) The relevant person—

(a) shall, having made a determination under *subsection (3)* or *(4)*, notify the applicant or intending applicant of the determination within 28 days of the submission of the statement of financial resources or statement of eligibility (as the case may be), or within such other period as the Minister may prescribe,

(b) shall not make or authorise a payment from the environmental legal costs financial assistance mechanism to an applicant in the proceedings where a determination under *paragraph (a)* of *subsection (3)* or *paragraph (a)* of

subsection (4) is made in respect of that applicant (or in respect of that applicant as an intending applicant in the proceedings, as the case may be), and

(c) shall not make or authorise a payment from the environmental legal costs financial assistance mechanism to an applicant in the proceedings where a determination under *paragraph (b)* or *(c)* of *subsection (3)* or *paragraph (b)* or *(c)* of *subsection (4)* is made in respect of that applicant (or in respect of that applicant as an intending applicant in the proceedings, as the case may be), other than in accordance with the determination and with the monetary amounts prescribed under *section 294*.

(6) The relevant person may require that the statement of financial resources or statement of eligibility submitted under this section be certified or attested as to its authenticity or correctness in such manner as the relevant person may reasonably require, including by a statutory declaration.

(7) Where Aarhus Convention proceedings are initiated, and a statement of financial resources is submitted under *subsection (1)* or a statement of eligibility is submitted under *subsection (2)*, any party to the proceedings may apply for a stay on the proceedings until the determination under *subsection (3)* or *(4)* is made.

(8) A person who furnishes false or misleading information in a statement of financial resources or statement of eligibility under this section—

(a) shall not be entitled to a payment from the environmental legal costs financial assistance mechanism in respect of the proceedings to which the false or misleading information relates, and

(b) is guilty of an offence.

(9) This section is without prejudice to section 151 of the Legal Services Regulation Act 2015, or any other rule of law or practice providing for the right of an applicant or intending applicant to enter into an agreement with a legal practitioner concerning the amount, manner or circumstances of payment of all or part of the legal costs that are or may be payable by the applicant or intending applicant to the legal practitioner for legal services provided in relation to a matter.

(10) In this section "relevant person" means—

(a) the Minister for the Environment, Climate and Communications, or

(b) the person authorised by regulations under *section 299* to administer the environmental legal costs financial assistance mechanism for the time being on behalf of that Minister.

Application for determination of application of Chapter to proceedings

298. (1) A party to proceedings to which this Chapter applies may at any time before, or during the course of, the proceedings apply to the High Court for a determination that this Chapter applies to the proceedings or to part of the proceedings.

(2) Where an application is made under *subsection (1)*, the Court may make a determination that this Chapter applies to those proceedings or to part of the proceedings.

(3) Without prejudice to *subsection (1)*, the parties to proceedings referred to in that subsection may, at any time, agree that this Chapter applies to those proceedings or to part of the proceedings.

(4) Before proceedings to which this Chapter applies are instituted, the persons who would be the parties to those proceedings if those proceedings were instituted may, before the institution of the proceedings and without prejudice to *subsection (1)*, agree that this Chapter applies to those proceedings or to part of the proceedings.

(5) An application under *subsection (1)* shall be by motion on notice—

(a) to the parties concerned, and

(b) to—

(i) the person authorised by regulations under *section 299* to administer the environmental legal costs financial assistance mechanism for the time being on behalf of the Minister for the Environment, Climate and Communications, or

(ii) where no such person is so authorised, the Minister for the Environment, Climate and Communications.

(6) Where a determination is made under *subsection (2)*, or an agreement is made under *subsection (3)* or *(4)*, the applicant, or the person who would be the applicant if the proceedings were instituted, shall notify—

(i) the person authorised by regulations under *section 299* to administer the environmental legal costs financial assistance mechanism for the time being on behalf of the Minister for the Environment, Climate and Communications, or

(ii) where no such person is so authorised, the Minister for the Environment, Climate and Communications,

of the determination or agreement, as the case may be.

(7) Where an applicant in proceedings to which this Chapter applies makes an application under *subsection (1)*, the costs of making the application shall, regardless of the determination made by a court under this section, be awarded to the applicant.

(8) The applicant is entitled, in accordance with this Part and regulations made under *section 299*, to have a contribution made, in respect of the entirety of the costs, to the costs properly incurred by the applicant, in preparation for and representation at an application under this section, out of moneys provided under the environmental legal costs financial assistance mechanism.

Further provisions relevant to environmental legal costs financial assistance mechanism

299. (1) The Minister for the Environment, Climate and Communications may—

(a) after consulting with the Minister and the Minister for Justice, and

(b) with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform,

make regulations for the purpose of enabling this Chapter to have full effect.

(2) Before making regulations under *subsection (1)*, the Minister for the Environment, Climate and Communications shall have regard to—

(a) the need to ensure that proceedings to which this Chapter applies can be taken by applicants in a manner that is not prohibitively expensive,

(b) the need for equitable and orderly access to the courts for all persons to be ensured in accordance with law,

(c) the need to ensure that court and judicial resources are utilised for the common good and in the interests of justice, and

(d) the cost to the Exchequer of matters to be provided for in such regulations.

(3) Without prejudice to the generality of *subsection (1)*, the Minister for the Environment, Climate and Communications may, by regulations under that subsection, do one or more of the following:

(a) authorise one or more persons to administer the environmental legal costs financial assistance mechanism, or such aspects of the mechanism as the Minister for the Environment, Climate and Communications may prescribe;

(b) prescribe the means by which rates payable under the environmental legal costs financial assistance mechanism are calculated;

(c) prescribe the manner in which, and means by which, payments under the environmental legal costs financial assistance mechanism are made, and the information (including an itemised list of the payments made from the environmental legal costs financial assistance mechanism in respect of particular matters or items) that shall accompany such payments;

(d) prescribe categories of legal practitioners who may participate in the environmental legal costs financial assistance mechanism;

(e) prescribe requirements applicable to or incumbent upon legal practitioners in order to avail of moneys made available from the environmental legal costs financial assistance mechanism;

(f) provide for the keeping of records and accounts regarding the operation of the environmental legal costs financial assistance mechanism;

(g) prescribe the power of a court to make orders consequential on, or ancillary to, any matter prescribed;

(h) make further provision for the manner in which payments made from the environmental legal costs financial assistance mechanism may be adjudicated upon, whether by the Office of the Legal Costs Adjudicators or otherwise;

(i) prescribe the form and manner in which, and the period within which, an application to the environmental legal costs financial assistance mechanism shall be made;

(j) prescribe the form and manner in which information shall be submitted for the purpose of calculating an applicant's or intending applicant's financial resources, or determining an applicant's or intending applicant's eligibility, under *section 297*;

(k) prescribe the level of financial resources for the purposes of the making of a determination under *subsection (3)* of *section 297*, including different levels of financial resources for different classes of applicants or intending applicants referred to in that section;

(l) prescribe the information to be submitted for the purpose of calculating an applicant's or intending applicant's financial resources under *section 297*, including different categories of information in respect of different classes of applicant or intending applicant referred to in that section;

(m) prescribe the resources that may be considered to constitute the financial resources of an applicant or intending applicant for the purposes of *section 297*, including:

(i) different resources for different classes of applicants or intending applicants;

(ii) where the applicant or intending applicant is not a natural person, resources of a person connected (in such manner as may be prescribed) to the applicant or intended applicant;

(n) prescribe the manner in which the financial resources of an applicant or intending applicant are to be calculated for the purposes of *subsection (3)* of *section 297*;

(o) prescribe criteria of eligibility, and the form and manner of assessing such criteria, for the purpose of determining under *subsection (3)* of *section 297* whether an applicant or intending applicant is entitled or disentitled to a contribution to the entirety, or part, of the costs properly incurred by the applicant or intending applicant from the environmental legal costs financial assistance mechanism, including:

(i) compliance or lack of compliance by the applicant or intending applicant with a statutory requirement that applies to the applicant or intending applicant;

(ii) whether, in the opinion of the relevant person (within the meaning of *section 297*), the applicant or intending applicant is likely to be considered to have a sufficient interest in matters to which the proceedings relate;

(iii) whether the applicant or intending applicant, in the opinion of the relevant person (within the meaning of *section 297*), is reasonably likely to obtain relief in the proceedings;

(iv) whether the applicant or intending applicant, in the opinion of the relevant person (within the meaning of *section 297*), was in a position to make, but

did not make, submissions of a material nature that would have avoided the initiation of the proceedings, to or before the relevant body whose decision, act or failure is at issue in the proceedings;

(v) whether, in the opinion of the relevant person (within the meaning of *section 297*), a reasonably prudent applicant or intending applicant, would be likely to seek the services of a legal practitioner for the proceedings at the applicant's or intending applicant's own expense, where such services, while representing a financial obstacle, would not be such as to impose undue hardship upon the applicant or intending applicant;

(vi) whether, in the opinion of the relevant person (within the meaning of *section 297*), a legal practitioner acting reasonably would be likely to advise the applicant or intending applicant to obtain legal representation for the proceedings at the applicant's or intending applicant's own expense;

(vii) whether, in the opinion of the relevant person (within the meaning of *section 297*), the proceedings are the most satisfactory means (having regard to all the circumstances of the case) by which the result sought by the applicant or intending applicant may be achieved;

(viii) whether (having regard to all the circumstances of the case) it is reasonable that the applicant or intending applicant is entitled or disentitled to a contribution to such costs;

(p) prescribe the form and manner in which, and the person to which, an appeal from a determination under *subsection (3)* or *(4)* of *section 297* may be made, and the procedures applicable to the conduct of the appeal.

Provisions applicable to regulations under Chapter

300. (1) Every regulation made by the Minister for the Environment, Climate and Communications under *section 294* or *299*—

(a) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder, and

(b) may contain such incidental, supplementary and consequential provisions as appear to the Minister for the Environment, Climate and Communications to be necessary or expedient for the purposes of the regulations.

(2) Without prejudice to *paragraphs (a)* and *(b)* of *subsection (2)* of *section 294* and *paragraphs (a)* and *(b)* of *subsection (1)* of *section 299*, the Minister for the Environment, Climate and Communications may, before making regulations under this Chapter, consult with any person that Minister considers appropriate.

Amendment of Environment (Miscellaneous Provisions) Act 2011

301. The Environment (Miscellaneous Provisions) Act 2011 is amended, in subsection (3) of section 4—

(a) in paragraph (a), by the substitution of "sought," for "sought, or",

(b) in paragraph (b), by the substitution of "Government, or" for "Government.", and

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

"(c) to proceedings to which *Chapter 2* of *Part 9* of the *Planning and Development Act 2024* applies.".

Provision for certain legal costs in relation to environmental matters

302. The Legal Services Regulation Act 2015 is amended—

(a) in subsection (2) of section 150—

(i) in paragraph (a), by the substitution of "concerned," for "concerned, or",

(ii) in paragraph (b), by the substitution of "calculated, or" for "calculated.", and

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

"(c) where the instructions relate to proceedings to which *Chapter 2* of *Part 9* of the *Planning and Development Act 2024* applies, indicate whether or not the legal practitioner is willing to charge fees to the client, in respect of any item of legal work carried out in relation to the matter, only in accordance with the monetary amount standing prescribed under *section 294* of the *Planning and Development Act 2024* in respect of the item.",

(b) in subsection (2) of section 154, by the substitution of "Subject to section 154A, where" for "Where",

(c) by the insertion of the following sections after section 154:

"154A. (1) Subject to subsection (2), where a person who is the subject of an order to pay costs in respect of relevant proceedings receives a bill of costs prepared in accordance with subsection (1) of section 154, that person shall not apply to the Chief Legal Costs Adjudicator for adjudication on any matter or item other than the following:

(a) that a matter or item claimed in the bill of costs is not in accordance with a monetary amount standing prescribed, under *section 294* of the *Planning and Development Act 2024*, in relation to that matter or item;

(b) that the matter or item represents work that was actually done.

(2) Subsection (1) shall not apply to a matter or item in relevant proceedings where the matter or item is wholly unrelated to—

(a) Part 9 judicial review proceedings (within the meaning of *Part 9* of the *Planning and Development Act 2024*), or

(b) proceedings, other than those referred to in paragraph (a), in which an applicant challenges an act or omission by any person that contravenes a provision of the *Planning and Development Act 2024* relating to the environment.

(3) In this section 'relevant proceedings' has the meaning it has in section 157.

154B. (1) This section applies where a person makes an application for a payment from the environmental legal costs financial assistance mechanism in accordance with *Chapter 2* of *Part 9* of the *Planning and Development Act 2024* and any regulations made thereunder.

(2) Subject to subsection (3), where this section applies, a relevant person may, as if the relevant person were a party to the proceedings in question, apply to the Chief Legal Costs Adjudicator for adjudication upon the bill of costs, or any matter or item in that bill of costs, submitted with the person's application for the payment.

(3) An application under subsection (2) shall not be made for adjudication on any matter or item other than the following:

(a) that a matter or item claimed in the bill of costs is not in accordance with a monetary amount standing prescribed, under *section 294* of the *Planning and Development Act 2024*, in relation to that matter or item;

(b) that the matter or item represents work that was actually done.

(4) An application under subsection (2) may be made at any time before a payment is made to a person from the environmental legal costs financial assistance mechanism.

(5) In this section—

'environmental legal costs financial assistance mechanism' has the meaning it has in *Part 9* of the *Planning and Development Act 2024*;

'relevant person' means—

(a) the Minister for the Environment, Climate and Communications, and

(b) the person authorised by regulations under *section 299* of the *Planning and Development Act 2024* to administer the environmental legal costs financial assistance mechanism for the time being on behalf of the Minister for the Environment, Climate and Communications.",

(d) in section 155—

(i) in subsection (3), by the substitution of "Subject to subsection (7), in determining" for "In determining",

(ii) in subsection (4), by the substitution of "shall, subject to subsection (7)," for "shall,", and

(iii) by the insertion of the following subsection after subsection (6):

"(7) In determining an application for the adjudication of legal costs in relation to an order to pay costs in respect of relevant proceedings (within the meaning of section 157), the Legal Costs Adjudicator shall consider the following:

(a) whether a matter or item claimed in the bill of costs is in accordance with a monetary amount standing prescribed, under *section 294* of the *Planning and Development Act 2024*, in relation to that matter or item;

(b) that the matter or item represents work that was actually done.",

(e) in section 157—

(i) in subsection (3), by the substitution of the following paragraphs for paragraphs (a) and (b):

"(a) charging in respect of the item is fair and reasonable in the circumstances,

(b) the amount charged in the bill of costs in respect of that item is fair and reasonable in the circumstances, and

(c) where the item relates to relevant proceedings, that the amount charged is in accordance with a monetary amount prescribed, under *section 294* of the *Planning and Development Act 2024*, in respect of such item.",

(ii) in subsection (4), by the substitution of "Subject to subsection (4A), a Legal Costs Adjudicator shall" for "A Legal Costs Adjudicator shall",

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

"(4A) A Legal Costs Adjudicator shall not determine a different amount to be charged in respect of an item under subsection (4) where—

(a) the item in question relates to relevant proceedings,

(b) a monetary amount stands prescribed, under *section 294* of the *Planning and Development Act 2024*, in respect of the item, and

(c) the amount charged in respect of the item is in accordance with that monetary amount.",

and

(iv) by the insertion of the following subsection after subsection (10):

"(11) In this section 'relevant proceedings' means proceedings—

(a) to which *Chapter 2* of *Part 9* of the *Planning and Development Act 2024* applies, and

(b) in relation to which a court has not made an order under *subsection (3)* or *(4)* of *section 293* of that Act.",

and

(f) in subsection (5) of section 169, by the substitution of "2000, Part 2 of the Environment (Miscellaneous Provisions) Act 2011 or *Chapter 2* of *Part 9* of the *Planning and Development Act 2024*" for "2000 or Part 2 of the Environment (Miscellaneous Provisions) Act 2011".

CHAPTER 3

Transitional Arrangement and Saver

Continued application of sections 50, 50A and 50B of Act of 2000 for limited period

303. (1) Section 50 of the Act of 2000 shall apply and have effect in relation to a decision or an act of a planning authority or the Commission under this Act, or that vests in the planning authority or the Commission by virtue of this Act, subject to the following modifications:

(a) references to the Act of 2000 shall be construed as including references to this Act,

(b) the reference, in paragraph (b) of subsection (2), to a function transferred under Part XIV of the Act of 2000 shall be construed as including a reference to a function vested in the Commission under or by virtue of *Part 14* of this Act,

(c) the reference, in paragraph (c) of subsection (2), to section 214 of the Act of 2000 shall be construed as including a reference to *section 410* of this Act,

(d) the reference, in subsection (3), to Chapter I or II of Part VI of the Act of 2000 shall be construed as including a reference to *Part 17* of this Act,

(e) in subsection (7)—

(i) the reference to functions transferred under Part XIV of the Act of 2000 shall be construed as including a reference to functions vested under or by virtue of *Part 14* of this Act, and

(ii) the reference to section 214 of the Act of 2000 shall be construed as including a reference to *section 410* of this Act,

and

(f) references to the Board shall be construed as references to the Commission.

(2) Section 50A of the Act of 2000 shall apply and have effect in relation to a decision or an act of a planning authority or the Commission under this Act as they apply and

have effect in relation to a decision or an act of a planning authority or the Commission under the Act of 2000, subject to the following modifications:

(a) references to the Act of 2000 shall be construed as including references to this Act,

(b) the reference, in subparagraph (ii) of paragraph (b) of subsection (3), to section 176 of the Act of 2000 shall be construed as including a reference to *section 225* of this Act,

(c) in subparagraph (ii) of paragraph (b) of subsection (3)—

(i) the reference to section 37(4)(c) of the Act of 2000 shall be construed as including a reference to *paragraph (b)* of *subsection (2)* of *section 102*,

(ii) the reference to section 37(4)(d)(iii) of the Act of 2000 shall be construed as including a reference to *subparagraph (ix)* of *paragraph (f)* of *subsection (2)* of *section 183*, and

(iii) the reference to section 37(4)(e)(iv) of the Act of 2000 shall be construed as including a reference to *clause (IV)* of *subparagraph (ix)* of *paragraph (f)* of *subsection (2)* of *section 183*,

and

(d) references to the Board shall be construed as references to the Commission.

(3) Section 50B of the Act of 2000 shall apply and have effect in relation to a decision or an act of a planning authority or the Commission under this Act as they apply and have effect in relation to a decision or an act of a planning authority or the Commission under the Act of 2000.

(4) This section shall cease to have effect upon the commencement of *Chapter 1* of *Part 9*.

Amendment of sections 50 and 50B of Act of 2000

304. (1) Section 50 of the Act of 2000 is amended, in subsection (2), by the substitution of the following paragraph for paragraph (d):

"(d) the competent authority (within the meaning of the Aircraft Noise (Dublin Airport) Regulation Act 2019) in the performance or purported performance of any of its functions or the Commission in the performance or purported performance of its functions as the body to which an appeal from a decision of the said competent authority may be brought,".

(2) Section 50B is amended, in paragraph (a) of subsection (1), by—

(a) the substitution of the following subparagraph for subparagraph (I):

"(I) a provision of the Environmental Impact Assessment Directive (within the meaning of the *Planning and Development Act 2024*) to which, by virtue of paragraph 1

of Article 11 of that Directive, the said Article 11 is subject,",

(b) the substitution, in subparagraph (II), of "environment," for "environment, or",

(c) the substitution of the following subparagraph for subparagraph (III):

"(III) a provision of Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010[20] on industrial emissions (integrated pollution prevention and control) to which, by virtue of paragraph 1 of Article 25 of that Directive, Article 24 of that Directive is subject, or",

and

(d) the substitution of the following subparagraph for subparagraph (IV):

"(IV) paragraph 3 or 4 of Article 6 of the Habitats Directive (within the meaning of the *Planning and Development Act 2024*);".

PART 10

Architectural Heritage

Chapter 1

Protected Structures

Interpretation and general

305. (1) In this Part—

"endanger", in relation to a protected structure or proposed protected structure, includes exposing a structure to harm, decay or damage, whether immediately or over a period of time, through neglect or through direct or indirect means, and causing damage to the structure;

"protection", in relation to a protected structure (or part of such a structure) or a proposed protected structure (or part of such a structure), includes conservation, preservation and improvement compatible with maintaining the character and interest of the structure or part.

(2) In relation to a period of time referred to in this Part, where it appears to the Minister to be necessary to do so in the interests of the proper functioning of this Act or for other reasons that the Minister considers to be of serious public importance, the Minister may prescribe a period of time, either generally or in relation to such class of cases as may be prescribed, other than that so referred to.

(3) Notwithstanding *section 398*, where a person to whom a planning authority is required to give or serve notice or information under *section 310*, *subsection (1)* of

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section 312, *subsection (1)* of *section 313*, *subsection (1)* of *section 314*, *subsection (3)* of *section 336* or *subsection (1)* of *section 339* is not given or served such notice or information—

(a) that shall not of itself, where the authority has made efforts in good faith to identify and serve or notify all such persons, invalidate the procedure to which the notice or information relates, or prevent the authority from exercising its functions on foot of that notice,

(b) the person may, at any time before the decision of the authority to which the notice or information relates is made, apply in writing to the authority requesting that they be provided with the notice or information and any documents that should have been referred to in, or should have accompanied, the notice or information, and

(c) the authority shall, where satisfied that the request under *paragraph (b)* is made by a person to whom a planning authority was required to give notice or information, comply with the request.

Record of protected structures

306. (1) A planning authority shall prepare and maintain a record (in this Act referred to as a "record of protected structures") of every structure, part of a structure and specified feature within the attendant grounds of a structure within its functional area that, in the opinion of the planning authority, forms part of the architectural heritage of the area and is of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

(2) The Minister shall prescribe the form of a record of protected structures.

(3) A record of protected structures, reflecting any addition, deletion or amendment made to the record from time to time in accordance with this Chapter, shall form part of a development plan made under *section 55*, or any variation of a development plan made under *section 58*.

(4) Where a record of protected structures made by a planning authority under section 51 of the Planning and Development Act 2000 is in force at the time this section comes into operation, that record shall be deemed, on that date, to be a record of protected structures prepared under this section.

(5) Sections 54 and 55 of the Act of 2000 shall continue to apply and have effect in relation to a record of protected structures included in a development plan—

(a) under that Act, and

(b) that, by virtue of *section 68*, remains in force after the repeal of those sections by *section 6*.

Additions to and deletions from record of protected structures

307. (1) At any time after preparing a record of protected structures under *section 306*, a planning authority may—

(a) add a structure, a specified part of a structure or a specified feature within the attendant grounds of a structure to the record of protected structures where the authority considers the structure, the part, or the feature, as the case may be, to be of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest or value,

(b) delete a structure, a specified part of a structure or a specified feature within the attendant grounds of a structure from the record of protected structures where the authority considers that the protection of the structure, part or feature, as the case may be, is no longer warranted having regard to—

(i) the special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest or value of the structure, part or feature, as the case may be, and

(ii) the proper planning and sustainable development of the area,

or

(c) make an amendment (other than an addition or deletion) to the details of a structure on the record of protected structures.

(2) The making of an addition to, deletion from or amendment to a record of protected structures under *subsection (1)* shall be a reserved function.

(3) A planning authority may make an addition, deletion or amendment under *subsection (1)*—

(a) where a recommendation has been made under *section 308* regarding the addition, deletion or amendment, subject to that section,

(b) in any other case, at its discretion.

Recommendations to planning authorities concerning specific structures

308. (1) The Minister may, in writing, make a recommendation (in this section referred to as a "recommendation") to a planning authority concerning—

(a) the addition of any or all of the following to the record of protected structures:

(i) particular structures;

(ii) specified parts of particular structures;

(iii) specified features within the attendant grounds of particular structures,

(b) a deletion from the record of protected structures, or

(c) an amendment to the record of protected structures.

(2) Within 4 weeks of receiving a recommendation, a planning authority shall cause notice of the recommendation to be published in at least one newspaper circulating in its functional area.

(3) Where a recommendation relates to an addition to the record of protected structures, the notice under *subsection (2)* shall set out a summary of the obligations under *section 311* of owners and occupiers of structures to which the notice relates.

(4) A planning authority shall, within 12 weeks of receiving a recommendation, decide whether to—

(a) follow the recommendation,

(b) decline to follow the recommendation, or

(c) otherwise act on the recommendation.

(5) Where a planning authority fails to make a decision under *subsection (4)* within the period referred to in that subsection, the planning authority shall be bound by the recommendation and shall comply with *section 309* as soon as practicable after the expiry of that period.

(6) Making a decision under *subsection (4)* shall be a reserved function.

(7) In making a decision under *subsection (4)*, the planning authority shall consider the proper planning and sustainable development of the area.

(8) Section 53 of the Act of 2000 shall continue to apply and have effect, on and after the repeal of that section by *section 6*, in relation to a recommendation under the said section 53.

Procedure for making additions, deletions and amendments to record of protected structures

309. (1) A planning authority shall not make an addition to, deletion from or amendment to the record of protected structures, including where it has decided to follow a recommendation under *section 308*, other than in accordance with this section or in the course of a review of the development plan under *section 42*.

(2) A planning authority that proposes, at any time other than in the course of making its development plan under *section 55*, to make an addition to, a deletion from or amendment to the record of protected structures shall, having considered the effect (if any) of making the proposed addition, deletion or amendment under *subsection (4)* of *section 9*—

(a) serve a notice on each person who is the owner or occupier of, and any person appearing to the authority to have an interest in, the protected structure or proposed protected structure, as the case may be, of the proposed addition, deletion or amendment, including the particulars of the proposed addition, deletion or amendment,

(b) send particulars of the proposed addition, deletion or amendment to the Minister and to any prescribed body, and

(c) cause notice of the proposed addition, deletion or amendment, including the particulars of the proposed addition, deletion or amendment, to be published in at least one newspaper circulating in its functional area.

(3) A notice under *paragraph (a)* or *(c)* of *subsection (2)* shall state the following:

(a) that particulars of the proposed addition, deletion or amendment may be inspected at a specified place, during a period to be specified by the planning authority of not less than 8 weeks;

(b) that, during the period specified under *paragraph (a)*, any person may make written submissions on the proposed addition, deletion or amendment to the planning authority in the manner specified in the notice, and that any such submissions shall be taken into consideration by the planning authority before making a decision on the addition, deletion or amendment concerned;

(c) that, during the period specified under *paragraph (a)*, each owner or occupier of the structure to which the addition, deletion or amendment relates may request the planning authority, in the manner specified in the notice, to define the curtilage of the structure, and features within the attendant grounds of the structure, to which the addition, deletion or amendment relates, if not already specified in the notice, and that details of such curtilage and features shall be included in the record of protected structures where the proposed addition, deletion or amendment is approved by the members of the planning authority;

(d) whether or not the proposed addition, deletion or amendment was the subject of a recommendation under *subsection (1)* of *section 308*;

(e) a summary of the obligations, under *section 311*, of owners and occupiers of structures to which the notice relates;

and the planning authority shall allow for the inspection referred to in *paragraph (a)*, the making of submissions under *paragraph (b)* and the making of requests under *paragraph (c)* in accordance with the notice.

(4) Where the proposed addition, deletion or amendment was the subject of a recommendation under *subsection (1)* of *section 308*, the planning authority shall, as soon as practicable after the expiry of the period specified in the notice under *paragraph (a)* of *subsection (3)*, provide the Minister with—

(a) a copy of all submissions made in accordance with *paragraph (b)* of *subsection (3)*, and

(b) a copy of all requests made in accordance with *paragraph (c)* of *subsection (3)*.

(5) The Minister may provide written observations to the planning authority concerning submissions made under *paragraph (b)* of *subsection (3)*, or requests made under *paragraph (c)* of *subsection (3)*, not later than 4 weeks from the date on which the Minister receives a copy of such submission or request under *subsection (4)*.

(6) Not later than 6 weeks after the expiry of—

(a) the period referred to in *subsection (5)*, where the proposed addition, deletion or amendment was the subject of a recommendation under *subsection (1)* of *section 308*, or

(b) the period referred to in *paragraph (a)* of *subsection (3)*, in any other case,

the chief executive of a planning authority shall prepare a report in accordance with *subsection (8)* and submit the report to the members of the authority for their consideration.

(7) A chief executive's report submitted under *subsection (6)* shall be published on the website of the planning authority concerned as soon as practicable following its submission to the members of the authority.

(8) A report under *subsection (6)* shall—

(a) provide a summary of the proposal made by the planning authority under *subsection (2)*,

(b) where the Minister has made a recommendation under *section 308*, provide a summary of the recommendation,

(c) list the persons who made submissions under this section,

(d) provide a summary of all submissions or requests made in accordance with a notice under *subsection (3)*,

(e) where the Minister has made an observation under *subsection (5)*, provide a summary of that observation,

(f) provide a summary of the response of the chief executive to any submissions received by the planning authority under *paragraph (b)* of *subsection (3)*, and to observations under *subsection (5)*,

(g) provide a summary of the response of the chief executive to any request received by the planning authority under *paragraph (c)* of *subsection (3)*,

(h) provide a summary of the response of the chief executive to the issues raised either in respect of the proposal made by the planning authority under *subsection (2)* or the recommendation under *subsection (1)* of *section 308*, taking account of any relevant national planning statements,

(i) include a recommendation from the chief executive on whether the members of the planning authority should—

(i) support the addition, deletion or amendment,

(ii) support the addition, deletion or amendment subject to modifications, or

(iii) not support the addition, deletion or amendment.

(9) Not later than 6 weeks after the submission of the chief executive's report under *subsection (6)*, the members of the planning authority shall, having regard to the report, decide—

(a) whether or not the proposed addition, deletion or amendment should be made to the record of protected structures,

(b) where a request has been made in accordance with *paragraph (c)* of *subsection (3)*, the extent of the curtilage and features within the attendant grounds to be recorded in the record of protected structures, and

(c) whether modifications should be made to the proposed addition, deletion or amendment.

(10) The members of the planning authority shall, by resolution—

(a) accept the addition, deletion or amendment, reject it, or accept it subject to modifications,

(b) where requested to do so in accordance with *paragraph (c)* of *subsection (3)*, accept, reject, or accept subject to modification the request to define the extent of the curtilage and features within the attendant grounds in the record of protected structures, and

(c) where accepted (with or without modifications), make the addition, deletion or amendment to the record of protected structures in accordance with the resolution accepting the addition, deletion or amendment.

(11) Where the proposed addition, deletion or amendment was the subject of a recommendation under *section 308*, the planning authority shall inform the Minister in writing of a decision under *subsection (10)* as soon as practicable after making it.

(12) A planning authority shall, no later than 2 weeks from the date on which a resolution under *subsection (10)* is made—

(a) where the resolution relates to an addition, deletion or amendment, serve notice of the resolution on the owner and occupier of the structure to which the addition, deletion or amendment relates,

(b) where a resolution is made under *paragraph (b)* of *subsection (10)* defining the extent of the curtilage or features within the attendant grounds of a structure, serve on the owner and occupier of any lands identified as lying within such curtilage or grounds—

(i) notice of the resolution, and

(ii) a map illustrating the curtilage or features to which the resolution relates,

(c) cause notice of the resolution to be published in at least one newspaper circulating in its functional area, and

(d) make a copy of the resolution available—

(i) for inspection and purchase during office hours of the planning authority, and

(ii) in electronic form including by placing a copy of the resolution on the planning authority's website.

Declarations relevant to works relating to protected structures or proposed protected structures

310. (1) An owner or occupier of a protected structure or proposed protected structure, or a relevant person in relation to such structure, may make a written request to the planning authority within whose functional area the structure is situated for one or

more of the following declarations (each of which is referred to in this section as a "declaration"):

(a) a declaration as to whether the authority considers that specified works identified in detail in the request would materially affect the character of the structure or of any element of that structure;

(b) a declaration setting out—

(i) features within the attendant grounds of the structure that are to be protected, and

(ii) the extent of the curtilage of the structure.

(2) (a) A request under *subsection (1)* shall be accompanied by all such information and documentation as is necessary to enable the planning authority to perform its functions under this section in relation to the request.

(b) For the purposes of the performance of its functions under this section, a planning authority may, by notice in writing, require a person who makes a request under *subsection (1)* to provide the planning authority with such further information and documentation as it specifies in the notice not later than 12 weeks (or such longer period as may be prescribed) from the date of the notice.

(c) A planning authority may, for the purpose of the performance of its functions under this section, request a person (other than the person who made the request under *subsection (1)*) by notice in writing to provide the planning authority with such information and documentation as is specified in the notice not later than 12 weeks (or such longer period as may be prescribed) from the date of the notice.

(3) Subject to *subsections (5)* and *(6)*, a planning authority shall, not later than—

(a) 8 weeks from its receiving a request under *subsection (1)*, or

(b) 3 weeks from the expiration of the period or periods specified in a notice or notices under *paragraph (b)* or *(c)* of *subsection (2)*,

whichever occurs later, decide whether or not it has sufficient information to enable it to make a declaration under this section and, if it decides that it does have such sufficient information, it shall, within that period, make a declaration in relation to the request concerned and forward the declaration and the main reasons and considerations on which it is based—

(i) to the person who made that request, and

(ii) where that person is not the owner or occupier of land to which the request relates, to such owner or occupier.

(4) Where a planning authority decides under *subsection (3)* that it does not have sufficient information to make a declaration under this section—

(a) it shall, by notice in writing, inform the person who made the request under *subsection (1)* of the decision, and

(b) the request shall be deemed to have been withdrawn on the date specified in that notice.

(5) Before issuing a declaration, a planning authority shall have regard to—

(a) any national planning statement relevant to the declaration sought, and

(b) any recommendation made to the authority relating to the protected structure, or proposed protected structure, under *section 308*.

(6) Where the planning authority decides, under *subsection (3)*, that it has sufficient information to make a declaration under this section and the proposed works to which the declaration relate—

(a) are reasonably necessary for, and proportionate and appropriate to, the objective of enabling a residential use of a protected structure, or proposed protected structure, while protecting the structure, and

(b) do not—

(i) materially affect the character of the exterior of the structure, or

(ii) divide the structure into more than one dwelling,

it shall make a declaration to the effect that the works do not materially affect the character of the structure or of any element of that structure, as the case may be.

(7) A planning authority may at any time after issuing a declaration revise the declaration, but the revision shall not affect any works carried out in reliance on the declaration prior to the revision.

(8) (a) A person (in this subsection referred to as the "appellant") to whom a declaration has been forwarded in accordance with *subsection (3)* may, not later than 4 weeks from the date of the declaration and on payment to the Commission of such fee as may be determined under *section 381*, appeal the declaration to the Commission (in this subsection referred to as an "appeal").

(b) An appellant may withdraw an appeal under this subsection before the appeal is determined by the Commission.

(c) Subject to *paragraphs (d)*, *(e)*, *(f)*, *(g)* and *(h)*, this section shall apply to the Commission in relation to an appeal as it applies to a planning authority in relation to a request under *subsection (1)*, and for the purposes of such appeal—

(i) references in that subsection to a request under that subsection shall be construed as references to an appeal,

(ii) references in this section to a person who made such a request shall be construed as references to the appellant, and

(iii) references in this section to the planning authority shall be construed as references to the Commission,

and a declaration of the Commission, or a decision of the Commission under *subsection (3)* that it does not have sufficient information to make a declaration

under this section, in relation to an appeal shall operate to annul the declaration of the planning authority from which the appeal was brought.

(d) For the purposes of the performance of its functions under this section in relation to an appeal, the Commission may, by notice in writing, require the appellant to provide it with such information and documentation as is specified in the notice within such period (which shall not be later than 2 weeks from the date of the service of the notice) as is so specified.

(e) Notwithstanding the failure of the appellant to comply with a requirement in a notice under *paragraph (d)*, the Commission may make a declaration in relation to an appeal where it is satisfied that it has sufficient information in relation to the matter to enable it to do so.

(f) For the purposes of the performance of its functions under this section in relation to an appeal, the Commission may, by notice in writing, request a person (other than the person who made the request under *subsection (1)*) to provide it with such information and documentation as is specified in the notice not later than 2 weeks from the date of the notice.

(g) Notwithstanding the failure of a person to whom a notice has been given under *paragraph (f)* to accede to the request in the notice, the Commission may determine an appeal where it is satisfied that it has sufficient information in relation to the matter to enable it to do so.

(h) The Commission shall determine an appeal under this subsection within the period specified under *section 361*.

(9) Such particulars as the Minister may prescribe, in relation to each declaration made by a planning authority under this section, including a declaration as revised under *subsection (7)*, and each decision by the Commission on appeal, shall be entered in the register.

(10) A planning authority shall make available a copy of the request made under *subsection (1)* and the particulars of any declaration issued by the authority and by the Commission on appeal in electronic form, including by placing a copy on the planning authority's website.

(11) The Commission shall keep a record of any decision it makes under *subsection (8)*, and the reasons for its decision, and shall make the record available in electronic form, including by placing a copy on the Commission's website.

(12) A declaration under this section is without prejudice to the application of *section 10*.

(13) For the purposes of this section, the Minister may prescribe any one or more of the following:

(a) the form of a declaration;

(b) the form of request for a declaration;

(c) the manner in which a declaration shall be requested, including the information or matters that shall accompany such a request.

(14) A declaration under section 57 of the Act of 2000 made before its repeal by *section 6* shall have effect on and after such repeal as if made under this section.

(15) Notwithstanding the repeal of section 57 of the Act of 2000 effected by *section 6*, the Act of 2000 shall, subject to *Part 17*, continue to apply and have effect in relation to a request or appeal under that section made before that repeal.

(16) In this section "relevant person", in relation to a protected structure or proposed protected structure, means a person other than an owner or occupier of the structure who—

(a) carries out or proposes to carry out an act or operation on the structure, or

(b) makes or proposes to make a change in use of the structure,

with the consent of the owner of the structure.

Duty of owners and occupiers to protect structures from endangerment

311. (1) Subject to *subsections (2)* and *(3)*, each owner and occupier of a protected structure or proposed protected structure shall take all reasonable steps to ensure that the structure is not endangered.

(2) *Subsection (1)* applies to a proposed protected structure from the time the owner or occupier of the structure is notified, under *paragraph (a)* of *subsection (4)* of *section 55*, *section 308* or *section 309*, of a recommendation or proposal to add the structure to the record of protected structures.

(3) Neither of the following shall constitute endangerment of a structure for the purposes of this section:

(a) development in respect of which permission has been granted;

(b) development consisting only of works in relation to which a declaration under *section 310* is in force.

(4) A person who, without lawful authority, endangers a protected structure or a proposed protected structure shall be guilty of an offence, unless the endangerment resulted from works that were—

(a) urgently required in order to avoid further or other endangerment of the structure or any part of it,

(b) undertaken in good faith solely for the purpose of temporarily safeguarding the structure, and

(c) unlikely to permanently alter the structure.

Notice to require works to be carried out in relation to endangerment of protected structures and proposed protected structures

312. (1) Where, in the opinion of a planning authority, it is necessary to do so in order to prevent a protected structure, proposed protected structure or any part of such a structure situated within its functional area from becoming or continuing to be

endangered, the authority shall serve on each person who is the owner or occupier of the structure a notice—

(a) specifying the works the planning authority considers necessary in order to prevent the structure from becoming or continuing to be endangered, and

(b) requiring the person on whom the notice is served to carry out those works within a specified period of not less than 8 weeks from the date the notice comes into effect.

(2) After serving notice under *subsection (1)* on a person, a planning authority may assist the person in carrying out the works required under the notice in such form as it considers appropriate, including providing advice, financial aid, materials, equipment or the services of the authority's staff.

(3) Any person on whom a notice under *subsection (1)* has been served may, no later than 4 weeks from the date of service of the notice, make a written representation to the planning authority concerning—

(a) the terms of the notice,

(b) the provision of assistance under *subsection (2)*, and

(c) any other material considerations.

(4) The planning authority shall, no later than 4 weeks from the date on which the period referred to in *subsection (3)* ends, confirm, modify or revoke the notice and shall notify the persons who made representations under *subsection (3)* of its decision.

(5) Particulars of a notice served under *subsection (1)* and of a decision made under *subsection (4)* shall be entered in the register.

Notice to require works to be carried out in relation to endangerment of protected structures and proposed protected structures in cases of urgency

313. (1) Notwithstanding *section 312*, where, in the opinion of a planning authority, there is an immediate danger to a protected structure, a proposed protected structure, any element of a protected structure or proposed protected structure, or to the special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest or value of a protected structure or proposed protected structure, the planning authority may serve a notice on the owner or occupier specifying works or other steps that it considers to be reasonable and necessary to address the immediate danger to be undertaken by the owner or occupier.

(2) Where the planning authority cannot identify the owner or occupier of a protected structure or proposed protected structure, and the planning authority is satisfied that urgent works are required to address an immediate danger to the structure or to a structure's special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest or value, the planning authority may take such steps as it considers reasonable and necessary to address the immediate danger, including—

(a) entry on land by authorised persons in accordance with *section 394*, and

(b) carrying out, or arranging for the carrying out, of the works that it considers to be reasonable and necessary to address the immediate danger.

(3) A notice under this section takes effect upon service.

Notice to require restoration of character of protected structures and structures in architectural conservation areas

314. (1) A planning authority may serve a notice on each person who is the owner or occupier of a structure situated within its functional area, if—

(a) the structure is a protected structure and, in the opinion of the planning authority, it is necessary, in order to preserve the character of the structure or of any of its elements, that specified works be carried out in relation to it, or

(b) the structure is in an architectural conservation area and, in the opinion of the planning authority, it is necessary, in order to preserve the character of the architectural conservation area, that specified works be carried out in relation to the structure.

(2) A notice under *subsection (1)* shall—

(a) specify the works required to be carried out to the structure,

(b) state that the person on whom the notice is served may, within a specified period of not less than 8 weeks from the date of the service of the notice, make written representations to the planning authority concerning the notice,

(c) invite that person to enter into discussions with the planning authority, within a specified period of not less than 8 weeks from the date of the service of the notice, concerning the notice and in particular concerning—

(i) the provision by the planning authority of advice, materials, equipment, the services of the authority's staff or other assistance in carrying out the works specified in the notice, and

(ii) the period within which the works are to be carried out,

(d) specify a period of not less than 8 weeks from the end of the period specified under *paragraph (c)* within which, unless otherwise agreed in the discussions under that paragraph, the works shall be carried out, and

(e) state that the planning authority may pay any expenses reasonably incurred by a person on whom the notice is served in carrying out the works, in accordance with the notice, other than expenses that relate to an unauthorised development that could be restrained by any court.

(3) In deciding whether to serve a notice under this section, a planning authority shall have regard to any national planning statement and any recommendations made under *section 308*.

(4) If the invitation under *paragraph (c)* of *subsection (2)* to enter into discussions is accepted, the planning authority shall, as far as practicable, facilitate the holding of those discussions.

(5) After considering any representations made under *paragraph (b)* of *subsection (2)* and any discussions entered into under *subsection (4)*, the planning authority may confirm, modify or revoke the notice under *subsection (1)* and shall notify the person who made the representations, or entered into the discussions, of its decision within 4 weeks of the later of—

(a) the end of the period specified in the notice under *paragraph (b)* of *subsection (2)*, or

(b) the conclusion of any discussions entered into under *subsection (4)*.

(6) Particulars of a notice served under *subsection (2)* and of a decision made under *subsection (5)* shall be entered in the register.

Appeals against notices

315. (1) A person—

(a) on whom a notice is served under *subsection (1)* of *section 312*, and

(b) who made representations relevant to that notice in accordance with *subsection (3)* of that section,

may, no later than 4 weeks from the date on which a planning authority makes a decision in relation to the notice under *subsection (1)* of *section 312*, appeal the notice to the District Court, on any number of the following grounds:

(i) that the person is not the owner or occupier of the structure in respect of which the notice was served;

(ii) that the time given to the person to comply with the notice is unreasonably short;

(iii) where the person's representations under *subsection (3)* of *section 312* include a statement that he or she did not have the means to pay the expenses that would be required to comply with the notice, that compliance with the notice would involve unreasonable expense to the person;

(iv) that the person has, at the time the appeal is lodged, taken all reasonable steps to prevent the structure to which the notice relates from becoming, or continuing to be, endangered.

(2) A person on whom a notice is served under *subsection (1)* of *section 313* may, no later than 4 weeks from the date of the notice, appeal the notice to the District Court, on any number of the following grounds:

(a) that the person is not the owner or occupier of the structure in respect of which the notice was served;

(b) that the time given to the person to comply with the notice is unreasonably short.

(3) A person—

(a) on whom a notice is served under *subsection (1)* of *section 314*, and

(b) who made representations in accordance with the notice, or entered into discussions under *subsection (4)* of *section 314*,

may, no later than 4 weeks from the date on which a planning authority notifies the person of its decision in relation to the notice under *subsection (5)* of *section 314*, appeal the notice to the District Court, on any number of the following grounds:

(i) that the person is not the owner or occupier of the structure in respect of which the notice was served;

(ii) that the time given to the person to comply with the notice is unreasonably short;

(iii) that the person has, at the time the appeal is lodged, taken all reasonable steps to—

(I) in the case of a notice under *paragraph (a)* of *subsection (1)* of *section 314*, as confirmed or modified under *subsection (5)* of that section, preserve the character of the structure or the element, or

(II) in the case of a notice under *paragraph (b)* of *subsection (1)* of *section 314*, as confirmed or modified under *subsection (5)* of that section, assist in preserving the character of the architectural conservation area.

(4) The Court may, upon application or of its own motion, and where it considers that the circumstances of the case require, extend the period specified in *subsection (1)*, *(2)* or *(3)* within which an appeal may be made under those subsections.

(5) A person shall, when appealing under *subsection (1)*, *(2)* or *(3)*, notify the planning authority that issued the notice of the appeal, and the planning authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.

(6) On the hearing of the appeal, the District Court may make an order—

(a) confirming the notice to which the appeal relates,

(b) confirming the notice to which the appeal relates subject to such modifications or additions as the Court considers reasonable, or

(c) annulling the notice to which the appeal relates.

(7) Where the notice is confirmed subject to modifications or additions under *paragraph (b)* of *subsection (6)*, the notice shall have effect subject to the modifications or additions specified in the order.

(8) Particulars of an order made under *subsection (6)* shall be entered in the register.

Effective date of notices

316. A notice under *subsection (1)* or *(4)* of *section 312*, or *subsection (1)* or *(5)* of *section 314*, shall come into effect on the day that is 4 weeks from the date of service of the notice, subject to the following exceptions:

(a) if representations are made in relation to a notice under *subsection (1)* of *section 312*, in accordance with *subsection (3)* of that section, and no appeal is taken

against the notice within the period referred to in *subsection (1)* of *section 315*, the notice shall come into effect on the day after the expiry of that period;

(b) if representations are made or discussions are entered into concerning a notice under *subsection (1)* of *section 314*, in accordance with the notice, and no appeal is taken against the notice within the period referred to in *subsection (3)* of *section 315*, the notice shall come into effect on the day after the expiry of that period;

(c) if the District Court makes an order confirming a notice under *section 315*, the notice has effect on the date on which the decision of the District Court is pronounced, or the date on which that order is expressed to take effect, whichever is later;

(d) if the District Court makes an order under *subsection (3)* of *section 319*, the notice has effect on the date on which the decision of the Court is pronounced, or such later date as the District Court may specify when pronouncing the decision.

Offence relating to endangerment of protected structures or proposed protected structures

317. (1) A person shall be guilty of an offence where he or she fails to comply with—

(a) a notice served on him or her under *section 313*, or

(b) an order under *subsection (3)*.

(2) In any proceedings for an offence under this section, it shall be a defence for the defendant to show that—

(a) the notice did not comply with the requirements of *section 313*, or

(b) he or she took all reasonable steps to secure compliance with the notice served under *section 313*.

(3) Where—

(a) a person is convicted of an offence under *subsection (1)*,

(b) a person is acquitted on foot of a defence under *paragraph (b)* of *subsection (2)*, or

(c) in proceedings for an offence under *subsection (1)*, the Court makes an order under subsection (1) of section 1 of the Probation of Offenders Act 1907 in relation to a person,

the Court may order the person to take all or any of the steps or measures specified in the notice served under *section 313* within such period as the court shall direct.

(4) Where *paragraph (a)* of *subsection (3)* applies, the power of the court to make an order under that subsection is without prejudice to, and in addition to, its power to impose a penalty in respect of the offence.

Owners' powers in relation to notices concerning endangerment or restoration of structures

318. (1) Subject to *subsection (2)*, a person who is the owner of a structure in respect of which a notice under *section 312*, *313* or *314* has been served, or the owner of the land on which such a structure is located, and the servants or agents of any such owner, may enter that land or structure for the purpose of carrying out the works required under the notice.

(2) In entering land under *subsection (1)*, an owner shall ensure that—

(a) reasonable steps are taken to minimise the disruption caused by such entry to any occupier of the land, and

(b) such entry is effected at a reasonable time having regard to the use of the land or structure.

Application to District Court for necessary consent

319. (1) Without prejudice to *section 318*, a person served with a notice under *section 312*, *313* or *314* may apply to the District Court for an order under *subsection (3)* if—

(a) that person is unable, without the consent of another person, to carry out the works required under the notice, and

(b) the other person—

(i) withholds consent to the carrying out of those works, or

(ii) cannot be identified or found.

(2) An application under *subsection (1)*—

(a) in the case of a person referred to in *subparagraph (i)* of *paragraph (b)* of *subsection (1)*, shall be made on notice to the person, and

(b) in the case of a person referred to in *subparagraph (ii)* of *paragraph (b)* of *subsection (1)*, shall be made after affixing notice of the applicant's intention to make such an application in a conspicuous place on the structure concerned.

(3) If, on hearing an application under *subsection (1)*, the District Court determines that—

(a) the consent of a person referred to in *subparagraph (i)* of *paragraph (b)* of *subsection (1)*, has been unreasonably withheld, or

(b) that it would have been unreasonable for a person referred to in *subparagraph (ii)* of *paragraph (b)* of *subsection (1)* to refuse consent if the person had been identified or found,

it may, at its discretion, make an order that the person making the application shall be entitled to carry out the works required under the notice.

Jurisdiction of District Court

320. The jurisdiction conferred on the District Court—

(a) by *section 315* in relation to an appeal against a notice, or

(b) by *section 319* in relation to an application for an order deeming consent to have been given,

shall be exercised by a judge of that Court for the time being assigned to the District Court district in which the structure that is the subject of the appeal or application is situated.

Application to court for contribution to cost of carrying out works

321. (1) A person—

(a) who has been served with a notice under *section 312* or *313* and who has carried out the works required under the notice, or

(b) from whom a planning authority recovers expenses under *section 324*,

may apply to a court of competent jurisdiction for an order directing that all, or such part as may be specified in the order, of the cost of those works be borne by another person (in this section referred to as the "second-mentioned person") who has an interest in the structure concerned.

(2) An application under *subsection (1)* shall be on notice to each second-mentioned person.

(3) On the hearing of an application under *subsection (1)*, the Court shall make such order as it considers appropriate, having regard to all the circumstances of the case.

Permission not required for any development required under this Chapter

322. Notwithstanding *section 83*, permission shall not be required in respect of a development required by a notice under *section 312*, *313* or *314*, an order under *subsection (6)* of *section 315* or an order under *section 317*.

Planning authority's power to carry out works to protected structures, proposed protected structures and structures in architectural conservation areas

323. Where a person on whom a planning authority has served a notice under *section 312*, *313* or *314*, or where a court order is made under *section 315* or *317* in respect of such a notice, fails to comply with the notice or order, the planning authority may take such steps as it considers reasonable and necessary to give effect to the terms of the notice or order, including—

(a) entry on land by authorised persons in accordance with *section 394*, and

(b) the carrying out, or arranging the carrying out, by an authorised person of the works specified in the notice or order.

Recovery by planning authority of expenses for carrying out works on endangered structures

324. Where a planning authority serves a notice under *section 312* or *313*, or where a court order is made under *section 315* or *317* in respect of such a notice, the planning authority may recover, from the owner or occupier of the structure to which the notice relates, any expenses reasonably incurred by the authority in exercising its powers under *section 323*, including any assistance provided under *subsection (2)* of *section 312*.

Acquisition of protected structures

325. This Part is without prejudice to the exercise of a planning authority's powers under *Part 13* or *14* in relation to land—

(a) on which a protected structure is located,

(b) that forms part of the attendant grounds of a protected structure, or

(c) the acquisition of which is necessary in order to protect the structure.

Use of protected structure acquired by planning authority

326. A planning authority shall, when selling, letting, transferring, exchanging or otherwise using for any purpose connected with its functions all or any part of a protected structure, have regard to its protected status.

Obligations of sanitary authorities in respect of protected structures and proposed protected structures

327. The Local Government (Sanitary Services) Act 1964 is amended—

(a) in subsection (1) of section 3, by the substitution of "A sanitary authority may, subject to section 3A," for "A sanitary authority may,", and

(b) by the insertion of the following section after section 3:

"3A. (1) Before issuing a notice under section 3(1), in respect of a protected structure or a proposed protected structure, a sanitary authority shall consider—

(a) the protected status of the structure, and

(b) whether, instead of a notice under section 3(1), a notice should be issued under *section 312* of the *Planning and Development Act 2024* or section 11 of the Derelict Sites Act 1990.

(2) As soon as practicable after serving or proposing to serve a notice in accordance with section 3(1), in respect of a protected structure or a proposed protected structure, a sanitary authority shall inform the Minister in writing of the particulars of the notice.

(3) A sanitary authority which carries out works on a protected structure, or a proposed protected structure, under section 3(2), shall as far as

possible preserve that structure (and any element of it which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest or value), in as much as the preservation of that structure is not likely to cause a danger to any person or property.

(4) When carrying out works in accordance with section 3(2) on a protected structure or a proposed protected structure, a sanitary authority shall, as soon as practicable, inform the Minister of the works.

(5) In this section 'Minister', 'proposed protected structure', 'protected structure' and 'structure' have the meanings they have in the *Planning and Development Act 2024*.".

Grants to planning authorities in respect of functions under this Part

328. The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, out of moneys provided by the Oireachtas, make grants to planning authorities in respect of any or all of their functions under this Part, including grants for the purpose of defraying all or part of the expenditure incurred by them in—

(a) assisting persons on whom notice is served under *section 312*, *313* or *314* in carrying out works in accordance with the notice, and

(b) assisting any other person in carrying out works to protected structures, proposed protected structures and structures within an architectural conservation area in accordance with such conditions as may be specified by a planning authority or the Minister for the receipt of such assistance.

Notices under sections 59 and 60 of Act of 2000

329. (1) A notice under subsection (1) of section 59 of the Act of 2000 shall, on and after the repeal of that section by *section 6*, continue to be valid and, accordingly, those sections and sections 61, 62, 63, 64, 65, 66, 67, 68, 69 and 70 of that Act shall continue to apply in relation to such a notice to the extent that they would have applied had that repeal not been effected.

(2) A notice under subsection (2) of section 60 of the Act of 2000 shall, on and after the repeal of that section by *section 6*, continue to be valid and, accordingly, those sections and sections 61, 62, 63, 64, 65, 66, 67, 68, 69 and 70 of that Act shall continue to apply in relation to such a notice to the extent that they would have applied had that repeal not been effected.

CHAPTER 2

Architectural Conservation Areas and Areas of Special Planning Control

Definition

330. In this Chapter "draft special planning control scheme" has the meaning given to it by *subsection (1)* of *section 335*.

Architectural conservation areas

331. (1) Where a planning authority considers that—

(a) a place in its functional area—

(i) is of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest or value, or

(ii) contributes to the appreciation of protected structures,

and

(b) it is necessary to do so for the preservation of the character of the place,

it shall, taking account of building lines and heights, include an objective in the development plan to preserve the character of the place.

(2) Where a development plan includes an objective referred to in *subsection (1)*, any development plan that replaces the first-mentioned development plan shall, subject to any variation thereof under *section 58*, also include that objective.

(3) The Minister may prescribe particulars relating to an architectural conservation area that shall be included by a planning authority in the objective referred to in *subsection (1)*.

Recommendations to planning authorities concerning architectural conservation areas

332. (1) The Minister may, in writing, make a recommendation (in this section referred to as a "recommendation") to a planning authority concerning the addition to or deletion from its development plan of an architectural conservation area, an amendment to an architectural conservation area, or the inclusion of an objective in the development plan to preserve the character of an architectural conservation area.

(2) Where a recommendation is made to a planning authority under *subsection (1)*, the planning authority shall cause notice of the recommendation to be published in one or more newspapers circulating in its functional area.

(3) Subject to *subsection (9)*, a planning authority shall make a decision on whether to commence the variation process under *section 58* in respect of the recommendation within 8 weeks of receiving it.

(4) A planning authority that decides, under *subsection (3)*, to commence the variation process in respect of the recommendation shall do so as soon as practicable.

(5) A planning authority that decides, under *subsection (3)*, not to commence the variation process shall inform the Minister in writing of its decision as soon as practicable after making it.

(6) Subject to *subsection (9)*, where a planning authority fails to make a decision under *subsection (3)* within the period referred to in that subsection, the chief executive shall commence the variation process under *subsection (4)* of *section 58* in respect of the recommendation as soon as practicable after the expiry of that period.

(7) The decision under *subsection (3)* shall be a reserved function.

(8) In making a decision under *subsection (3)*, the planning authority shall consider—

(a) the proper planning and sustainable development of the area, and

(b) the likely effect (if any) of the decision under *subsection (4)* of *section 9*.

(9) Where—

(a) a recommendation is made to a planning authority at any time between the day that is one year from the day on which the planning authority publishes a notice of an intention to review a development plan under *section 54* and the day on which a new development plan is made on foot of that notice under *section 55*, and

(b) the planning authority—

(i) decides, under *subsection (3)*, not to commence the variation process under *section 58* in respect of the recommendation, or

(ii) fails to make a decision under *subsection (3)* within the period referred to in that subsection,

the planning authority shall consider whether to include the matter to which the recommendation relates in the second-mentioned development plan.

Declaration on works affecting character of architectural conservation areas

333. (1) An owner or occupier of land situated in an architectural conservation area may make a written request to the planning authority, within whose functional area that architectural conservation area is situated, for a declaration (in this section referred to as a "declaration") as to whether specified works identified in the request would materially affect the character of the area.

(2) (a) A request under *subsection (1)* shall be accompanied by all such information and documentation as is necessary to enable the planning authority to perform its functions under this section in relation to the request.

(b) For the purposes of the performance of its functions under this section, a planning authority may, by notice in writing, require a person who makes a request under *subsection (1)* to provide the planning authority with such further information and documentation as it specifies in the notice not later than 2 weeks (or such longer period as may be prescribed) from the date of the notice.

(c) A planning authority may, for the purpose of the performance of its functions under this section, request a person (other than the person who made the request under *subsection (1)*) by notice in writing to provide the planning authority with such information and documentation as is specified in the notice not later than 2 weeks (or such longer period as may be prescribed) from the date of the notice.

(3) Subject to *subsection (5)*, a planning authority shall, not later than—

(a) 8 weeks from its receiving a request under *subsection (1)*, or

(b) 3 weeks from the expiration of the period or periods specified in a notice or notices under *paragraph (b)* or *(c)* of *subsection (2)*,

whichever occurs later, decide whether or not it has sufficient information to enable it to make a declaration under this section and, if it decides that it does have such sufficient information, it shall, within that period, make a declaration in relation to the request concerned and forward the declaration and the main reasons and considerations on which it is based—

(i) to the person who made that request, and

(ii) where that person is not the owner or occupier of land to which the request relates, to such owner or occupier.

(4) Where a planning authority decides under *subsection (3)* that it does not have sufficient information to make a declaration under this section—

(a) it shall, by notice in writing, inform the person who made the request under *subsection (1)* of the decision, and

(b) the request shall be deemed to have been withdrawn on the date specified in that notice.

(5) Before issuing a declaration, a planning authority shall have regard to—

(a) any national planning statement relevant to the declaration sought, and

(b) any recommendations made to the authority under *section 332*.

(6) A planning authority may at any time after issuing a declaration revise the declaration, but the revision shall not affect any works carried out in reliance on the declaration prior to the revision.

(7) (a) A person (in this subsection referred to as the "appellant") to whom a declaration has been forwarded in accordance with *subsection (3)* may, not later than 4 weeks from the date of the declaration and on payment to the Commission of such fee as may be determined under *section 381*, appeal the declaration to the Commission (in this subsection referred to as an "appeal").

(b) An appellant may withdraw an appeal under this subsection before the appeal is determined by the Commission.

(c) Subject to *paragraphs (d)*, *(e)*, *(f)*, *(g)* and *(h)*, this section shall apply to the Commission in relation to an appeal as it applies to a planning authority in relation to a request under *subsection (1)*, and for the purposes of such appeal—

(i) references in that subsection to a request under that subsection shall be construed as references to an appeal,

(ii) references in this section to a person who made such a request shall be construed as references to the appellant, and

(iii) references in this section to the planning authority shall be construed as references to the Commission,

and a declaration of the Commission, or a decision of the Commission under *subsection (3)* that it does not have sufficient information to make a declaration under this section, in relation to an appeal shall operate to annul the declaration of the planning authority from which the appeal was brought.

(d) For the purposes of the performance of its functions under this section in relation to an appeal, the Commission may, by notice in writing, require the appellant to provide it with such information and documentation as is specified in the notice within such period (which shall not be later than 2 weeks from the date of the service of the notice) as is so specified.

(e) Notwithstanding the failure of the appellant to comply with a requirement in a notice under *paragraph (d)*, the Commission may make a declaration in relation to an appeal where it is satisfied that it has sufficient information in relation to the matter to enable it to do so.

(f) For the purposes of the performance of its functions under this section in relation to an appeal, the Commission may, by notice in writing, request a person (other than the person who made the request under *subsection (1)*) to provide it with such information and documentation as is specified in the notice not later than 2 weeks from the date of the notice.

(g) Notwithstanding the failure of a person to whom a notice has been given under *paragraph (f)* to accede to the request in the notice, the Commission may determine an appeal where it is satisfied that it has sufficient information in relation to the matter to enable it to do so.

(h) The Commission shall determine an appeal under this subsection within the period specified under *section 361*.

(8) A planning authority shall make available a copy of the request made under *subsection (1)* and the particulars of any declaration issued by the authority, and by the Commission on appeal, in electronic form, including by placing a copy on the planning authority's website.

(9) The Commission shall keep a record of any decision made by it on appeal under this section, and the reasons for its decision, and shall make both available in electronic form, including by placing a copy on the Commission's website.

(10) A declaration under this section is without prejudice to the application of *section 10*.

(11) Such particulars as the Minister may prescribe, in relation to each declaration under this section, including a declaration as revised under *subsection (6)*, and each decision by the Commission on appeal, shall be entered in the register.

(12) For the purposes of this section, the Minister may prescribe any one or more of the following:

(a) the form of a declaration;

(b) the form in which a person shall request a declaration;

(c) the process by which a declaration may be requested, including the information or matters that shall accompany such a request.

Acquisition within architectural conservation area

334. This Part is without prejudice to the exercise of a planning authority's powers under *Part 13* or *14* in relation to land within an architectural conservation area for the purposes of preserving the character of the architectural conservation area.

Special planning control scheme

335. (1) A planning authority may—

(a) where it considers that all or part of an architectural conservation area is of special importance to the civic life or the architectural, historical, cultural or social character of a city or town in which it is situated, and

(b) having considered the likely effect (if any) under *subsection (4)* of *section 9* on proper planning and sustainable development in its functional area of doing so,

prepare a draft scheme (in this Chapter referred to as a "draft special planning control scheme") in accordance with *subsection (3)* and *section 336* setting out development objectives for the preservation and enhancement of that area, or part of that area.

(2) Without prejudice to the generality of *subsection (1)*, a draft special planning control scheme may include any number of the following objectives:

(a) the promotion of a high standard of civic amenity and civic design;

(b) the preservation and protection of the environment, including architectural, archaeological and natural heritage;

(c) the renewal, preservation, conservation, restoration, development or redevelopment of a streetscape, layout or building pattern, including the co-ordination and upgrading of shop frontages;

(d) the control of the layout of areas, the density, building lines and height of structures and the treatment of spaces around and between structures;

(e) the control of the design, colour and materials of structures, in particular the type or quality of building materials used in structures;

(f) the promotion of the maintenance, repair or cleaning of structures;

(g) the promotion of an appropriate mix of uses of structures or other land;

(h) the control of any new or existing uses of structures or other land;

(i) the promotion of the development or redevelopment of derelict sites or vacant sites;

(j) the regulation, restriction or control of the erection of advertisement structures and the exhibition of advertisements.

(3) A draft special planning control scheme shall—

(a) be in writing,

(b) be consistent with the objectives of the relevant development plan, and any area plan made under this Act, or integrated area plan (within the meaning of the Urban Renewal Act 1998) in force relating to the area to which the scheme relates, and

(c) indicate the period for which it is to remain in force.

(4) A draft special planning control scheme may indicate the order in which it is proposed that the objectives of the scheme or provisions connected with those objectives will be implemented.

(5) A draft special planning control scheme shall contain information, including information of such class or classes as may be prescribed by the Minister, on the likely significant effects on the environment of implementing the scheme.

Making of special planning control scheme

336. (1) A planning authority shall, as soon as practicable after the preparation of a draft special planning control scheme—

(a) notify the Minister, the Commission and such other persons as may be prescribed, of the preparation of the draft special planning control scheme,

(b) send copies of the draft special planning control scheme to the Minister, the Commission and such other persons as may be prescribed, and

(c) publish a notice of the preparation of the draft special planning control scheme in at least one newspaper circulating in its functional area.

(2) A notice under *paragraphs (a)* and *(c)* of *subsection (1)* shall—

(a) indicate the place or places at which, and the period (being not less than 8 weeks) during, and times at, which a copy of the draft special planning control scheme may be inspected (and the planning authority shall keep a copy of the draft scheme available for inspection accordingly), and

(b) invite submissions from any person or observations in relation to the draft scheme within such period (being not less than 8 weeks), and in such manner, as is specified in the notice.

(3) Where the draft special planning control scheme includes an objective or provision relating to one or more of the following—

(a) the co-ordination, upgrading or changing of specified shop frontages,

(b) the control of the layout of specified areas, the density, building lines or heights of specified structures,

(c) the treatment of spaces around and between specified structures,

(d) the control of the design, colour or materials of specified structures,

(e) the promotion of the maintenance, repair or cleaning of specified structures,

(f) the control of the use or uses of any specified structure or other land in the area,

(g) the discontinuance of the existing use of any specified structure or other land,

(h) the development or redevelopment of specified derelict or vacant sites, or

(i) the control of specified advertisement structures or of the exhibition of specified advertisements,

the planning authority shall, as soon as practicable after the preparation of a draft special planning control scheme, notify in writing each person who is the owner or occupier of land to which the draft scheme relates of the objective or provision concerned.

(4) A notice under *subsection (3)* shall refer to the land concerned and shall—

(a) specify the measures that are required to be undertaken in respect of the structure or other land to ensure compliance with the objective or provision referred to in *subsection (3)*,

(b) indicate the place at which, and the period (being not less than 8 weeks) during, and times at, which a copy of the draft special planning control scheme may be inspected (and the planning authority shall keep a copy of the draft scheme available for inspection accordingly), and

(c) invite submissions in relation to the proposed objective or provision within such period (being not less than 8 weeks), and in such manner, as is specified in the notice.

(5) The chief executive of a planning authority shall, not later than 12 weeks from the later of—

(a) the date on which the notice under *paragraph (c)* of *subsection (1)* is published, or

(b) the date on which notification under *subsection (3)* is made or, where more than one such notification is made, the date on which the last of them is made,

prepare a report on any submissions received in relation to a draft special planning control scheme and shall submit the report to the members of the authority for their consideration.

(6) A report under *subsection (5)* shall—

(a) list the persons who made submissions in relation to the draft special planning control scheme,

(b) give a summary of the matters raised in those submissions, and

(c) include a statement of the views of the chief executive on the submissions summarised in *paragraph (b)*.

(7) In responding to submissions made in relation to a draft special planning control scheme, the chief executive of a planning authority shall take account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area, any relevant policies or objectives of the Government or of any Minister of the Government, and any relevant national planning statement.

(8) A planning authority may, after considering a draft special planning control scheme, and the report of the chief executive under *subsection (5)*, by resolution approve the draft special planning control scheme with or without modifications, or refuse to so approve, and a draft scheme so approved, including any such modifications, shall be known, and in this Act referred to, as a "special planning control scheme".

(9) Where a planning authority approves a special planning control scheme under *subsection (8)*, it shall—

(a) make the scheme available—

(i) for inspection and purchase during office hours of the planning authority, and

(ii) in electronic form, including by placing a copy on the planning authority's website,

(b) publish a notice of the making of the scheme in at least one newspaper circulating in its functional area indicating the place or places at which, and times during which, a special planning control scheme may be inspected in accordance with *paragraph (a)*, and

(c) send a copy of the special planning control scheme to the Minister, the Commission and such other persons as may be prescribed.

Modification, revocation and extension of special planning control scheme

337. (1) A planning authority shall review a special planning control scheme as circumstances require and in any case not later than 10 years from the later of—

(a) the date on which the special planning control scheme is approved under *subsection (8)* of *section 336*, or

(b) the date on which the special planning control scheme has most recently been modified, extended or reviewed under this section,

and after such review may, by resolution, propose to modify or revoke the scheme, or to extend the scheme for up to 10 years (and a proposal adopted by such resolution is referred to in this section as a "proposal").

(2) A planning authority shall, as soon as practicable after the making of a proposal—

(a) notify the Minister, the Commission and such other persons as may be prescribed, of the proposal,

(b) send copies of the proposal to the Minister, the Commission and such other persons as may be prescribed, and

(c) publish a notice of the proposal in at least one newspaper circulating in its functional area.

(3) A notice under *paragraphs (a)* and *(c)* of *subsection (2)* shall—

(a) indicate the place or places at which, and the period (being not less than 8 weeks) during, and times at, which a copy of the proposal may be inspected (and the planning authority shall keep a copy of the proposal available for inspection accordingly), and

(b) invite submissions or observations from any person in relation to the proposal within such period (being not less than 8 weeks), and in such manner, as is specified in the notice.

(4) Where the proposal includes an objective or provision relating to at least one of the matters referred to in *paragraphs (a)* to *(i)* of *subsection (3)* of *section 336*, the planning authority shall, as soon as may be after making the proposal, notify in writing each person who is the owner or occupier of land to which the proposal relates.

(5) A notice under *subsection (4)* shall refer to the land concerned and shall—

(a) specify the measures that are required to be undertaken in respect of the structure or other land to ensure compliance with the objective or provision referred to in *subsection (4)*,

(b) indicate the place at which, and the period (being not less than 8 weeks) during, and times at, which a copy of the proposal may be inspected (and the planning authority shall keep a copy of the draft scheme available for inspection accordingly), and

(c) invite submissions in relation to the proposal within such period (being not less than 8 weeks), and in such manner, as is specified in the notice.

(6) The chief executive of a planning authority shall, not later than 12 weeks from the later of—

(a) the date on which the notice under *paragraph (c)* of *subsection (2)* is published, or

(b) the date on which notification under *subsection (4)* is made or, where more than one such notification is made, the date on which the last of them is made,

prepare a report on any submissions received in relation to a proposal and shall submit the report to the members of the authority for their consideration.

(7) A report under *subsection (6)* shall—

(a) list the persons who made submissions in relation to the proposal,

(b) give a summary of the matters raised in those submissions, and

(c) include a statement of the views of the chief executive on the submissions summarised in *paragraph (b)*.

(8) In responding to submissions made in relation to a proposal, the chief executive of a planning authority shall take account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area, any relevant policies or objectives of the Government or of any Minister of the Government, and any relevant national planning statement.

(9) A planning authority may, after considering a proposal, and the report of the chief executive under *subsection (6)*, by resolution—

(a) approve the proposal with or without modifications, or

(b) refuse to so approve,

and any modification, revocation or extension of a special planning control scheme set out in the proposal so approved shall be deemed to be part of the special planning control scheme.

(10) Where a planning authority approves a proposal under *subsection (9)*, it shall—

(a) make the proposal available—

(i) for inspection and purchase during office hours of the planning authority, and

(ii) in electronic form, including by placing a copy on the planning authority's website,

(b) publish a notice of the adoption of the proposal in at least one newspaper circulating in its functional area indicating the place or places at which, and times during which, the proposal may be inspected in accordance with *paragraph (a)*, and

(c) send a copy of the proposal to the Minister, the Commission and such other persons as may be prescribed.

(11) The modification, revocation or extension of a special planning control scheme shall be without prejudice to the validity of anything previously done thereunder.

Declaration on development affecting area of special planning control

338. (1) An owner or occupier of land situated in an area of special planning control may make a written request to the planning authority within whose functional area the area of special planning control is situated for a declaration (in this section referred to as a "declaration") as to one or more of the following:

(a) those developments or classes of development that the planning authority considers would be contrary or would not be contrary, as the case may be, to the special planning control scheme concerned;

(b) the objectives or provisions of the special planning control scheme that apply to the land;

(c) the measures that the person carrying out any such development will be required to undertake in respect of the land to ensure compliance with such objectives or provisions.

(2) (a) A request under *subsection (1)* shall be accompanied by all such information and documentation as is necessary to enable the planning authority to perform its functions under this section in relation to the request.

(b) For the purposes of the performance of its functions under this section, a planning authority may, by notice in writing, require a person who makes a request under *subsection (1)* to provide the planning authority with such further information and documentation as it specifies in the notice not later than 2 weeks (or such longer period as may be prescribed) from the date of the notice.

(c) A planning authority may, for the purpose of the performance of its functions under this section, request a person (other than the person who made the request under *subsection (1)*) by notice in writing to provide the planning authority with such information and documentation as is specified in the notice not later than 2 weeks (or such longer period as may be prescribed) from the date of the notice.

(3) Subject to *subsection (5)*, a planning authority shall, not later than—

(a) 8 weeks from its receiving a request under *subsection (1)*, or

(b) 3 weeks from the expiration of the period or periods specified in a notice or notices under *paragraph (b)* or *(c)* of *subsection (2)*,

whichever occurs later, decide whether or not it has sufficient information to enable it to make a declaration under this section and, if it decides that it does have such sufficient information, it shall, within that period, make a declaration in relation to the request concerned and forward the declaration and the main reasons and considerations on which it is based—

(i) to the person who made that request, and

(ii) where that person is not the owner or occupier of land to which the request relates, to such owner or occupier.

(4) Where a planning authority decides under *subsection (3)* that it does not have sufficient information to make a declaration under this section—

(a) it shall, by notice in writing, inform the person who made the request under *subsection (1)* of the decision, and

(b) the request shall be deemed to have been withdrawn on the date specified in that notice.

(5) Before issuing a declaration, a planning authority shall have regard to any national planning statement relevant to the declaration sought.

(6) A planning authority may at any time after issuing a declaration revise the declaration, but the revision shall not affect any works carried out in reliance on the declaration prior to the revision.

(7) (a) A person (in this subsection referred to as the "appellant") to whom a declaration has been forwarded in accordance with *subsection (3)* may, not later than 4 weeks from the date of the declaration and on payment to the Commission of such fee as may be determined under *section 381*, appeal the declaration to the Commission (in this subsection referred to as an "appeal").

(b) An appellant may withdraw an appeal under this subsection before the appeal is determined by the Commission.

(c) Subject to *paragraphs (d)*, *(e)*, *(f)*, *(g)* and *(h)*, this section shall apply to the Commission in relation to an appeal as it applies to a planning authority in relation to a request under *subsection (1)*, and for the purposes of such appeal—

(i) references in that subsection to a request under that subsection shall be construed as references to an appeal,

(ii) references in this section to a person who made such a request shall be construed as references to the appellant, and

(iii) references in this section to the planning authority shall be construed as references to the Commission,

and a declaration of the Commission, or a decision of the Commission under *subsection (3)* that it does not have sufficient information to make a declaration under this section, in relation to an appeal shall operate to annul the declaration of the planning authority from which the appeal was brought.

(d) For the purposes of the performance of its functions under this section in relation to an appeal, the Commission may, by notice in writing, require the appellant to provide it with such information and documentation as is specified in the notice within such period (which shall not be later than 2 weeks from the date of the service of the notice) as is so specified.

(e) Notwithstanding the failure of the appellant to comply with a requirement in a notice under *paragraph (d)*, the Commission may make a declaration in relation to an appeal where it is satisfied that it has sufficient information in relation to the matter to enable it to do so.

(f) For the purposes of the performance of its functions under this section in relation to an appeal, the Commission may, by notice in writing, request a person (other than the person who made the request under *subsection (1)*) to provide it with such information and documentation as is specified in the notice not later than 2 weeks from the date of the notice.

(g) Notwithstanding the failure of a person to whom a notice has been given under *paragraph (f)* to accede to the request in the notice, the Commission may determine an appeal where it is satisfied that it has sufficient information in relation to the matter to enable it to do so.

(h) The Commission shall determine an appeal under this subsection within the period specified under *section 361*.

(8) A planning authority may at any time revise a declaration, but the revision shall not affect any works carried out in reliance on the declaration prior to the revision.

(9) Such particulars as the Minister may prescribe, in relation to each declaration made by a planning authority under this section, including a declaration as revised under *subsection (6)*, and each decision by the Commission on appeal, shall be entered in the register.

(10) A planning authority shall make available a copy of the request made under *subsection (1)*, and the particulars of any declaration issued by the authority or decision by the Commission on appeal in electronic form, including by placing a copy of a declaration on the planning authority's website.

(11) The Commission shall keep a record of any declaration made by it on appeal under this section and the reasons for its decision and shall make it available in electronic form, including by placing a copy of the declaration on the Commission's website.

(12) A declaration under this section is without prejudice to the application of *section 10*.

(13) For the purposes of this section, the Minister may prescribe any one or more of the following:

(a) the form of a declaration;

(b) the form of request for a declaration;

(c) the manner in which a declaration may be requested, including the information or matters that shall accompany such a request.

Notice relating to structures or other land in area of special planning control

339. (1) A planning authority may serve a notice that complies with *subsection (2)* on each person who is the owner or occupier of—

(a) land to which an objective or provision of special planning control scheme applies, or

(b) a structure on such land.

(2) A notice under *subsection (1)* shall—

(a) refer to the structure or land concerned,

(b) state that the notice shall have effect in accordance with *subsection (8)*,

(c) specify the measures required to be undertaken on the coming into force of the notice including, as appropriate, measures for—

(i) the restoration, demolition, removal, alteration, replacement, maintenance, repair or cleaning of any structure or land, or

(ii) the discontinuance of any use or the continuance of any use subject to conditions,

(d) state that the person on whom the notice is served may, within a specified period of not less than 8 weeks from the date of service of the notice, make written representations to the planning authority concerning the notice,

(e) invite that person to enter into discussions with the planning authority, within a specified period of not less than 8 weeks from the date of service of the notice, concerning the notice and in particular concerning—

(i) the period within which the measures specified in the notice are to be carried out,

(ii) the provision by the planning authority of advice, materials, equipment, the services of the authority's staff or other assistance required to carry out the measures specified in the notice, and

(iii) any other matter to which the notice refers as the planning authority may specify,

(f) specify a period of not less than 8 weeks from the end of the period specified under *paragraph (e)* within which, unless otherwise agreed in the discussions under that paragraph, the works shall be carried out,

(g) state that the planning authority shall pay any expenses that are reasonably incurred by the person on whom the notice is served in carrying out the steps specified in the notice, other than expenses that relate to an unauthorised development which could be restrained by any court, and

(h) state that the planning authority shall, by way of compensation, pay, to any person who shows that as a result of complying with the notice—

(i) the value of an interest he or she has in the land or part thereof existing at the time of the notice has been reduced, or

(ii) he or she, having an interest in the land at that time, has suffered damage by being disturbed in his or her enjoyment of the structure or other land,

a sum equal to the amount of such reduction in value or a sum in respect of the damage suffered.

(3) If the invitation in a notice in accordance with *paragraph (e)* of *subsection (2)* to enter into discussions is accepted, the planning authority shall as far as practicable facilitate the holding of those discussions.

(4) After considering any representations made under *paragraph (d)* of *subsection (2)* and any discussions held under *subsection (3)*, the planning authority may confirm, modify or revoke the notice and shall notify the person who made the representation of its decision within 6 weeks of receipt of the representation and the occurrence of such discussions, as appropriate.

(5) Any person served with a notice under *subsection (1)* may, within 8 weeks from the date of notification of the confirmation or modification of the notice under *subsection (4)*, appeal to the Commission against the notice.

(6) Where an appeal is brought under *subsection (5)* against a notice, the Commission may, after taking into account—

(a) the proper planning and sustainable development of the area,

(b) the development plan,

(c) the urban area plan for the area in question,

(d) the coordinated area plan for the area in question,

(e) any integrated area plan (within the meaning of the Urban Renewal Act 1998) in force relating to the area to which the scheme relates, and

(f) the provisions of the special planning control scheme concerned,

confirm, with or without modification, or annul the notice.

(7) A notice served by a planning authority under *subsection (1)* may, for stated reasons, be withdrawn by notice and the notice under *subsection (1)* shall cease to have effect on and from the date on which the notice of withdrawal under this section is served.

(8) A notice under *subsection (1)* shall not come into force until the later of—

(a) where no appeal is taken against the notice, the expiry of any period within which an appeal against the notice may be brought under *subsection (5)*, or

(b) where an appeal is taken against the notice, the date on which the appeal is withdrawn or decided.

(9) The following shall be entered in the register:

(a) particulars of a notice under *subsection (1)*;

(b) particulars of the confirmation (with or without modifications) or revocation of a notice under *subsection (4)*;

(c) particulars of any appeal of a notice under *subsection (5)*;

(d) particulars of the confirmation (with or without modifications) or annulment of a notice under *subsection (6)*;

(e) particulars of the withdrawal of a notice under *subsection (7)*.

(10) A notice under section 88 of the Act of 2000 in force immediately before the repeal of that section by *section 6* shall continue in force on and after such repeal and be deemed to be a notice served under this section.

Implementation of notice under *section 339*

340. (1) If, within 8 weeks from the date of the coming into force of a notice under *section 339*, or such longer period as may be agreed by the planning authority and the person to whom the notice is addressed, any measure specified in a notice under *paragraph (c)* of *subsection (2)* of *section 339* has not been carried out to the satisfaction of the planning authority, the planning authority, or a person lawfully authorised by a

planning authority to do so, may, subject to *section 394* and *subsection (2)*, enter the structure or land for the purpose of the measure.

(2) A person entering land under *subsection (1)* shall ensure that—

(a) reasonable steps are taken to minimise the disruption caused by such entry to any occupier of the land, and

(b) such entry is effected at a reasonable time having regard to the use of the land or structure.

Court may compel compliance with notice under *section 339*

341. (1) Where a person served with a notice under *section 339* fails to comply with a requirement of the notice, or causes or permits a person to fail to comply with such a requirement, the High Court or the Circuit Court may, on the application of the planning authority, order any person to comply with the notice or to do, refrain from doing or cease doing anything that the court considers necessary or expedient to ensure compliance with the terms of the notice, including requiring such person as the court may order to carry out any works, including the restoration, demolition, removal, alteration, replacement, maintenance, repair or cleaning of any structure or other feature referred to in the notice, or the discontinuance of any use, or continuance thereof subject to such conditions as are specified in the order.

(2) (a) An application to the High Court or the Circuit Court for an order under *subsection (1)* shall be by motion and the Court when considering the matter may make such interim or interlocutory order, if any, as it considers appropriate.

(b) The order by which an application under this section is determined may contain such terms and conditions (if any) as to the payment of costs as the Court considers appropriate.

(3) (a) An application under *subsection (1)* to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the land the subject of the application is situated.

(b) The Circuit Court shall have jurisdiction to hear and determine an application under this section where the market value of the land referred to in the notice the subject of the application does not exceed €3,000,000.

(c) Where the market value of any land referred to in the notice the subject of the application under this section exceeds €3,000,000, the Circuit Court shall, if an application is made to it in that behalf by any party to the proceedings, transfer the proceedings to the High Court, but any order made or act done in the course of such proceedings before the transfer is ordered shall be valid unless discharged or varied by order of the High Court.

(4) The court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order a person who is the subject of an order under this section to pay to the planning authority the costs and expenses of the action.

(5) Costs or expenses to be paid to the planning authority under *subsection (4)* shall include any such costs or expenses reasonably incurred by the planning authority in relation to the investigation of the matter the subject of the proceedings, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers.

(6) An order made under *subsection (4)* may contain such terms and conditions as to the payment of such costs and expenses as the court considers appropriate.

(7) Where an application under this section is commenced in the High Court in circumstances where the Circuit Court would have had jurisdiction to hear and determine the application if it was commenced in the Circuit Court, and an order is made in favour of the planning authority (either by the High Court or by the Circuit Court following a remittal of the application)—

(a) the planning authority shall not be entitled to recover more costs than it would have been entitled to recover if the proceedings had been commenced and determined in the Circuit Court, and

(b) the court may, if it considers it appropriate to do so, make an order for the payment to the respondent in the proceedings by the planning authority of an amount not exceeding whichever of the following the court considers appropriate:

(i) the amount, measured by the judge, of the additional costs as between party and party incurred in the proceedings by the respondent by reason of the fact that the proceedings were not commenced and determined in the Circuit Court;

(ii) an amount equal to the difference between—

(I) the amount of the costs as between party and party incurred in the proceedings by the respondent as measured by the Legal Costs Adjudicators of the High Court or, if the proceedings were heard and determined in the Circuit Court, the appropriate county registrar, and

(II) the amount of the costs as between party and party incurred in the proceedings by the respondent as measured by the Legal Costs Adjudicators of the High Court or, if the proceedings were heard and determined in the Circuit Court, the appropriate county registrar on a scale that he considers would have been appropriate if the proceedings had been heard and determined in the Circuit Court.

(8) A planning authority that has been awarded costs under *subsection (5)* of this subsection may, without prejudice to its right to recover the costs from the person against whom they were awarded, set off the whole or part thereof against any costs in the proceedings concerned awarded to the latter person against the planning authority.

Offence to fail to comply with notice under *section 339*

342. (1) A person shall be guilty of an offence where he or she—

(a) fails to comply with a notice served on him or her under *section 339*,

(b) fails to comply with an order under *subsection (3)*, or

(c) causes or permits a person to fail to comply with such a notice or order.

(2) In any proceedings for an offence under this section, it shall be a defence for the defendant to show that—

(a) the notice did not comply with the requirements of *section 339*, or

(b) he or she took all reasonable steps to secure compliance with the notice served under *section 339*.

(3) Where a person—

(a) is convicted of an offence under *subsection (1)*,

(b) is acquitted of an offence under *subsection (1)* on foot of a defence under *paragraph (b)* of *subsection (2)*, or

(c) in proceedings for an offence under *subsection (1)*, the court makes an order under subsection (1) of section 1 of the Probation of Offenders Act 1907 in relation to the defendant,

the court may order the person to take all or any of the measures specified in the notice under *section 339* within such period as the court shall direct.

(4) Where *paragraph (a)* of *subsection (3)* applies, the power of the court to make an order under that subsection is without prejudice to, and in addition to, its power to impose a penalty in respect of the offence.

Permission not required for any development required under this Chapter

343. Notwithstanding *section 83*, permission shall not be required in respect of a development required by a notice under *section 339* or an order under *section 341* or *342*.

Scheme under section 85 of Act of 2000

344. A scheme approved under section 85 of the Act of 2000 in operation immediately before the repeal of that section by *section 6*, shall—

(a) continue to apply and have effect on and after such repeal, and

(b) be deemed to be a special planning control scheme,

and accordingly references in this Act to area of special planning control shall be construed as including an architectural conservation area, or part of an architectural conservation area, to which that scheme applies.

Draft scheme under section 84 of Act of 2000

345. A scheme prepared under section 84 of the Act of 2000 in respect of which there has been compliance with any one or more of the provisions of section 85 (other than subsection (7)) of that Act before the repeal of those sections by *section 6* shall be

deemed to be a draft special planning control scheme within the meaning of *Chapter 2* of *Part 10*.

PART 11

Enforcement

Definitions

346. In this Part—

"enforcement action" means—

(a) the service of an enforcement notice in accordance with *section 350*, or

(b) the making of an application for a planning injunction in accordance with *section 351*;

"enforcement area" means—

(a) in relation to a coastal planning authority, its functional area,

(b) in relation to any other planning authority, its functional area,

(c) in relation to a regional enforcement authority, the designated region for the purposes of *section 356* as respects that regional enforcement authority, and

(d) in relation to the Maritime Area Regulatory Authority—

(i) the maritime area, and

(ii) any part of the functional area of a coastal planning authority to which an agreement under *subsection (10)* of *section 348* applies made by the Maritime Area Regulatory Authority with the coastal planning authority;

"enforcement authority" means—

(a) a planning authority,

(b) a regional enforcement authority, or

(c) the Maritime Area Regulatory Authority;

"planning complaint" means a complaint in writing to an enforcement authority that—

(a) unauthorised development is, or is believed to be, being carried out,

(b) unauthorised development has, or is believed to have, been carried out, or

(c) it appears that unauthorised development will be carried out,

within the enforcement area of that enforcement authority;

"planning injunction" has the meaning assigned to it by *section 351*;

"regional enforcement authority" has the meaning assigned to it by *section 356*;

"urgent enforcement notice" has the meaning assigned to it by *paragraph (b)* of *subsection (4)* of *section 348*.

Offence

347. A person who carries out unauthorised development shall be guilty of an offence.

Functions of enforcement authority

348. (1) Where unauthorised development has been, is being, or is likely to be, carried out or continued, an enforcement authority may do one or more than one of the following:

(a) subject to *subsection (3)*, serve an enforcement notice;

(b) apply to the court for a planning injunction; or

(c) bring and prosecute summary proceedings in relation to an offence under this Part.

(2) Where an enforcement authority considers that, in relation to land or a maritime site within its enforcement area, there is reason to believe that unauthorised development has been, is being, or is likely to be, carried out or continued, the enforcement authority may, subject to *subsection (3)*, do one or both of the following:

(a) carry out any investigations or make any inquiries that it considers appropriate;

(b) serve a warning letter.

(3) (a) Where a planning complaint is made to an enforcement authority in relation to land or a maritime site within its enforcement area, the enforcement authority shall investigate the matter.

(b) Where a planning complaint is made to an enforcement authority in relation to land or a maritime site within its enforcement area, the enforcement authority shall, as soon as may be (and, as an objective, within 6 weeks after receipt of the planning complaint), serve a warning letter in relation to the development or proposed development concerned, unless—

(i) in accordance with *paragraph (b)* of *subsection (4)*, the enforcement authority serves an urgent enforcement notice in respect of the development or proposed development to which the planning complaint concerned relates,

(ii) the enforcement authority—

(I) makes an application for a planning injunction, or

(II) brings proceedings for an offence under *section 347*,

in respect of the development or proposed development to which the planning complaint concerned relates, or

(iii) the enforcement authority considers that—

(I) the development or proposed development to which the planning complaint concerned relates is of a trivial or minor nature, or

(II) the complaint is vexatious, frivolous or without substance or foundation.

(4) (a) Subject to *paragraph (b)*, an enforcement authority shall not serve an enforcement notice in relation to development or proposed development without first serving a warning letter in relation to that development or proposed development.

(b) An enforcement authority may serve an enforcement notice (in this Part referred to as an "urgent enforcement notice") without first serving a warning letter if it considers that, due to the nature of the development or proposed development concerned or any other material considerations, an urgent need to serve such notice exists.

(5) An enforcement authority shall, not later than 2 weeks after the making of a decision not to serve a warning letter in accordance with this Part, notify in writing the person who made the complaint of the decision.

(6) Subject to *subsection (7)* and without prejudice to the power of an enforcement authority to bring and prosecute proceedings for an offence under *section 347*, an enforcement authority—

(a) having carried out such investigations as it considers appropriate, and

(b) having taken into consideration—

(i) any planning complaint,

(ii) any submissions or observations received in response to a warning letter within the period referred to in *paragraph (b)* of *subsection (2)* of *section 349*,

(iii) any declaration under *section 10*, and

(iv) any relevant grant of permission,

shall, as soon as practicable thereafter and if of the opinion that an unauthorised development has been, is being or is likely to be carried out or continued, do one or both of the following:

(I) subject to *subsection (4)*, serve an enforcement notice in accordance with *section 350* in relation to the development or proposed development concerned;

(II) make an application for a planning injunction in accordance with *section 351* in relation to the development or proposed development concerned.

(7) An enforcement authority may decide not to take enforcement action where the enforcement authority considers that—

(a) the development or proposed development concerned is of a trivial or minor nature,

(b) enforcement action is not warranted having regard to any grant of permission made in relation to the development concerned, or

(c) in accordance with *section 353*, enforcement action may not be taken, or

(d) there are other compelling reasons for not taking enforcement action.

(8) A decision of an enforcement authority under *subsection (7)* and the reasons therefor shall be notified in writing to—

(a) all persons served with a warning letter in relation to the development or proposed development concerned, and

(b) any person who made a planning complaint in relation to the development or proposed development concerned.

(9) Particulars of each of the following shall be entered in the register by the enforcement authority concerned:

(a) the service of a warning letter;

(b) the withdrawal of a warning letter under *subsection (6)* of *section 349*;

(c) a decision under *subsection (7)* not to take enforcement action;

(d) the service of an enforcement notice;

(e) the service of an enforcement notice in accordance with *subsection (5)* of *section 350*;

(f) the extension of an enforcement notice under *subsection (6)* of *section 350*;

(g) the withdrawal (in whole or in part) of an enforcement notice under *subsection (12)* of *section 350*; and

(h) compliance with an enforcement notice by a person on whom the notice was served.

(10) The Maritime Area Regulatory Authority and a coastal planning authority may agree in writing that the Maritime Area Regulatory Authority shall be the enforcement authority in respect of a particular development or proposed development situated or proposed to be situated—

(a) in the nearshore area of the coastal planning authority, or

(b) partly on land and partly in the nearshore area of the coastal planning authority,

and for that purpose, the maritime site (in the case of an agreement under this subsection to which *paragraph (a)* applies) or the land and maritime site (in the case of an agreement under this subsection to which *paragraph (b)* applies) upon which the development or proposed development is situated or proposed to be situated shall form part of the enforcement area of the Maritime Area Regulatory Authority.

(11) Where a planning complaint is received by an enforcement authority and the complaint relates to development or proposed development situated or proposed to be situated in the enforcement area of another enforcement authority, the first-mentioned enforcement authority shall—

(a) send the complaint to the second-mentioned enforcement authority, and

(b) notify the person who made the planning complaint accordingly,

and the complaint shall, for the purposes of this Part, be deemed to have been made to the second-mentioned enforcement authority on the date that the complaint was so sent to the second-mentioned enforcement authority.

(12) A report of a local authority under section 50 of the Local Government Act 1991 or section 221 of the Local Government Act 2001 shall specify the number of—

(a) warning letters served by that authority,

(b) enforcement notices served by that authority,

(c) proceedings for an offence brought under this Part by that authority, and

(d) applications for planning injunctions made by that authority,

during the period to which the report relates.

Warning letter

349. (1) The following are the persons on whom a warning letter may be served where an enforcement authority decides in accordance with *subsection (2)* of *section 348* to serve a warning letter or is required in accordance with *subsection (3)* of that section to serve a warning letter:

(a) any person whom the enforcement authority considers carried out, is carrying out or appears to be intending to carry out the development concerned;

(b) any person whom the enforcement authority believes has an interest in, or is an occupier of, the land or maritime site concerned; or

(c) any person whom the enforcement authority believes may otherwise be concerned with the matters to which the letter relates.

(2) A warning letter shall refer to the land or maritime site concerned and shall—

(a) state that—

(i) it has come to the attention of the enforcement authority that unauthorised development is being or has been carried out on the land or maritime site, or

(ii) the enforcement authority has reason to believe that unauthorised development will be carried out on the land or maritime site,

(b) state that the person served with the warning letter may, not later than 4 weeks from the date of the warning letter, make submissions or observations in writing to the enforcement authority regarding the matters to which the letter relates,

(c) state that the enforcement authority may serve the person to whom the letter is addressed with an enforcement notice in relation to the development or proposed development concerned,

(d) state that members of staff of the enforcement authority may at all reasonable times enter on the land for the purposes of the performance by the enforcement authority of its functions under this Act,

(e) specify the penalties to which a person is liable upon conviction of an offence under *subsection (9)* or *(10)* of *section 350*, and

(f) state that any costs reasonably incurred by the enforcement authority in relation to any enforcement notice or the investigation of, or bringing and prosecution of proceedings for, an offence referred to in *paragraph (e)* may be recovered from the person on whom any such notice is served.

(3) (a) An enforcement authority shall, not later than 2 weeks after the service by it of a warning letter in accordance with this section, notify in writing any person who made a planning complaint that caused the enforcement authority to serve such warning letter of such service.

(b) The failure by an enforcement authority to comply with *paragraph (a)* shall not operate to invalidate the warning letter concerned.

(4) Nothing in this section shall prevent an enforcement authority from carrying out any investigations or communicating with any person before serving a warning letter in accordance with this section.

(5) Where a warning letter has been served, the following provisions shall apply:

(a) it shall be the duty of the enforcement authority to decide as expeditiously as possible (but not later than 12 weeks from the expiration of the period or extended period or periods, as the case may be, referred to in *paragraph (b)* of *subsection (2)* for the making of submissions or observations) whether or not to serve an enforcement notice;

(b) where it appears to the enforcement authority that, having regard to the particular circumstances of the matter, it would not be possible or appropriate to comply with *paragraph (a)*, the enforcement authority shall, before the expiration of the period of 12 weeks referred to in that paragraph, notify in writing all persons served with the warning letter, and any person who made a planning complaint, of—

(i) the reasons therefor, and

(ii) the date by which the enforcement authority intends to decide whether or not to serve an enforcement notice;

(c) an enforcement authority shall take all such steps as are necessary or expedient for the purpose of enabling it to decide whether or not to serve an enforcement notice by the date specified in any notification under *paragraph (b)*.

(6) A warning letter shall be withdrawn by the enforcement authority where—

(a) the enforcement authority decides not to serve an enforcement notice, or

(b) the enforcement authority fails to decide whether or not to serve an enforcement notice before—

(i) the expiration of the period of 12 weeks referred to in *paragraph (a)* of *subsection (5)*, or

(ii) the date specified in a notification under *paragraph (b)* of that subsection,

whichever occurs later.

(7) The withdrawal of a warning letter or the failure by the enforcement authority to make a decision to which *subsection (5)* applies shall not operate to prevent—

(a) the service of a subsequent warning letter,

(b) the service of an urgent enforcement notice,

(c) the bringing and prosecuting of proceedings for an offence under this Part, or

(d) the performance of any other function by the enforcement authority,

in relation to any development, proposed development or otherwise anticipated development in respect of which the first-mentioned warning letter was served.

Enforcement notice

350. (1) Subject to *section 348*, an enforcement authority that is of the opinion that unauthorised development has been, is being or is likely to be carried out or continued, may serve a notice (in this Part referred to as an "enforcement notice") on—

(a) the person carrying out the development concerned, and

(b) any person (other than a Minister of the Government) who, in the opinion of the enforcement authority—

(i) is the owner or occupier of the land or maritime site on which the development is situated or proposed to be situated, or

(ii) may be concerned with the matters to which the notice relates.

(2) An enforcement notice shall refer to the land or maritime site concerned and shall—

(a) in the case of development that is not the subject of a grant of permission, require that that development cease or not be commenced, as appropriate,

(b) in the case of development for which permission has been granted, require that the development proceed in accordance with the permission, and with any condition to which the permission is subject,

(c) in the case of development in respect of which a certificate has been issued by—

(i) the Dublin Docklands Development Authority under subparagraph (ii) of paragraph (a) of subsection (7) of section 25 of the Dublin Docklands Development Authority Act 1997, or

(ii) the Custom House Docks Development Authority under paragraph (b) of subsection (6) of section 12 of the Urban Renewal Act 1986,

require that the development be carried out in accordance with the planning scheme (in respect of which the development was certified to be consistent) made under that Act and any conditions to which the certificate is subject,

(d) require such steps (including, where appropriate, the removal, demolition or alteration of any structure, the discontinuance of any use and, in so far as is practicable, the restoration of the land or maritime site to the condition that it was in prior to the commencement of the development) as may be specified in the enforcement notice to be taken by the person or persons on whom the enforcement notice is served within a specified period,

(e) inform the person or persons served with the enforcement notice that, if the steps specified in the notice to be taken are not taken within the period specified under *paragraph (d)* or within such extended period as the enforcement authority may specify—

(i) members of staff of the enforcement authority may enter on the land or maritime site and take such steps (including the removal, demolition or alteration of any structure) as it considers necessary and recover any expenses reasonably incurred by it in that behalf, and

(ii) such person or persons shall have committed an offence,

(f) specify the matters in respect of which the enforcement authority is required to be satisfied in accordance with *subsection (6)* before granting an extension under that subsection of a period referred to in *paragraph (d)* and that it may impose conditions in relation to any such extension, and

(g) require the person or persons served with the notice to refund to the enforcement authority the costs and expenses reasonably incurred by the enforcement authority in relation to the investigation of the matter and the service of the enforcement notice concerned and any warning letter under *section 349*, including costs incurred in respect of the remuneration and other expenses of members of staff of the enforcement authority, and any consultants or advisers engaged by the authority in that behalf.

(3) Where an enforcement notice is served under this section, the enforcement authority shall notify in writing any person who made a planning complaint and any other person who, in the opinion of the enforcement authority, may be concerned with the matter to which the notice relates (not being a person on whom the enforcement notice was served) of the service of the notice.

(4) The failure by the enforcement authority to comply with *subsection (3)* shall not render the enforcement notice concerned invalid.

(5) If, subsequent to the service of the enforcement notice, the enforcement authority becomes aware—

(a) that any person not already served with the notice may be carrying out development, or

(b) of any person who, in the opinion of the enforcement authority, may be—

(i) the owner or occupier of the land or maritime site concerned, or

(ii) concerned with the matters to which the notice relates,

the enforcement authority may serve the enforcement notice on that person and the period specified for compliance with the notice shall be extended as necessary, and written notice of such service and such extension shall be given to the other person or persons on whom the notice had previously been served in accordance with *subsection (1)*.

(6) An enforcement authority may, upon the request of a person served with an enforcement notice, extend the period referred to in *paragraph (d)* of *subsection (2)* by such further period or periods as may be specified by the enforcement authority, subject to such conditions as the enforcement authority may impose, if it is satisfied that—

(a) that person has taken all reasonable steps to comply with the enforcement notice,

(b) the enforcement notice will be complied with within a reasonable period, and

(c) the extension is reasonable in all of the circumstances.

(7) If, within the period specified under *paragraph (d)* of *subsection (2)* or such extended period as provided for under *subsection (5)* or *(6)*, the steps specified in the enforcement notice are not taken, the enforcement authority may, in accordance with *section 394* or *395*, enter on the land or maritime site and take such steps (including the demolition of any structure and the restoration of the land or maritime site) as it considers appropriate.

(8) The enforcement authority shall be entitled to recover from the person or persons served with an enforcement notice—

(a) the costs and expenses reasonably incurred by it in relation to the investigation of the matter and the service of the enforcement notice concerned and any warning letter under *section 349*, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers, and

(b) any costs and expenses reasonably incurred by it in taking any steps in accordance with *subsection (7)*.

(9) Any person on whom an enforcement notice is served in accordance with *subsection (1)* or *(5)* who fails to comply with the requirements of the notice (other than a notice that has ceased to have effect under *subsection (13)*) within the period specified in the notice shall be guilty of an offence.

(10) Any person who knowingly assists, consents to or connives in the failure by another person to comply with an enforcement notice shall be guilty of an offence.

(11) Where—

(a) a person is convicted of an offence under *subsection (9)* or *(10)*,

(b) a person is acquitted of such an offence by reason of a defence under *paragraph (b)* of *subsection (7)* of *section 355*, or

(c) in proceedings for such an offence the court makes an order under subsection (1) of section 1 of the Probation of Offenders Act 1907 in relation to the defendant,

the court (in addition to imposing a penalty referred to in *section 354* in the case of a conviction) may order the person to take all such steps (if any) as are specified in the enforcement notice concerned within such period as the court considers appropriate, and where the person fails to take such steps within that period he or she shall be guilty of an offence.

(12) (a) An enforcement authority may withdraw (in whole or in part) an enforcement notice and, where it was served on more than one person, in relation to any one or more of the persons on whom it was served, if it is satisfied that—

(i) by virtue of a grant of permission, and having regard to all the circumstances of the case—

(I) the enforcement notice, or

(II) a part of the enforcement notice,

as the case may be, no longer serves a useful purpose in relation to any or all of such persons, or

(ii) there are other compelling reasons to so withdraw the enforcement notice or part of the enforcement.

(b) An enforcement notice that was served on one person and that is withdrawn in part shall remain in force and continue to have effect to the extent that it has not been withdrawn.

(c) An enforcement notice that was served on more than one person that—

(i) is wholly withdrawn in relation to some but not all of the persons on whom it was served, or

(ii) is withdrawn in part in relation to any or all of the persons on whom it was served,

shall remain in force and continue to have effect to the extent that, and in respect of whom, it has not been withdrawn.

(d) Where an enforcement notice is withdrawn under this subsection, the enforcement authority shall notify in writing all persons, notified of the service of the enforcement notice in accordance with *subsection (3)*, of the withdrawal and of the reasons for the withdrawal.

(e) The withdrawal of a valid enforcement notice under this subsection shall be without prejudice to the entitlement of the enforcement authority to recover the costs and expenses recoverable under *subsection (8)*.

(13) An enforcement notice shall cease to have effect—

(a) when it has been complied with,

(b) 10 years from the date of service of the notice, or

(c) if it is withdrawn in accordance with this section—

(i) to the extent that it is so withdrawn, and

(ii) in relation to the persons in respect of which it is so withdrawn.

(14) The failure to notify a person under *subsection (3)* of the service of an enforcement notice shall not operate to invalidate the enforcement notice.

(15) An enforcement notice shall have effect from the date of the service of the notice.

Planning injunctions in relation to unauthorised development

351. (1) Where an unauthorised development has been, is being or is likely to be carried out or continued, the High Court or the Circuit Court may, on the application of an enforcement authority or any other person, whether or not the person has an interest in the land or maritime site, by order (in this Part referred to as a "planning injunction") require any person to do or not to do, or to cease to do, as the case may be, anything that the court considers necessary and specifies in the order to ensure, as appropriate, the following, namely—

(a) that the development is not carried out or continued,

(b) that, in so far as is practicable, any land or maritime site is restored to the condition that it was in before the commencement of the development, or

(c) that the development is carried out in accordance with—

(i) any permission granted for that development and any conditions to which the permission is subject, or

(ii) in the case of a certificate issued by—

(I) the Dublin Docklands Development Authority under subparagraph (ii) of paragraph (a) of subsection (7) of section 25 of the Dublin Docklands Development Authority Act 1997, or

(II) the Custom House Docks Development Authority under paragraph (b) of subsection (6) of section 12 of the Urban Renewal Act 1986,

the planning scheme (in respect of which the development was certified to be consistent) made under that Act and any conditions to which the certificate is subject.

(2) When making an order under *subsection (1)*, the court may order any person to carry out such works (including works consisting of the restoration, reconstruction, removal, demolition or alteration of any structure or other feature) as it directs.

(3) (a) An application for an order under this section shall be by motion and the court may, when considering the matter, make such interim or interlocutory order (if any) as it considers appropriate.

(b) Notwithstanding *paragraph (a)*, an application for an order under this section may be made in proceedings instituted other than under this section, and the court may make such interim or interlocutory order (if any) as it considers appropriate on foot of any motion brought within those proceedings.

(c) An application by an enforcement authority under this section shall not be stayed or adjourned by reason of the making of an application for permission or an application for a declaration under *section 10*.

(d) Subject to *paragraph (c)*, an application by an enforcement authority under this section may be stayed or adjourned where the court is satisfied that special circumstances (which shall be stated in the order granting the stay or adjournment) exist to warrant such stay or adjournment, and any such stay or adjournment shall be subject to—

(i) such conditions as the court considers are likely to discourage any delay by the applicant or respondent in relation to the progression of any application for—

(I) permission, or

(II) a declaration under *section 10*,

and

(ii) such other conditions as the court considers appropriate in all of the circumstances.

(e) The court may grant a stay on the execution of a final order made upon an application by an enforcement authority under this section where it is satisfied that special circumstances (which shall be stated in the order) exist to warrant such stay, and any such stay shall be subject to—

(i) such conditions as the court considers are likely to discourage any delay by the applicant or respondent in relation to the progression of any application for—

(I) permission, or

(II) a declaration under *section 10*,

and

(ii) such other conditions as the court considers appropriate in all of the circumstances.

(f) Conditions referred to in *paragraph (d)* or *(e)* may include conditions requiring the cessation or restriction of the development to which the application relates.

(g) In any application for a planning injunction, the onus of proving—

(i) the existence of any permission, or

(ii) that the development in respect of which the application is made is exempted development,

shall be on the respondent.

(h) An application made under this section shall not be refused by reason only of any grant of permission made after the commencement of the proceedings, unless the court is satisfied that—

(i) by virtue of the grant of permission and the implementation of, and compliance with, the permission, and

(ii) having regard to all the circumstances of the case,

an order under this section would not serve any useful purpose.

(4) (a) Rules of court may provide for an order under this section to be made against a person whose identity is unknown.

(b) Rules of court made for the purposes of section 160 of the Act of 2000 shall be deemed to have been made for the purposes of this section as well as the said section 160, and accordingly such rules shall have effect in relation to this section and references therein to the said section 160 shall be construed as including references to this section.

(5) (a) The Circuit Court shall have jurisdiction to hear and determine an application under this section—

(i) where the market value of the land to which the application relates does not exceed €3,000,000, and

(ii) in any other case, where all parties to the application sign such form of consent to such jurisdiction as may be prescribed by rules of court.

(b) An application under this section to the Circuit Court shall be made to the judge of the Circuit Court for any circuit in which land to which the application relates is situated (in whole or in part).

(c) The Court may, for the purposes of *paragraph (a)*, determine whether the market value of the land or maritime site to which the application relates would or would not exceed €3,000,000.

(d) Where an application under this section is made to the Circuit Court and it is determined by the judge of the Circuit Court that the market value of any land to which the application relates exceeds €3,000,000 and a form of consent referred to in *paragraph (a)* has not been signed by all of the parties to the application, the judge of the Circuit Court may, on the application of any party or of his or her own motion, make—

(i) an order transferring the proceedings to the High Court, and

(ii) such order as to the costs of the proceedings incurred in the proceedings in the Circuit Court as appears to him or her to be proper,

and any order made or act done in the course of such proceedings before their transfer to the High Court shall be valid unless discharged or varied by order of the High Court.

(e) In this subsection "market value" means, in relation to land or a maritime site, the price that would have been obtained in respect of the unencumbranced fee simple were the land or maritime site to have been sold on the open market—

(i) in the year immediately preceding the bringing of the application concerned, and

(ii) in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land or maritime site.

(6) (a) An application under this section to the Circuit Court shall—

(i) in respect of development or proposed development situated, or proposed to be situated, wholly or partly in the nearshore area of a coastal planning authority and subject to *subparagraph (ii)*, be made to a judge of the Circuit Court for a circuit that adjoins that nearshore area, and

(ii) in respect of development situated, or proposed development situated, or proposed to be situated, wholly or partly in the nearshore areas of more than one coastal planning authority, be made to a judge of the Circuit Court for a circuit adjoining any such nearshore area.

(b) The Circuit Court shall have jurisdiction to hear and determine an application under this section in relation to a development or proposed development referred to in *paragraph (a)* where the aggregate amount of the levy or levies payable under Chapter 7 of Part 4 of the Maritime Area Planning Act 2021 in respect of the maritime area consent granted to the person who carried out or proposes to carry out the development does not exceed €500,000.

(c) An application under this section, in respect of development situated, or proposed development situated, or proposed to be situated, wholly or partly in the nearshore area of a coastal planning authority, shall be made to the High Court if that development or proposed development was, or is intended to be, carried out by or on behalf of a person who is not the holder of a maritime area consent granted for the occupation of a maritime site for the purposes of the development or proposed development.

(d) An application under this section, in respect of development situated, or proposed development situated, or proposed to be situated, wholly in the outer maritime area, shall be made to the High Court.

(e) Where an application under this section is made to the Circuit Court and it is determined by the judge of the Circuit Court that the aggregate amount of the levy or levies payable under Chapter 7 of Part 4 of the Maritime Area Planning Act 2021 in respect of the maritime area consent granted to the person who carried out, or proposes to carry out, the development does not exceed €500,000, the judge of the Circuit Court may, on the application of any party or of his or her own motion, make an order transferring the proceedings to the High Court, and make—

(i) an order transferring the proceedings to the High Court, and

(ii) such order as to the costs of the proceedings incurred in the proceedings in the Circuit Court as shall appear to him or her to be proper,

and any order made or act done in the course of such proceedings before their transfer to the High Court shall be valid unless discharged or varied by order of the High Court.

(7) (a) The court shall order a person who is the subject of an order under *subsection (1)* to pay to the enforcement authority or to any other person the costs and expenses of the proceedings concerned, unless it is satisfied that there are special and substantial reasons for not so ordering.

(b) Where costs or expenses are required to be paid to the enforcement authority in accordance with an order under *paragraph (a)*, they shall include—

(i) costs or expenses reasonably incurred by the enforcement authority in relation to the investigation of the matter to which the order under *subsection (1)* relates, and

(ii) costs incurred in relation to that investigation in respect of the remuneration and other expenses of employees, consultants and advisers.

(c) An order under *paragraph (a)* may contain such terms and conditions (if any) relating to the payment of such costs and expenses as the court considers appropriate.

(d) The court may at any time before, or during the course of, the consideration of an application under this section determine an application made under section 7 of the Environment (Miscellaneous Provisions) Act 2011.

(8) Subject to *paragraph (b)* of *subsection (3)*, where an application under this section is commenced in the High Court in circumstances where the Circuit Court had jurisdiction to hear and determine the application, and an order is made in favour of the applicant (either by the High Court or by the Circuit Court following a remittal of the application)—

(a) the applicant shall not be entitled to recover more costs than he or she would be entitled to recover if the application were made and determined in the Circuit Court,

(b) the judge concerned may, if in all the circumstances he or she thinks it appropriate to do so, make an order for the payment to the respondent in the proceedings by the applicant of an amount not exceeding whichever of the following the judge considers appropriate—

(i) the amount, measured by the judge, of the additional costs as between party and party incurred in the proceedings by the respondent by reason of the fact that the proceedings were not commenced and determined in the Circuit Court, or

(ii) an amount equal to the difference between—

(I) the amount of the costs as between party and party incurred in the proceedings by the respondent as measured by the Legal Costs Adjudicators of the High Court or, if the proceedings were heard and determined in the Circuit Court, the appropriate county registrar, and

(II) the amount of the costs as between party and party incurred in the proceedings by the respondent as measured by the Legal Costs Adjudicators of the High Court or, where the proceedings are heard and determined in the Circuit Court, the appropriate county registrar according to a scale that he or she considers would be appropriate had the application been heard and determined in the Circuit Court.

(c) A person who has been awarded costs under *paragraph (a)* of this subsection may, without prejudice to his or her entitlement to recover the costs from the person against whom they were awarded, set off the whole or part thereof against any costs in the proceedings concerned awarded to the latter person against the first-mentioned person.

Permission not required for works required under Part

352. Permission shall not be required in respect of development required by an enforcement notice or an order under *section 351*.

Time limits

353. (1) Enforcement action shall not be commenced—

(a) in the case of a development where no permission has been granted, after the expiration of a period of 7 years from the date of the commencement of the development,

(b) in the case of a development for which permission has been granted, after the expiration of a period of 7 years from the date of the expiration of the permission,

(c) in the case of a development for which permission was granted under the Act of 2000, after the expiration of a period of 7 years from the date of the expiration of the appropriate period (including any extension of that period under section 42 of the Act of 2000) within the meaning of section 40 of the Act of 2000, or

(d) in respect of a development for which a certificate has been issued by—

(i) the Dublin Docklands Development Authority under subparagraph (ii) of paragraph (a) of subsection (7) of section 25 of the Dublin Docklands Development Authority Act 1997, or

(ii) the Custom House Docks Development Authority under paragraph (b) of subsection (6) of section 12 of the Urban Renewal Act 1986,

after the expiration of a period of 7 years beginning on the date that the certificate ceases to have effect in accordance with Part 4 of the Dublin Docklands Development Authority (Dissolution) Act 2015.

(2) Proceedings for an offence under this Act shall not be commenced later than 7 years from the date on which the offence concerned is alleged to have been committed.

(3) Notwithstanding *subsection (1)*, enforcement action may be commenced at any time in respect of unauthorised quarry development or unauthorised peat extraction development in any of the following circumstances:

(a) where no permission for the development has been granted and the development commenced after 15 November 2004;

(b) where permission for the development was granted under the Act of 2000 and the appropriate period (including any extension of that period under section 42 of the Act of 2000) within the meaning of section 40 of the Act of 2000 expired after 15 November 2004;

(c) where permission has been granted in respect of the development under *Part 4*.

(4) Notwithstanding *subsection (1)*, enforcement action may be taken at any time for the purpose of requiring any unauthorised quarry development or unauthorised peat extraction development to cease, and proceedings for an offence under *section 350* may be brought and prosecuted at any time in respect of the contravention of an enforcement notice served in relation to such development.

(5) Notwithstanding *subsection (1)*, enforcement action may be taken at any time in respect of any condition concerning the ongoing use of land or a maritime site to which the permission is subject, and proceedings for an offence under *section 350* may be brought and prosecuted at any time in respect of the contravention of an enforcement notice served in relation to such condition.

(6) In proceedings (other than proceedings for an offence) under this Part, it shall be presumed, unless the contrary is proved by the defendant or respondent on the balance of probabilities, that—

(a) the enforcement notice concerned was served, or

(b) the application for the planning injunction concerned was made,

before the expiration—

(i) in the case of development to which *paragraph (a)* of *subsection (1)* applies, of the period of 7 years referred to in that paragraph,

(ii) in the case of development to which *paragraph (b)* of that subsection applies, of the period of 7 years referred to in that paragraph, or

(iii) in the case of development to which *paragraph (c)* of that subsection applies, of the period of 7 years referred to in that paragraph.

(7) In proceedings for an offence under this Part, it shall be presumed unless the contrary is proved on the balance of probabilities that those proceedings were commenced before the expiration—

(a) in the case of proceedings that relate to development to which *paragraph (a)* of *subsection (1)* applies, of the period of 7 years referred to in that paragraph,

(b) in the case of proceedings that relate to development to which *paragraph (b)* of that subsection applies, of the period of 7 years referred to in that paragraph, or

(c) in the case of proceedings that relate to development to which *paragraph (c)* of that subsection applies, of the period of 7 years referred to in that paragraph.

(8) In proceedings for an offence under this Act (other than this Part), it shall be presumed unless the contrary is proved on the balance of probabilities that those proceedings were commenced before the expiration of the period specified in *subsection (2)*.

(9) (a) In this subsection "quarry" means an excavation or system of excavations made for the purpose of, or in connection with, the extraction of minerals (whether in their natural state or in solution or suspension) or products of minerals, and includes—

(i) any place—

(I) on the surface surrounding or adjacent to the excavation or system of excavations concerned,

(II) occupied by the owner of the excavation or system of excavations concerned, and

(III) used for storing or removing those minerals or products of mineral for the purposes of a process (other than a manufacturing process) ancillary to the extraction of the minerals or products of minerals, including the breaking, crushing, grinding, screening, washing or dressing of such minerals or products of minerals,

(ii) any place—

(I) occupied by the owner of the excavation or system of excavations concerned, and

(II) used for depositing refuse from the excavation or system of excavations concerned,

(iii) any line or siding (other than a railway or part of a railway) serving—

(I) the excavation or system of excavations concerned, or

(II) a place referred to in *subparagraph (i)* or *(ii)*,

and

(iv) a conveyor or aerial ropeway provided for the removal of minerals, products of minerals or refuse from the excavation or system of excavations concerned, a place referred to in *subparagraph (i)* or *(ii)* or a line or siding referred to in *subparagraph (iii)*,

but does not include a mine, a well, a bore-hole or any combination thereof.

(b) Where a place referred to in *subparagraph (ii)* of the definition of "quarry" is used for a purpose referred to in *clause (II)* of that subparagraph in relation to 2 or more excavations or systems of excavations, the Minister may designate in writing that place to be part of the quarry of which one of those excavations or

systems of excavations is part and, upon such designation, the place so designated shall be deemed to form part of that quarry.

(c) Where a line or siding referred to in *subparagraph (iii)* of the definition of "quarry" serves 2 or more excavations or systems of excavations, the Minister may designate in writing that line or siding to be part of the quarry of which one of those excavations or systems of excavations is part and, upon such designation, the line or siding so designated shall be deemed to form part of that quarry.

Penalties for offences

354. (1) A person who is guilty of a relevant offence shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €15,000,000 or imprisonment for a term not exceeding 5 years or both.

(2) A person convicted of a relevant offence (other than an offence under *subsection (9)*, *(10)* or *(11)* of *section 350*) shall, on each day on which the act, omission or contravention of which that offence consists is continued after that person has been so convicted, be guilty of an offence and shall be liable—

(a) on summary conviction, to a class C fine or imprisonment for a term not exceeding 6 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €15,000 or imprisonment for a term not exceeding 2 years, or both.

(3) Subject to *subsection (1)*, a person who is guilty of a relevant offence that consists (in whole or in part) of the construction of an unauthorised structure shall be liable—

(a) on summary conviction, to a fine of not less than the estimated cost of the construction of the structure or €2,500, whichever is the lesser, or

(b) on conviction on indictment, to a fine of not less than the estimated cost of the construction of the structure or €15,000, whichever is the lesser,

except where the person can prove on the balance of probabilities that he or she does not have the necessary financial means to pay a fine of that amount.

(4) Any person who is guilty of an offence under this Act other than an offence referred to in *subsection (1)* or *(2)* shall be liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both.

(5) A person convicted of an offence under *subsection (3)* of *section 259*, *subsection (3)* of *section 270* or *subsection (9)* of *section 394* shall, on each day on which the act, omission or contravention of which that offence consists is continued after that person's having been so convicted, be guilty of an offence and shall be liable, on summary conviction, to a class C fine.

(6) Where a person is convicted, on indictment, of an offence under *subsection (13)* of *section 370*, the court by which the person was convicted may, where it is satisfied that the act or omission constituting the offence delayed the conduct of the oral hearing concerned referred to in that subsection, order the person to pay to—

(a) the Commission,

(b) any party to the appeal, referral or application concerned, or

(c) any person who appeared, or who was represented, at the oral hearing,

such an amount as is equal to the amount of any additional costs that is shown to the satisfaction of the court to have been incurred by the Commission, party or person in appearing or being represented at the oral hearing by reason of the commission of the offence.

(7) Where a court imposes a fine or affirms or varies a fine imposed by another court for an offence under this Act, it shall provide by order for the payment of the amount of the fine to the enforcement authority and the payment may be recovered by the enforcement authority as if it were due to it in accordance with an order of a court made in civil proceedings.

(8) Where a person is convicted of an offence under this Act, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the enforcement authority the costs and expenses (in addition to any costs and expenses otherwise recoverable) incurred in the bringing and prosecuting of the offence measured by the court.

(9) Where costs or expenses are to be paid to the enforcement authority pursuant to *subsection (8)*, they shall include any such costs or expenses reasonably incurred by the enforcement authority in relation to the investigation, detection and prosecution of the offence, including costs incurred in respect of the remuneration and other expenses of members of staff of the enforcement authority and consultants and advisers engaged by the enforcement authority.

(10) An order for costs and expenses under *subsection (8)* is in addition to and not in substitution for any obligation to pay a fine or other penalty that the court may impose.

(11) In this section "relevant offence" means an offence under—

(a) *section 347* or *267*,

(b) *subsection (9)*, *(10)* or *(11)* of *section 350*,

(c) *subsection (5)* of *section 132*,

(d) *subsection (7)* of *section 133*,

(e) *subsection (4)* of *section 311*,

(f) *subsection (1)* of *section 317*,

(g) *subsection (12)* or *(13)* of *section 370*, or

(h) *subsection (3)* of *section 478*, or *487*.

Prosecution of offences

355. (1) Subject to *section 524*, summary proceedings for an offence under this Act may be brought and prosecuted by—

(a) an enforcement authority (whether or not the offence is committed in the enforcement authority's enforcement area), or

(b) the Planning Regulator.

(2) Subject to subsection 177 of the Criminal Justice Act 2006 and notwithstanding subsection (4) of section 10 of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act may be commenced—

(a) at any time within 6 months from the date on which the offence is alleged to have been committed, or

(b) at any time within 6 months from the date on which evidence sufficient, in the opinion of the person by whom the proceedings are brought, to justify proceedings comes to that person's knowledge,

whichever is the later.

(3) In proceedings for an offence under this Act, a document—

(a) purporting to be a certificate certifying the date on which evidence described in the certificate came to the knowledge of the person who brought those proceedings, and

(b) purporting to be signed by that person,

shall, unless the contrary is shown, be evidence of that date.

(4) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(5) In proceedings for an offence under this Act, the onus of proving—

(a) that development is exempted development, or

(b) the existence of—

(i) any permission,

(ii) any certificate issued by the Custom House Docks Development Authority under paragraph (b) of subsection (6) of section 12 of the Urban Renewal Act 1986, or

(iii) any certificate issued by the Dublin Docklands Development Authority under subparagraph (ii) of paragraph (a) of subsection (7) of section 25 of the Dublin Docklands Development Authority Act 1997,

shall be on the defendant.

(6) It shall not be a defence to a prosecution under this Part for the defendant to have applied for, or have been granted, permission—

(a) since the commencement of proceedings under this Part,

(b) since the date of service of a warning letter under *section 349*, or

(c) since the date of service of an urgent enforcement notice.

(7) (a) It shall be a defence to proceedings under *section 350* for the defendant to prove on the balance of probabilities that—

(i) the works to which the enforcement notice applies were not unauthorised development, or

(ii) the use to which the enforcement notice applies was not unauthorised development,

as the case may be.

(b) It shall be a defence to proceedings under *section 350* for the defendant to show that he or she took all reasonable steps to secure compliance with the enforcement notice.

(8) A prosecution under this Part shall not be stayed or adjourned by reason of an application for permission or an application for a declaration under *section 10* in relation to the development concerned unless the court is satisfied that special circumstances (which shall be stated in the order) exist to warrant such stay or adjournment.

(9) In proceedings for an offence under *section 350*, a document purporting to be an enforcement notice shall be evidence, without further proof, of the terms of the enforcement notice and its service in accordance with this Act, unless the contrary is shown.

Designated regional enforcement authority

356. (1) Subject to *subsection (2)*, the Minister may by order—

(a) designate a planning authority (in this Part referred to as a "regional enforcement authority") for the purposes of this section,

(b) designate—

(i) the enforcement area of the planning authority designated in accordance with *paragraph (a)*, and

(ii) the enforcement areas of such other planning authorities as are specified in the order,

to be a designated region for the purposes of this section, and

(c) designate classes of development (in this section a class so designated is referred to as a "designated class of development") for the purposes of this section,

if he or she is of the opinion that by reason of the likely size, nature, or effect on the surroundings, of development belonging to that class, it is appropriate that the functions under this Part of each planning authority whose enforcement area constitutes part of the designated region be performed, in relation to development of that class, by the planning authority referred to in *paragraph (a)*.

(2) The functions under this Part of each planning authority whose enforcement area forms part of a designated region shall, in addition to being performable by the planning authority for the enforcement area concerned, be performable by the regional enforcement authority in relation to development or proposed development belonging to a designated class of development in that designated region.

(3) (a) A planning complaint may be made to a regional enforcement authority in respect of development or proposed development belonging to a designated class of development that is situated or proposed to be situated (in whole or in part) in the designated region in respect of which it is the regional enforcement authority.

(b) A regional enforcement authority that receives a planning complaint in respect of development or proposed development belonging to a designated class of development shall notify any planning authority (other than the regional enforcement authority) within whose functional area the development or proposed development is situated or proposed to be situated of the receipt by the regional enforcement authority of that planning complaint.

(c) A planning authority that is not a regional enforcement authority shall notify the regional enforcement authority designated in relation to the designated region, of which that planning authority's enforcement area forms part, of—

(i) the receipt by it of any planning complaint in relation to development or proposed development belonging to a designated class of development that is situated wholly or partly in that enforcement area, or

(ii) any development or proposed development belonging to a designated class of development—

(I) that appears to the planning authority to be being carried out,

(II) that is or would be unauthorised development, and

(III) that is or is proposed to be situated wholly or partly in that enforcement area.

(4) (a) Any proceedings (including enforcement action) under this Part in relation to development or proposed development belonging to a designated class of development—

(i) pending immediately before the intervention of the regional enforcement authority, and

(ii) brought by a planning authority whose enforcement area is part of the designated region in respect of which the regional enforcement authority is designated under this section,

shall be continued, with the substitution in the proceedings of the regional enforcement authority for the planning authority.

(b) The discontinuance (in whole or in part) of any proceedings (including enforcement action) under this Part in relation to development or proposed development belonging to a designated class of development by a regional enforcement authority following the intervention of the regional enforcement authority shall not operate to prevent the regional enforcement authority from subsequently commencing proceedings (including enforcement action) under this Part in relation to that development or proposed development.

(c) The discontinuance (in whole or in part) of any proceedings (including enforcement action) under this Part in relation to development or proposed development belonging to a designated class of development by a planning authority other than the regional enforcement authority shall not operate to prevent the regional enforcement authority from subsequently commencing proceedings (including enforcement action) under this Part in relation to that development or proposed development.

(d) In this subsection, "intervention" means, in relation to proceedings (including enforcement action) under this Part, the notification in writing of a planning authority by a regional enforcement authority that the regional enforcement authority will prosecute those proceedings in substitution for the planning authority.

(5) A regional enforcement authority may perform functions (including the bringing and prosecution of proceedings for an offence and the bringing of enforcement action) under this Part in relation to a designated class of development notwithstanding that it has not received a complaint or notification referred to in *subsection (3)*.

(6) Where development or proposed development belonging to a designated class of development is situated, or carried out, or proposed to be situated or carried out, in more than one designated region, the functions conferred on a regional enforcement authority in accordance with this section shall be performable by one such regional enforcement authority, provided that the other regional enforcement authority or regional enforcement authorities, as the case may be, concerned has given its, or have given their, consent thereto.

(7) Where the regional enforcement authority performs functions in accordance with this section in relation to development or proposed development belonging to a designated class of development carried out wholly or partly in the enforcement area or enforcement areas of one or more than one planning authority—

(a) that planning authority or each such planning authority, as the case may be, shall provide all such assistance and information to the regional enforcement authority, as it may reasonably require for the purposes of the performance of its functions in accordance with this section,

(b) the regional enforcement authority shall—

(i) keep that planning authority or each such planning authority, as the case may be, informed of progress in relation to the matter concerned, and

(ii) upon the conclusion of the matter or at such other time as may be prescribed, prepare, and submit to that planning authority or each such planning authority, as the case may be, a report (which shall contain such information as may be prescribed) in relation to the matter,

and

(c) it shall be the duty of that planning authority or each such planning authority, as the case may be, to enter in the register details of the matter in so far as it relates to its enforcement area.

Development in Dublin Docklands Area

357. For the purposes of this Part, Dublin City Council is the planning authority in respect of development for which a certificate has been issued by—

(a) the Dublin Docklands Development Authority under subparagraph (ii) of paragraph (a) of subsection (7) of section 25 of the Dublin Docklands Development Authority Act 1997, or

(b) the Custom House Docks Development Authority under paragraph (b) of subsection (6) of section 12 of the Urban Renewal Act 1986.

PART 12

Appeal Procedures, Planning Register and Records, and Miscellaneous Powers and Procedures

Chapter 1

Definitions

Definitions

358. In this Part—

"appeal" means an appeal to the Commission under—

(a) *subsection (8)* of *section 10*,

(b) *subsection (9)* of *section 13*,

(c) *paragraph (b)* of *subsection (5)* of *section 101*,

(d) *paragraph (b)* of *subsection (7)* of *section 101*,

(e) *subsection (1)* of *section 102*,

(f) *subsection (2)* of *section 102*,

(g) *paragraph (b)* of *subsection (5)* of *section 102*,

(h) *subsection (7)* of *section 143*,

(i) *subsection (5)* of *section 146*,

(j) *subsection (10)* of *section 146*,

(k) *subsection (8)* of *section 149*,

(l) *subsection (3)* of *section 264*,

(m) *subsection (6)* of *section 269*,

(n) *paragraph (a)* of *subsection (8)* of *section 310*,

(o) *paragraph (a)* of *subsection (7)* of *section 333*,

(p) *paragraph (a)* of *subsection (7)* of *section 338*, and

(q) *subsection (5)* of *section 339*;

"application" means an application to the Commission under—

(a) *subsection (14)* of *section 10*,

(b) *subsection (4)* of *section 102*,

(c) *section 120*,

(d) *subsection (4)* of *section 275*, and

(e) *subsection (5)* of *section 276*;

"class-specific provision" means—

(a) a provision of this Act (other than a provision of *Chapter 2*), applicable to a class of appeal, application, referral or request, and

(b) a provision of any other enactment (other than a regulation or rule made under *Chapter 2*) applicable to such a class;

"party", in relation to an appeal, application, referral or request, means—

(a) in the case of an appeal—

(i) the person who made the appeal,

(ii) the planning authority that made the decision, deemed refusal of an application, order, declaration or revised declaration, or served the notice, the subject of the appeal,

(iii) under *subsection (8)* of *section 10*, where the declaration was forwarded under *subsection (6)* of *section 10* or notified pursuant to regulations under *subsection (13)* of *section 10* to any other person in addition to the person who made the appeal, that other person,

(iv) an appeal under *subsection (1)* or *(2)* of *section 102* made by a person other than the applicant for the permission the subject of the appeal, or a person

acting on behalf of the applicant for the permission, the applicant for the permission,

(v) an appeal under *paragraph (b)* of *subsection (5)* of *section 102*, the applicant for permission the subject of the appeal,

(vi) an appeal under *subsection (7)* of *section 143*, where the person who made the appeal is not the person who made the request the subject of the appeal, the person who made that request,

(vii) an appeal under *subsection (8)* of *section 149*, where the planning authority served a notice under *subsection (1)* or *(2)* of *section 149* on any other person in addition to the person who made the appeal, that other person,

(viii) an appeal under *subsection (3)* of *section 264*—

(I) where any other person, in addition to the person who made the appeal, was served with a notice under *paragraph (a)* of *subsection (2)* of *section 264*, that other person, or

(II) where the person who made the appeal was not a person served with a notice under *paragraph (a)* of *subsection (2)* of *section 264*, any person served with such a notice,

(ix) an appeal under *subsection (6)* of *section 269*, where any other person in addition to the person who made the appeal was served with the notice under *subparagraph (i)* of *paragraph (a)* of *subsection (2)* of *section 269*, that other person, and

(x) an appeal under *subsection (5)* of *section 339*, where any other person in addition to the person who made the appeal is served with the notice under *subsection (1)* of *section 339*, that other person,

(b) in the case of an application—

(i) the person who made the application,

(ii) the planning authority (where that planning authority is not the person who made the application) in whose functional area the development the subject of the application is situated,

(iii) under *subsection (4)* of *section 102*, the applicant for permission the subject of the application, and

(iv) under *subsection (4)* of *section 275* or *subsection (5)* of *section 276*, any person served with the notice referred to in that subsection, and

(c) in the case of a referral—

(i) under *subsection (10)* of *section 87*, the person carrying out the development referred to in that subsection and the planning authority to which the points of detail were submitted under that section,

(ii) under *subsection (3)* of *section 176*, the person who made the application for permission referred to in *subsection (1)* of *section 176*, and the planning authority to which that application for permission was made,

(iii) under *subsection (1)* of *section 249*, the person that made the referral and, where not the person that made the referral, any party or prospective party to the agreement the subject of the referral, and the planning authority referred to in that subsection,

(iv) under *subsection (5)* of *section 258*, the body that made the referral and any person served with the notice the subject of the referral,

(v) under *subsection (6)* of *section 266*, the planning authority that made the referral and any person who made, and has not withdrawn, submissions on foot of a notice in respect of the order the subject of the referral under *subsection (5)* of *section 266*, and

(vi) under *subsection (2)* of *section 438*, the planning authority in whose functional area the structure the subject of the referral is situated and the person by whom or on whose behalf the application for permission for the erection of the new structure referred to in *paragraph (a)* of *subsection (1)* of *section 438* was made,

and

(d) in the case of a request, the person who made the request and in the case of a request to the Commission under *section 140* or *subsection (1)* of *section 227*, the planning authority in whose functional area the project or development to which the request relates is situated or proposed to be situated;

"referral" means a referral to the Commission under—

(a) *subsection (10)* of *section 87*,

(b) *subsection (3)* of *section 176*,

(c) *subsection (1)* of *section 249*,

(d) *subsection (5)* of *section 258*,

(e) *subsection (6)* of *section 266*, and

(f) *subsection (2)* of *section 438*;

"request" means a request to the Commission under—

(a) *subsection (1)* of *section 140*,

(b) *subsection (1)* of *section 227*, and

(c) *subsection (1)* of *section 233*.

Chapter 2

Procedures in Relation to Appeals, Applications, Referrals or Requests to Commission

Application of Chapter

359. The provisions of and under this Chapter shall apply, except to the extent that a class-specific provision otherwise provides (either expressly or by necessary implication).

Making of appeals, applications, referrals or requests

360. (1) An appeal, application, referral or request shall—

(a) be made in writing, in the applicable form prescribed under *subsection (2)* (if any),

(b) in the case of an appeal, be made within 4 weeks of the conclusion of the matter the subject of the appeal,

(c) state the name and address of the person making it and of any person acting on his or her behalf in relation to it,

(d) state its subject matter,

(e) state in full the grounds of the appeal, application, referral or request and the reasons, considerations and arguments on which each ground is based,

(f) be accompanied by such fee (if any) as may be payable in accordance with *section 381* in respect of the appeal, application, referral or request,

(g) in the case of an appeal under *paragraph (b)* of *subsection (1)* of *section 102*, be accompanied by acknowledgement by the planning authority of receipt of the submissions referred to in that paragraph, and

(h) comply with any requirements prescribed under *subsection (2)*, any regulations made under *section 377* and any rules made under *section 378*.

(2) The Minister may prescribe requirements additional to those referred to in *subsection (1)* or forms for the purpose of the making of a particular class of appeal, application, referral or request.

(3) An appeal, application, referral or request which does not comply with the requirements of *subsection (1)* shall be invalid.

(4) The requirement under *paragraph (e)* of *subsection (1)* shall apply whether or not the person making the appeal, application, referral or request requests, in accordance with *section 369*, an oral hearing.

(5) Without prejudice to *section 366*, *367* or *369*, the person who makes the appeal, application, referral or request shall not be entitled to elaborate in writing upon, or make further submissions in writing in relation to, the grounds referred to in *paragraph (e)* of *subsection (1)*, or to submit further grounds in writing, and any such

elaboration, further submissions or further grounds received by the Commission shall not be considered by it.

(6) Without prejudice to *subsections (1)* and *(2)*, an appeal, application, referral or request shall be accompanied by such documents or information as the person making the appeal, application, referral or request considers necessary or appropriate.

(7) Without prejudice to *section 366*, *367* or *369*, the Commission shall not consider any documents or information submitted by a person making an appeal, application, referral or request other than the documents or information which accompanied the appeal, application, referral or request.

(8) An appeal, application, referral or request shall be made—

(a) by sending it by prepaid post to the Commission,

(b) by leaving it with an employee of the Commission at the offices of the Commission during such office hours as may be determined by the Commission, or

(c) by such other means as may be prescribed.

Period for decision-making

361. (1) Subject to *subsections (2)*, *(3)* and *(4)*, the Commission shall determine an appeal, application, referral or request within 18 weeks of it being received by the Commission.

(2) The period referred to in *subsection (1)* is subject to—

(a) any regulations made under *subsection (6)*,

(b) *subsection (4)* of *section 366*,

(c) *subsection (2)* of *section 367*,

(d) any provision in regulations under *section 377* requiring periods to be disregarded for the purposes of reckoning the period referred to in *subsection (1)*, either generally or in relation to a particular class of appeal, application, referral or request,

(e) *section 402*, and

(f) any order under *section 403*.

(3) Where the Commission fails to determine an appeal, application, referral or request within the period referred to in *subsection (1)* or, where a different period is referred to in a class-specific provision, within that period, it shall—

(a) determine the appeal, application, referral or request notwithstanding that the period has expired, and

(b) pay to the person who made the appeal, application, referral or request a sum equal to such proportion of the fees paid to the Commission in respect of the appeal, application, referral or request as may be prescribed.

(4) A failure by the Commission to comply with *subsection (1)*, or a class-specific provision that provides that the Commission shall determine an appeal, application, referral or request within a particular period, shall not invalidate the determination of the Commission on the appeal, application, referral or request concerned.

(5) The Minister may, where he or she considers it appropriate, conduct a review of the periods for the making of a decision in relation to appeals, applications, referrals or requests under this Act, having regard to the resources and functions of the Commission.

(6) The Minister may by regulations vary the period referred to in *subsection (1)* (either generally or in respect of a particular class of appeal, application, referral or request) where it appears to him or her to be necessary, by virtue of exceptional circumstances, to do so and, for so long as such regulations are in force, *subsection (1)* shall be construed and have effect in accordance with the regulations.

(7) Where the Minister considers it to be necessary or expedient that a particular class of appeal, application, referral or request relating to a class of development of special strategic, economic or social importance to the State, be determined with priority over other classes of appeal, application, referral or request, and as expeditiously as is consistent with the principles of proper planning and sustainable development, the Minister may give a direction to the Commission to give priority to the determination of appeals, applications, referrals or requests of that class, and the Commission shall comply with the direction.

(8) An annual report under *section 522* shall contain—

(a) a statement of—

(i) the number of appeals, applications, referrals or requests determined during the period to which the report relates,

(ii) the number of such appeals, applications, referrals or requests determined within a period specified in a class-specific provision for the determination of an appeal, application, referral or request, or referred to in *subsection (1)*, as the case may be, during the period to which the report relates, and

(iii) the number, and the aggregate amount, of all sums (if any) payable, and the number, and the aggregate amount, of all such sums paid, by the Commission under *paragraph (b)* of *subsection (3)*,

and

(b) such other information as to the time taken to determine such appeals, applications, referrals or requests as the Minister may direct.

Notification of making of appeals, applications, referrals or requests

362. (1) The Commission shall, as soon as may be after receipt of an appeal, application, referral or request, give a copy of it to each party to the appeal, application, referral or request other than the party that made it and, if not a party, the planning authority concerned.

(2) The Commission may give such notice to the public in relation to an appeal, application, referral or request as it considers appropriate or, where it considers it appropriate, may require the person making the appeal, application, referral or request to give such notice to the public in relation to it as the Commission may specify.

(3) Without prejudice to the generality of *subsection (2)*, notice referred to in that subsection may include notice at any land or structure to which the appeal, application, referral or request relates or notice by publication in a newspaper circulating in the functional area in which the land or structure is situated, and in such additional functional areas, or throughout the State, as the Commission considers appropriate, or where the appeal, application, referral or request relates to a maritime site, in a national newspaper.

Submission of documents to Commission by planning authorities

363. (1) Where an appeal, application, referral or request is made to the Commission, the planning authority concerned shall, within 2 weeks from the date on which a copy of the appeal, application, referral or request is given to it by the Commission, or within such further period as the Commission may permit, submit to the Commission—

(a) any document or information in the planning authority's possession that is required to be so submitted in any class-specific provision that applies to the appeal, application, referral or request, and

(b) any document or information that the planning authority considers is otherwise relevant to that appeal, application, referral or request.

(2) The Commission, in determining an appeal, application, referral or request, may take into account any fact or submission in any document or information submitted under *subsection (1)*.

Submissions by other parties

364. (1) A party to an appeal, application, referral or request other than the person making it may make a submission in writing to the Commission in relation to it within 5 weeks of the date on which a copy of the appeal, application, referral or request is given to that party by the Commission.

(2) Any submission received by the Commission after the expiry of the period referred to in *subsection (1)*, or which does not comply with any regulations under *section 377* or rules under *section 378*, shall not be considered by the Commission.

(3) Where no submission has been received from a party within the period referred to in *subsection (1)*, the Commission may without further notice to the party determine the appeal, application, referral or request.

(4) Without prejudice to *section 366*, *367* or *369*, a party referred to in *subsection (1)* shall not be entitled to elaborate in writing upon any submission made in accordance with *subsection (1)* or make any further submission in writing in relation to the appeal, application, referral or request and any such elaboration or further submission received by the Commission shall not be considered by it.

(5) A submission under this section shall state the name and address of the person making the submission and the name and address of any person acting on his or her behalf.

Submissions by persons other than parties

365. (1) A person other than a party to the appeal, application, referral or request concerned may, upon payment of such fee (if any) as may be payable in accordance with *section 381*, make a submission in writing to the Commission in relation to—

(a) an appeal under *paragraph (b)* of *subsection (5)* of *section 101* or *subparagraph (ii)* of *paragraph (b)* of *subsection (7)* of *section 101* or *subsection (1)* or *(2)* of *section 102*,

(b) an application for permission for *Chapter 4* development (within the meaning of *Part 4*),

(c) a request under *section 140* for an alteration to, or extension of the duration of, a permission where the Commission is the deciding authority,

(d) an appeal under *subsection (7)* of *section 143*,

(e) a referral under *subsection (6)* of *section 266*, or

(f) such other appeal, application, referral or request as may be prescribed.

(2) Without prejudice to *section 366*, *367* or *369*, a person may make a submission under this section—

(a) where—

(i) notice is published under *paragraph (c)* of *subsection (1)* of *section 235*, within 5 weeks of the date of publication of the notice,

(ii) notice is given or required to be given by the Commission under *subsection (2)* of *section 362*, within 5 weeks of the date of the notice, and

(iii) more than one of the foregoing subparagraphs applies, the period specified in those subparagraphs that expires last,

and

(b) in the case of any other—

(i) appeal referred to in *subsection (1)*, within 5 weeks of the end of the period for the making of the appeal referred to in *paragraph (b)* of *subsection (1)* of *section 360* or in any class-specific provision, or

(ii) application, referral or request referred to in *subsection (1)*, within 5 weeks of the making of the application, referral or request.

(3) Subject to *subsection (4)*, a submission referred to in *subsection (1)* which is not made within the applicable period referred to in *subsection (2)* shall be invalid and shall not be considered by the Commission.

(4) *Subsections (3)* and *(5)* shall not apply to a submission made by a Member State or another Transboundary Convention state arising from consultation in accordance with

the Environmental Impact Assessment Directive or the Transboundary Convention, as the case may be, in relation to the effects on the environment of the development to which the appeal, application, referral or request relates.

(5) Without prejudice to *section 366*, *367* or *369*, a person who makes a submission to the Commission in accordance with this section shall not be entitled to elaborate in writing upon any submission made in accordance with *subsection (1)* or make any further submission in writing in relation to the appeal, application, referral or request and any such elaboration or further submission received by the Commission shall not be considered by it.

(6) A submission under this section shall state the name and address of the person making the submission and the name and address of any person acting on his or her behalf.

Power of Commission to invite submissions

366. (1) Where the Commission is of the opinion that, in the particular circumstances of an appeal, application, referral or request, it is appropriate to request—

(a) a party to it,

(b) a person who made a submission to the Commission in relation to it, or

(c) any other person,

to make a submission in relation to the appeal, application, referral or request, or any part of it or issue in it, the Commission may give notice to the party or person—

(i) requesting the party or person, within a period specified in the notice, to make a submission to the Commission in relation to the appeal, application, referral or request, or any part of it or issue in it, and

(ii) stating that, if the submission is not received before the expiry of the period specified in the notice, the Commission shall, after the expiry of the period and without further notice to the party or person, pursuant to *section 368*, determine the appeal, application, referral or request.

(2) The period referred to in *paragraph (i)* of *subsection (1)* shall be—

(a) in relation to an appeal, application, referral or request where an environmental impact assessment is required, not less than 5 weeks and not more than 7 weeks from the date of the notice, and

(b) in any other case, not less than 2 weeks and not more than 4 weeks from the date of the notice.

(3) The Commission may give directions in relation to the form or presentation of any submissions referred to in *subsection (1)* and a person making a submission shall comply with such directions.

(4) Where a notice is given under *subsection (1)* and a submission is made within the period specified in the notice, the Commission shall, having considered the submission, determine the appeal, application, referral or request, within such period after the receipt of the submission as may be specified in the notice.

(5) Without prejudice to *section 367* or *369*, a party or person referred to in *subsection (1)* shall not be entitled to elaborate in writing upon a submission made in accordance with *subsection (1)* or make any further submission in writing in relation to the appeal, application, referral or request, and any such elaboration or further submission received by the Commission shall not be considered by it.

Power of Commission to require documents or information

367. (1) Where the Commission is of the opinion that any document or information may be necessary for the purpose of enabling it to determine an appeal, application, referral or request, the Commission may give notice to a party to, or to a person who has made submissions to the Commission in, the appeal, application, referral or request—

(a) requiring the party or person, within a period specified in the notice, to provide to the Commission such document or information as is specified in the notice, and

(b) stating that, where the party or person does not comply with the notice, the Commission may, after the expiry of the period so specified and without further notice to the party or person, pursuant to *section 368*, determine the appeal, application, referral or request.

(2) Where a notice is given under *subsection (1)* and documents or information are provided within the period specified in the notice, the Commission shall, having considered the document or information, determine the appeal, application, referral or request within such period after the receipt of the document or information as may be specified in the notice.

Powers of Commission where notice is given under *section 366* or *367*

368. (1) Where no submissions are made, or document or information provided, by a person to whom a notice was given under *section 366* or *367* within the period specified in the notice for the making of such submissions or providing of such document or information, the Commission may, at any time after the expiry of that period, without further notice to that person, determine the appeal, application, referral or request.

(2) *Subsection (1)* shall not prevent the Commission exercising its powers under *section 366* or *367* on more than one occasion before determining the appeal, application, referral or request.

Power to hold oral hearings of appeals, applications, referrals or requests

369. (1) The Commission may, where it considers it necessary or expedient for the purposes of determining an appeal, application, referral or request, of its own motion or if a party requests an oral hearing under *subsection (3)*, hold an oral hearing.

(2) The Commission may limit an oral hearing to any part of, or issue in, the appeal, application, referral or request.

(3) A party to an appeal, application, referral or request may request, in writing and accompanied by such fee (if any) as may be payable in accordance with *section 381*, an oral hearing—

(a) where the party made the appeal, application, referral or first-mentioned request, at the same time as the appeal, application, referral or first-mentioned request is made, or

(b) where the party did not make the appeal, application, referral or first-mentioned request, within 5 weeks of the date on which a copy of the appeal, application, referral or first-mentioned request is given to that party by the Commission.

(4) Where a party requests an oral hearing under *subsection (3)*, the Commission shall not hold the oral hearing where *subsection (3)* is not complied with or where it does not consider it necessary or expedient to do so for the purpose of determining the appeal, application, referral or request.

(5) A request for an oral hearing under *subsection (3)* may be withdrawn at any time.

(6) The Commission shall, as soon as may be, give notice of any decision by it to hold an oral hearing under *subsection (1)* or not to hold an oral hearing under *subsection (4)* or of a withdrawal under *subsection (5)* to all parties to the appeal, application, referral or request and every person who made a valid submission in relation to the appeal, application, referral or request.

Supplemental provisions relating to oral hearings

370. (1) The Commission, or a member of the staff of the Commission duly authorised by the Commission in that behalf, may assign a person to conduct an oral hearing of an appeal, application, referral or request on behalf of the Commission.

(2) The person conducting an oral hearing shall have discretion as to its conduct and shall conduct it expeditiously and without undue formality.

(3) (a) The person assigned to conduct an oral hearing may, and shall where so directed by the Commission, require a person intending to appear at the hearing to submit to him or her, in writing, within such period in advance of the hearing as he or she may specify, and in such format as he or she may specify, the points or a summary of the arguments the person proposes to make or evidence the person proposes to give at the hearing.

(b) Subject to *paragraph (c)*, the person assigned to conduct an oral hearing shall, where so directed by the Commission, on foot of a recommendation from a person assigned to make a report under *section 376*, require that points or arguments are made in relation to specified matters only during the oral hearing.

(c) The person assigned to conduct the oral hearing may, where he or she is of the opinion that it is necessary in the interests of fair procedures to do so, allow a point or an argument to be made during the oral hearing in relation to matters not specified in the requirement referred to in *paragraph (b)*.

(4) The person conducting the oral hearing may, and shall where so directed by the Commission, require any material the subject of a requirement under *paragraph (a)* of *subsection (3)* to be given to other parties to the appeal, application, referral or request, or to persons who made submissions in relation to the appeal, application,

referral or request, and the Commission may make any such material publicly available by such means as it considers appropriate.

(5) The Commission shall give notice of any requirement under *paragraph (a)* or *(b)* of *subsection (3)* to—

(a) each party to the appeal, application, referral or request, and

(b) each person who has made, and not withdrawn, submissions to the Commission in relation to the appeal, application, referral or request.

(6) Where a requirement is imposed under *paragraphs (a)* and *(b)* of *subsection (3)*, the points or summary of the arguments or evidence that a person intending to appear at the oral hearing shall submit to the person conducting the hearing shall be limited to points or arguments in relation to matters specified in the requirement under *paragraph (b)* of *subsection (3)*.

(7) The person conducting the oral hearing—

(a) shall decide the order of appearance of persons at the hearing,

(b) shall permit any person to appear in person or to be represented by another person,

(c) may limit the time within which each person may make points or arguments (including arguments in refutation of arguments made by others at the hearing), or question the evidence of others, at the hearing,

(d) may refuse to allow the making of a point or an argument or the giving of evidence if—

(i) the point or a summary of the argument or evidence has not been submitted in advance to the person in accordance with a requirement imposed under *paragraph (a)* of *subsection (3)*,

(ii) the point, argument or evidence is not relevant to the subject matter of the hearing,

(iii) it is considered necessary so as to avoid undue repetition of the same point, argument or evidence, or

(iv) the point, argument or evidence relates to revised particulars, plans or drawings in relation to a proposed development, that do not comply with *section 106*, or any regulations made under that section,

(e) may refuse to allow the making of a point or an argument in relation to any matter where—

(i) the point or argument is not in accordance with a requirement under *paragraph (b)* of *subsection (3)*, and

(ii) he or she has not formed the opinion referred to in *paragraph (c)* of *subsection (3)* in relation to the point or argument,

(f) may hear submissions from a person other than a person who has made submissions to the Commission in relation to the subject matter of the hearing if the person conducting the oral hearing considers it appropriate in the interests of justice to allow the first-mentioned person to be heard, and

(g) may adjourn or re-convene the oral hearing as he or she considers appropriate.

(8) Where any question arises in relation to whether a person conducting an oral hearing ought to refuse to allow the giving of any evidence or the making of any point or any argument in relation to any matter, the person conducting the oral hearing may:

(a) determine the question in the course of the oral hearing;

(b) allow the giving of the evidence or the making of the point or argument on a conditional basis, and determine the issue when making his or her report;

(c) defer the oral hearing or any part of it pending his or her determination or a determination of the Commission on the question (which the Commission may determine).

(9) A person conducting an oral hearing of an appeal, application, referral or request may require any member of staff of a planning authority to give to him or her any information in relation to the appeal, application, referral or request which he or she reasonably requires for the purposes of the appeal, application, referral or request, within such period as he or she may specify, and the member of staff shall comply with the requirement.

(10) A person conducting an oral hearing of an appeal, application, referral or request may take evidence on oath or affirmation and for that purpose may administer oaths or affirmations, and a person giving evidence at any such hearing shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.

(11) (a) Subject to *paragraph (b)*, the Commission in relation to an oral hearing of an appeal, application, referral or request may give notice in writing to any person, requiring that person to do one or both of the following:

(i) attend at such time and place as is specified in the notice to give evidence in relation to any matter in question at the hearing;

(ii) produce any books, deeds, contracts, accounts, vouchers, maps, plans, documents or other information in his or her possession, custody or control which relate to any such matter.

(b) Where a person is given a notice under *paragraph (a)*—

(i) the Commission shall pay or tender to any person whose attendance is required such reasonable subsistence and travelling expenses to be determined by the Commission in accordance with the rates for the time being applicable to senior planning authority officials, and

(ii) any person who, in compliance with a notice, has attended at any place shall, save in so far as the reasonable and necessary expenses of the attendance have already been paid to him or her, be paid those expenses by the

Commission, and those expenses shall, in default of being so paid, be recoverable as a simple contract debt in any court of competent jurisdiction.

(12) Every person to whom a notice under *subsection (11)* has been given who refuses or wilfully neglects to attend in accordance with the notice or who wilfully alters, suppresses, conceals or destroys any book, deed, contract, account, voucher, map, plan, document or other information to which the notice relates or who, having so attended, refuses to give evidence or refuses or wilfully fails to produce any book, deed, contract, account, voucher, map, plan, document or other information to which the notice relates shall be guilty of an offence.

(13) Where a person—

(a) wilfully gives evidence which is material to the oral hearing and which he or she knows to be false or does not believe to be true,

(b) by act or omission, obstructs or hinders the person conducting the oral hearing in the performance of his or her functions,

(c) refuses to take an oath or to make an affirmation when legally required to do so by a person holding the oral hearing,

(d) refuses to answer a question to which the person conducting an oral hearing may legally require an answer,

(e) does or omits to do any other thing which, if the inquiry had been by the High Court, would have been contempt of that court, or

(f) connives or assists in the commission of any of the acts or omissions referred to in *paragraphs (a)* to *(e)*,

the person shall be guilty of an offence.

(14) (a) Where an oral hearing relates to development within the Gaeltacht, the hearing shall be conducted in the Irish language, unless the parties to the appeal, application, referral or request to which the hearing relates agree that the hearing should be conducted in the English language.

(b) Where an oral hearing relates to development wholly or partly outside the Gaeltacht, the hearing shall be conducted in the English language, unless the parties to the appeal, application, referral or request to which the hearing relates agree that the hearing should be conducted in the Irish language.

Convening of meetings on certain referrals

371. (1) Where it appears to the Commission to be expedient or convenient for the purposes of determining a referral under *subsection (10)* of *section 87*, *subsection (1)* of *section 249* or *subsection (2)* of *section 438*, the Commission may convene a meeting of the parties to the referral, and may assign a person to conduct the meeting on behalf of the Commission.

(2) The Commission shall keep a record in writing of a meeting convened in accordance with *subsection (1)* and a copy of the record shall be placed and kept with the documents to which the referral concerned relates.

Meetings held remotely

372. (1) The Commission, or any person assigned to conduct an oral hearing of an appeal, application, referral or request or a meeting referred to in *section 371*, may direct that the oral hearing or meeting, or any part of it, be held or continued using any method of communication by which all participants in the oral hearing or meeting can hear and be heard at the same time.

(2) The Commission or any person assigned on its behalf to conduct an oral hearing or meeting shall give reasonable notice of a direction under *subsection (1)* to the parties to the appeal, application, referral or request, or to the persons who made submissions in relation to the appeal, application, referral or request, as the case may require.

Matters other than those raised by parties

373. (1) The Commission, in determining an appeal, application, referral or request, may have regard to matters other than those raised by the parties to the appeal, application, referral or request, or by any person who has made submissions to the Commission in relation to the appeal, application, referral or request, if the matters are matters to which, by virtue of this Act, the Commission may have regard.

(2) Matters referred to in *subsection (1)* may include additional evidence (including expert evidence) and reports.

(3) Where the Commission considers that it is necessary or appropriate for the proper determination of an appeal, application, referral or request that submissions should be invited on any matter not raised by the parties or in submissions, it may exercise its powers under *section 366*, subject to the proviso that all parties and all persons who made, and have not withdrawn, submissions, and any other person the Commission considers appropriate, are invited to make submissions on that matter.

Dismissal of appeals, applications, referrals or requests by Commission

374. (1) The Commission may dismiss an appeal, application, referral or request where the Commission is satisfied that, in the particular circumstances, the appeal, application, referral or request should not be further considered by it having regard to—

(a) the nature or contents of the appeal, application, referral or request (including any question that in the Commission's opinion is raised by the appeal, application, referral or request), or

(b) any decision of a planning authority or the Commission which, in the Commission's opinion, is relevant.

(2) A dismissal made under *subsection (1)* shall state the main reasons and considerations on which the dismissal is based.

Withdrawal and invalidity of appeals, applications, referrals or requests

375. (1) A person (including a planning authority) who has made an appeal, application, referral or request may withdraw it, in writing, at any time before it is determined by the Commission.

(2) Without prejudice to *subsection (1)*, where the Commission is of the opinion that an appeal, application, referral or request has been abandoned, the Commission may serve on the person who made it a notice stating that opinion.

(3) A notice under *subsection (2)* shall require the person on whom it is served to make a submission to the Commission as to why the appeal, application, referral or request should not be regarded as having been abandoned, and such submission shall be made within the period specified in the notice (which shall be not less than 2 weeks and not more than 4 weeks from the date of service of the notice).

(4) Where a notice has been served under *subsection (2)*, the Commission may, at any time after the expiry of the period specified in the notice, declare that the appeal, application, referral or request shall be regarded as having been withdrawn.

(5) In making a declaration under *subsection (4)*, the Commission shall have regard to the submissions (if any) made within the period specified in the notice.

(6) Where—

(a) a person withdraws an appeal, application, referral or request under *subsection (1)*,

(b) the Commission declares that an appeal, application, referral or request is regarded as having been withdrawn under *subsection (4)*, or

(c) an appeal, application, referral or request is invalid under *subsection (3)* of *section 360* or any class-specific provision, and the invalidity has not been remedied or the appeal, application, referral or request otherwise permitted to proceed in accordance with any class-specific provision,

the Commission shall not consider the appeal, application, referral or request further and shall give notice to each party to the appeal, application, referral or request, and any person who made, and did not withdraw, submissions in relation to the appeal, application, referral or request, that the appeal, application, referral or request has been withdrawn, declared withdrawn or is invalid, and the notice shall state the reasons for the declaration or invalidity.

(7) Particulars of a notice under *subsection (6)* shall be entered in the register.

(8) In this section—

"application" includes a submission of a scheme for approval under section 49 of the Roads Act 1993, an application for approval under section 51 of the Roads Act 1993, and an application for a railway order under section 37 of the Transport (Railway Infrastructure) Act 2001;

"party" includes a person who submitted a scheme for approval under section 49 of the Roads Act 1993, made an application for approval under section 51 of the Roads

Act 1993 or made an application for a railway order under section 37 of the Transport (Railway Infrastructure) Act 2001, and the planning authority in whose functional area the development the subject of the submission or application is situated.

Reports to Commission

376. (1) The Commission, or a member of the staff of the Commission duly authorised by the Commission in that behalf, may, in connection with the performance of any of the Commission's functions under this Act or any other enactment, assign a person to report on any matter on behalf of the Commission.

(2) Without prejudice to the generality of *subsection (1)*, a person may be assigned under that subsection to report on appeals, applications, referrals or requests and may for that purpose conduct such technical assessments as he or she considers necessary.

(3) A person assigned in accordance with *subsection (1)* shall make a written report on the matter to the Commission, which shall include a recommendation in relation to the matter, and the Commission shall consider the report and recommendation before determining the matter.

(4) Where a decision by the Commission in relation to an appeal, application, referral or request is different from a recommendation in a report referred to in *subsection (3)* that relates to the appeal, application, referral or request, the Commission shall indicate its main reasons for not accepting the recommendation.

(5) In this section "application" includes a submission of a scheme for approval under section 49 of the Roads Act 1993, an application for approval under section 51 of the Roads Act 1993 and an application for a railway order under section 37 of the Transport (Railway Infrastructure) Act 2001.

Regulations regarding appeals, applications, referrals or requests

377. (1) The Minister may by regulation provide for such additional, incidental, consequential or supplemental matters as regards procedure in respect of appeals, applications, referrals or requests (or classes of them) as appear to the Minister to be necessary or expedient.

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

(a) make provision for the making of appeals, applications, referrals or requests, or classes of them, to the Commission by electronic means;

(b) make different provision with respect to appeals, applications, referrals or requests in relation to development by the Central Bank of Ireland where the disclosure of information in relation to the development might prejudice the security, externally or internally, of the development or the land concerned, or facilitate any unauthorised access to or from the land by any person, and such regulations may make provision modifying the operation of *section 367* or *Chapter 3* in relation to such appeals, applications, referrals or requests.

Rules

378. (1) Subject to this Act and any regulations or order made under it, the Commission, with the approval of the Minister, may prepare and publish rules with regard to the procedures that a person making, or making submissions in relation to, an appeal, application, referral or request must comply with, and such a person shall comply with such rules.

(2) Where provision is made under *section 377* for the making of an appeal, application, referral or request to the Commission by electronic means, rules may, subject to such provision, be prepared and published under *subsection (1)* in relation to the consideration and determination of the appeal, application, referral or request by electronic means.

Question of law

379. Where a question of law arises on an appeal, application, referral or request the Commission may, on notice to the parties to the appeal, application, referral or request, refer the question to the High Court for decision.

Commission to have regard to certain policies and objectives

380. (1) The Commission shall, in performing its functions in relation to an appeal, application, referral or request, have regard to the following matters, in addition to any other matters it is required to have regard to under this Act or any other enactment:

(a) the policies and objectives for the time being of the Government, State authorities, the Minister, planning authorities and any public authority whose functions have, or may have, a bearing on the proper planning and sustainable development of cities, towns or other areas, whether urban or rural;

(b) the national interest and any effect the performance of the Commission's functions may have on issues of strategic economic or social importance to the State;

(c) the National Planning Framework and any regional spatial and economic strategy for the time being in force;

(d) any National Planning Statement for the time being in force.

(2) In this section "public authority" means a body established by or under statute which is for the time being prescribed to be a public authority for the purposes of this section.

Fees payable to Commission

381. (1) The Commission may determine fees that may be charged, subject to the approval of the Minister, in relation to—

(a) the making of an appeal, application, referral or request,

(b) any function of the Commission under this Act or any other enactment, and

(c) any procedure arising in connection with an appeal, application, referral or request, or function of the Commission, including the making of submissions, the lodging of reports or other documents, consultations, meetings or other procedures,

and a fee as so determined shall be payable to the Commission by any person concerned as appropriate.

(2) The Commission may, subject to the approval of the Minister, provide for the payment of different fees in relation to different classes or descriptions of matters referred to in *paragraphs (a)* to *(c)* of *subsection (1)*, for exemption from the payment of such fees in specified circumstances and for the waiver, remission or refund in whole or in part of such fees in specified circumstances.

(3) The Commission shall review the fees determined under *subsection (1)* from time to time, but at least every three years, having regard to any change in the consumer price index since the determination of the fees for the time being in force, and may amend the fees to reflect the results of that review without the Minister's approval under *subsection (1)*.

(4) Where the Commission determines or amends fees in accordance with this section, it shall—

(a) give notice of the fees in one or more than one national newspaper not less than 8 weeks before the fees come into effect, and

(b) make a statement of the fees available for inspection at the offices of the Commission and publish the statement of the fees on the Commission's website.

(5) The Commission shall specify fees for the making of copies of any document required to be made available by it to the public, which shall not exceed the cost of making the copies.

(6) For the purposes of this section, "change in the consumer price index" means the difference between the All Items Consumer Price Index Number last published by the Central Statistics Office before the date of the determination under this section and the said Number last published before the date of the review under *subsection (3)*, expressed as a percentage of the last-mentioned Number.

Chapter 3

Planning Register and Records

Planning register

382. (1) Each planning authority and the Maritime Area Regulatory Authority shall maintain a register (in this Act referred to as the "register")—

(a) in the case of a planning authority, in respect of all land within its functional area, and

(b) in the case of the Maritime Area Regulatory Authority, in respect of the maritime area,

in which it shall enter particulars of a matter required to be entered in the register under this Act (in this section referred to as a "registrable matter").

(2) Where a registrable matter relates to both land and the maritime area, particulars of the registrable matter—

(a) shall be entered in the register by the planning authority if it relates primarily to land within its functional area,

(b) shall be entered in the register by the Maritime Area Regulatory Authority if it relates primarily to the maritime area, and

(c) notwithstanding *paragraphs (a)* and *(b)*, may be entered in the register by the Maritime Area Regulatory Authority and the planning authority.

(3) The Minister may prescribe a matter to be a registerable matter and the particulars of any registrable matter that shall be entered in the register.

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

(5) The planning authority or the Maritime Area Regulatory Authority, as the case may be, shall keep the information in the register, including the map, in a form in which it is capable of being used to make a legible copy or reproduction of any entry in the register.

(6) The planning authority or the Maritime Area Regulatory Authority, as the case may be, shall make entries and corrections to the register within 5 working days of—

(a) the receipt by it of a document putting it on notice of the registrable matter, or

(b) where the registerable matter arises from the performance of a function by the planning authority or the Maritime Area Regulatory Authority, the performance by it of the function.

(7) Where a registrable matter arises from the performance of a function by the Commission, the Commission shall, as soon as practicable after the performance of the function, give to the planning authority or the Maritime Area Regulatory Authority, as the case may be, the information necessary to enable the planning authority or the Maritime Area Regulatory Authority to perform its functions under this section.

(8) A failure by a planning authority or the Maritime Area Regulatory Authority to enter particulars of a registrable matter in the register shall not affect the validity of a decision made or act done by the planning authority, the Maritime Area Regulatory Authority, or the Commission.

(9) A planning authority and the Maritime Area Regulatory Authority shall make the register available in accordance with *section 384*.

(10) The maintenance, on and after the repeal of section 7 of the Act of 2000 effected by *section 6*, by a planning authority of the register kept by that planning authority under the said section 7 shall constitute compliance by that planning authority with *subsection (1)* of this section, and a reference in this Act to the register shall, in so far as the reference relates to a planning authority, be construed accordingly.

(11) Any information that, but for the repeal of section 7 of the Act of 2000 effected by *section 6*, would have been required to be entered in the register kept by a planning authority under that section shall be entered in the register by that planning authority.

Documents to be made available by planning authority and Maritime Area Regulatory Authority

383. (1) A planning authority shall make copies of—

(a) a document or information referred to in *subsection (4)* that arises from a matter referred to in that subsection that relates primarily to land, and

(b) a document or information it receives from the Commission under *paragraph (a)* of *subsection (1)* of *section 385*,

available in accordance with *section 384*, within 3 working days of—

(i) in the case of *paragraph (a)*, the conclusion of the matter from which the document or information arises, or

(ii) in the case of *paragraph (b)*, the receipt by the planning authority of the document or information.

(2) Where a matter referred to in *subsection (4)* relates primarily to a maritime site, the planning authority concerned shall, as soon as practicable after the conclusion of the matter, give copies of the documents and information referred to in that subsection to the Maritime Area Regulatory Authority.

(3) The Maritime Area Regulatory Authority shall make copies of the documents or information that it receives under *subsection (2)* or under *paragraph (b)* of *subsection (1)* of *section 385* available in accordance with *section 384*, as soon as practicable after its receipt of the documents or information.

(4) The documents or information referred to in *subsections (1)* and *(2)* are—

(a) in respect of an application for permission under *Chapter 3* of *Part 4*, or a request for an alteration or extension of a permission under *Chapter 5* of that Part where the planning authority is the deciding authority in relation to that request—

(i) the application or request and any particulars, evidence, environmental impact assessment report, Natura impact statement, other written study, screening determination under *section 231*, scoping opinion under *section 233*, or further document or information received by the planning authority from the applicant or person making the request in accordance with this Act or regulations made under it,

(ii) any submissions in relation to the application or request received by the planning authority,

(iii) any report prepared by or for the planning authority in relation to the application or request,

(iv) the decision of the planning authority in respect of the application or request, and

(v) any documents relating to a point of detail referred to in *subsection (9)* of *section 87*,

(b) in respect of development subject to confirmation within the meaning of *Chapter 6* of *Part 4*—

(i) the notice of the proposed development as published under *subsection (1)* of *section 158* (including such information as may be prescribed under *paragraph (b)* of *subsection (1)* of *section 158*),

(ii) any submission made under *subsection (4)* of *section 158*,

(iii) the report of the chief executive under *section 159*, and

(iv) the resolution of the members of the local authority under *subsection (3)* of *section 159*, including any plans and particulars showing any variation or modification of the proposed development,

(c) in respect of a request for a declaration under *section 310*, *333* or *338*—

(i) the request and any particulars, evidence, written study or further document or information received or obtained by the planning authority from the applicant in accordance with this Act or regulations made under it,

(ii) any report prepared by or for the planning authority in relation to the request, and

(iii) the decision of the planning authority in respect of the request,

and

(d) such additional documents or information in relation to the matters listed in *paragraphs (a)* to *(c)*, or any other matter arising under this Act, as may be prescribed.

Manner of making available of register, documents and information by planning authority and Maritime Area Regulatory Authority

384. (1) A planning authority shall—

(a) make the register, and the documents or information referred to in *subsection (1)* of *section 383* available for inspection by members of the public at its offices during office hours,

(b) permit a member of the public to purchase copies of entries in the register, or of such documents or information, at its offices, or at such other place as it may

determine, on payment to it of a fee not exceeding the reasonable cost of making the copy, and

(c) subject to *subsection (3)*, where it is so prescribed, publish all or any part of the register or such documents or information on a website maintained by or on behalf of the planning authority, or by other electronic means.

(2) *Subsection (1)* shall apply to the Maritime Area Regulatory Authority subject to the modification that references in *subsection (1)* to the documents or information referred to in *subsection (1)* of *section 383* shall be construed as references to the documents or information referred to in *subsection (3)* of *section 383*.

(3) Where an application or request referred to in *subsection (4)* of *section 383* or a matter falling to be decided by the Commission referred to in *subsection (1)* of *section 385* is accompanied by an environmental impact assessment report or a Natura impact statement, the documents or information referred to in *subsection (1)* or *(3)* of *section 383* relating to that application, request or matter shall be published on a website maintained by or on behalf of the planning authority, or the Maritime Area Regulatory Authority, as the case may be.

(4) The Minister may prescribe additional—

(a) means by which inspection of the register, or documents or information referred to in *subsection (1)* or *(3)* of *section 383*, by the public may occur, or

(b) requirements a person must comply with in order to inspect the register, or documents or information referred to in *subsection (1)* or *(3)* of *section 383*.

(5) A planning authority or the Maritime Area Regulatory Authority may determine that the disclosure of a telephone number, or other contact information or personal data, contained in a document required to be made available under this section serves no legitimate purpose and may in such a case redact or otherwise remove the number or other information or data from the document before making it available.

(6) The Minister may, in the interests of protecting commercial sensitivity, the privacy, reputation or personal safety of an individual, the administration of justice, or the security of the State, prescribe additional—

(a) restrictions upon access to information or classes of information in the register or in documents referred to in *subsection (1)* or *(3)* of *section 383*, or

(b) circumstances in which a planning authority or the Maritime Area Regulatory Authority may restrict access to the register or documents or information referred to in *subsection (1)* or *(3)* of *section 383*.

(7) Where particulars of a document or information arising from the exercise of its functions are entered in the register, the planning authority or the Maritime Area Regulatory Authority, as the case may be, shall retain the document or information for not less than 12 years from the creation or receipt by it of the document or information.

(8) The planning authority or the Maritime Area Regulatory Authority, as the case may be, shall make a document or information required to be retained by it under

subsection (7) (other than such documents as may be prescribed) available for inspection, at its offices during office hours, by—

(a) the owner or occupier of the land or maritime site to which the documents or information relate, or

(b) a person acting on the authority of such owner or occupier.

(9) Copies of the documents or information referred to in *subsection (8)*, and of extracts from such documents or information, shall be made available for purchase at the offices of the planning authority or the Maritime Area Regulatory Authority, as the case may be, or at such other places as it may determine, by the persons referred to in that subsection on payment to the planning authority or the Maritime Area Regulatory Authority, as the case may be, of a fee not exceeding the reasonable cost of making the copy.

(10) *Subsection (8)* is without prejudice to the Freedom of Information Act 2014, the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, and the European Communities (Access to Information on the Environment) (Amendment) Regulations 2018 (S.I. No. 309 of 2018).

Making available of documents by Commission

385. (1) The Commission shall, within 3 working days of the making of a decision on any matter falling to be decided by it in the performance of its functions under this Act or any other enactment, give copies of the documents and information relating to that matter—

(a) where the matter relates primarily to land, to the planning authority in whose functional area the land is situated, or

(b) where the matter relates primarily to a maritime site, to the Maritime Area Regulatory Authority.

(2) The Commission shall publish on a website maintained by it or on its behalf copies of—

(a) every decision of the Commission on an appeal, application, referral or request, and

(b) every report of a person assigned under *section 376* to make a report in relation to an appeal, application, referral or request.

(3) The Commission shall retain all documents and information arising from the exercise of any of its functions for not less than 12 years from the date of the creation or receipt of the document or information by the Commission.

(4) The Commission shall make the documents and information referred to in *subsection (3)*, other than such documents as may be prescribed, available for inspection, at the offices of the Commission during office hours, by—

(a) the owner or occupier of the land or maritime site to which the documents or information relate, or

(b) a person acting on the authority of such owner or occupier.

(5) Copies of the documents or information made available under *subsection (4)*, and of extracts from such documents or information, shall be made available for purchase at the offices of the Commission, or such other place as the Commission may determine, by persons referred to in that subsection on payment to the Commission of a fee not exceeding the reasonable cost of making the copy.

(6) *Subsection (5)* is without prejudice to the Freedom of Information Act 2014, the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, and the European Communities (Access to Information on the Environment) (Amendment) Regulations 2018 (S.I. No. 309 of 2018).

(7) In *subsection (2)* "application" includes a submission of a scheme for approval under section 49 of the Roads Act 1993, an application for approval under section 51 of the Roads Act 1993, and an application for a railway order under section 37 of the Transport (Railway Infrastructure) Act 2001.

Information to be retained in electronic form

386. (1) A document or information that a planning authority or the Commission is required or permitted to retain or to produce, whether for a particular period or otherwise, and whether in its original form or otherwise, may be so retained or produced in electronic form.

(2) *Subsection (1)* is without prejudice to any other law requiring or permitting documents or other information to be retained or produced in accordance with specified procedural requirements or particular information technology.

(3) The Minister may make regulations providing for, or requiring the use of, particular information technology or other procedural requirements in relation to the retention or production of documents or other information in electronic form.

(4) Without prejudice to the generality of *subsection (3)*, regulations under that subsection may apply to a particular class of documents or other information, or for a particular period.

Proof of register and documents

387. (1) Every document purporting to be a copy of an entry in the register or a document referred to in *section 383* or *385* and purporting to be certified by a member of staff of the planning authority, the Maritime Area Regulatory Authority or the Commission, as the case may be, to be a true copy of the entry or document shall, without proof of the signature of the person purporting so to certify, or that he or she was such a member of staff, be received in evidence in any legal proceedings and shall, until the contrary is proved, be deemed to be a true copy of the entry or document and to be evidence of the terms of the entry or document.

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

Information sharing

388. (1) Subject to *subsection (2)*, a planning authority, the Commission or the Office of the Planning Regulator may disclose information (including personal data) to a public body, in so far as the disclosure is necessary and proportionate for the performance by the planning authority, the Commission, the Office of the Planning Regulator, or any public body to which the information is disclosed, of its functions under this Act or any other enactment.

(2) For the purposes of *subsection (1)*, the Minister may prescribe—

(a) such information (including personal data) as may be disclosed,

(b) the purposes for which the information may be disclosed, including specifying the public bodies to whom the information may be disclosed, and

(c) such conditions as the Minister considers appropriate to impose on such disclosure of such information.

(3) In this section—

"personal data" has the meaning it has in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016[21];

"public body" has the meaning it has in section 10 of the Data Sharing and Governance Act 2019 and shall also include—

(a) the Commission,

(b) the Office of the Planning Regulator, and

(c) a planning authority.

CHAPTER 4

Miscellaneous Powers and Procedures

Interpretation

389. (1) In this Chapter—

"appropriate authority" means—

(a) a planning authority, including a planning authority designated as a regional enforcement authority under *section 356*,

(b) the Commission, or

(c) the Minister;

"authorised person" means a Planning Commissioner, and a person who is appointed by a planning authority, the Commission, or the Maritime Area Regulatory Authority under *section 393* to be an authorised person.

(2) References in this Chapter—

21 OJ No. L119, 4.5.2016, p. 1

(a) to a planning authority shall be construed as including a planning authority designated as a regional enforcement authority under *section 356*, and

(b) to the functional area of a planning authority shall be construed as including references to the designated region of a regional enforcement authority (within the meaning of *Part 11*).

Consultants and advisers

390. (1) The Commission, the Minister, the Office of the Planning Regulator or a regional assembly may engage such consultants or advisers as it considers necessary, on such terms and conditions as it considers appropriate, for the performance of its functions.

(2) Any fees due to a consultant or adviser appointed under this section shall be paid by the Commission, the Minister, the Office of the Planning Regulator or the regional assembly, as the case may be, out of moneys at its disposal.

Power of examination, investigation and survey

391. An appropriate authority, the Office of the Planning Regulator, and the Maritime Area Regulatory Authority shall each have all such powers of examination, investigation and survey as may be necessary for the performance of its functions.

Obligation to give information to planning authority, Commission or Maritime Area Regulatory Authority

392. (1) A planning authority, the Commission or the Maritime Area Regulatory Authority may, for any purpose arising in relation to its functions under this Act or any other enactment, serve notice in writing on—

(a) in the case of the planning authority or the Commission, any person the planning authority or the Commission reasonably believes to have any legal or beneficial estate, right or interest in, or to be occupying, any land or structure on the land, or

(b) in the case of the Maritime Area Regulatory Authority, any person the Maritime Area Regulatory Authority reasonably believes to have any legal or beneficial estate, right or interest in, or to be occupying, any maritime site or structure in the maritime site,

requiring him or her to state in writing to the planning authority, the Commission or the Maritime Area Regulatory Authority, as the case may be, (other than in so far as it would tend to incriminate him or her), within a specified period (which shall be not less than 2 weeks from the date of the notice), whether he or she holds any legal or beneficial estate, right or interest in, or occupies, the land, maritime site or structure, and where he or she does so, particulars of the estate, right, interest, or occupancy and the name and address (so far as they are known to him or her) of every other person who to his or her knowledge has any legal or beneficial estate, right or interest in, or in respect of, or occupies, the land, maritime site or structure.

(2) A person who is required under this section to state in writing any matter to a planning authority, the Commission or the Maritime Area Regulatory Authority, and

fails so to state the matter within the time specified under this section or, when so stating any such matter, makes any statement in writing which is to his or her knowledge false or misleading in a material respect, shall be guilty of an offence.

(3) A notice issued under section 8 of the Act of 2000 and not complied with before the repeal of that section by *section 6*, shall be treated as if it were a notice under this section except where proceedings for an offence under subsection (2) of the said section 8 in relation to the notice were initiated before such repeal.

Appointment of authorised person

393. (1) A planning authority, the Commission or the Maritime Area Regulatory Authority (without prejudice to section 137 of the Act of 2021) may appoint a person to be an authorised person for the purposes of *section 394*, and a planning authority or the Maritime Area Regulatory Authority may appoint a person to be an authorised person for the purposes of *section 395*, on such terms and conditions as it considers appropriate.

(2) An authorised person shall be furnished with a certificate of his or her appointment and, when exercising any power conferred on him or her by or under this Act, the authorised person shall, if requested by any person affected, produce the certificate or a copy of it, along with a form of personal identification, to that person.

(3) An appointment under *subsection (1)* may be revoked by the body that made the appointment.

(4) Subject to *subsection (5)*, a person who immediately before the commencement of this section stood appointed to be an authorised person under section 252 of the Act of 2000 shall, on and after that date, be considered to be an authorised person appointed under this section.

(5) A person referred to in *subsection (4)* shall stand appointed an authorised person under this section on the same terms and conditions as applied to the person immediately before the date referred to in *subsection (4)* until such time as the person's appointment is revoked under this section.

Power of authorised person to enter land, maritime site or structure

394. (1) An authorised person may, in accordance with this section, enter any land, maritime site or structure at all reasonable times, for the purpose of the performance by the authorised person of a function under this Act of the planning authority, the Commission or the Maritime Area Regulatory Authority that appointed the authorised person.

(2) An authorised person entering land, a maritime site or a structure under this section may do all things reasonably necessary for the purpose for which the entry is made and, in particular, may do all or any of the following:

(a) survey;

(b) carry out inspections;

(c) make plans;

(d) take photographs, videos or other recordings;

(e) record information on any recording or measuring device or logger;

(f) carry out tests;

(g) take samples;

(h) take levels;

(i) make excavations;

(j) examine the depth and nature of water or the subsoil;

(k) require the production by a person on the land or maritime site or in or on the structure of, or inspect, records (including records held in electronic form) or documents, or take copies of or extracts from any records or documents;

(l) remove and retain documents and records, including documents held in electronic form, for such period as may be reasonable for further examination.

(3) Before an authorised person enters any land, maritime site or structure (other than a dwelling) the planning authority, the Commission or the Maritime Area Regulatory Authority shall—

(a) obtain consent to make the entry from—

(i) in the case of occupied land, an occupied maritime site or an occupied structure, the occupier, or

(ii) in the case of unoccupied land, an unoccupied maritime site or an unoccupied structure, the owner,

or

(b) give to the owner or occupier, as the case may be, not less than 14 days' notice in writing (or 2 working days' notice in writing in the case of the performance of a function under *Part 4*) of the intention to make the entry.

(4) A person to whom a notice of intention to enter land, a maritime site or a structure has been given under *paragraph (b)* of *subsection (3)* may, not later than 14 days (or 2 working days in the case of the performance of a function under *Part 4*) after the giving of the notice, apply, on notice to the planning authority, the Commission, or the Maritime Area Regulatory Authority that gave the notice, to—

(a) where the notice is in respect of land or a structure on land, the judge of the District Court having jurisdiction in the district in which the land or part of the land or structure or part of the structure is situated,

(b) where the notice is in respect of a maritime site or structure in a maritime site, a judge of the District Court assigned to the Dublin Metropolitan District, or

(c) in the case of an area containing both land and a maritime site, a judge referred to in *paragraph (a)* or *(b)*,

for an order prohibiting the entry and, upon the hearing of the application, the judge may prohibit the entry or specify conditions to be observed by the person making the entry.

(5) An authorised person shall not enter a dwelling under this section other than—

(a) with the consent of the occupier of the dwelling, or

(b) in accordance with a warrant issued under *subsection (6)*.

(6) Where an authorised person is prevented from entering any land, maritime site or structure, the authorised person or the person by whom the authorised person was appointed may apply—

(a) in the case of land or a structure on land, to a judge of the District Court having jurisdiction in the district court district in which the land or part of the land or structure or part of the structure is situated,

(b) in the case of a maritime site or structure in a maritime site, to a judge of the District Court assigned to the Dublin Metropolitan District, or

(c) in the case of an area containing both land and a maritime site, to a judge referred to in *paragraph (a)* or *(b)*,

for a warrant authorising the entry.

(7) If on application being made to him or her under *subsection (6)*, a judge of the District Court is satisfied, on the sworn information of an authorised person, that the authorised person has been prevented from entering land, a maritime site or a structure, the judge may issue a warrant authorising an authorised person, accompanied, if the judge considers it appropriate so to provide, by such number of other authorised persons or members of the Garda Síochána as may be specified in the warrant, at any time within 4 weeks from the date of the issue of the warrant, on production of the warrant if so requested, to enter the land, maritime site or structure concerned, if need be by reasonable force, and exercise all or any of the powers referred to in *subsection (2)*.

(8) When performing a function under this Act, an authorised person may, subject to the terms of a warrant under *subsection (7)* (if any), be accompanied by such number of other authorised persons or members of the Garda Síochána as he or she considers appropriate.

(9) A person who, by act or omission, obstructs or interferes with an authorised person, or member of the Garda Síochána accompanying such a person, in the lawful exercise of the powers conferred by this section shall be guilty of an offence.

Powers of entry and to seek information in relation to enforcement

395. (1) Notwithstanding *section 394* and subject to *subsection (2)*, an authorised person appointed by a planning authority or the Maritime Area Regulatory Authority may, for any purpose connected with *Part 11*, or if he or she has reasonable grounds for believing that an unauthorised development has been, is being or is likely to be carried out, subject to a warrant (if any) issued under *subsection (4)*, at any time enter

any land, maritime site or structure within its enforcement area (within the meaning of *Part 11*), accompanied by such other persons (including members of the Garda Síochána) as he or she may consider necessary and bring such equipment onto the land or maritime site or into or onto the structure as he or she may consider necessary.

(2) An authorised person shall not enter a dwelling under this section other than—

(a) with the consent of the occupier of the dwelling, or

(b) in accordance with a warrant issued under *subsection (4)*.

(3) When an authorised person enters land, a maritime site or a structure pursuant to *subsection (1)*, the authorised person may exercise the powers set out in *subsection (2)* of *section 394* and may require from an occupier of the land, maritime site or structure or any person employed on the land, maritime site or in or on the structure, or any other person on the land or maritime site or in or on the structure, such information as the authorised person, having regard to all the circumstances, considers necessary for the purpose referred to in *subsection (1)*, and a person who fails to comply with such requirement (other than in so far as it would tend to incriminate him or her to comply) shall be guilty of an offence.

(4) (a) Where an authorised person is prevented from entering land, a maritime site or a structure for the purpose referred to in *subsection (1)*, or has reason to believe that evidence related to an offence under this Act may be present on land, a maritime site or in or on a structure, and that the evidence may be removed therefrom or destroyed or that any particular structure may be damaged or destroyed, the authorised person or the person by whom the authorised person was appointed may apply—

(i) in the case of land or a structure on land, to a judge of the District Court having jurisdiction in the district court district in which the land or part of the land or structure or part of the structure is situated,

(ii) in the case of a maritime site or structure in a maritime site, to a judge of the District Court assigned to the Dublin Metropolitan District, or

(iii) in the case of an area containing both land and a maritime site, to a judge referred to in *subparagraph (i)* or *(ii)*,

for a warrant authorising the entry.

(b) If on application being made to him or her under this subsection, a judge of the District Court is satisfied, on the sworn information of an authorised person, that the authorised person has been prevented from entering land, a maritime site or a structure, or that the authorised person has reasonable grounds for believing the other matters referred to in *paragraph (a)*, the judge may issue a warrant authorising an authorised person, accompanied, if the judge considers it appropriate so to provide, by such number of other authorised persons or members of the Garda Síochána as may be specified in the warrant, at any time within 4 weeks from the date of the issue of the warrant, on production of the warrant if so requested, to enter the land, maritime site or structure concerned, if

need be by reasonable force, and exercise all or any of the powers referred to in *subsection (3)*.

(5) Without prejudice to any powers under *section 394*, a planning authority or the Maritime Area Regulatory Authority may, for any purpose connected with *Part 11*, serve a notice in writing on a person in occupation of land, a maritime site or a structure or on a person who is carrying out development on land or a maritime site or on or to a structure, requiring the person, other than in so far as it might tend to incriminate him or her, to state in writing to the planning authority or the Maritime Area Regulatory Authority, as the case may be, within a specified time not being less than 2 weeks after being so required—

(a) in the case of a person in occupation, the identity of every person who is or may be carrying out development on the land or maritime site or on or to the structure, or

(b) in the case of a person carrying out development on the land, maritime site or on or to the structure, the identity of every person on whose behalf he or she is carrying out such development.

(6) Every person who is required under *subsection (5)* to state in writing any matter to the planning authority or the Maritime Area Regulatory Authority and either fails so to state the matter within the time specified under that subsection or, when so stating any such matter, makes any statement in writing which is to his or her knowledge false or misleading in a material respect, shall be guilty of an offence.

Service of documents

396. (1) An order, notice, warning letter or other document or information that is required or authorised to be served on a person by or under this Act shall be in writing, addressed to him or her and served on him or her in one or more than one of the following ways:

(a) by delivering it to that person;

(b) subject to *subsection (2)*, by electronic communication;

(c) by leaving it at the address at which that person ordinarily resides or any alternative contact address provided by or on behalf of him or her;

(d) by sending it by post in a prepaid registered letter addressed to that person at the address at which he or she ordinarily resides or any alternative contact address provided by or on behalf of him or her;

(e) where service in accordance with *paragraph (d)* is unsuccessful and the person serving the order, notice, warning letter or other document or information is satisfied that the person to be served is residing at or in occupation of the address to which the prepaid registered letter was sent, by sending it by post in a prepaid ordinary letter addressed to that person at that address;

(f) where the address at which that person ordinarily resides cannot be ascertained by reasonable inquiry and the order, notice, warning letter or other document or information is required or authorised to be served in respect of any land or

structure, by delivering it to a person over the age of 16 years resident or employed on the land or structure or by affixing it in a conspicuous place on or near the land or structure;

(g) in the case of an enforcement notice (within the meaning of *Part 11*), by delivering it to a person over the age of 16 years who is employed, or otherwise engaged, in connection with the carrying out of the development to which the notice relates, or by affixing it in a conspicuous place on the land or structure concerned;

(h) where the order, notice, warning letter or other document or information relates to a maritime site, and the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry, by publishing it in a national newspaper on 7 consecutive days.

(2) Service shall be effected in accordance with *paragraph (b)* of *subsection (1)* where—

(a) the electronic communication is sent to—

(i) an email address or other electronic contact point provided by or on behalf of the person to be served, or

(ii) an email address or other electronic contact point published or otherwise communicated to the public by the person to be served,

(b) the person serving the order, notice, warning letter or other document or information has not within a reasonable time thereafter received reliable evidence that the electronic communication has not been delivered to the email address or other electronic contact point concerned, and

(c) the order, notice, warning letter or other document or information is in a form that is accessible by means of technology to which it is reasonable to expect the person to be served has access.

(3) The Minister may prescribe requirements additional to those in *subsection (2)* for electronic communication for the purposes of this section.

(4) Where an order, notice, warning letter or other document or information is required or authorised by or under this Act to be served on the owner or occupier of any land, maritime site or structure and the name of the owner or occupier cannot be ascertained by reasonable inquiry, it may be addressed to "the owner" or "the occupier", as the case may require, without naming him or her.

(5) For the purposes of this section, a company registered under the Companies Act 2014, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business, or at any address provided or published by it for the purpose of receiving communications.

(6) In this section "serve" or "serve on" includes "give" and "notify" or "give to" and "notify to".

Presumption of service of owner or occupier

397. (1) Where a provision of this Act—

(a) requires the service by a planning authority or the Commission of a notice or other document on the owner of land or a maritime site, or

(b) otherwise confers a power on a planning authority or the Commission to serve a notice or other document on the owner of land or a maritime site,

then it shall be presumed (including in any subsequent criminal or civil proceedings under this Act before a court), unless the contrary is shown, that, where service of such notice or document was effected on any person whom the planning authority or Commission, as may be appropriate, reasonably believed to be the owner of the land or maritime site concerned, that person was the owner of that land or maritime site.

(2) Where a provision of this Act—

(a) requires the service by a planning authority or the Commission of a notice or other document on the occupier of land or a maritime site, or

(b) otherwise confers a power on a planning authority or the Commission to serve a notice or other document on the occupier of land or a maritime site,

then it shall be presumed (including in any subsequent criminal or civil proceedings under this Act before a court), unless the contrary is shown, that, where service of such notice or document was effected on any person whom the planning authority or Commission, as may be appropriate, reasonably believed to be the occupier of the land or maritime site concerned, that person was the occupier of that land or maritime site.

Failure to effect service

398. Where a provision of this Act requires the service by a planning authority or the Commission of a notice or other document on the owner or occupier of land or a maritime site as a precondition of the performance by the planning authority or the Commission, as the case may be, of any other function under this Act in relation to that land or maritime site or any other land or maritime site, the failure to effect such service shall not of itself operate to preclude or invalidate the performance of that function unless—

(a) the planning authority or Commission failed to make reasonable efforts to effect such service, or

(b) the failure prejudices the exercise by the said owner or occupier of his or her rights under or in connection with this Act.

Dispensation with service or giving of notice

399. (1) Where an appropriate authority, the Office of the Planning Regulator or the Maritime Area Regulatory Authority is satisfied that reasonable grounds exist for dispensing with the serving, giving or notifying by it of an order, notice, warning letter or other document or information required under this Act to be served, given or notified by it,

and that so dispensing will not cause injury or wrong, the appropriate authority, the Office of the Planning Regulator or the Maritime Area Regulatory Authority may dispense with the serving, giving or notifying of it and every such dispensation shall have effect according to the tenor thereof.

(2) A dispensation under *subsection (1)* may be given either before or after the time when the order, notice, warning letter or other document or information would, but for the dispensation, be required to be served, given or notified and either before or after the doing of any act to which the serving, giving or notification of the order, notice, warning letter or other document or information would, but for the dispensation, be a condition precedent.

(3) Where a provision of or under this Act requires an order, notice, warning letter or other document or information to be served on, or given or notified to, a person who has made representations or submissions to an appropriate authority, the Office of the Planning Regulator, or the Maritime Area Regulatory Authority, where—

(a) a large number of representations or submissions are made as part of an organised campaign, or

(b) it is not possible readily to ascertain the full name and address of those persons who made the representations or submissions,

the appropriate authority, the Office of the Planning Regulator or the Maritime Area Regulatory Authority may substitute an alternative means of service, giving or notification that is reasonably likely to bring the order, notice, warning letter or other document or information to the attention of such persons, including, in the case of an organised campaign referred to in *paragraph (a)*, serving the order, notice, warning letter or other document or information on or giving or notifying the order, notice, warning letter or other document or information to (as the case may be), any person who, in the opinion of the appropriate authority, the Office of the Planning Regulator or the Maritime Area Regulatory Authority, as the case may be, organised the campaign.

(4) Where an order, notice, warning letter or other document or information required to be served on or given or notified to a person under this Act is required to include or be accompanied by information that, by virtue of its size and one or more than one of the factors related to its size referred to in *subsection (5)*, cannot without difficulty be served on, or given or notified to the person (as the case may be) as part of, or with, the order, notice, warning letter or other document or information, the appropriate authority, the Office of the Planning Regulator or the Maritime Area Regulatory Authority may omit parts of the information and inform the person of convenient other means of accessing or viewing that information, which shall include at the offices of the appropriate authority, the Office of the Planning Regulator or the Maritime Area Regulatory Authority or some other public place, and which may include on a website maintained by or on behalf of the appropriate authority, the Office of the Planning Regulator or the Maritime Area Regulatory Authority or some other readily accessible website.

(5) The factors referred to in *subsection (4)* are:

(a) the resources required to create copies of the information;

(b) the number of persons on whom the information is required to be served, or to whom it is required to be given or notified;

(c) such other factors as the appropriate authority, the Office of the Planning Regulator or the Maritime Area Regulatory Authority serving, giving or notifying the order, notice, warning letter or other document or information considers appropriate.

Public notification

400. (1) Where a provision of or under this Act requires notice to be given in a newspaper circulating in the functional area of a planning authority, the planning authority may, in addition to the requirements of the particular provision and to the extent it considers appropriate, give the notice or draw the attention of the public to the notice through other forms of media including broadcast media and the use of electronic means of communication for the provision of information.

(2) The Minister may make provision in regulations for the giving of public notice, including—

(a) the content and layout of newspaper advertisements required under this Act, and

(b) such other matters as may be incidental to the giving of public notice under this Act.

(3) Where this Act requires notice to be given to the public, in respect of a maritime site, by publication in a newspaper and—

(a) where all or part of the site is located in the nearshore area of a planning authority, and no part of the site is in the outer maritime area, the notice shall be published in a newspaper circulating in the functional area of the planning authority, or

(b) where all or part of the site is located in the outer maritime area, the notice shall be published in a national newspaper.

(4) A person who, without lawful authority, removes, damages or defaces an order, notice, warning letter or other document or information required or authorised to be erected or affixed on or near any lands or structure by or under this Act shall be guilty of an offence.

Recovery of moneys

401. Where a person is liable under this Act to pay an appropriate authority, the Office of the Planning Regulator or the Maritime Area Regulatory Authority a sum—

(a) the sum may be recovered by the appropriate authority, the Office of the Planning Regulator or the Maritime Area Regulatory Authority, as the case may be, on demand as a simple contract debt in a court of competent jurisdiction (which

court shall be entitled to adjudicate upon any dispute as to the quantification of the sum), and

(b) the appropriate authority, the Office of the Planning Regulator or the Maritime Area Regulatory Authority may set off against the sum any sum due by it to the person.

Running of time

402. (1) Subject to *subsection (2)*, when calculating any period or time limit of one year or less specified by or under this Act the period between the 24th day of December and the 1st day of January, both days inclusive, shall be disregarded.

(2) *Subsection (1)* shall not apply to periods or time limits stated in an enforcement notice (within the meaning of *Part 11*).

(3) Where the doing of a thing within a period or time limit specified by or under this Act requires an office of an appropriate authority, the Office of the Planning Regulator or the Maritime Area Regulatory Authority to be open, and the last day of the period or time limit specified is not a working day or is a day on which the office is closed, the thing shall be deemed to have been done before the expiry of the period or time limit if it is done on the next following day on which the office is open.

Government order for disregard of time limits in certain circumstances

403. (1) Where the Government is satisfied that the spread of infectious disease, or another matter or event, makes it impossible or unduly difficult to comply with periods or time limits specified by or under this Act, it may by order, at the request of the Minister made after consultation with such other Minister of the Government as he or she considers appropriate, specify a period which shall, for the purpose of calculating any such period or time limit, be disregarded.

(2) The period to be disregarded under an order referred to in *subsection (1)* shall be such period as the Government considers is necessary and appropriate for the purposes of—

(a) facilitating the performance by the appropriate authority, the Office of the Planning Regulator or the Maritime Area Regulatory Authority, as the case may be, of its functions under this Act, and

(b) permitting a person to fulfil any obligation, or do any thing which he or she is entitled to do, under this Act.

(3) The Government may, if it considers it necessary and appropriate to do so for the purposes referred to in *subsection (2)*, and at the request of the Minister made after consultation with such other Minister of the Government as he or she considers appropriate, by order—

(a) before the expiry of the period specified in the order under *subsection (1)*, specify a date later than the date specified in that order on which the period to be disregarded under *subsection (1)* shall end, and

(b) thereafter, from time to time, but before the expiry of the period specified in the order made under *paragraph (a)*, or where an order has been previously made under this paragraph, before the expiry of the period specified in the last order so made, specify a date later than the date specified in that order, on which the period to be disregarded under *subsection (1)* shall end.

PART 13

Appropriation, Disposal and Development of Land

Definition

404. In this Part, "relevant function", in relation to a local authority, means any one or more than one of the functions of the local authority under this Act or any other enactment.

Appropriation of land for local authority purposes

405. (1) Where—

(a) land is vested in a local authority for the purposes of a relevant function, and

(b) the local authority is satisfied that the land should be made available for the purposes of a different relevant function,

the local authority may, by order made by the chief executive of the local authority, appropriate the land for the purposes of that different relevant function.

(2) Where land vested in a local authority by means of a compulsory acquisition under this Act or any other enactment is appropriated under this section, such appropriation shall not, of itself, give rise to, or in any way be a ground for—

(a) any claim for compensation or additional compensation by the person from whom the land was compulsorily acquired, or

(b) challenging such compulsory acquisition.

Sale, lease or exchange of land by local authority

406. (1) Subject to *subsection (2)*, any land acquired or appropriated by a local authority under this Act or any other enactment may, subject to such conditions (if any) as the local authority considers appropriate, be sold, leased or exchanged—

(a) where the local authority no longer requires the land for any relevant function, or

(b) in order to secure—

(i) the best use of that or other land and the works (if any) which have been, or are to be, carried out on, in or under that or other land, or

(ii) the carrying out of works appearing to it to be needed for the proper planning and sustainable development of its functional area.

(2) (a) Subject to *subsection (3)*, the consent of the Minister shall be required for any sale, lease or exchange of land under *subsection (1)* where, as appropriate—

(i) the proposed price or rent, or

(ii) what is to be obtained by the local authority on the exchange,

is not the best reasonably obtainable.

(b) Notwithstanding any other enactment, the consent of the Minister is not required for any sale, lease or exchange of land under *subsection (1)* to which *paragraph (a)* does not apply.

(3) (a) Subject to *paragraph (b)*, the Minister may prescribe the circumstances (if any) in which *paragraph (a)* of *subsection (2)* shall not apply to a sale, lease or exchange of land under *subsection (1)* to which *paragraph (a)* of *subsection (2)* would otherwise apply.

(b) For the purposes of *paragraph (a)*—

(i) the circumstances referred to in that paragraph shall be circumstances in respect of which the Minister is satisfied are of such urgency, or of such benefit to the public interest, that the disapplication of *paragraph (a)* of *subsection (2)* to the sale, lease or exchange of land under *subsection (1)* is warranted in those circumstances, and

(ii) conditions (including conditions for the giving of public notice) may be prescribed which must be complied with in order for such disapplication to be effected.

(4) Capital money arising from the sale, lease or exchange of land under *subsection (1)* shall be applied for—

(a) a capital purpose for which capital money may be properly applied, or

(b) such purposes as may be approved by the Minister whether generally or in relation to specified cases or circumstances.

(5) Where a local authority considers that the use of land acquired or appropriated by it under this Act or any other enactment will not be required for the purposes of any relevant function for a particular period, the authority may grant a lease of the land for that period (or any lesser period) and the lease shall be expressed as a lease granted for the purposes of this subsection.

(6) The Landlord and Tenant Acts 1967 to 2019 shall not apply in relation to a lease granted under *subsection (5)*.

Development of land by local authority

407. (1) A local authority may develop, secure or facilitate the development of land in connection with any relevant function.

(2) A local authority may, in connection with any relevant function, make and carry out arrangements or enter into agreements with any person for the development or management of land, and may establish a company for those purposes.

(3) A local authority may use any of the powers available to it under this Act or any other enactment in order to facilitate the assembly of sites for the purposes of the orderly development of land.

(4) An agreement under section 212 of the Act of 2000 in force immediately before the repeal of that section by *section 6* shall, on and after that repeal, be deemed to be an agreement made under this section, and accordingly this section shall apply to that agreement.

PART 14

Compulsory Acquisition and Purchase of Land and Maritime Sites

Chapter 1

Definitions

Definitions

408. In this Part—

"Act of 1966" means the Housing Act 1966;

"Act of 1993" means the Roads Act 1993;

"*section 410* functions" means the functions referred to in *subsection (1)* of *section 410*;

"*section 423* functions" means the functions referred to in *subsection (1)* of *section 423*.

Chapter 2

Compulsory Acquisition and Purchase of Land

Land acquisition by local authority

409. (1) The power conferred on a local authority under any enactment to acquire land shall be construed in accordance with this section.

(2) (a) A local authority may, for the purposes of performing any of its functions (whether conferred by or under this Act or any other enactment passed before or after the passing of this Act), including giving effect to or facilitating the implementation of its development plan or its housing strategy, do all or any of the following:

(i) acquire land, permanently or temporarily, by agreement or compulsorily;

(ii) acquire, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any land or water or any substratum of land;

(iii) restrict or otherwise interfere with, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any land or water or any substratum of land,

and the performance of all or any of the functions referred to in *subparagraphs (i)*, *(ii)* and *(iii)* are referred to in this Act as an "acquisition of land".

(b) A reference in *paragraph (a)* to acquisition by agreement shall include acquisition by way of purchase, lease, exchange or otherwise.

(c) The functions conferred on a local authority by *paragraph (a)* may be performed in relation to—

(i) land, or

(ii) any easement, way-leave, water-right or other right to which that paragraph applies,

whether situated or exercisable, as the case may be, inside or outside the functional area of the local authority concerned.

(3) (a) The acquisition may be effected by agreement or compulsorily in respect of land not immediately required for a particular purpose if, in the opinion of the local authority, the land will be required by the authority for that purpose in the future.

(b) The acquisition may be effected by agreement in respect of any land which, in the opinion of the local authority, it will require in the future for a purpose relating to any of its functions notwithstanding that the authority has not determined the manner in which or the particular such purpose for which it will use the land.

(c) *Paragraphs (a)* and *(b)* shall apply and have effect in relation to any power to acquire land conferred on a local authority by virtue of this Act or any other enactment whether enacted before or after this Act.

(4) A local authority may be authorised by compulsory purchase order to acquire land for any of the purposes referred to in *subsection (2)* and section 10 of the Local Government (No. 2) Act 1960 shall be construed so as to apply accordingly and the reference to "purposes" in paragraph (a) of subsection (1) of section 10 of that Act shall be construed as including purposes referred to in *subsection (2)*.

(5) In this section, "substratum of land" means any subsoil or anything beneath the surface of the land required—

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

(b) for any other purpose connected with a scheme within the meaning of the Act of 1993.

Continuance of vesting of certain functions

410. (1) It is hereby declared that all the functions that, immediately before the repeal of Part XIV of the Act of 2000 by *section 6*, vested in the Commission (formerly known as An Bord Pleanála) by virtue of sections 214, 215, 215A, 215B and 215C of that Act, namely—

(a) the functions conferred on the Minister of the Government concerned in relation to the compulsory acquisition of land by a local authority under the following enactments:

(i) the Public Health (Ireland) Act 1878;

(ii) the Local Government (Ireland) Act 1898;

(iii) the Local Government Act 1925;

(iv) the Water Supplies Act 1942;

(v) the Local Government (No. 2) Act 1960;

(vi) the Local Government (Sanitary Services) Act 1964;

(vii) the Act of 1966;

(viii) the Derelict Sites Act 1990;

(ix) the Roads Acts 1993 and 1998;

(x) the Dublin Docklands Development Authority Act 1997,

(b) the functions of the Minister of the Government concerned in relation to a scheme or proposed road development under sections 49, 50 and 51 of the Act of 1993,

(c) the functions of—

(i) any Minister of the Government, or

(ii) the Commission for Energy Regulation,

under sections 31 and 32 of, and the Second Schedule to, the Gas Act 1976 in relation to the compulsory acquisition of land in respect of a strategic gas infrastructure development,

(d) the functions of the Minister of the Government concerned under section 17 of, and the Second Schedule to, the Air Navigation and Transport (Amendment) Act 1998 in relation to the compulsory acquisition of land for the purposes set out in section 18 of that Act, and

(e) the functions of the Minister of the Government concerned under section 16 of, and the Fourth Schedule to, the Harbours Act 1996 in relation to the compulsory acquisition of land for the purposes set out in that section,

shall, on and after that repeal, continue to vest in the Commission and the enactments referred to in *paragraphs (a)* to *(e)* shall, with all necessary modifications, be construed accordingly.

(2) A reference in an enactment that, immediately before the repeal of Part XIV of the Act of 2000 by *section 6*, was to be construed as a reference to An Bord Pleanála by virtue of section 214, 215, 215A, 215B or 215C of that Act shall, on and after that repeal, be construed as a reference to the Commission.

(3) In this section "local authority" includes the Dublin Docklands Authority.

Confirmation of compulsory purchase order where there are no objections

411. (1) Subject to *subsections (2)* and *(3)*, where a compulsory purchase order is made in respect of the acquisition of land by a local authority in accordance with any enactment referred to in *paragraph (a)* of *subsection (1)* of *section 410* and—

(a) no objections are received by the Commission or the local authority, as the case may be, within the period provided for making objections,

(b) any objection received is subsequently withdrawn at any time before the Commission makes its decision, or

(c) the Commission is of the opinion that any objection received relates exclusively to matters which can be dealt with by a property arbitrator nominated under the Property Values (Arbitrations and Appeals) Act 1960,

the Commission shall, where appropriate, inform the local authority thereof and the local authority shall, as soon as may be, confirm the order with or without modification, or it may refuse to confirm the order.

(2) *Subsection (1)* shall not prejudice any requirement to obtain approval for a scheme in accordance with section 49 of the Act of 1993 or proposed road development in accordance with section 51 of the Act of 1993, or for proposed *Chapter 4* local authority development (within the meaning of *Part 4*) or *Chapter 4* State authority development (within the meaning of *Part 4*).

(3) *Subsection (1)* shall not apply with respect to a compulsory purchase under the Derelict Sites Act 1990.

(4) In this section "local authority" includes the Dublin Docklands Development Authority.

Certain time limits in respect of compulsory purchase of land, etc.

412. (1) Where an objection is made to a sanitary authority in accordance with section 6 of the Water Supplies Act 1942 and not withdrawn, the sanitary authority shall, within 6 weeks of receiving the objection, apply to the Commission for a provisional order in accordance with section 8 of that Act.

(2) Where an objection is made to a sanitary authority in accordance with section 8 of the Local Government (Sanitary Services) Act 1964 and not withdrawn, the sanitary authority shall, within 6 weeks of receiving the objection, apply to the Commission for its consent to the compulsory acquisition of the land in accordance with that section.

(3) Subject to *section 411*, where a local authority complies with the notification provisions in relation to a compulsory purchase order under article 4 of the Third Schedule to the Act of 1966, it shall, within 6 weeks of complying with those provisions, submit the compulsory purchase order to the Commission for confirmation.

(4) Where a road authority complies with the notification provisions in relation to a scheme in accordance with section 48 of the Act of 1993, it shall, within 6 weeks of complying with those provisions, submit the scheme to the Commission for approval.

(5) A notice of the making of a confirmation order to be published or served, as the case may be, in accordance with subsection (1) of section 78 of the Act of 1966 shall be published or served within 12 weeks of the making of the confirmation order.

(6) Notwithstanding section 123 of the Lands Clauses Consolidation Act 1845, where a compulsory purchase order or provisional order is confirmed by a local authority or the Commission and becomes operative and the local authority decides to acquire land to which the order relates, the local authority shall serve any notice required under any enactment to be served in order to treat for the purchase of the several interests in the land (including under section 79 of the Act of 1966) within 18 months of the order becoming operative.

(7) (a) Notwithstanding *subsection (6)*, where legal proceedings are in being challenging the validity of either—

(i) the compulsory purchase order or provisional order concerned, or

(ii) permissions, consents or authorisations granted by or under this Act or by or under any other enactment relating to the project in respect of which, or being the purpose for which, the land concerned is to be acquired,

and a notice to treat is not served within the period of 18 months (in this subsection referred to as the "first period"), the first period shall be extended for a further period (in this subsection referred to as the "second period") beginning on the day immediately after the day on which the first period expires and expiring on the earlier of the following:

(I) 30 days after the day on which the legal proceedings are concluded;

(II) 18 months after the day on which the first period expires.

(b) Where proceedings referred to in *paragraph (a)* have not been concluded during the second period, on an application to the High Court by the local authority before the expiration of the second period, that court may, if it considers that, in the particular circumstances there is good and sufficient reason for doing so, extend the second period by such further period from its expiration as it believes necessary in the circumstances provided that, having regard to all of the circumstances, it considers that it would be just and equitable to do so.

(8) (a) A decision of the Commission made in the performance of a function which falls within *paragraph (a)* or *(b)* of *subsection (1)* of *section 410* shall become operative 3 weeks from the date on which notice of the decision is first published.

(b) Subsections (8) and (9) of section 52 of the Act of 1993 and subsections (2) to (4) of section 78 of the Act of 1966 shall not apply in relation to decisions of the Commission under this Part, in so far as this Part relates to land.

***Section 410* functions: supplemental provisions**

413. (1) The Commission may, in respect of any of the *section 410* functions concerning the confirming or otherwise of any compulsory acquisition, at its absolute discretion and at any time before making a decision in respect of the matter—

(a) request submissions or observations from any person who may, in the opinion of the Commission, have information which is relevant to its decision concerning the confirming or otherwise of such compulsory acquisition (and may have regard to any submission or observation so made in the making of its decision), or

(b) hold meetings with the local authority, or in the case of *paragraph (c)* of *subsection (1)* of *section 410*, the person who applied for the acquisition order, or any other person where it appears to the Commission to be necessary or expedient for the purpose of—

(i) making a decision concerning the confirming or otherwise of such compulsory acquisition, or

(ii) resolving any issue with the local authority or the applicant, as may be appropriate, or any disagreement between the authority or the applicant, as may be appropriate, and any other person, including resolving any issue or disagreement in advance of an oral hearing.

(2) Where the Commission holds a meeting in accordance with *paragraph (b)* of *subsection (1)*, it shall keep a written record of the meeting and make that record available for inspection.

(3) The Commission, or an employee of the Commission duly authorised by the Commission, may appoint any person to hold a meeting referred to in *paragraph (b)* of *subsection (1)*.

***Paragraph (b)* of *subsection (1)* of *section 410*: supplemental provisions**

414. (1) The Commission may, at its absolute discretion and at any time before making a decision on a scheme or proposed road development referred to in *paragraph (b)* of *subsection (1)* of *section 410*—

(a) request further submissions or observations from any person who made submissions or observations in relation to the scheme or proposed road development, or any other person who may, in the opinion of the Commission, have information which is relevant to its decision on the scheme or proposed road development, or

(b) hold meetings with the road authority or any other person where it appears to the Commission to be necessary or expedient for the purpose of—

(i) making a decision on the scheme or proposed road development, or

(ii) resolving any issue with the road authority or any disagreement between the authority and any other person, including resolving any issue or disagreement in advance of an oral hearing.

(2) Where the Commission holds a meeting in accordance with *paragraph (b)* of *subsection (1)*, it shall keep a written record of the meeting and make that record available for inspection.

(3) The Commission, or an employee of the Commission duly authorised by the Commission, may appoint any person to hold a meeting referred to in *paragraph (b)* of *subsection (1)*.

(4) The Commission may—

(a) if it considers it necessary to do so, require a road authority that has submitted a scheme under section 49 of the Act of 1993 or made an application for approval under section 51 of that Act to furnish to the Commission such further information in relation to—

(i) the effects on the environment of the proposed scheme or road development, or

(ii) the consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said scheme or road development of such scheme or road development,

as the Commission may specify, or

(b) if it is provisionally of the view that it would be appropriate to approve the scheme or proposed road development were certain alterations (specified in the notification referred to in this paragraph) to be made to the terms of it, notify the road authority that it is of that view and invite the authority to make to the terms of the scheme or proposed road development under the Act of 1993 alterations specified in the notification and, if the authority makes those alterations, to furnish to the Commission such information (if any) as it may specify in relation to the scheme or road development, in the terms as so altered or, where necessary, a revised environmental impact assessment report in respect of it.

(5) If a road authority makes the alterations to the terms of the scheme or proposed road development specified in a notification given to it under *subsection (4)*, the terms of the scheme or road development as so altered shall be deemed to be the scheme or proposed road development for the purposes of sections 49, 50 and 51 of the Act of 1993.

(6) The Commission shall—

(a) where it considers that any further information received pursuant to a requirement made under *paragraph (a)* of *subsection (4)* contains significant additional data relating to—

(i) the likely effects on the environment of the scheme or proposed road development, and

(ii) the likely consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said scheme or road development of such scheme or road development,

or

(b) where the road authority has made the alterations to the terms of the proposed development specified in a notification given to it under *paragraph (b)* of *subsection (4)*,

require the authority to do the things referred to in *subsection (7)*.

(7) The things which a road authority shall be required to do as aforesaid are—

(a) to publish in at least one newspaper a notice stating that, as appropriate—

(i) further information in relation to the scheme or proposed road development has been furnished to the Commission, or

(ii) the road authority has, pursuant to an invitation of the Commission, made alterations to the terms of the scheme or proposed road development (and the nature of those alterations shall be indicated) and, if it be the case, that information in relation to the terms of the scheme or road development as so altered or a revised environmental impact assessment report in respect of the scheme or development has been furnished to the Commission,

indicating the times at which, the period (which shall not be less than 3 weeks) during which and the place, or places, where a copy of the information or the environmental impact assessment report referred to in *subparagraph (i)* or *(ii)* may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy) and that submissions or observations in relation to that information, report or statement may be made to the Commission before the expiration of the indicated period, and

(b) to send to each body or prescribed authority to which a notice was given pursuant to paragraph (b) or (c) of subsection (3) of section 51 of the Act of 1993—

(i) a notice of the furnishing to the Commission of, as appropriate, the further information referred to in *subparagraph (i)* of *paragraph (a)* or the information, report or statement referred to in *subparagraph (ii)* of *paragraph (a)*, and

(ii) a copy of that further information, information, report or statement,

and to indicate to the body or authority that submissions or observations in relation to that further information, information, report or statement may be made to the Commission before the expiration of a period (which shall be not less than 3 weeks) beginning on the day on which the notice is sent to the prescribed authority by the road authority.

(8) The Commission shall, in making its decision in respect of a scheme or proposed road development, have regard to any information submitted on foot of a notice under

subsection (4), including any revised environmental impact assessment report or any submissions or observations made on foot of a request under *subsection (1)* or a notice under *subsection (7)*.

Commission's powers to make decisions on *section 410* functions

415. (1) Notwithstanding any provision of any of the enactments referred to in *paragraphs (a)* to *(e)* of *subsection (1)* of *section 410* concerning the confirming or otherwise of any compulsory acquisition, the Commission shall, in relation to any of the *section 410* functions respecting those matters, have the power to confirm a compulsory acquisition or any part thereof, with or without conditions or modifications, or to annul an acquisition or any part thereof.

(2) Notwithstanding any provision of the Act of 1993 concerning the approval of any scheme or proposed road development, the Commission shall, in relation to any of the *section 410* functions respecting those matters, have the power to approve the scheme or development or any part thereof, with or without conditions or modifications, or to refuse to approve the scheme or development or any part thereof.

(3) Without prejudice to the generality of the foregoing power to attach conditions, the Commission may attach to any approval of a scheme or proposed road development under the Act of 1993 a condition requiring—

(a) the construction or the financing, in whole or in part, of the construction of a facility, or

(b) the provision or the financing, in whole or in part, of the provision of a service,

in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Commission, would constitute a substantial gain to the community.

(4) A condition attached pursuant to *subsection (3)* shall not require such an amount of financial resources to be committed for the purposes of the condition being complied with as would substantially deprive the person in whose favour the approval operates of the benefits likely to accrue from the grant of the approval.

Oral hearings in relation to compulsory acquisition of land

416. (1) Where, as a result of the *section 410* functions, the Commission would otherwise be required to hold a local inquiry, public local inquiry or oral hearing, that requirement shall not apply to the Commission but the Commission may, at its absolute discretion, hold an oral hearing in relation to the matter, the subject of the function concerned.

(2) For the avoidance of doubt, it is hereby declared that the provisions of the Local Government Acts 1941, 1946, 1955 and 1991, in relation to public local inquiries shall not apply in relation to oral hearings held by the Commission in accordance with *subsection (1)*.

(3) For the purposes of this Part, in so far as this Part relates to land, the references to local inquiries or public local inquiries in the following provisions shall be deemed to be references to oral hearings under this section:

(a) section 10 of the Local Government (No. 2) Act 1960;

(b) section 78 of, and the Third Schedule to, the Act of 1966;

(c) Part IV of the Act of 1993.

(4) *Sections 370*, *380* and *385* shall apply and have effect in relation to the *section 410* functions and those sections shall, with all necessary modifications, be construed accordingly.

Power to direct payment of certain costs

417. (1) Where the Commission has made a decision in the performance of any *section 410* functions, it may at its absolute discretion direct the payment of such sum as it considers reasonable by the local authority concerned or, in the case of *paragraph (c)*, *(d)* or *(e)* of *subsection (1)* of *section 410*, the person who applied for the acquisition order (hereafter in this section referred to as the "applicant")—

(a) to the Commission towards the costs and expenses incurred by the Commission in determining the matter, including—

(i) the costs of holding any oral hearing in relation to the matter,

(ii) the fees of any consultants or advisers engaged in the matter, and

(iii) an amount equal to such portion of the remuneration and any allowances for expenses paid to the members and employees of the Commission as the Commission determines to be attributable to the performance of duties by the members and employees in relation to the matter,

and

(b) to any person appearing at an oral hearing held in relation to the matter as a contribution towards the costs, other than the costs referred to in *section 370*, incurred by that person of appearing at that hearing,

and the local authority or applicant, as appropriate, shall pay the sum.

(2) The reference in *paragraph (b)* of *subsection (1)* to costs shall be construed as a reference to such costs as the Commission in its absolute discretion considers to be reasonable costs.

(3) If a local authority or applicant, as appropriate, fails to pay a sum directed to be paid under *subsection (1)*, the Commission or any other person concerned, as the case may be, may recover the sum from the authority or applicant, as appropriate, as a simple contract debt in any court of competent jurisdiction.

Certain procedures to run in parallel

418. (1) The person holding an oral hearing in relation to the compulsory acquisition of land, which relates wholly or in part to proposed development by a local authority which is required to comply with *section 213*, *214* or *230* or any other statutory provision to comply with procedures for giving effect to the Environmental Impact Assessment Directive, shall be entitled to hear evidence in relation to the likely effects on the environment of such development.

(2) Where an application for the approval of a proposed development which is required to comply with *section 213*, *214* or *230* is made to the Commission and a compulsory purchase order or provisional order has been submitted to the Commission for confirmation and the proposed development relates wholly or in part to the same proposed development, the Commission shall, if objections have been received in relation to the compulsory purchase order, make a decision on the confirmation of the compulsory purchase order at the same time.

Objective of Commission in relation to *section 410* functions

419. (1) Subject to *subsections (2)* to *(5)*, the Commission shall determine any matters in accordance with the *section 410* functions—

(a) within a period of 18 weeks beginning on the last day for making objections, observations or submissions, as the case may be, in accordance with the relevant enactment referred to in *paragraphs (a)* to *(e)* of *subsection (1)* of *section 410*, or

(b) the matter is determined within such other period as the Minister may prescribe in relation to *paragraph (a)*, either generally or in respect of a particular class or classes of matter.

(2) (a) Where it appears to the Commission that it would not be possible or appropriate, because of the particular circumstances of the matter with which the Commission is concerned, to determine the matter within the period prescribed under *subsection (1)*, the Commission shall, by notice in writing served on any local authority involved and any other person who submitted objections, representations, submissions or observations in relation to the matter before the expiration of that period, inform the authority and those persons of the reasons why it would not be possible or appropriate to determine the matter within that period and shall specify the date before which the Commission intends that the matter shall be determined.

(b) Where a notice has been served under *paragraph (a)*, the Commission shall take all such steps as are open to it to ensure that the matter is determined before the date specified in the notice.

(3) The Minister may by regulations vary the period as specified in *subsection (2)* either generally or in respect of a particular class or classes of matters with which the Commission is concerned, in accordance with the *section 410* functions, where it appears to him or her to be necessary, by virtue of exceptional circumstances, to do so and, for so long as the regulations are in force, this section shall be construed and have effect in accordance therewith.

(4) Where the Minister considers it to be necessary or expedient that certain functions of the Commission (being *section 410* functions) performable in relation to matters of a class or classes that—

(a) are of special strategic, economic or social importance to the State, and

(b) are submitted to the Commission for the performance by it of such functions,

be performed as expeditiously as is consistent with proper planning and sustainable development, he or she may give a direction to the Commission that in the performance of the functions concerned priority be given to matters of the class or classes concerned, and the Commission shall comply with such direction.

(5) *Subsection (1)* shall not apply in relation to the functions referred to in *paragraph (a)* of *subsection (1)* of *section 410* in so far as they relate to any enactment referred to in *subparagraph (i)*, *(iii)* or *(iv)* of *paragraph (a)* of *subsection (1)* of *section 410*.

(6) For the purposes of meeting its duty under this section, the Chief Planning Commissioner may, or shall when so directed by the Minister, assign the *section 410* functions to a particular division of the Commission in accordance with *section 514*.

(7) The Commission shall include in each report made under *section 522* a statement of the number of matters which the Commission has determined within a period referred to in *paragraph (a)* or *(b)* of *subsection (1)* and such other information as to the time taken to determine such matters as the Minister may direct.

(8) The Minister may by regulations provide for such additional, incidental, consequential or supplemental matters as regards procedure in respect of the functions referred to in *paragraph (a)* or *(b)* of *subsection (1)* of *section 410* as appear to the Minister to be necessary or expedient.

References to *section 410* functions in regulations, etc.

420. (1) A reference in any regulations, prescribed forms or other instruments made under the enactments referred to in *paragraphs (a)* to *(e)* of *subsection (1)* of *section 410* to the Minister of the Government concerned, and which relate to the *section 410* functions, shall be deemed to be references to the Commission.

(2) A reference in any regulations, prescribed forms or other instruments made under the enactments referred to in *paragraphs (a)* to *(e)* of *subsection (1)* of *section 410* to local inquiries or public local inquiries, and which relate to the *section 410* functions, shall be deemed to be references to oral hearings by the Commission.

Transitional provisions

421. (1) Where a function has been performed by a relevant person pursuant to a relevant provision for the purposes of, or relating to, the acquisition of land but such acquisition has not been completed before the relevant commencement—

(a) that function shall, on and after the relevant commencement, be deemed to have been performed under the provision of this Part that is equivalent to that relevant provision, and

(b) the further steps that need to be taken to complete such acquisition may be taken under one or more than one provision of this Part, and this Part shall be construed, with all necessary modifications, to enable those further steps to be taken.

(2) In this section—

"acquisition of land" shall be construed in accordance with section 213 of the Act of 2000;

"land" includes any part of the maritime area that falls within *paragraph (b)* of the definition of "owner" in *section 2*;

"relevant commencement" means the commencement of this Part;

"relevant person" means—

(a) a local authority,

(b) An Bord Pleanála,

(c) a Minister of the Government,

(d) a sanitary authority or road authority referred to in section 217 of the Act of 2000, or

(e) the High Court;

"relevant provision" means a provision of section 213, 216, 217, 217A, 217B, 217C, 218, 219, 220, 221 or 223 of the Act of 2000.

CHAPTER 3

Compulsory Acquisition and Purchase of Maritime Sites

Maritime site acquisition by local authority

422. (1) The power conferred on a local authority under any enactment to acquire maritime sites shall be construed in accordance with this section.

(2) (a) A local authority may, for the purposes of performing any of its functions (whether conferred by or under this Act or any other enactment passed before or after the passing of this Act), including giving effect to or facilitating the implementation of its development plan or its housing strategy, do all or any of the following:

(i) acquire maritime sites, permanently or temporarily, by agreement or compulsorily;

(ii) acquire, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any maritime sites;

(iii) restrict or otherwise interfere with, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any maritime sites,

and the performance of all or any of the functions referred to in *subparagraphs (i)*, *(ii)* and *(iii)* are referred to in this Act as an "acquisition of a maritime site".

(b) A reference in *paragraph (a)* to acquisition by agreement shall include acquisition by way of purchase, lease, exchange or otherwise.

(c) The functions conferred on a local authority by *paragraph (a)* may be performed in relation to—

(i) a maritime site, or

(ii) any easement, way-leave, water-right or other right to which that paragraph applies,

whether situated or exercisable, as the case may be, inside or outside the functional area of the local authority concerned.

(3) (a) The acquisition may be effected by agreement or compulsorily in respect of a maritime site not immediately required for a particular purpose if, in the opinion of the local authority, the maritime site will be required by the authority for that purpose in the future.

(b) The acquisition may be effected by agreement in respect of any maritime site which, in the opinion of the local authority, it will require in the future for a purpose relating to any of its functions notwithstanding that the authority has not determined the manner in which or the particular such purpose for which it will use the maritime site.

(c) *Paragraphs (a)* and *(b)* shall apply and have effect in relation to any power to acquire a maritime site conferred on a local authority by virtue of this Act or any other enactment whether enacted before or after this Act.

(4) A local authority may be authorised by compulsory purchase order to acquire a maritime site for any of the purposes referred to in *subsection (2)* and section 10 of the Local Government (No. 2) Act 1960 shall be construed so as to apply accordingly and the reference to "purposes" in paragraph (a) of subsection (1) of section 10 of that Act shall be construed as including purposes referred to in *subsection (2)*.

(5) In this section "maritime site" means any part of the maritime area that falls within *paragraph (b)* of the definition of "owner" in *section 2*.

Continuance of vesting of certain functions

423. (1) It is hereby declared that all the functions that, immediately before the repeal of Part XIV of the Act of 2000 by *section 6*, vested in the Commission (formerly known as An Bord Pleanála) by virtue of sections 214, 215, 215A, 215B and 215C of that Act, namely—

(a) the functions conferred on the Minister of the Government concerned in relation to the compulsory acquisition of a maritime site by a local authority under the following enactments:

(i) the Public Health (Ireland) Act 1878;

(ii) the Local Government (Ireland) Act 1898;

(iii) the Local Government Act 1925;

(iv) the Water Supplies Act 1942;

(v) the Local Government (No. 2) Act 1960;

(vi) the Local Government (Sanitary Services) Act 1964;

(vii) the Act of 1966;

(viii) the Derelict Sites Act 1990;

(ix) the Roads Acts 1993 and 1998;

(x) the Dublin Docklands Development Authority Act 1997,

(b) the functions of the Minister of the Government concerned in relation to a scheme or proposed road development under sections 49, 50 and 51 of the Act of 1993,

(c) the functions of—

(i) any Minister of the Government, or

(ii) the Commission for Energy Regulation,

under sections 31 and 32 of, and the Second Schedule to, the Gas Act 1976 in relation to the compulsory acquisition of a maritime site in respect of a strategic gas infrastructure development,

(d) the functions of the Minister of the Government concerned under section 17 of, and the Second Schedule to, the Air Navigation and Transport (Amendment) Act 1998 in relation to the compulsory acquisition of a maritime site for the purposes set out in section 18 of that Act, and

(e) the functions of the Minister of the Government concerned under section 16 of, and the Fourth Schedule to, the Harbours Act 1996 in relation to the compulsory acquisition of a maritime site for the purposes set out in that section,

shall, on and after that repeal, continue to vest in the Commission and the enactments referred to in *paragraphs (a)* to *(e)* shall, with all necessary modifications, be construed accordingly.

(2) A reference in an enactment that, immediately before the repeal of Part XIV of the Act of 2000 by *section 6*, was to be construed as a reference to An Bord Pleanála by virtue of section 214, 215, 215A, 215B or 215C of that Act shall, on and after that repeal, be construed as a reference to the Commission.

(3) In this section "local authority" includes the Dublin Docklands Authority.

Confirmation of compulsory purchase order where there are no objections

424. (1) Subject to *subsections (2)* and *(3)*, where a compulsory purchase order is made in respect of the acquisition of a maritime site by a local authority in accordance with any enactment referred to in *paragraph (a)* of *subsection (1)* of *section 423* and—

(a) no objections are received by the Commission or the local authority, as the case may be, within the period provided for making objections,

(b) any objection received is subsequently withdrawn at any time before the Commission makes its decision, or

(c) the Commission is of the opinion that any objection received relates exclusively to matters which can be dealt with by a property arbitrator nominated under the Property Values (Arbitrations and Appeals) Act 1960,

the Commission shall, where appropriate, inform the local authority thereof and the local authority shall, as soon as may be, confirm the order with or without modification, or it may refuse to confirm the order.

(2) *Subsection (1)* shall not prejudice any requirement to obtain approval for a scheme in accordance with section 49 of the Act of 1993 or proposed road development in accordance with section 51 of the Act of 1993, or for proposed *Chapter 4* local authority development (within the meaning of *Part 4*) or *Chapter 4* State authority development (within the meaning of *Part 4*).

(3) *Subsection (1)* shall not apply with respect to a compulsory purchase under the Derelict Sites Act 1990.

(4) In this section "local authority" includes the Dublin Docklands Development Authority.

Certain time limits in respect of compulsory purchase of maritime site, etc.

425. (1) Where an objection is made to a sanitary authority in accordance with section 6 of the Water Supplies Act 1942 and not withdrawn, the sanitary authority shall, within 6 weeks of receiving the objection, apply to the Commission for a provisional order in accordance with section 8 of that Act.

(2) Where an objection is made to a sanitary authority in accordance with section 8 of the Local Government (Sanitary Services) Act 1964 and not withdrawn, the sanitary authority shall, within 6 weeks of receiving the objection, apply to the Commission for its consent to the compulsory acquisition of a maritime site in accordance with that section.

(3) Subject to *section 424*, where a local authority complies with the notification provisions in relation to a compulsory purchase order under article 4 of the Third Schedule to the Act of 1966, it shall, within 6 weeks of complying with those provisions, submit the compulsory purchase order to the Commission for confirmation.

(4) Where a road authority complies with the notification provisions in relation to a scheme in accordance with section 48 of the Act of 1993, it shall, within 6 weeks of complying with those provisions, submit the scheme to the Commission for approval.

(5) A notice of the making of a confirmation order to be published or served, as the case may be, in accordance with subsection (1) of section 78 of the Act of 1966 shall be published or served within 12 weeks of the making of the confirmation order.

(6) Notwithstanding section 123 of the Lands Clauses Consolidation Act 1845, where a compulsory purchase order or provisional order is confirmed by a local authority or the Commission and becomes operative and the local authority decides to acquire a maritime site to which the order relates, the local authority shall serve any notice required under any enactment to be served in order to treat for the purchase of the several interests in the maritime site (including under section 79 of the Act of 1966) within 18 months of the order becoming operative.

(7) (a) Notwithstanding *subsection (6)*, where legal proceedings are in being challenging the validity of either—

(i) the compulsory purchase order or provisional order concerned, or

(ii) permissions, consents or authorisations granted by or under this Act or by or under any other enactment relating to the project in respect of which, or being the purpose for which, the maritime site concerned is to be acquired,

and a notice to treat is not served within the period of 18 months (in this subsection referred to as the "first period"), the first period shall be extended for a further period (in this subsection referred to as the "second period") beginning on the day immediately after the day on which the first period expires and expiring on the earlier of the following:

(I) 30 days after the day on which the legal proceedings are concluded;

(II) 18 months after the day on which the first period expires.

(b) Where proceedings referred to in *paragraph (a)* have not been concluded during the second period, on an application to the High Court by the local authority before the expiration of the second period, that court may, if it considers that, in the particular circumstances there is good and sufficient reason for doing so, extend the second period by such further period from its expiration as it believes necessary in the circumstances provided that, having regard to all of the circumstances, it considers that it would be just and equitable to do so.

(8) (a) A decision of the Commission made in the performance of a function which falls within *paragraph (a)* or *(b)* of *subsection (1)* of *section 423* shall become operative 3 weeks from the date on which notice of the decision is first published.

(b) Subsections (8) and (9) of section 52 of the Act of 1993 and subsections (2) to (4) of section 78 of the Act of 1966 shall not apply in relation to decisions of the Commission under this Part, in so far as this Part relates to the maritime area.

***Section 423* functions: supplemental provisions**

426. (1) The Commission may, in respect of any of the *section 423* functions concerning the confirming or otherwise of any compulsory acquisition, at its absolute discretion and at any time before making a decision in respect of the matter—

(a) request submissions or observations from any person who may, in the opinion of the Commission, have information which is relevant to its decision concerning the confirming or otherwise of such compulsory acquisition (and may have regard to any submission or observation so made in the making of its decision), or

(b) hold meetings with the local authority, or in the case of *paragraph (c)* of *subsection (1)* of *section 423*, the person who applied for the acquisition order, or any other person where it appears to the Commission to be necessary or expedient for the purpose of—

(i) making a decision concerning the confirming or otherwise of such compulsory acquisition, or

(ii) resolving any issue with the local authority or the applicant, as may be appropriate, or any disagreement between the authority or the applicant, as may be appropriate, and any other person, including resolving any issue or disagreement in advance of an oral hearing.

(2) Where the Commission holds a meeting in accordance with *paragraph (b)* of *subsection (1)*, it shall keep a written record of the meeting and make that record available for inspection.

(3) The Commission, or an employee of the Commission duly authorised by the Commission, may appoint any person to hold a meeting referred to in *paragraph (b)* of *subsection (1)*.

***Paragraph (b)* of *subsection (1)* of *section 423*: supplemental provisions**

427. (1) The Commission may, at its absolute discretion and at any time before making a decision on a scheme or proposed road development referred to in *paragraph (b)* of *subsection (1)* of *section 423*—

(a) request further submissions or observations from any person who made submissions or observations in relation to the scheme or proposed road development, or any other person who may, in the opinion of the Commission, have information which is relevant to its decision on the scheme or proposed road development, or

(b) hold meetings with the road authority or any other person where it appears to the Commission to be necessary or expedient for the purpose of—

(i) making a decision on the scheme or proposed road development, or

(ii) resolving any issue with the road authority or any disagreement between the authority and any other person, including resolving any issue or disagreement in advance of an oral hearing.

(2) Where the Commission holds a meeting in accordance with *paragraph (b)* of *subsection (1)*, it shall keep a written record of the meeting and make that record available for inspection.

(3) The Commission, or an employee of the Commission duly authorised by the Commission, may appoint any person to hold a meeting referred to in *paragraph (b)* of *subsection (1)*.

(4) The Commission may—

(a) if it considers it necessary to do so, require a road authority that has submitted a scheme under section 49 of the Act of 1993 or made an application for approval under section 51 of that Act to furnish to the Commission such further information in relation to—

(i) the effects on the environment of the proposed scheme or road development, or

(ii) the consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said scheme or road development of such scheme or road development,

as the Commission may specify, or

(b) if it is provisionally of the view that it would be appropriate to approve the scheme or proposed road development were certain alterations (specified in the notification referred to in this paragraph) to be made to the terms of it, notify the road authority that it is of that view and invite the authority to make to the terms of the scheme or proposed road development under the Act of 1993 alterations specified in the notification and, if the authority makes those alterations, to furnish to the Commission such information (if any) as it may specify in relation to the scheme or road development, in the terms as so altered or, where necessary, a revised environmental impact assessment report in respect of it.

(5) If a road authority makes the alterations to the terms of the scheme or proposed road development specified in a notification given to it under *subsection (4)*, the terms of the scheme or road development as so altered shall be deemed to be the scheme or proposed road development for the purposes of sections 49, 50 and 51 of the Act of 1993.

(6) The Commission shall—

(a) where it considers that any further information received pursuant to a requirement made under *paragraph (a)* of *subsection (4)* contains significant additional data relating to—

(i) the likely effects on the environment of the scheme or proposed road development, and

(ii) the likely consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said scheme or road development of such scheme or road development,

or

(b) where the road authority has made the alterations to the terms of the proposed development specified in a notification given to it under *paragraph (b)* of *subsection (4)*,

require the authority to do the things referred to in *subsection (7)*.

(7) The things which a road authority shall be required to do as aforesaid are—

(a) to publish in at least one newspaper a notice stating that, as appropriate—

(i) further information in relation to the scheme or proposed road development has been furnished to the Commission, or

(ii) the road authority has, pursuant to an invitation of the Commission, made alterations to the terms of the scheme or proposed road development (and the nature of those alterations shall be indicated) and, if it be the case, that information in relation to the terms of the scheme or road development as so altered or a revised environmental impact assessment report in respect of the scheme or development has been furnished to the Commission,

indicating the times at which, the period (which shall not be less than 3 weeks) during which and the place, or places, where a copy of the information or the environmental impact assessment report referred to in *subparagraph (i)* or *(ii)* may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy) and that submissions or observations in relation to that information, report or statement may be made to the Commission before the expiration of the indicated period, and

(b) to send to each body or prescribed authority to which a notice was given pursuant to paragraph (b) or (c) of subsection (3) of section 51 of the Act of 1993—

(i) a notice of the furnishing to the Commission of, as appropriate, the further information referred to in *subparagraph (i)* of *paragraph (a)* or the information, report or statement referred to in *subparagraph (ii)* of *paragraph (a)*, and

(ii) a copy of that further information, information, report or statement,

and to indicate to the body or authority that submissions or observations in relation to that further information, information, report or statement may be made to the Commission before the expiration of a period (which shall be not less than 3 weeks) beginning on the day on which the notice is sent to the prescribed authority by the road authority.

(8) The Commission shall, in making its decision in respect of a scheme or proposed road development, have regard to any information submitted on foot of a notice under *subsection (4)*, including any revised environmental impact assessment report or any submissions or observations made on foot of a request under *subsection (1)* or a notice under *subsection (7)*.

Commission's powers to make decisions on *section 423* functions

428. (1) Notwithstanding any provision of any of the enactments referred to in *paragraphs (a)* to *(e)* of *subsection (1)* of *section 423* concerning the confirming or otherwise of any compulsory acquisition, the Commission shall, in relation to any of the *section 423* functions respecting those matters, have the power to confirm a compulsory acquisition or any part thereof, with or without conditions or modifications, or to annul an acquisition or any part thereof.

(2) Notwithstanding any provision of the Act of 1993 concerning the approval of any scheme or proposed road development, the Commission shall, in relation to any of the *section 423* functions respecting those matters, have the power to approve the scheme or development or any part thereof, with or without conditions or modifications, or to refuse to approve the scheme or development or any part thereof.

(3) Without prejudice to the generality of the foregoing power to attach conditions, the Commission may attach to any approval of a scheme or proposed road development under the Act of 1993 a condition requiring—

(a) the construction or the financing, in whole or in part, of the construction of a facility, or

(b) the provision or the financing, in whole or in part, of the provision of a service,

in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Commission, would constitute a substantial gain to the community.

(4) A condition attached pursuant to *subsection (3)* shall not require such an amount of financial resources to be committed for the purposes of the condition being complied with as would substantially deprive the person in whose favour the approval operates of the benefits likely to accrue from the grant of the approval.

Oral hearings in relation to compulsory acquisition of maritime site

429. (1) Where, as a result of the *section 423* functions, the Commission would otherwise be required to hold a local inquiry, public local inquiry or oral hearing, that requirement shall not apply to the Commission but the Commission may, at its absolute discretion, hold an oral hearing in relation to the matter, the subject of the function concerned.

(2) For the avoidance of doubt, it is hereby declared that the provisions of the Local Government Acts 1941, 1946, 1955 and 1991, in relation to public local inquiries shall not apply in relation to oral hearings held by the Commission in accordance with *subsection (1)*.

(3) For the purposes of this Part, in so far as this Part relates to the maritime area, the references to local inquiries or public local inquiries in the following provisions shall be deemed to be references to oral hearings under this section:

(a) section 10 of the Local Government (No. 2) Act 1960;

(b) section 78 of, and the Third Schedule to, the Act of 1966;

(c) Part IV of the Act of 1993.

(4) *Sections 370*, *380* and *385* shall apply and have effect in relation to the *section 423* functions and those sections shall, with all necessary modifications, be construed accordingly.

Power to direct payment of certain costs

430. (1) Where the Commission has made a decision in the performance of any *section 423* functions, it may at its absolute discretion direct the payment of such sum as it considers reasonable by the local authority concerned or, in the case of *paragraph (c)*, *(d)* or *(e)* of *subsection (1)* of *section 423*, the person who applied for the acquisition order (hereafter in this section referred to as the "applicant")—

(a) to the Commission towards the costs and expenses incurred by the Commission in determining the matter, including—

(i) the costs of holding any oral hearing in relation to the matter,

(ii) the fees of any consultants or advisers engaged in the matter, and

(iii) an amount equal to such portion of the remuneration and any allowances for expenses paid to the members and employees of the Commission as the Commission determines to be attributable to the performance of duties by the members and employees in relation to the matter,

and

(b) to any person appearing at an oral hearing held in relation to the matter as a contribution towards the costs, other than the costs referred to in *section 370*, incurred by that person of appearing at that hearing,

and the local authority or applicant, as appropriate, shall pay the sum.

(2) The reference in *paragraph (b)* of *subsection (1)* to costs shall be construed as a reference to such costs as the Commission in its absolute discretion considers to be reasonable costs.

(3) If a local authority or applicant, as appropriate, fails to pay a sum directed to be paid under *subsection (1)*, the Commission or any other person concerned, as the case may be, may recover the sum from the authority or applicant, as appropriate, as a simple contract debt in any court of competent jurisdiction.

Certain procedures to run in parallel

431. (1) The person holding an oral hearing in relation to the compulsory acquisition of a maritime site, which relates wholly or in part to proposed development by a local authority which is required to comply with *section 213*, *214* or *230* or any other statutory provision to comply with procedures for giving effect to the Environmental Impact Assessment Directive, shall be entitled to hear evidence in relation to the likely effects on the environment of such development.

(2) Where an application for the approval of a proposed development which is required to comply with *section 213*, *214* or *230* is made to the Commission and a compulsory purchase order or provisional order has been submitted to the Commission for confirmation and the proposed development relates wholly or in part to the same proposed development, the Commission shall, if objections have been received in relation to the compulsory purchase order, make a decision on the confirmation of the compulsory purchase order at the same time.

Objective of Commission in relation to *section 423* functions

432. (1) Subject to *subsections (2)* to *(5)*, the Commission shall determine any matters in accordance with the *section 423* functions—

(a) within a period of 18 weeks beginning on the last day for making objections, observations or submissions, as the case may be, in accordance with the relevant enactment referred to in *paragraphs (a)* to *(e)* of *subsection (1)* of *section 423*, or

(b) the matter is determined within such other period as the Minister may prescribe in relation to *paragraph (a)*, either generally or in respect of a particular class or classes of matter.

(2) (a) Where it appears to the Commission that it would not be possible or appropriate, because of the particular circumstances of the matter with which the Commission is concerned, to determine the matter within the period prescribed under *subsection (1)*, the Commission shall, by notice in writing served on any local authority involved and any other person who submitted objections, representations, submissions or observations in relation to the matter before the expiration of that period, inform the authority and those persons of the reasons why it would not be possible or appropriate to determine the matter within that period and shall specify the date before which the Commission intends that the matter shall be determined.

(b) Where a notice has been served under *paragraph (a)*, the Commission shall take all such steps as are open to it to ensure that the matter is determined before the date specified in the notice.

(3) The Minister may by regulations vary the period as specified in *subsection (2)* either generally or in respect of a particular class or classes of matters with which the Commission is concerned, in accordance with the *section 423* functions, where it appears to him or her to be necessary, by virtue of exceptional circumstances, to do so and, for so long as the regulations are in force, this section shall be construed and have effect in accordance therewith.

(4) Where the Minister considers it to be necessary or expedient that certain functions of the Commission (being *section 423* functions) performable in relation to matters of a class or classes that—

(a) are of special strategic, economic or social importance to the State, and

(b) are submitted to the Commission for the performance by it of such functions,

be performed as expeditiously as is consistent with proper planning and sustainable development, he or she may give a direction to the Commission that in the performance of the functions concerned priority be given to matters of the class or classes concerned, and the Commission shall comply with such direction.

(5) *Subsection (1)* shall not apply in relation to the functions referred to in *paragraph (a)* of *subsection (1)* of *section 423* in so far as they relate to any enactment referred to in *subparagraph (i)*, *(iii)* or *(iv)* of *paragraph (a)* of *subsection (1)* of *section 423*.

(6) For the purposes of meeting its duty under this section, the Chief Planning Commissioner may, or shall when so directed by the Minister, assign the *section 423* functions to a particular division of the Commission in accordance with *section 514*.

(7) The Commission shall include in each report made under *section 522* a statement of the number of matters which the Commission has determined within a period referred to in *paragraph (a)* or *(b)* of *subsection (1)* and such other information as to the time taken to determine such matters as the Minister may direct.

(8) The Minister may by regulations provide for such additional, incidental, consequential or supplemental matters as regards procedure in respect of the functions referred to in *paragraph (a)* or *(b)* of *subsection (1)* of *section 423* as appear to the Minister to be necessary or expedient.

References to *section 423* functions in regulations, etc.

433. (1) A reference in any regulations, prescribed forms or other instruments made under the enactments referred to in *paragraphs (a)* to *(e)* of *subsection (1)* of *section 423* to the Minister of the Government concerned, and which relate to the *section 423* functions, shall be deemed to be references to the Commission.

(2) A reference in any regulations, prescribed forms or other instruments made under the enactments referred to in *paragraphs (a)* to *(e)* of *subsection (1)* of *section 423* to local inquiries or public local inquiries, and which relate to the *section 423* functions, shall be deemed to be references to oral hearings by the Commission.

PART 15

Compensation — Land (*Chapters 1* to *3*) and Maritime Sites (*Chapters 4* to *7*)

Chapter 1

Compensation for Refusal of Permission or Grant of Permission Subject to Conditions — Land

Right to compensation

434. (1) Subject to the other provisions of this Part, in so far as this Part relates to land, where a decision (in this subsection referred to as the "relevant decision") is made by the Commission, on appeal from a decision of a planning authority or on an application made to the Commission in the first instance, either—

(a) to refuse permission, or

(b) to grant permission subject to one or more than one condition,

a person with an interest in the land, or the occupier of the land, to which the relevant decision relates shall, where it results, at the date of such decision, in a reduction in the value of such interest or damage to the occupier, as the case may be, on a claim made to the planning authority, be entitled to be paid by the planning authority, by way of compensation, an amount calculated in accordance with *subsection (1)* or *(2)*, as the case may be, of *section 435*.

(2) Compensation shall not be payable under *subsection (1)* in respect of the refusal of permission, or the grant of permission subject to one or more than one condition, for any development—

(a) of a class or description set out in *Part 1* of *Schedule 3*,

(b) in the case of the refusal of permission, where the reason, or one or more than one of the reasons, for such refusal is a reason set out in *Part 1* of *Schedule 4*,

(c) in the case of the refusal of permission, where such refusal is based on any change of the zoning of any land as a result of—

(i) the making of a new development plan,

(ii) the variation of an existing development plan, or

(iii) the preparing, making, amending or revoking of an urban area plan, a priority area plan or a coordinated area plan,

(d) in the case of the grant of permission subject to one or more than one condition, such grant being subject to one or more than one condition of a class or description set out in *Part 1* of *Schedule 5*,

(e) in the case of the refusal of permission or the grant of permission subject to one or more than one condition, such refusal or grant, as the case may be, relating to the retention on land of any unauthorised structure, or

(f) where a notice preventing compensation is served and has the effect of preventing compensation in accordance with *section 437*.

Amount of compensation

435. (1) Compensation for the purposes of *section 434* in the case of a person with an interest in land shall be calculated as such amount representing the reduction in value as may be agreed or, where not agreed, as determined in accordance with *Part 1* of *Schedule 6*.

(2) In the case of the occupier of the land, the amount of compensation payable is the damage (if any) to his or her trade, business or profession carried out on the land.

Claim for compensation

436. (1) Where a claim for compensation is made under *section 434*, it shall be made to the relevant planning authority which determined the application in the first instance or, where the application was made directly to the Commission, to the planning authority within whose functional area the development is situated.

(2) A claim for compensation may be made by—

(a) a person with an interest in land the value of which is alleged to have been reduced,

(b) an occupier of land where damage is alleged to have been caused to his or her trade, business or profession carried out on the land, or

(c) any other person who has the consent in writing to do so by, as the case may be, the person referred to in *paragraph (a)* or the occupier referred to in *paragraph (b)*.

Notices preventing compensation

437. (1) Subject to *subsection (2)*, where a claim for compensation is made under *section 434*, the planning authority concerned may, not later than 12 weeks after the claim is received, and having regard to all the circumstances of the case, serve a notice (in this section referred to as a "relevant notice") in such form as may be prescribed on the person by whom or on behalf of whom the claim has been made stating that, notwithstanding the refusal of permission to develop land or the grant of permission to develop land subject to one or more than one condition, the land is, in its opinion, capable of other specified types of development for which permission may be granted.

(2) Where a relevant notice is sent, the planning authority shall be restricted to considerations of proper planning and sustainable development.

(3) The sending of a relevant notice by a planning authority does not prejudice the entitlement of a planning authority or the Commission to refuse permission for an application for other development identified in the notice.

(4) A relevant notice shall continue in force for a period of 5 years unless—

(a) the notice is withdrawn by the planning authority,

(b) permission is granted to develop the land to which the notice relates in a manner consistent with the other development identified in the notice, subject to no condition or to one or more than one condition of a class or description set out in *Part 1 of Schedule 5*, or

(c) the notice is annulled in accordance with *subsection (7)*.

(5) Where a relevant notice is withdrawn, or annulled under *subsection (7)*, the reasons for such withdrawal or annulment, as the case may be, shall be provided by the planning authority and placed on the planning register.

(6) Compensation shall not be payable on a claim made under *section 434* where—

(a) a relevant notice is in force in relation to that claim,

(b) a relevant notice was in force in relation to that claim but—

(i) the notice has ceased to be in force by reason of the expiration of the period referred to in *subsection (4)*, and

(ii) no application for permission to develop the land the subject of the notice, in a manner consistent with the other development identified in the notice, has been made within the period referred to in *subparagraph (i)*,

or

(c) a relevant notice was in force in relation to the claim but has ceased to be in force by virtue of *paragraph (b)* of *subsection (4)*.

(7) A relevant notice shall be annulled where, upon an application for permission to develop the land the subject of the notice in a manner consistent with the other development identified in the notice, the permission is refused or is granted subject to one or more than one condition other than one or more than one condition of a class or description set out in *Part 1* of *Schedule 5*.

(8) No claim for compensation under *section 434* shall lie in relation to a decision to refuse permission or grant permission subject to one or more than one condition following an application for permission to develop the land the subject of the relevant notice in a manner consistent with the other development identified in the notice.

Special provision for structures substantially replacing structures demolished or destroyed by fire, etc.

438. (1) Nothing in this Part, in so far as this Part relates to land, shall prevent compensation being paid—

(a) in respect of the refusal of permission for the erection of a new structure substantially replacing a structure (other than an unauthorised structure) which has been demolished or destroyed (including by fire) save where it was demolished or destroyed by an unlawful act, of either the owner, or of the occupier with the agreement of the owner, carried out within the 2 years immediately preceding the date of application for permission, or

(b) where a proposed new structure referred to in *paragraph (a)* is granted permission but subject to a condition in consequence of which—

(i) the new structure may not be used for the purpose for which the demolished or destroyed structure was last used, or

(ii) the new structure or the front thereof, or the front of an existing structure (other than an unauthorised structure) which has been taken down in order to be re-erected or altered, is set back or forward.

(2) A dispute between the planning authority and claimant as to whether a new structure referred to in *paragraph (a)* of *subsection (1)* would or does replace substantially a

demolished or destroyed structure (other than an unauthorised structure) may be referred, by the planning authority or claimant, to the Commission for determination.

CHAPTER 2

Compensation on Other Grounds — Land

Compensation where permission revoked or modified

439. (1) Where a grant of permission to develop land has been revoked or modified by a planning authority or on appeal by the Commission—

(a) if, on a claim made to the planning authority, it is shown that any person interested in the land has incurred expenditure or entered into a contract to incur expenditure in respect of works which are rendered abortive by the revocation or modification, the planning authority shall pay to that person compensation in respect of that expenditure or contract, and

(b) this Part, in so far as this Part relates to land, shall apply in relation to the decision—

(i) where it revoked the permission, as they apply in relation to a refusal of permission to develop land, and

(ii) where it modified the permission by the imposition of one or more than one condition, as they apply in relation to a grant of permission to develop land subject to one or more than one condition.

(2) For the purposes of this section, any expenditure reasonably incurred in the preparation of plans for the purposes of any works or upon other similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out those works but no compensation shall be paid by virtue of this section in respect of any works carried out before the grant of the permission which is revoked or modified, or in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of that permission.

(3) This section shall apply to an order made under *section 150* subject to—

(a) the modification that references to planning authority shall be construed as references to the Minister, and

(b) any other necessary modifications.

Compensation regarding removal or alteration of structure on land

440. If, on a claim made to the planning authority, it is shown that, as a result of the removal or alteration of any structure consequent upon a notice served by it under *section 258*, the value of an interest of any person in the structure existing at the time of the confirmation of the notice is reduced, or that any person having an interest in the structure at that time has suffered damage by being disturbed in his or her enjoyment of the structure, that person shall, subject to the other provisions of this Part, in so far as this Part relates to land, be entitled to be paid by the planning authority by way of compensation the amount

of the reduction in value or the amount of the damage.

Compensation regarding discontinuance of use of land

441. (1) Subject to *subsections (2)* and *(3)*, if, on a claim made to the planning authority, it is shown that, as a result of the discontinuance or the compliance with one or more than one condition on the continuance of any use of land consequent upon a notice served by it under *section 258*, the value of an interest of any person in the land existing at the time of the confirmation of the notice is reduced, or that any person having an interest in the land at that time has suffered damage by being disturbed in his or her enjoyment of the land, that person shall, subject to the other provisions of this Part, in so far as this Part relates to land, be entitled to be paid by the planning authority by way of compensation the amount of the reduction in value or the amount of the damage.

(2) No compensation shall be paid under this section in relation to a reduction in value or damage resulting from the imposition of one or more than one condition under *section 258* on the continuance of the use of land, being conditions imposed in order to avoid or reduce serious pollution or the danger of such pollution.

(3) *Subsection (1)* shall not apply where the use of land is for the exhibition of advertising unless at the time of the discontinuance or compliance, the land has been used for the exhibition of advertising for more than 5 years, whether the use was continuous or intermittent or whether or not, while the land was being so used, advertising was exhibited at the same place on the land.

Compensation regarding area of special planning control

442. If, on a claim made to a planning authority, it is shown that—

(a) the value of an interest of any person in land in an area of special planning control has been reduced, or

(b) as a result of complying with a notice under *section 339*, the value of an interest of any person in the land existing at the time of the notice has been reduced, or that any person, having an interest in the land at the time, has suffered damage by being disturbed in his or her enjoyment of the structure or other land,

that person shall be paid by the planning authority, by way of compensation, a sum equal to the amount of the reduction in value or a sum in respect of the damage suffered.

Compensation regarding cables, wires and pipelines

443. If, on a claim made to the planning authority, it is shown that, as a result of a planning authority exercising its powers pursuant to *section 275* and the rights and obligations arising therefrom, the value of an interest of any person in the land existing at the time of the action of the planning authority is reduced, or that any person having an interest in the land at that time has suffered damage by being disturbed in his or her enjoyment of the land or structure, that person shall, subject to the other provisions of this Part, in so far as this Part relates to land, be entitled to be paid by the planning authority by way of

compensation the amount of the reduction in value or the amount of the damage.

Compensation regarding creation of public rights of way

444. If, on a claim made to the planning authority, it is shown that the value of an interest of any person in land, being land over which a public right of way has been created by an order under *section 269* made by that authority, is reduced, or that any person having an interest in the land has suffered damage by being disturbed in his or her enjoyment of the land in consequence of the creation of the public right of way, that person shall, subject to the other provisions of this Part, in so far as this Part relates to land, be entitled to be paid by the planning authority by way of compensation the amount of the reduction in value or the amount of the damage.

Compensation regarding entry on land

445. If, on a claim made to the planning authority or the Commission, it is shown that, as a result of anything done under *section 394* or *395* by virtue of the lawful entry onto land by an authorised person of a local authority or the Commission, any person having an interest in the land has suffered damage, the person shall, subject to the other provisions of this Part, in so far as this Part relates to land, be entitled to be paid by the planning authority or the Commission, as the case may be, by way of compensation the amount of the damage.

CHAPTER 3

General Provisions Applicable to Claims under Chapters 1 and 2 — Land

Application

446. This Chapter applies to any claim for compensation made under *Chapter 1* or *2*.

Time limits

447. (1) Subject to *subsection (2)*, a claim for compensation under this Part, in so far as this Part relates to land, shall be made not later than 6 months after—

(a) in the case of a claim under *section 434*, the date of the notification of the decision of the Commission to refuse permission or to grant permission subject to one or more than one condition,

(b) in the case of a claim under *section 439*, the date of the decision of the planning authority or the Commission, as the case may be,

(c) in the case of a claim under *section 440*, the date of the decision of the Commission to confirm a notice sent under *section 258*, with or without modifications, to require the demolition or removal or alteration or replacement of a structure,

(d) in the case of a claim under *section 441*, the date of the decision of the Commission to confirm a notice sent under *section 258*, with or without

modifications, to require the discontinuance of any use or to impose one or more than one condition on the continuance of a use,

(e) in the case of a claim referred to in *section 442*, the date of the approval of a scheme under *section 335* or the date for complying with a notice under *section 339*, as the case may be,

(f) in the case of a claim under *section 443*, the date on which (if consent is given) the owner of the land gives consent pursuant to *subsection (4)* of *section 275* or (if consent is not given) the date on which the Commission makes an order under *subsection (5)* of *section 275*,

(g) in the case of a claim under *section 444*, the date on which an order creating a public right of way comes into effect, and

(h) in the case of a claim under *section 445*, the date on which the damage is suffered.

(2) The High Court may, where it considers that the interests of justice so require and where there is good and sufficient reason, extend the period within which a claim for compensation under this Part, in so far as this Part relates to land, may be brought, upon application being made to it in that behalf.

Determination of claim for compensation

448. (1) Where a valid claim for compensation is made, it shall be determined by the planning authority within 3 months of the receipt of the claim for compensation unless the matter is referred to arbitration.

(2) A claim for compensation under this Part, in so far as this Part relates to land, shall, in default of agreement, be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act 1919, but subject to—

(a) *Part 1* of *Schedule 6* where the claim is in respect of a reduction in the value of an interest in land, and

(b) the proviso that the arbitrator shall have jurisdiction to make a nil award.

(3) The determination—

(a) by a planning authority, or

(b) in the absence of agreement between the planning authority or the Commission, as may be appropriate, and the claimant, by the property arbitrator,

of a claim for compensation shall be conducted in accordance with *Part 1* of *Schedule 6*.

(4) The Minister may make regulations to provide for—

(a) the form in which claims for compensation are to be made,

(b) the provision by a claimant of evidence in support of his or her claim, and information as to his or her interest in the land to which the claim relates,

(c) a statement by a claimant of the names and addresses of all other persons (so far as they are known to him or her) having an interest in the land to which the claim relates and, unless the claim is withdrawn, the notification by the planning authority (or, as the case may be, the Commission) or the claimant of every other person (if any) appearing to it or him or her to have an interest in the land, and

(d) the requisition of further additional evidence or information to support the claim.

Double compensation

449. (1) (a) Where a valid claim for compensation is made under this Part, in so far as this Part relates to land, to the relevant planning authority and compensation is agreed or, in default of agreement, is determined by arbitration, the claimant shall not be entitled to compensation under any other enactment.

(b) Where a valid claim for compensation is made under another enactment which claim is, or could be, a valid claim for compensation referred to in *paragraph (a)* and compensation is agreed or, in default of agreement, is determined by arbitration, the claimant shall not be entitled to compensation under this Part, in so far as this Part relates to land.

(2) Where more than one valid claim for compensation is made to the relevant planning authority, any award of compensation must be determined by reference to the claimant's specific interest and the extent of the loss or damage suffered by that claimant.

Recovery of compensation

450. (1) All compensation payable under this Part, in so far as this Part relates to land, by the planning authority (or, as the case may be, the Commission) shall, when the amount thereof has been determined by agreement or by arbitration in accordance with this Part, in so far as this Part relates to land, be recoverable from that authority (or, as the case may be, the Commission) as a simple contract debt in any court of competent jurisdiction.

(2) All costs and expenses of parties to an arbitration to determine the amount of any compensation shall, in so far as the costs and expenses are payable by the planning authority (or, as the case may be, the Commission), be recoverable from that authority (or, as the case may be, the Commission) as a simple contract debt in any court of competent jurisdiction.

Registration of compensation

451. (1) Where, on a claim for compensation under this Part, in so far as this Part relates to land, compensation has become payable, either by agreement between the planning authority (or, as the case may be, the Commission) and claimant or following the arbitration process, the planning authority (or, as the case may be, the Commission) shall prepare and retain a statement of that fact, specifying the basis for the claim for compensation, the dates when the claim for compensation was received and determined and the amount of the compensation which is agreed between the planning

authority (or, as the case may be, the Commission) and claimant or determined in the arbitration process.

(2) Particulars of a statement under this section prepared by a planning authority or the Commission shall be entered in the register not later than 2 weeks after the day on which the statement is prepared.

Recovery by planning authority of compensation subsequent to development

452. (1) No person shall carry out any development to which this section applies on land in respect of which a statement (in this section referred to as the "compensation statement") stands registered (whether under section 72 of the Act of 1963, section 9 of the Act of 1990, section 188 of the Act of 2000 or *section 451*) until that amount, as is recoverable under this section in respect of the compensation specified in the compensation statement, has been paid or secured to the satisfaction of the planning authority.

(2) This section applies to any development (other than exempted development), except that—

(a) this section shall not apply to any development by virtue of a permission to develop land granted subject to one or more than one condition other than a condition of a class or description set out in *Part 1* of *Schedule 5*, and

(b) in a case where the compensation specified in the statement became payable in respect of the imposition of one or more than one condition on the granting of permission to develop land, this section shall not apply to the development for which that permission was granted.

(3) Subject to *subsection (4)*, the amount recoverable under this section in respect of the compensation specified in a compensation statement—

(a) if the land on which the development is to be carried out (in this section referred to as the "development area") is identical with, or includes (with other land), the whole of the land comprised in the compensation statement, shall be the amount of compensation specified in that statement, or

(b) if the development area forms part of the land comprised in the compensation statement, or includes part of that land together with other land not comprised in that statement, shall be so much of the amount of compensation specified in that statement as is attributable to land comprised in that statement and falling within the development area.

(4) The attribution of compensation under *paragraph (b)* of *subsection (3)* shall be in accordance with the following—

(a) the planning authority shall (if it appears to it to be practicable to do so) apportion the amount of the compensation between the different parts of the land, according to the way in which those parts appear to it to be differently affected by the refusal of permission or grant of permission subject to one or more than one condition,

(b) if no apportionment is made, the amount of the compensation shall be treated as distributed rateably according to area over the land to which the statement relates,

(c) if an apportionment is made, the compensation shall be treated as distributed in accordance with that apportionment, as between the different parts of the land by reference to which the apportionment is made, and so much of the compensation as, in accordance with the apportionment, is attributed to a part of the land shall be treated as distributed rateably according to area over that part of the land, and

(d) if any person disputes an apportionment under this subsection, the dispute shall be submitted to and decided by a property arbitrator nominated under the Property Values (Arbitrations and Appeals) Act 1960.

(5) Where, in connection with the development of any land, an amount becomes recoverable under this section in respect of the compensation specified in a compensation statement, no amount shall be recoverable, in so far as it is attributable to that land, in connection with any subsequent development thereof.

(6) An amount recoverable under this section in respect of any compensation shall be payable to the planning authority, and—

(a) shall be so payable, either as a single capital payment or as a series of instalments of capital and interest combined (the interest being determined at the same rate as for a judgment debt), or as a series of other annual or periodical payments, of such amounts, and payable at such times, as the planning authority may direct, after taking into account any representations made by the person by whom the development is to be carried out, and

(b) except where the amount is payable as a single capital payment, shall be secured by that person in such manner (whether by mortgage loan, covenant or otherwise) as the planning authority may direct.

(7) If any person initiates any development to which this section applies in contravention of *subsection (1)*, the planning authority may serve a notice upon him or her specifying the amount appearing to it to be the amount recoverable under this section in respect of the compensation in question and requiring him or her to pay that amount to the planning authority within such period, not being less than 12 weeks after the service of the notice, as may be specified in the notice, and, in default of the amount being paid to the planning authority within the period specified in the notice, it shall be recoverable as a simple contract debt in any court of competent jurisdiction.

Restriction on assignment

453. A person shall not be entitled to assign to any other person all or any part of any prospective compensation under this Part, in so far as this Part relates to land, and every purported assignment or promise, express or implied, to pay any other person any money in respect of any such compensation is void.

Chapter 4

Definitions – Maritime Area

Definitions

454. In this Chapter, *Chapters 5* to *7* and *Part 2* of *Schedules 3* to *6*—

"designated maritime area plan" has the meaning assigned to it by the Act of 2021;

"maritime usage" has the meaning assigned to it by the Act of 2021;

"owner" shall be construed in accordance with *paragraph (b)* of the definition of "owner" in *section 2*.

Chapter 5

Compensation for Refusal of Permission or Grant of Permission Subject to Conditions – Maritime Area

Application

455. A reference in this Chapter to an occupier of a maritime site does not include an occupier who falls within *subparagraph (i)* of *paragraph (b)* of the definition of "occupier".

Right to compensation

456. (1) Subject to the other provisions of this Part in so far as this Part relates to the maritime area, where a decision (in this subsection referred to as the "relevant decision") is made by the Commission, on appeal from a decision of a planning authority or on an application made to the Commission in the first instance, either—

(a) to refuse permission, or

(b) to grant permission subject to one or more than one condition,

the owner of a maritime site, or the occupier of a maritime site, to which the relevant decision relates shall, where it results, at the date of such decision, in a reduction in the value of such ownership or damage to the occupier, as the case may be, on a claim made to the planning authority, be entitled to be paid by the planning authority, by way of compensation, an amount calculated in accordance with *subsection (1)* or *(2)*, as the case may be, of *section 457*.

(2) Compensation shall not be payable under *subsection (1)* in respect of the refusal of permission, or the grant of permission subject to one or more than one condition, for any development—

(a) of a class or description set out in *Part 2* of *Schedule 3*,

(b) in the case of the refusal of permission, where the reason, or one or more than one of the reasons, for such refusal is a reason set out in *Part 2* of *Schedule 4*,

(c) in the case of the refusal of permission, where such refusal is based on any change of the maritime usages of the maritime site concerned as a result of—

(i) the making of a new maritime spatial plan,

(ii) the variation of an existing maritime spatial plan, or

(iii) the preparing, making, amending or revoking of a designated maritime area plan,

(d) in the case of the grant of permission subject to one or more than one condition, such grant being subject to one or more than one condition of a class or description set out in *Part 2* of *Schedule 5*,

(e) in the case of the refusal of permission or the grant of permission subject to one or more than one condition, such refusal or grant, as the case may be, relating to the retention on the maritime site of any unauthorised structure, or

(f) where a notice preventing compensation is served and has the effect of preventing compensation in accordance with *section 459*.

Amount of compensation

457. (1) Compensation for the purposes of *section 456* in the case of the owner of a maritime site shall be calculated as such amount representing the reduction in value as may be agreed or, where not agreed, as determined in accordance with *Part 2* of *Schedule 6*.

(2) In the case of the occupier of a maritime site, the amount of compensation payable is the damage (if any) to his or her trade, business or profession carried out on the site.

Claim for compensation

458. (1) Where a claim for compensation is made under *section 456*, it shall be made to the relevant planning authority which determined the application in the first instance or, where the application was made directly to the Commission, to the planning authority within whose functional area the development is situated.

(2) A claim for compensation may be made by—

(a) the owner of a maritime site the value of which is alleged to have been reduced,

(b) an occupier of a maritime site where damage is alleged to have been caused to his or her trade, business or profession carried out on the maritime site, or

(c) any other person who has the consent in writing to do so by, as the case may be, the owner referred to in *paragraph (a)* or the occupier referred to in *paragraph (b)*.

Notices preventing compensation

459. (1) Subject to *subsection (2)*, where a claim for compensation is made under *section 456*, the planning authority concerned may, not later than 12 weeks after the claim is received, and having regard to all the circumstances of the case, serve a notice (in this section referred to as a "relevant notice") in such form as may be prescribed on the person by whom or on behalf of whom the claim has been made stating that, notwithstanding the refusal of permission to develop a maritime site or the grant of

permission to develop a maritime site subject to one or more than one condition, the maritime site is, in its opinion, capable of other specified types of development for which permission may be granted.

(2) Where a relevant notice is sent, the planning authority shall be restricted to considerations of proper planning and sustainable maritime usages and objectives of maritime spatial planning.

(3) The sending of a relevant notice by a planning authority does not prejudice the entitlement of a planning authority or the Commission to refuse permission for an application for other development identified in the notice.

(4) A relevant notice shall continue in force for a period of 5 years unless—

(a) the notice is withdrawn by the planning authority,

(b) permission is granted to develop the maritime site to which the notice relates in a manner consistent with the other development identified in the notice, subject to no condition or to one or more than one condition of a class or description set out in *Part 2* of *Schedule 5*, or

(c) the notice is annulled in accordance with *subsection (7)*.

(5) Where a relevant notice is withdrawn, or annulled under *subsection (7)*, the reasons for such withdrawal or annulment, as the case may be, shall be provided by the planning authority and placed on the planning register.

(6) Compensation shall not be payable on a claim made under *section 456* where—

(a) a relevant notice is in force in relation to that claim,

(b) a relevant notice was in force in relation to that claim but—

(i) the notice has ceased to be in force by reason of the expiration of the period referred to in *subsection (4)*, and

(ii) no application for permission to develop the maritime site the subject of the notice, in a manner consistent with the other development identified in the notice, has been made within the period referred to in *subparagraph (i)*,

or

(c) a relevant notice was in force in relation to the claim but has ceased to be in force by virtue of *paragraph (b)* of *subsection (4)*.

(7) A relevant notice shall be annulled where, upon an application for permission to develop the maritime site the subject of the notice in a manner consistent with the other development identified in the notice, the permission is refused or is granted subject to one or more than one condition other than one or more than one condition of a class or description set out in *Part 2* of *Schedule 5*.

(8) No claim for compensation under *section 456* shall lie in relation to a decision to refuse permission or grant permission subject to one or more than one condition following an application for permission to develop the maritime site the subject of the

relevant notice in a manner consistent with the other development identified in the notice.

Special provision for structures substantially replacing structures demolished or destroyed by fire, etc.

460. (1) Nothing in this Part, in so far as this Part relates to the maritime area, shall prevent compensation being paid—

(a) in respect of the refusal of permission for the erection of a new structure substantially replacing a structure (other than an unauthorised structure) which has been demolished or destroyed (including by fire) save where it was demolished or destroyed by an unlawful act, of either the owner, or of the occupier with the agreement of the owner, carried out within the 2 years immediately preceding the date of application for permission, or

(b) where a proposed new structure referred to in *paragraph (a)* is granted permission but subject to a condition in consequence of which—

(i) the new structure may not be used for the purpose for which the demolished or destroyed structure was last used, or

(ii) the new structure or the front thereof, or the front of an existing structure (other than an unauthorised structure) which has been taken down in order to be re-erected or altered, is set back or forward.

(2) A dispute between the planning authority and claimant as to whether a new structure referred to in *paragraph (a)* of *subsection (1)* would or does replace substantially a demolished or destroyed structure (other than an unauthorised structure) may be referred, by the planning authority or claimant, to the Commission for determination.

CHAPTER 6

Compensation on Other Grounds – Maritime Area

Application

461. A reference in this Chapter to an occupier of a maritime site only includes an occupier who falls within *subparagraph (i) of paragraph (b)* of the definition of "occupier" if permission has been granted to develop the maritime site the subject of the maritime area consent referred to in that subparagraph.

Compensation where permission revoked or modified

462. (1) Where a grant of permission to develop a maritime site has been revoked or modified by a planning authority or on appeal by the Commission—

(a) if, on a claim made to the planning authority, it is shown that the owner or occupier of the maritime site has incurred expenditure or entered into a contract to incur expenditure in respect of works which are rendered abortive by the revocation or modification, the planning authority shall pay to that owner or

occupier, as the case may be, compensation in respect of that expenditure or contract, and

(b) this Part, in so far as this Part relates to the maritime area, shall apply in relation to the decision—

(i) where it revoked the permission, as they apply in relation to a refusal of permission to develop a maritime site, and

(ii) where it modified the permission by the imposition of one or more than one condition, as they apply in relation to a grant of permission to develop a maritime site subject to one or more than one condition.

(2) For the purposes of this section, any expenditure reasonably incurred in the preparation of plans for the purposes of any works or upon other similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out those works but no compensation shall be paid by virtue of this section in respect of any works carried out before the grant of the permission which is revoked or modified, or in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of that permission.

(3) This section shall apply to an order made under *section 150* subject to—

(a) the modification that references to planning authority shall be construed as references to the Minister, and

(b) any other necessary modifications.

Compensation regarding removal or alteration of structure on maritime site

463. If, on a claim made to the planning authority or Maritime Area Regulatory Authority, as appropriate, it is shown that, as a result of the removal or alteration of any structure consequent upon a notice served by it under *section 258*, the value of an interest of any person in the structure existing at the time of the confirmation of the notice is reduced, or that any person having an interest in the structure at that time has suffered damage by being disturbed in his or her enjoyment of the structure, that person shall, subject to the other provisions of this Part, in so far as this Part relates to the maritime area, be entitled to be paid by the planning authority or Maritime Area Regulatory Authority, as the case may be, by way of compensation the amount of the reduction in value or the amount of the damage.

Compensation regarding discontinuance of use of maritime site

464. (1) Subject to *subsections (2)* and *(3)*, if, on a claim made to the planning authority or Maritime Area Regulatory Authority, as appropriate, it is shown that, as a result of the discontinuance or the compliance with one or more than one condition on the continuance of any use of a maritime site consequent upon a notice served by it under *section 258*, the value of an interest of any person in the maritime site existing at the time of the confirmation of the notice is reduced, or that any person having an interest in the maritime site at that time has suffered damage by being disturbed in his or her enjoyment of the maritime site, that person shall, subject to the other provisions of

this Part, be entitled to be paid by the planning authority or Maritime Area Regulatory Authority, as the case may be, by way of compensation the amount of the reduction in value or the amount of the damage.

(2) No compensation shall be paid under this section in relation to a reduction in value or damage resulting from the imposition of one or more than one condition under *section 258* on the continuance of the use of the maritime site, being conditions imposed in order to avoid or reduce serious pollution or the danger of such pollution.

(3) *Subsection (1)* shall not apply where the use of a maritime site is for the exhibition of advertising unless at the time of the discontinuance or compliance, the maritime site has been used for the exhibition of advertising for more than 5 years, whether the use was continuous or intermittent or whether or not, while the maritime site was being so used, advertising was exhibited at the same place on the maritime site.

Compensation regarding cables, wires and pipelines

465. If, on a claim made to the planning authority, it is shown that, as a result of a planning authority exercising its powers pursuant to *section 276* and the rights and obligations arising therefrom, the value of an interest of any person in the maritime site existing at the time of the action of the planning authority is reduced, or that any person having an interest in the maritime site at that time has suffered damage by being disturbed in his or her enjoyment of the maritime site or structure, that person shall, subject to the other provisions of this Part, in so far as this Part relates to the maritime area, be entitled to be paid by the planning authority by way of compensation the amount of the reduction in value or the amount of the damage.

Compensation regarding creation of public rights of way

466. If, on a claim made to the planning authority, it is shown that the value of an interest of any person in a maritime site, being a maritime site over which a public right of way has been created by an order under *section 269* made by that authority, is reduced, or that any person having an interest in the maritime site has suffered damage by being disturbed in his or her enjoyment of the maritime site in consequence of the creation of the public right of way, that person shall, subject to the other provisions of this Part, in so far as this Part relates to the maritime area, be entitled to be paid by the planning authority by way of compensation the amount of the reduction in value or the amount of the damage.

Compensation regarding entry on maritime site

467. If, on a claim made to the planning authority, the Maritime Area Regulatory Authority or the Commission, as appropriate, it is shown that, as a result of anything done under *section 394* or *395* by virtue of the lawful entry onto a maritime site by an authorised person of a local authority, Maritime Area Regulatory Authority or the Commission, any person having an interest in the maritime site has suffered damage, the person shall, subject to the other provisions of this Part, in so far as this Part relates to the maritime area, be entitled to be paid by the planning authority, the Maritime Area Regulatory Authority or the Commission, as the case may be, by way of compensation the amount of the damage.

CHAPTER 7

General Provisions Applicable to Claims under Chapters 5 and 6 – Maritime Area

Application

468. This Chapter applies to any claim for compensation made under *Chapter 5* or *6*.

Time limits

469. (1) Subject to *subsection (2)*, a claim for compensation under this Part, in so far as this Part relates to the maritime area, shall be made not later than 6 months after—

(a) in the case of a claim under *section 456*, the date of the notification of the decision of the Commission to refuse permission or to grant permission subject to one or more than one condition,

(b) in the case of a claim under *section 462*, the date of the decision of the planning authority or the Commission, as the case may be,

(c) in the case of a claim under *section 463*, the date of the decision of the Commission to confirm a notice sent under *section 258*, with or without modifications, to require the demolition or removal or alteration or replacement of a structure,

(d) in the case of a claim under *section 464*, the date of the decision of the Commission to confirm a notice sent under *section 258*, with or without modifications, to require the discontinuance of any use or to impose one or more than one condition on the continuance of a use,

(e) in the case of a claim under *section 465*, the date on which (if consent is given) the owner of the maritime site gives consent pursuant to *subsection (5)* of *section 276* or (if consent is not given) the date on which the Commission makes an order under *subsection (6)* of *section 276*,

(f) in the case of a claim under *section 466*, the date on which an order creating a public right of way comes into effect, and

(g) in the case of a claim under *section 467*, the date on which the damage is suffered.

(2) The High Court may, where it considers that the interests of justice so require and where there is good and sufficient reason, extend the period within which a claim for compensation under this Part, in so far as this Part relates to the maritime area, may be brought, upon application being made to it in that behalf.

Determination of claim for compensation

470. (1) Where a valid claim for compensation is made, it shall be determined by the planning authority or Maritime Area Planning Authority, as appropriate, within 3 months of the receipt of the claim for compensation unless the matter is referred to arbitration.

(2) A claim for compensation under this Part, in so far as this Part relates to the maritime area, shall, in default of agreement, be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act 1919, but subject to—

(a) *Part 2* of *Schedule 6* where the claim is in respect of a reduction in the value of an interest in a maritime site, and

(b) the proviso that the arbitrator shall have jurisdiction to make a nil award.

(3) The determination—

(a) by a planning authority or the Maritime Area Regulatory Authority, as appropriate, or

(b) in the absence of agreement between the planning authority, the Maritime Area Regulatory Authority or the Commission, as appropriate, and the claimant, by the property arbitrator,

of a claim for compensation shall be conducted in accordance with *Part 2* of *Schedule 6*.

(4) The Minister may make regulations to provide for—

(a) the form in which claims for compensation are to be made,

(b) the provision by a claimant of evidence in support of his or her claim, and information as to his or her interest in the maritime site to which the claim relates,

(c) a statement by a claimant of the names and addresses of all other persons (so far as they are known to him or her) having an interest in the maritime site to which the claim relates and, unless the claim is withdrawn, the notification by the planning authority or Maritime Area Regulatory Authority, as appropriate (or, as the case may be, the Commission) or the claimant of every other person (if any) appearing to it or him or her to have an interest in the maritime site, and

(d) the requisition of further additional evidence or information to support the claim.

Double compensation

471. (1) (a) Where a valid claim for compensation is made under this Part, in so far as this Part relates to the maritime area, to the relevant planning authority and compensation is agreed or, in default of agreement, is determined by arbitration, the claimant shall not be entitled to compensation under any other enactment.

(b) Where a valid claim for compensation is made under another enactment which claim is, or could be, a valid claim for compensation referred to in *paragraph (a)* and compensation is agreed or, in default of agreement, is determined by arbitration, the claimant shall not be entitled to compensation under this Part in so far as this Part relates to the maritime area.

(2) Where more than one valid claim for compensation is made to the relevant planning authority or Maritime Area Regulatory Authority, as appropriate, any award of

compensation must be determined by reference to the claimant's specific interest and the extent of the loss or damage suffered by that claimant.

Recovery of compensation

472. (1) All compensation payable under this Part, in so far as this Part relates to the maritime area, by the planning authority or Maritime Area Regulatory Authority, as appropriate, (or, as the case may be, the Commission) shall, when the amount thereof has been determined by agreement or by arbitration in accordance with this Part, be recoverable from the planning authority or Maritime Area Regulatory Authority (or, as the case may be, the Commission) as a simple contract debt in any court of competent jurisdiction.

(2) All costs and expenses of parties to an arbitration to determine the amount of any compensation shall, in so far as the costs and expenses are payable by the planning authority or Maritime Area Regulatory Authority, as appropriate (or, as the case may be, the Commission), be recoverable from the planning authority or Maritime Area Regulatory Authority (or, as the case may be, the Commission) as a simple contract debt in any court of competent jurisdiction.

Registration of compensation

473. (1) Where, on a claim for compensation under this Part, in so far as this Part relates to the maritime area, compensation has become payable, either by agreement between the planning authority or Maritime Area Regulatory Authority, as appropriate (or, as the case may be, the Commission) and claimant or following the arbitration process, the planning authority or Maritime Area Regulatory Authority (or, as the case may be, the Commission) shall prepare and retain a statement of that fact, specifying the basis for the claim for compensation, the dates when the claim for compensation was received and determined and the amount of the compensation which is agreed between the planning authority or Maritime Area Regulatory Authority (or, as the case may be, the Commission) and claimant or determined in the arbitration process.

(2) Particulars of a statement under this section prepared by a planning authority, the Maritime Area Regulatory Authority or the Commission shall be entered in the register not later than 2 weeks after the day on which the statement is prepared.

Recovery by planning authority of compensation subsequent to development

474. (1) No person shall carry out any development to which this section applies in the maritime area, in respect of which a statement (in this section referred to as the "compensation statement") stands registered (whether under section 72 of the Act of 1963, section 9 of the Act of 1990, section 188 of the Act of 2000 or *section 473*) until that amount, as is recoverable under this section in respect of the compensation specified in the compensation statement, has been paid or secured to the satisfaction of the planning authority or Maritime Area Regulatory Authority, as appropriate.

(2) This section applies to any development (other than exempted development), except that—

(a) this section shall not apply to any development by virtue of a permission to develop a maritime site granted subject to one or more than one condition other than a condition of a class or description set out in *Part 2* of *Schedule 5*, and

(b) in a case where the compensation specified in the statement became payable in respect of the imposition of one or more than one condition on the granting of permission to develop a maritime site, this section shall not apply to the development for which that permission was granted.

(3) Subject to *subsection (4)*, the amount recoverable under this section in respect of the compensation specified in a compensation statement—

(a) if the maritime site on which the development is to be carried out (in this section referred to as the "development area") is identical with, or includes (with other maritime sites), the whole of the maritime sites comprised in the compensation statement, shall be the amount of compensation specified in that statement, or

(b) if the development area forms part of the maritime sites comprised in the compensation statement, or includes part of those sites together with other maritime sites not comprised in that statement, shall be so much of the amount of compensation specified in that statement as is attributable to the maritime sites comprised in that statement and falling within the development area.

(4) The attribution of compensation under *paragraph (b)* of *subsection (3)* shall be in accordance with the following—

(a) the planning authority or Maritime Area Regulatory Authority, as appropriate, shall (if it appears to it to be practicable to do so) apportion the amount of the compensation between the different parts of the maritime site, according to the way in which those parts appear to it to be differently affected by the refusal of permission or grant of permission subject to one or more than one condition,

(b) if no apportionment is made, the amount of the compensation shall be treated as distributed rateably according to area over the maritime site to which the statement relates,

(c) if an apportionment is made, the compensation shall be treated as distributed in accordance with that apportionment, as between the different parts of the maritime site by reference to which the apportionment is made, and so much of the compensation as, in accordance with the apportionment, is attributed to a part of the maritime site shall be treated as distributed rateably according to area over that part of the maritime site, and

(d) if any person disputes an apportionment under this subsection, the dispute shall be submitted to and decided by a property arbitrator nominated under the Property Values (Arbitrations and Appeals) Act 1960.

(5) Where, in connection with the development of any maritime site, an amount becomes recoverable under this section in respect of the compensation specified in a compensation statement, no amount shall be recoverable, in so far as it is attributable to that maritime site, in connection with any subsequent development thereof.

(6) An amount recoverable under this section in respect of any compensation shall be payable to the planning authority or the Maritime Area Regulatory Authority, as appropriate, and—

(a) shall be so payable, either as a single capital payment or as a series of instalments of capital and interest combined (the interest being determined at the same rate as for a judgment debt), or as a series of other annual or periodical payments, of such amounts, and payable at such times, as the planning authority or the Maritime Area Regulatory Authority, as the case may be, may direct, after taking into account any representations made by the person by whom the development is to be carried out, and

(b) except where the amount is payable as a single capital payment, shall be secured by that person in such manner (whether by mortgage loan, covenant or otherwise) as the planning authority or the Maritime Area Regulatory Authority, as the case may be, may direct.

(7) If any person initiates any development to which this section applies in contravention of *subsection (1)*, the planning authority or the Maritime Area Regulatory Authority, as appropriate, may serve a notice upon him or her specifying the amount appearing to it to be the amount recoverable under this section in respect of the compensation in question and requiring him or her to pay that amount to the planning authority or the Maritime Area Regulatory Authority, as the case may be, within such period, not being less than 12 weeks after the service of the notice, as may be specified in the notice, and, in default of the amount being paid to the planning authority or the Maritime Area Regulatory Authority, as the case may be, within the period specified in the notice, it shall be recoverable as a simple contract debt in any court of competent jurisdiction.

Restriction on assignment

475. A person shall not be entitled to assign to any other person all or any part of any prospective compensation under this Part, in so far as this Part relates to the maritime area, and every purported assignment or promise, express or implied, to pay any other person any money in respect of any such compensation is void.

PART 16

Events and Funfairs

Interpretation

476. (1) In this Part—

"certificate of safety" has the meaning assigned to it by *section 487*, and includes a certificate of safety granted under regulations under subsection (5) of section 239 of the Act of 2000 in force immediately before the repeal of the said section 239 by *section 6*;

"event" means—

(a) a public performance that—

(i) takes place wholly or mainly in—

(I) the open air,

(II) a structure with no roof or a partial, temporary or retractable roof, or

(III) a tent or other similar temporary structure,

and

(ii) is comprised of music, dancing, displays of public entertainment or any activity of a like kind,

or

(b) an activity or an activity of a class that is prescribed under *section 477*;

"fairground equipment" includes—

(a) any fairground ride or any similar equipment which is designed to be in motion for entertainment purposes with members of the public on or inside it,

(b) any equipment which is designed to be used by members of the public for entertainment purposes either as a slide or for bouncing upon,

(c) any swings, dodgems and other equipment which is designed to be in motion wholly or partly under the control of, or to be put in motion by a member of the public, or

(d) any equipment that may be prescribed under *paragraph (a)* of *subsection (3)* of *section 487*;

"funfair" means an entertainment where fairground equipment is used;

"licence" means a licence granted by a local authority under *section 479*.

(2) References in this Part to "a person who owns fairground equipment" shall be construed as including references to a person having an interest in the fairground equipment whether by rent, lease or other agreement.

Prescription of activity as event

477. The Minister may prescribe an activity or class of activities that—

(a) the public have access to, and

(b) takes place wholly or mainly in—

(i) the open air,

(ii) a structure with no roof or a partial, temporary or retractable roof, or

(iii) a tent or other similar temporary structure,

to be an event.

Obligation to obtain licence for holding of event

478. (1) A person, other than a local authority, shall not hold an event that is prescribed to be an event or class of event for the purposes of this section except under and in accordance with a licence.

(2) The Minister may prescribe an event or class of event for the purposes of this section, having regard to:

(a) the size of the event;

(b) the location of the event;

(c) the nature of the event;

(d) any other features of the event that the Minister considers relevant.

(3) A person, other than a local authority, who—

(a) organises, promotes, holds or is otherwise materially involved in the organisation of an event to which this section applies, or

(b) is in control of land on which an event to which this section applies is held,

other than under and in accordance with a licence, shall be guilty of an offence.

Licence

479. (1) A person (in this section referred to as "the applicant") may make an application to a local authority for a licence to hold an event in such manner as may be prescribed under this section.

(2) A local authority, on receipt of an application under *subsection (1)*, shall consider the application in accordance with regulations made under this section.

(3) The Minister may make regulations for the purposes of *subsections (1)* and *(2)*, which regulations may make provision for any of the following:

(a) requirements in relation to the holding, when requested by the applicant and prior to that applicant making an application, of a meeting between the applicant and the local authority;

(b) a requirement for the applicant, prior to the applicant making an application to hold an event of such class or classes of events as may be prescribed, to request a meeting with the local authority, and the requirements in relation to the holding of such a meeting;

(c) a requirement for the publication by the applicant of a notice of the applicant's intention to make an application;

(d) a requirement for the notification by the applicant of such persons as may be specified of the applicant's intention to make an application;

(e) the form and content of an application;

(f) the fee, payable to the local authority, that is to accompany an application and the provision of different fees to accompany applications in respect of different events or classes of events prescribed under *subsection (2)* of *section 478*;

(g) the plans, documents and information to be submitted with an application;

(h) the persons that shall be consulted in relation to an application;

(i) the making of submissions or observations within a prescribed time and the fee (if any), payable to the local authority, that is to accompany such submissions or observations;

(j) a requirement on the applicant to submit any further information, including information in relation to a European site, with respect to his or her application where required by the local authority to do so;

(k) the time within which a decision on an application shall be made;

(l) any other matter that the Minister considers appropriate.

(4) (a) Where an application for a licence is made in accordance with *subsection (1)*, the local authority may decide to—

(i) grant the licence,

(ii) grant the licence subject to such conditions as it considers appropriate, or

(iii) refuse the licence.

(b) In considering an application for a licence under this section, the local authority shall have regard to—

(i) any information relating to the application furnished to it by the applicant in accordance with regulations made under *paragraph (e)*, *(g)* or *(j)* of *subsection (3)*,

(ii) any consultations in accordance with regulations made under *paragraph (h)* of *subsection (3)*,

(iii) any submissions made to it in accordance with regulations made under *paragraph (i)* of *subsection (3)*,

(iv) whether events have previously been held on the land concerned,

(v) the matters referred to in *subsection (5)*, and

(vi) any guidelines or codes of practice issued under *section 480* by the Minister or by any other Minister of the Government.

(5) Without prejudice to the generality of *paragraph (a)* of *subsection (4)*, but subject to *subsection (6)*, conditions subject to which a licence is granted may relate to all or any of the following:

(a) compliance with any guidelines or codes of practice issued by the Minister or any other Minister of the Government, or with any provisions of those guidelines or codes of practice;

(b) securing the safety of persons at the place in connection with the event;

(c) the provision of adequate facilities for the health and welfare of persons at the place in connection with the event, including the provision of sanitary facilities;

(d) the protection of the environment in which the event is to be held, including the control of litter;

(e) the maintenance of public order;

(f) the avoidance or minimisation of disruption to the neighbourhood in which the event is to take place;

(g) ensuring the provision of adequate means of transport (including public transport) to and from the place in which the event is to be held;

(h) the number of events which are permitted at the venue within a specified period not exceeding one year;

(i) the payment of a financial contribution to the local authority of a specified amount or an amount calculated on a specified basis towards the estimated cost to the local authority of measures taken by the local authority in connection with the event;

(j) the payment of a financial contribution to a person consulted in accordance with regulations made under *paragraph (h)* of *subsection (3)* of a specified amount, or an amount calculated on a specified basis, towards the estimated cost to that person of measures taken by the person in connection with the event;

(k) maintaining public liability insurance;

(l) the display of a notice for persons attending the event as to their obligations and required conduct at the event.

(6) Conditions referred to in *paragraphs (i)* or *(j)* of *subsection (5)* requiring the payment of a financial contribution may relate only to an event that is held wholly or mainly for profit.

(7) A person shall not be entitled solely by reason of a licence under this section to hold an event.

Codes of practice in relation to events

480. (1) The Minister or any other Minister of the Government may draw up and issue a code of practice for the purpose of providing practical guidance with respect to any of the requirements of this Part.

(2) The Minister or any other Minister of the Government, as appropriate, shall, before issuing a code of practice under this section, consult any other Minister of the Government, or other person, that appears to that Minister to be appropriate.

Service of notice in relation to events

481. (1) Where a local authority has reason to believe that a person is holding or likely to hold in the functional area of the local authority an event—

(a) without a licence, or

(b) in contravention of the terms of such a licence,

the authority may serve a notice under this section on the person.

(2) A notice under this section may require the person on whom it is served to comply with any or all of the following requirements:

(a) that he or she immediately cease the event to which the notice relates;

(b) that he or she immediately cease or alter any preparations which have been or are being made in relation to the event to which the notice relates;

(c) that he or she remove, within a specified time, any temporary buildings, structures, plant, machinery or other materials from land that the local authority believes is being or is intended to be used as the location of the event to which the notice relates;

(d) that he or she restore, within a specified time, the land on which the local authority believes the event to which the notice relates is being held or intended to be held to its condition before the event, or preparations made or being made for the event, took place.

(3) A person who fails to comply with the requirements of the notice served under *subsection (1)* shall be guilty of an offence.

General obligations with regard to safety at events

482. (1) A person to whom a licence is granted shall take such care as is reasonable in the circumstances to ensure that members of the public who are on the land in connection with the event concerned do not suffer injury or damage by reason of any danger arising out of the event or associated activities, having regard to—

(a) the care that a member of the public who is attending the event may reasonably be expected to take for his or her own safety, and

(b) the extent of the supervision and control that may be exercised by a member of the public over the activities of another member of the public where such members of the public are attending the event in each other's company.

(2) It shall be the duty of every person being on the land in connection with an event to conduct himself or herself in such a way as to ensure that, as far as is reasonably practicable, any person on the land is not exposed to danger as a consequence of any act or omission of his or hers.

Powers of inspection in connection with events

483. (1) An authorised person or a member of the Garda Síochána shall be entitled at all reasonable times to enter and inspect any land or any structure for any purpose connected with this Part.

(2) Without prejudice to the generality of *subsection (1)*, an authorised person or member of the Garda Síochána shall, in the performance of his or her functions under *subsection (1)*, be entitled to—

(a) require the person in control of the land or structure concerned to—

(i) inform him or her of any matter which the authorised person or member considers to be relevant, or

(ii) provide such plans, documentation or other information as are necessary to establish that the requirements of this Part and any regulations made under this Part or any licence or any conditions to which the licence is subject are being complied with,

(b) take with him or her on to land, such persons and equipment as he or she considers necessary, and

(c) carry out such tests, or to do such other things, which he or she considers necessary for the purpose referred to in *subsection (1)*.

(3) A person who—

(a) refuses to allow an authorised person or a member of the Garda Síochána to enter any land or structure in exercise of his or her powers under this section,

(b) obstructs or impedes an authorised person or member of the Garda Síochána in exercise of his or her powers under this section, or

(c) wilfully or recklessly gives, either to an authorised person or member of the Garda Síochána, information which is false or misleading in a material respect,

shall be guilty of an offence.

(4) An authorised person shall, if requested to do so by any person, produce written evidence of his or her authorisation by a local authority for the purposes of this Part.

(5) In this section "authorised person" means a person authorised for the purposes of this Part by a local authority to perform the functions of an authorised person under this Part.

Limitation of civil proceedings

484. (1) No action or other proceeding shall lie or be maintainable against—

(a) the Minister,

(b) a local authority,

(c) any officer or employee of, or any person engaged by, a local authority, or

(d) a member of the Garda Síochána,

for the recovery of damages in respect of any injury to persons, damage to property or other loss alleged to have been caused or contributed to by a failure to perform any function conferred or imposed on the local authority by or under this Part.

(2) A person shall not be entitled to bring any civil proceedings pursuant to this Part by reason only of the contravention of any provision of this Part, or of any regulations made thereunder otherwise than by way of *Part 9* judicial review proceedings within the meaning of *section 278*.

Consequential provisions for offences

485. (1) A local authority that grants a licence may revoke it if the person to whom the licence is granted is convicted of an offence under this Part.

(2) Proceedings for an offence under this Part may be brought by the local authority in whose functional area the offence is committed.

Holding of event by local authority

486. (1) A local authority shall hold an event only in accordance with this section and regulations made under it.

(2) The Minister may prescribe the requirements to be complied with by a local authority in holding an event under *subsection (1)*, which may include any or all of the following:

(a) the publication by the local authority of a notice with respect to the event it proposes to hold under *subsection (1)* (in this section referred to as a "proposed event");

(b) the notification or consultation by the local authority of any specified person or persons;

(c) the making available for inspection, by members of the public, of documents, particulars, plans or other information with respect to the proposed event;

(d) the making of submissions with respect to a proposed event to the local authority within a specified period of time;

(e) other matters in relation to a proposed event that the Minister considers appropriate.

(3) (a) Where a period of time stands prescribed under *paragraph (d)* of *subsection (2)*, the chief executive of a local authority in which the proposed event is to take place shall, after the expiration of that period, prepare a written report in relation to the proposed event and submit the report to the members of the local authority.

(b) A report prepared in accordance with *paragraph (a)* shall—

(i) specify the proposed event,

(ii) specify the conditions to which it is proposed that the holding of the proposed event will be subject,

(iii) list the persons who made submissions with respect to the proposed event in accordance with regulations under *subsection (2)*,

(iv) summarise the issues raised in any such submissions or observations and state the response of the chief executive to them, and

(v) recommend whether or not the proposed event should be held.

(c) The members of the local authority shall, as soon as practicable after a report is submitted to them under *paragraph (a)*, consider the proposed event and the report.

(d) Following the consideration of the chief executive's report under *paragraph (c)*, the proposed event may be carried out as recommended in the chief executive's report, unless the members of the local authority, by resolution, decide to vary or modify the event, otherwise than as recommended in the chief executive's report, or decide not to proceed with the event.

(e) A resolution under *paragraph (d)* shall be passed not later than 6 weeks after receipt of the chief executive's report by the members of the local authority.

(4) A reference in this section to a condition is a reference to any condition that may be imposed under *subsection (4)* of *section 479*.

Fairground equipment certificate of safety

487. (1) Subject to any regulations made under *paragraph (b)* of *subsection (3)*, a person who organises a funfair or owns fairground equipment shall not make available for use by the public any fairground equipment unless a valid certificate of safety has been granted in respect of the equipment in accordance with regulations made under *subsection (2)*.

(2) The Minister shall make regulations in respect of applications for, and the grant of, a certificate of safety for fairground equipment (in this Part referred to as a "certificate of safety"), which regulations may prescribe any or all of the following:

(a) the form and manner in which an application for a certificate of safety is to be made;

(b) the documents and supporting information necessary to accompany an application for a certificate of safety;

(c) the fee (if any) that is to accompany an application for a certificate of safety;

(d) the class or classes of persons who are entitled to grant certificates of safety;

(e) the matters to be taken into account by the persons referred to in *paragraph (d)* in determining whether or not to grant a certificate of safety;

(f) the technical and safety standards applicable to the examination of fairground equipment, that shall be used by the persons referred to in *paragraph (d)* in determining whether or not to grant a certificate of safety;

(g) the procedure to be followed by the persons referred to in *paragraph (d)* following a determination of whether or not to grant a certificate of safety;

(h) the period of validity of a certificate of safety;

(i) any other matter that the Minister considers to be necessary or expedient in relation to an application for, or the grant of, a certificate of safety.

(3) The Minister may, having regard to the interests of public safety, prescribe—

(a) fairground equipment or a class of fairground equipment for the purposes of this Part, or

(b) a class of fairground equipment that is to be exempt for the purposes of this Part.

(4) A person who contravenes *subsection (1)* shall be guilty of an offence.

Transfer of certificate of safety

488. A person who owns fairground equipment shall, on the sale of such equipment, transfer the relevant certificate of safety in respect of that equipment to the purchaser of the fairground equipment.

Notice to organise funfair

489. (1) Subject to *subsection (3)*, a person who intends to organise a funfair shall give 2 weeks' notice (or such other period of notice as may be prescribed) in writing to the local authority in whose functional area the funfair is to be held.

(2) The notice referred to in *subsection (1)* shall be accompanied by a valid certificate of safety in respect of the fairground equipment to be used at the funfair and shall give details of—

(a) the names of the organiser of the funfair,

(b) the person who owns fairground equipment to be used at the funfair,

(c) the location at which the funfair is to be held, and

(d) the dates on which the funfair is to be held.

(3) *Subsection (1)* shall not apply to a person who intends to organise a funfair where the operation of the funfair equipment that is at the funfair is authorised by a permission under *Part 4*, Part III of the Act of 2000, or is not otherwise an unauthorised use.

Local authority notice

490. (1) Where a local authority has reason to believe that a funfair is taking place, or is likely to take place in its functional area, other than in compliance with *section 487* or *489*, the local authority may serve a notice on any person it believes to be holding,

organising or otherwise materially involved in the organisation of the funfair, or that it has reason to believe is otherwise responsible for the non-compliance.

(2) A notice under *subsection (1)* may require the person on whom the notice is served to comply with any or all of the following requirements:

(a) that he or she immediately cease, or cease within a specified time, any activity or any preparations that are being made in relation to the funfair;

(b) that he or she immediately cease using any fairground equipment in respect of which a valid certificate of safety is not in force;

(c) that he or she remove, within a specified time, any fairground equipment, temporary buildings or structures, plant, machinery or similar equipment that the local authority believes is intended to be used in relation to the funfair;

(d) that he or she restore the land on which the funfair is held or is proposed to be held to its prior condition within a specified time.

(3) Where a person who is served with a notice under *subsection (1)* fails to comply with the requirements of the notice—

(a) the person shall be guilty of an offence, and

(b) the local authority that served the notice may, through its employees or agents—

(i) give effect to the terms of the notice, and

(ii) to the extent necessary to give effect to the terms of the notice, enter on the land concerned,

and may recover the expenditure reasonably incurred by it in so doing from the person as a simple contract debt in any court of competent jurisdiction.

(4) A person who obstructs or impedes a local authority in the performance of its functions under *subsection (3)* shall be guilty of an offence.

General obligations with regard to funfairs

491. (1) A person who organises a funfair or owns fairground equipment that is used at a funfair shall take such care as is reasonable in the circumstances to ensure that members of the public who are on the land in connection with the funfair concerned do not suffer injury or damage by reason of any danger arising out of the funfair or associated activities, having regard to—

(a) the care that a member of the public who is attending the funfair may reasonably be expected to take for his or her own safety, and

(b) the extent of the supervision and control that may be exercised by a member of the public over the activities of another member of the public where such members of the public are attending the funfair in each other's company.

(2) It shall be the duty of every person being on the land in connection with a funfair to conduct himself or herself in such a way as to ensure that, as far as is reasonably

practicable, any person on the land is not exposed to danger as a consequence of any act or omission of his or hers.

Exclusion of events and funfairs from planning control

492. (1) Subject to *subsection (2)*, the holding of an event to which this Part applies, and works directly or solely relating to the holding of such an event, shall not be construed as development within the meaning of this Act.

(2) (a) Notwithstanding *sections 478* and *487*, this Part shall not affect the validity of any planning permission granted under Part III of the Act of 2000 for the holding of an event or for a funfair.

(b) Where a planning permission referred to in *paragraph (a)* has been granted for the holding of an event in respect of land, a licence under this Part shall be required for the holding of any event on the land concerned other than the event referred to in the permission.

Licences under Part XVI of Act of 2000

493. A licence granted under Part XVI of the Act of 2000 in force immediately before the repeal of that Part by *section 6* shall remain in force and have effect on and after that repeal as if granted under this Part.

PART 17

An Coimisiún Pleanála

Chapter 1

Definitions

Definitions

494. In this Part—

"appeal", other than in *subsection (2)* of *section 513*, has the meaning it has in *section 358*;

"application" means an application to the Commission referred to in *section 358*, a submission of a scheme for approval under section 49 of the Roads Act 1993, an application for approval under section 51 of the Roads Act 1993 or an application for a railway order under section 37 of the Transport (Railway Infrastructure) Act 2001;

"chief executive officer" has the meaning it has in *subsection (1)* of *section 500*;

"civil servant" has the meaning it has in the Civil Service Regulation Act 1956;

"code of conduct" has the meaning it has in *subsection (1)* of *section 501*;

"Committee of Public Accounts" means the committee of Dáil Éireann established under

the standing orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General;

"inspector" means a person assigned to report on any matter on behalf of the Commission under *section 376*;

"public servant" means a person who is, or was formerly, a member of staff of—

(a) a local authority, or

(b) a body established—

(i) by or under an enactment (other than the Companies Act 2014 or a former enactment relating to companies within the meaning of section 5 of that Act), or

(ii) under the Companies Act 2014 or a former enactment relating to companies within the meaning of section 5 of that Act, in pursuance of powers conferred by or under another enactment and financed wholly or partly by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government,

and in respect of which a pre-existing public service pension scheme exists or applies or may be made or in respect of which the Single Public Service Pension Scheme is applicable;

"referral" has the meaning it has in *section 358*;

"relevant Oireachtas Committee" means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas to which has been duly assigned the role of examining matters relating to the environment and planning (other than the Committee of Public Accounts or the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann) or a sub-committee of the first-mentioned Committee;

"request" has the meaning it has in *section 358*.

Chapter 2

An Coimisiún Pleanála

An Coimisiún Pleanála

495. (1) The body referred to in subsection (1) of section 102 of the Act of 2000 (the name of which, immediately before the commencement of this section, was An Bord Pleanála) shall, on and after the commencement of this section—

(a) continue in being, and

(b) stand renamed as An Coimisiún Pleanála (in this Act referred to as the "Commission").

(2) The Commission shall consist of—

(a) the Governing Board, and

(b) in the Irish language, the Coimisinéirí Pleanála or, in the English language, the Planning Commissioners (in this Act referred to as "the Planning Commissioners").

(3) References in any enactment, legal proceedings or document to An Bord Pleanála shall, on and after the commencement of this section, be construed as references to An Coimisiún Pleanála.

(4) The chairperson of An Bord Pleanála in office under the Act of 2000 immediately before the date of commencement of this section shall, on and from that date, stand appointed as the chief executive officer of the Commission, in accordance with the terms and conditions of his or her appointment, as in force immediately before that date, under the Act of 2000.

(5) The deputy chairperson and any other member of An Bord Pleanála in office under the Act of 2000 immediately before the date of commencement of this section shall, on and from that date, continue in office as Deputy Chief Planning Commissioner and an ordinary planning commissioner of the Commission respectively, in accordance with the terms and conditions of his or her appointment, as in force immediately before that date, under the Act of 2000.

Commission to be body corporate

496. (1) The Commission shall be a body corporate with perpetual succession and a seal and power to sue, and may be sued, in its corporate name and may acquire, hold and dispose of land or an interest in land, and may acquire, hold and dispose of any other property.

(2) The seal of the Commission shall be authenticated by the signature of the Chief Planning Commissioner, Deputy Chief Planning Commissioner, an ordinary planning commissioner, a member of the Governing Board, the chief executive officer or another member of the staff of the Commission who is authorised by the Commission to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Commission and every document purporting to be an instrument made by the Commission and to be sealed with the seal of the Commission (purporting to be authenticated in accordance with *subsection (2)*) shall be received in evidence and be deemed to be such an instrument without further proof, unless the contrary is shown.

(4) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal, may be entered into or executed on behalf of the Commission by any person generally or specially authorised by the Commission to act in that behalf.

(5) The Commission shall have all such powers as are necessary or expedient for the performance of its functions.

(6) The Commission shall be independent in the performance of its functions.

Chapter 3

Governing Board and Chief Executive Officer of Commission

Governing Board

497. (1) The Commission shall have a board (in this Act referred to as the "Governing Board").

(2) The Governing Board shall perform its functions under this Act or any other enactment, including any function of the Commission assigned to the Governing Board by order under *subsection (4)*.

(3) The Governing Board shall—

(a) review and guide the strategic direction of the Commission,

(b) review and oversee the implementation of major plans of action, risk management policies and procedures, annual budgets, and business plans of the Commission,

(c) set the performance objectives of the Commission, and monitor the attainment of those objectives by the Commission, and

(d) approve and oversee significant capital expenditure by, and investment decisions of, the Commission.

(4) Subject to *subsection (5)*, the Minister may, by order, assign a function of the Commission under this Act or any other enactment that is, in accordance with *paragraph (a)* of *subsection (2)* of *section 505*, to be performed by the Planning Commissioners, to the Governing Board.

(5) A function of the Commission to consider and determine an appeal, application, referral or request under this Act, or any other enactment, referred to in *paragraph (b)* of *subsection (2)* of *section 505* shall not be assigned to the Governing Board under *subsection (4)*.

(6) The Governing Board shall consist of at least 5, and not more than 9, members (including a chairperson).

(7) The Minister shall, in so far as is practicable, endeavour to ensure that among the members of the Governing Board, there is an equitable balance between men and women.

(8) The Governing Board may delegate the performance of any of its functions, on such terms and conditions as it considers appropriate, to the chief executive officer, and may revoke such a delegation as it considers appropriate.

(9) The chief executive officer shall be accountable to the Governing Board for the performance of a function delegated to him or her under *subsection (8)*.

(10) A function delegated under *subsection (8)* continues to be vested concurrently in the Governing Board and is capable of being performed by either the Governing Board or the chief executive officer.

(11) For the purpose of discharging its functions, the Governing Board shall regularly meet with the chief executive officer and the Chief Planning Commissioner.

(12) The Governing Board may request a Planning Commissioner to attend before it, and where so requested the Planning Commissioner shall so attend and shall give such information to the Governing Board as it may require.

Appointment and terms and conditions of members of Governing Board

498. (1) The Minister shall, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, appoint the members (including a chairperson) of the Governing Board.

(2) The Minister shall, as he or she considers necessary, request the Public Appointments Service to hold a selection process for the purpose of identifying and recommending a person or persons who it is satisfied is or are suitable for appointment to be a member of the Governing Board.

(3) The Public Appointments Service shall, when requested to do so under *subsection (2)*, hold a selection process and recommend to the Minister such person or persons who it is satisfied is or are suitable for appointment and provide the Minister with particulars of the relevant knowledge, experience, qualifications, training or expertise of each person whom it recommends.

(4) The Minister shall ensure that each of the members of the Governing Board is a person who, in the opinion of the Minister, has sufficient experience of legal, corporate governance or management matters, or other relevant expertise, to enable that person to perform effectively his or her functions as a member of the Governing Board.

(5) The Minister may, prior to the date of the commencement of *section 495*, designate persons to be the first members of the Governing Board and, from among those persons so designated, one of their number to be the first chairperson.

(6) If, immediately before the date of the commencement of *section 495*, a person stands designated under *subsection (5)*, the person shall, on that day, stand appointed as a member of the Governing Board or as both such member and the chairperson, as the case may be.

(7) A Planning Commissioner shall not be appointed to the Governing Board.

(8) A member of the Governing Board shall hold office for a term of 5 years from the date of his or her appointment.

(9) A member of the Governing Board whose term of office expires shall be eligible for reappointment to the Governing Board.

(10) A person who is reappointed to be a member of the Governing Board shall not hold office for periods the aggregate of which exceeds 10 years.

(11) A member of the Governing Board shall hold office on such terms and conditions as the Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.

(12) There shall be paid by the Commission to each member of the Governing Board such remuneration and allowances for expenses as the Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.

(13) A member of the Governing Board may resign his or her office by notice in writing addressed to the Minister and the resignation shall take effect on the date the Minister receives the notice.

(14) A member of the Governing Board shall be ineligible to be a member, and cease to be a member, where he or she—

(a) subject to *subsection (15)*, is adjudicated bankrupt,

(b) makes a composition or arrangement with his or her creditors,

(c) is convicted of an indictable offence in relation to a company or other body corporate,

(d) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,

(e) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(f) has a declaration under section 819 of the Companies Act 2014 made against him or her, or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or

(g) is subject, or is deemed to be subject, to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act.

(15) A person shall be ineligible for appointment as a member of the Governing Board under *paragraph (a)* of *subsection (14)* only for so long as the bankruptcy is not discharged or annulled.

(16) A member of the Governing Board may be removed from office by the Minister if—

(a) he or she has become incapable through ill-health of effectively performing his or her functions,

(b) he or she has committed stated misbehaviour, or

(c) his or her removal appears to the Minister to be necessary for the effective performance by the Governing Board of its functions.

Meetings of Governing Board

499. (1) The Governing Board shall hold such and so many meetings as may be necessary for the due performance of its functions, but in each year shall hold not less than one meeting in each period of 3 months.

(2) The Governing Board may hold or continue a meeting by the use of any means of communication by which all the participants can hear and be heard at the same time.

(3) The chairperson of the Governing Board shall fix the date, time and, subject to *subsection (2)*, place of the first meeting of the Governing Board.

(4) The quorum for a meeting of the Governing Board shall be 3.

(5) At a meeting of the Governing Board—

(a) the chairperson of the Governing Board shall, if present, be the chairperson of the meeting, and

(b) if and so long as the chairperson is not present, or if the office of chairperson of the Governing Board is vacant, the members of the Governing Board who are present shall choose one of their number to act as the chairperson of the meeting.

(6) Each member of the Governing Board present at a meeting of the Governing Board shall have a vote.

(7) At a meeting of the Governing Board, a question on which a vote is required shall be determined by a majority of the votes of the members of the Governing Board present and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.

(8) Subject to this Act, the Governing Board may determine its own procedures.

(9) Subject to *subsection (4)*, the Governing Board may act notwithstanding one or more vacancies in its membership.

Chief executive officer

500. (1) There shall be a chief executive officer of the Commission (in this Part referred to as as the "chief executive officer") who shall (other than where he or she stands appointed under *subsection (4)* of *section 495* or *subsection (10)*) be appointed by the Governing Board on such terms and conditions as the Governing Board may, with the consent of the Minister, given with the approval of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.

(2) There shall be paid by the Commission to the chief executive officer such remuneration and allowances for expenses as the Governing Board may, with the consent of the Minister, given with the approval of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.

(3) The Governing Board shall, as it considers appropriate, for the purpose of filling a vacancy or anticipated vacancy in the office of chief executive officer, request the Public Appointments Service to hold a selection process for the purpose of identifying and recommending a person or persons who it is satisfied is or are suitable for appointment under *subsection (1)*.

(4) The Public Appointments Service shall, when requested to do so under *subsection (3)*, hold a selection process and recommend to the Governing Board such person or persons who it is satisfied is or are suitable for appointment as chief executive officer, and provide the Governing Board with particulars of the relevant knowledge, experience, qualifications, training or expertise of each person whom it recommends.

(5) The Governing Board shall, with the consent of the Minister, appoint, from among the persons recommended under *subsection (4)*, a person to be the chief executive officer.

(6) The chief executive officer shall hold office for such period, not exceeding 5 years, from the date of his or her appointment, as the Governing Board shall determine.

(7) A chief executive officer whose term of office expires shall be eligible for reappointment by the Governing Board, provided that he or she is or was, at the time of his or her re-appointment, the outgoing chief executive officer.

(8) A person who is reappointed by the Governing Board in accordance with *subsection (7)* shall not hold office for periods the aggregate of which exceeds 10 years.

(9) Where the office of the chairperson of An Bord Pleanála is vacant immediately before the date of commencement of *section 495*, the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, may before that date designate a person to be appointed the first chief executive officer on such terms and conditions as the Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.

(10) If, on the date of the commencement of *section 495*, a person stands designated by the Minister under *subsection (9)*, he or she shall, on and after that date, stand appointed as the first chief executive officer.

(11) The chief executive officer shall—

(a) in consultation with the Governing Board, carry on and manage, and control generally, the administration and business of the Commission,

(b) advise the Governing Board, and make proposals to it in relation to the performance of the Commission's functions, (and may, for that purpose, request the Governing Board whether he or she may attend its meetings), and

(c) in consultation with the Governing Board, perform such other functions as may be delegated to him or her by the Governing Board under *subsection (8)* of *section 497*.

(12) The chief executive officer shall take all practical steps to ensure that the organisation and disposition of the staff and resources available to the Commission are such as to support it to perform its functions and, in particular, to support the Planning Commissioners in the determination of an appeal, application, referral or request efficiently and expeditiously.

(13) The chief executive officer shall, on the request of the Governing Board, attend meetings of the Governing Board and give such information to the Governing Board as it may require, and shall be entitled to speak at and advise such meetings, but shall not be entitled to vote at meetings of the Governing Board.

(14) The chief executive officer may resign his or her office by notice in writing addressed to the Governing Board and the resignation shall take effect on and from the expiry of 3 months from the date of the receipt of the notice by the Governing Board, or such

earlier date as may be agreed between the chief executive officer and the Governing Board.

(15) The chief executive officer shall vacate his or her office on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to vacate office on grounds of age shall not apply.

(16) The chief executive officer may be removed from office by the Governing Board, with the consent of the Minister, for stated reasons.

(17) The chief executive officer shall not hold any other office or occupy any other position in respect of which emoluments are payable, or carry on any business, without the consent of the Governing Board.

Code of conduct

501. (1) The Governing Board shall adopt a code (in this Part referred to as the "code of conduct") which shall provide for—

(a) the manner in which conflicts of interest on the part of the persons referred to in *subsection (2)* are to be dealt with,

(b) the means by which public confidence in the integrity of the Commission in the conduct of its business is to be promoted,

(c) such matters specified in the Code of Practice for the Governance of State Bodies for the time being published by the Minister for Public Expenditure, National Development Plan Delivery and Reform as the Governing Board considers appropriate, and

(d) compliance with requirements imposed by or under this Act or any other enactment.

(2) The code of conduct shall be complied with, to the extent that the code has been applied to him or her, by—

(a) a member of the Governing Board,

(b) a Planning Commissioner,

(c) a member of the staff of the Commission (including the chief executive officer), and

(d) a person engaged under *section 390*.

(3) The code of conduct shall be in writing and shall, without prejudice to the generality of *subsection (1)*, make provision for the following matters—

(a) measures to ensure the avoidance and management of conflicts of interest of persons to whom the code applies,

(b) disclosure of interests and relationships of persons to whom the code applies where the interests and relationships are of relevance to the work of the Commission,

(c) membership of persons to whom the code applies of other organisations, associations and bodies, professional or otherwise,

(d) membership of persons to whom the code applies of companies, partnerships or other bodies, or the holding by persons to whom the code applies of a financial interest in, companies, partnerships or other bodies,

(e) undertaking of work, other than work on behalf of the Commission, by persons to whom the code applies, both during and after any period of employment with the Commission, whether as a consultant, adviser or otherwise,

(f) acceptance of gifts, sponsorship, considerations or favours by persons to whom the code applies,

(g) disclosure of information concerning matters pertaining to the work of the Commission by persons to whom the code applies,

(h) the steps to be taken in the event a conflict of interest arises in the course of determining an appeal, application, referral or request,

(i) the steps to be taken to ensure that no breach of the code of conduct occurs during the course of determining an appeal, application, referral or request, and

(j) disclosure by persons to whom the code applies of any representations relating to the functions of the Commission made to such a person by a member of the public, whether in writing or otherwise.

(4) A person to whom a code applies shall not take up a position with, or hold office within, the Commission, or be engaged under *section 390*, except on condition that he or she shall comply with the code of conduct to the extent the code of conduct applies to him or her.

(5) The Governing Board may amend the code of conduct or adopt a new code of conduct in accordance with this section.

(6) The Governing Board shall cause a copy of the code of conduct, or an amendment to the code of conduct, to be published on a website maintained by or on behalf of the Commission within 2 weeks of its adoption by the Governing Board under *subsection (1)*.

(7) The Governing Board shall adopt the first code of conduct under *subsection (1)* within 6 months of the commencement of this section.

Failure to comply with code of conduct

502. (1) A person may make a complaint to the chief executive officer that a member of the Governing Board, a Planning Commissioner or member of the staff of the Commission, has failed to comply with the code of conduct in so far as the code of conduct applies to that member, Planning Commissioner or member of the staff.

(2) Subject to *subsections (7)* and *(8)*, where the chief executive officer has formed the view that there exists *prima facie* evidence that a member of the Governing Board, a Planning Commissioner or a member of the staff of the Commission has failed to comply with a code of conduct, or is satisfied that such evidence exists arising from the making of a complaint under *subsection (1)*, the chief executive officer may—

(a) inform the member of the Governing Board, Planning Commissioner or member of the staff of the evidence or complaint, where appropriate, and

(b) investigate the matter, including by requiring the member of the Governing Board, Planning Commissioner or member of the staff to attend before the chief executive officer for interview and to provide the chief executive officer with such information as the chief executive officer may require.

(3) Where the chief executive officer conducts an investigation under *subsection (2)* he or she may report the result of the investigation to the Minister where he or she considers it appropriate to do so.

(4) Where the chief executive officer conducts an investigation under *subsection (2)*, he or she may request the Minister to direct that a member of the Governing Board or Planning Commissioner the subject of the investigation not exercise his or her functions under this Act until the outcome of the investigation has been determined, and the Minister may give such a direction.

(5) A member of the Governing Board or Planning Commissioner who receives a direction under *subsection (4)* shall comply with the direction.

(6) Where the Minister is satisfied that a member of the Governing Board or Planning Commissioner has breached the code of conduct, he or she may take such action in relation to the member of the Governing Board or Planning Commissioner as he or she considers appropriate.

(7) The Minister may direct the chief executive officer to conduct an investigation under this section, where he or she considers that a member of the Governing Board or a Planning Commissioner may have failed to comply with the code of conduct in so far as the code of conduct is applied to the member of the Governing Board or Planning Commissioner, and the chief executive officer shall comply with such a direction and this section shall apply accordingly.

(8) Where a person makes a complaint under *subsection (1)* that the chief executive officer has failed to comply with the code of conduct, the chief executive officer shall refer the complaint to the Chief Planning Commissioner and *subsections (2)* and *(3)* shall apply accordingly, subject to the modification that references to the chief executive officer shall be construed as references to the Chief Planning Commissioner.

Approval by Governing Board of decision-making procedures

503. (1) The chief executive officer shall, following consultation with the Chief Planning Commissioner or Deputy Chief Planning Commissioner, as appropriate, prepare procedures (which shall be subject to this Act and any other enactment) to be

followed by the Planning Commissioners (and inspectors) when performing their functions.

(2) The procedures prepared under *subsection (1)* shall be approved by the Governing Board, with such modification as it considers appropriate, and shall not have effect until they are so approved.

(3) The chief executive officer shall publish the procedures approved by the Governing Board under *subsection (2)* on a website maintained by or on behalf of the Commission, and shall make a copy of the procedures available for inspection at the Commission's offices.

(4) Procedures approved under *subsection (2)* may include any procedure the Governing Board, in consultation with the chief executive officer, Chief Planning Commissioner or Deputy Chief Planning Commissioner, considers necessary for the efficient performance by the Planning Commissioners (and inspectors) of their functions or for the effectiveness of decision-making by the Planning Commissioners.

(5) Without prejudice to the generality of *subsection (4)*, the procedures approved under *subsection (2)* shall, in particular, make provision for the following—

(a) the process by which an appeal, application, referral or request shall be dealt with by the Commission once received,

(b) the process by which appeals, applications, referrals or requests shall be assigned to particular Planning Commissioners to present to meetings of Planning Commissioners,

(c) the process by which Planning Commissioners shall be assigned to particular divisions,

(d) the process by which inspectors shall be assigned to report or advise on an appeal, application, referral or request,

(e) the steps to be taken to ensure that any inspector assigned to report or advise on an appeal, application, referral or request acts independently of the Planning Commissioners when making any recommendation under *section 376*,

(f) subject to *section 512*, the conduct of meetings by the Planning Commissioners, including the conduct of meetings by any means of communication by which all of the Planning Commissioners and other persons participating can hear and be heard at the same time, and

(g) the recording, including where considered appropriate by electronic means, of all engagements between the Planning Commissioners and an inspector and of any decisions by the Planning Commissioners in relation to an appeal, application, referral or request.

(6) Procedures approved under *subsection (2)* shall be reviewed by the chief executive officer in consultation with the Chief Planning Commissioner or Deputy Chief Planning Commissioner, as appropriate, at least annually.

(7) The Governing Board may approve amendments to, or revocations of, procedures approved under *subsection (2)*, and the chief executive officer shall publish the amendment, or the fact of the revocation, on a website maintained by or on behalf of the Commission and, in the case of an amendment, make a copy of the amendment available for inspection at its offices.

(8) The chief executive officer shall publish, in accordance with *subsection (3)*, the first procedures approved under *subsection (2)* within 6 months of the commencement of this section.

Review of performance of Commission by Governing Board

504. (1) The Governing Board shall supply the Minister with such information relating to the performance of the Commission's functions as he or she may request.

(2) The Governing Board, or the chief executive officer on the request of the Governing Board, shall conduct, at such intervals as it considers appropriate or at such times as the Minister directs and, in any event, not less than once every 3 years, a review of the Commission's organisation and of the systems and procedures used by the Commission in relation to the consideration and determination of appeals, applications, referrals or requests.

(3) The Governing Board shall report to the Minister the results of the review conducted under *subsection (2)*.

(4) The Governing Board shall comply with any requirement which the Minister may, after consultation with the Governing Board as regards the results referred to in *subsection (3)*, impose in relation to all or any of the matters which were the subject of the review.

(5) The Governing Board may make submissions to the Minister as regards any matter pertaining to the Commission's functions.

(6) The Minister may consult with the Governing Board as regards any matter pertaining to the performance of—

(a) the functions of the Commission, or

(b) the functions conferred on the Minister by or under this Act or by or under any other enactment.

(7) A direction given under subsection (2) of section 109 of the Act of 2000 that, immediately before the repeal of that subsection by *section 6*, had not yet been complied with shall be deemed to have been given under *subsection (2)*.

CHAPTER 4

Planning Commissioners

Planning Commissioners

505. (1) The Planning Commissioners shall be composed of—

(a) the Chief Planning Commissioner,

(b) the Deputy Chief Planning Commissioner, and

(c) subject to *subsection (2)* of *section 509*, and *subsections (3)* and *(6)* of this section, 13 ordinary planning commissioners.

(2) The Planning Commissioners shall—

(a) perform the functions of the Commission under this Act or any other enactment, save where the function is assigned to the Governing Board, by order, under *subsection (4)* of *section 497*, and

(b) in particular, consider and determine an appeal, application, referral or request required to be considered and determined by the Commission under this Act or any other enactment.

(3) The Minister may by order increase the number of ordinary planning commissioners that may be appointed above 13, where the Minister is of the opinion that the number of appeals, applications, referrals or requests being considered by the Commission necessitates the appointment of additional ordinary planning commissioners to enable the Commission to fulfil its functions.

(4) An order made under *subsection (3)* shall have effect for the period (which shall not exceed 5 years) specified in the order.

(5) Subject to *subsection (6)*, where a vacancy occurs or is due to occur among the Planning Commissioners, the Minister or the Governing Board (as the case may be) shall, as soon as may be, take steps to appoint a person to fill the vacancy in accordance with this Chapter.

(6) Subject to *subsections (1)* and *(2)* of *section 513*, the Governing Board or the Minister, as the case may be, shall not fill a vacancy among the ordinary planning commissioners where it, or he or she, is of the opinion that the number of appeals, applications, referrals or requests being considered by the Commission, or the balance of expertise existing among the Planning Commissioners, does not necessitate the filling of the vacancy to enable the Commission to fulfil its functions.

(7) The Planning Commissioners shall—

(a) comply with procedures approved under *section 503*, and

(b) be independent in the performance of their functions under this Act or any other enactment.

Appointment of Chief Planning Commissioner and Deputy Chief Planning Commissioner

506. (1) The Governing Board shall, following the making of a recommendation under *section 508*, appoint a person to be, in the Irish language, the Príomh-Choimisinéir Pleanála or, in the English language, the Chief Planning Commissioner, of the Commission (in this Act referred to as the "Chief Planning Commissioner").

(2) Subject to *subsection (5)* of *section 495*, the Governing Board shall, following the making of a recommendation under *section 508*, appoint a person to be, in the Irish

language, the Leas-Phríomh-Choimisinéir Pleanála or, in the English language, the Deputy Chief Planning Commissioner, of the Commission (in this Act referred to as the "Deputy Chief Planning Commissioner").

(3) The Governing Board shall ensure, in so far as is practicable, that the Chief Planning Commissioner and Deputy Chief Planning Commissioner are persons who, in the opinion of the Governing Board, each have satisfactory experience of, or a satisfactory mix of experience and knowledge of, one or more than one of the following:

(a) infrastructure delivery;

(b) housing;

(c) physical planning;

(d) sustainable development;

(e) architecture;

(f) heritage;

(g) community affairs;

(h) social affairs;

(i) planning;

(j) the environment;

(k) the marine;

(l) climate change;

(m) law and corporate governance.

Appointment of ordinary planning commissioners

507. (1) Subject to *subsection (5)* of *section 495*, the Governing Board shall, following the making of a recommendation under *section 508*, appoint persons to be ordinary planning commissioners.

(2) The Governing Board shall ensure, in so far as is practicable, that—

(a) the ordinary planning commissioners are persons who, in the opinion of the Governing Board, have satisfactory experience of, or a satisfactory mix of experience and knowledge of, one or more than one of the following:

(i) infrastructure delivery;

(ii) housing;

(iii) physical planning;

(iv) sustainable development;

(v) architecture;

(vi) heritage;

(vii) community affairs;

(viii) social affairs;

(ix) planning;

(x) environment;

(xi) the marine;

(xii) climate change;

(xiii) law and corporate governance,

and

(b) there is an equitable balance between men and women amongst the ordinary planning commissioners.

Recommendation of candidates for appointment to be Planning Commissioners

508. (1) The Governing Board shall, as it considers necessary for the purpose of filling a vacancy or anticipated vacancy among the Planning Commissioners, request the Public Appointments Service to hold a selection process for the purpose of identifying and recommending a person who it is satisfied is suitable for appointment as a Planning Commissioner.

(2) For the purpose of the selection process referred to in *subsection (1)*, the Public Appointments Service shall, in particular—

(a) invite applications from suitably qualified persons for appointment as Chief Planning Commissioner, Deputy Chief Planning Commissioner, or an ordinary planning commissioner, as the case may be,

(b) prepare a panel of candidates, in accordance with an order of merit (or sub-panels of candidates relevant to particular areas of expertise) suitable for appointment as Chief Planning Commissioner, Deputy Chief Planning Commissioner or ordinary planning commissioner, having regard to the knowledge, experience, qualifications and personal qualities appropriate to enable a person effectively to perform the functions of Chief Planning Commissioner, Deputy Chief Planning Commissioner or ordinary planning commissioner, as the case may be, and

(c) make a recommendation regarding which of the candidates on the panel the Governing Board should appoint as Chief Planning Commissioner or Deputy Chief Planning Commissioner under *section 506*, or as an ordinary planning commissioner under *section 507*, as the case may be.

(3) Notwithstanding the repeal of section 106 of the Act of 2000 by *section 6*, a panel of candidates prepared under that section of the Act of 2000 immediately before the repeal shall be considered, after the repeal, to be a panel for the purpose of *paragraph (b)* of *subsection (2)*.

Temporary appointment of Planning Commissioners by Minister

509. (1) Notwithstanding *sections 506* and *508*, where the office of Chief Planning Commissioner or Deputy Chief Planning Commissioner is vacant and the Minister, following consultation with the Governing Board, is of the opinion that a Chief Planning Commissioner or Deputy Chief Planning Commissioner should be appointed as a matter of urgency due to the number of appeals, applications, referrals or requests being considered by the Commission, the Minister may, subject to *subsection (3)*, appoint a suitably qualified civil servant or public servant to be the Chief Planning Commissioner or the Deputy Chief Planning Commissioner for a specified term.

(2) Notwithstanding *sections 507* and *508*, where the Minister, following consultation with the Governing Board, is of the opinion that an ordinary planning commissioner should be appointed, whether to fill a vacancy in the number of ordinary planning commissioners referred to in *paragraph (c)* of *subsection (1)* of *section 505* or under *subsection (3)* of *section 505*, or in addition to the number of ordinary planning commissioners specified in *paragraph (c)* of *subsection (1)* of *section 505* or under *subsection (3)* of *section 505*, as a matter of urgency, due to the number of appeals, applications, referrals or requests being considered by the Commission, the Minister may, subject to *subsection (3)*, appoint a suitably qualified civil servant or public servant to be an ordinary planning commissioner for a specified term.

(3) A person shall not be appointed under this section for a term in excess of 12 months, and a term of appointment under this section shall be considered a period in office for the purposes of *subsection (4)* of *section 510*.

Terms and conditions of Planning Commissioners

510. (1) A Planning Commissioner shall not at any time during his or her term of office hold any other office or occupy any other position in respect of which emoluments are payable, or carry on any business, which would, in the opinion of the chief executive officer, cause a conflict of interest to arise with his or her position as a Planning Commissioner.

(2) Subject to *subsection (3)* of *section 509*, a Planning Commissioner shall hold office for a period, determined by the Governing Board, not exceeding 5 years from the date of the Planning Commissioner's appointment.

(3) A Planning Commissioner whose term of office expires shall be eligible for reappointment provided that he or she is or was, at the time of his or her re-appointment, an outgoing Planning Commissioner.

(4) A person who is reappointed as a Planning Commissioner, shall not hold office as a Planning Commissioner for periods the aggregate of which exceeds 10 years.

(5) A Planning Commissioner shall hold office on such terms and conditions as the Governing Board may, with the consent of the Minister, given with the approval of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.

(6) There shall be paid by the Commission to each Planning Commissioner such remuneration and allowances for expenses as the Governing Board may, with the consent of the Minister, given with the approval of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.

(7) A Planning Commissioner may resign his or her office by notice in writing addressed to the Governing Board, and the resignation shall take effect on and from the expiry of 3 months from the date of the receipt of the notice by the Governing Board, or such earlier date as may be agreed between the Planning Commissioner and the Governing Board.

(8) A Planning Commissioner shall vacate his or her office on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to vacate office on grounds of age shall not apply.

(9) A person shall be ineligible for appointment as a Planning Commissioner, and cease to be a Planning Commissioner if he or she—

(a) subject to *subsection (10)*, is adjudicated bankrupt,

(b) makes a composition or arrangement with his or her creditors,

(c) is convicted of an indictable offence in relation to a company or other body corporate,

(d) is convicted of an offence under *section 523* or is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,

(e) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(f) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or

(g) is subject, or is deemed to be subject, to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act.

(10) A person shall be ineligible for appointment as a Planning Commissioner under *paragraph (a)* of *subsection (9)* only for so long as the bankruptcy is not discharged or annulled.

(11) A Planning Commissioner may be removed from office, or suspended, by the Minister, on the recommendation of the Governing Board, following consultation with the chief executive officer or Chief Planning Commissioner (or the Deputy Chief Planning Commissioner if the Planning Commissioner in question is the Chief Planning Commissioner) if—

(a) he or she has become incapable through ill-health or otherwise of effectively performing his or her functions,

(b) he or she has committed stated misbehaviour, or

(c) he or she has failed to comply with the code of conduct to the extent that it applies to him or her.

Chief Planning Commissioner and Deputy Chief Planning Commissioner to ensure efficient performance of functions of Planning Commissioners

511. (1) The Chief Planning Commissioner and the Deputy Chief Planning Commissioner shall each have the function of ensuring the efficient performance by the Planning Commissioners of their functions.

(2) The Deputy Chief Planning Commissioner shall perform the function first referred to in *subsection (1)* under the overall direction of the Chief Planning Commissioner (unless the Chief Planning Commissioner is, due to illness or any other reason, not available or the office of Chief Planning Commissioner is vacant, in which case the Deputy Chief Planning Commissioner shall perform the function without such direction).

(3) The Chief Planning Commissioner may assign to the Deputy Chief Planning Commissioner or an ordinary planning commissioner the performance of any task or any other responsibility necessary to ensure the best or most efficient performance of the functions of the Planning Commissioners.

(4) The Chief Planning Commissioner or the Deputy Chief Planning Commissioner shall provide the chief executive officer with such information in relation to the efficiency of the performance by the Planning Commissioners of their functions, and at such intervals, as may be requested by the chief executive officer.

Meetings of Planning Commissioners

512. (1) The Planning Commissioners shall hold such and so many meetings as may be necessary for the performance of their functions.

(2) Each Planning Commissioner present at a meeting of the Planning Commissioners shall have a vote.

(3) At a meeting of the Planning Commissioners—

(a) the Chief Planning Commissioner shall, if present, be the chairperson of the meeting,

(b) if the Chief Planning Commissioner is not present, the Deputy Chief Planning Commissioner shall, if present, be the chairperson of the meeting, and

(c) if neither the Chief Planning Commissioner nor the Deputy Chief Planning Commissioner is present, the ordinary planning commissioners who are present shall choose one of their number to act as the chairperson of the meeting.

(4) At a meeting of the Planning Commissioners, a question relating to the performance of their functions shall be determined by a majority of votes of the Planning

Commissioners present and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.

(5) The Governing Board shall arrange to keep a written record of all decisions of the Planning Commissioners, including the names of those present at a meeting of the Planning Commissioners at which a decision was made, and the number of those persons who vote for or against those decisions and shall, as soon as practicable after the date of the meeting, publish the record on a website maintained by or on behalf of the Commission and make it available for inspection by members of the public at the offices of the Commission.

(6) The Planning Commissioners may hold or continue a meeting by the use of any means of communication by which all of the participants can hear and be heard at the same time.

Quorum for meetings of Planning Commissioners

513. (1) Subject to *subsection (2)*, a quorum for a meeting of the Planning Commissioners, or a division of them, shall be 3, or such other quorum as the Minister may prescribe.

(2) A quorum for a meeting of the Planning Commissioners, or a division of them, relating to an application for permission under *Chapter 4* of *Part 4*, a request under *Chapter 5* of that Part to alter or extend the duration of a permission under *Chapter 4* of that Part, or an appeal to the Commission under *subsection (8)* of *section 149* in relation to a decision of the planning authority to revoke or modify a permission under *Chapter 4* of that Part, shall be 5, or such other quorum as the Minister may prescribe.

(3) Subject to *subsections (1)* and *(2)*, the Planning Commissioners may continue to act notwithstanding a vacancy in the office of Chief Planning Commissioner or Deputy Chief Planning Commissioner or among the ordinary planning commissioners.

Divisions of Planning Commissioners

514. (1) Where the Governing Board considers that it is appropriate for the purposes of the efficient and expeditious conduct of the business of the Commission that the Planning Commissioners should act by divisions, it may direct that such number of divisions of the Planning Commissioners as it considers appropriate be constituted.

(2) Where a direction is given under *subsection (1)*, the Chief Planning Commissioner shall constitute the number of divisions stated in the direction and, following consultation with the chief executive officer, shall assign to each division, as the Chief Planning Commissioner considers appropriate, the business to be transacted by it and a sufficient number of Planning Commissioners to conduct such business.

(3) The Governing Board may revoke a direction under *subsection (1)*, and where the direction is revoked, the business of the divisions shall be assigned by the Chief Planning Commissioner, following consultation with the chief executive officer, to be transacted by the Planning Commissioners as he or she considers appropriate.

(4) Where the Chief Planning Commissioner considers that it is appropriate for the purposes of the efficient and expeditious conduct of the business of the Commission that the Planning Commissioners should act by divisions, he or she may—

(a) constitute such number of divisions as he or she considers appropriate, and

(b) assign to each division the business to be transacted by it and a sufficient number of Planning Commissioners to conduct that business.

(5) For the purpose of the business assigned to it, a division shall have all of the powers and duties of the Planning Commissioners under this Act or any other enactment, and references in this Act or any other enactment to the Planning Commissioners shall be construed as references to the division.

(6) The Chief Planning Commissioner or, in his or her absence, the Deputy Chief Planning Commissioner, or a person acting as chairperson of a meeting of a division, may, at any stage before a decision is made by a division, where he or she considers the matter to be of particular complexity or significance, transfer the consideration of any matter from the division to a meeting of all available Planning Commissioners.

(7) Where necessary in order to ensure that the business of the Commission is discharged expeditiously, the Chief Planning Commissioner, or the Deputy Chief Planning Commissioner where the office of Chief Planning Commissioner is vacant, may assign additional Planning Commissioners to a division on a temporary basis.

(8) The Commission shall publish on a website maintained by or on behalf of the Commission, and maintain at the offices of the Commission, a register of the divisions of the Commission and the Planning Commissioners assigned to each division, and the business to be transacted by each division.

Regulations in relation to procedures of Planning Commissioners

515. The Minister may provide by regulations for such procedures as he or she considers necessary or appropriate for the purposes of the efficient, expeditious, and transparent performance by the Planning Commissioners of their functions.

Amendment of permission or decision by Commission

516. (1) The Commission may authorise a Planning Commissioner to amend a permission granted by the Commission, or other decision of the Commission under this Act or any other enactment, for the purposes of—

(a) correcting a clerical error in the permission or decision,

(b) facilitating the doing of a thing pursuant to the permission or decision, where the doing of that thing may reasonably be regarded as having been contemplated by a particular term of the permission or decision, or its terms as a whole, but was not expressly provided for in the permission or decision,

(c) clarifying the terms of the permission or decision, or

(d) facilitating the implementation or operation of the permission or decision,

and the Planning Commissioner shall make that amendment in accordance with the terms of the authorisation.

(2) The Commission shall not exercise the power under *subsection (1)* if the amendment is a material alteration of the terms of a development the subject of the permission or decision.

(3) Before the Commission decides whether to make an authorisation under *subsection (1)* in a particular case, the Commission may invite submissions in relation to the matter to be made to it by any person who made submissions to the Commission in relation to the permission or decision, and shall have regard to any submissions made to it on foot of that invitation.

(4) In this section "permission" includes a permission granted by An Bord Pleanála under the Act of 2000 or under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016 but does not include outline permission within the meaning of *section 96*.

CHAPTER 5

Organisational Matters

Grants to Commission

517. There may, subject to such conditions, if any, as the Minister thinks proper, be paid to the Commission in each financial year out of moneys provided by the Oireachtas, a grant or grants of such amount or amounts as the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, and after consultation with the Governing Board in relation to the Commission's programme of expenditure for that year, may fix.

Accounts and audits of Commission

518. (1) The chief executive officer, in consultation with the Governing Board, shall—

(a) submit estimates of the income and expenditure of the Commission to the Minister in such form, in respect of such periods, and at such times, as may be specified by the Minister, and

(b) provide to the Minister any information which the Minister may require regarding those estimates or regarding the proposals and plans of the Commission in respect of a period specified by the Minister.

(2) The chief executive officer shall keep, in such form and in respect of such accounting periods as may be approved of by the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, all proper and usual accounts of moneys received and spent by the Commission, including an income and expenditure account and a balance sheet.

(3) The chief executive officer or other member of the staff of the Commission to whom duties relating to accounts have been assigned shall, whenever so required by the

Minister, permit any person appointed by the Minister to examine the accounts of the Commission in respect of any financial year, or other period, and shall facilitate any such examination, and the Commission shall pay to the Minister such fee for the examination as may be fixed by the Minister.

(4) The accounts of the Commission shall be signed by the chief executive officer as soon as practicable after, but not later than 3 months after, the end of the accounting period to which they relate, and shall be submitted by him or her to the Comptroller and Auditor General for audit.

(5) A copy of the accounts and the report of the Comptroller and Auditor General on them shall be presented to the chief executive officer and the Minister, by the Comptroller and Auditor General, as soon as practicable, and the Minister shall cause a copy of the accounts and report to be laid before each House of the Oireachtas and shall cause a copy to be sent to the relevant Oireachtas Committee.

Accountability of chief executive officer to Committee of Public Accounts

519. (1) The chief executive officer shall, whenever required in writing to do so by the Committee of Public Accounts, give evidence to that Committee in relation to—

(a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the Commission is required by this Act to prepare or keep,

(b) the economy and efficiency of the Commission in the use of its resources,

(c) the systems, procedures and practices employed by the Commission for the purpose of evaluating the effectiveness of its operations, and

(d) any matter affecting the Commission referred to in a special report of the Comptroller and Auditor General under subsection (2) of section 11 of the Comptroller and Auditor General (Amendment) Act 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a)*, *(b)* or *(c)*) that is laid before Dáil Éireann.

(2) In the performance of his or her duties under this section, the chief executive officer shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

(3) In appearing before the Committee of Public Accounts, the chief executive officer appears as a person accountable to the Committee and not as an accounting officer.

(4) If the chief executive officer is unable to attend before the Committee of Public Accounts he or she or, in the chief executive officer's absence, the Governing Board, may nominate a senior officer of the Commission to attend on behalf of the chief executive officer and this section shall apply to a person so nominated.

Accountability of chief executive officer to other Oireachtas committees

520. (1) In this section "Committee" means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee of Public Accounts or a Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann) or a subcommittee of such a Committee.

(2) Subject to *subsection (3)*, the chief executive officer shall, at the request in writing of a Committee, attend before it to give account for the general administration of the Commission.

(3) The chief executive officer shall not be required to give account before a Committee for any matter which is or has been or may be at a future date, the subject of proceedings before a court or tribunal in the State.

(4) Where the chief executive officer is of the opinion that a matter in respect of which he or she is requested to give an account before a Committee is a matter to which *subsection (3)* applies, he or she shall inform the Committee of the opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at the time when the chief executive officer is before it, the information shall be so conveyed in writing.

(5) Where the chief executive officer has informed a Committee of his or her opinion in accordance with *subsection (4)* and the Committee does not withdraw the request referred to in *subsection (2)* in so far as it relates to the subject matter of that opinion—

(a) the chief executive officer may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question of whether the matter is one to which *subsection (3)* applies, or

(b) the chairperson of the Committee may, on behalf of the Committee, make such an application,

and the High Court shall determine the matter.

(6) Pending the determination of an application under *subsection (5)*, the chief executive officer shall not attend before the Committee to give account for the matter that is the subject of the application.

(7) If the High Court determines that the matter concerned is one to which *subsection (3)* applies, the Committee shall withdraw the request referred to in *subsection (2)* but if the High Court determines that *subsection (3)* does not apply, the chief executive officer shall attend before the Committee to give account for the matter.

(8) The chief executive officer, in giving evidence under *subsection (2)*, shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

(9) Any evidence given under *subsection (2)* shall, subject to preserving confidentiality in relation to such information as is determined by the Governing Board to be commercially sensitive, relate to the policies of the Commission.

(10) If the chief executive officer is unable to attend before a Committee he or she or, in the chief executive officer's absence, the Governing Board, may nominate a senior officer of the Commission to attend on behalf of the chief executive officer and this section shall apply to a person so nominated.

Statement of strategy

521. (1) The Governing Board shall, as soon as practicable after the commencement of this section and thereafter within the period of 6 months before each third anniversary of that date, prepare and submit to the Minister a strategy statement for the period of 3 years immediately following the year in which the statement is submitted.

(2) The Minister may issue a direction in writing to the Governing Board in relation to the form and manner in which a strategy statement shall be prepared under *subsection (1)* and the Governing Board shall comply with the direction.

(3) The Minister shall, as soon as practicable after a strategy statement has been submitted to him or her under *subsection (1)*, cause a copy of the statement to be laid before each House of the Oireachtas.

(4) In this section "strategy statement" means a statement of the key objectives and outputs of the Commission, and the strategies (including the use of its resources) it intends to use to achieve those objectives and realise those outputs.

Annual report

522. (1) The Governing Board shall, not later than the 30th day of June in each year, prepare a report (in this section referred to as an "annual report"), which shall include—

(a) information on the performance of the Commission's functions and its principal activities during the preceding year,

(b) the Commission's main achievements in attaining the objectives and realising the outputs set out in the strategy statement for the time being prepared under *section 521*,

(c) the matters referred to in *subsection (5)* of *section 113*, *subsection (9)* of *section 126*, *subsection (8)* of *section 147*, *subsection (8)* of *section 361*, and *subsection (7)* of *section 419*,

(d) a statement of the names of the persons (if any) engaged under *section 390* during the preceding year, and

(e) such other matters as the Minister may specify to the Governing Board in writing.

(2) The Chief Planning Commissioner shall, for the purpose of the preparation of the annual report and on the request of the Governing Board, provide any information requested by the Governing Board to the Governing Board.

(3) The chief executive officer shall cause a copy of the annual report to be sent to the Minister and the Minister shall, as soon as practicable thereafter, cause a copy to be laid before each House of the Oireachtas and shall cause a copy to be sent to the relevant Oireachtas Committee.

(4) The chief executive officer shall, at the request in writing of the relevant Oireachtas Committee, attend before it to account for matters in relation to the annual report.

Declaration of interests

523. (1) A relevant person shall sign and give to the Commission a declaration, in such form as may be prescribed—

(a) containing particulars in relation to each interest referred to in *subsection (2)*, or

(b) where he or she has no such interest, stating that to be the case.

(2) Subject to *subsections (4)* and *(5)*, the interests referred to in *subsection (1)* are—

(a) any legal or beneficial interest the relevant person has in land or a maritime site, including where the relevant person, or any nominee of his or hers, is a member of a company or other body which has an interest in land or a maritime site and, without prejudice to the foregoing, including—

(i) any interest in a contract for the purchase of land or a maritime site, whether or not a deposit or part payment has been made under the contract, and

(ii) any interest in—

(I) an option to purchase land or a maritime site, whether or not any consideration has been paid in respect of the option, or

(II) land or a maritime site in respect of which such an option has been exercised but which has not yet been conveyed,

but excluding any interest in land or a maritime site consisting of an interest in a private home (within the meaning of paragraph 1(4) of the Second Schedule to the Ethics in Public Office Act 1995) where the relevant person is the person occupying the private home,

(b) any business of dealing in or developing land or a maritime site in which the person is engaged or employed and any such business carried on by a company or other body of which he or she, or any nominee or trustee of his or hers, is a member, and

(c) any profession, business or occupation in which the person is engaged, whether on his or her own behalf or otherwise, and which relates to dealing in or developing land or a maritime site.

(3) (a) Subject to *subsections (4)* and *(5)*, a declaration under *subsection (1)* shall be given by a relevant person—

(i) within 28 days of the day on which he or she becomes such a person, and

(ii) thereafter, at least annually.

(b) Notwithstanding *paragraph (a)*, a relevant person shall, where—

(i) there is a change regarding an interest contained in a declaration made under *subsection (1)*, or

(ii) another interest referred to in *subsection (2)* is acquired by him or her,

give to the Commission a further declaration under *subsection (1)* in respect of that change or interest within 10 working days of the day on which the change occurs or the other interest is acquired.

(4) A relevant person shall not be regarded as having an interest referred to in *subsection (2)*, if the interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the relevant person in considering or discussing, or in voting on, any question with respect to any matter arising or coming before the Commission or in performing any function in relation to any such matter.

(5) Where a relevant person has an interest referred to in *subsection (2)* by reason only of the beneficial ownership of shares in a company or other body by him or her or by his or her nominee or trustee and the total value of those shares does not exceed the lesser of—

(a) €13,000, or

(b) one-hundredth part of the total nominal value of either the issued share capital of the company or body or, where that capital is issued in shares of more than one class, the issued share capital of the class or classes of shares in which he or she has an interest,

subsections (1) and *(3)* shall not apply in relation to that interest.

(6) The Commission shall, for the purposes of this section, keep a register (in this section referred to as the "register of interests") and shall enter in it the particulars contained in declarations given to the Commission under this section.

(7) The register of interests shall be kept at the offices of the Commission and shall be available for public inspection during office hours.

(8) Where a person ceases to be a relevant person, any particulars entered in the register of interests as a result of a declaration given by the person to the Commission under *subsection (1)* shall be removed from the register of interests by the Commission, as soon as may be after the expiry of the period of 5 years beginning on the day on which the person ceases to be such a person.

(9) Subject to *subsection (10)*, a person who fails to comply with *subsection (1)* or *(3)* or who, when purporting to comply with *subsection (1)* or *(3)*, gives particulars in a declaration that are false or misleading in a material respect, shall be guilty of an offence.

(10) In any proceedings for an offence under *subsection (9)* it shall be a defence for the defendant to prove that at the relevant time he or she believed, in good faith and upon reasonable grounds, that—

(a) the particulars were true,

(b) there was no interest as regards which he or she was then required to make a declaration under *subsection (1)* or *(3)*, or

(c) that the interest in relation to which the offence is alleged to have been committed was not one as regards which he or she was required to make such a declaration.

(11) Where a relevant person has complied with section 147 of the Act of 2000 in respect of the year in which that section is repealed by *section 6*, he or she shall be deemed to have complied with this section in respect of that year.

(12) In this section "relevant person" means—

(a) a member of the Governing Board,

(b) a Planning Commissioner,

(c) the chief executive officer or other member of the staff of the Commission, or

(d) any other person—

(i) whose services are availed of by the Commission, and

(ii) who is of a class, description or grade prescribed by the Minister for the purposes of this section.

Provisions relating to offence under *section 523*

524. (1) Proceedings for an offence under *section 523* shall not be instituted except by, or with the consent of, the Director of Public Prosecutions.

(2) Where a person fails to comply with *section 523*, the fact of the failure to comply, shall not invalidate any act or proceeding of the person or the Commission.

Liability for acts and omissions

525. (1) A person who is or was a relevant person shall not be liable for damages for anything done, anything purported to be done or anything omitted to be done by him or her in performing his or her functions under this Act, unless the act or omission is shown to have been done in bad faith.

(2) In this section "relevant person" means—

(a) a Planning Commissioner,

(b) a member of the Governing Board,

(c) a person engaged under *section 390*, and

(d) a member of the staff of the Commission (including the chief executive officer).

Superannuation of Planning Commissioners

526. (1) The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, make a scheme for the granting of

superannuation benefits including pensions, gratuities or other allowances payable on retirement or death to or in respect of Planning Commissioners ceasing to hold office.

(2) A scheme under this section may provide that the termination of the appointment of a Planning Commissioner during that person's term of office shall not preclude the award to him or her under the scheme of a superannuation benefit.

(3) The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, amend or revoke a scheme made by him or her under this section.

(4) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme under this section, the dispute shall be submitted to the Minister who shall refer it to the Minister for Public Expenditure, National Development Plan Delivery and Reform, whose decision shall be final.

(5) A scheme under this section shall be carried out by the Governing Board in accordance with its terms.

(6) No superannuation benefit shall be granted by the Commission to or in respect of any person referred to in *subsection (1)* ceasing to hold office otherwise than in accordance with a scheme under this section.

(7) A scheme made under this section shall not provide for the granting of superannuation benefits to or in respect of any person where the Single Public Service Pension Scheme applies to or in respect of that person by virtue of Chapter 2 of Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.

(8) A scheme may be amended or revoked by a subsequent scheme made under this section.

(9) Every scheme made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and if either such House, within the next 21 days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Staff of Commission

527. (1) Subject to *subsection (2)*, the Governing Board shall appoint such and so many persons to be members of the staff of the Commission as the Governing Board determines, having regard to the need to ensure that an adequate number of staff are competent in the Irish language so as to enable the Commission to provide service through Irish as well as English.

(2) The appointment of staff under *subsection (1)* shall be subject to the approval of the Minister, given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, as to the number and grade of those staff.

(3) A member of the staff of the Commission shall hold his or her employment on such terms and conditions as the Governing Board, subject to the approval of the Minister,

given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determines.

(4) There shall be paid by the Commission to the members of its staff out of moneys at its disposal such remuneration and allowances as the Governing Board may, subject to the approval of the Minister, given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.

(5) The Commission may perform any of its functions (other than the final determination of a particular case with which the Commission is concerned) through or by any member of the staff of the Commission or any other person who has been duly authorised by the Commission in that behalf.

Superannuation of staff of Commission

528. (1) The Governing Board may prepare and submit to the Minister for his or her approval, a scheme for the granting of superannuation benefits, including pensions, gratuities and other allowances payable on retirement or death, to or in respect of members of the staff of the Commission, including the chief executive officer, as it considers appropriate.

(2) The Governing Board may prepare and submit to the Minister a scheme amending or revoking a scheme under this section.

(3) Where a scheme is submitted to the Minister pursuant to this section, the Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, approve the scheme without modification or with such modification (whether by way of addition, omission or variation) as the Minister shall, with such consent, think proper.

(4) A scheme submitted to the Minister under this section shall, if approved by the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, be carried out by the Governing Board in accordance with its terms.

(5) A scheme approved under this section shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(6) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme under this section, the dispute shall be submitted to the Minister who shall refer it to the Minister for Public Expenditure, National Development Plan Delivery and Reform, whose decision shall be final.

(7) A scheme made under this section shall not provide for the granting of superannuation benefits to or in respect of any person where the Single Public Service Pension Scheme applies to or in respect of that person by virtue of Chapter 2 of Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.

(8) Every scheme approved under this section shall be laid before each House of the Oireachtas as soon as may be after it is approved and if either House within the next 21 days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(9) A scheme under section 121 of the Act of 2000 in force immediately before the repeal of that section by *section 6* shall continue in force and have effect on and after that repeal as if made under this section.

Effect of repeal of section 120 of Act of 2000 on existing employees

529. The repeal of section 120 of the Act of 2000 by *section 6* shall not affect the terms and conditions of employment of a person who, immediately before such repeal, was employed—

(a) pursuant to an appointment under subsection (1) of the said section 120, or

(b) under subsection (2) of the said section 120.

Provision of services and resources by Minister to Commission or by Commission to Minister

530. (1) For the purposes of enabling the Commission to perform its functions, the Minister may provide services (including services of staff on secondment) to the Commission on such terms and conditions (including payment for such services) as may be agreed by the Minister and the Commission, after consultation with the Minister for Public Expenditure, National Development Plan Delivery and Reform, and the Commission may avail of such services.

(2) The Commission may provide services (including services of staff) to the Minister on such terms and conditions (including payment for such services) as may be agreed by the Minister and the Commission, after consultation with the Minister for Public Expenditure, National Development Plan Delivery and Reform, and the Minister may avail of such services.

(3) Without prejudice to *subsection (1)*, the Minister may make available or cause to be made available to the Commission, on a request being made by the chief executive officer, premises, equipment, services and other resources for the purpose of the performance by the Commission of its functions, as the Commission considers appropriate from time to time in consultation with the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform.

(4) Without prejudice to *subsection (3)*, the Minister may, subject to the agreement of the relevant chief executive (by whatever name called) of any public body under the Minister's aegis, including any local authority, provide for the provision of services to the Commission by the public body under that subsection.

(5) The repeal of section 122 of the Act of 2000 by *section 6* shall not affect any arrangement for the provision of a service under that section made before that repeal.

Membership of either House of Oireachtas, European Parliament or local authority

531. (1) Where a Planning Commissioner—

(a) is nominated as a member of Seanad Éireann,

(b) is elected to be a member of either House of the Oireachtas or to be a member of the European Parliament,

(c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to the European Parliament, or

(d) becomes a member of a local authority,

he or she shall thereupon cease to be a Planning Commissioner.

(2) Where a member of the Governing Board, or a member of the staff of the Commission (including the chief executive officer)—

(a) is nominated as a member of Seanad Éireann,

(b) is elected to be a member of either House of the Oireachtas or to be a member of the European Parliament,

(c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to the European Parliament, or

(d) becomes a member of a local authority,

he or she shall thereupon be deemed to stand seconded from his or her office or position, as the case may be, and shall not be paid by, or be entitled to receive from, the Commission any remuneration or allowances for expenses in respect of the period commencing on such nomination or election or when he or she is so regarded as having been elected or on becoming such a member, and ending when he or she ceases to be a member of either such House, a member of such Parliament or a member of the local authority.

(3) A person who is—

(a) entitled under the Standing Orders of either House of the Oireachtas to sit therein,

(b) a member of the European Parliament, or

(c) entitled under the Standing Orders of a local authority to sit as a member thereof,

shall be ineligible for appointment as a Planning Commissioner, a member of the Governing Board, or a member of the staff of the Commission (including the chief executive officer).

Continued application of section 110 of Act of 2000 for certain purposes

532. (1) Notwithstanding the repeal of subsection (2) of section 110 of the Act of 2000 effected by *section 6*, the said section 110 shall continue to apply and have effect in

relation to a requirement made, or investigation commenced, under that subsection before that repeal.

(2) Notwithstanding the repeal of subsection (3) of section 110 of the Act of 2000 effected by *section 6*, the said section 110 shall continue to apply and have effect in relation to a request made, or investigation commenced, under that subsection before that repeal.

Effect of repeal of section 115 of Act of 2000

533. The repeal of section 115 of the Act of 2000 by *section 6* shall not affect the obligation of the Commission under that section in relation to a duty discharged before the repeal of that section.

Scheme under section 119 of Act of 2000

534. A scheme under section 119 of the Act of 2000 in force immediately before the repeal of that section by *section 6* shall continue in force and have effect after that repeal as if made under *section 526*.

Continued application of Chapter III of Part VI of Act of 2000 for certain purposes

535. (1) Notwithstanding the repeal of Chapter III of Part VI of the Act of 2000 effected by *section 6*, that Chapter shall, to the extent that it applied to an application, appeal, referral or request immediately before that repeal, continue to apply and have effect in relation to each such—

(a) application, appeal or referral pending immediately before that repeal, and

(b) request made (but not fully complied with) before that repeal.

(2) Regulations under section 142 of the Act of 2000 shall, to such extent only as is necessary for the purposes of *subsection (1)*, continue in force and have effect on and after the repeal of that section by *section 6*.

PART 18

Office of Planning Regulator

Chapter 1

Definitions

Definitions

536. In this Part—

"Advisory Board" has the meaning assigned to it by *section 542*;

"Deputy Planning Regulator" means the person designated under *subsection (5)* of

section 557 to be the Deputy Planning Regulator;

"Office" means the Office of the Planning Regulator.

CHAPTER 2

Office and Functions

Continuance of Office of Planning Regulator

537. (1) Notwithstanding the repeal of section 31M of the Act of 2000 effected by *section 6*—

(a) the body known as the Office of the Planning Regulator shall continue in being in accordance with this Act, and

(b) anything commenced, but not completed, by the Office before such repeal may be carried on and completed by the Office on and after the repeal as if that enactment had not been repealed.

(2) The Office shall have all such powers as are necessary for or incidental to the performance of the functions of the Office under this Act or any other enactment.

Planning Regulator

538. (1) There shall be a Planning Regulator appointed in accordance with *section 540*.

(2) Notwithstanding the repeal of sections 31N and 31W of the Act of 2000 effected by *section 6*, the person who immediately before such repeal stood appointed as the Planning Regulator shall continue in office as the Planning Regulator in accordance with the terms and conditions of his or her appointment.

(3) The Planning Regulator shall be the chief executive of the Office.

(4) The Planning Regulator shall be a corporation sole with perpetual succession and an official seal and with power—

(a) to sue and be sued,

(b) to acquire, hold and dispose of land or an interest in land, and

(c) to acquire, hold and dispose of any other property.

(5) The Planning Regulator shall—

(a) perform such functions as are specified in this Part to be functions of the Office,

(b) be responsible for the performance by the Office of its functions under this Part, and

(c) otherwise carry out, manage and control generally the administration and business of the Office for the purposes of this Part.

(6) The Planning Regulator shall, subject to this Part, be independent in the performance of his or her functions.

(7) The seal of the Planning Regulator (in this section referred to as the "seal") shall be authenticated by—

(a) the signature of the Planning Regulator,

(b) the signature of the Deputy Planning Regulator, or

(c) the signatures of 2 members of the staff of the Office, at least one of whom shall be a director of the Office, and both of whom have been authorised by the Office to act in that behalf.

(8) Judicial notice shall be taken of the seal and every document purporting to be an instrument made by the Office and to be sealed with the seal (purporting to be authenticated in accordance with *subsection (7)*) shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

(9) Any contract or instrument which, if entered into or executed by an individual, would not be required to be under seal may be entered into or executed on behalf of the Office by a member of the staff of the Office or a person generally or specially authorised by the Office for that purpose.

Deputy Planning Regulator

539. (1) There shall be a Deputy Planning Regulator designated in accordance with *subsection (5)* of *section 557*.

(2) The Deputy Planning Regulator shall fulfil all duties and functions for the time being vested in the Planning Regulator during—

(a) any temporary absence of the Planning Regulator,

(b) any temporary incapacity of the Planning Regulator through illness or otherwise, or

(c) any occasion on which the office of the Planning Regulator stands vacant pending appointment of the Planning Regulator in accordance with *section 540*.

Appointment of Planning Regulator

540. (1) Subject to this section, the Planning Regulator shall be appointed by the Minister and shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration and superannuation) as the Minister may determine with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.

(2) Subject to *subsection (3)*, a person shall not be appointed as the Planning Regulator unless—

(a) a competition has been held for that purpose under section 47 of the Public Service Management (Recruitment and Appointments) Act 2004 and the Public Appointments Service has recommended the person for nomination for appointment as the Planning Regulator, and

(b) the Government has approved the appointment.

(3) *Paragraph (a)* of *subsection (2)* shall not apply to a person who would, if appointed, be serving a second consecutive term as the Planning Regulator.

(4) In carrying out the competition referred to in *paragraph (a)* of *subsection (2)*, the Public Appointments Service shall appoint a selection panel to assist it.

(5) The Public Appointments Service shall ensure that a person is recommended under *paragraph (a)* of *subsection (2)* for appointment only if it is satisfied that the person has the qualifications, experience and skills to perform effectively the functions of the Planning Regulator.

(6) The Planning Regulator shall—

(a) be appointed in a full-time capacity,

(b) be appointed for a term of office of 5 years or such shorter period where *subsection (8)* applies, and

(c) not, at any time while holding office, hold any other office or employment in respect of which emoluments are made.

(7) A person shall not be appointed for a term of office as Planning Regulator more than twice, subject to any provision provided for by law relating to retirement that would apply to the person.

(8) Where a person appointed as Planning Regulator would, within 5 years from the date of appointment, attain the age of 70 years and he or she is neither—

(a) a new entrant (within the meaning of the Public Service Superannuation (Miscellaneous Provisions) Act 2004) appointed having been previously appointed to a position in the public service (within that meaning) on or after 1 April 2004, nor

(b) a Scheme member within the meaning of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012,

then his or her term of office as Planning Regulator shall be such that the term ceases upon his or her attaining the age of 70 years.

(9) As soon as practical after the appointment of a person as the Planning Regulator, the Minister shall cause a notice of the appointment to be published in *Iris Oifigiúil*.

Resignation and removal of Planning Regulator

541. (1) The Planning Regulator may at any time resign his or her office by giving notice in writing to the Minister of his or her intention to resign and any such resignation shall take effect as of the date upon which the Minister receives notice of the resignation.

(2) The Planning Regulator may be removed from office by the Government if—

(a) in the opinion of the Government, the Planning Regulator has become incapable through ill-health of effectively performing his or her functions,

(b) in the opinion of the Government, the Planning Regulator has committed stated misbehaviour,

(c) the Planning Regulator is convicted on indictment by a court of competent jurisdiction and sentenced to imprisonment,

(d) the Planning Regulator is convicted of an offence involving fraud or dishonesty,

(e) the Planning Regulator is adjudicated bankrupt in the State or another jurisdiction and the bankruptcy is not discharged or annulled in the State or that other jurisdiction, as appropriate, or

(f) the removal of the Planning Regulator appears to the Government to be necessary for the effective performance by the Office of its functions.

(3) Where the Planning Regulator is removed from office under this section, the Government shall cause to be laid before each House of the Oireachtas a statement of the reasons for the removal.

Advisory Board

542. (1) The Office shall have an Advisory Board (in this Part referred to as the "Advisory Board").

(2) The Advisory Board shall—

(a) consult with, guide and advise the Planning Regulator in relation to the strategic direction of the Office, including the preparation of a strategy statement in accordance with *section 550*,

(b) when requested to do so by the Planning Regulator, in accordance with *section 545*, consult with, guide and advise the Planning Regulator as so requested, in relation to the performance of the functions of the Office,

(c) monitor the implementation by the Planning Regulator of the strategy statement and make recommendations to the Planning Regulator in relation to such implementation as it considers appropriate, and

(d) advise or make recommendations to the Minister in relation to policies of the Government or a Minister of the Government affecting the functions of the Office.

(3) The Advisory Board may do anything which it considers necessary or expedient to enable it to perform its functions.

(4) Nothing in this section shall be construed as enabling the Advisory Board to exercise any power or control in relation to the performance, in a particular case or in particular circumstances, of functions conferred on the Office by or under this Act.

(5) The Advisory Board shall consist of at least 5, and not more than 7 members (including the chairperson).

(6) The Minister shall, in so far as is practicable, endeavour to ensure that among the members of the Advisory Board there is an equitable balance between men and women.

Appointment and terms and conditions of members of Advisory Board

543. (1) The Minister shall appoint the members (including a chairperson) of the Advisory Board.

(2) The Minister shall, as he or she considers necessary, request the Public Appointments Service to hold a selection process for the purpose of identifying and recommending a person or persons who it is satisfied is or are suitable for appointment to be a member of the Advisory Board.

(3) The Public Appointments Service shall, when requested to do so under *subsection (2)*, hold a selection process and recommend to the Minister such person or persons who it is satisfied is or are suitable for appointment and provide the Minister with particulars of the relevant knowledge, experience, qualifications, training or expertise of each person whom it recommends.

(4) The Minister may, prior to the date of the commencement of *section 542*, designate persons to be the first members of the Advisory Board and, from among those persons so designated, one of their number to be the first chairperson.

(5) If, immediately before the date of the commencement of *section 542*, a person stands designated under *subsection (4)*, the person shall, on that day, stand appointed as a member of the Advisory Board or as both such member and the chairperson, as the case may be.

(6) The Planning Regulator shall not be appointed to the Advisory Board.

(7) A member of the Advisory Board shall hold office for the period of 5 years from the date of his or her appointment.

(8) A member of the Advisory Board whose term of office expires shall be eligible for reappointment to the Advisory Board.

(9) A person who is reappointed to the Advisory Board in accordance with *subsection (8)* shall not hold office for periods the aggregate of which exceeds 10 years.

(10) A member of the Advisory Board shall hold office upon such terms and conditions as the Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.

(11) There shall be paid by the Office to each member of the Advisory Board such remuneration and allowances for expenses as the Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.

(12) A member of the Advisory Board may resign his or her office by notice in writing addressed to the Minister and the resignation shall take effect on the date the Minister receives the notice.

(13) A member of the Advisory Board shall be ineligible to be a member, and cease to be a member, where he or she—

(a) subject to *subsection (14)*, is adjudicated bankrupt,

(b) makes a composition or arrangement with his or her creditors,

(c) is convicted of an indictable offence in relation to a company or other body corporate,

(d) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,

(e) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(f) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or

(g) is subject, or is deemed to be subject, to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act.

(14) A person shall be ineligible for appointment as a member of the Advisory Board under *paragraph (a)* of *subsection (13)* only for so long as the bankruptcy is not discharged or annulled.

(15) A member of the Advisory Board may be removed from office by the Minister if—

(a) he or she has become incapable through ill-health of effectively performing his or her functions,

(b) he or she has committed stated misbehaviour, or

(c) his or her removal appears to the Minister to be necessary for the effective performance by the Advisory Board of its functions.

Meetings of Advisory Board

544. (1) The Advisory Board shall hold such and so many meetings as may be necessary for the due performance of its functions, but in each year shall hold not less than one meeting in each period of 6 months.

(2) The Advisory Board may hold or continue a meeting by the use of any means of communication by which all the participants can hear and be heard at the same time.

(3) The chairperson of the Advisory Board shall fix the date, time and, subject to *subsection (2)*, place of the first meeting of the Board.

(4) The quorum for a meeting of the Advisory Board shall be 3.

(5) At a meeting of the Advisory Board—

(a) the chairperson of the Advisory Board shall, if present, be the chairperson of the meeting, and

(b) if and so long as the chairperson of the Advisory Board is not present or if the office of the chairperson is vacant, the members of the Advisory Board who are present shall choose one of their number to act as the chairperson of the meeting.

(6) Each member of the Advisory Board present at a meeting of the Advisory Board shall have a vote.

(7) At a meeting of the Advisory Board, a question on which a vote is required shall be determined by a majority of the votes of the members of the Advisory Board present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.

(8) Subject to this Act, the Advisory Board may determine its own procedures.

(9) The Advisory Board may act notwithstanding one or more vacancies among its members.

Consultation by Planning Regulator with Advisory Board

545. (1) The Planning Regulator may consult with, or request the guidance or advice of, the Advisory Board on any matter relating to a function of the Office.

(2) Without prejudice to the generality of *subsection (1)*, the Planning Regulator shall request the guidance and advice of the Advisory Board when he or she is preparing a strategy statement in accordance with *section 550*.

(3) The Planning Regulator shall have regard to any guidance or advice of the Advisory Board provided pursuant to a request under this section before performing any function to which the guidance or advice relates.

(4) Where the Planning Regulator requests the guidance or advice of the Advisory Board under this section, the Advisory Board shall, within such period as may be specified by the Planning Regulator in the request or such further period as may be agreed in writing between the Advisory Board and the Planning Regulator, provide the guidance or advice the subject of the request to the Planning Regulator.

Functions of Office

546. (1) The functions of the Office are as follows:

(a) to consult the Minister, regional assemblies, planning authorities and, as appropriate, other persons, in relation to plans and strategies made under this Act, including for the purposes of ensuring compliance with *sections 28*, *29*, *42*, *43*, *71*, *72* and *73*;

(b) to evaluate and assess and, where relevant, make observations and recommendations in respect of the preparation and making of—

(i) regional spatial and economic strategies, draft regional spatial and economic strategies, revisions or proposed revisions and expedited amendments to same,

(ii) development plans, draft development plans, variations or proposed variations and expedited amendments to same, and

(iii) urban area plans, priority area plans and coordinated area plans and drafts, amendments or proposed amendments to same,

in accordance with *Chapters 4*, *5* and *6* of *Part 3*;

(c) to review existing regional spatial and economic strategies and development plans to ensure consistency with new or amended National Planning Polices and Measures made in accordance with *Chapter 3* of *Part 3*;

(d) where so directed by the Minister, to issue a draft direction, and to recommend that the Minister issues a direction, in accordance with *section 39*, *64* or *79*;

(e) to consider the report prepared by a regional assembly in accordance with *section 35* to monitor progress in implementing a regional spatial and economic strategy and make recommendations to the Minister in respect of same;

(f) to conduct research, including research at the request of the Minister, as to what constitutes proper planning and sustainable development;

(g) to conduct education and training programmes and research as provided for by *section 549* and programmes designed to enhance public awareness in relation to planning matters;

(h) to conduct reviews of the performance by the Commission and by planning authorities of their respective functions and to report to the Minister in relation to such reviews, in accordance with *Chapter 3*;

(i) to oversee the delivery of effective planning services to the public by planning authorities including having regard to—

(i) any relevant indicator (within the meaning of Part 12A of the Act of 2001) identified by the National Oversight and Audit Commission or prescribed under section 126C(1) of that Act, or

(ii) regulations made by the Minister under section 134A(7) of the Act of 2001;

(j) to prepare an annual report in accordance with *section 565* on the performance of its own functions;

(k) to prepare a strategy statement for the Office in accordance with *section 550*;

(l) to make such observations as it considers appropriate to the Minister, or in its annual reports or otherwise, in relation to the following:

(i) regional spatial and economic strategies under *Chapter 4* of *Part 3*, development plans under *Chapter 5* of *Part 3*, and urban area plans, priority area plans and coordinated area plans under *Chapter 6* of *Part 3*;

(ii) National Planning Statements under *Chapter 3* of *Part 3*;

(iii) draft directions and directions under *section 39*, *40*, *64*, *65*, *79* or *80*;

(iv) codes of conduct under *section 569*;

(v) any legislation or other matters relating to proper planning and sustainable development;

(m) to evaluate and assess strategic transport plans made by the National Transport Authority in accordance with section 12 of the Dublin Transport Authority Act 2008 and to issue a notice as provided for by subsection (10) of that section.

(2) The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, by order confer on the Office such additional functions connected with the functions for the time being of the Office as the Minister determines, subject to such conditions (if any) as may be specified in the order.

(3) An order under *subsection (2)* may contain such incidental, supplementary and additional provisions as may, in the opinion of the Minister, be necessary to give full effect to the order.

(4) Without prejudice to *subsection (1)* of *section 547*, the Minister and the Planning Regulator may, from time to time, consult each other on matters relating to the functions of the Office and of the Planning Regulator.

Performance of functions generally

547. (1) Subject to *subsection (7)* of *section 538*, the Office may perform any of its functions through any member of the staff of the Office duly authorised—

(a) by the Planning Regulator, or

(b) to the extent provided for by the Planning Regulator under *paragraph (a)*, by a director of the Office.

(2) In performing its functions, the Office shall take account of the objectives of contributing to proper planning and sustainable development, maritime spatial planning and the optimal functioning of planning under this Act.

(3) The Office shall, in performing its functions, have regard to—

(a) the policies and objectives for the time being of the Government (including National Planning Statements), planning authorities and any other body which is a public authority whose functions have, or may have, a bearing on the proper planning and sustainable development of cities, towns, villages or other areas, whether urban or rural,

(b) the necessity of climate change adaptation and mitigation and to achieve the national climate objective,

(c) the public interest and any effect the performance of the Office's functions may have on issues of strategic, economic or social importance to the State,

(d) the National Planning Framework, the National Marine Planning Framework and any regional spatial and economic strategy for the time being in force, and

(e) the requirements of relevant acts of the European Union, in particular, those relating to—

(i) the Environmental Impact Assessment Directive,

(ii) the Strategic Environmental Assessment Directive,

(iii) the Habitats Directive,

(iv) the Birds Directive, and

(v) the Water Framework Directive,

in so far as those requirements relate to planning authorities by virtue of being designated as competent authorities for the purposes of those acts.

(4) The Minister may prescribe any body established by or under statute to be a "public authority" for the purposes of this section.

Evaluation and assessment of plans and strategies

548. (1) Without prejudice to the requirements of *section 547*, in carrying out its functions under *section 546*, the Office shall, when evaluating and assessing any plans or strategies or any drafts, revisions, variations or amendments of plans or strategies, consider the following:

(a) all matters relevant to the making of the plan or strategy concerned under this Act;

(b) the material consistency of the plan or strategy or draft, revision, variation or amendment thereof, with the National Planning Framework and National Marine Planning Framework;

(c) the material consistency of the plan or strategy or draft, variation or amendment thereof, with the National Planning Polices and Measures contained in any National Planning Statement and the reasons offered by the relevant regional assembly or planning authority to justify a departure from National Planning Policy Guidance contained in any such statement;

(d) the material consistency of the plan or draft, variation or amendment thereof, with any regional spatial and economic strategy;

(e) the account taken by the plan or strategy or draft, variation or amendment thereof, of any relevant transport strategy published by the National Transport Authority;

(f) the effective coordination of national, regional and local planning requirements by the relevant regional assembly or planning authority in the discharge of its development planning functions;

(g) any other matters as may be prescribed from time to time.

(2) Without prejudice to the requirements of *section 547*, the Office shall, in carrying out consultations with planning authorities in accordance with *section 53*, consider the following:

(a) all matters relevant to the preparation, making, variation or expedited amendment of a development plan under this Act;

(b) the requirement that a development plan be materially consistent with—

(i) the National Planning Framework,

(ii) the National Marine Planning Framework,

(iii) any relevant National Planning Polices and Measures, and

(iv) the regional spatial and economic strategy of the region concerned;

(c) any relevant National Planning Policy Guidance;

(d) any transport strategy of the National Transport Authority which relates to all or any part of the functional area of the planning authority;

(e) any other matters as may be prescribed from time to time.

(3) Where the Office makes any observations or recommendations to a regional assembly or a planning authority under *Chapter 4*, *5* or *6* of *Part 3*, it shall, at the same time, send a copy of such observations or recommendations to the Minister.

Research, education and training

549. (1) The Office shall conduct education and training programmes for the members of planning authorities, regional assemblies and the Commission, including the members of the staff thereof, in respect of—

(a) the role of such authorities, assemblies and the Commission under this Act, including in respect of National Planning Statements and the plans and policies under this Act, including for the purposes of ensuring compliance with *sections 28*, *29*, *42*, *43*, *71*, *72* and *73*,

(b) the role of such authorities and assemblies in respect of guidelines issued under section 7 of the Act of 2021 and directives issued under section 8 of that Act,

(c) such matters relating to proper planning and sustainable development and maritime spatial planning as the Minister may request, and

(d) such other matters as the Office considers are of relevance to its functions, in particular, the functions relating to proper planning and sustainable development.

(2) The Office shall conduct research in relation to matters relevant to its functions as well as such other matters as may be requested by the Minister.

(3) The Office may enter into arrangements with any person that the Office considers to be suitably qualified, including any professional, educational or research organisation, to undertake or assist in undertaking the provision of services to which *subsection (1)* or *(2)* relates and that are relevant to its functions.

(4) The Office shall conduct programmes designed to enhance public awareness in relation to planning matters, which shall include measures designed to enhance public understanding of the planning process and the role of the public in such process.

Corporate strategy

550. (1) The Planning Regulator shall prepare a strategy statement for the Office within 6 months of the commencement of this section and thereafter not earlier than 6 months before and not later than the expiration of each subsequent period of 6 years following such commencement.

(2) Notwithstanding the repeal of section 31T of the Act of 2000 effected by *section 6*, a strategy statement prepared under that section that was in force immediately before such repeal shall remain in force after the commencement of this section pending the preparation of a strategy in accordance with *subsection (1)*.

(3) The strategy statement shall be prepared on the basis of an organisational wide strategic approach encompassing the functions of the Office and shall include—

(a) a statement setting out the approach taken in respect of each of the functions of the Office under *section 546*,

(b) the objectives and priorities for each of the functions of the Office under *section 546* and strategies for achieving those objectives,

(c) the manner in which the Office proposes to assess its performance in respect of each function under *section 546*, taking account of indicators which shall be identified by the Office and of the need to work towards best practice in service delivery and in the general operation of the Office,

(d) human resources activities (including training and development) to be undertaken for the staff of the Office,

(e) the organisational structure of the Office, including corporate support and information technology and the improvements proposed to promote efficiency of operation and customer service and in general to support the strategy statement, and

(f) such other matters as the Planning Regulator considers necessary.

(4) Within 3 months of the preparation of the strategy statement for the purposes of *subsection (1)*, the Office shall submit a copy of it to the Minister and the Minister shall, as soon as practicable thereafter, cause the statement to be laid before each House of the Oireachtas.

CHAPTER 3

Review of Performance of Functions of Planning Authorities, Regional Assemblies and Commission

Preliminary examination or review by Office of performance of functions

551. (1) Subject to *subsection (8)*, the Office may, where it considers it necessary or appropriate to do so, conduct a review of the organisation and management of, and the systems and procedures used by, a planning authority, a regional assembly or the Commission in relation to the performance by the planning authority, regional assembly or Commission of all or any of its functions under this Act.

(2) Subject to *subsection (8)*, the Office shall conduct a review of the organisation and management of, and the systems and procedures used by, a planning authority, a regional assembly or the Commission in relation to the performance by the planning authority, regional assembly or Commission of all or any of its functions under this Act, where the Minister has formed the opinion that the planning authority, regional assembly or the Commission—

(a) may not be carrying out its functions under this Act in accordance with the requirements of or under this Act,

(b) may not be performing its functions under this Act in a manner which is in accordance with the National Planning Framework, regional spatial and economic strategies, development plans, urban area plans, coordinated area plans, priority area plans, the National Marine Planning Framework or maritime spatial plans,

(c) may not be complying with a National Planning Statement, a direction under *section 65* or *80* or, in the case of a planning authority, a direction under *subsection (2)* of *section 576* or, in the case of a regional assembly, a direction under *section 40*,

(d) may be applying inappropriate standards of administrative practice, or otherwise acting contrary to fair or sound administration, in the performance of its functions under this Act,

(e) may be applying systemic discrimination in the performance of its functions under this Act,

(f) may be operating in a manner whereby there is impropriety or risks of corruption in the performance of its functions under this Act,

(g) may be operating in a manner whereby there are serious diseconomies or inefficiencies in the performance of its functions under this Act, or

(h) in the case of a planning authority, may not be performing its functions under *Part 11* appropriately to ensure compliance in its functional area with this Act,

and the Minister has informed the Office of his or her opinion in writing and requested a review to be carried out under this subsection.

(3) Subject to *subsection (8)*, where the Office receives a complaint made to it, or made to the Minister and referred to it by the Minister, that in the Office's opinion relates to the organisation and management of, or systems and procedures used by, a planning authority, a regional assembly or the Commission in relation to the performance by the planning authority, regional assembly or Commission of all or any of its functions under this Act, the Office shall (subject to *subsection (4)*) carry out a preliminary examination of the complaint to determine whether one or more of the circumstances referred to in *paragraphs (a)* to *(h)* of *subsection (2)* may have arisen.

(4) The Office may decide not to carry out a preliminary examination, or to discontinue a preliminary examination, arising from a complaint if it forms the opinion that—

(a) the subject matter of the complaint is outside the scope of its powers of review under this Chapter,

(b) the complaint cannot be substantiated or appears to the Office to be vexatious, frivolous or without substance or foundation,

(c) the person making the complaint, or the person in respect of whom the complaint was made, does not appear to have any legitimate interest in the subject matter of the complaint,

(d) the person making the complaint has not taken reasonable steps to pursue the subject matter of the complaint with the planning authority or regional assembly concerned, or the Commission, as the case may be,

(e) the person making the complaint has not exhausted any appeal or review procedures open to him or her in respect of the subject matter of the complaint, or

(f) legal proceedings have been instituted in respect of the subject matter of the complaint.

(5) Where the Office decides not to carry out or continue a preliminary examination or, following a preliminary examination, has not formed the view that one of the circumstances referred to in *subsection (2)* has arisen, it shall inform the person who made the complaint of the reasons for its decision, or for its not forming the view, in writing, and the Office may, if it considers it appropriate in the circumstances, refer the complaint or the complainant to the Minister or a body listed in *paragraph (b)* of *subsection (4)* of *section 553*.

(6) Subject to *subsection (8)*, following a preliminary examination under *subsection (3)*, the Office shall, as it considers appropriate—

(a) prepare a report on the preliminary examination (including any recommendations), or

(b) conduct a review of the organisation and management of, and the systems and procedures used by, the planning authority, regional assembly or Commission in relation to the performance by the planning authority, regional assembly or Commission of all or any of its functions under this Act, and prepare a report on the review.

(7) The Office shall, as it considers appropriate, submit a report referred to in *paragraph (a)* of *subsection (6)*, to one or more than one of the following:

(a) the planning authority;

(b) the regional assembly;

(c) the Commission;

(d) the Minister;

(e) the Ombudsman;

(f) the Standards in Public Office Commission;

(g) the Garda Síochána;

(h) such other State authority as may be prescribed.

(8) The Office shall not, in the performance of any of its functions under *subsections (1)* to *(6)*, exercise any power or control in relation to a particular case with which a planning authority, regional assembly or the Commission is either involved or could be involved.

(9) A preliminary examination or review under this section shall not, of itself, affect the validity of any matter examined, power exercised or duty performed by the planning authority, regional assembly or Commission or the performance of any function of the planning authority, regional assembly or Commission under this Act or any other enactment.

(10) Where the Office is conducting a review under *subsection (1)* or *(6)* and, before it is completed, a request is made by the Minister to the Office to conduct a review under *subsection (2)*, which would include the matters to which the review being conducted relates then, where appropriate—

(a) any steps taken by the Office for the purpose of the first-mentioned review (including the appointment of a person under *subsection (1)* of *section 552*) may be regarded as steps taken for the purposes of the review requested by the Minister, and

(b) it shall not be necessary to initiate a further, additional or separate review under this section.

Supplementary provisions in relation to conduct of preliminary examination or review

552. (1) The Office may appoint a person (in this section referred to as an "appointed person") to carry out all or part of a review or preliminary examination under *section 551*.

(2) The planning authority, regional assembly or the Commission shall cooperate and comply with a request of the Office or an appointed person in relation to the matters which are the subject of the review or preliminary examination.

(3) It is the duty of each member of a planning authority or a regional assembly, each Planning Commissioner or member of the Governing Board of the Commission and each member of staff of the planning authority, regional assembly or Commission, to cooperate with the Office or an appointed person in the conduct of a review or preliminary examination.

(4) Without prejudice to the generality of *subsections (2)* and *(3)*, the planning authority, regional assembly or Commission shall give the Office or an appointed person such information or documents relating to the performance by the planning authority, regional assembly or Commission of its functions as the Office or the appointed person may request, in such manner or form, and within such period, as may be prescribed or, where no such manner, form or period is prescribed, as the Office or appointed person shall specify.

(5) Each of the following bodies may, for the purposes of a review or preliminary examination under this Chapter, disclose information, records or documents (including personal data within the meaning of Regulation (EU) 2016/679 of the

European Parliament and of the Council of 27 April 2016[22]) in its possession to the Office or an appointed person relating to matters that are the subject of that review or examination:

(a) a Department of State;

(b) the Office of the Comptroller and Auditor General;

(c) the Office of the Ombudsman;

(d) the Local Government Management Agency;

(e) the National Oversight and Audit Commission;

(f) the Commission;

(g) a regional assembly;

(h) a local authority;

(i) a body (other than a company) established by or under statute;

(j) a company established pursuant to a power conferred by or under an enactment, and financed wholly or partly by—

(i) moneys provided, or loans made or guaranteed, by a Minister of the Government, or

(ii) the issue of shares held by or on behalf of a Minister of the Government;

(k) a company, a majority of the shares in which are held by or on behalf of a Minister of the Government.

(6) A member of the staff of the Office or an appointed person, accompanied by such other persons as he or she considers appropriate in the circumstances, is entitled, for the purposes of a review or preliminary examination under this Chapter, at all reasonable times to enter and inspect any land, maritime site, premises or structure (other than a dwelling or the curtilage of a dwelling) which is owned, used, controlled or managed by a planning authority or a regional assembly or the Commission and, without prejudice to the generality of *subsections (2)* and *(3)*, shall—

(a) be afforded every facility and cooperation by the planning authority or regional assembly or the Commission, including the giving of information which the member of staff or appointed person may reasonably request,

(b) have access to all documents, records, or other information which the member of staff or appointed person may reasonably request, and

(c) be afforded facilities to make notes from, or to take copies of, any such documents or records.

(7) In *subsection (6)*, "curtilage", in relation to a dwelling, means an area immediately surrounding or adjacent to the dwelling and used in conjunction with the dwelling other than any part of the area to which the public have access whether as of right or by permission and whether subject to or free of charge.

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Procedures in relation to draft report and final report of review

553. (1) Subject to *subsection (5)*, where a review is completed under *section 551*, the Office shall send a draft report of the review, including any recommendations it proposes to make, to—

(a) the planning authority or regional assembly or the Commission the subject of the review, and

(b) the Minister.

(2) A person sent a draft report under *subsection (1)* may make submissions to the Office in relation to it within such period as the Office specifies (having regard to the nature, size and complexity of the draft report and any issue of urgency associated with its finalisation).

(3) Subject to *subsection (5)*, the Office shall review any submissions made under *subsection (2)* before finalising the draft report and shall thereafter finalise the report and send a copy of it to each person to whom the draft report was sent under *subsection (1)*.

(4) Subject to *subsection (5)*, in the case of—

(a) a review under *subsection (1)* or *(2)* of *section 551*, the Office may publish, or cause to be published, the report on a website maintained by or on behalf of the Office, or

(b) a review under *paragraph (b)* of *subsection (6)* of *section 551*, the Office may send a copy of the report to one or more than one of the following:

(i) the Ombudsman;

(ii) the Standards in Public Office Commission;

(iii) the Garda Síochána;

(iv) such other State authority as may be prescribed;

(v) such other persons as the Office considers appropriate in the circumstances.

(5) Where the Office forms the opinion that the publication of the draft report or the report may—

(a) be prejudicial to the interests of the security of the State, or

(b) facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of a person,

the Office shall not take any steps under *subsection (1)*, *(3)* or *(4)* without first providing a copy of the draft report, or the report, as the case may be, to the Minister, or the Commissioner of the Garda Síochána, as appropriate, and obtaining the Minister's or the Commissioner's consent to its further publication in accordance with *subsection (1)*, *(3)* or *(4)*.

(6) Without prejudice to making any other recommendation, a draft report under *subsection (1)* or a report under *subsection (3)* may include a recommendation that the

Minister consider exercising his or her power under *subsection (2)* of *section 576* or *section 577*.

Action on foot of report of review under *section 553*

554. (1) Where the Office makes a recommendation relating to a planning authority, a regional assembly or the Commission in a report under *section 553*, the Office or the Minister may direct the planning authority, regional assembly or Commission to comply with the recommendation and, where the Minister gives such a direction, he or she shall notify the Office of the direction as soon as practicable after it is given.

(2) Where a direction is given under *subsection (1)*, the planning authority, regional assembly or Commission shall take steps to implement the recommendation and provide a report to the Office on its implementation within such period as may be specified in the report under *section 553* (and, if no period is specified, within 12 weeks of the direction).

(3) The planning authority or regional assembly or the Commission shall provide further reports on the implementation of the recommendation every 8 weeks following the provision of the report to the Office under *subsection (2)* until such time as the recommendation has been implemented to the written satisfaction of the Office.

Offences

555. (1) A person who obstructs or impedes, or without reasonable excuse fails to comply with a request of, the Office, a member of staff of the Office or an appointed person under *section 552*, or any person accompanying a member of the staff of the Office or an appointed person under *subsection (6)* of that section, shall be guilty of an offence.

(2) A person who is guilty of an offence under *subsection (1)* is liable on summary conviction to a class C fine or to imprisonment for a term not exceeding 6 months or to both.

Continued application of sections 31AS, 31AT and 31AU of Act of 2000 for certain purposes

556. (1) Notwithstanding the repeal of section 31AS of the Act of 2000, effected by *section 6*, the said section 31AS shall, on and after that repeal, continue to apply and have effect in relation to any review under the said section 31AS commenced before that repeal.

(2) Notwithstanding the repeal of section 31AT of the Act of 2000, effected by *section 6*, the said section 31AT shall, on and after that repeal, continue to apply and have effect in relation to any request of the Minister under the said section 31AT made before that repeal.

(3) Notwithstanding the repeal of section 31AU of the Act of 2000, effected by *section 6*, the said section 31AU shall, on and after that repeal, continue to apply and have effect in relation to any examination under the said section 31AU commenced before that repeal.

(4) Notwithstanding the repeal of section 31AU of the Act of 2000, effected by *section 6*, the said section 31AU shall, on and after that repeal, continue to apply and have effect in relation to any request of the Minister under the said section 31AU made before that repeal.

(5) Notwithstanding the repeal of sections 31AV and 31AW of the Act of 2000 by *section 6*, the said sections 31AV and 31AW shall, on and after their repeal, continue to apply and have effect in relation to—

(a) any review under section 31AS commenced before that repeal,

(b) any review pursuant to a request under section 31AT made before that repeal,

(c) any examination under section 31AU commenced before that repeal, and

(d) any examination pursuant to a request under section 31AU made before that repeal.

CHAPTER 4

Staffing and Administration of Office

Directors of Office

557. (1) Subject to *subsection (2)*, for the purpose of supporting the Planning Regulator and the Office in carrying out functions under this Part, the Planning Regulator may appoint one or more persons as a director of the Office (in this section referred to as a "director") to perform such functions as are duly assigned to such person or persons.

(2) The Minister may, after consultation with the Minister for Public Expenditure, National Development Plan Delivery and Reform, specify a maximum number of directors that may be appointed.

(3) A director shall be a member of staff of the Office.

(4) A director, on ceasing to be a member of the staff of the Office, shall be deemed to have vacated the position of director.

(5) The Planning Regulator shall designate one director to be the Deputy Planning Regulator and the director so designated shall carry out the functions specified in *subsection (2)* of *section 539*.

(6) Subject to *subsection (4)*, a person who, immediately before the repeal of section 31Z of the Act of 2000, was a director of the Office shall, on and after such repeal, continue to be a director of the Office.

Staff of Office

558. (1) Subject to *subsection (2)*, the Planning Regulator shall appoint such and so many persons to be members of staff of the Office as the Planning Regulator from time to time determines having regard to the need to ensure that an adequate number of staff are competent in the Irish language so as to enable the Office to provide service through Irish as well as English.

(2) The appointment of members of staff under *subsection (1)* shall be subject to the approval of the Minister, given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, as to the number and grade of those members of staff.

(3) A member of the staff of the Office of the Planning Regulator shall be a civil servant (within the meaning of the Civil Service Regulation Act 1956) in the Civil Service of the State.

Existing staff of Office

559. Notwithstanding the repeal of section 31AA of the Act of 2000 effected by *section 6*, a person who was a member of staff of the Office appointed under that section immediately before such repeal shall be deemed to be a member of the staff of the Office—

(a) as if, on the commencement of this section, the Planning Regulator had appointed under *section 558* the person to be a member of the staff of the Office for the remaining period of the person's appointment under section 31AA of the Act of 2000, and

(b) on the same conditions (including those relating to termination of appointment) as those on which the person held office as such member of staff immediately before such repeal,

and this Act shall be construed accordingly.

Membership of either House of Oireachtas, European Parliament or local authority

560. (1) Where the Planning Regulator or a member of the staff of the Office—

(a) accepts a nomination as a member of Seanad Éireann,

(b) is elected to be a member of either House of the Oireachtas or to be a member of the European Parliament,

(c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to the European Parliament, or

(d) is elected or co-opted as a member of a local authority,

he or she shall thereupon be deemed to have resigned from his or her office or position, as the case may be.

(2) A person who is for the time being—

(a) entitled under the Standing Orders of either House of the Oireachtas to sit therein,

(b) a member of the European Parliament, or

(c) entitled under the Standing Orders of a local authority to sit as a member thereof,

shall, while he or she is so entitled under *paragraph (a)* or *(c)* or is such a member under *paragraph (b)*, be disqualified from being the Planning Regulator or a member of the staff of the Office.

Prohibition on disclosure of information relating to functions of Office

561. (1) No person shall, without the consent of the Planning Regulator (which may be given to the person, subject to or without conditions, as regards any information, any particular information or any information of a particular class or description), disclose—

(a) any information obtained by him or her while serving as a member of the staff of, or consultant or adviser to, the Office or as a person whose services are otherwise availed of by the Office in accordance with this Act, or

(b) any information so obtained relevant to the business of the Office or to the performance of its functions.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.

(3) A person who is guilty of an offence under *subsection (2)* is liable on summary conviction to a class C fine or to imprisonment for a term not exceeding 6 months or to both.

(4) Nothing in *subsection (1)* shall prevent the disclosure of information—

(a) in a report made to the Office or in a report made by or on behalf of the Office to the Minister,

(b) by any person in the course of and in accordance with the functions of his or her office,

(c) in accordance with the Freedom of Information Act 2014,

(d) in accordance with the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007), or

(e) where otherwise required by law.

Liability of Planning Regulator or member of staff for acts and omissions

562. (1) A person mentioned in *subsection (2)* shall not be liable for damages for anything done, anything purported to be done or anything omitted to be done by him or her in performing a function under this Act, unless the act or omission is shown to have been done in bad faith.

(2) The persons referred to in *subsection (1)* are—

(a) the Planning Regulator or a former Planning Regulator, and

(b) a present or former member of the staff of the Office.

Superannuation of Planning Regulator

563. (1) The Office may, with the approval of the Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, make a scheme for the granting of superannuation benefits including pensions, gratuities or other allowances payable on retirement or death to or in respect of a Planning Regulator ceasing to hold office.

(2) A scheme under this section may provide that the termination of the appointment of a Planning Regulator during that person's term of office shall not preclude the award to him or her under the scheme of a superannuation benefit.

(3) The Office may, with the approval of the Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, amend or revoke a scheme made under this section.

(4) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme under this section, the dispute shall be submitted to the Minister who shall refer it to the Minister for Public Expenditure, National Development Plan Delivery and Reform, whose decision shall be final.

(5) A scheme under this section shall be carried out by the Office in accordance with its terms.

(6) No superannuation benefit shall be granted by the Office to or in respect of any person referred to in *subsection (1)* ceasing to hold office otherwise than in accordance with a scheme under this section.

(7) A scheme made under this section shall not provide for the granting of superannuation benefits to or in respect of any person where the Single Public Service Pension Scheme applies to or in respect of that person by virtue of Chapter 2 of Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.

(8) A scheme may be amended or revoked by a subsequent scheme made under this section.

(9) Every scheme made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and if either such House, within the next 21 days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Grants to Office

564. There may, subject to such conditions, if any, as the Minister thinks proper, be paid to the Office in each financial year out of moneys provided by the Oireachtas a grant or grants of such amount or amounts as the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, and after consultation with the Office in relation to its programme of expenditure for that year, may fix.

Accounts, Audits and Annual Report of Office

565. (1) The Office shall—

(a) submit estimates of income and expenditure to the Minister in such form, in respect of such periods and at such times as may be specified by the Minister, and

(b) provide to the Minister any information which the Minister may require regarding those estimates and also regarding the proposals and plans of the Office in respect of a period specified by the Minister.

(2) The Office shall keep, in such form and in respect of such accounting periods as may be approved of by the Minister with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, all proper and usual accounts of moneys received and spent by the Office, including an income and expenditure account and a balance sheet.

(3) The Planning Regulator and any member of the staff of the Office to whom duties relating to those accounts have been duly assigned shall, whenever so required by the Minister, permit any person appointed by the Minister to examine the accounts of the Office in respect of any financial year or other period and shall facilitate any such examination, and the Office shall pay to the Minister such fee for the examination as may be fixed by the Minister.

(4) The accounts of the Office shall be approved by the Planning Regulator as soon as is practicable (but not later than 3 months after the end of the accounting period to which they relate) and submitted by it to the Comptroller and Auditor General for audit.

(5) A copy of the accounts and the report of the Comptroller and Auditor General on them shall be presented to the Planning Regulator and the Minister as soon as is practicable, and the Minister shall cause a copy of the accounts and report to be laid before each House of the Oireachtas.

(6) The Office shall, not later than the 30th day of June in each year, prepare an annual report, which shall include—

(a) information on the performance of its functions during the immediately preceding year,

(b) information about any matter to which *section 549* relates,

(c) a statement of the names of the persons (if any) engaged pursuant to *section 390* during the year to which the report relates, and

(d) information about such other matters as the Minister may specify to the Office in writing.

(7) The Planning Regulator shall submit a copy of the annual report to the Minister and the Minister shall, as soon as practicable thereafter, cause a copy to be laid before each House of the Oireachtas and shall cause a copy to be sent to the relevant Oireachtas Committee.

(8) The Planning Regulator shall, at the request in writing of the relevant Oireachtas Committee, attend before it to account for matters in relation to its accounts and annual report.

(9) In this section "relevant Oireachtas Committee" means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas to which has been duly assigned the role of examining matters relating to environment and planning (other than the Committee of Public Accounts or the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann) or a sub-committee of such a relevant Oireachtas Committee.

Monitoring and reporting

566. (1) The Office shall conduct, at such intervals as it thinks fit or as the Minister directs, reviews of its organisation and of the systems and procedures used by it in relation to the performance of its functions.

(2) Where the Minister thinks fit, he or she may direct an independent person who is not the Planning Regulator, Deputy Planning Regulator or a member of staff of the Office to conduct the review referred to in *subsection (1)*.

(3) Where the Minister gives a direction under *subsection (1)* or *subsection (2)*, the Office or independent person, as the case may be, shall report to the Minister the results of the review conducted pursuant to the direction.

(4) Following a review conducted under this section, the Minister may consult with the Office and direct the Office in respect of the performance of the functions the subject of the review, and the Office shall comply with any direction the Minister may give.

(5) The Office may make observations and recommendations to the Minister as regards any matter pertaining to its functions.

Reciprocal provision of services and resources by Minister and Office

567. (1) For the purposes of enabling the Office to perform its functions, the Minister may provide services (including services of members of staff either on secondment or a permanent basis) to the Office on such terms and conditions (including payment for such services) as may be agreed, after consultation with the Minister for Public Expenditure, National Development Plan Delivery and Reform, and the Office may avail of such services.

(2) The Office may provide services (including services of members of staff either on secondment or a permanent basis) to the Minister on such terms and conditions (including payment for such services) as may be agreed, after consultation with the Minister for Public Expenditure, National Development Plan Delivery and Reform, and the Minister may avail of such services.

(3) Without prejudice to the generality of *subsection (1)*, the Minister may make available or cause to be made available to the Office, on a request being made by the Planning Regulator, premises, equipment, services and other resources for the purpose of the performance by the Office of its functions as the Office may determine from time to

time in consultation with the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform.

(4) The Minister may, subject to the agreement of the relevant chief executive (by whatever name called) of any public body under the Minister's aegis, including any local authority, provide for the provision of services under *subsection (3)*.

(5) Notwithstanding the repeal of section 31AI of the Act of 2000 effected by *section 6*, services and resources provided to—

(a) the Office by the Minister under that section and available to the Office immediately before such repeal, or

(b) the Minister by the Office and available to the Minister immediately before such repeal,

shall continue to be available to the Office or the Minister, as the case may be, without the requirement for a new grant of such services or resources under this section.

Fees payable to Office

568. (1) The Office may determine fees that may be charged in relation to any matter referred to in *subsection (2)*, subject to the approval of the Minister, and a fee so determined shall be payable to the Office by any person concerned as appropriate.

(2) The matters in relation to which the Office may determine fees under *subsection (1)* are in respect of reasonable costs for the provision or undertaking of—

(a) education and training programmes,

(b) research programmes, and

(c) any other services, subject to the approval of the Minister.

(3) Notwithstanding *subsection (2)*, the Office may, subject to the approval of the Minister, provide for the payment of different fees in relation to different matters referred to in *subsection (2)*, for exemption from the payment of fees in specified circumstances and for the waiver, remission or refund in whole or in part of fees in specified circumstances.

(4) Notwithstanding the repeal of section 31AK of the Act of 2000 effected by *section 6*, fees determined to be payable under that section immediately before such repeal shall remain the fees payable for the matters concerned upon the commencement of this section pending the determination of new fees under *subsection (1)*.

Code of conduct

569. (1) The Office shall adopt a code of conduct for dealing with conflicts of interest and promoting public confidence in the integrity of the conduct of its business (in this section referred to as the "code of conduct") which is required to be followed by—

(a) the Planning Regulator and Deputy Planning Regulator,

(b) all members of the staff of the Office, and

(c) to the extent indicated in the code of conduct, any person or class or classes of persons to whom *section 390* relates,

and the code of conduct shall be complied with by each person to the extent that it relates to him or her or has been duly applied to him or her.

(2) Notwithstanding the repeal of section 31AL of the Act of 2000 effected by *section 6*, a code of conduct prepared under that section that was in force immediately before the commencement of this section shall remain in force after the commencement of this section pending the preparation of a code in accordance with *subsection (1)*.

(3) The Office shall consult with the Minister before adopting a code of conduct.

(4) The code of conduct shall consist of a written statement setting out the policy of the Office and shall include at least each of the following matters:

(a) measures to ensure the avoidance and management of any conflict of interest;

(b) disclosure of interests and relationships where the interests and relationships are of relevance to the work of the Office, as appropriate;

(c) membership of other organisations, associations and bodies, professional or otherwise;

(d) membership of, or other financial interests in, companies, partnerships or other bodies;

(e) undertaking work, not being work on behalf of the Office both during and after any period of employment with the Office, whether as a consultant, adviser or otherwise;

(f) acceptance of gifts, sponsorship, considerations or favours;

(g) disclosure of information concerning matters pertaining to the work of the Office, as appropriate;

(h) following of best practice to be adopted in relation to the functions of the Office including the procedures for the provision of observations and recommendations in accordance with this Act in relation to—

(i) the preparation, making and revision of regional spatial and economic strategies, and the review of such strategies to ensure their consistency with new or amended National Planning Polices and Measures, including for the purposes of ensuring compliance with *section 29*,

(ii) the preparation, making and variation of development plans, and the review of such development plans to ensure their consistency with the national and regional plans and policies provided for in this Act, including for the purposes of ensuring compliance with *section 43*, and

(iii) the preparation, making and amendment of urban area plans, priority area plans and coordinated area plans, including for the purposes of ensuring

compliance with *sections 71*, *72* and *73* and the adjudication of certain disputes in relation to those plans;

(i) the disclosure by the Planning Regulator, Deputy Planning Regulator, staff of the Office or persons to whom *section 390* relates of any representations relating to the work or functions of the Office made to the Planning Regulator, Deputy Planning Regulator, any such staff member or person to whom *section 390* relates, whether in writing or otherwise in relation to those matters.

(5) A person shall not take up position or hold office within the Office except on condition that he or she shall comply with the code of conduct.

(6) Subject to *subsection (3)*, the Office may at any time review the code of conduct and may amend the code of conduct or adopt a new code of conduct.

(7) The Office shall cause a copy of the code of conduct to be laid before the Houses of the Oireachtas and published on a website maintained by or on behalf of the Office within the period of 2 weeks after it is adopted.

PART 19

Further Provisions Relating to Planning Bodies

Officers of planning authority

570. A reference in this Part to an officer of a planning authority, in relation to a planning authority, means—

(a) the chief executive of the planning authority or any person to whom the chief executive has delegated any function of such chief executive provided for by or under this Act,

(b) the deputy chief executive of the planning authority appointed under section 148 of the Act of 2001 or any person to whom the deputy chief executive has delegated any function of such deputy chief executive provided for by or under this Act, or

(c) a person who is, by virtue of *paragraph (a)* or *(b)*, an officer of another planning authority when that person, pursuant to an arrangement or agreement entered into under this Act or any other enactment, is performing a function provided for by or under this Act on behalf of the first-mentioned planning authority.

Duty to be independent and impartial

571. Each of the following shall, when making a decision in the performance of a function under this Act, do so in an independent and impartial manner:

(a) a regional assembly;

(b) a planning authority;

(c) the Commission;

(d) a State authority.

Codes of conduct

572. (1) The Minister shall ensure that any code of conduct issued under section 169 of the Act of 2001 addresses the following matters:

(a) disclosure of interests and relationships by members and members of staff of a planning authority where the interests and relationships are of relevance to the work of the planning authority;

(b) disclosure by members and members of staff of a planning authority of information concerning matters pertaining to the work of the planning authority;

(c) the obligation of members and members of staff of a planning authority to follow proper procedure in relation to the functions of the planning authority including, as applicable, in respect of—

(i) the making of a declaration in response to a request submitted under *subsection (2)* of *section 10*,

(ii) the review, making, variation or amendment of plans made by the planning authority under *Part 3*,

(iii) the processing and determination of planning applications and appeals under *Part 4*,

(iv) the granting of permission under *Part 4* for proposed development that would materially contravene a development plan,

(v) the making of a declaration in response to a request submitted under *subsection (1)* of *section 310*, and

(vi) the taking of enforcement action (within the meaning of *Part 11*);

(d) the disclosure by members and members of staff of a planning authority of any representations made to such members or members of staff whether in writing or otherwise in relation to the matters set out in *paragraph (c)*.

(2) (a) A code of conduct issued under section 169 of the Act of 2001 and in force immediately before the commencement of this section shall remain in force after that commencement, subject to any amendment thereafter, until it is withdrawn by the Minister and replaced by a new code issued in accordance with *subparagraph (ii)* of *paragraph (c)*.

(b) The Minister shall, not later than 12 months after the commencement of this section, consider whether a code of conduct referred to in *paragraph (a)* addresses the matters referred to in *subsection (1)*.

(c) Where, having complied with *paragraph (b)*, the Minister is not satisfied that a code of conduct referred to in *paragraph (a)* addresses the matters referred to in *subsection (1)*, he or she shall—

(i) amend the code, or

(ii) withdraw the code and issue a new code of conduct,

under section 169 of the Act of 2001, so as to ensure that the code addresses those matters.

(3) The Minister may make regulations setting out any further requirements applying to members or members of staff of a local authority that are necessary to protect the integrity of the decision-making functions under this Act.

(4) In this section "Minister" has the meaning given to it in the Act of 2001.

Prohibition on disclosure of information relating to functions of Commission

573. (1) A person shall not, without the consent of the Commission (which may be given to the person, subject to or without conditions, as regards any information, as regards particular information or as regards information of a particular class or description), disclose any information relative to the business of the Commission or to the making of a decision in the performance of a function under this Act, obtained by him or her while—

(a) serving as a member or member of staff of the Commission,

(b) acting as a consultant or adviser to the Commission, or

(c) providing any other services to the Commission.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.

(3) Nothing in *subsection (1)* shall prevent the disclosure of information—

(a) in a report made to the Commission or in a report made by or on behalf of the Commission to the Minister,

(b) by any person in the course of and in accordance with the functions of his or her office,

(c) in accordance with the Freedom of Information Act 2014,

(d) in accordance with the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007), or

(e) where otherwise required by law.

Requirements as to beneficial interests

574. (1) (a) *Paragraph (b)* applies where, at a meeting of a planning authority or of any committee of a planning authority, a resolution, motion, question or other matter is proposed or otherwise arises—

(i) pursuant to, or as regards the performance by the planning authority of a function under this Act, or

(ii) in relation to the acquisition or disposal by the planning authority of any land or maritime site under or for the purposes of this Act or any other enactment.

(b) Where this paragraph applies, a member of the planning authority or committee present at the meeting shall, if he or she has a pecuniary or other beneficial interest in, or that is material to, the matter at the meeting, and before discussion or consideration of the matter commences—

(i) disclose the nature of his or her interest, and

(ii) withdraw from the meeting for so long as the matter is being discussed or considered,

and accordingly, he or she shall take no part in the discussion or consideration of the matter and shall refrain from voting in relation to it.

(c) Where a disclosure is made under *paragraph (b)*, particulars of the disclosure and of any subsequent withdrawal from the meeting shall be recorded in the minutes of the meeting.

(2) A member of a planning authority or of any committee of a planning authority who has a pecuniary or other beneficial interest in, or that is material to, a matter arising—

(a) pursuant to or as regards the performance by the planning authority of a function under this Act, or

(b) in relation to the acquisition or disposal by the planning authority of any land or maritime site under or for the purposes of this Act or any other enactment,

shall neither influence nor seek to influence a decision of the planning authority in relation to the matter.

(3) Where any officer of a planning authority has a pecuniary or other beneficial interest in, or that is material to, any matter that arises or comes before the authority—

(a) pursuant to or as regards the performance by the planning authority of a function under this Act, or

(b) in relation to the acquisition or disposal by the planning authority of any land or maritime site under or for the purposes of this Act or any other enactment,

he or she shall, as soon as may be, disclose the nature of his or her interest—

(i) where the officer is not the chief executive, to the chief executive of the planning authority, and

(ii) where the officer is the chief executive, to the members of the planning authority.

(4) Where an officer of a planning authority discloses an interest under *subsection (3)*, he or she shall neither influence nor seek to influence a decision of the authority in relation to the matter and—

(a) where the officer is not the chief executive, he or she shall comply with any directions the chief executive may give him or her in relation to the matter, and

(b) where the officer is the chief executive, he or she shall delegate the exercise of his or her functions insofar as they concern the matter to another officer of the

planning authority who has no interest in the matter to disclose under *subsection (3)*.

(5) Where a Planning Commissioner has a pecuniary or other beneficial interest in, or that is material to, any appeal, contribution, question, determination or dispute that falls to be decided or determined by the Commission under any enactment, he or she shall comply with the following requirements:

(a) he or she shall disclose to the Commission the nature of his or her interest;

(b) he or she shall take no part in the discussion or consideration of the matter;

(c) he or she shall not vote or otherwise act as a Planning Commissioner in relation to the matter;

(d) he or she shall neither influence nor seek to influence a decision of the Commission in relation to the matter.

(6) Where a member of the staff of the Commission, a consultant or adviser engaged by the Commission or any other person whose services are availed of by the Commission has a pecuniary or other beneficial interest in, or that is material to, any appeal, contribution, question or dispute which falls to be decided or determined by the Commission under any enactment, he or she shall comply with the following requirements:

(a) he or she shall neither influence nor seek to influence a decision of the Commission in relation to the matter;

(b) where he or she has been requested to provide professional services in relation to the matter, whether as a member of staff, consultant, adviser or otherwise, he or she shall disclose to the Commission the nature of his or her interest and comply with any directions the Commission may give him or her in relation to the matter.

(7) Without prejudice to the generality of *subsections (1)* to *(6)*, a person shall be regarded as having a beneficial interest for the purposes of this section if the person or any connected person—

(a) is a member of a company or any other body which has a beneficial interest in, or that is material to, any matter referred to in *subsections (1)* to *(6)*,

(b) is in partnership with or is in the employment of a person who has a beneficial interest in, or that is material to, any such matter,

(c) is a party to any arrangement or agreement (whether or not enforceable) concerning any land or maritime site to which any such matter relates, or

(d) has any other beneficial interest in, or that is material to, any such matter.

(8) For the purposes of this section, a person shall not be regarded as having a beneficial interest in, or that is material to, any matter referred to in *subsections (1)* to *(6)* by reason only of an interest that is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering or discussing, or in voting on, any question with respect to the matter, or in performing any function in relation to that matter.

(9) Where a person has a beneficial interest referred to in *subsections (1)* to *(6)* by reason only of the beneficial ownership of shares in a company or other body by him or her or by his or her spouse or civil partner and the total value of those shares does not exceed the lesser of—

(a) €13,000, or

(b) one-hundredth part of the total nominal value of either the issued share capital of the company or body or, where that capital is issued in shares of more than one class, the issued share capital of the class of shares in which he or she has an interest,

none of those subsections shall have effect in relation to that beneficial interest.

(10) Subject to *subsection (11)*, a person who contravenes or fails to comply with a requirement of this section shall be guilty of an offence.

(11) In any proceedings for an offence under this section, it shall be a defence for the defendant to prove that, at the time of the alleged offence, he or she did not know and had no reason to believe that—

(a) a matter in which, or in relation to which, he or she had a beneficial interest had arisen or had come before, or was being considered by, the Commission or the relevant planning authority or committee, as applicable, or

(b) the beneficial interest to which the alleged offence relates was one in relation to which a requirement of this section applied.

(12) For the purposes of *subsections (7)* and *(9)*, a person who is a member of any company formed and registered under the Companies Act 2014 (or an existing company within the meaning of that Act) that is deemed to be a subsidiary of another or to be another such company's holding company shall be deemed also to be a member of the other company.

(13) In this section—

"civil partner" has the same meaning as it has in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

"cohabitant" shall be construed in accordance with section 172 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

"connected person", in relation to a person, means—

(a) any brother, sister or parent of the person,

(b) the spouse or civil partner of the person, except where the spouse or civil partner is living separately and apart from the person,

(c) any cohabitant of the person,

(d) any child of the person, or

(e) any child of the person's spouse, civil partner or cohabitant, except where the spouse or civil partner is living separately and apart from the person.

Prohibition on certain communications concerning Commission and planning authorities

575. (1) Any person who communicates with—

(a) a Planning Commissioner, a member of the Governing Board, a member of the staff (including the chief executive officer) of, or consultant or adviser to, the Commission or a person whose services are availed of by the Commission by virtue of *section 530*, or

(b) any member of a planning authority or any officer of a planning authority where the officer is of a class, description or grade as may be prescribed for the purposes of this section,

for the purpose of influencing improperly the person communicated with as to the performance of functions under this Act shall be guilty of an offence.

(2) In circumstances where a person referred to in *paragraph (a)* or *(b)* of *subsection (1)* becomes of the opinion that a communication is in contravention of *subsection (1)*, he or she shall—

(a) not entertain the communication further, and

(b) notify in writing forthwith the Commission or relevant planning authority, as appropriate, of the communication.

Ministerial oversight of performance of functions by planning authorities and regional assemblies

576. (1) A planning authority or a regional assembly shall supply the Minister with such information relating to the performance of its functions as the Minister may request.

(2) A planning authority or regional assembly shall conduct, at such intervals as it thinks fit or the Minister directs, reviews of its organisation and management, and of the systems and procedures used by it in relation to its functions under this Act.

(3) The Minister may (notwithstanding the fact that a direction has been given under *subsection (2)*) appoint a person other than the planning authority or regional assembly concerned to carry out a review of the organisation and management of a planning authority, or a regional assembly, and of the systems and procedures used by the planning authority or regional assembly in relation to its functions under this Act, where he or she considers it appropriate to do so, and the planning authority or regional assembly shall cooperate with, and comply with a request of, the person appointed.

(4) Where the Minister gives a direction under *subsection (2)* or makes an appointment under *subsection (3)*, the planning authority, regional assembly or person appointed shall report to the Minister the results of the review.

(5) A planning authority or regional assembly shall comply with any requirement which the Minister may, after consultation with the planning authority or regional assembly as regards the results of a review referred to in *subsection (2)* or *(3)*, impose in relation to all or any of the matters which were the subject of the review.

Appointment of commissioner to perform functions of planning authority

577. (1) Without prejudice to the powers of the Minister under Part 21 of the Act of 2001, the Minister may appoint a person to be a commissioner to carry out, and have full responsibility for, all or any of the functions of a planning authority under this Act (and in doing so may distinguish between reserved functions and other functions) where the Minister, for stated reasons—

(a) has formed an opinion referred to in *subsection (2)*, and

(b) considers it necessary or appropriate to do so.

(2) The opinion referred to in *subsection (1)* is an opinion arising from the matters referred to in *subsection (3)* that a planning authority—

(a) may not be carrying out its functions under this Act in accordance with the requirements of or under this Act,

(b) may not be performing its functions under this Act in a manner which respects the National Planning Framework, regional spatial and economic strategies, development plans, urban area plans, coordinated area plans, priority area plans, the National Marine Planning Framework or maritime spatial plans,

(c) may not be complying with a National Planning Statement, a direction issued under *section 65* or *80* or a direction issued under *subsection (2)* of *section 576*,

(d) may be applying inappropriate standards of administrative practice or otherwise acting contrary to fair or sound administration in the performance of its functions under this Act,

(e) may be applying systemic discrimination in the performance of its functions under this Act,

(f) may be operating in a manner whereby there is impropriety or risks of corruption in the performance of its functions under this Act,

(g) may be operating in a manner whereby there are serious diseconomies or inefficiencies in the performance of its functions under this Act, or

(h) may not be performing its functions under *Part 11* appropriately to ensure compliance in its functional area with this Act.

(3) The matters referred to in *subsection (2)* are:

(a) directions issued by the Minister under *section 65* or *80*;

(b) a report or information arising from a preliminary examination of a complaint under *subsection (3)* of *section 551*;

(c) a draft report under *subsection (1)* of *section 553* or, where the report has been finalised, the report referred to in *subsection (3)* of *section 553*;

(d) a report or information arising from a review under *subsection (2)* or *(3)* of *section 576*;

(e) information otherwise available to the Minister.

(4) In considering whether it is necessary or appropriate to appoint a commissioner under *subsection (1)*, the Minister may have regard to any loss of public confidence in the carrying out by the planning authority of its functions and the need to restore that confidence.

(5) A commissioner shall be appointed in accordance with such terms and conditions and for such period as may be specified by the Minister.

(6) A planning authority may, on stated grounds based on *subsections (1)* to *(4)*, by resolution, request the Minister to appoint a commissioner to carry out all or any of the functions of the authority under this Act and the Minister shall have regard to any such request.

(7) It shall be the duty of every member of, and every chief executive and member of staff of, a planning authority to cooperate with, and comply with a request of, a commissioner appointed under this section.

(8) A person who obstructs or impedes, or without reasonable excuse fails to comply with a request of, a commissioner under this section shall be guilty of an offence.

(9) A person who is guilty of an offence under *subsection (8)* is liable on summary conviction to a class C fine or to imprisonment for a term not exceeding 6 months or to both.

Provisions relating to offences

578. (1) A person who is guilty of an offence under this Part (other than an offence under *subsection (8)* of *section 577*) shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 6 months, or both.

(2) Proceedings for an offence under *section 574* shall not be instituted except by or with the consent of the Director of Public Prosecutions.

(3) Where—

(a) a person is convicted of an offence under *section 574*, and

(b) the person is a member of—

(i) a planning authority, or

(ii) a committee of a planning authority,

the person shall on conviction cease to be a member of the planning authority or committee of a planning authority, as the case may be.

(4) Where a person by virtue of *subsection (3)* ceases to be a member of any planning authority or committee of a planning authority, as the case may be, he or she shall be disqualified from being a member of that—

(a) planning authority during the period which, but for the cessation of his or her membership under this section, would be the remainder of his or her term, or

(b) committee of a planning authority during the period which, but for the cessation of his or her membership under this section, would be the remainder of his or her term or during a fixed period of 5 years, whichever is the longer period.

(5) A disqualification under this section shall take effect on the expiry of the ordinary time for appeal from the conviction concerned or, if an appeal is brought within that time, upon the final disposal of that appeal.

(6) Where a person contravenes or fails to comply with a requirement of *section 574*, or acts as a member of a planning authority or committee of a planning authority, as the case may be, while disqualified for membership by virtue of this section, the fact of the contravention or failure or of his or her so acting, as the case may be, shall not invalidate any act or proceeding of the planning authority or committee of a planning authority, as the case may be.

Effect of repeal of section 255 of Act of 2000

579. Notwithstanding the repeal of section 255 of the Act of 2000 effected by *section 6*, the said section 255 shall continue to apply and have effect in relation to any request, direction or appointment under that section made or given before that repeal.

PART 20

Financial and Miscellaneous Provisions

Charging of expenses of planning authority

580. The expenses incurred by a planning authority under this Act shall be charged on the local authority concerned.

Apportionment of joint expenses of planning authorities

581. (1) Two or more planning authorities may, by resolution, make and carry out an agreement for sharing the cost of performing all or any of their functions under this Act and, where an agreement has been made under this subsection, the planning authorities concerned may, by resolution, terminate it at any time if they so agree.

(2) Where a planning authority proposes to perform in its functional area or nearshore area a function under this Act at the request of or wholly or partially in the interests of the area of another planning authority (being a planning authority whose area is contiguous with the area of the first-mentioned planning authority), the other planning authority shall defray the cost of the performance of the function to such extent as may be agreed upon between the authorities or, in default of agreement, as shall be determined by the Minister.

Power to set off

582. Where a sum of money is due under this Act to any person by a planning authority and, at

the same time, another sum of money under this Act is due by that person to that authority, the planning authority may set off the former sum against the latter, as may be appropriate, in whole or in part.

Fees payable to planning authorities

583. (1) The Minister may make regulations providing for—

(a) the payment to planning authorities of prescribed fees in relation to applications for—

(i) permission under *Part 4*, or

(ii) extensions, further extensions or alterations under *Chapter 5* of *Part 4*,

(b) the payment to planning authorities of prescribed fees in relation to the making of submissions respecting applications for permission referred to in *paragraph (a)*,

(c) the payment to planning authorities of prescribed fees in relation to requests for declarations under *section 10*,

(d) the payment to planning authorities of prescribed fees in relation to requests for declarations under *section 310*,

(e) the payment to planning authorities of prescribed fees in relation to any consultation or advice under *section 90*, *91* or *139*, and

(f) the payment to planning authorities of prescribed fees in relation to applications for grants of licences under *section 13*.

(2) Regulations under this section may provide for the following:

(a) the payment of different fees in relation to cases of different classes or descriptions;

(b) exemption from the payment of fees in specified circumstances;

(c) the waiver, remission or refund (in whole or in part) of fees in specified circumstances;

(d) the manner in which fees are to be disposed of.

(3) (a) Where, under regulations under this section, a fee is payable to a planning authority by an applicant in respect of an application to which *paragraph (a)* or *(f)* of *subsection (1)* applies, a decision in relation to the application shall not be made until the fee is paid.

(b) Where, under regulations under this section, a fee is payable to a planning authority by a person in respect of a request to which *paragraph (c)* or *(d)* of *subsection (1)* applies, the planning authority shall not make the declaration, until the fee is paid.

(c) Where, under regulations under this section, a fee is payable to a planning authority by a person in respect of a consultation or advice to which *paragraph*

(e) of *subsection (1)* applies, the planning authority shall not engage in the consultation or provide the advice, as the case may be, until the fee is paid.

(4) A submission referred to in *paragraph (b)* of *subsection (1)* shall not be considered by the planning authority unless any fee payable in respect of the submission has been received by the planning authority within the time limit prescribed.

(5) A planning authority shall specify fees for the making of copies under any section of this Act, not exceeding the reasonable cost of making such copies.

Development contributions

584. (1) In this section—

"public infrastructure and facilities" means—

(a) the acquisition of land for one or more than one of the purposes referred to in paragraphs *(b)* to *(n)*,

(b) the provision of open spaces, recreational and community facilities and landscaping works,

(c) the provision of roads, car parks, car parking places, surface water sewers and flood relief work,

(d) the provision of bus corridors and lanes, bus interchange facilities (including car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities and traffic calming measures,

(e) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, surface water sewers and flood relief work,

(f) the provision of high-capacity telecommunications infrastructure, such as broadband,

(g) the provision of sites for schools and other educational facilities, including childcare facilities,

(h) infrastructure, pertaining to aspects of the natural and built environment relating to land, that provides ecosystemic and social benefits, including infrastructure to support decarbonisation and the reduction of anthropogenic greenhouse gases,

(i) infrastructure, pertaining to aspects of the natural and built environment relating to water, waterways and water bodies, that provide ecosystemic and social benefits, including infrastructure such as flood defences and sustainable water management solutions,

(j) works relating to the character and amenity of areas to which the public have access such as roads, footpaths, lanes, parks, squares, open spaces and building facades,

(k) the provision of sites for facilities for the social, economic, recreational, cultural, environmental or general development of the community,

(l) the provision of sites for facilities for the elderly and for persons with disabilities,

(m) facilities (including programmes) relating to education, training or skills development in connection with the provision of employment opportunities for the community in conjunction with an established educational authority or institution, and

(n) any infrastructure or amenities ancillary to any of the matters referred to in *paragraphs (b)* to *(m)*;

"scheme" shall be construed in accordance with *paragraph (a)* of *subsection (2)*;

"special contribution" means a special contribution referred to in *subsection (10)*.

(2) (a) A planning authority may, as it sees fit, make one or more than one development contribution scheme under this section (in this section referred to as a "scheme") and different schemes may be so made in respect of different parts of its functional area.

(b) A scheme may make provision for the payment of different contributions in respect of different classes or descriptions of development.

(c) Subject to *paragraph (d)*, a scheme shall state the basis for determining the contributions to be paid in respect of public infrastructure and facilities in accordance with the terms of the scheme.

(d) In stating the basis for determining the contributions in accordance with *paragraph (c)*, a scheme shall indicate the contribution to be paid in respect of the different classes of public infrastructure and facilities which are provided or to be provided by any local authority and the planning authority shall have regard to the actual estimated cost of providing the classes of public infrastructure and facilities except that any benefit which accrues in respect of existing development may not be included in any such determination.

(e) A scheme may allow for the payment of a reduced contribution or no contribution in certain circumstances in accordance with the terms of the scheme.

(f) A scheme shall include details of the public infrastructure and facilities which are provided or proposed to be provided, including an order of priority in respect of specific locations within the functional area of the planning authority where at least 30 per cent of the contributions will be focused for spending to align with the zoning of land for new development of all classes within the development plan, and the planning authority shall from time to time, as required, amend the scheme to reflect changes to zoning objectives.

(3) Where a planning authority proposes to make a scheme, it shall publish, on its website and in at least one newspaper, a notice—

(a) stating that a draft scheme has been prepared,

(b) giving details of the proposed contributions under the draft scheme,

(c) indicating the times at which, the period (which shall be not less than 6 weeks) during which, and the place where, a copy of the draft scheme may be inspected, and

(d) stating that submissions or observations may be made in writing to the planning authority in relation to the draft scheme before the end of the period for inspection.

(4) (a) In addition to the requirements of *subsection (3)*, a planning authority shall send a copy of the draft scheme to the Minister.

(b) The Minister may make recommendations to the planning authority regarding the terms of the draft scheme within 6 weeks of being sent the scheme.

(5) (a) Subject to *paragraph (b)*, not later than 4 weeks after the expiration of the period for making submissions or observations under *subsection (3)*, the chief executive of a planning authority shall prepare a report on any submissions or observations received under that subsection and submit the report to the members of the authority for their consideration.

(b) A report under *paragraph (a)* shall—

(i) list the persons who made submissions or observations under *subsection (3)*,

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

(iii) give the response of the chief executive to the issues raised, taking account of the proper planning and sustainable development of the area.

(6) The members of the planning authority shall—

(a) consider the draft scheme and the report of the chief executive under *subsection (5)*, and

(b) have regard to any recommendations made by the Minister under *subsection (4)*.

(7) (a) Subject to *paragraph (b)*, following the consideration of the chief executive's report, and having had regard to any recommendations made by the Minister under *subsection (4)*, the planning authority shall, by resolution—

(i) make the scheme as recommended in such report,

(ii) make the scheme as recommended in such report with such variations or modifications to the scheme as it considers appropriate in all the circumstances of the case, or

(iii) decide not to make the scheme.

(b) A resolution under *paragraph (a)* must be passed not later than 6 weeks after receipt of the chief executive's report.

(8) (a) Subject to *paragraph (b)*, where a planning authority makes a scheme in accordance with *subparagraph (i)* or *(ii)* of *paragraph (a)* of *subsection (7)*, the authority shall cause notice of the making of the scheme to be published on its website and in at least one newspaper.

(b) A notice under *paragraph (a)* shall—

(i) give the date of the decision of the planning authority in respect of the draft scheme,

(ii) state the nature of the decision, and

(iii) contain such other information as may be prescribed.

(9) (a) A grant of permission may include conditions requiring the payment of a contribution in accordance with a scheme.

(b) Subject to *subsection (10)*, the basis for the determination of a contribution under *paragraph (a)* shall be set out in a scheme.

(10) (a) A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

(b) Where payment of a special contribution is required in accordance with *paragraph (a)*, the requirement shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates.

(11) (a) A planning authority may—

(i) facilitate the phased payment of contributions under this section,

(ii) require the giving of security to ensure the payment of contributions, or

(iii) both—

(I) facilitate the phased payment of contributions under this section, and

(II) require the giving of security to ensure the payment of contributions.

(b) Where a contribution is not paid in accordance with a condition attached to a grant of permission, any outstanding amounts due to the planning authority shall be paid together with interest that may have accrued over the period while withheld by the person required to pay the contribution.

(c) A planning authority may recover, as a simple contract debt in a court of competent jurisdiction, any contribution or interest due to the planning authority under this section.

(12) (a) Moneys accruing to a local authority under this section shall—

(i) be accounted for in a separate account, and

(ii) only be applied as capital for public infrastructure and facilities.

(b) A report of a local authority under section 50 of the Local Government Act 1991 shall—

(i) contain details of moneys paid or owing to it under this section, and

(ii) indicate how such moneys paid to it have been expended by any local authority.

(13) (a) Subject to *paragraph (b)*, no appeal shall lie to the Commission in relation to a condition requiring a contribution to be paid in accordance with a scheme.

(b) An appeal may be brought to the Commission where an applicant for permission under *subsection (1)* of *section 84* considers that the terms of a scheme have not been properly applied in respect of any condition laid down by the planning authority.

(c) Notwithstanding *subsection (3)* of *section 100*, where an appeal is brought in accordance with *paragraph (b)*, and no other appeal of the decision of a planning authority is brought by any other person under *section 102*, the authority shall make the grant of permission as soon as may be after the expiration of the period for the taking of an appeal, provided that the person who takes the appeal in accordance with *paragraph (b)* furnishes to the planning authority security for payment of the full amount of the contribution as specified in the condition.

(14) Where an appeal is brought to the Commission in respect of a refusal to grant permission under *Chapter 3* of *Part 4* and the Commission decides to grant permission, it shall, where appropriate, apply as a condition to the permission the provisions of the contribution scheme for the time being in force in the area of the proposed development.

(15) (a) Notwithstanding *sections 102* and *112*, where an appeal received by the Commission after the commencement of this section relates solely to a condition dealing with a special contribution, and no appeal is brought by any other person under *section 102* against the decision of the planning authority under *section 98*, the Commission shall not determine the relevant application as if it had been made to it in the first instance, but shall determine only the matters under appeal.

(b) Notwithstanding *subsection (3)* of *section 100*, where an appeal referred to in *paragraph (a)* is received by the Commission, and no appeal is brought by any other person under *section 102*, the planning authority shall make the grant of permission as soon as may be after the expiration of the period for the making of an appeal, provided that the person who makes the appeal furnishes to the planning authority, pending the decision of the Commission, security for payment of the full amount of the special contribution as specified in the condition referred to in *paragraph (a)*.

(16) Where a permission which includes conditions referred to in *subsection (9)* has been granted in respect of a development and the basis for the determination of the contribution under that subsection has changed—

(a) where the development is one to which Part II of the Building Control Regulations 1997 (S.I. No. 496 of 1997) applies and a commencement notice within the meaning of that Part in respect of the development has not been lodged, or

(b) where the development comprises houses and one or more than one of those houses has not been rented, leased, occupied or sold,

the planning authority shall apply that change to the conditions of the permission where to do so would reduce or increase the amount of the contribution payable.

(17) Where a development referred to in *subsection (16)* comprises houses one or more than one of which has not been rented, leased, occupied or sold, the planning authority shall apply the change in the basis for the determination of the contribution referred to in that subsection only in respect of any house or houses that have not been rented, leased, occupied or sold.

(18) Where the planning authority applies a change in the basis for the determination of a development contribution under *subsection (16)*, it may amend a condition referred to in *subsection (9)* in order to reflect the change.

(19) Where the payment of a special contribution is required in accordance with *subsection (10)*, the following provisions shall apply:

(a) where—

(i) the works concerned are not commenced within 5 years of the date of payment of the contribution (or final instalment therof, if paid by phased payment under *paragraph (a)* of *subsection (11)*),

(ii) the works concerned have commenced, but have not been completed within 7 years of the date of payment of the contribution (or final instalment thereof, if paid by phased payment under *paragraph (a)* of *subsection (11)*), or

(iii) the local authority decides not to proceed with the works concerned or part thereof,

the contribution shall, subject to *paragraph (b)*, be refunded to the applicant together with any interest that may have accrued over the period while held by the local authority;

(b) where under *subparagraph (ii)* or *(iii)* of *paragraph (a)*, any local authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out.

(20) A planning authority may permit the transfer of land to the local authority or the development of infrastructure in full or partial discharge of obligations arising under this section.

(21) Where, immediately before the commencement of this section, a development contribution scheme was in force under section 48 of the Act of 2000, that scheme shall, on and after that commencement and as in force immediately before that commencement (including, in that respect, the unexpired period left to run, immediately before that commencement, for the scheme to remain in force), be deemed to be made under this section, and this section shall, with all necessary modifications, be construed accordingly.

(22) (a) A requirement under paragraph (c) of subsection (2) of section 48 of the Act of 2000 to pay a special contribution shall be deemed to be a requirement to pay a special contribution in accordance with *subsection (10)*.

(b) Notwithstanding the repeal of section 48 of the Act of 2000 by *section 6*, subsection (12) of the said section 48 shall continue to apply and have effect on and after that repeal in relation to a requirement to which *paragraph (a)* applies.

(23) Where, before the repeal of section 48 of the Act of 2000 by *section 6*, a planning authority published a notice under subsection (4) of the said section 48 in relation to a draft scheme but did not perform the functions under subsection (8) of the said section 48 in relation to the draft scheme, that notice shall be deemed to be a notice published in accordance with *subsection (3)* and the draft scheme shall be deemed to be a draft scheme prepared under this section.

Supplementary development contribution schemes

585. (1) In this section—

"planned public infrastructure project" means—

(a) the provision of a particular rail, light rail or other public transport infrastructure, including car parks and other ancillary development,

(b) the provision of particular new national roads (within the meaning of the Roads Act 1993),

(c) the provision of new surface water sewers,

(d) the provision of new schools or extensions to existing schools, or

(e) any infrastructure ancillary to any of the matters referred to in *paragraphs (a)* to *(d)*;

"supplementary scheme" shall be construed in accordance with *paragraph (a)* of *subsection (2)*.

(2) (a) A planning authority may, in consultation with a public body carrying out or proposing to carry out a public infrastructure project, make one or more than one supplementary development contribution scheme under this section (in this section referred to as a "supplementary scheme") specifying—

(i) the area or areas within the functional area of the planning authority to which the supplementary scheme relates,

(ii) the public infrastructure project to which the supplementary scheme relates,

(iii) the length of time that the supplementary scheme is proposed to be in effect, and

(iv) the total estimated cost of delivering the planned public infrastructure project, the total contribution to the delivery of the project proposed to be secured by the supplementary scheme, and the proposed contribution or

contributions payable in connection with certain classes of development to which the supplementary scheme relates.

(b) A supplementary scheme may make provision for the payment of different contributions in respect of different classes or descriptions of development.

(3) *Subsections (2)* (other than *paragraph (f)*), *(3)*, *(4)*, *(5)*, *(6)*, *(7)*, *(8)*, *(11)*, *(13)* and *(14)* of *section 584* shall apply to a supplementary scheme subject to—

(a) the modification that references in those subsections to a scheme shall be construed as references to a supplementary scheme,

(b) any other necessary modifications, and

(c) this section.

(4) A planning authority may, when granting a permission, include conditions requiring the payment of a contribution in respect of any public infrastructure project—

(a) specified in a supplementary scheme, and

(b) that will benefit the development to which the permission relates when carried out.

(5) The amount, and manner of payment, of a contribution under *subsection (4)* shall be determined in accordance with a supplementary scheme.

(6) Where the cost of carrying out the planned public infrastructure project is less than the cost that was estimated when the planning authority first determined the amount of the contribution, the planning authority shall, as soon as practicable following the determination of the lesser cost, amend a supplementary scheme for the purpose of modifying the manner of determining a contribution pursuant to a condition under *subsection (4)*.

(7) A planning authority shall, where either the proposed total contribution set out within the supplementary scheme has been secured or where the public body no longer intends to carry out the public infrastructure project the subject of the scheme, revoke the scheme.

(8) A planning authority shall not, pursuant to a condition under *subsection (4)*, require the payment of a contribution in respect of a planned public infrastructure project where the person concerned has made a contribution under *section 584* in respect of public infrastructure and facilities (within the meaning of that section) of which such planned public infrastructure project constituted a part.

(9) Notwithstanding *subsection (3)*, and *subsection (13)* of *section 584*, the Commission shall consider an appeal brought to it by an applicant for permission under *subsection (1)* of *section 84*, in relation to a condition requiring the payment of a contribution in respect of a planned public infrastructure project specified in a supplementary scheme, where the applicant considers that the project will not benefit the development to which the permission relates and *subsection (15)* of *section 584* shall apply to such an appeal.

(10) *Subsections (16)*, *(17)* and *(18)* of *section 584* shall apply where the basis for the determination of a contribution under *subsection (4)* has changed subject to—

(a) the modification that references in those subsections to a contribution shall be construed as references to a contribution to a supplementary scheme,

(b) any other necessary modifications, and

(c) this section.

(11) (a) Moneys accruing to a local authority under this section shall be accounted for in a separate account.

(b) Where the public body carrying out or proposing to carry out the planned public infrastructure project is the local authority, money accruing to the local authority under this section shall only be applied as capital for the planned public infrastructure project concerned.

(c) A report of a local authority under section 50 of the Local Government Act 1991 shall—

(i) contain details of moneys paid or owing to it under this section, and

(ii) indicate how such moneys paid to it have been expended by any local authority.

(d) Where the public body carrying out or proposing to carry out the planned public infrastructure project is not the local authority, the local authority and the public body shall enter into an agreement made in advance of the supplementary scheme coming into effect and in accordance with regulations made under this section, specifying the arrangements for the transfer of contributions from the local authority to the public body.

(e) Where *paragraph (d)* applies, the public body shall prepare and provide a report to the Minister on an annual basis from the date of the agreement, and the report shall contain details of moneys paid or owing to it under this section and shall indicate how such moneys paid to it have been expended by the public body.

(12) Where payment of a contribution is required in accordance with this section, the following provisions shall apply:

(a) where—

(i) the planned public infrastructure project concerned is not commenced within 10 years of the date of the payment of the contribution (or final instalment thereof, if paid by phased payment under *paragraph (a)* of *subsection (11)* of *section 584* as applied by *subsection (3)*), or

(ii) the public body decides not to proceed with the planned public infrastructure project concerned,

the contribution shall, subject to *paragraph (b)*, be refunded to the applicant together with any interest that may have accrued over the period while held by the public body;

(b) where under *subparagraph (i)* or *(ii)* of *paragraph (a)*, any public body has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out in respect of the planned public infrastructure project referred to in that subparagraph, any refund shall be in proportion to those proposed works in respect of such project which have not been carried out.

(13) Where, immediately before the commencement of this section, a supplementary development contribution scheme was in force under section 49 of the Act of 2000, that scheme shall, on and after that commencement and as in force immediately before that commencement, be deemed to be made under this section, and this section shall, with all necessary modifications, be construed accordingly.

Limitation on power of Minister

586. (1) Subject to *Part 6*, the Minister shall not—

(a) perform any function, or

(b) influence or attempt to influence a planning authority or the Commission in the performance of any of its functions,

in relation to a request under *section 10* or an application for permission or an appeal under *Part 4*, except where he or she is—

(i) the person who made the request,

(ii) the applicant for permission, or

(iii) a party to the appeal.

(2) The Minister shall not influence or attempt to influence a planning authority or the Commission in relation to the performance by it of functions under *Part 11*.

(3) Subject to this Act, the Minister shall not influence or attempt to influence a planning authority or the Commission in relation to the performance by it of functions under this Act (other than *Parts 4* and *11*).

(4) Notwithstanding *subsection (1)*, the Minister is entitled to make submissions to a planning authority or the Commission in relation to an application for permission or appeal under *Part 4* where it is necessary or expedient for the effective performance of his or her functions under this Act or any other enactment.

Prohibition on requesting payment in consideration of not opposing development

587. (1) A person (in this section referred to as the "requester") shall not request another person to—

(a) make a payment of any sum of money or benefit in kind to the requester or any person named by the requester, or

(b) do any other thing for the purpose of the conferral of a financial or other economic benefit on the requester or any person named by the requester,

in consideration of the requester or any other person agreeing not to—

(i) make a submission or observation under *Part 4* or *6* in relation to an application for permission,

(ii) appeal a grant of permission to the Commission, or

(iii) bring proceedings for judicial review of a grant of permission.

(2) A person (in this section also referred to as the "requester") shall not request another person to—

(a) make a payment of any sum of money or benefit in kind to the requester or any person named by the requester, or

(b) do any other thing for the purpose of the conferral of a financial or other economic benefit on the requester or any person named by the requester,

in consideration of the requester or any other person agreeing to—

(i) withdraw a submission or observation under *Part 4* or *6* in relation to an application for permission,

(ii) withdraw, or otherwise not continue to proceed with, an appeal to the Commission from a grant of permission, or

(iii) withdraw, or otherwise not continue to prosecute, proceedings for judicial review of a grant of permission.

(3) A person who contravenes *subsection (1)* or *(2)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.

(4) (a) The High Court may—

(i) upon the application of an applicant for permission, and

(ii) if satisfied that—

(I) in connection with a submission or observation in relation to that application for permission, a request (whether or not made before the making of the submission or observation) was made in contravention of *subsection (1)* or *(2)*, and

(II) the interests of justice so require,

give a direction to the planning authority requiring it to disregard that submission or observation when making a decision in relation to the application for permission under *Chapter 3* or *5* of *Part 4*.

(b) A planning authority shall comply with a direction given to it under *paragraph (a)*.

(c) The applicant for permission shall, not later than 7 days before the making of an application under this subsection, inform the planning authority in writing of his or her intention to make such application.

(d) The period from the making of an application under this subsection to the final determination of that application shall not be reckonable for the purposes of calculating the period within which the planning authority is required to make a decision under *section 98* in relation to the application for permission concerned.

(5) (a) The High Court may—

(i) upon the application of an applicant for permission, and

(ii) if satisfied that—

(I) in connection with a submission or observation in relation to that application for permission, a request (whether or not made before the making of the submission or observation) was made in contravention of *subsection (1)* or *(2)*, and

(II) the interests of justice so require,

give a direction to the Commission requiring it to disregard that submission or observation when making a decision in relation to the application for permission under *Chapter 4* or *5* of *Part 4*.

(b) The Commission shall comply with a direction given to it under *paragraph (a)*.

(c) The applicant for permission shall, not later than 7 days before the making of an application under this subsection, inform the planning authority in writing of the making of that application.

(d) The period from the making of an application under this subsection to the final determination of that application shall not be reckonable for the purposes of calculating the period within which the Commission is required to make a decision under *section 123* in relation to the application for permission concerned.

(6) (a) The High Court may—

(i) upon the application of the respondent to an appeal to the Commission from a grant of permission by a planning authority, and

(ii) if satisfied that—

(I) in connection with that appeal, a request (whether or not made before the bringing of the appeal) was made in contravention of *subsection (1)* or *(2)*, and

(II) the interests of justice so require,

give a direction to the Commission requiring it to dismiss the appeal.

(b) The Commission shall comply with a direction given to it under *paragraph (a)*.

(c) The respondent to an appeal referred to in *subparagraph (i)* of *paragraph (a)* shall, not later than 7 days before the making of an application under this subsection, inform the Commission in writing of the making of that application.

(d) The period from the making of an application under this subsection to the final determination of that application shall not be reckonable for the purposes of calculating the period within which the Commission is required to make a decision under *section 109* in relation to the appeal concerned.

(7) The High Court shall dismiss proceedings for judicial review of a grant of permission if satisfied that—

(a) in connection with those proceedings, a request (whether or not made before the bringing of those proceedings) was made in contravention of *subsection (1)* or *(2)*, and

(b) the interests of justice so require.

(8) This section shall not apply to a request made by the owner or occupier of land or a maritime site if—

(a) the request is made in good faith for the purpose of compensation for loss (in whole or in part) of enjoyment of that land or maritime site by that owner or occupier, and

(b) such loss of enjoyment of the land or maritime site is, or is likely to be, occasioned by the development or proposed development concerned.

Mandatory declaration by certain participants in planning process

588. (1) A submission or observation under *Part 4* or *6* shall be accompanied by a declaration in such form as may be prescribed made by the person making the submission or observation stating that the submission or observation is not made for the purpose of—

(a) delaying the carrying out of any development or proposed development, or

(b) securing the payment of any consideration to, or the doing of any other thing for the benefit of, any person.

(2) An appeal to the Commission from a decision of a planning authority under *Part 4* shall be accompanied by a declaration in such form as may be prescribed made by the person bringing the appeal (except where the appeal is brought by the applicant for permission concerned) stating that the appeal is not brought for the purpose of—

(a) delaying the carrying out of any development or proposed development, or

(b) securing the payment of any consideration to, or the doing of any other thing for the benefit of, any person.

(3) A person who brings proceedings for judicial review of a grant of permission shall provide the High Court with a declaration in such form as may be prescribed made by the person stating that the proceedings are not brought for the purpose of—

(a) delaying the carrying out of any development or proposed development, or

(b) securing the payment of any consideration to, or the doing of any other thing for the benefit of, any person.

(4) (a) A notification by a person to a planning authority or the Commission that he or she is withdrawing a submission or observation under *Part 4* or *6* shall be accompanied by a declaration in such form as may be prescribed made by the person that the withdrawal of the submission or observation is not for the purpose of securing the payment of any consideration to, or the doing of any other thing for the benefit of, any person.

(b) A notification by a person to the Commission that he or she is withdrawing an appeal under *Part 4* shall be accompanied by a declaration in such form as may be prescribed made by the person that the withdrawal of the appeal is not for the purpose of securing the payment of any consideration to, or the doing of any other thing for the benefit of, any person.

(5) A notification by a person to the High Court that he or she is withdrawing proceedings for judicial review of a grant of permission shall be accompanied by a declaration in such form as may be prescribed made by the person that the withdrawal of the proceedings is not for the purpose of securing the payment of any consideration to, or the doing of any other thing for the benefit of, any person.

(6) A person who—

(a) fails to comply with this section, or

(b) in purported compliance with this section, makes a declaration that is false or misleading in any material respect, knowing it to be so false or misleading,

shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months or to both.

PART 21

Strategic Development Zones

Interpretation

589. In this Part—

"development agency" means the Industrial Development Agency (Ireland), Enterprise Ireland, Údarás na Gaeltachta, the National Building Agency Limited, the Grangegorman Development Agency, the Land Development Agency, a local authority or such other person as may be prescribed by the Minister for the purposes of this Part;

"relevant public land" has the same meaning as it has in the Land Development Agency Act 2021.

Designation of sites for strategic development zones

590. (1) Sites designated under section 166 of the Act of 2000 for the establishment of strategic development zones shall, unless such designation is revoked under this Part, continue in being as strategic development zones for the purposes for which they were so designated.

(2) The Government may revoke or amend an order made under section 166 of the Act of 2000, but no such amendment shall designate any site not already part of a strategic development zone at the date of commencement of this Part, unless it is ancillary to a site already so designated and is reasonably necessary for the purpose of the development of the site already so designated.

(3) The Minister shall send a copy of any order made under this section to any relevant development agency, planning authority and regional assembly and to the Commission.

(4) (a) Not less than 12 months after the commencement of this Part, the Minister shall carry out a review of all sites in respect of which orders have been made under section 166 of the Act of 2000 and shall make proposals to the Government in relation to the revocation or amendment of such orders in respect of such sites or parts of sites where planning schemes have not been made under Part IX of the Act of 2000.

(b) In the case of any sites in respect of which no planning scheme has been made under Part IX of the Act of 2000, the Minister shall propose the revocation of the order or (in a case where a planning scheme has been made in respect of part of the site) the amendment of the order by the reduction of the area of the site, save in exceptional circumstances.

Acquisition of site for strategic development zone

591. (1) A planning authority may use any powers to acquire land that are available to it under any enactment, including any powers in relation to the compulsory acquisition of land, for the purposes of providing, securing or facilitating the provision of, a site referred to in *section 590*.

(2) Where a person, other than the relevant development agency, has an interest in land, or any part of land, on which a site or sites referred to in an order under subsection (1) of section 166 of the Act of 2000 is or are situated, the relevant development agency may enter into an agreement with that person for the purpose of facilitating the development of the land.

(3) An agreement made under *subsection (2)* with any person having an interest in land may be enforced by the relevant development agency against persons deriving title under that person in respect of that land.

Planning scheme for strategic development zones

592. (1) Where any draft planning scheme has been prepared under section 168 of the Act of 2000 but not yet made, a planning scheme may be made pursuant to Part IX of the Act of 2000 notwithstanding its repeal, and upon the making of the planning scheme, this Part shall apply to the planning scheme and the site.

(2) (a) Where no draft planning scheme has been prepared under section 168 of the Act of 2000 in respect of a site or part of a site designated under an order made under section 166 of the Act of 2000, and no order has been made revoking or

amending the first-mentioned order in a manner that excludes that site or part of a site, the relevant development agency (other than a local authority) or, where an agreement referred to in section 167 of the Act of 2000 or *section 591* has been made, the relevant development agency (other than a local authority) and any person who is a party to the agreement shall prepare a draft planning scheme in respect of all or any part of the site and submit it to the relevant planning authority.

(b) The local authority, where it is the development agency, or where an agreement referred to in section 167 of the Act of 2000 or *section 591* has been made, the local authority and any person who is a party to the agreement shall prepare a draft planning scheme in respect of all or any part of the site.

(3) A draft planning scheme under this section shall consist of a written statement and a plan indicating the manner in which it is intended that the site or part of the site designated under section 166 of the Act of 2000 to which the scheme relates is to be developed and in particular—

(a) the type or types of development which may be permitted to establish on the site (subject to the order of the Government under section 166 of the Act of 2000),

(b) the extent of any such proposed development,

(c) proposals in relation to the overall design of the proposed development, including the maximum heights, the external finishes of structures and the general appearance and design,

(d) proposals relating to transportation, including public transportation, the roads layout, the provision of parking spaces and traffic management,

(e) proposals relating to the provision of services on the site, including the provision of waste and sewerage facilities and water, electricity and telecommunications services, oil and gas pipelines, including storage facilities for oil or gas,

(f) proposals relating to minimising any adverse effects on the environment, including the natural and built environment, and on the amenities of the area, and

(g) where the scheme provides for residential development, proposals relating to the provision of amenities, facilities and services for the community, including schools, créches and other education and childcare services.

(4) The Minister may, for the purposes of giving effect to the Strategic Environmental Assessment Directive, by regulations make provision in relation to consideration of the likely significant effects on the environment of implementing a planning scheme.

(5) A screening for appropriate assessment and, if required, an appropriate assessment of a draft planning scheme shall be carried out in accordance with *Part 6*.

(6) (a) A draft planning scheme for residential development shall be consistent with the housing strategy prepared by the planning authority in accordance with Part V of the Act of 2000 or *Part 7*.

(b) Where land in a strategic development zone is to be used for residential development, an objective to secure the implementation of the housing strategy shall be included in the draft planning scheme as if it were a specific objective under *paragraph (h)* of *subsection (3)* of *section 46*.

(7) Where an area designated under section 166 of the Act of 2000 is situated within the functional area of two or more planning authorities the functions conferred on a planning authority under this Part shall be exercised—

(a) jointly by the planning authorities concerned, or

(b) by one of the authorities, provided that the consent of the other authority or authorities, as appropriate, is obtained prior to the making of the scheme under *section 593*,

and the words "planning authority" shall be construed accordingly.

(8) In this section the Land Development Agency shall not be a relevant development agency unless each site referred to in *subsection (1)* is wholly or partly on relevant public land or land owned by the Agency.

Making of planning scheme

593. (1) Where a draft planning scheme has been prepared and submitted to the planning authority in accordance with *section 592*, the planning authority shall, as soon as may be—

(a) send notice and copies of the draft scheme to the Minister, the Commission and the prescribed authorities, and

(b) publish notice of the preparation of the draft scheme in one or more newspapers circulating in its area.

(2) A notice under *subsection (1)* shall state—

(a) that a copy of the draft may be inspected at a stated place or places and at stated times during a stated period of not less than 6 weeks (and the copy shall be kept available for inspection accordingly), and

(b) that written submissions or observations with respect to the draft scheme made to the planning authority within the stated period will be taken into consideration in deciding upon the scheme.

(3) (a) Not longer than 12 weeks after giving notice under *subsection (2)* the chief executive of a planning authority shall prepare a report on any submissions or observations received under that subsection and submit the report to the members of the authority for their consideration.

(b) A report under *paragraph (a)* shall—

(i) list the persons who made submissions or observations for the purposes of *subsections (1)* and *(2)*,

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

(iii) give the response of the chief executive to the issues raised, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(4) (a) The members of a planning authority shall consider the draft planning scheme and the report of the chief executive prepared and submitted in accordance with *subsection (3)*.

(b) The draft planning scheme shall be deemed to be made 6 weeks after the submission of that draft planning scheme and report to the members of the planning authority in accordance with *subsection (3)* unless the planning authority decides, by resolution, to—

(i) make, subject to variations and modifications, the draft planning scheme (and the passing of such a resolution shall be subject to *paragraphs (c)* and *(g)*), or

(ii) not to make the draft planning scheme.

(c) The planning authority shall determine if a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, is or are to be carried out as respects one, or more than one, proposed variation or modification that would, if made, be a material alteration of the draft planning scheme.

(d) The chief executive shall, not later than 2 weeks after a determination under *paragraph (c)* specify such period as he or she considers necessary following the determination as being required to facilitate an assessment referred to in *paragraph (c)*.

(e) The planning authority shall publish notice of the proposed material alteration, and where appropriate in the circumstances, the making of a determination that an assessment referred to in *paragraph (c)* is required, in at least one newspaper circulating in its area.

(f) The notice referred to in *paragraph (e)* shall state—

(i) that a copy of the proposed material alteration and of any determination by the authority that an assessment referred to in *paragraph (c)* is required may be inspected at a stated place or places and at stated times, and on the authority's website, during a stated period of not less than 4 weeks (and that copies will be kept for inspection accordingly), and

(ii) that written submissions or observations with respect to the proposed material alteration or an assessment referred to in *paragraph (c)* and made to the planning authority within a stated period shall be taken into account by the authority before the draft planning scheme is made.

(g) The planning authority shall carry out an assessment referred to in *paragraph (c)* of the proposed material alteration of the draft planning scheme within the period specified by the chief executive.

(h) Where a draft planning scheme is—

(i) deemed, in accordance with *paragraph (b)*, to have been made, or

(ii) made in accordance with *subparagraph (i)* of *paragraph (b)*,

it shall have effect 4 weeks from the date of such making unless an appeal is brought to the Commission under *subsection (6)*.

(5) (a) Following the decision of the planning authority under *subsection (4)* the authority shall, as soon as may be, and in any case not later than 6 working days following the making of the decision—

(i) give notice of the decision of the planning authority to the Minister, the Commission, the prescribed authorities and any person who made written submissions or observations on the draft scheme, and

(ii) publish notice of the decision in at least one newspaper circulating in its area.

(b) A notice under *paragraph (a)* shall—

(i) give the date of the decision of the planning authority in respect of the draft planning scheme,

(ii) state the nature of the decision,

(iii) state that a copy of the planning scheme is available for inspection at a stated place or places (and the copy shall be kept available for inspection accordingly),

(iv) state that any person who made submissions or observations regarding the draft scheme may appeal the decision of the planning authority to the Commission within 4 weeks of the date of the planning authority's decision, and

(v) contain such other information as may be prescribed.

(6) The development agency or any person who made submissions or observations in respect of the draft planning scheme may, for stated reasons, within 4 weeks of the date of the decision of the planning authority appeal the decision of the planning authority to the Commission.

(7) (a) Following consideration of an appeal made under this section, the Commission may—

(i) subject to *paragraph (b)* and *(c)* and *subsection (9)*, approve the making of the planning scheme, with or without any modifications, or

(ii) refuse to approve the making of the planning scheme.

(b) Except where otherwise provided for by and in accordance with *paragraph (c)* and *subsection (9)*, the Commission shall not approve, on an appeal under this section, a planning scheme with a modification where it determines that the making of the modification would constitute the making of a material change in the overall objectives of the planning scheme concerned.

(c) If the Commission determines that the making of a modification to which, but for this paragraph, *paragraph (b)* would apply—

(i) is a change of a minor nature and not likely to have significant effects on the environment (within the meaning of Annex II of the Strategic Environmental Assessment Directive) or on a European site, then it may approve the planning scheme with such a modification and notify the planning authority or each planning authority for the area or areas concerned, of the modification, or

(ii) constitutes the making of a material change but would not constitute a change in the overall objectives of the planning scheme concerned, then, subject to *subsection (9)*, it shall approve the planning scheme with such modification.

(d) Where the Commission approves the making of a planning scheme in accordance with *paragraph (a)* or *(c)*, the planning authority shall, as soon as practicable, publish notice of the approval of the scheme in at least one newspaper circulating in its area, and shall state that a copy of the planning scheme is available for inspection at a stated place or places, a copy of which shall be made available for inspection accordingly.

(8) (a) Before making a decision under *subparagraph (ii)* of *paragraph (c)* of *subsection (7)* in respect of a planning scheme, the Commission shall—

(i) determine whether the extent and character of the modification it is considering are such that the modification, if it were made, would be likely to have a significant effect on the environment (within the meaning of Annex II of the Strategic Environmental Assessment Directive) or on a European site, and

(ii) for the purpose of so determining, the Commission shall have reached a final decision as to what is the extent and character of any alternative amendment, the making of which it is also considering.

(b) If the Commission determines that the making of a modification referred to in *subparagraph (ii)* of *paragraph (c)* of *subsection (7)*—

(i) is not likely to have significant effects on the environment (within the meaning of Annex II of the Strategic Environmental Assessment Directive) or on a European site, then it may approve the planning scheme concerned with the modification, or

(ii) is likely to have significant effects on the environment (within the meaning of Annex II of the Strategic Environmental Assessment Directive) or on a European site, then it shall require the relevant planning authority to

undertake a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, in relation to the making of the proposed modification.

(c) Before making a determination under *subparagraph (ii)* of *paragraph (c)* of *subsection (7)*, the Commission shall require the relevant planning authority—

(i) to send notice and copies of the proposed modification of the planning scheme concerned to the Minister and the prescribed authorities, and

(ii) to publish a notice of the proposed modification of the planning scheme concerned in at least one newspaper circulating in that area,

and every such notice shall state—

(I) the reason or reasons for the proposed modification,

(II) that a copy of the proposed modification, along with any assessment undertaken in accordance with *subparagraph (ii)* of *paragraph (b)*, may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks, and

(III) that written submissions or observations with respect to the proposed modification may be made to the planning authority within the stated period, being a period of not less than 4 weeks, and any such submissions or observations will be taken into consideration before making a decision on the proposed modification,

and the copy of the proposed modification shall be made available for inspection accordingly.

(d) Not later than 8 weeks after giving notice under *paragraph (c)*, or such additional time as may be required to complete any assessment that may be required pursuant to *subparagraph (ii)* of *paragraph (b)* and agreed with the Commission, the planning authority shall prepare a report on any submissions or observations received as a consequence of that notice and shall submit the report to the Commission for its consideration.

(e) A report under *paragraph (d)* shall—

(i) list the persons who made submissions or observations for the purposes of *clause (III)* of *subparagraph (ii)* of *paragraph (c)*,

(ii) summarise the issues raised in the submissions or observations so made,

(iii) include, where and if required for the purposes of *subparagraph (ii)* of *paragraph (b)*, either or both of the following:

(I) the environmental report and strategic environmental assessment of the planning authority;

(II) the Natura impact report and appropriate assessment of the planning authority,

and

(iv) give the response of the planning authority to the issues raised, taking account of the proper planning and sustainable development of the area, the overall objectives of the planning scheme, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(f) Where a report has been submitted to the Commission under *paragraph (d)*, the planning authority concerned shall, upon being requested by the Commission, provide it with copies of such submissions or observations to which that paragraph relates as are so requested.

(g) The Commission shall have regard to any report prepared in accordance with *paragraphs (d)* and *(e)*.

(h) Subject to any obligations that may arise under *Part 6*, if the Commission makes a determination to make a modification as referred to in *subparagraph (ii)* of *paragraph (c)* of *subsection (7)*, it shall—

(i) approve the planning scheme with the modification accordingly,

(ii) notify the planning authority or each planning authority for the area or areas concerned of the modification, and

(iii) notify any person who made a submission or observation in accordance with *clause (III)* of *subparagraph (ii)* of *paragraph (c)* of the determination under *paragraph (c)* of *subsection (7)*.

(9) In considering a draft planning scheme under this section a planning authority or the Commission, as the case may be, shall consider the proper planning and sustainable development of the area and consider the provisions of the development plan, the provisions of the housing strategy, any National Planning Policy Guidance, the provisions of any special amenity area order or the conservation and preservation of any European site and, where appropriate—

(a) the effect the scheme would have on any neighbouring land to the land concerned,

(b) the effect the scheme would have on any place which is outside the area of the planning authority, and

(c) any other consideration relating to development outside the area of the planning authority, including any area outside the State.

(10) (a) A planning scheme that contains a provision that contravenes any National Planning Policies and Measures shall be deemed to have been made, under *paragraph (b)* of *subsection (4)*, subject to the deletion of that provision.

(b) Where a planning scheme departs from any relevant guidance set out in National Planning Policy Guidance by omission of a provision in compliance with that National Planning Policy Guidance, the planning scheme shall be deemed to have been made under *paragraph (b)* of *subsection (4)*, subject to the addition of that provision.

(11) A planning scheme made under this section or section 169 of the Act of 2000 shall be deemed to form part of any development plan in force in the area of the scheme until the scheme is revoked, and any contrary provisions of the development plan shall be superseded.

Application for development in strategic development zone

594. (1) Where an application is made to a planning authority under *Part 4* for a development in a strategic development zone, that Part shall apply, subject to the other provisions of this section.

(2) Subject to *Part 6*, a planning authority shall grant permission in respect of an application for a development in a strategic development zone where it is satisfied that the development, where carried out in accordance with the application or subject to any conditions which the planning authority may attach to a permission, would be consistent with any planning scheme in force for the land in question, and no permission shall be granted for any development which would not be consistent with such a planning scheme.

(3) Notwithstanding *Chapter 3* of *Part 4*, no appeal shall lie to the Commission against a decision of a planning authority on an application for permission in respect of a development in a strategic development zone.

(4) Where the planning authority decides to grant permission for a development in a strategic development zone, the grant shall be deemed to be given on the date of the decision.

Amendment of planning scheme

595. (1) A planning authority may, on its own behalf where it is promoting a planning scheme, or on behalf of a development agency which is promoting a planning scheme, make an application to the Commission to request an amendment under this section to a planning scheme.

(2) Where an application under *subsection (1)* has been made, the Commission shall make a decision, in a manner provided for by this section, as to whether the making of the amendment to which the request relates would constitute the making of a material change to the planning scheme.

(3) (a) Where the amendment fails to satisfy each of the criteria referred to in *subparagraphs (i)* to *(iv)* of *paragraph (b)*, the Commission shall require the planning authority to amend the planning scheme in compliance with the procedure laid down in *section 593* and that section shall be construed and have effect accordingly.

(b) The criteria referred to in *paragraph (a)* are that the amendment to the planning scheme concerned—

(i) would not constitute a change in the overall objectives of the planning scheme concerned,

(ii) would not relate to already developed land in the planning scheme,

(iii) would not significantly increase or decrease the overall floor area or density of proposed development, and

(iv) would not adversely affect or diminish the amenity of the area that is the subject of the proposed amendment.

(4) If the Commission determines that the making of the amendment to a planning scheme—

(a) is a change of a minor nature and not likely to have significant effects on the environment (within the meaning of Annex II of the Strategic Environmental Assessment Directive) or on a European site, then it may approve the making of the amendment to the planning scheme and notify the planning authority or each planning authority for the area or areas concerned, of the amendment, or

(b) constitutes the making of a material change but is within the criteria set out in *paragraph (b)* of *subsection (3)*, then, subject to *subsection (5)*, it may approve the making of the amendment to the planning scheme with such amendment, or an alternate amendment, being an amendment that would be different from that to which the request relates but would not represent, in the opinion of the Commission, a more significant change than that which was proposed.

(5) Before making a determination to which *paragraph (b)* of *subsection (4)* would relate, the Commission shall establish whether or not the extent and character—

(a) of the amendment to which *subsection (1)* relates, and

(b) of any alternative amendment it is considering and to which *paragraph (b)* of *subsection (4)* relates,

are such that, if the amendment were to be made, it would be likely to have significant effects on the environment (within the meaning of Annex II of the Strategic Environmental Assessment Directive) or on a European site and, for that purpose, the Commission shall have reached a final decision as to what is the extent and character of any alternative amendment, the making of which it is also considering.

(6) If the Commission determines that the making of either kind of amendment referred to in *paragraph (b)* of *subsection (4)*—

(a) is not likely to have significant effects on the environment (within the meaning of Annex II of the Strategic Environmental Assessment Directive) or on a European site, it shall proceed to make a determination under *paragraph (b)* of *subsection (4)*, or

(b) is likely to have significant effects on the environment (within the meaning of Annex II of the Strategic Environmental Assessment Directive) or on a European site, then it shall require the planning authority to undertake a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, in relation to the making of the proposed amendment or alternative amendment.

(7) Before making a determination to which *paragraph (b)* of *subsection (4)* would relate, the Commission shall require the planning authority concerned—

(a) to send notice and copies of the proposed amendment of the planning scheme concerned to the Minister and the prescribed authorities, and

(b) to publish a notice of that proposed amendment in one or more newspapers circulating in the area concerned,

and every such notice shall state—

(i) the reason or reasons for the proposed amendment,

(ii) that a copy of the proposed amendment, along with any assessment undertaken according to *paragraph (b)* of *subsection (6)*, may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks, and

(iii) that written submissions or observations with respect to the proposed amendment may be made to the planning authority within the stated period, being a period of not less than 4 weeks, and any such submissions or observations will be taken into consideration before making a decision on the proposed amendment,

and the copy of the proposed amendment shall be made available for inspection accordingly.

(8) Not later than 8 weeks after giving notice under *subsection (7)*, or such additional time as may be required to complete any assessment that may be required pursuant to *paragraph (b)* of *subsection (6)* and agreed with the Commission, the planning authority shall prepare a report on any submissions or observations received as a consequence of that notice and shall submit the report to the Commission for its consideration.

(9) A report under *subsection (8)* shall—

(a) list the persons who made submissions or observations for the purposes of *paragraph (iii)* of *subsection (7)*,

(b) summarise the issues raised in the submissions or observations so made,

(c) include, where and if required for the purposes of *paragraph (b)* of *subsection (6)*, either or both of the following:

(i) the environmental report and strategic environmental assessment of the planning authority;

(ii) the Natura impact report and appropriate assessment of the planning authority,

and

(d) give the response of the planning authority to the issues raised, taking account of the proper planning and sustainable development of the area, the overall objectives of the planning scheme, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(10) The Commission shall have regard to any report prepared in accordance with *subsections (8)* and *(9)*.

(11) Subject to any obligations that may arise under *Part 6*, if the Commission makes a determination to make an amendment of any kind referred to in *subsection (4)*, it shall—

(a) approve the making of an amendment to the planning scheme accordingly,

(b) notify the planning authority or each planning authority for the area or areas concerned of the amendment, and

(c) notify any person who made a submission or observation in accordance with *paragraph (iii)* of *subsection (7)* of its determination under *subsection (4)*.

(12) The amendment of a planning scheme shall not prejudice the validity of any permission granted or anything done in accordance with the terms of the scheme before it was amended except in accordance with the terms of this Act.

(13) Without prejudice to the generality of *subsection (12)*, *Chapters 5* and *7* of *Part 4* shall apply to any permission granted under this Part.

PART 22

Urban Development Zones

Chapter 1

Preliminary and General

Interpretation

596. In this Part—

"blue infrastructure" means aspects of the natural and built environment relating to water, waterways and waterbodies that provide a range of ecosystem and social benefits, including infrastructure such as flood defences and relating to sustainable water management;

"candidate UDZ" means a suitable site that has been so designated by a planning authority in a development plan;

"critical land" means land which, or any part of which, is situated within—

(a) a candidate UDZ, or

(b) an urban development zone,

that is identified in a planning framework as required for public infrastructure and facilities;

"decision under *section 609*" means—

(a) a decision by the planning authority—

(i) to make, subject to any modifications in accordance with *section 610*, a draft development scheme, or

(ii) not to make a draft development scheme,

or

(b) a decision under *subsection (3)* of *section 609* deeming that a draft development scheme has been made;

"development agency" means a local authority, the Land Development Agency, or such other agency or person as may be prescribed for the purposes of this Part;

"draft development scheme" has the meaning given to it by *section 606*;

"green infrastructure" means aspects of the natural and built environment relating to land that provides a range of ecosystem and social benefits, including infrastructure to support decarbonisation and the reduction of greenhouse gases;

"planning framework" shall be construed in accordance with *section 603*;

"public infrastructure and facilities" means any of the following:

(a) open spaces, recreational and community facilities and amenities and landscaping works;

(b) roads, car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure;

(c) bus corridors and lanes, bus interchange facilities (including car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures;

(d) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, surface water sewers, flood relief work and ancillary infrastructure;

(e) high-capacity telecommunications infrastructure, such as broadband;

(f) blue infrastructure;

(g) sites for schools and other educational facilities including childcare facilities;

(h) sites for hospitals and other healthcare facilities;

(i) sites for centres for the social, economic, recreational, cultural, environmental, or general development of the community;

(j) sites for facilities for the elderly and for persons with disabilities;

(k) green infrastructure;

(l) any matters which are ancillary to anything which is referred to in *paragraphs (a)* to *(k)*;

(m) works relating to the character and amenities of public areas, including roads, footpaths, lanes, parks, squares, open spaces and building facades;

(n) such other matters as the Minister may prescribe by regulations;

"suitable site" has the meaning given to it by *section 597*.

CHAPTER 2

Suitable Sites

Planning authority may identify suitable sites

597. A planning authority may identify sites within its functional area on which, in the opinion of the planning authority, particular development may—

(a) be of significant economic, social or environmental benefit to the State, and

(b) be in the common good,

(referred to in this Part as "suitable sites").

Land Development Agency and regional assemblies may bring sites to attention of planning authority

598. (1) The Land Development Agency and any regional assembly may notify a planning authority of any sites within the functional area of the planning authority the development of which would, in the opinion of the Land Development Agency or, as the case may be, the regional assembly, be of significant economic, social or environmental benefit to the State and be in the common good.

(2) Where the Land Development Agency or a regional assembly notifies a planning authority in accordance with *subsection (1)*, it shall also notify the Minister.

Minister may require planning authority to identify suitable sites

599. (1) The Minister may at any time by notice in writing require all or certain planning authorities to identify suitable sites.

(2) Unless the Minister specifies a longer period in a requirement under *subsection (1)*, a planning authority shall comply with the requirement—

(a) where the planning authority considers it appropriate for a draft development scheme to be prepared for the purposes of designating a suitable site as a candidate UDZ in a development plan, within 5 months of the date of the notice, and

(b) in any other case, within 4 months of the date of the notice.

(3) Where, following a requirement of the Minister under this section, a planning authority cannot identify any suitable sites, it shall inform the Minister of—

(a) the area or areas considered in order to comply with the requirement, and

(b) the reasons why the planning authority did not consider any sites to be suitable sites.

Information to be provided to Minister in relation to suitable sites

600. (1) A planning authority shall submit the following information to the Minister following a requirement under *section 599*:

(a) a map showing each suitable site that it has identified and the area in which it is located;

(b) an indication of the nature, size and scale of development in respect of each suitable site;

(c) an indication of the infrastructure required in respect of each suitable site identified for the purposes of such development;

(d) an indication of whether, having regard to the matters specified in *paragraphs (b)* and *(c)*, the planning authority considers it appropriate for a draft development scheme to be prepared;

(e) where the planning authority considers it appropriate for a draft development scheme to be prepared, an indication of the information necessary for the purposes of preparing the draft development scheme and the extent to which this information has, at the time of the submission, already been gathered;

(f) such other information or documents as may be prescribed.

(2) The Minister may prescribe the manner and form in which information and documents are to be submitted under this section.

CHAPTER 3

Candidate UDZs and Planning Framework

Minister may make recommendation in relation to potential candidate UDZ

601. The Minister may, having considered the sites identified under *section 599* and the information and documents provided under *section 600*, where he or she is of the opinion that development of a specified site may, having regard to the site and to the scale and nature of the development—

(a) be of significant economic, social or environmental benefit to the State, and

(b) be in the common good,

make a recommendation to the relevant planning authority that the site be designated as a candidate UDZ in the planning authority's development plan and, where the Minister considers it to be appropriate, that the planning authority prepare a draft development scheme for that purpose.

Candidate UDZ

602. Where—

(a) the Minister makes a recommendation under *section 601* in relation to a site, or

(b) in the opinion of a planning authority, particular development of a site within its functional area, having regard to the site and to the scale and nature of the development—

(i) have the potential to be of significant economic, social or environmental benefit to the State, and

(ii) be in the common good,

the planning authority may, subject to *section 603*, designate the site as a candidate UDZ in its development plan in accordance with *sections 604* and *605*.

Planning framework

603. (1) Prior to designating a suitable site as a candidate UDZ in its development plan a planning authority shall prepare a planning framework in respect of the site concerned.

(2) A planning authority shall include in a planning framework—

(a) amendments to any policy, objective and development management standard contained in the development plan or any relevant urban area plan, priority area plan or coordinated area plan required to facilitate the development of the site in a manner consistent with the national or strategic importance of the site, and that are consistent with national and regional policy,

(b) key public infrastructure strategies including strategies in relation to transport, social and community infrastructure, green infrastructure and blue infrastructure, nature restoration, climate mitigation and adaptation, and utilities,

(c) a flood risk assessment and proposals to manage flood risk,

(d) a range of building densities, heights and typologies and an overall quantum of development,

(e) principles that will inform the preparation of a design quality masterplan,

(f) a plan identifying the location of particular uses, and the arrangement of buildings or groups of buildings, streets and public spaces, and blue and green infrastructure,

(g) a phasing plan including infrastructure provision,

(h) a map identifying critical lands and a description of the lands so identified, and

(i) such other matters as may be prescribed by the Minister in regulations under *subsection (6)*.

(3) A planning authority shall ensure that a planning framework is materially consistent with—

(a) the national and regional development objectives specified in—

(i) the National Planning Framework, and

(ii) the regional spatial and economic strategy for the region within which the area to which the planning framework relates is situated,

and

(b) any National Planning Policies and Measures.

(4) A planning authority shall ensure that a planning framework takes due account of—

(a) any relevant National Planning Policy Guidance, and

(b) any relevant transport strategy of the National Transport Authority.

(5) A planning authority shall ensure that a planning framework that includes residential development is consistent with the housing strategy prepared in accordance with *Part 7*.

(6) The Minister may by regulations—

(a) prescribe additional information that shall be included in a planning framework, and

(b) prescribe the manner in which matters and information to be included in a planning framework are to be set out.

Pre-designation consultation

604. (1) Prior to proposing to make a variation of a development plan under *section 605* a planning authority shall, including where the Minister makes a recommendation under *section 601*, publish a pre-designation consultation paper and consult with the public in accordance with this section.

(2) Where the Minister makes a recommendation under *section 601*, a planning authority shall publish the pre-designation consultation paper—

(a) where the authority is preparing a draft development scheme, within 2 months of the date on which the recommendation is made, and

(b) in any other case, within 1 month of the date on which the recommendation is made.

(3) A planning authority shall publish notice of public consultation under this section in at least one newspaper circulating in the functional area of the planning authority and on its website.

(4) A notice under *subsection (3)* shall state that—

(a) the planning authority proposes to make a variation of a development plan to designate sites and include a planning framework,

(b) a copy of the pre-designation consultation paper may be inspected online and at a stated place or places and at stated times during a stated four week period (and the copy shall be kept available for inspection accordingly), and

(c) written submissions or observations with respect to the pre-designation consultation paper made to the planning authority within the said period will be taken into consideration in the preparation of the variation.

(5) Not later than 12 weeks after the publication of notice under *subsection (3)*, the chief executive of a planning authority shall prepare a report on any submissions or observations received on foot of that notice and shall submit the report to the members of the authority for their consideration.

(6) A chief executive's report prepared for the purposes of *subsection (5)* shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under that subsection.

(7) A report under *subsection (5)* shall—

(a) list the persons who made submissions or observations under this section,

(b) summarise the issues raised by the persons in the submissions and observations received, and

(c) give the response of the chief executive to the issues raised, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(8) The Minister may by regulations vary the time limits specified in this section.

Variation of development plan to designate sites and include planning framework

605. (1) A proposal by a planning authority to make a variation of a development plan to designate a suitable site as a candidate UDZ shall be made in accordance with *section 58*, subject to the modifications specified in this section.

(2) The members of a planning authority shall only consider a proposal to make a variation of a development plan to designate a suitable site as a candidate UDZ where—

(a) the variation also comprises the proposed inclusion of a planning framework in respect of the site concerned in the development plan, and

(b) pre-designation consultation has taken place in accordance with *section 604*.

(3) The references in *paragraph (e)* of *subsection (12)* and *paragraph (d)* of *subsection (17)* of *section 58* to "as soon as practicable following the making of the variation" shall be read as a reference to "within the period of 2 weeks following the making of the variation".

(4) Where the members of a planning authority make a variation of a development plan to include a planning framework, the planning framework shall be deemed to form part of any development plan in force in the area of the framework and any contrary provisions of the development plan shall be superseded.

(5) A planning authority shall review a planning framework on the making of a new development plan.

CHAPTER 4

Development Scheme

Preparation of draft development scheme

606. (1) A planning authority may at any time while or after preparing a planning framework in relation to a suitable site or a candidate UDZ prepare, or cause to be prepared, in accordance with this section and *section 607*, a written statement and a plan indicating the manner in which it is intended that the site or candidate UDZ be developed (referred to in this Part as a "draft development scheme").

(2) A draft development scheme shall be consistent with the planning framework and shall—

(a) indicate the type or types of development which may be permitted within the area to which the scheme relates,

(b) indicate the extent of any proposed development,

(c) indicate the overall layout and design of any proposed development, including maximum building height parameters and floor areas, and an urban design strategy including the approach to the general appearance and design of structures,

(d) include scheme-specific proposals relating to transportation, including public transportation, roads layout, provision of parking spaces and traffic management and proposals relating to pedestrian and cycle infrastructure,

(e) include scheme-specific proposals relating to the provision of services on the site, including the provision of waste and sewerage facilities and water, electricity and telecommunications services, energy generation and storage,

(f) identify land that is required for public infrastructure and facilities, including the specific purposes for which such land is required,

(g) include proposals relating to minimising any adverse effects on the environment, including the natural and built environment, and on the amenities of the area,

(h) where the scheme provides for residential development, include proposals relating to the provision of amenities, facilities and services for the community, including educational and healthcare facilities,

(i) include details of any other scheme-specific public infrastructure requirements relating to a screening of the proposed development, including the provision of infrastructure outside the area to which the scheme relates but which are essential for, or may benefit, the development proposed within that area,

(j) include details of any scheme-specific infrastructure requirements, enabling works and delivery plans including an independently verified cost appraisal and funding sources, and

(k) include a phasing schedule to illustrate the link between infrastructure delivery and timescales for construction of the proposed development.

(3) A planning authority shall ensure that a draft development scheme—

(a) is materially consistent with—

(i) the national and regional development objectives specified in—

(I) the National Planning Framework, and

(II) the regional spatial and economic strategy for the region within which the area to which the draft development scheme relates is situated,

(ii) any National Planning Policies and Measures, and

(iii) where relevant, the policy of the Government, or any Minister of the Government,

and

(b) takes due account of—

(i) any relevant National Planning Policy Guidance, and

(ii) any relevant transport strategy of the National Transport Authority.

Consultation regarding draft development scheme

607. (1) As part of the preparation of a draft development scheme a planning authority shall—

(a) determine, in accordance with the Strategic Environmental Assessment Regulations, whether a strategic environmental assessment requires to be carried out in respect of the proposed scheme,

(b) determine, in accordance with *Part 6*, if an appropriate assessment requires to be carried out in respect of the proposed scheme, and

(c) where the planning authority determines under *paragraph (a)* or *(b)* that a strategic environmental assessment or an appropriate assessment, as the case may be, requires to be carried out in respect of the proposed scheme, prepare an environmental report or Natura impact report, as the case may be, in relation to the proposed scheme.

(2) Where a planning authority prepares a draft development scheme it shall—

(a) send notice and copies of the draft development scheme and any report prepared under *paragraph (c)* of *subsection (1)* to—

(i) the Minister,

(ii) the Office of the Planning Regulator,

(iii) the Commission,

(iv) the regional assembly for the region in which the area to which the draft development scheme relates is situated,

(v) any planning authority whose functional area is contiguous to the area to which the draft development scheme relates,

(vi) the National Transport Authority,

(vii) where the area covered by the draft development scheme includes a Gaeltacht, Údarás na Gaeltachta, and

(viii) such other persons as may be prescribed,

and

(b) publish a notice of the preparation of the draft development scheme and any report prepared under *paragraph (c)* of *subsection (1)* in at least one newspaper circulating in the functional area of the planning authority and on its website.

(3) A notice under *paragraph (b)* of *subsection (2)* shall state—

(a) that a copy of the draft development scheme and any report prepared under *paragraph (c)* of *subsection (1)* may be inspected at a stated place or places and at stated times during a stated period of not less than 6 weeks (and the copy shall be kept available for inspection accordingly), and

(b) that written submissions or observations with respect to the draft development scheme and any report prepared under *paragraph (c)* of *subsection (1)* made to the planning authority within the stated period will be taken into consideration in deciding upon the scheme.

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

(5) *Subsection (4)* does not apply where one or more of the criteria set out in *paragraph (b)* of *subsection (6)* of *section 54* is met.

(6) Not later than 12 weeks after the date on which notice is published under *subsection (2)*, the chief executive of a planning authority shall prepare a report on any submissions or observations received on foot of that notice and submit the report to the members of the authority for their consideration.

(7) A report under *subsection (6)* shall—

(a) list the persons who made submissions or observations under this section,

(b) summarise the issues raised by the persons in the submissions and observations received, and

(c) give the response of the chief executive to the issues raised, taking account of the proper planning and sustainable development of the area, the overall objectives of the draft development scheme, the statutory obligations of any local authority in

the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

Draft development scheme which includes residential development

608. Where a draft development scheme includes residential development the planning authority shall ensure that it is consistent with the housing strategy prepared in accordance with *Part 7*.

Making of development scheme

609. (1) The members of a planning authority shall consider a draft development scheme prepared and submitted in accordance with *section 606* and the report of the chief executive prepared and submitted in accordance with *section 607* or *section 610*, in relation to a site only after the members of the authority have made a variation of the development plan in accordance with *section 605*.

(2) Where the Office of the Planning Regulator as part of its consideration of a proposal to make a variation of the development plan referred to in *section 605* issues a preliminary view to a planning authority under *subsection (6)* of *section 63* and the matters covered by the preliminary view relate to the draft development scheme, the members of the planning authority shall not consider the report of the chief executive prepared and submitted in accordance with *section 607* in respect of the draft development scheme until the date on which one of the following occurs (referred to in *subsection (3)* as the "later date"):

(a) the Office of the Planning Regulator issues a draft direction to the planning authority under *subsection (1)* of *section 64* and that draft direction does not materially relate to matters covered by the scheme;

(b) the Office of the Planning Regulator notifies the planning authority under *subsection (11)* of *section 63* of its decision not to issue a draft direction;

(c) the Minister issues a direction to the planning authority referred to in *paragraph (b)* of *subsection (1)* of *section 65* and that direction does not materially relate to matters covered by the draft development scheme;

(d) the Minister provides a statement of reasons to the planning authority under *subsection (13)* of *section 65* following a decision not to issue a direction under *subsection (1)* of *section 65*;

(e) the Minister issues a direction to the planning authority referred to in *paragraph (b)* of *subsection (1)* of *section 65* and the chief executive provides confirmation in writing to the members of the planning authority that the draft development scheme is, subject to such modification as he or she may propose, consistent with that direction.

(3) Where the members of a planning authority have made a variation of the development plan referred to in *section 605* and the chief executive provides confirmation in writing to the members of the planning authority that the draft development scheme in relation to that site is consistent with the planning framework, the draft development

scheme shall be deemed to be made 6 weeks after the submission the report of the chief executive to the members of the planning authority in accordance with *section 607*, or where *subsection (2)* applies, the later date, unless the planning authority decides, by resolution—

(a) to make, subject to any modification in accordance with *section 610*, the draft development scheme, or

(b) not to make the draft development scheme.

(4) In making a development scheme under this section, the members of the planning authority shall be restricted to considering the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or any Minister of the Government.

(5) A failure to comply with—

(a) *subsection (4)* or *(6)* of *section 607*,

(b) *subsection (2)*, *(3)*, *(6)* or *(8)* of *section 610*, or

(c) *subsection (1)* of *section 612*,

within the period specified, or referred to, in any of those subsections shall not affect the validity of that development scheme.

(6) Where a planning authority makes a development scheme under this section, with or without modification, the scheme shall be deemed to form part of any development plan or any urban area plan, priority area plan or coordinated area plan in force in the area to which the scheme relates until the scheme is revoked, and any contrary provisions of a development plan or any urban area plan, priority area plan or coordinated area plan in force in the area to which the scheme relates shall be superseded.

(7) In this section, *section 610* and *section 617* "statutory obligations of any local authority" includes the obligation to ensure that the development scheme—

(a) is materially consistent with—

(i) the national and regional development objectives specified in—

(I) the National Planning Framework, and

(II) the regional spatial and economic strategy for the region within which the area to which the planning framework relates is situated,

(ii) any National Planning Policies and Measures, and

(iii) where relevant, the policy of the Government or any Minister of the Government,

and

(b) takes due account of—

(i) any relevant National Planning Policy Guidance, and

(ii) any relevant transport strategy of the National Transport Authority.

Modification prior to making development scheme

610. (1) Where the members of the planning authority propose to make a draft development scheme with a modification, a planning authority shall—

(a) determine, in accordance with the Strategic Environmental Assessment Regulations, whether a strategic environmental assessment requires to be carried out in respect of the proposed modification,

(b) determine, in accordance with *Part 6*, if an appropriate assessment requires to be carried out in respect of the proposed modification, and

(c) where the planning authority determines under *paragraph (a)* or *(b)* that a strategic environmental assessment or an appropriate assessment, as the case may be, requires to be carried out in respect of the proposed modification, prepare an environmental report or Natura impact report, as the case may be, in relation to the proposed modification.

(2) The chief executive shall, not later than 2 weeks after a determination referred to in *paragraph (c)* of *subsection (1)*, specify such period as he or she considers necessary following the determination as being required to facilitate an assessment referred to in that paragraph.

(3) The planning authority shall carry out an assessment referred to in *paragraph (c)* of *subsection (1)* of the proposed modification of the draft development scheme within the period specified by the chief executive.

(4) A planning authority shall—

(a) send notice and copies of the proposed modification and any report prepared under *paragraph (c)* of *subsection (1)* to—

(i) the Minister,

(ii) the Office of the Planning Regulator,

(iii) the Commission,

(iv) the regional assembly for the region in which the area to which the draft development scheme relates is situated,

(v) any planning authority whose functional area is contiguous to the area to which the draft development scheme relates,

(vi) the National Transport Authority,

(vii) where the area covered by the draft development scheme includes a Gaeltacht, Údarás na Gaeltachta, and

(viii) such other persons as may be prescribed,

and

(b) publish notice of the modification and any report prepared under *paragraph (c)* of *subsection (1)*, in at least one newspaper circulating in its functional area.

(5) A notice under *paragraph (b)* of *subsection (4)* shall state—

(a) that a copy of the proposed modification and any report prepared under *paragraph (c)* of *subsection (1)* may be inspected at a stated place or places and at stated times, and on the authority's website, during a stated period of not less than 4 weeks (and the copy shall be kept available for inspection accordingly), and

(b) that written submissions or observations with respect to the proposed modification and any report prepared under *paragraph (c)* of *subsection (1)* and made to the planning authority within a stated period, shall be taken into consideration by the authority before the draft development scheme is made.

(6) Written submissions and observations received by a planning authority under this section shall, subject to *subsection (7)*, be published on the website of the authority within 10 working days of its receipt by that authority.

(7) *Subsection (6)* does not apply where one or more of the criteria set out in *paragraph (b)* of *subsection (6)* of *section 54* is met.

(8) Not later than 12 weeks after giving notice under *subsection (4)*, the chief executive of a planning authority shall prepare a report on any submissions or observations received on foot of that notice and submit the report to the members of the authority for their consideration.

(9) A report under *subsection (8)* shall—

(a) list the persons who made submissions or observations under this section,

(b) summarise the issues raised by the persons in the submissions and observations received, and

(c) give the response of the chief executive to the issues raised, taking account of the proper planning and sustainable development of the area, the overall objectives of the draft development scheme, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

Time at which development scheme shall take effect

611. (1) Where a draft development scheme is—

(a) made in accordance with *section 609*, or

(b) deemed to have been made, in accordance with *subsection (3)* of *section 609*,

it shall have effect 4 weeks from the date of such making unless an appeal is brought to the Commission under *Chapter 5*.

(2) Where in the circumstances described in *subsection (1)* an appeal is brought to the Commission under *Chapter 5* and the Commission approves the making of the

scheme, the development scheme shall have effect on the date on which the appeal is determined.

Notice of decision under *section 609*

612. (1) Following the decision of the planning authority under *section 609* the authority shall, as soon as may be, and in any case not later than 6 working days following the making of the decision—

(a) give notice of the decision to any person notified under *subsection (2)* of *section 607* and any person who made written submissions or observations on the draft development scheme under *section 607* or *610*, and

(b) publish notice of the decision in one or more newspapers circulating in its functional area and on its website.

(2) A notice under *subsection (1)* shall—

(a) give the date of the decision of the planning authority in respect of the development scheme,

(b) state the nature of the decision,

(c) where a development scheme was made, state that a copy of the development scheme is available for inspection at a stated place or places (and the copy shall be kept available for inspection accordingly),

(d) state that any person who made submissions or observations on the draft development scheme under *section 607* or *610* may appeal the decision of the planning authority to the Commission within 4 weeks of the date of the planning authority's decision, and

(e) contain such other information as may be prescribed.

CHAPTER 5

Appeal of Development Scheme

Appeal against decision under *section 609*

613. Any person who made submissions or observations on the draft development scheme under *section 607* or *610* may, for stated reasons, within 4 weeks of the date of the decision under *section 609*, appeal the decision to the Commission.

Determination of appeal

614. (1) Following consideration of an appeal against a decision under *section 609*, the Commission may—

(a) subject to *subsection (3)*, approve the making of the development scheme, with or without any modifications in accordance with this Part, or

(b) refuse to approve the making of the development scheme.

(2) In considering an appeal under this section the Commission shall consider the proper planning and sustainable development of the area, the provisions of the development plan in the area to which the scheme relates, the provisions of the housing strategy prepared in accordance with *Part 7*, any relevant National Planning Statement, the provisions of any special amenity area order, the conservation and preservation of any European site in the area to which the scheme relates, and, where appropriate—

(a) the effect the scheme would have on any land contiguous to the area to which the scheme relates,

(b) the effect the scheme would have on any land outside the functional area of the planning authority, and

(c) any other consideration relating to development outside the functional area of the planning authority, including any area outside the State.

(3) The Commission shall not approve the making of the development scheme with a modification under this section where it determines that the making of the modification would constitute the making of a material change in the overall objectives of the development scheme or would be inconsistent with the planning framework.

(4) Where the Commission approves the making of a development scheme without any modification in accordance with *paragraph (a)* of *subsection (1)*, the planning authority shall, as soon as practicable, publish a notice of the approval of the scheme in at least one newspaper circulating in its functional area, stating that a copy of the development scheme is available for inspection at a stated place or places (and the copy shall be kept available for inspection accordingly).

(5) Where the Commission approves the making of a development scheme with a modification in accordance with this Chapter and subject to any obligations that may arise under *Part 6*, the Commission shall—

(a) notify the planning authority, or each planning authority for the area or areas concerned, of the modification, and

(b) in the case of a modification to which *section 617* applies, notify any person who made a submission or observation in accordance with *paragraph (c)* of *subsection (3)* of that section.

(6) A failure to comply with *subsection (4)* of *section 617* or *subsection (1)* of *section 618* within the period specified, or referred to, in that subsection, in relation to an appeal from a decision under *section 609*, shall not affect the validity of the determination of that appeal under this section.

(7) Where the Commission approves the making of a development scheme with or without a modification following the determination of an appeal under this section the scheme shall be deemed to form part of any development plan or any urban area plan, priority area plan or coordinated area plan in force in the area to which the scheme relates until the scheme is revoked, and any contrary provisions of a development plan or any urban area plan, priority area plan or coordinated area plan in force in the area to which the scheme relates shall be superseded.

Approval on appeal with minor modification

615. If the Commission determines that the making of a modification to a development scheme on an appeal is a change of a minor nature and not likely to have significant effects on the environment (within the meaning of Annex II of the Strategic Environmental Assessment Directive) or on a European site, then it may approve the making of the development scheme with such modification.

Approval on appeal with modification not likely to have significant effect on environment

616. (1) If the Commission determines that the making of a modification to a development scheme on an appeal would not constitute a change in the overall objectives of the development scheme but would constitute the making of a material change to the scheme, the Commission shall—

(a) determine whether the extent and character of the modification it is considering are such that the modification, if it were made, would be likely to have significant effects on the environment (within the meaning of Annex II of the Strategic Environmental Assessment Directive) or on a European site, and

(b) for the purpose of so determining, reach a final decision as to the extent and character of any alternative modification the making of which it is also considering.

(2) If the Commission determines that the modification, if it were made, would not be likely to have significant effects on the environment (within the meaning of Annex II of the Strategic Environmental Assessment Directive) or on a European site, then it may approve the making of the development scheme concerned with the modification.

Approval on appeal with modification likely to have significant effect on environment

617. (1) If the Commission determines in accordance with *subsection (1)* of *section 616* that a modification to the development scheme, if it were made, would be likely to have significant effects on the environment (within the meaning of Annex II of the Strategic Environmental Assessment Directive) or on a European site, then it shall require the relevant planning authority to carry out a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, in relation to the making of the proposed modification.

(2) Where *subsection (1)* applies, the Commission shall, without prejudice to the generality of that subsection, require the relevant planning authority—

(a) to notify, and send copies of the proposed modification of the development scheme concerned to, the Minister and prescribed authorities, and

(b) to publish a notice of the proposed modification of the development scheme concerned in at least one newspaper circulating in its functional area.

(3) A notice under *paragraph (b)* of *subsection (2)* shall state—

(a) the reason for the proposed modification,

(b) that a copy of the proposed modification, along with any assessment undertaken in accordance with *subsection (1)*, may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks (and the copy shall be kept available for inspection accordingly), and

(c) that written submissions or observations with respect to the proposed modification may be made to the planning authority within the stated period, being a period of not less than 4 weeks, and any such submissions or observations will be taken into consideration before making a decision on the proposed modification.

(4) Not later than 8 weeks after the date of the notice under *paragraph (b)* of *subsection (2)* or such further period as the planning authority requires to complete any assessment that may be required pursuant to *subsection (1)* and agrees with the Commission, the planning authority shall prepare a report on any submissions or observations received on foot of that notice and shall submit the report to the Commission for its consideration.

(5) A report under *subsection (4)* shall—

(a) list the persons who made submissions or observations under this section,

(b) summarise the issues raised in the submissions and observations received,

(c) include, where and if required for the purposes of *subsection (1)*—

(i) the environmental report, and

(ii) the Natura impact report,

of the planning authority, and

(d) give the response of the planning authority to the issues raised, taking account of the proper planning and sustainable development of the area, the overall objectives of the development scheme, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(6) Where a report has been submitted to the Commission under *subsection (4)*, the planning authority concerned shall, upon being requested by the Commission, provide it with copies of such submissions and observations to which that subsection relates as are so requested.

(7) The Commission shall have regard to any report under *subsection (4)* when determining an appeal under *section 614*.

Time for determination of appeal against decision under *section 609*

618. (1) Subject to *subsection (2)*, the Commission shall determine an appeal—

(a) where no oral hearing is held, within 16 weeks, or such other period as may be prescribed, of the date of the receipt by the Commission of the appeal, or

(b) where an oral hearing is held, within such period as may be prescribed.

(2) Without prejudice to the generality of *subsection (1)* the Minister may prescribe periods for the determination of appeals where the Commission requires a person to give further information to the Commission or to produce evidence in respect of the appeal.

(3) The Minister may by regulations extend the period of 16 weeks referred to in *paragraph (a)* of *subsection (1)*, either generally or with reference to any particular category of development scheme appeals, where it appears to him or her to be necessary, by virtue of exceptional circumstances, to do so and, for so long as the regulations are in force, this section shall be construed and have effect in accordance therewith.

Oral hearing in relation to appeal against decision under *section 609*

619. (1) The Commission may hold an oral hearing for the purposes of an appeal under *section 613*.

(2) Before deciding whether or not to hold an oral hearing, the Commission shall have regard to whether or not an oral hearing is necessary for it to exercise its powers under this Part and shall only hold an oral hearing if it decides, having regard to the particular circumstances of the appeal, that there is a compelling case for holding such a hearing.

Development scheme to be part of development plan

620. (1) A development scheme shall continue in force when a new development plan is made.

(2) A planning authority shall review a development scheme each time it makes a development plan.

(3) A planning authority may amend a development scheme as part of the making of a new development plan in order to ensure that the development scheme—

(a) remains materially consistent with—

(i) the national and regional development objectives specified in—

(I) the National Planning Framework, and

(II) the regional spatial and economic strategy for the region within which the area to which the development scheme relates is situated,

(ii) any National Planning Policies and Measures, and

(iii) where relevant, the policy of the Government or any Minister of the Government,

and

(b) takes due account of—

(i) any relevant National Planning Policy Guidance, and

(ii) any relevant transport strategy of the National Transport Authority.

Chapter 6

Designation of Urban Development Zones

Designation of sites for urban development zones

621. (1) Where, in the opinion of the Government, the development of a candidate UDZ would be of significant economic, social or environmental benefit to the State and in the common good, the Government may by order, where so proposed by the Minister and having regard to the scale, nature and location of development included in the planning framework, designate all or part of the candidate UDZ as an urban development zone.

(2) The Minister shall, before proposing the designation of a candidate UDZ to the Government under *subsection (1)*, consider each of the following:

(a) any submissions made to the planning authority and any report prepared by a chief executive under *section 607*;

(b) any submissions or observations received from any regional assembly;

(c) any submissions or observations received from the Office of the Planning Regulator;

(d) any submissions or observations received from the National Transport Authority;

(e) the national interest;

(f) the likely effects of the designation of the site as an urban development zone on any matter of economic, social or environmental importance to the State, including climate action;

(g) the scale, nature and location of development included in the planning framework, the extent to which development included in the planning framework could contribute significantly towards the objectives for the time being of the Government or of any Minister of the Government and any objectives set out in a regional spatial and economic strategy for the time being in force;

(h) whether the designation of the site as an urban development zone will make development included in the planning framework more likely;

(i) whether the designation of the site as an urban development zone is likely to have significant effects on the environment (within the meaning of Annex II of the Strategic Environmental Assessment Directive);

(j) if the area or part of the area is a European site or an area designated as a natural heritage area under section 18 of the Wildlife (Amendment) Act 2000;

(k) whether the designation of the site as an urban development zone would be likely to have significant effects on a European site or an area designated as a natural heritage area under section 18 of the Wildlife (Amendment) Act 2000.

(3) Before proposing the designation of a site or sites to the Government under *subsection (1)*, the Minister may consult with any of the following bodies in relation to such designation:

(a) any relevant planning authority;

(b) any relevant development agency;

(c) any relevant regional assembly;

(d) any other body that the Minister considers relevant;

(e) the Office of the Planning Regulator;

(f) any other Minister of the Government that the Minister considers appropriate having regard to the functions of that other Minister.

(4) An order under *subsection (1)* shall state the reasons why the Government is of the opinion that the development of the candidate UDZ would be of significant economic, social or environmental benefit to the State and in the common good.

(5) The Minister shall send a copy of any order made under *subsection (1)* to any relevant planning authority, development agency and regional assembly and to the National Transport Authority, the Office of the Planning Regulator and to the Commission.

(6) In this section, the Land Development Agency shall not be a relevant development agency unless each candidate UDZ referred to in *subsection (1)* is wholly or partly on relevant public land within the meaning of section 5 of the Land Development Agency Act 2021 or land owned by the Agency.

Acquisition of land for specified development

622. (1) A planning authority may use any powers to acquire land that are available to it under any enactment, including any powers in relation to the compulsory acquisition of land, for the purposes of development specified in a planning framework or a development scheme.

(2) Where a person, other than the relevant development agency, has an interest in land, or any part of land, on which a candidate UDZ or an urban development zone is situated, the relevant development agency may enter into an agreement with that person for the purpose of facilitating the development of the land.

(3) An agreement made under *subsection (2)* with any person having an interest in land may be enforced by the relevant development agency against persons deriving title under that person in respect of that land.

Permission in respect of site within urban development zone and to which development scheme relates

623. (1) Where an application for permission for development is made to a planning authority under *Part 4* in relation to a site that is within an urban development zone and to which a development scheme relates then, subject to that Part and *Part 6*, a planning authority—

(a) shall grant permission where it is satisfied that the development, where carried out in accordance with the application or subject to any conditions which the planning authority may attach to a permission, would be consistent with the development scheme, and

(b) shall not grant permission for any development which would not be consistent with the development scheme.

(2) Notwithstanding *Chapter 3* of *Part 4*, no appeal shall lie to the Commission against a decision of a planning authority referred to in *paragraph (a)* or *(b)* of *subsection (1)*.

(3) Where the planning authority decides to grant permission for a development referred to in *paragraph (a)* of *subsection (1)* the permission shall be deemed to have been granted on the date of that decision.

PART 23

Additional Transitional and Related Provisions

Application of sections 26 and 27 of Interpretation Act 2005

624. This Part shall not affect the application and operation of sections 26 and 27 of the Interpretation Act 2005.

Validity of acts done under Act of 2000

625. This Act shall not affect the validity of anything done under a provision of the Act of 2000 before the repeal of that provision by *section 6*.

Continued application of Act of 2000 for certain purposes

626. Notwithstanding the repeal of any provision of the Act of 2000 effected by *section 6*, that Act shall, subject to *Part 17*, continue to apply and have effect in relation to—

(a) an application for permission under Part III of that Act made before the repeal of the provision concerned,

(b) an application to the High Court under subsection (6) of section 35 of the Act of 2000 made before the repeal of the provision concerned,

(c) an application under subsection (1) of section 42 of the Act of 2000 made before the repeal of the provision concerned,

(d) a notice served, or an appeal brought, under section 44 or 46 of the Act of 2000 made before the repeal of the provision concerned, and

(e) an appeal under section 37, or paragraph (b) of subsection (10) of section 48, of the Act of 2000 brought before the repeal of the provision concerned.

Continuance in operation of statutory instruments made under Act of 2000

627. (1) Save where otherwise provided for by this Act, a statutory instrument in force immediately before the repeal by *section 6* of the provision of the Act of 2000 under which it was made shall continue in force on and after that repeal as if made under such provision of this Act as, in substance, confers a power to make a statutory instrument in the same or similar terms as the first-mentioned statutory instrument, and may be amended or revoked accordingly.

(2) In this section "statutory instrument" has the meaning assigned to it by the Interpretation Act 2005.

Continued application of Part VIII of Act of 2000 for certain purposes

628. Notwithstanding the repeal of Part VIII of the Act of 2000 effected by *section 6*, the said Part VIII shall, for the purposes of—

(a) any warning letter or enforcement notice served under that Part before that repeal, or

(b) the performance, before, on or after that repeal, of any function under that Part consequent upon the service of that warning letter or enforcement notice,

continue to apply and have effect.

Continued operation of Parts X and XAB of Act of 2000 in relation to certain classes of development

629. Parts X and XAB of the Act of 2000 shall, on and after the repeal of those Parts by *section 6*, continue to apply and have effect in relation to—

(a) development requiring approval under section 43 of the Transport (Railway Infrastructure) Act 2001, and

(b) development requiring approval under section 51 of the Roads Act 1993.

Amendments effected by Act of 2000

630. For the avoidance of doubt, the repeal of the Act of 2000 by *section 6* shall not operate to abrogate, or otherwise affect the operation of, the amendment of any enactment effected by the Act of 2000.

PART 24

Consequential Amendments

Consequential amendment of Acts of Oireachtas

631. The enactments specified in *column (2)* of *Schedule 7* are amended to the extent specified in *column (3)* of that Schedule.

Amendment of statutory instruments consequent on repeal of Act of 2000

632. (1) Subject to *subsections (2)* to *(6)*, the Minister may make regulations amending any statutory instrument so that a reference, in the statutory instrument, to a relevant provision is replaced with a reference to this Act or to one or more provisions of this Act, or in such other manner as is necessary to ensure the effective operation of the statutory instrument having regard to this Act.

(2) Subject to *subsection (3)*, where a statutory instrument is made by a person other than the Minister, the Minister shall consult the person before amending the statutory instrument under this section.

(3) Where the power to make a statutory instrument stands transferred to a person other than the Minister, the Minister shall consult the person before amending the statutory instrument under this section.

(4) Where the power to make a statutory instrument is subject to a requirement—

(a) to obtain the consent of a person other than the Minister, or

(b) to consult with a person other than the Minister,

the Minister shall not amend the statutory instrument under this section without obtaining the consent of the person, or without consulting the person, as the case may be.

(5) The Minister shall not, by regulations under this section—

(a) confer on any person the ability to perform a function, or exercise a power, that is not conferred on the person by or under an enactment, or

(b) remove the ability of any person to perform a function, or exercise a power, that is vested in the person by or under an enactment.

(6) In this section—

"Act of 2005" means the Interpretation Act 2005;

"enactment" has the meaning it has in the Act of 2005;

"make", in relation to a statutory instrument, shall be construed in accordance with subsection (3) of section 22 of the Act of 2005;

"person other than the Minister" does not include a Minister of State to whom the Minister's functions have been delegated under section 2 of the Ministers and Secretaries (Amendment) (No. 2) Act 1977;

"relevant provision" means the following enactments, or any provision thereof:

(a) the Act of 2000;

(b) any Act that may be cited together with that Act;

(c) any statutory instrument made under an Act referred to in *paragraph (a)* or *(b)*;

"statutory instrument" has the meaning it has in the Act of 2005.

References to chief executive as regards Limerick City and County Council

633. (1) A reference in this Act to chief executive shall, in so far as it relates to Limerick City and County Council—

(a) in the case of a relevant provision (within the meaning of section 10A of the Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024), be construed as a reference to the director general, or as including a reference to the director general, as the context requires, and

(b) in any other case, be construed as a reference to the Mayor, or as including a reference to the Mayor, as the context requires.

(2) In this section "director general" and "Mayor" have the meaning they have in the Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024.

PART 25

Rent pressure zones

Amendment of Residential Tenancies Act 2004

634. The Residential Tenancies Act 2004 is amended—

(a) in subsection (6) of section 19, by the substitution of "if an order is made by the Minister under section 24A(5) or (6A)" for "if an order is made by the Minister under section 24A(5)",

(b) in section 20—

(i) in subsection (5), by the substitution of "1 January 2026" for "1 January 2025", and

(ii) in subsection (6), by the substitution of "31 December 2025" for "31 December 2024",

(c) in section 24A, by the insertion of the following new subsection after subsection (6):

"(6A) Notwithstanding subsection (6), the Minister may, with respect to a local electoral area that was amended in the manner referred to in that subsection, and on a recommendation from the Housing Agency made following consultation with the relevant housing authority, prescribe by order, any part of that local electoral area that was not, before the amendment of the local electoral area concerned, subject to an order under subsection (5) or a previous order under this subsection, as a rent pressure zone for a specified period commencing on the date of the coming into operation of the order and ending on a date not later than 31 December 2025.",

(d) in section 24B—

(i) by the designation of that section as subsection (1),

(ii) in subsection (1), by the substitution of "31 December 2025" for "31 December 2024", and

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

"(2) With effect from the day following the passing of the *Planning and Development Act 2024* and notwithstanding anything to the contrary in section 24A, an order under subsection (5) of that section shall be deemed to have been made in respect of the local electoral area of Drogheda Rural and, accordingly, that area is deemed to be a rent pressure zone during the period commencing on the day following the passing of that Act and ending on 31 December 2025.",

and

(e) by the substitution of the following for section 24C:

"24C. (1) Where a tenancy commenced before the relevant date (within the meaning of section 19(7)) or, where an order under section 24A(5) or (6A) applies to the area in which the tenancy is situated, before the date of the coming into operation of that order, and the area in which the tenancy is situated is in a rent pressure zone within the meaning of section 19(7), then—

(a) the first rent review after the relevant date or, where an order is made by the Minister under section 24A(5) or (6A) in respect of the area in which the dwelling is situate, the first rent review after the date of the coming into operation of that order, shall be carried out in accordance with section 20, and

(b) any subsequent rent review shall be carried out as if subsections (4) to (6) of section 20 had not been enacted.

(2) Where a tenancy commences on or after the relevant date (within the meaning of section 19(7)) or, where an order under section 24A(5) or (6A) applies to the area in which the tenancy is situated, on or after the date of the coming into operation of that order, and the area in which the tenancy is situated is in a rent pressure zone within the meaning of section 19(7), then any rent review after that date shall be carried out as if subsections (4) to (6) of section 20 had not been enacted.".

Amendment of Residential Tenancies (Amendment) Act 2019

635. The Residential Tenancies (Amendment) Act 2019 is amended, in subsection (2) of section 8, by the substitution of "31 December 2025" for "31 December 2024".

PART 26

OWNERS' MANAGEMENT COMPANIES AND ACQUISITION OF CERTAIN NAMA ASSETS

Amendment of National Asset Management Agency Act 2009

636. The National Asset Management Agency Act 2009 is amended, in subsection (2) of section 12, by the substitution of the following for paragraph (h):

"(h) distribute assets *in specie* to the Minister, or, in the case of a direction to do so under section 14, to the Land Development Agency,".

Amendment of Land Development Agency Act 2021

637. The Land Development Agency Act 2021 is amended—

(a) in section 4—

(i) by the substitution of the following definition for the definition of "subsidiary DAC":

" 'subsidiary DAC' means a subsidiary, other than a subsidiary CLG, formed and registered by the Agency in accordance with Part 4.",

and

(ii) by the insertion of the following definitions:

" 'Act of 2011' means the Multi-Unit Developments Act 2011;

'company limited by guarantee' has the same meaning as it has in Part 18 of the Companies Act;

'multi-unit development' has the same meaning as it has in the Act of 2011;

'NAMA' means the National Asset Management Agency;

'NARPS' means the National Asset Residential Property Services DAC;

'owners' management company' has the same meaning as it has in the Act of 2011;

'subsidiary CLG' means a subsidiary formed and registered by the Agency or a subsidiary DAC in accordance with section 33A;",

(b) in subsection (1) of section 14—

(i) in paragraph (o), by the substitution of "social and affordable housing;" for "social and affordable housing.", and

(ii) by the insertion of the following new paragraph after paragraph (o):

"(p) where directed to do so in accordance with this Act, to acquire NARPS *in specie* from NAMA.",

(c) in section 25, by the insertion of the following new subsection after subsection (3):

"(3A) Without prejudice to subsection (3), where the Agency acquires NARPS, the Agency shall allot and issue such number of shares as are equivalent to the value of NARPS, to be held by the Minister for Public Expenditure, National Development Plan Delivery and Reform.",

and

(d) by the insertion of the following section after section 33:

"Establishment of owners' management company

33A. (1) For the purposes of performing any one or more of the functions of the Agency in relation to a multi-unit development, the Agency or a subsidiary DAC formed for the purposes of performing such functions may, notwithstanding any provision in its constitution and as it considers appropriate, cause a subsidiary, within the meaning of the Companies Act, in the form of a company limited by guarantee (to be known as a 'subsidiary CLG'), to be formed and registered under Part 18 of the Companies Act as an owners' management company in relation to the multi-unit development concerned.

(2) The Agency, or a subsidiary DAC referred to in subsection (1), may cause a subsidiary CLG to be formed and registered under subsection (1) only for the purposes of the performance, in accordance with the Act of 2011, by the subsidiary CLG, of functions of an owners' management company in relation to the multi-unit development concerned.

(3) The Agency or, in the case of a subsidiary DAC that has caused a subsidiary CLG to be formed under subsection (1), the subsidiary DAC, may, notwithstanding any provision in its constitution, become a member of the subsidiary CLG in accordance with the Act of 2011.".

SCHEDULE 1

Section 82

STRATEGIC INFRASTRUCTURE DEVELOPMENT

Energy Infrastructure

1. Development comprising or for the purposes of any of the following:

(a) an installation for the onshore extraction of petroleum or natural gas;

(b) a crude oil refinery (excluding an undertaking manufacturing only lubricants from crude oil) or an installation for the gasification and liquefaction of not less than 500 tonnes of coal or bituminous shale per day;

(c) a thermal power station or other combustion installation with a total energy output of not less than 300 megawatts;

(d) an industrial installation for the production of electricity, steam or hot water with a heat output of not less than 300 megawatts;

(e) an oil pipeline and any associated terminals, buildings and installations, where the length of the pipeline (whether as originally provided or as extended) would exceed 20 kilometres;

(f) an installation for the surface storage of oil or coal, where the storage capacity would exceed 100,000 tonnes;

(g) an installation for hydroelectric energy production with an output of not less than 300 megawatts, or where the new or extended superficial area of water impounded would be not less than 30 hectares, or where there would be a 30 per cent change in the maximum, minimum or mean flows in the main river channel;

(h) an installation for the harnessing of wind power for energy production with not less than 25 turbines or having a total output not less than 50 megawatts.

Transport Infrastructure

2. Development comprising or for the purposes of any of the following:

(a) an intermodal transhipment facility, an intermodal terminal or a passenger or goods facility that, in each case, would exceed 5 hectares in area;

(b) a terminal, building or installation associated with a long-distance railway, tramway, surface, elevated or underground railway or railway supported by suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport, but excluding any proposed railway works to which an application under section 37 of the Transport (Railway Infrastructure) Act 2001 applies;

(c) a harbour or port installation (which may include facilities in the form of loading or unloading areas, vehicle queuing and parking areas, ship repair areas, areas for berthing or dry docking of ships, areas for the weighing, handling or transport of goods or the movement or transport of passengers

(including customs or passport control facilities), associated administrative offices or other similar facilities directly related to and forming an integral part of the installation)—

(i) where the area or additional area of water enclosed would be not less than 20 hectares,

(ii) that would involve the reclamation of not less than 5 hectares of land,

(iii) that would involve the construction of—

(I) a quay that would exceed 100 metres in length, or

(II) more than one quay, each of which would exceed 100 metres in length,

or

(iv) that would enable a vessel of over 1,350 tonnes to enter within it.

Environmental Infrastructure

3. Development comprising or for the purposes of any of the following:

(a) a waste disposal installation for—

(i) the incineration,

(ii) the physico-chemical treatment (within the meaning of paragraph D9 of Annex IIA to Council Directive 75/442/EEC of 15 July 1975[23] on waste), or

(iii) the landfill,

of hazardous waste to which Council Directive 91/689/EEC of 12 December 1991[24] on hazardous waste applies (other than an industrial waste disposal installation integrated into a larger industrial facility);

(b) a waste disposal installation for—

(i) the incineration, or

(ii) the physico-chemical treatment (within the meaning of paragraph D9 of Annex IIA to Council Directive 75/442/EEC of 15 July 1975[25] on waste),

of non-hazardous waste with a capacity for an annual intake greater than 100,000 tonnes;

(c) an installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes;

(d) a ground water or surface water abstraction or artificial groundwater recharge scheme, where the annual volume of water abstracted or recharged is equivalent to or exceeds 2 million cubic metres;

23 OJ No. L194, 25.07.1975, p. 39
24 OJ No. L377, 31.12.1991, p. 20
25 OJ No. L194, 25.07.1975, p. 39

(e) any works for the transfer of water resources between river basins, where the annual volume of water abstracted or recharged would exceed 2 million cubic metres;

(f) a waste water treatment plant with a capacity greater than a population equivalent of 10,000 and, for the purpose of this provision, "population equivalent" shall be construed in accordance with paragraph 6 of Article 2 of Council Directive 91/271/EEC of 21 May 1991[26] concerning urban waste water treatment;

(g) a sludge-deposition site with the capacity for the annual deposition of 50,000 tonnes of sludge (wet);

(h) any canalisation or flood relief works where—

(i) the immediate contributing sub-catchment of the proposed works (namely the difference between the contributing catchments at the upper and lower extent of the works) would exceed 1,000 hectares,

(ii) not less than 20 hectares of wetland would be affected, or

(iii) the length of river channel on which works are proposed would be greater than 2 kilometres;

(i) a dam or other installation designed for the holding back or the permanent or long-term storage of water, where the new or extended area of water impounded would be not less than 30 hectares or where a new or additional amount of water held back or stored would exceed 10,000,000 cubic metres;

(j) an installation of over ground aqueducts each of which would have a diameter of not less than 1,000 millimetres and a length of not less than 500 metres;

(k) any coastal works to combat erosion or maritime works capable of altering the coast through the construction, for example, of dikes, moles, jetties and other sea defence works, where in each case the length of coastline on which the works would take place would exceed 1 kilometre, but excluding the maintenance or reconstruction of such works or works required for emergency purposes.

Health Infrastructure

4. Development comprising a healthcare facility (other than a development that is predominantly for the purposes of providing care services within the meaning of section 3 of the Nursing Homes Support Scheme Act 2009) which, whether or not the facility is intended to form part of another healthcare facility, shall provide in-patient services and shall have not fewer than 100 beds in order to so provide.

26 OJ No. L135, 30.05.1991, p. 40

SCHEDULE 2

Section 82

CLASSES OF DEVELOPMENT SPECIFIED FOR PURPOSES OF *CHAPTER 4* OF *PART 4*

1. Development referred to in *Schedule 1*.
2. Development consisting of a trading port or pier for loading and unloading goods that—
    (a) is connected to land, and
    (b) can accommodate vessels of over 1,350 tonnes.
3. Development consisting of a pipeline that is not less than 20 kilometres in length and that is intended for the transport of—
    (a) gas, oil or chemicals, or
    (b) carbon dioxide (CO_2) streams for the purposes of geological storage, including associated booster stations.
4. Development consisting of the construction of an electrical power line that has a voltage of not less than 220 kilovolts and a length of not less than 15 kilometres.
5. Development consisting of the laying of a telecommunications cable or pipeline of not less than 15 kilometres in length.
6. Development consisting of the construction of a storage site within the meaning of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009[27] on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No. 1013/2006.
7. Development consisting of an installation for the capture of CO_2 streams within the meaning of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009[28]—
    (a) intended for geological storage of CO_2 within such meaning, or
    (b) where the intended capture of CO_2 is not less than 1,500,000 tonnes per annum.
8. Development consisting of the drainage or reclamation of not less than 2 hectares of wetland.
9. Development consisting of a seawater fish breeding installation with an intended output exceeding 100 tonnes per annum.
10. Development consisting of the reclamation of not less than 10 hectares of land from the sea.
11. Development consisting of—

27 OJ No. L140, 5.6.2009, p. 114
28 OJ No. L140, 5.6.2009, p. 114

(a) the extraction of stone, gravel, sand or clay where the area of extraction would be greater than 5 hectares, or

(b) the extraction of stone, gravel, sand or clay by marine dredging (other than maintenance dredging), where the area of extraction would be greater than 5 hectares.

12. Development consisting of deep drilling (other than deep drilling for the purposes of investigating the stability of the soil, seabed or substrata beneath the soil or seabed) for—

(a) geothermal purposes, or

(b) the purpose of securing water supplies exceeding 2,000,000 cubic metres per annum.

13. Development consisting of the construction or operation of—

(a) an installation for the manufacture of vegetable or animal oils or fats, where the capacity for processing raw materials would exceed 40 tonnes per day, or

(b) any fish-meal or fish-oil factory.

14. Development consisting of the construction or operation of a sea water marina where the number of berths exceeds 300.

15. Development consisting, or for the purposes, of—

(a) a terminal, building or installation ancillary to a natural gas storage facility (either above or below the surface of the water or seabed), the storage capacity of which would exceed 1 mscm, or

(b) a terminal, building or installation ancillary to a terminal that is used for the liquefaction of natural gas or the importation, offloading and re-gasification of liquefied natural gas, and ancillary services.

16. Development consisting, or for the purposes, of an installation for the storage of—

(a) natural gas, where the storage capacity would exceed 200 tonnes,

(b) combustible gases, where the storage capacity would exceed 200 tonnes, or

(c) oil or coal, where the storage capacity would exceed 100,000 tonnes.

17. An installation for the production of hydroelectric energy—

(a) that has an output of not less than 20 megawatts,

(b) that would result in the new or extended area of water impounded being not less than 20 hectares, or

(c) that would result in a 30 per cent change in the maximum, minimum or mean flows in the main river channel or tidal bay concerned.

18. An installation for the production of energy by harnessing the power of the wind that has—

(a) more than 5 turbines, or

(b) a total output of more than 5 megawatts.

19. Any floating or fixed installation (either temporary or permanent) for the production of energy by harnessing the power of the sun.

20. An installation for the production of energy by harnessing wave or tidal power that has a total output greater than 5 generating units or 5 megawatts.

21. A harbour or port installation, including—

(a) loading or unloading areas,

(b) vehicle queuing and parking areas,

(c) ship repair areas,

(d) areas for berthing or dry docking of ships, and

(e) areas for the weighing, handling or transport of goods or the movement or transport of passengers (including customs or passport control facilities), and any associated offices or other similar facilities that would—

(i) result in the enclosed area of water in the harbour or port installation being not less than 20 hectares,

(ii) involve the reclamation of an area of land of not less than 5 hectares,

(iii) involve the construction of a quay greater than 100 metres in length, or

(iv) be capable of admitting a vessel of more than 1,350 tonnes.

SCHEDULE 3

Sections 434 and *456*

DEVELOPMENT IN RESPECT OF WHICH NO COMPENSATION FOR REFUSAL OF PERMISSION, ETC.

PART 1

LAND

1. Any development that consists of or includes the making of any material change in the use of any structures or other land.
2. The demolition of a habitable house.
3. Any development which would materially affect a protected structure or proposed protected structure.
4. The erection of any advertisement structure.
5. The use of land for the exhibition of any advertisement.
6. Development in an area to which a special amenity area order relates.
7. Any development on land with respect to which there is available (notwithstanding the refusal of permission) a grant of permission for any development of a residential, commercial or industrial character, if the development consists wholly or mainly of the construction of houses, shops or office premises, hotels, garages and petrol filling stations, theatres or structures for the purpose of entertainment, or industrial buildings (including warehouses), or any combination thereof, subject to no conditions other than conditions of the kind referred to in *Part 1* of *Schedule 5*.
8. Any development on land with respect to which compensation has already been paid under—
    (a) *section 434* in relation to a decision to refuse permission,
    (b) section 190 of the Act of 2000 in relation to a decision to refuse permission under Part III of that Act,
    (c) section 11 of the Act of 1990 in relation to a decision to refuse permission under Part IV of the Act of 1963, or
    (d) section 55 of the Act of 1963 in relation to a decision to refuse permission under Part IV of that Act.

PART 2

MARITIME AREA

9. Any development that consists of or includes the making of any material change in the use of any structures or other maritime site.

10. Any development which would materially affect a protected structure or proposed protected structure.

11. The erection of any advertisement structure.

12. The use of a maritime site for the exhibition of any advertisement.

13. Development in an area to which a special amenity area order relates.

14. Any development on a maritime site with respect to which compensation has already been paid under—

    (a) s*ection 455* in relation to a decision to refuse permission,

    (b) section 190 of the Act of 2000 in relation to a decision to refuse permission under Part III of that Act,

    (c) section 11 of the Act of 1990 in relation to a decision to refuse permission under Part IV of the Act of 1963, or

    (d) section 55 of the Act of 1963 in relation to a decision to refuse permission under Part IV of that Act.

SCHEDULE 4

Sections 434 and *456*

REASONS FOR REFUSAL OF PERMISSION THAT EXCLUDES COMPENSATION

PART 1

LAND

1. Development of the kind proposed on the land would be premature by reference to any one or combination of the following constraints and the period within which the constraints involved may reasonably be expected to cease—

    (a) an existing deficiency in the provision of water supplies or sewerage facilities,

    (b) the capacity of existing or prospective water supplies or sewerage facilities being required for prospective development as regards which a grant of a permission under *Part 4* or Part III of the Act of 2000, or a notice under section 13 of the Act of 1990, section 192 of the Act of 2000 or *section 437* exists,

    (c) the capacity of existing or prospective water supplies or sewerage facilities being required for the prospective development of another part of the functional area of the planning authority, as indicated in the development plan,

    (d) the capacity of existing or prospective water supplies or sewerage facilities being required for any other prospective development or for any development objective, as indicated in the development plan,

    (e) any existing deficiency in the road network serving the area of the proposed development, including considerations of capacity, width, alignment, or the surface or structural condition of the pavement, which would render that network, or any part of it, unsuitable to carry the increased road traffic likely to result from the development,

    (f) any prospective deficiency (including the considerations specified in *clause (e)*) in the road network serving the area of the proposed development which—

        (i) would arise because of the increased road traffic likely to result from that development and from prospective development as regards which a grant of permission under *Part 4* or Part III of the Act of 2000, or a notice under section 13 of the Act of 1990, section 192 of the Act of 2000 or *section 437* exists, or

        (ii) would arise because of the increased road traffic likely to result from that development and from any other prospective development or from any development objective, as indicated in the development plan,

and would render that road network, or any part of it, unsuitable to carry the increased road traffic likely to result from the proposed development, or

(g) any existing or prospective deficiency in any infrastructure capacity which would be required to facilitate the proposed development.

2. Development of the kind proposed would be premature pending the determination by the planning authority or the road authority of any transportation or road layout for the area or any part thereof.

3. Development of the kind proposed would be premature by reference to the order of priority or phasing, if any, for development indicated in the development plan, urban area plan, priority area plan or coordinated area plan or pending the adoption of a development plan, urban area plan, priority area plan or coordinated area plan or any other plan which has been identified in the development plan, urban area plan, priority area plan or coordinated area plan.

4. The proposed development would endanger public safety by reason of traffic hazard or obstruction to road users, including to pedestrians and cyclists.

5. The proposed development—

(a) could, due to the risk of a major accident or if a major accident were to occur, lead to serious danger to human health or the environment, or

(b) is in an area where it is necessary to limit the risk of there being any serious danger to human health or the environment.

6. The proposed development is in an area which is at risk of flooding based on a flood risk assessment.

7. The proposed development, by itself or by the precedent which the grant of permission for it would set for other relevant development, would result in a traffic pattern which may adversely affect the use of a national road or other major road.

8. The proposed development would detrimentally interfere with the character of the landscape or with a view or prospect of special amenity value or natural interest or beauty, the preservation of which is an objective of a development plan, urban area plan, priority area plan or coordinated area plan for the area in which the development is proposed.

9. The proposed development may cause significant pollution, including air, water or noise pollution or vibrations or any pollution connected with the disposal of waste or otherwise create a material risk to waters, the atmosphere, land, soil, biodiversity or human health.

10. The proposed development may result in emissions or other adverse effects which are inconsistent with—

(a) the approved climate action plan at the time of decision,

(b) the approved national long-term climate action strategy at the time of decision,

(c) the approved national adaptation framework and approved sectoral adaptation plans at the time of decision,

(d) the furtherance of the national climate objective, and

(e) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.

11. In the case of development including any structure or any addition to or extension of a structure, the structure, addition or extension would—

(a) be under a public road,

(b) seriously injure the residential amenities of property in the vicinity,

(c) tend to create any serious traffic congestion,

(d) endanger or interfere with the safety of aircraft or the safe and efficient navigation thereof,

(e) endanger the health or safety of persons occupying or employed in the structure or any adjoining structure, or

(f) be prejudicial to public health.

12. The development would contravene materially a condition attached to an existing permission for development.

13. The proposed development would injure or interfere with—

(a) any monument or place recorded in the record of monuments and places under section 12 of the National Monuments (Amendment) Act 1994,

(b) any monument to which general protection (within the meaning of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023) applies, or

(c) any monument to which special protection (within the meaning of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023) applies.

14. The proposed development would adversely affect an architectural conservation area, an area of special planning control, a protected structure or a proposed protected structure.

15. The proposed development would adversely affect the linguistic or cultural heritage of the Gaeltacht.

16. The proposed development would materially contravene an objective indicated in an urban area plan, priority area plan or coordinated area plan for the area.

17. The proposed development would be contrary to the National Planning Framework or a National Planning Statement.

18. The proposed development would adversely affect an area that, immediately before the repeal of section 204 of the Act of 2000 by *section 6*, stood designated as a landscape conservation area under the said section 204.

19. In accordance with *section 173*, the planning authority considers that there is a real and substantial risk that the development in respect of which permission is sought would not be completed in accordance with any permission or any condition to which such a permission would be subject.

20. The proposed development—

    (a) would contravene materially a development objective indicated in the development plan for the conservation and preservation of a European site insofar as the proposed development would adversely affect—

        (i) one or more specific—

            (I) natural habitat types in Annex I of the Habitats Directive, or

            (II) species in Annex II of the Habitats Directive which the site hosts,

        which have been selected by the relevant Minister in accordance with Annex III (Stage 1) of that Directive, or

        (ii) species of bird or their habitat or other habitat specified in Article 4 of the Birds Directive, which formed the basis of the classification of that site,

    or

    (b) would have a significant adverse effect on any other areas referred to in *subsection (2)* of *section 50*.

21. The development would contravene materially a development objective indicated in the development plan, including any objective for the carrying out of any specific project indicated in the development plan.

22. The proposed development would not be consistent with a planning scheme in force in respect of a strategic development zone.

23. The proposed development would not be consistent with a development scheme in force in respect of an urban development zone.

24. The proposed development would not be consistent with the transport strategy of the National Transport Authority.

25. (1) The proposed development is by an applicant associated with a previous development (whether or not such previous development was within the functional area of the planning authority to which the proposed development relates)—

    (a) which, in the opinion of the planning authority in whose functional area the previous development is situated, has not been satisfactorily completed in the ordinary course of development, or

(b) where the estate to which the previous development relates has not been taken in charge by the local authority concerned because the estate has not been completed to the satisfaction of that authority.

(2) In this paragraph "associated", in relation to a previous development, means a development under the Act of 2000 to which section 180 of that Act relates, or under this Act to which *section 261*, *262* or *264* relates, and in respect of which the development has not been satisfactorily completed or taken in charge by the local authority concerned or Uisce Éireann due to the actions (whether of commission or omission) of—

(a) the applicant for the proposed development,

(b) a partnership of which the applicant is or was a member and which, during the membership of that applicant, carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under the Act of 2000 or this Act,

(c) a registered society under the Industrial and Provident Societies Acts 1893 to 2021 that—

(i) carried out a development pursuant to a previous permission,

(ii) carried out a substantial unauthorised development, or

(iii) has been convicted of an offence under the Act of 2000 or this Act,

or, during any period to which *subclause (i)* or *(ii)* relates or to which any conviction under *subclause (iii)* relates, the registered society was, during that period, controlled by the applicant—

(I) where, pursuant to section 15 of the Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Act 2014, "control" has the same meaning as in subsection (5) of section 220 of the Companies Act 2014, or

(II) as a shadow director within the meaning of subsection (1) of section 2 of the Companies Act 2014,

(d) where the applicant for the proposed development is a company—

(i) the company concerned is related to a company (within the meaning of subsection (10) of section 2 of the Companies Act 2014) which carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under the Act of 2000 or this Act, or

(ii) the company concerned is under the same control as a company that carried out a development referred to in *subparagraph (I)* where "control" has the same meaning as in subsection (5) of section 220 of the Companies Act 2014,

or

(e) a company that carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under the Act of 2000 or this Act, which company is controlled by the applicant—

(i) where "control" has the same meaning as in subsection (5) of section 220 of the Companies Act 2014, or

(ii) as a shadow director within the meaning of subsection (1) of section 2 of the Companies Act 2014.

26. The proposed development would cause a serious aircraft noise problem at Dublin Airport including, as appropriate, the area around Dublin Airport significantly affected by aircraft noise.

27. The proposed development would not be consistent with the objectives of a river basin management plan made under regulation 13 of the European Communities (Water Policy) Regulations 2003 (S.I. No. 722 of 2003).

28. The development would contravene materially a development objective indicated in the development plan for the zoning of land for the use solely or primarily of particular areas for particular purposes (whether residential, commercial, industrial, agricultural, recreational, as open space or otherwise or a mixture of such uses).

29. The proposed development would be contrary to any direction (including a draft direction) that has been issued by the Minister.

30. In this Part—

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

"national road" and "road authority" have the meanings respectively assigned to them by the Roads Act 1993.

PART 2

MARITIME AREA

31. Development of the kind proposed would be premature by reference to the order of priority or phasing, if any, for development indicated in the maritime spatial plan or designated maritime area plan or pending the adoption of a maritime spatial plan, designated maritime area plan or any other plan which has been identified in the maritime spatial plan or designated maritime area plan.

32. The proposed development would interfere with public navigation.

33. The proposed development—

(a) could, due to the risk of a major accident or if a major accident were to occur, lead to serious danger to human health or the environment, or

(b) is in an area where it is necessary to limit the risk of there being any serious danger to human health or the environment.

34. The proposed development would detrimentally interfere with the character of the landscape or with a view or prospect of special amenity value or natural interest or beauty, the preservation of which is an objective of a development plan, urban area plan, priority area plan, coordinated area plan, maritime spatial plan or designated maritime area plan for the area in which the development is proposed.

35. The proposed development may cause significant pollution, including air, water or noise pollution or vibrations or any pollution connected with the disposal of waste or otherwise create a material risk to waters, the atmosphere, land, soil, biodiversity or human health.

36. The proposed development may result in emissions or other adverse effects which are inconsistent with—

(a) the approved climate action plan at the time of decision,

(b) the approved national long-term climate action strategy at the time of decision,

(c) the approved national adaptation framework and approved sectoral adaptation plans at the time of decision,

(d) the furtherance of the national climate objective, and

(e) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.

37. In the case of development including any structure or any addition to or extension of a structure, the structure, addition or extension would—

(a) endanger or interfere with the safety of aircraft or sea vessels or the safe and efficient navigation thereof, or

(b) be prejudicial to public health.

38. The development would contravene materially a condition attached to an existing permission for development.

39. The proposed development would injure or interfere with—

(a) any monument or place recorded in the record of monuments and places under section 12 of the National Monuments (Amendment) Act 1994,

(b) any monument to which general protection (within the meaning of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023) applies, or

(c) any monument to which special protection (within the meaning of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023) applies.

40. The proposed development would materially contravene an objective indicated in a designated maritime area plan.

41. The proposed development would be contrary to the National Planning Framework, National Marine Planning Framework or a National Planning Statement.

42. In accordance with *section 173*, the planning authority or the Maritime Area Regulatory Authority considers that there is a real and substantial risk that the development in respect of which permission is sought would not be completed in accordance with any permission or any condition to which such a permission would be subject.

43. The proposed development—

(a) would contravene materially a development objective indicated in the development plan or maritime spatial plan for the conservation and preservation of a European site in so far as the proposed development would adversely affect—

(i) one or more specific—

(I) natural habitat types in Annex I of the Habitats Directive, or

(II) species in Annex II of the Habitats Directive which the site hosts,

which have been selected by the relevant Minister in accordance with Annex III (Stage 1) of that Directive, or

(ii) species of bird or their habitat or other habitat specified in Article 4 of the Birds Directive, which formed the basis of the classification of that site,

or

(b) would have a significant adverse effect on any other areas referred to in *subsection (2)* of *section 50* or in a maritime spatial plan.

44. The development would contravene materially a development objective indicated in the maritime spatial plan concerned, including any objective for the carrying out of any specific project indicated in the maritime spatial plan.

45. (1) The proposed development is by an applicant associated with a previous development (whether or not such previous development was within the functional area of the planning authority to which the proposed development relates)—

(a) which, in the opinion of the planning authority in whose functional area the previous development is situated, has not been satisfactorily completed in the ordinary course of development, or

(b) where the estate to which the previous development relates has not been taken in charge by the local authority concerned because the estate has not been completed to the satisfaction of that authority.

(2) In this paragraph "associated", in relation to a previous development, means a development under the Act of 2000 to which section 180 of that Act relates, or under this Act to which *section 261*, *262* or *264* relates, and in respect of which the development has not been satisfactorily completed or taken in charge by the local authority concerned or Uisce Éireann due to the actions (whether of commission or omission) of—

(a) the applicant for the proposed development,

(b) a partnership of which the applicant is or was a member and which, during the membership of that applicant, carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under the Act of 2000 or this Act,

(c) a registered society under the Industrial and Provident Societies Acts 1893 to 2021 that—

(i) carried out a development pursuant to a previous permission,

(ii) carried out a substantial unauthorised development, or

(iii) has been convicted of an offence under the Act of 2000 or this Act, or, during any period to which *subclause (i)* or *(ii)* relates or to which any conviction under *subclause (iii)* relates, the registered society was, during that period, controlled by the applicant—

(I) where, pursuant to section 15 of the Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Act 2014, "control" has the same meaning as in subsection (5) of section 220 of the Companies Act 2014, or

(II) as a shadow director within the meaning of subsection (1) of section 2 of the Companies Act 2014,

(d) where the applicant for the proposed development is a company—

(i) the company concerned is related to a company (within the meaning of subsection (10) of section 2 of the Companies Act 2014) which carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under the Act of 2000 or this Act, or

(ii) the company concerned is under the same control as a company that carried out a development referred to in *subparagraph (1)* where "control" has the same meaning as in subsection (5) of section 220 of the Companies Act 2014,

or

(e) a company that carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under the Act of 2000 or this Act, which company is controlled by the applicant—

(i) where "control" has the same meaning as in subsection (5) of section 220 of the Companies Act 2014, or

(ii) as a shadow director within the meaning of subsection (1) of section 2 of the Companies Act 2014.

46. The proposed development would not be consistent with the objectives of a river basin management plan made under regulation 13 of the European Communities (Water Policy) Regulations 2003 (S.I. No. 722 of 2003).

47. The development would contravene materially a maritime usage indicated in the maritime spatial plan concerned.

SCHEDULE 5

Sections 434, *437*, *452*, *456*, *459* and *474* and *Schedules 3* and *6*

CONDITIONS TO WHICH GRANT OF PERMISSION MAY BE SUBJECT WITHOUT ENTITLEMENT TO COMPENSATION

PART 1

LAND

1. A condition under *paragraph (g)* of *subsection (3)* of *section 87* requiring the giving of security for satisfactory completion of the proposed development.
2. A condition under *paragraph (j)* or *(k)* of *subsection (3)* of *section 87* requiring the maintenance until taken in charge by the local authority concerned or Uisce Éireann, as may be appropriate, of roads, open spaces, carparks, sewers, watermains or drains.
3. A condition included in a grant of permission requiring the payment of a development contribution.
4. A condition under *paragraph (o)* of *subsection (3)* of *section 87* requiring the removal of an advertisement structure.
5. A condition under *paragraph (o)* of *subsection (3)* of *section 87* in a case in which the relevant application for permission relates to a temporary structure.
6. Any condition relating to the reservation or allocation of any particular land, or all land in any particular area, for development of a specified class or classes, or the prohibition or restriction either permanently or temporarily, of development on any specified land.
7. Any condition relating to the preservation of the quality and character of urban or rural areas.
8. Any condition relating to the regulation, restriction and control of development of coastal areas or development in the vicinity of inland waterways.
9. Any condition relating to the protection of the linguistic or cultural heritage of the Gaeltacht.
10. Any condition relating to reducing the risk or limiting the consequences of a major accident, or limiting the risk of there being any serious danger to human health or the environment.
11. Any condition regulating, restricting or controlling development in areas at risk of flooding.
12. Any condition relating to—
    (a) the regulation and control of the layout of areas and structures, including density, spacing, grouping and orientation of structures in relation to roads, open spaces and other structures,

(b) the regulation and control of the design, colour and materials of structures and groups of structures, or

(c) the promotion of design in structures for the purposes of flexible and sustainable use, including conservation of energy and resources.

13. Any condition limiting the number of structures or the number of structures of a specified class which may be constructed, erected or made on, in or under any area.

14. Any condition regulating and controlling all or any of the following matters—

(a) the size, height, floor area and character of structures,

(b) building lines, coverage and the space about houses and other structures,

(c) the extent of parking places required in, on or under structures of a particular class or size or services or facilities for the parking, loading, unloading or fuelling of vehicles,

(d) the objects which may be affixed to structures,

(e) the purposes for and the manner in which structures may be used or occupied, including, in the case of dwellings, the letting thereof in separate units, or

(f) the persons of a particular class or description to whom the use of a dwelling may be restricted.

15. Any condition relating to the alteration or removal of unauthorised structures.

16. Any condition relating to the provision and siting of sanitary services and waste facilities, recreational facilities and open spaces.

17. Any condition relating to the protection and conservation of the environment including the prevention of environmental pollution and the protection of waters, groundwater, the seashore and the atmosphere.

18. Any condition relating to measures to reduce or prevent the emission or the intrusion of noise or vibration.

19. Any conditions relating to measures for the regulation of aircraft noise at Dublin Airport including, as appropriate, the area around Dublin Airport significantly affected by aircraft noise.

20. Any condition prohibiting, regulating or controlling the deposit or disposal of waste materials and refuse, the disposal of sewage and the pollution of rivers, lakes, ponds, gullies and the seashore.

21. Any condition relating to the protection of features of the landscape which are of major importance for wild fauna and flora.

22. Any condition relating to the preservation and protection of trees, shrubs, plants and flowers.

23. Any condition relating to the protection, preservation, archaeological excavation or recording of places, caves, sites, features, wrecks or other objects of archaeological,

geologic, historical, scientific or ecological interest, whether situated on land or under water.

24. Any condition relating to the conservation and preservation of—

    (a) one or more specific—

        (i) natural habitat types in Annex I of the Habitats Directive, or

        (ii) species in Annex II of the Habitats Directive which the site hosts,

        contained in a European site selected by the Minister in accordance with Annex III (Stage 1) of that Directive,

    (b) one or more specific species of bird or their habitat or other habitat contained in a European site specified in Article 4 of the Birds Directive, which formed the basis of the classification of that site, or

    (c) any other area referred to in *subsection (2)* of *section 50*.

25. Any condition relating to—

    (a) the preservation of the landscape in general, or

    (b) an area or place to which an order under section 204 of the Act of 2000 in force immediately before the repeal of that section by *section 6* applies,

    including views, prospects and amenities of places and features of natural beauty or interest.

26. Any condition for preserving any existing public right of way.

27. Any condition reserving, as a public park, public garden or public recreation space, land normally used as such.

28. Any condition prohibiting, restricting or controlling, either generally or within a specified distance of the centre line of any specified road, the erection of all or any particular forms of advertisement structure or the exhibition of all or any particular forms of advertisement.

29. Any condition preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any structure, or from the objectionable or neglected condition of any land attached to a structure or abutting on a public road or situated in a residential area.

30. Any condition relating to a matter in respect of which a requirement could have been imposed under any other Act, or under any order, regulation, rule or bye-law made under any other Act, without liability for compensation.

31. Any condition prohibiting the demolition of a habitable house.

32. Any condition relating to the filling of land.

33. Any condition in the interest of ensuring the safety of aircraft or the safe and efficient navigation thereof.

34. Any condition determining the sequence in which works shall be carried out or specifying a period within which works shall be completed.

35. Any condition restricting the occupation of any structure included in a development until the completion of other works included in the development or until any other specified condition is complied with or until the planning authority consents to such occupation.

36. Any conditions relating to the protection of a protected structure or a proposed protected structure.

37. A condition under *paragraph (a)* of *subsection (2)* of *section 98* or *paragraph (a)* of *subsection (2)* of *section 123*.

38. A condition under *paragraph (b)* of *subsection (2)* of *section 98* or *paragraph (b)* of *subsection (2)* of *section 123* requiring the applicant to inform the planning authority in writing of particulars of the aspect of a development (that has not yet been confirmed) before the date of the commencement of the proposed development, or the part of the proposed development to which that aspect relates, or such earlier date as may be prescribed.

PART 2

MARITIME AREA

39. A condition under *paragraph (g)* of *subsection (3)* of *section 87* requiring the giving of security for satisfactory completion of the proposed development.

40. A condition included in a grant of permission requiring the payment of a development contribution.

41. A condition under *paragraph (o)* of *subsection (3)* of *section 87* requiring the removal of an advertisement structure.

42. A condition under *paragraph (o)* of *subsection (3)* of *section 87* in a case in which the relevant application for permission relates to a temporary structure.

43. Any condition relating to the reservation or allocation of any particular maritime site, or all maritime sites in any particular area, for development of a specified class or classes, or the prohibition or restriction either permanently or temporarily, of development on any specified maritime site.

44. Any condition relating to the preservation of the quality and character of urban or rural areas.

45. Any condition relating to the regulation, restriction and control of development of coastal areas or development in the vicinity of inland waterways.

46. Any condition relating to reducing the risk or limiting the consequences of a major accident, or limiting the risk of there being any serious danger to human health or the environment.

47. Any condition relating to—

    (a) the regulation and control of the layout of areas and structures, including density, spacing, grouping and orientation of structures in relation to roads, open spaces and other structures,

    (b) the regulation and control of the design, colour and materials of structures and groups of structures, or

    (c) the promotion of design in structures for the purposes of flexible and sustainable use, including conservation of energy and resources.

48. Any condition limiting the number of structures or the number of structures of a specified class which may be constructed, erected or made on, in or under any area.

49. Any condition regulating and controlling all or any of the following matters:

    (a) the size, height, floor area and character of structures;

    (b) building lines, coverage and the space about structures;

    (c) the objects which may be affixed to structures;

    (d) the purposes for and the manner in which structures may be used or occupied.

50. Any condition relating to the alteration or removal of unauthorised structures.

51. Any condition relating to the provision and siting of sanitary services and waste facilities and recreational facilities.

52. Any condition relating to the protection and conservation of the environment including the prevention of environmental pollution and the protection of waters, groundwater, the seashore and the atmosphere.

53. Any condition relating to measures to reduce or prevent the emission or the intrusion of noise or vibration.

54. Any condition prohibiting, regulating or controlling the deposit or disposal of waste materials and refuse, the disposal of sewage and the pollution of rivers, lakes, ponds, gullies and the seashore.

55. Any condition relating to the protection of features of the landscape which are of major importance for wild fauna and flora.

56. Any condition relating to the preservation and protection of trees, shrubs, plants and flowers.

57. Any condition relating to the protection, preservation, archaeological excavation or recording of places, caves, sites, features, wrecks or other objects of archaeological, geological, historical, scientific or ecological interest, whether situated on land or under water.

58. Any condition relating to the conservation and preservation of—

    (a) one or more specific—

(i) natural habitat types in Annex I of the Habitats Directive, or

(ii) species in Annex II of the Habitats Directive which the site hosts,

contained in a European site selected by the Minister in accordance with Annex III (Stage 1) of that Directive,

(b) one or more specific species of bird or their habitat or other habitat contained in a European site specified in Article 4 of the Birds Directive, which formed the basis of the classification of that site, or

(c) any other area referred to in *subsection (2)* of *section 50* or in a maritime spatial plan.

59. Any condition prohibiting, restricting or controlling, either generally or within a specified distance of the centre line of any specified road, the erection of all or any particular forms of advertisement structure or the exhibition of all or any particular forms of advertisement.

60. Any condition preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any structure, or from the objectionable or neglected condition of any maritime site attached to a structure.

61. Any condition relating to a matter in respect of which a requirement could have been imposed under any other Act, or under any order, regulation, rule or bye-law made under any other Act, without liability for compensation.

62. Any condition relating to the filling of a maritime site.

63. Any condition in the interest of ensuring the safety of aircraft or sea vessels or the safe and efficient navigation thereof.

64. Any condition determining the sequence in which works shall be carried out or specifying a period within which works shall be completed.

65. Any condition restricting the occupation of any structure included in a development until the completion of other works included in the development or until any other specified condition is complied with or until the planning authority consents to such occupation.

66. A condition under *paragraph (a)* of *subsection (2)* of *section 98* or *paragraph (a)* of *subsection (2)* of *section 123*.

67. A condition under *paragraph (b)* of *subsection (2)* of *section 98* or *paragraph (b)* of *subsection (2)* of *section 123* requiring the applicant to inform the planning authority in writing of particulars of the aspect of a development (that has not yet been confirmed) before the date of the commencement of the proposed development, or the part of the proposed development to which that aspect relates, or such earlier date as may be prescribed.

SCHEDULE 6

Sections 435, *448*, *457* and *470*

RULES FOR DETERMINATION OF AMOUNT OF COMPENSATION

PART 1

LAND

1. The reduction in value shall, subject to the other provisions of this Part, be determined by reference to the difference between the antecedent and subsequent values of the land, where—

   (a) the antecedent value of the land is the amount which the land, if sold in the open market by a willing seller immediately prior to the relevant decision under *Part 4* (and assuming that the relevant application for permission had not been made), might have been expected to realise, and

   (b) the subsequent value of the land is the amount which the land, if sold in the open market by a willing seller immediately after that decision, might be expected to realise.

2. (1) In determining the antecedent value and subsequent value of the land for the purposes of *paragraph 1*—

   (a) regard shall be had to—

      (i) in the case of the subsequent value of the land, any contribution which a planning authority might have required or might require as a condition precedent to development of the land,

      (ii) any restriction on the development of the land which, without conferring a right to compensation, could have been or could be imposed under any Act or under any order, regulations, rule or bye-law made under any Act,

      (iii) the fact that exempted development could have been or can be carried out on the land, and

      (iv) the open market value of comparable land, if any, in the vicinity of the land whose values are being determined,

   (b) no account shall be taken of—

      (i) any part of the value of the land attributable to subsidies or grants available from public moneys, or to any tax or rating allowances in respect of development, from which development of the land might benefit,

      (ii) the special suitability or adaptability of the land for any purpose if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any statutory

body, provided that any *bona fide* offer for the purchase of the land which may be brought to the notice of the arbitrator shall be taken into consideration,

(iii) any increase in the value of land attributable to the use thereof or of any structure thereon in a manner which could be restrained by any court, or is contrary to law, or detrimental to the health of the inmates of the structure, or to public health or safety, or to the environment,

(iv) any depreciation or increase in value attributable to the land, or any land in the vicinity, being reserved for a particular purpose in a development plan,

(v) any value attributable to any unauthorised structure or unauthorised use,

(vi) the existence of proposals for development of the land or any other land by a statutory body, or

(vii) the possibility or probability of the land or other land becoming subject to a scheme of development undertaken by a statutory body,

and

(c) all returns and assessments of capital value for taxation made or acquiesced in by the claimant may be considered.

(2) In this paragraph "statutory body" means—

(a) a Minister of the Government,

(b) the Commissioners,

(c) a local authority,

(d) the Health Service Executive,

(e) an education and training board,

(f) a board or other body established by or under an enactment,

(g) a company (being a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act) in which all the shares are held by, or on behalf of, or by directors appointed by, a Minister of the Government,

(h) a company (being a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act) in which all the shares are held by a board or other body referred to in *clause (f)*, or a company referred to in *clause (g)*,

(i) the Maritime Area Regulatory Authority, or

(j) the Office of the Planning Regulator.

3. (1) In assessing the possibilities, if any, for developing the land, for the purposes of determining its antecedent value, regard shall be had only to such reasonable

possibilities as, having regard to all material considerations, could be judged to have existed immediately prior to the relevant decision under *Part 4*.

(2) Material considerations for the purposes of *subparagraph (1)* shall, without prejudice to the generality thereof, include—

(a) the nature and location of the land,

(b) the likelihood or unlikelihood, as the case may be, of obtaining permission or further permission, to develop the land,

(c) the assumption that, if any permission to develop the land were to be granted, any conditions which might reasonably be imposed in relation to matters referred to in *Part 1* of *Schedule 5* (but no other conditions) would be imposed, and

(d) any permission to develop the land, not being permission for the development of a kind specified in a notice served under *subsection (1)* of *section 437*, already existing at the time of the relevant decision under *Part 4*.

4. In determining the subsequent value of the land in a case in which there has been a refusal of permission—

(a) it shall be assumed that, after the refusal, permission under *Part 4* would not be granted for any development of a kind specified in a notice served under *subsection (1)* of *section 437*, and

(b) regard shall be had to any conditions in relation to matters referred to in *Part 1* of *Schedule 5* (but no other conditions) which might reasonably be imposed in the grant of permission to develop the land.

5. In this Part "open market value" means—

(a) in relation to a house, the price that the unencumbered fee simple of the house would fetch if sold on the open market, and

(b) in relation to land in respect of which permission is granted, the price that the unencumbered fee simple of the land would have fetched if it had been sold on the open market on the date of such grant.

PART 2

MARITIME AREA

6. The reduction in value shall, subject to the other provisions of this Part, be determined by reference to the difference between the antecedent and subsequent values of the maritime site, where—

(a) the antecedent value of the maritime site is the amount which the maritime site, if sold in the open market by a willing seller immediately prior to the

relevant decision under *Part 4* (and assuming that the relevant application for permission had not been made), might have been expected to realise, and

(b) the subsequent value of the maritime site is the amount which the maritime site, if sold in the open market by a willing seller immediately after that decision, might be expected to realise.

7. (1) In determining the antecedent value and subsequent value of the maritime site for the purposes of *paragraph 6*—

(a) regard shall be had to—

(i) in the case of the subsequent value of the maritime site, any contribution which a planning authority might have required or might require as a condition precedent to development of the maritime site,

(ii) any restriction on the development of the maritime site which, without conferring a right to compensation, could have been or could be imposed under any Act or under any order, regulations, rule or bye-law made under any Act,

(iii) the fact that exempted development could have been or can be carried out on the maritime site, and

(iv) the open market value of comparable maritime sites, if any, in the vicinity of the maritime site whose values are being determined,

(b) no account shall be taken of—

(i) any part of the value of the maritime site attributable to subsidies or grants available from public moneys, or to any tax or rating allowances in respect of development, from which development of the maritime site might benefit,

(ii) the special suitability or adaptability of the maritime site for any purpose if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any statutory body, provided that any *bona fide* offer for the purchase of the maritime site which may be brought to the notice of the arbitrator shall be taken into consideration,

(iii) any increase in the value of the maritime site attributable to the use thereof or of any structure thereon in a manner which could be restrained by any court, or is contrary to law, or detrimental to the health of the inmates of the structure, or to public health or safety, or to the environment,

(iv) any depreciation or increase in value attributable to the maritime site, or any maritime site in the vicinity, being reserved for a particular purpose in a development plan,

(v) any value attributable to any unauthorised structure or unauthorised use,

(vi) the existence of proposals for development of the maritime site or any other maritime site by a statutory body, or

(vii) the possibility or probability of the maritime site or other maritime sites becoming subject to a scheme of development undertaken by a statutory body,

and

(c) all returns and assessments of capital value for taxation made or acquiesced in by the claimant may be considered.

(2) In this paragraph "statutory body" means—

(a) a Minister of the Government,

(b) the Commissioners,

(c) a local authority,

(d) the Health Service Executive,

(e) an education and training board,

(f) a board or other body established by or under an enactment,

(g) a company (being a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act) in which all the shares are held by, or on behalf of, or by directors appointed by, a Minister of the Government,

(h) a company (being a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act) in which all the shares are held by a board or other body referred to in *clause (f)*, or a company referred to in *clause (g)*,

(i) the Maritime Area Regulatory Authority, or

(j) the Office of the Planning Regulator.

8. (1) In assessing the possibilities, if any, for developing the maritime site, for the purposes of determining its antecedent value, regard shall be had only to such reasonable possibilities as, having regard to all material considerations, could be judged to have existed immediately prior to the relevant decision under *Part 4*.

(2) Material considerations for the purposes of *subparagraph (1)* shall, without prejudice to the generality thereof, include—

(a) the nature and location of the maritime site,

(b) the likelihood or unlikelihood, as the case may be, of obtaining permission or further permission, to develop the maritime site,

(c) the assumption that, if any permission to develop the maritime site were to be granted, any conditions which might reasonably be imposed in relation to

matters referred to in *Part 2* of *Schedule 5* (but no other conditions) would be imposed, and

(d) any permission to develop the maritime site, not being permission for the development of a kind specified in a notice served under *subsection (1)* of *section 459*, already existing at the time of the relevant decision under *Part 4*.

9. In determining the subsequent value of the maritime site in a case in which there has been a refusal of permission—

(a) it shall be assumed that, after the refusal, permission under *Part 4* would not be granted for any development of a kind specified in a notice served under *subsection (1)* of *section 459*, and

(b) regard shall be had to any conditions in relation to matters referred to in *Part 2* of *Schedule 5* (but no other conditions) which might reasonably be imposed in the grant of permission to develop the maritime site.

10. In this Part "open market value" means, in relation to a maritime site in respect of which permission is granted, the price that the unencumbered fee simple of the maritime site would have fetched if it had been sold on the open market on the date of such grant.

SCHEDULE 7

Section 631

AMENDMENT OF ACTS OF THE OIREACHTAS

Reference Number (1)	**Act of the Oireachtas** (2)	**Extent of Amendment** (3)
1.	National Monuments Act 1930 (No. 2 of 1930)	Subparagraph (iii) of paragraph (c) of subsection (8) of section 14B (inserted by section 5 of the National Monuments (Amendment) Act 2004) is amended by the substitution of "pursuant to *Chapter 5* of *Part 3* of the *Planning and Development Act 2024*," for "under section 9 of the Planning and Development Act 2000".
2.	Foreshore Act 1933 (No. 12 of 1933)	Section 1 is amended by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;". Section 13C (inserted by section 180 of the Maritime Area Planning Act 2021) is amended, in subsection (1), by— (a) the substitution of "(within the meaning of the *Act of 2024*)" for "(within the meaning of the Act of 2000)", and (b) by the substitution of the following paragraph for paragraph (a): "(a) applies for approval for a proposed development— (i) under section 226 of the Act of 2000, (ii) on and after the coming into operation of section 12(2) of the Maritime Area Planning Act 2021, under section 175 of the Act of 2000, or (iii) in relation to *Chapter 4* local authority development within the meaning of the *Act of 2024*, or".
3.	Minerals Development Act 1940 (No. 31 of 1940)	Section 8A (inserted by Regulation 2 of the European Union (Environmental Impact Assessment) (Minerals Development Act 1940) (Amendment) Regulations 2018 (S.I. No. 384 of 2018)) is amended, in subsection (1), by— (a) the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;", (b) in the definition of "environmental impact assessment", by the substitution of "*section 2* of the *Act of 2024*" for "section 171A of the Act of 2000", and

		(c) in the definition of "European site", by the substitution of "*section 2* of the *Act of 2024*" for "section 177R of the Act of 2000".
4.	Arterial Drainage Act 1945 (No. 3 of 1945)	Section 3A (inserted by paragraph (a) of Regulation 3 of the European Union (Environmental Impact Assessment) (Arterial Drainage) Regulations 2019 (S.I. No. 472 of 2019)) is amended, in subsection (1), by the substitution of "the expression 'EIA portal' means the environmental impact assessment portal operated and maintained in accordance with *section 241* of the *Planning and Development Act 2024*" for "the expression 'EIA portal' means the website referred to in section 172A of the Planning and Development Act 2000".
5.	Housing Act 1966 (No. 21 of 1966)	Section 90 is amended, in paragraph (b) of subsection (4), by the substitution of "*section 406* of the *Planning and Development Act 2024*" for "section 211 of the Planning and Development Act 2000".
6.	Fire Services Act 1981 (No. 30 of 1981)	Section 13 is amended by the substitution of "the Planning and Development Act 2000 or *Chapter 3* of *Part 4* of the *Planning and Development Act 2024* (as they relate to permission for development and for the retention of structures in both cases)" for "(which relates to permission for development and for the retention of structures) of the Planning and Development Act 2000".
7.	Industrial Development Act 1986 (No. 9 of 1986)	Section 16D (inserted by section 7 of the Industrial Development (Amendment) Act 2018) is amended— (a) in subsection (1)— (i) by the substitution of "*Part 14* of the *Act of 2024*" for "Part XIV of the Act of 2000", (ii) by the substitution of "in the *Act of 2024*" for "in the Act of 2000", and (iii) by the substitution of "vested in" for "transferred to", (b) in paragraph (a) of subsection (2), by the substitution of "*sections 411(1)*, *412(3)*, *(5)*, *(6)*, *(7)* and *(8)*, *413*, *415(1)*, *416(1)*, *(3)* and *(4)*, *417*, *419(1)*, *(2)*, *(4)*, *(6)* and *(7)* and *421* of the *Act of 2024*" for "sections 216(1), 217(3), (5), (6), (6A) and (7), 217A, 217C(1), 218(1), (3) and (4), 219 and 221(1), (2), (3), (5), (7) and (8) of the Act of 2000", (c) in paragraph (b) of subsection (2), by the substitution of "vested under Part 14 of the *Act of 2024*" for "transferred under Part XIV of that Act", and (d) in subsection (3), by the insertion of the following definition:

		" '*Act of 2024*' means the *Planning and Development Act 2024*;".
8.	Local Government Act 1991 (No. 11 of 1991)	Section 43 is amended, in clause (I) of subparagraph (i) of paragraph (b) of subsection (4), by the substitution of "Planning and Development Acts 2000 to 2023 or the *Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2014".
9.	Environmental Protection Agency Act 1992 (No. 7 of 1992)	Section 3 is amended, in subsection (1)— (a) by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development 2024*;", (b) in the definition of "development", by the substitution of "*section 2* of the *Act of 2024*" for "section 3 of the Act of 2000", (c) in the definition of "planning authority", by the substitution of "*Act of 2024*" for "Act of 2000", (d) in the definition of "statutory undertaker", by the substitution of "*Act of 2024*" for "Act of 2000", and (e) in the definition of "works", by the substitution of "*Act of 2024*" for "Act of 2000". Section 63 is amended, in subsection (10), by the insertion of "or under *Chapter 3* of *Part 4* of the *Act of 2024*" after "Act of 2000". Section 86 is amended— (a) in subsection (8), by the insertion of "or *Chapter 3* of *Part 4* of the *Act of 2024*" after "Act of 2000" in each place it occurs, and (b) in subsection (11)— (i) by the substitution of "*Part 4* of the *Act of 2024*" for "Part III of the Act of 2000", and (ii) by the substitution of "*Act of 2024*." for "Act of 2000.". Section 87 is amended— (a) in subsection (1A)— (i) in the definition of "application for permission", by the substitution of the following paragraphs for paragraphs (b) and (c): "(b) an application for approval for development under section 175, 177AE, 181(2A), 181A, 182A, 182C or 226 of the Act of 2000, (c) an application for substitute consent under section 177E of the Act of 2000, or

(d) an application for permission under *Part 4* of the *Act of 2024*;",

and

(ii) in the definition of "grant of permission", by the substitution of the following paragraphs for paragraphs (b) and (c):

"(b) an approval for development under section 175, 177AE, 181B, 182B, 182D or 226 of the Act of 2000,

(c) a grant of substitute consent under section 177K of the Act of 2000, or

(d) a permission under *Part 4* of the *Act of 2024*.",

(b) in subsection (1B)—

(i) by the insertion of "or *section 155* of the *Act of 2024*" after "section 181(2)(a) of the Act of 2000",

(ii) by the substitution of "State authority emergency order" for "section 181(2)(a) order" in each place it occurs,

(iii) in subparagraph (i) of paragraph (a), by the insertion of "or the *Act of 2024*" after "Act of 2000",

(iv) in subparagraph (ii) of paragraph (a)—

(I) by the insertion of "or the *Act of 2024*" after "Act of 2000", and

(II) by the substitution of "those Acts" for "that Act",

and

(v) in subparagraph (ii) of paragraph (b)—

(I) by the insertion of "or the *Act of 2024*" after "Act of 2000", and

(II) by the substitution of "those Acts" for "that Act",

(c) in subsection (1D)—

(i) in subparagraph (i) of paragraph (d), by the insertion of "or *section 102(5)* of the *Act of 2024*, as the case may be," after "Act of 2000", and

(ii) in subparagraph (ii) of paragraph (d)—

(I) by the substitution of "State authority emergency order" for "section 181(2)(a) order", and

(II) by the substitution of "Act of 2000, or refused to grant permission for *Chapter 4* State authority emergency development (within the meaning of *Part 4* of the *Act of 2024*)" for "Act of 2000",

(d) in paragraph (a) of subsection (1E)—

		(i) in subparagraph (i), by the insertion of "or by permission granted for *Chapter 4* State authority emergency development (within the meaning of *Part 4* of the *Act of 2024*)" after "Act of 2000", and (ii) in subparagraph (ii), by the insertion of "or by permission granted for *Chapter 4* State authority emergency development (within the meaning of *Part 4* of the *Act of 2024*)" after "Act of 2000", (e) in subsection (1G)— (i) in paragraph (a), by the insertion of "or the *Act of 2024*" after "Act of 2000", (ii) in subparagraph (i) of paragraph (b), by the insertion of "or *section 225* of the *Act of 2024*" after "Act of 2000", and (iii) in subparagraph (ii) of paragraph (b), by the insertion of "or the *Act of 2024*" after "Act of 2000", (f) in paragraph (ab) of subsection (2), by the substitution of "State authority emergency order" for "section 181(2)(a) order", and (g) in subparagraph (iib) of paragraph (a) of subsection (8), by the substitution of "State authority emergency order" for "section 181(2)(a) order".
		Section 89 is amended— (a) in paragraph (b) of subsection (2), by the insertion of "or *Part 4* of the *Act of 2024*" after "Act of 2000", and (b) in subparagraph (iii) of paragraph (f) of subsection (2), by the insertion of "or *section 227* of the *Act of 2024*" after "Act of 2000".
		Section 99F is amended— (a) in subsection (1)— (i) by the substitution of "Where" for "Notwithstanding section 34 of the Act of 2000, or any other provision of that Act, where", and (ii) by the substitution of "*Part 4* of the *Act of 2024*" for "section 34 or substitute consent, within the meaning of section 177A, of that Act", (b) in subsection (2), by the substitution of "*Chapter 3* of *Part 4* of the *Act of 2024*" for "section 34 or refuse a grant of substitute consent, as defined in section 177A of the Act of 2000", and (c) in subsection (9)— (i) in paragraph (a), by the substitution of "*Chapter 3* of *Part 4* of the *Act of 2024*" for "section 34 of the Act of 2000", and

		(ii) in paragraph (aa), by the substitution of "a retrospective consent within the meaning of the *Act of 2024*" for "a substitute consent, as defined in section 177T of the Act of 2000".
10.	Housing (Miscellaneous Provisions) Act 1992 (No. 18 of 1992)	Section 6 is amended, in paragraph (ea) of subsection (2), by the insertion of "or *Part 7* of the *Planning and Development Act 2024*" after "Planning and Development Act 2000".
11.	Roads Act 1993 (No. 14 of 1993)	Section 2 is amended, in subsection (1)— (a) by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;", (b) in the definition of "development plan", by the substitution of "the *Act of 2024*" for "section 9(1) of the Act of 2000", (c) in the definition of "land", by the substitution of "*Act of 2024*" for "Act of 2000", (d) in the definition of "planning authority", by the substitution of "*Act of 2024*" for "Act of 2000", (e) in the definition of "planning permission", by the substitution of "granted under *Chapter 3* of *Part 4* of the *Act of 2024* or under *Chapter 4* of *Part 4* of that Act for strategic infrastructure development (within the meaning of that Act)" for "under Part III of the Act of 2000", (f) in the definition of "special amenity area order", by the substitution of "*section 266* of the *Act of 2024*" for "section 203 of the Act of 2000", and (g) in the definition of "structure", by the substitution of "*Act of 2024*" for "Act of 2000". Section 19 is amended, in subsection (6), by the substitution of "*Act of 2024*" for "Act of 2000". Section 46 is amended— (a) in subsection (1), by the substitution of "permission" for "permission, nor shall a decision by a planning authority to grant any planning permission be regarded as having been given under section 34(8) of the Act of 2000", and (b) in subsection (3), by the insertion of "or *section 434* of the *Act of 2024*" after "Act of 2000". Section 47 is amended, in paragraph (c) of subsection (4), by the substitution of "*section 382* of the *Act of 2024*" for "section 7 of the Act of 2000". Section 49 is amended, in paragraph (b) of subsection (5), by the substitution of "*section 177* of the *Act of 2024*" for "section 40 of the Act of 2000".

		Section 51AA is amended— (a) by the substitution of "development plan, urban area plan, priority area plan or coordinated area plan (within the meaning, in each case, of the *Act of 2024*), or any local area plan in force pursuant to *section 81* of the *Act of 2024*," for "development plan or any local area plan (within the meaning of the Act of 2000)", and (b) by the substitution, in paragraph (c), of "guidelines under section 28 of the Act of 2000 that continue in force under *section 27* of the *Act of 2024*, a national planning statement under the *Act of 2024*" for "guidelines under section 28 of the Act of 2000, policy directives under section 29 of the Act of 2000". By the insertion of the following section after section 51AA: **"Alteration of proposed road development** **51AB.** (1) A road Authority or the Authority that applied for an approval of a proposed road development under section 51 may request the Commission to alter the order that approved the proposed road development under subsection (6) of section 51. (2) A request under subsection (1) shall specify the particulars of the alteration and be accompanied by— (a) sufficient information to allow the Commission to assess the request, and (b) such documents or information as may be prescribed. (3) Subject to subsection (4), the Commission shall by order make the alteration where it is satisfied that the alteration is for one or more of the following purposes: (a) correcting a clerical error in the order; (b) facilitating the doing of a thing pursuant to the order, where the doing of that thing may reasonably be regarded as having been contemplated by a particular term of the order, or its terms as a whole, but was not expressly provided for in the order; (c) clarifying the terms of the order; or (d) facilitating the implementation or operation of the order.

		(4) The Commission shall not make an alteration under subsection (3) where to do so would, in its opinion, result in a material alteration of the order. (5) Before the Commission decides, in relation to a request under subsection (1), whether to make an alteration under subsection (3) or whether an alteration is a material alteration referred to in subsection (4), the Commission may invite submissions in relation to the matter to be made to it by any person it considers appropriate, and shall have regard to submissions made to it on foot of that invitation (if any) in making its decision. (6) An order under subsection (3) shall be considered to be an order under subsection (6) of section 51. (7) The Commission shall, as soon as practicable after making the order under subsection (3), notify the road authority or the Authority that made the request of the order. (8) In this section "Commission" means the Commission within the meaning of the *Act of 2024*.". Section 52 is amended, in subsection (6), by the substitution of "*section 149* of the *Act of 2024* and for the purposes of *section 439* of that Act" for "section 44 of the Act of 2000, and for the purposes of section 195 of that Act".
12.	Waste Management Act 1996 (No. 10 of 1996)	Section 5 is amended, in subsection (1), in the definition of "development", by the substitution of "*section 2* of the *Planning and Development Act 2024*" for "section 3 of the Planning and Development Act 2000". In section 22— (a) in paragraph (g) of subsection (10)— (i) by the substitution of "*section 159* of the *Planning and Development Act 2024*" for "section 179 of the Planning and Development Act 2000", and (ii) by the substitution of "section 3, 4 or 160" for "section 3, 4 or 179", (b) in subsection (10AA), by the insertion of "or *Part 4* of the *Planning and Development Act 2024*" after "Part III of the Planning and Development Act 2000", (c) in subsection (10B)—

(i) in paragraph (a), by the insertion of "or *Part 4* of the *Planning and Development Act 2024*" after "Part III of the Planning and Development Act 2000",

(ii) in subparagraph (ii) of paragraph (a) of subsection (10B), by the insertion of "or *Part 4* of the *Planning and Development Act 2024*" after "Planning and Development Act 2000",

(iii) in paragraph (c), substitute "(apart from the amendments of them effected by this section) or the *Planning and Development Act 2024*," for "(apart from the amendments of them effected by this section),",

(iv) in paragraph (d), by the substitution of "Planning and Development Act 2000, or *subsections (2)* to *(7)* of *section 99* of the *Planning and Development Act 2024*, as the case may be," for "Planning and Development Act 2000,", and

(v) in paragraph (e), by the substitution of "*section 101* of the *Planning and Development Act 2024*" for "section 34(8) of the Planning and Development Act 2000",

(d) in subparagraph (i) of paragraph (c) of subsection (10C), by the substitution of "*Chapter 4* or *Chapter 6* of *Part 4* of the *Planning and Development Act 2024*" for "section 175 or 179 of the Planning and Development Act 2000", and

(e) in paragraph (a) of subsection (10D), by the substitution of "In performing their functions under the Planning and Development Acts 2000 to 2023 or the *Planning and Development Act 2024*, and, in particular, their functions under Part III and sections 175 and 179 of the Planning and Development Act 2000 or *Part 4* of the *Planning and Development Act 2024*," for "In performing their functions under the Planning and Development Acts 2000 to 2002, and, in particular, their functions under Part III and sections 175 and 179 of the Planning and Development Act 2000,".

Section 42 is amended—

(a) in subsection (1A)—

(i) in the definition of "application for permission", by the substitution of the following paragraphs for paragraphs (b) and (c):

"(b) an application for approval for development under section 175, 177AE, 181A, 182A, 182C or 226 of the Planning and Development Act 2000,

(c) an application for substitute consent under section 177E of the Planning and Development Act 2000, or

(d) an application for permission under *Part 4* of the *Planning and Development Act 2024*;",

(ii) in the definition of "grant of permission", by the substitution of the following paragraphs for paragraphs (b) and (c):

"(b) an approval for development under section 175, 177AE, 181B, 182B, 182D or 226 of the Planning and Development Act 2000,

(c) a grant of substitute consent under section 177K of the Planning and Development Act 2000, or

(d) permission under *Part 4* of the *Planning and Development Act 2024*;",

(b) in subsection (1AA), by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Act 2000",

(c) in subsection (1B)—

(i) in paragraph (a)—

(I) in subparagraph (i), by the insertion of "or the *Planning and Development Act 2024*, as the case may be," after "Planning and Development Act 2000", and

(II) in subparagraph (ii), by the insertion of "or the *Planning and Development Act 2024*, as the case may be" after "Planning and Development Act 2000",

(ii) in subparagraph (ii) of paragraph (b), by the insertion of "or the *Planning and Development Act 2024*, as the case may be" after "Planning and Development Act 2000",

(d) in paragraph (d) of subsection (1D), by the insertion of "or *subsection (5)* of *section 102* of the *Planning and Development Act 2024*" after "Planning and Development Act 2000",

(e) in subsection (1G)—

(i) in paragraph (a), by the insertion of "or the *Planning and Development Act 2024*, as the case may be" after "Planning and Development Act 2000", and

		(ii) in subparagraph (ii) of paragraph (b), by the insertion of "or the *Planning and Development Act 2024*, as the case may be," after "Planning and Development Act 2000". Section 54 is amended— (a) in subsection (3)— (i) by the substitution of "the *Planning and Development Act 2024*" for "section 34 of the Planning and Development Act 2000, or any other provision of that Act", and (ii) by the substitution of "*Chapter 3* of *Part 4*, or retrospective consent under *Chapter 4* of *Part 4*, of that Act" for "section 34 or, substitute consent as defined in section 177T, of that Act", (b) in subsection (3A), by the substitution of "*Chapter 3* of *Part 4* of the *Planning and Development Act 2024*, or refuse a grant of retrospective consent under *Chapter 4* of *Part 4* of that Act" for "section 34 or refuse a grant of substitute consent of the Planning and Development Act 2000", (c) in subsection (4)— (i) by the substitution of "Where a permission under section 34 of the Planning and Development Act 2000, or *Chapter 3* of *Part 4* of the *Planning and Development Act 2024*, as the case may be, has been granted" for "Where a permission under section 34 of the Planning and Development Act 2000 has been granted", and (ii) in subparagraph (ii) of paragraph (a), by the substitution of "Planning and Development Act 2000, or *Chapter 3* of *Part 4* of the *Planning and Development Act 2024*, as the case may be" for "Planning and Development Act 2000", and (d) in subsection (5), by the substitution of "of the *Planning and Development Act 2024*, and a condition attached to a permission under *Chapter 3* of *Part 4* of that Act" for "of the Planning and Development Act 2000, and a condition attached to a permission under section 34 of that Act".
13.	Harbours Act 1996 (No. 11 of 1996)	Section 9 is amended— (a) in subparagraph (ii) of paragraph (c) of subsection (3), by the substitution of "Planning and Development Acts 2000 to 2023 and the *Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2009",

		(b) in subparagraph (iii) of paragraph (c) of subsection (3), by the substitution of "Planning and Development Acts 2000 to 2023 and the *Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2009", and (c) by the substitution of the following subparagraph for subparagraph (iv) of paragraph (c) of subsection (3): "(iv) any development plan made by a planning authority pursuant to *Chapter 5* of *Part 3* of the *Planning and Development Act 2024*, any urban area plans, priority area plans or coordinated area plans made under *Chapter 6* of *Part 3* of that Act, or any local area plan continued in force by *section 81* of that Act.". Section 91 is amended— (a) in subparagraph (ii) of paragraph (c) of subsection (3), by the substitution of "Planning and Development Acts 2000 to 2023 and the *Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2014", (b) in subparagraph (iii) of paragraph (c) of subsection (3), by the substitution of "Planning and Development Acts 2000 to 2023 and the *Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2014", and (c) by the substitution of the following subparagraph for subparagraph (iv) of paragraph (c) of subsection (3): "(iv) any development plan made by a planning authority pursuant to *Chapter 5* of *Part 3* of the *Planning and Development Act 2024*, any urban area plans, priority area plans or coordinated area plans made under *Chapter 6* of *Part 3* of that Act, or any local area plan continued in force by *section 81* of that Act.".
14.	Litter Pollution Act 1997 (No. 12 of 1997)	Section 11 is amended, in subsection (3), by the substitution of "*Planning and Development Act 2024*" for "Local Government (Planning and Development) Act 1963". Section 19 is amended—

		(a) in paragraph (a) of subsection (7), by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Act 2000", and (b) in subsection (8), in the definition of "structure", by the substitution of "*Planning and Development Act 2024*" for "Local Government (Planning and Development) Act 1963". Section 20 is amended— (a) in subsection (8), by the substitution of "*Part 4* of the *Planning and Development Act 2024*" for "Part IV of the Local Government (Planning and Development) Act 1963", and (b) in subsection (9), by the substitution of "*Planning and Development Act 2024*" for "Local Government (Planning and Development) Act 1963".
15.	Housing (Miscellaneous Provisions) Act 1997 (No. 21 of 1997)	Section 1 is amended— (a) in the definition of "affordable house", by the substitution of "Planning and Development Act 2000, *Part 7* of the *Planning and Development Act 2024*," for "Planning and Development Act 2000", (b) in paragraph (b) of the definition of "anti-social behaviour", by the substitution of "Housing Acts 1966 to 2024, Part V of the Planning and Development Act 2000 or *Part 7* of the *Planning and Development Act 2024*" for "Housing Acts 1966 to 2014 or Part V of the Planning and Development Act 2000", (c) in the definition of "estate management"— (i) in paragraph (a), by the substitution of "Housing Acts 1966 to 2024, Part V of the Planning and Development Act 2000 or *Part 7* of the *Planning and Development Act 2024*" for "Housing Acts 1966 to 2002 or Part V of the Planning and Development Act 2000", and (ii) in paragraph (b), by the substitution of "Housing Acts 1966 to 2024, Part V of the Planning and Development Act 2000 or *Part 7* of the *Planning and Development Act 2024*" for "Housing Acts 1966 to 2002 or Part V of the Planning and Development Act 2000", and (d) in the definition of "tenant", by the substitution of "Housing Acts 1966 to 2024, Part V of the Planning and Development Act 2000 or *Part 7* of the *Planning and Development Act 2024*" for "Housing Acts 1966 to 2002 or Part V of the Planning and Development Act 2000". Section 14 is amended, in subsection (5), by the substitution of the following paragraphs for paragraphs (c) and (d):

		"(c) section 6 of the Housing (Miscellaneous Provisions) Act 2002; (d) Part V of the Planning and Development Act 2000; and (e) *Part 7* of the *Planning and Development Act 2024*.". Section 15 is amended, in subsection (2), by the substitution of "Housing Acts 1966 to 2024, Part V of the Planning and Development Act 2000 or *Part 7* of the *Planning and Development Act 2024*" for "Housing Acts 1966 to 2009 or Part V of the Planning and Development Act 2000".
16.	Courts Service Act 1998 (No. 8 of 1998)	Section 33 is amended— (a) in subsection (1), by the substitution of "*section 154* of the *Act of 2024*" for "section 181(1) of the Act of 2000", (b) by the substitution of the following paragraph for paragraph (a) of subsection (2): "(a) Notwithstanding— (i) subsection (1) of section 181 of the Act of 2000, (ii) *section 158* of the *Act of 2024*, and (iii) any regulations made under the sections referred to in paragraphs (i) and (ii), or under *paragraph (i)* of *subsection (2)* of *section 183* of the *Act of 2024*, that provide for the giving of any specified notice with respect to proposed development consisting of the provision of temporary courthouses, it shall be necessary to give such notice of such proposed development once only.", (c) in subsection (3), by the substitution of "*Act of 2024* or, as may be appropriate, any requirement or requirements of regulations under *section 158* or *section 183(2)(i)* of the *Act of 2024* specified in the order, shall not apply to the development, and for so long as such an order is in force the *Act of 2024*" for "Act of 2000 or, as may be appropriate, any requirement or requirements of regulations under section 181(1)(b) of the Act of 2000 specified in the order, shall not apply to the development, and for so long as such an order is in force the Act of 2000", and (d) by the substitution of the following subsection for subsection (6):

		"(6) In this section— 'Act of 2000' means the Planning and Development Act 2000; '*Act of 2024*' means the *Planning and Development Act 2024*.".
17.	Wildlife (Amendment) Act 2000 (No. 38 of 2000)	Section 15 is amended, in the definition of "works", by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Act 2000". Section 18A is amended, in subsection (2), by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Act 2000" in each place it occurs. Section 59H is amended, in paragraph (aa) of subsection (1), by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Act 2000".
18.	Local Government Act 2001 (No. 37 of 2001)	Section 2 is amended, in subsection (1)— (a) by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;", and (b) in the definition of "land", by the substitution of "*Act of 2024*" for "Act of 2000". Section 51 is amended, in subparagraph (ii) of paragraph (a) of subsection (2), by the substitution of "*Part 3* of the *Act of 2024*" for "Part II of the Act of 2000". Section 66B is amended, in subsection (4), by the substitution of the following paragraphs for paragraphs (a) and (b): "(a) the integrated overall strategy and the objectives of the development plan (being the development plan for the purposes of *Chapter 5* of *Part 3* of the *Act of 2024*) of the local authority concerned, and (b) any regional spatial and economic strategy (being a strategy for the purposes of *Chapter 4* of *Part 3* of the *Act of 2024*)". Section 66C is amended— (a) in paragraph (c) of subsection (2), by the substitution of the following subparagraphs for subparagraphs (i) and (ii):

		"(i) the integrated overall strategy and the objectives of the development plan (being the development plan for the purposes of *Chapter 5 of Part 3* of the *Act of 2024*) of the local authority concerned, (ii) any regional spatial and economic strategy (being a strategy for the purposes of *Chapter 4 of Part 3* of the *Act of 2024*), that may apply, and", (b) in paragraph (c) of subsection (3), by the substitution of the following subparagraphs for subparagraphs (i) and (ii): "(i) the integrated overall strategy and the objectives of the development plan (being the development plan for the purposes of *Chapter 5 of Part 3* of the *Act of 2024*) of the local authority concerned, (ii) any regional spatial and economic strategy (being a strategy for the purposes of *Chapter 4 of Part 3* of the *Act of 2024*), that may apply, and", (c) in paragraph (a) of subsection (4), by the substitution of the following subparagraphs for subparagraphs (i) and (ii): "(i) the integrated overall strategy and the objectives of the development plan (being the development plan for the purposes of *Chapter 5 of Part 3* of the *Act of 2024*) of the local authority concerned that apply to the area of the Plan, and (ii) any regional spatial and economic strategy (being a strategy for the purposes of *Chapter 4 of Part 3* of the *Act of 2024*), that apply to the area of the Plan.".
		Section 66H is amended by the substitution of the following paragraph for paragraph (i) of subsection (2):

		"(i) the procedures and processes to ensure consistency with the regional spatial and economic strategy referred to in subsections (2)(c)(ii), (3)(c)(ii) and (4)(a)(ii) of section 66C for the purposes of *Chapter 4* of *Part 3* of the *Act of 2024*,",
		Section 140 is amended—
		(a) in paragraph (e) of subsection (10), by the substitution of "Planning and Development Act 2000 or the *Act of 2024*" for "Planning and Development Act 2000", and
		(b) in subsection (11), by the substitution of "*Chapter 3* of *Part 4* of the *Act of 2024* insofar as the said Chapter" for "section 34 of the Act of 2000 insofar as the said section 34".
		Section 183 is amended, in paragraph (f) of subsection (1), by the substitution of "*section 406(2)* of the *Act of 2024*" for "section 211(2) of the Act of 2000".
		Section 184 is amended—
		(a) by the substitution of the following subsection for subsection (1):
		"(1) Without prejudice to the generality or application of *section 405*, *406*, *409* or *422* of the *Act of 2024*, the functions conferred on a local authority by section 11(7)(a) shall—
		(a) as regards the acquisition of land be construed in accordance with *section 409* of the *Act of 2024* or, in the case of a maritime site within the meaning of that Act, *section 422* of that Act,
		(b) as regards the disposal of land be construed in accordance with *section 406* of the *Act of 2024*,
		and *section 405* of the *Act of 2024* shall apply as regards the appropriation of land.",
		and
		(b) by the substitution of the following subsection for subsection (2):

"(2) For the avoidance of doubt it is hereby declared that the functions conferred on a local authority by *paragraph 409(2)(a)* or *422(2)(a)* of the *Act of 2024*, as the case may be, may be performed in relation to any easement, way-leave, water right or other right to which such paragraph applies granted by or held from the local authority acquiring the land or maritime site, and 'acquisition of land' and 'acquisition of a maritime site' shall be construed accordingly for the purposes of that Act.".

Schedule 14A is amended, in Part 1—

(a) by the substitution of the following row for the row at reference number 22:

"

22.	Taking in charge of public components of developments by planning authority.	*Section 261* of the *Act of 2024*.

",

and

(b) in column (3) of the row at reference number 30, by the substitution of "*Section 267* of the *Act of 2024*" for "Section 205 of the Act of 2000".

Schedule 14A is amended, in Part 2, by the substitution of the following rows for the rows at reference numbers 11 to 17:

"

11.	Approving a proposal of the chief executive to grant permission for the land-based development that materially contravenes the development plan or for maritime development that materially contravenes the National Marine Planning Framework.	*Section 99* of the *Act of 2024*.
12.	A decision in relation to the making, amendment or revocation of a local area plan within the meaning of the Act of 2000.	Section 20 of the Act of 2000.
12A.	A decision in relation to the making, amendment or revocation of an urban area plan, a priority area plan or a coordinated area plan.	*Sections 74*, *75* and *section 76* of the *Act of 2024*.
12B.	A decision in relation to the making, amendment or revocation of an urban area plan, priority area plans or coordinated area plan.	*Section 74*, *75* or *76* of the *Act of 2024*.
13.	The making of an addition to, deletion from or amendment to, a record of protected structures to which *Part 10* of the *Act of 2024* relates.	*Section 307* of the *Act of 2024*.
14.	Approving, modifying, revoking or extending a special planning control Scheme.	*Sections 336* and *337* of the *Act of 2024*.
15.	Deciding to carry out, carry out subject to modification, or not to	*Section 159* of the *Act of 2024*.

Schedule 14A is amended, in Part 3—

(a) in column (3) of the row at reference number 32, by the substitution of "*Section 266* of the *Act of 2024*" for "Section 202 of the Act of 2000",

(b) by the deletion of the rows at reference numbers 33, 52, 74 and 75,

(c) by the substitution of the following rows for the rows at reference numbers 69 to 73:

"

69.	The making of a development plan and making of a variation of a development plan which for the time being is in force.	*Sections 55* and *58* of the *Act of 2024*.
70.	The revocation or modification of a permission relating to land-based development or maritime development.	*Section 149* of the *Act of 2024*.
71.	Making a development contribution scheme.	*Section 584* of the *Act of 2024*.
72.	Making or amending a supplementary development contribution scheme.	*Section 585* of the *Act of 2024*.
73.	Deciding to make, subject to variations and modifications, or deciding not to make a draft planning scheme for strategic development zones.	*Section 593* of the *Act of 2024*.

",

and

(e) by the substitution of the following row for the row at reference number 76:

"

76.	Making or terminating of an agreement by two or more planning authorities for sharing the cost of performing functions under the *Planning and Development Act 2024*.	*Section 581* of the *Act of 2024*.

".

19.	Transport (Railway Infrastructure) Act 2001 (No. 55 of 2001)	Section 2 is amended, in subsection (1)— (a) by the insertion of the following definitions: " '*Act of 2024*' means the *Planning and Development Act 2024*; 'Commission' has the meaning assigned to it by the *Act of 2024*;", (b) in the definition of "land", by the substitution of "*Act of 2024*" for "Act of 2000", and (c) in the definition of "planning authority", by the substitution of "*Act of 2024*" for "Act of 2000". Section 38 is amended— (a) in subsection (1), by the insertion of "and the *Act of 2024*" after "the Act of 2000", and (b) by the insertion of the following subsection after subsection (2): "(3) *Part 10* of the *Act of 2024* does not apply to developments specified in subsection (1).". Section 39 is amended, in subsection (4), by the substitution of ", the Act of 2000 and any regulation made thereunder in relation to environmental impact assessment and the *Act of 2024* and any regulation made thereunder in relation to environmental impact assessment" for "and the Act of 2000 and any regulation made thereunder in relation to environmental impact assessment". Section 42 is amended, in subsection (2), by the substitution of "*Sections 370*, *372*, *376* and *380* of the *Act of 2024*" for "Sections 135, 143 and 146 of the Act of 2000 (as amended by the Planning and Development (Strategic Infrastructure) Act 2006)". Section 43 is amended in paragraph (h) of subsection (1), by the substitution of "*section 380* of the *Act of 2024*" for "section 143 (inserted by the Planning and Development (Strategic Infrastructure) Act 2006) of the Act of 2000". By the insertion of the following section after section 46: **"Alteration of railway order** **46A.**(1) A person who has been granted a railway order may request the Commission to alter the railway order. (2) A request under subsection (1) shall specify the particulars of the alteration and be accompanied by—

		(a) sufficient information to allow the Commission to assess the request, and (b) such documents or information as may be prescribed. (3) Subject to subsection (4), the Commission shall by order make the alteration to the railway order where it is satisfied that the alteration is for one or more than one of the following purposes: (a) correcting a clerical error in the railway order; (b) facilitating the doing of a thing pursuant to the railway order, where the doing of that thing may reasonably be regarded as having been contemplated by a particular term of the railway order, or its terms as a whole, but was not expressly provided for in the railway order; (c) clarifying the terms of the railway order; or (d) facilitating the implementation or operation of the railway order. (4) The Commission shall not make an alteration where to do so would, in its opinion, result in a material alteration of the railway order. (5) Before the Commission decides, in relation to a request, whether to make an alteration under subsection (3) or whether an alteration is a material alteration referred to in subsection (4), the Commission may invite submissions in relation to the matter to be made to it by any person it considers appropriate, and shall have regard to submissions made to it on foot of that invitation (if any) in making its decision. (6) An order under subsection (3) shall be considered to be a railway order under section 43.

(7) The Commission shall, as soon as practicable after making the order under subsection (3), notify the person who made the request and each planning authority in whose functional area the railway works the subject of the order are situated or proposed to be situated of the order.

(8) Where the Commission is not satisfied that the alteration requested under subsection (1) is for a purpose referred to in subsection (3), or is of the opinion that it is a material alteration referred to in subsection (4), the person who made the request may apply to the Commission for an alteration of the railway order under section 37 and sections 37 to 47E shall apply to the request accordingly, subject to the following and any other necessary modifications:

(a) a reference to railway works or proposed railway works shall be construed as if it were a reference to the alteration applied for;

(b) a reference to the applicant for a railway order shall be construed as if it were a reference to the applicant for the alteration.

(9) In this section, 'term' includes a condition, modification, restriction or requirement in a railway order.".

Section 47 is amended, in subsection (1), by the substitution of "sections 37 to 47E" for "sections 37 to 46".

Section 47C is amended, in subsection (3), by the substitution of "this Act, the Act of 2000, the *Act of 2024* or regulations under any of those Acts" for "this Act or the Planning and Development Act 2000 or regulations under either of those Acts".

Section 47DD is amended, in subsection (2), by the insertion of "or *section 381* of the *Act of 2024*" after "Act of 2000".

Section 47E is amended, in subsection (7), by the insertion of "or under *section 522* of the *Act of 2024*" after "Act of 2000".

By the insertion of the following section after section 47F:

"Transitional and saving provisions relating to *Act of 2024*

		47G. (1) Notwithstanding the repeal of sections 135, 143 or 146 of the Act of 2000 effected by *section 6* of the *Act of 2024*, those sections of the Act of 2000 shall continue to apply and have effect on and after that repeal in relation to an oral hearing referred to in section 42 in respect of an application for a railway order made under section 37 but not determined before the repeal. (2) Notwithstanding the repeal of paragraphs (d) and (e) of subsection (4) of section 37 of the Act of 2000 by *section 6* of the *Act of 2024*, those paragraphs and any regulations made under that paragraph (e) shall continue to apply and have effect on and after that repeal for the purposes of section 47A(2)(b)(ii).".
20.	Communications Regulation Act 2002 (No. 20 of 2002)	Section 52 is amended, in subsection (1)— (a) by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;", and (b) in the definition of "planning authority", by the substitution of "*Act of 2024*" for "Act of 2000". Section 53 is amended, in subsection (20), by the substitution of "*section 13* of the *Act of 2024* in respect of *subsection (2)(e)* of that section" for "section 254 of the Act of 2000 in respect of subsection (1)(e) of that section". Section 55 is amended— (a) in subsection (1), by the substitution of "*subsection (5)* or *(6)* of *section 13* of the *Act of 2024*" for "section 254(4) of the Act of 2000", and (b) in subsection (6), by the substitution of "*section 13* of the *Act of 2024*" for "section 254 of the Act of 2000". Section 58 is amended, in subsection (6), by the substitution of "of the Act of 2000 or *section 267* of the *Act of 2024* (either of which relates to the preservation of trees, a group of trees or woodlands)" for "(which relates to the preservation of trees, a group of trees or woodlands) of the Act of 2000".

21.	Licensing of Indoor Events Act 2003 (No. 15 of 2003)	Section 2 is amended, in subsection (1), in the definition of "indoor event", by the insertion of "or the *Planning and Development Act 2024*" after "Planning and Development Act 2000".
22.	Digital Hub Development Agency Act 2003 (No. 23 of 2003)	Section 9 is amended, in subsection (5), by the insertion of ", or *Part 4* of the *Planning and Development Act 2024*," after "Planning and Development Act 2000".
23.	Civil Registration Act 2004 (No. 3 of 2004)	Section 66 is amended, in subparagraph (iii) of paragraph (j) of subsection (1), by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Act 2000".
24.	Residential Tenancies Act 2004 (No. 27 of 2004)	Section 4 is amended, in the definition of "planning permission" in subsection (1), by the insertion of "or *Chapter 3* of *Part 4* of the *Planning and Development Act 2024*" after "section 34 of the Planning and Development Act 2000". Section 19 is amended, in clause (I) of subparagraph (i) of paragraph (a) of subsection (5), by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Act 2000".
25.	Disability Act 2005 (No. 14 of 2005)	Section 29 is amended, in paragraph (c) of subsection (3), by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Act 2000".
26.	Grangegorman Development Agency Act 2005 (No. 21 of 2005)	Section 12 is amended, in subsection (5), by the substitution of "Planning and Development Act 2000, or the *Planning and Development Act 2024*," for "Planning and Development Act 2000".
27.	Railway Safety Act 2005 (No. 31 of 2005)	Section 4 is amended, in subsection (4), by the insertion of "or *section 487* of the *Planning and Development Act 2024*" after "Planning and Development Act 2000".
28.	Energy (Miscellaneous Provisions) Act 2006 (No. 40 of 2006)	Section 2 is amended by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;". Part 8 is amended by the insertion of the following section after section 22:

		"Certain development approvals under *Act of 2024* **22A.** (1) Nothing in the *Planning and Development Act 2024* shall be read as meaning that a permission under *section 98* or *section 123* of that Act is required, either in circumstances generally or in the circumstances referred to in subsection (2) in respect of the terminal referred to in subsection (3). (2) The circumstances mentioned in subsection (1) are that an application is made under *section 120* of the *Act of 2024* in relation to a development which, if it is carried out, will consist of the alteration or modification of the terms of the strategic gas infrastructure development referred to in subsection (3) other than the terms of that development that comprise the terminal referred to in that subsection. (3) The terminal mentioned in subsections (1) and (2) is a terminal comprised in a strategic gas infrastructure development (within the meaning of the *Act of 2024*) the pipeline comprised in which development has been the subject of a consent referred to in section 22(3)(iii)(I).".
29.	Water Services Act 2007 (No. 30 of 2007)	Section 2 is amended, in subsection (1)— (a) by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;", (b) in the definition of "development", by the substitution of "*section 2* of the *Act of 2024*" for "section 3 of the Act of 2000", and (c) in the definition of "development plan", by the substitution of "within the meaning of the *Act of 2024*" for "adopted under section 9(1) of the Act of 2000". Section 22 is amended, in subsection (10), by the substitution of "*section 394* of the *Act of 2024*" for "section 252 of the Act of 2000". Section 31 is amended— (a) by the substitution of the following paragraph for paragraph (h) of subsection (2):

		"(h) relevant development plans, regional spatial and economic strategies, housing strategies or special amenity area orders, as appropriate, made under the *Act of 2024*;", and (b) in subsection (19), by the substitution of "*Act of 2024*" for "Act of 2000". Section 41 is amended— (a) in subsection (9), by the substitution of "*section 13* of the *Act of 2024*" for "section 254 of the Act of 2000", and (b) by the substitution of the following subsection for subsection (12): "(12) *Sections 275* and *276* of the *Act of 2024* shall apply to a water services authority for the purposes of this Act, and any references to a local authority in the said sections or in *Part 14* or related Parts of the *Act of 2024* shall be deemed to be a reference to a water services authority for the purposes of this Act.". Section 43 is amended, in paragraph (a) of subsection (13), by the substitution of "*Chapter 2* of *Part 8* of the *Act of 2024*" for "section 180 of the Act of 2000". Section 50 is amended, in subsection (1), by the substitution of "*Act of 2024*" for "Act of 2000". Section 55 is amended— (a) in paragraph (c) of subsection (1), by the substitution of "*Schedule 4* of the *Act of 2024*" for "the Fourth Schedule of the Act of 2000", (b) in subsection (4), by the substitution of "*Part 4* of the *Act of 2024*" for "Part III of the Act of 2000", (c) in paragraph (a) of subsection (5), by the substitution of "*section 87(3)(n)* of the *Act of 2024*" for "section 34(4)(m) of the Act of 2000", and (d) in paragraph (b) of subsection (5), by the substitution of "*section 87(3)(n)* of the *Act of 2024*" for "section 34(4)(m) of the Act of 2000". Section 61 is amended— (a) in paragraph (c) of subsection (1), by the substitution of "*Schedule 4* of the *Act of 2024*" for "the Fourth Schedule of the Act of 2000", (b) in subsection (5), by the substitution of "*Part 4* of the *Act of 2024*" for "Part III of the Act of 2000",

		(c) in paragraph (a) of subsection (6), by the substitution of "*section 87(3)(n)* of the *Act of 2024*" for "section 34(4)(m) of the Act of 2000", and (d) in paragraph (b) of subsection (6), by the substitution of "*section 87(3)(n)* of the *Act of 2024*" for "section 34(4)(m) of the Act of 2000".
		Section 92 is amended, in subsection (7)— (a) in subparagraph (i) of paragraph (b), by the substitution of "*section 443* or *466* of the *Act of 2024*, as the case may be," for "section 199 of the Act of 2000", and (b) by the substitution of the following subparagraphs for subparagraph (ii) of paragraph (b): "(ii) Subject to subparagraph (iii), the provisions of *Chapter 3* of *Part 15* of the *Act of 2024* shall, in so far as they are relevant to this section, apply in relation to a claim for compensation under this subsection as if— (I) references to a planning authority were references to a water services authority or such other person performing the action concerned pursuant to this section, and (II) references to *section 443* were references to this subsection, and subject to any other necessary modifications. (iii) In respect of a claim to which subparagraph (ii) applies, the time limits referred to in *paragraph (f)* of *subsection (1)* of *section 447* of the *Act of 2024* shall apply to a claim under this subsection as if a reference in that paragraph to *subsection (4)* of *section 275* were a reference to this subsection.

		(iv) Subject to subparagraph (v), the provisions of *Chapter 7* of *Part 15* of the *Act of 2024* shall, in so far as they are relevant to this section, apply in relation to a claim for compensation under this subsection as if— (I) references to a planning authority were references to a water services authority or such other person performing the action concerned pursuant to this section, and (II) references to *section 466* were references to this subsection, and subject to any other necessary modifications. (v) In respect of a claim to which subparagraph (iv) applies, the time limits referred to in *paragraph (f)* of *subsection (1)* of *section 492* of the *Act of 2024* shall apply to a claim under this subsection as if a reference in that paragraph to *subsection (5)* of *section 276* were a reference to this subsection.”. Section 93 is amended— (a) in subsection (1), by the substitution of “may acquire a maritime site (within the meaning of the *Act of 2024*) or land for the purpose of performing any of its functions under this Act, and *section 275*, *276* and *Part 14* of the *Act of 2024*” for “may acquire land for the purpose of performing any of its functions under this Act, and section 182 and Part XIV of the Act of 2000”, and (b) in subsection (2), by the substitution of “ ‘acquisition of land’ or ‘acquisition of a maritime site’, as the case may be, under the *Act of 2024*” for “ ‘acquisition of land’ under the Act of 2000”. Section 97 is amended— (a) in paragraph (a) of subsection (8), by the substitution of “*section 443* or *466* of the *Act of 2024*, as the case may be,” for “section 199 of the Act of 2000”, (b) by the substitution of the following paragraphs for paragraph (b) of subsection (8):

		"(b) Subject to paragraph (c), the provisions of *Chapter 3* of *Part 15* of the *Act of 2024* shall, in so far as they are relevant to this section, apply in relation to a claim for compensation under this subsection as if— (i) references to a planning authority were references to a water services authority or such other person performing the action concerned pursuant to this section, and (ii) references to *section 443* were references to this subsection, and subject to any other necessary modifications. (c) The time limits referred to in *paragraph (f)* of *subsection (1)* of *section 447* of the *Act of 2024* shall apply to a claim under this subsection as if a reference in that paragraph to *subsection (4)* of *section 275* were a reference to this subsection. (d) Subject to paragraph (e), the provisions of *Chapter 7* of *Part 15* of the *Act of 2024* shall, in so far as they are relevant to this section, apply in relation to a claim for compensation under this subsection as if— (i) references to a planning authority were references to a water services authority or such other person performing the action concerned pursuant to this section, and (ii) references to *section 466* were references to this subsection, and subject to any other necessary modifications.

		(e) in respect of a claim to which paragraph (d) applies, the time limits referred to in *paragraph (f)* of *subsection (1)* of *section 470* of the *Act of 2024* shall apply to a claim under this subsection as if a reference in that paragraph to *subsection (5)* of *section 276* were a reference to this subsection.", and (c) in subsection (9), by the substitution of "*section 394* of the *Act of 2024*" for "section 252 of the Act of 2000".
30.	Roads Act 2007 (No. 34 of 2007)	Section 8 is amended, in subsection (4), by the substitution of "Planning and Development Act 2000, or *Chapter 3* of *Part 4* of the *Planning and Development Act 2024*," for "Planning and Development Act 2000".
31.	Dublin Transport Authority Act 2008 (No. 15 of 2008)	Section 2 is amended— (a) by the insertion of the following definitions: " '*Act of 2024*' means the *Planning and Development Act 2024*; 'regional spatial and economic strategy' has the meaning it has in the *Act of 2024*;", and (b) in the definition of "land", by the substitution of "*Act of 2024*" for "Act of 2000". Section 12 is amended— (a) by the substitution of the following paragraph for paragraph (b) of subsection (5): "(b) the regional spatial and economic strategy in force for the GDA,", (b) by the substitution of the following subsection for subsection (6): "(6) The Authority shall ensure that the transport strategy is consistent with the relevant regional spatial and economic strategy for the GDA", and (c) in subsection (10), by the substitution of the following paragraphs for paragraphs (a) and (b): "(a) consistent with the regional spatial and economic strategy for the GDA, or

		(b) not consistent with the regional spatial and economic strategy for the GDA, and where not so consistent what amendments to the draft transport strategy they consider necessary to achieve such consistency.".
		Section 44 is amended—
		(a) in paragraph (c) of subsection (1), by the substitution of "*Part 14* of the *Act of 2024*" for "Part XIV of the Act of 2000",
		(b) in subsection (6)—
		(i) in paragraph (ii), by the substitution of "*Part 14* of the *Act of 2024*" for "Part XIV of the Act of 2000", and
		(ii) in paragraph (iii), by the substitution of "*subsection (4)* of *section 152* of the *Act of 2024*" for "section 178 of the Act of 2000",
		(c) in subsection (6A), by the substitution of "*Part 14* of the *Act of 2024*" for "Part XIV of the Act of 2000",
		(d) in subsection (7)—
		(i) by the substitution of "*Act of 2024*" for "Act of 2000", and
		(ii) by the substitution of "*Part 14*" for "Part XIV",
		(e) subsection (14) is amended, in paragraph (b)—
		(i) in subparagraph (i), by the substitution of "section," for "section, or",
		(ii) in subparagraph (ii), by the substitution of "section, or" for "section,",
		(iii) by the insertion of the following subparagraph after subparagraph (ii):
		"(iii) under *Chapter 4* of *Part 4* of the *Act of 2024* pursuant to an application for approval made by the Authority under *section 120* of that Act,",
		and
		(iv) by the substitution of "*Act of 2024*." for "Act of 2000.",
		and
		(f) by the insertion of the following subsection after subsection (15):

		"(15A) For the purposes of *Chapter 4* of *Part 4* of the *Act of 2024*, where a proposed development relates to public transport infrastructure, an application for permission under *Chapter 4* of *Part 4* of the *Act of 2024* may be made by the Authority, with the concurrence of the local authority concerned, and, accordingly, the references to 'prospective applicant' in *Chapter 4* of *Part 4* of the *Act of 2024* shall be read as references to the Authority.". Section 64 is amended by the substitution of the following paragraph for paragraph (b) of subsection (2): "(b) the relevant regional spatial and economic strategy,".
32.	Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009)	Section 2 is amended, in subsection (1)— (a) in the definition of "affordable housing", by the substitution of "Planning and Development Act 2000, *Part 7* of the *Planning and Development Act 2024*" for "Planning and Development Act 2000", (b) in the definition of "development plan", by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Act 2000", and (c) in the definition of "housing strategy", by the substitution of "*section 2* of the *Planning and Development Act 2024*" for "section 93 of the Planning and Development Act 2000". Section 17 is amended, in subsection (1), by the substitution of "*section 57* of the *Planning and Development Act 2024*" for "section 95(3) of the Planning and Development Act 2000". Section 19 is amended, in paragraph (a) of subsection (2), by the insertion of "or *Part 7* of the *Planning and Development Act 2024*" after "Planning and Development Act 2000". Section 21 is amended, in paragraph (a), by the substitution of "*section 242(6)(a)* of the *Planning and Development Act 2024*" for "section 94(4)(a)(i) of the Planning and Development Act 2000".

		Section 22 is amended, in paragraph (a) of subsection (1), by the substitution of "Housing Acts 1966 to 2024, Part V of the Planning and Development Act 2000 or *Part 7* of the *Planning and Development Act 2024*" for "Housing Acts 1966 to 2009 or Part V of the Planning and Development Act 2000". Section 27 is amended by the substitution of "*Section 406(2)* of the *Planning and Development Act 2024*" for "Section 211(2) of the Planning and Development Act 2000". Section 28 is amended— (a) in subsection (2), by the insertion of "or *Part 7* of the *Planning and Development Act 2024*" after "Planning and Development Act 2000", and (b) in paragraph (d) of subsection (4), by the substitution of "Housing Acts 1966 to 2009, Part V of the Planning and Development Act 2000 or *Part 7* of the *Planning and Development Act 2024*" for "Housing Acts 1966 to 2009 or Part V of the Planning and Development Act 2000". Section 31 is amended— (a) in subsection (1), by the insertion of "or *Part 7* of the *Planning and Development Act 2024*" after "Planning and Development Act 2000", and (b) in paragraph (b) of subsection (3), by the insertion of "or *Part 7* of the *Planning and Development Act 2024*" after "Planning and Development Act 2000". Section 44 is amended, in paragraph (a) of subsection (1), by the insertion of "or *Part 7* of the *Planning and Development Act 2024*" after "Planning and Development Act 2000". Section 45 is amended, in subsection (5), by the substitution of "*Section 406(2)* of the *Planning and Development Act 2024*" for "Section 211(2) of the Planning and Development Act 2000". Section 64 is amended, in subsection (10), by the substitution of "*Section 406(2)* of the *Planning and Development Act 2024*" for "Section 211(2) of the Planning and Development Act 2000". Section 97 is amended, in subsection (1), in the definition of "qualified purchaser", by the substitution of "Housing Acts 1966 to 2024, Part V of the Planning and Development Act 2000 or *Part 7* of the *Planning and Development Act 2024*" for "Housing Acts 1966 to 2009 or Part V of the Planning and Development Act 2000".
33.	Land and Conveyancing Law Reform Act 2009 (No. 27 of 2009)	Section 3 is amended— (a) by the insertion of the following definition:

		" '*Act of 2024*' means the *Planning and Development Act 2024*;", (b) in the definition of "development", by the substitution of "*section 2* of the *Act of 2024*" for "section 3 of the Act of 2000", (c) in the definition of "development plan", by the substitution of "*section 2* of the *Act of 2024*" for "section 3(1) of the Act of 2000", (d) in the definition of "exempted development", by the substitution of "*section 2* of the *Act of 2024*" for "section 4 of the Act of 2000", and (e) in the definition of "planning permission", by the substitution of "*Part 4* of the *Act of 2024*" for "Part III of the Act of 2000". Section 50 is amended, in paragraph (c) of subsection (2), by the substitution of "the *Act of 2024*" for "the Act of 2000".
34.	National Asset Management Agency Act 2009 (No. 34 of 2009)	Section 4 is amended, in subsection (1), in the definition of "development land", by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2007". Section 12 is amended, in subsection (8), by the substitution of "(within the meaning of the *Planning and Development Act 2024*)" for "(within the meaning of the Planning and Development Act 2000, including any regional planning guidelines to which section 21(4) of that Act relates)".
35.	Public Transport Regulation Act 2009 (No. 37 of 2009)	Section 10 is amended, in subparagraph (vii) of paragraph (b) of subsection (1), by the substitution of "relevant regional spatial and economic strategies under *Chapter 4* of *Part 3* of the *Planning and Development Act 2024*" for "relevant regional planning guidelines under Chapter III of Part II of the Act of 2000".
36.	Inland Fisheries Act 2010 (No. 10 of 2010)	Section 59 is amended, in paragraph (b) of subsection (7), by the substitution of "Planning and Development Acts 2000 to 2023 or the *Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2006".
37.	Multi-Unit Developments Act 2011 (No. 2 of 2011)	The following provisions are amended by the substitution of "Planning and Development Acts 2000 to 2023 or the *Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2009": (a) subsection (1) of section 1, in the definition of "development stage"; (b) paragraph (a) of section 7; (c) subparagraph (ii) of paragraph (l) of subsection (5) of section 24; (d) subparagraph (a) of paragraph 1 of Schedule 3;

		(e) paragraph 2 of Schedule 3.
38.	Environment (Miscellaneous Provisions) Act 2011 (No. 20 of 2011)	Section 4 is amended, in paragraph (n) of subsection (4), by the substitution of "Planning and Development Act 2000 or, during the period beginning on the day on which the *Planning and Development Act 2024*, or any provision of it, is first commenced and the day on which *section 300* of that Act is commenced, the *Planning and Development Act 2024*" for "Planning and Development Act 2000".
39.	Water Services Act 2013 (No. 6 of 2013)	Section 21 is amended, in subsection (2), by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Act 2000".
40.	Water Services (No. 2) Act 2013 (No. 50 of 2013)	Section 2 is amended— (a) by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;", and (b) in the definition of "planning authority", by the substitution of "*Act of 2024*" for "Act of 2000". Section 12 is amended, in subsection (8), by the insertion of "or *section 584* or *585* of the *Act of 2024*" after "Act of 2000". Section 24 is amended by— (a) the deletion of the definition of "regional planning guidelines", and (b) the insertion of the following definition: " 'regional spatial and economic strategy' has the same meaning as it has in the *Act of 2024*;". Section 33 is amended— (a) in subparagraph (ii) of paragraph (a) of subsection (5), by the substitution of "any regional spatial and economic strategy for the time being in force" for "regional planning guidelines", (b) in paragraph (b) of subsection (5), by the substitution of the following subparagraphs for subparagraphs (i) to (iv): "(i) proper planning and sustainable development in line with any development plans within the meaning of the *Act of 2024*, in particular with the integrated overall strategy and the objectives of the development plan within the meaning of *Chapter 5* of *Part 3* of that Act,

		(ii) housing strategies within the meaning of section 94 of the Act of 2000 or *Part 7* of the *Act of 2024*, (iii) special amenity area orders within the meaning of the *Act of 2024*, (iv) strategic development zones within the meaning of the *Act of 2024*, urban development zones within the meaning of that Act and a candidate UDZ within the meaning of *Part 22* of that Act,", (c) in subsection (10), by the insertion of ", an application for permission under *Chapter 3* or *4* of *Part 4* of the *Act of 2024* or a request for an alteration of the terms or extension of the duration of a permission under *Chapter 5* of *Part 4* of that Act" after "Act of 2000", and (d) in subsection (11), by the insertion of "or *section 159* of the *Act of 2024*" after "Act of 2000". Section 34 is amended— (a) in subsection (5), by the substitution of the following paragraphs for paragraphs (c) to (f): "(c) any local area plans continued in force under *section 81* of the *Act of 2024* or any urban area plan, priority area plan or coordinated area plan under *Chapter 6* of *Part 3* of the *Act of 2024* for the time being in force, (d) any development plans within the meaning of the *Act of 2024*, (e) any regional spatial and economic strategy, and (f) any strategic development zones within the meaning of the *Act of 2024*, any urban development zones within the meaning of that Act and any candidate UDZ within the meaning of *Part 22* of that Act to which the plan relates.", and (b) in subsection (10), by the substitution of "*section 2* of the *Act of 2024*" for "the Act of 2000".
41.	Housing (Miscellaneous Provisions) Act 2014 (No. 21 of 2014)	Section 6 is amended—

		(a) in subsection (1)— (i) in the definition of "affordable housing", by the substitution of "Part V of the Planning and Development Act 2000, *Part 7* of the *Planning and Development Act 2024*", for "Part V of the Planning and Development Act 2000", and (ii) in the definition of "dwelling", by the substitution of "Housing Acts 1966 to 2024, Part V of the Planning and Development Act 2000 or *Part 7* of the *Planning and Development Act 2024*", for "Housing Acts 1966 to 2014 or Part V of the Planning and Development Act 2000", and (b) in subsection (2), by the substitution of "Housing Acts 1966 to 2024, Part V of the Planning and Development Act 2000 or *Part 7* of the *Planning and Development Act 2024*", for "Housing Acts 1966 to 2014 or Part V of the Planning and Development Act 2000". Section 21 is amended— (a) in the definition of "affordable house", by the substitution of "Planning and Development Act 2000, *Part 7* of the *Planning and Development Act 2024*" for "Planning and Development Act 2000", (b) in the definition of "tenant", by the substitution of "Housing Acts 1966 to 2024, Part V of the Planning and Development Act 2000 or *Part 7* of the *Planning and Development Act 2024*" for "Housing Acts 1966 to 2014 or Part V of the Planning and Development Act 2000". Section 22 is amended, in subsection (1), by the insertion of "or *Part 7* of the *Planning and Development Act 2024*" after "Planning and Development Act 2000". Section 25 is amended, in subsection (4), by the substitution of "Section 211(2) of the Planning and Development Act 2000, *subsection (2)* of *section 406* of the *Planning and Development Act 2024*" for "Section 211(2) of the Planning and Development Act 2000".
42.	Forestry Act 2014 (No. 31 of 2014)	Section 2 is amended— (a) by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*". (b) in the definition of "planning authority", by the substitution of "*Act of 2024*" for "Act of 2000", and (c) in the definition of "public road", by the substitution of "*Act of 2024*" for "Act of 2000". Section 19 is amended—

		(a) by the substitution of the following paragraph for paragraph (a) of subsection (2): "(a) within the curtilage or attendant grounds of a protected structure (within the meaning of the *Act of 2024*),", and (b) in paragraph (a) of subsection (3), by the substitution of "the Planning and Development Acts 2000 to 2023 or the *Act of 2024*" for "the Planning and Development Acts 2000 to 2013". Section 32 is amended, in subsection (8), by the substitution of "*Schedule 4* of the *Act of 2024*" for "the Fourth Schedule to the Planning and Development Act 2000".
43.	Regulation of Lobbying Act 2015 (No. 5 of 2015)	Section 5 is amended— (a) in paragraph (c) of subsection (1), by the substitution of "Planning and Development Acts 2000 to 2023 or the *Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2021", and (b) in paragraph (a) of subsection (5), by the substitution of "Planning and Development Acts 2000 to 2023 or the *Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2021".
44.	Urban Regeneration and Housing Act 2015 (No. 33 of 2015)	Section 2 is amended by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;". Section 3 is amended— (a) by the substitution of the following definition for the definition of "regeneration land": " 'regeneration land' means land identified, after the coming into operation of section 28, by a planning authority— (a) in a development plan or local area plan made under the Act of 2000, in accordance with section 10(2)(h) of that Act, with the objective of development and renewal of areas in need of regeneration, and includes any structures on such land, or

		(b) in its development plan, priority area plan, coordinated area plan or urban area plan made under the *Act of 2024*, with the objective of development and renewal of areas in need of regeneration, and includes any structures on such land;”, (b) by the substitution of the following definition for the definition of “residential land”: “ ‘residential land’ means land that is included by a planning authority— (a) in a development plan or local area plan under the Act of 2000 in accordance with section 10(2)(a) of that Act, or (b) in a development plan, priority area plan, coordinated area plan or urban area plan made under the *Act of 2024*, with the objective of zoning for use solely or primarily for residential purposes, and includes any structures on such land;”, and (c) by the insertion of the following definitions: “ ‘Board’ means An Coimisiún Pleanála; ‘core strategy’ means a core strategy included in a development plan continued in force under *section 68* of the *Act of 2024*, or in an integrated overall strategy under *section 43* of that Act; ‘functional area’ has the same meaning as it has in *section 2* of the *Act of 2024*; ‘habitable house’ has the same meaning as it has in *section 2* of the *Act of 2024*; ‘housing strategy’ has the same meaning as it has in *section 2* of the *Act of 2024*; ‘land’ has the same meaning as it has in *section 2* of the *Act of 2024*; ‘local area plan’ means a plan continued in force by *section 81* of the *Act of 2024*; ‘planning authority’ has the same meaning as it has in *section 2* of the *Act of 2024*; ‘structure’ has the same meaning as it has in *section 2* of the *Act of 2024*; ‘unauthorised development’ has the same meaning as it has in *section 2* of the *Act of 2024*;

		'unauthorised use' has the same meaning as it has in *section 2* of the *Act of 2024*;". Section 5 is amended, in subparagraph (ii) of paragraph (b) of subsection (1), by the substitution of "*section 584* of the *Act of 2024*" for "section 48 of the Act of 2000". Section 6 is amended— (a) in paragraph (b) of subsection (5), by the substitution of "*section 584* of the *Act of 2024*" for "section 48 of the Act of 2000", and (b) in subsection (6), by the substitution of "*section 584* of the *Act of 2024*" for "section 48 of the Act of 2000". Section 24 is amended by the substitution of "*Section 396* of the *Act of 2024*" for "Section 250 of the Act of 2000".
45.	Climate Action and Low Carbon Development Act 2015 (No. 46 of 2015)	Section 4 is amended, in subsection (12), by the substitution of "it has in the *Planning and Development Act 2024*" for "assigned to it in section 20A of the Planning and Development Act 2000".
46.	Planning and Development (Housing) and Residential Tenancies Act 2016 (No. 17 of 2016)	Section 2 is amended by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;". Section 3 is amended by the insertion of the following definitions: " 'Board' means An Coimisiún Pleanála; 'chief executive' has the same meaning as it has in *section 2* of the *Act of 2024*; 'development plan' has the same meaning as it has in *section 2* of the *Act of 2024*; 'environmental impact assessment report' has, notwithstanding any repeal of the Act of 2000 by the *Act of 2024*, the meaning that it has in the Act of 2000; 'Environmental Impact Assessment Directive' has the same meaning as it has in *section 2* of the *Act of 2024*; 'European site' has the same meaning as it has in *section 2* of the *Act of 2024*; 'European Union' has the same meaning as it has in *section 2* of the *Act of 2024*; 'functional area' has the same meaning as it has in *section 2* of the *Act of 2024*; 'house' has the same meaning as it has in *section 2* of the *Act of 2024*;

		‘land’ has the same meaning as it has in *section 2* of the *Act of 2024*; ‘local area plan’ means a plan continued in force by *section 81* of the *Act of 202*4; ‘local authority’ has the same meaning as it has in *section 2* of the *Act of 2024*; ‘Natura impact statement’ has the same meaning as it has in *section 2* of the *Act of 2024*; ‘permission’ means a permission granted under section 9; ‘planning application’ means an application for permission; ‘planning authority’ has the same meaning as it has in *section 2* of the *Act of 2024*; ‘planning permission’ means a permission granted under section 34 of the Act of 2000; ‘protected structure’ has the same meaning as it has in *section 2* of the *Act of 2024*; ‘Transboundary Convention’ has the same meaning as it has in *section 2* of the *Act of 2024*; ‘unauthorised development’ has the same meaning as it has in *section 2* of the *Act of 2024*;”.
		Section 6 is amended, in subsection (9), by the insertion of “or the *Act of 2024*” after “Planning and Development Acts 2000 to 2016”.
		Section 10 is amended, in subsection (5)— (a) in paragraph (a), by the insertion of “or *Chapter 3* of *Part 4* of the *Act of 2024*” after “Act of 2000”, (b) in paragraph (b), by the substitution of “Subject to paragraph (c), Part VIII of the Act of 2000” for “Part VIII of the Act of 2000”, and (c) by the insertion of the following paragraph after paragraph (b):

		"(c) On and from the day on which the Act of 2000 is repealed, and subject to *section 628* of the *Act of 2024*, *Part 11* of the *Act of 2024* shall apply to any case where a strategic housing development is carried out otherwise than in accordance with a permission under section 9, or any condition to which the permission is subject, as it applies to any unauthorised development, subject to the modification that a reference in that Part to a permission shall be construed as a reference to a permission granted under section 9.". Section 11 is amended— (a) in subsection (2), by the insertion of "or *section 514* of the *Act of 2024*" after "Act of 2000", (b) in subsection (3), by the insertion of "or the *Act of 2024*" after "Planning and Development Acts 2000 to 2016", and (c) in subparagraph (ii) of paragraph (b) of subsection (10), by the insertion of "or *section 514* of the *Act of 2024*" after "Act of 2000". Section 12 is amended, in paragraph (b) of subsection (2), by the insertion of "or *section 376* of the *Act of 2024*" after "Act of 2000".
47.	Minerals Development Act 2017 (No. 23 of 2017)	Section 7 is amended, in paragraph (a), by the insertion of "*Planning and Development Act 2024* or the" after "under the". Section 65 is amended, in paragraph (e), by the substitution of "Planning and Development Acts 2000 to 2023 or the *Planning and Development Act 2024*, as the case may be" for "Planning and Development Acts 2000 to 2016". Section 69 is amended, in subparagraph (i) of paragraph (b) of subsection (3), by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2016". Section 79 is amended, in subparagraph (i) of paragraph (e) of subsection (1), by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2016". Section 116 is amended, in subparagraph (i) of paragraph (d) of subsection (3), by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2016".

		Section 202 is amended, in subsection (1), by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2016". Section 203 is amended, in paragraph (g) of subsection (4), by the insertion of the following subparagraph after subparagraph (i): "(ia) the *Planning and Development Act 2024*,".
48.	Criminal Justice (Corruption Offences) Act 2018 (No. 9 of 2018)	Section 14 is amended, in subsection (3), by the insertion of the following paragraph after paragraph (h): "(ha) the *Planning and Development Act 2024*;".
49.	Home Building Finance Ireland Act 2018 (No. 28 of 2018)	Section 2 is amended, in the definition of "development", by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Act 2000;".
50.	Local Government Act 2019 (No. 1 of 2019)	Section 2 is amended by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;". Section 25 is amended, in subparagraph (ii) of paragraph (a) of subsection (4)— (a) in clause (I), by the insertion of "(notwithstanding any repeal of that section by *section 6* of the *Act of 2024*)" after "section 48 of the Act of 2000", and (b) in clause (II), by the insertion of "(notwithstanding any repeal of that section by *section 6* of the *Act of 2024*)" after "section 49 of that Act". Section 31 is amended by the substitution of the following subsection for paragraph (a) of subsection (2): "(a) Subject to paragraph (b), the functions of a planning authority under the Act of 2000 or the *Act of 2024* shall, as respects— (i) a decision under section 34 of the Act of 2000, or (ii) a determination under section 37 of the Act of 2000, made before the transfer day in relation to development or proposed development in the relevant area, be performable from that day by the city council.".
51.	Aircraft Noise (Dublin Airport) Regulation Act 2019 (No. 12 of 2019)	Section 2 is amended, in subsection (1), by the insertion of the following definition:

		" '*Act of 2024*' means the *Planning and Development Act 2024*;". Section 3 is amended— (a) in subsection (2)— (i) in paragraph (a), by the substitution of "*Act of 2024* (in so far as the *Act of 2024* confers functions on the competent authority)" for "Act of 2000 (in so far as the Act of 2000 as amended by this Act confers functions on the competent authority)", and (ii) in paragraph (b), by the substitution of "*Act of 2024*" for "Act of 2000", and (b) in subsection (8), by the substitution of "*Act of 2024*" for "Act of 2000". Section 4 is amended— (a) in subsection (1)— (i) by the substitution of "and *Chapter 3* and *Chapter 5* of *Part 4* of the *Act of 2024* as read with *Part 5* of that Act" for ", section 34 of the Act of 2000 as read with section 34B or 34C, as appropriate, of that Act, and section 37 of that Act as read with section 37R or 37S, as appropriate, of that Act", and (ii) by the substitution of "*Act of 2024*" for "Act of 2000" in the second place it occurs, and (b) in subsection (2), by the substitution of "and *Chapter 3* and *Chapter 5* of *Part 4* of the *Act of 2024* as read with *Part 5* of that Act" for ", section 34 of the Act of 2000 as read with section 34B or 34C, as appropriate, of that Act, and section 37 of that Act as read with section 37R or 37S, as appropriate, of that Act". Section 5 is amended by the substitution of "*Act of 2024*" for "Act of 2000" in each place in which it occurs. Section 9 is amended— (a) in paragraph (a) of subsection (7), by the substitution of "*Act of 2024*" for "Act of 2000", (b) in paragraph (d) of subsection (8), by the substitution of "a request referred to in *section 193(1)(a)* of the *Act of 2024*" for "an application referred to in section 34C(1)(a) of the Act of 2000", (c) in subsection (22)— (i) in paragraph (a), by the deletion of "or" where it lastly occurs, (ii) in paragraph (b), by the insertion of "or" after "2000,", and

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

"(c) a decision under *Chapter 3* or *5* of *Part 4* of the *Act of 2024* as read with *Part 5* of that Act,", and

(d) in subsection (24), in the definition of "Habitats Directive", by the substitution of "the *Act of 2024*" for "section 2 of the Act of 2000".

Section 10 is amended—

(a) in subparagraph (i) of paragraph (f) of subsection (4), by the insertion of "or the *Act of 2024*," after "Act of 2000",

(b) in paragraph (b) of subsection (16), by the substitution of "*Part 4* and *Part 12* of the *Act of 2024* and to regulations made under that Act, but only in so far as those Parts and regulations relate to appeals within the meaning of *Part 12* of that Act" for "Chapter III of Part VI of the Act of 2000 and to regulations made under that Chapter",

(c) by the substitution of the following for subsection (17)—

"(17) Sections 50, 50A and 50B of the Act of 2000 shall, with all necessary modifications, apply to a decision of the Commission under subsection (8)(a) on the appeal as those sections apply to a decision of the Commission under—

(a) section 37 of the Act of 2000 on an appeal referred to in section 37R(1) of the Act of 2000, or

(b) *Chapter 3* of *Part 4* of the *Act of 2024* on an appeal referred to in *section 194(1)* of the *Act of 2024*,

as the case may be.",

and

(d) in subsection (18), in the definition of "appropriate fee", by the substitution of "*section 381* of the *Act of 2024* for the making of an appeal" for "section 144 of the Act of 2000 for an appeal referred to in subsection (1A)(k) of that section".

Section 20 is amended, in subsection (2), by the substitution of "*Act of 2024*" for "Act of 2000".

Section 22 is amended, in the definition of "relevant provision", in paragraph (a), by the substitution of "a permission granted under *Chapter 3 of Part 4* of the *Act of 2024* or an alteration of the terms or extension of the duration of a permission under *Chapter 5* of *Part 4* of that Act" for "a permission granted under section 34 of the Act of 2000".

		Section 26 is amended by the substitution of the following paragraph for paragraph (b): "(b) in the case of the *Act of 2024*— (i) if no appeal under *Chapter 3 of Part 4* of that Act as read with *Part 5* of that Act is made, within the period referred to in *section 102(5)(a)* of that Act, against a decision under *section 98* of that Act on a planning application which, by virtue of *section 191(16)* or *section 192(17)*, as the case may be, of that Act incorporates a regulatory decision of the competent authority under *section 191(14)(a)* or *section 192(15)(a)*, as the case may be, of that Act, on the expiration of such period, or (ii) if such an appeal is made within such period, on the publication on the Commission's website, pursuant to *section 193(7)* of that Act— (I) of the Commission's decision under *Chapter 3 of Part 4* of that Act as read with *section 193* of that Act to confirm the relevant regulatory decision (within the meaning of *section 193(15)* of that Act) concerned, or (II) of the Commission's decision under *Chapter 3* of *Part 4* of that Act as read with *section 193* of that Act that makes such operating restriction.". Section 27 is amended, in paragraph (b) of subsection (2), by the substitution of "*Act of 2024*" for "Act of 2000". Section 28 is amended by the substitution of "*Part 5* of the *Act of 2024*" for "section 34B, 34C or 37R of the Act of 2000" in each place in which it occurs. Section 29 is amended— (a) in subsection (2), by the insertion of ", subject to subsection (3)," after "(other than Part 2) and", and

		(b) by the insertion of the following subsection after subsection (2): "(3) On and after the date of commencement of this subsection, notwithstanding subsection (2), the *Act of 2024* (in particular *Part 5* of that Act) shall apply to a relevant condition deemed to be a noise mitigation measure under subsection (2).". Section 30 is amended— (a) in subsection (2), by the insertion of ", subject to subsection (3)," after "(other than Part 2) and", and (b) by the insertion of the following subsection after subsection (2): "(3) On and after the date of commencement of this subsection, notwithstanding subsection (2), the *Act of 2024* (in particular *Part 5* of that Act) shall apply to a relevant condition deemed to be an operating restriction under subsection (2).".
52.	Greyhound Racing Act 2019 (No. 15 of 2019)	Section 22 is amended, in subsection (4), by the substitution of "*Planning and Development Act 2024*" for "Planning and Development Acts 2000 to 2018".
53.	Local Government Rates and Other Matters Act 2019 (No. 24 of 2019)	Section 1 is amended by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;". Section 15 is amended, in subsection (1), by the substitution of the following paragraphs for paragraphs (a) to (d): "(a) the implementation of the National Planning Framework within the meaning of the *Act of 2024*; (b) the implementation of a development plan within the meaning of the *Act of 2024*; (c) the implementation of a local area plan within the meaning of the Act of 2000; (d) the implementation of a local economic and community plan within the meaning of the Act of 2001; or (e) the implementation of an urban area plan, priority area plan, or coordinated area plan within the meaning, in each case, of the *Act of 2024*.".

54.	Planning and Development, Heritage and Broadcasting (Amendment) Act 2021 (No. 11 of 2021)	Section 15 is amended— (a) in subsection (1), by the insertion of "or *section 586* of the *Planning and Development Act 2024*" after "the Act of 2000", (b) in paragraph (a) of subsection (1), by the substitution of "Part III or XV of the Act of 2000 or *Part 4* of the *Planning and Development Act 2024*" for "Part III or XV of that Act", (c) in paragraph (b) of subsection (1), by the substitution of "those Acts" for "that Act", (d) in paragraph (c) of subsection (1), by the substitution of "section 5 of the Act of 2000 or *section 10* of the *Planning and Development Act 2024*" for "section 5 of that Act", and (e) in paragraph (d) of subsection (1), by the substitution of "those Acts" for "that Act".
55.	Civil Law (Miscellaneous Provisions) Act 2021 (No. 14 of 2021)	Section 1 is amended, in the definition of "authorisation", by the substitution of "*section 13* of the *Planning and Development Act 2024*" for "section 254 of the Planning and Development Act 2000". Section 2 is amended, in paragraph (a) of subsection (5), by the insertion of "or the *Planning and Development Act 2024*" after "2021".
56.	Affordable Housing Act 2021 (No. 25 of 2021)	Section 2 is amended by the insertion of the following definitions: " '*Act of 2024*' means the *Planning and Development Act 2024*; '*Part 7* agreement' means an agreement under *section 246* of the *Act of 2024* for the provision of dwellings which constitute housing referred to in *subsection (6)* of *section 242* of that Act;". Section 5 is amended by the insertion of the following paragraph after paragraph (b): "(ba) a dwelling to which a Part 7 agreement applies that is being made available for sale;". Section 7 is amended— (a) in paragraph (d) of subsection (1), by the insertion of "or a Part 7 agreement" after "Part V agreement", (b) in subsection (2), by the insertion of "or *Part 7* of the *Act of 2024*" after "Act of 2000", (c) in subsection (7), by the insertion of "or the Part 7 agreement, as the case may be," after "Part V agreement", and

		(d) in subsection (8), by the insertion of "or the Part 7 agreement, as the case may be," after "Part V agreement". Section 22 is amended, in subsection (2), by the substitution of "Act of 2000, *paragraph (a)* of *subsection (2)* of *section 406* of the *Act of 2024*" for "Act of 2000". Section 48 is amended by the substitution of "Act of 2000, under *Part 7* of the *Act of 2024*" for "Act of 2000".
57.	Land Development Agency Act 2021 (No. 26 of 2021)	Section 4 is amended— (a) in the definition of "development plan", by the substitution of "*Act of 2024*" for "Act of 2000", (b) in the definition of "house", by the substitution of "*Act of 2024*" for "Act of 2000", (c) in the definition of "housing strategy", by the substitution of "*Act of 2024*" for "Act of 2000", (d) in the definition of "local area plan", by the substitution of "means a plan continued in force by *section 81* of the *Act of 2024*" for "has the same meaning as it has in the Act of 2000", (e) in the definition of "regional spatial and economic strategy", by the substitution of "*Act of 2024*" for "Act of 2000", and (f) by the insertion of the following new definitions: " '*Act of 2024*' means the *Planning and Development Act 2024*; 'coordinated area plan' has the same meaning as it has in the *Act of 2024*; 'priority area plan' has the same meaning as it has in the *Act of 2024*; 'urban area plan' has the same meaning as it has in the *Act of 2024*;". Section 8 is amended, in subsection (2)— (a) by the substitution of "plan, an urban area plan, a priority area plan, a coordinated area plan or a local area plan" for "plan or a local area plan", and (b) by the substitution of "plan, urban area plan, priority area plan, coordinated area plan or local area plan" for "plan or local area plan". Section 29 is amended, in paragraph (c), by the substitution of "*Part 21* or *22* of the *Act of 2024*" for "Part IX of the Act of 2000". Section 52 is amended, in paragraph (a) of subsection (3), by the substitution of "any development plan, urban area plan, priority area plan, coordinated area plan or local area plan" for "the development plan and local area plan".

		Section 58 is amended— (a) by the substitution of "*Section 406(2)* of the *Act of 2024*" for "Section 211(2) of the Act of 2000", (b) in subparagraph (ii) of paragraph (a)— (i) by the substitution of "*section 2* of the *Act of 2024*" for "Act of 2000", and (ii) by the substitution of "an urban area plan, a priority area plan, a coordinated area plan or a local area plan" for "a local area plan", and (c) in paragraph (b), by the substitution of "plan, urban area plan, priority area plan, coordinated area plan or local area plan" for "plan or local area plan". Part 9 is amended by the substitution of the following section for section 74: **"74.** In this Part— 'Board' means An Coimisiún Pleanála; 'permission' means a permission for development under *Chapter 3* of *Part 4* of the *Act of 2024*; 'planning authority' has the same meaning as it has in the *Act of 2024*; 'cost rental dwelling' has the meaning assigned to it by Part 3 of the Affordable Housing Act 2021; 'dwelling' has the same meaning as it has in the Act of 2009; 'specified percentage' has the meaning assigned to it by section 75(11).". Section 75 is amended— (a) in subsection (1), by the substitution of "*Chapter 3 of Part 4* and, where applicable, *Part 7* of the *Act of 2024*" for "section 34 and, where applicable, Part V of the Act of 2000", and (b) in subsection (9), by the insertion of "or *section 246* of the *Act of 2024*" after "Act of 2000".
58.	Maritime Area Planning Act 2021 (No. 50 of 2021)	Section 2 is amended, in subsection (1)— (a) by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;", (b) in the definition of "appropriate assessment", in paragraph (a), by the substitution of "*section 2* of the *Act of 2024*" for "section 177V of the Act of 2000",

		(c) in the definition of "Birds Directive", by the substitution of "*Act of 2024*" for "Act of 2000", (d) in the definition of "coastal planning authority", by the substitution of "*section 2* of the *Act of 2024*" for "section 2 of the Act of 2000", (e) by the substitution of the following definition for the definition of "development": " 'development'— (a) subject to paragraph (b), means— (i) the carrying out of any works in the maritime area, or (ii) the making of any material change in the use of the sea, seabed, or any structure, in the maritime area, and includes the reclamation of any land in the nearshore area, and (b) does not include exempted development within the meaning of the *Act of 2024*;", (f) in the definition of "development permission", by the substitution of "*section 2* of the *Act of 2024*" for "section 2 of the Act of 2000", (g) in the definition of "environmental impact assessment", by the substitution of "*Act of 2024*" for "Act of 2000", (h) in the definition of "Environmental Impact Assessment Directive", by the substitution of "*Act of 2024*" for "Act of 2000", (i) in the definition of "functional area", by the substitution of "the Act of 2000, notwithstanding any repeal of that Act by the *Act of 2024*" for "the Act of 2000", (j) in the definition of "Habitats Directive", by the substitution of "*Act of 2024*" for "Act of 2000", (k) in the definition of "National Planning Framework", by the substitution of "*Chapter 2* of *Part 3* of the *Act of 2024*" for "Chapter IIA of Part II of the Act of 2000", (l) in the definition of "screening for appropriate assessment", in paragraph (a), by the substitution of "*section 208* of the *Act of 2024*" for "section 177U of the Act of 2000", and (m) in the definition of "strategic environmental assessment", by the substitution of "*section 2* of the *Act of 2024*" for "section 2 of the Act of 2000". Section 6 is amended, in subsection (8), by the substitution of "the Act of 2000, or the *Act of 2024*," for "or the Act of 2000,".

		Section 6A is amended, in subsection (3), by the substitution of the following definition for the definition of "specified Act": " 'specified Act' means— (a) this Act, (b) the Act of 2000, or (c) the *Act of 2024*.". Section 7 is amended— (a) in subsection (1), by the substitution of "under this Act, or functions under the *Act of 2024* relating to the maritime area," for "under this Act", (b) in subsection (2), by the substitution of "under this Act, or functions under the *Act of 2024* relating to the maritime area," for "under this Act", and (c) in subsection (3), by the substitution of "under this Act, or functions under the *Act of 2024* relating to the maritime area," for "under this Act". Section 14 is amended— (a) in subsection (2), by the insertion of "or *Part 3* of the *Act of 2024*" after "Act of 2000", and (b) in subsection (3), by the insertion of "or *Part 3* of the *Act of 2024*" after "Act of 2000". Section 33B is amended, in subsection (3), paragraph (b), subparagraph (ii), by the insertion of "or regulations made under *section 224* of the *Act of 2024*" after "Act of 2000". Section 43 is amended, in subsection (1), paragraph (j), by the insertion of ", the *Act of 2024*" after "Act of 2000". Section 79 is amended, in subsection (5), paragraph (b), by the substitution of ", pursuant to *section 229* of the *Act of 2024*," for "(within the meaning of section 176A of the Act of 2000)". Section 83 is amended, in subsection (3), by the substitution of "*Act of 2024*" for "Act of 2000". Section 97 is amended, in subsection (3E), by the substitution of "*Act of 2024*" for "Act of 2000". Section 99 is amended, in subsection (7), by the substitution of "*Act of 2024*" for "Act of 2000". Section 109 is amended, in subsection (2), by the insertion of "or the *Act of 2024*" after "Act of 2000". Section 132 is amended, in subparagraph (ii) of paragraph (b) of subsection (3), by the insertion of "or regulations made under *section 225* of the *Act of 2024*" after "Act of 2000". Section 138 is amended, in subsection (1)— (a) in paragraph (b), by the substitution of ", Part VIII of the Act of 2000 or *Part 11* of the *Act of 2024*" for "or Part VIII of the Act of 2000", and

		(b) in paragraph (c), by the substitution of ", the Act of 2000 or the *Act of 2024*" for "or the Act of 2000". Section 144A is amended, in subsection (7), by the substitution of "or under *Part 11* of the *Act of 2024* and shall not be construed to prejudice the application of the Act of 2000 or the *Act of 2024*" for "and shall not be construed to prejudice the application of the Act of 2000". Schedule 6 is amended, in Part 1— (a) in paragraph 7, by the insertion of ", the *Act of 2024*" after "Act of 2000", and (b) in paragraph 22B— (i) in subparagraph (a), by the substitution of ", the Act of 2000 or the *Act of 2024*" for "or the Act of 2000", and (ii) in subparagraph (b), by the substitution of ", the Act of 2000 or the *Act of 2024*" for "or the Act of 2000". Schedule 7 is amended— (a) in paragraph 1, subparagraph (b), by the insertion of "or the *Act of 2024*" after "Act of 2000", (b) by the substitution of the following paragraph for paragraph 3: "3. Marine environmental surveys— (a) for the purposes of site investigation, (b) in support of an application under Part XXI of the Act of 2000, or (c) in support of an application for maritime development within the meaning of the *Act of 2024*.", and (c) in paragraph 8, by the insertion of ", or under the *Act of 2024*," after "Act of 2000".
59.	Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022 (No. 15 of 2022)	Section 28 is amended, in subsection (2), by the substitution of the following paragraph for paragraph (e): "(e) the *Planning and Development Act 2024*;".
60.	Institutional Burials Act 2022 (No. 18 of 2022)	Section 2 is amended, in subsection (1)— (a) by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;", and (b) in the definition of "land", by the substitution of "*Act of 2024*" for "Act of 2000".

		Section 95 is amended, in subsection (2), by the substitution of "*Act of 2024*" for "Act of 2000".
61.	Circular Economy and Miscellaneous Provisions Act 2022 (No. 26 of 2022)	Section 6 is amended by the substitution of the following definition for the definition of "National Planning Framework": " 'National Planning Framework' has the meaning it has in the *Planning and Development Act 2024*;".
62.	Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Act 2022 (No. 28 of 2022)	Section 2 is amended by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;". Section 7 is amended, in the definition of "unauthorised structure", by the substitution of "*Act of 2024*" for "Act of 2000". Section 17 is amended, in paragraph (b) of subsection (8), by the substitution of "*Act of 2024*" for "Act of 2000". Section 28 is amended— (a) in subsection (1), by the substitution of "*section 9(3)* of the *Act of 2024*" for "section 4(4) of the Act of 2000", (b) in subsection (3), by the substitution of "*Chapter 3* of *Part 4* of the *Act of 2024*" for "section 34 of the Act of 2000", and (c) in subsection (4)— (i) in the definition of "development", by the substitution of "*Act of 2024*" for "Act of 2000", and (ii) in the definition of "permission", by the substitution of "*section 2* of the *Act of 2024*" for "the Act of 2000".
63.	Development (Emergency Electricity Generation) Act 2022 (No. 35 of 2022)	Section 3 is amended by the insertion of "or the *Planning and Development Act 2024*" after "Planning and Development Act 2000".
64.	Planning and Development and Foreshore (Amendment) Act 2022 (No. 47 of 2022)	Section 8 is amended— (a) by the substitution of "until the earlier of such time" for "until such time", and (b) by the substitution of "7(a) or an appointment is made, following the repeal of section 106 of the Act of 2000, under *section 507* of the *Planning and Development Act 2024*." for "7(a).".

65.	Water Environment (Abstractions and Associated Impoundments) Act 2022 (No. 48 of 2022)	Section 2 is amended, in subsection (1)— (a) in the definition of "development", by the substitution of "*Act of 2024*" for "Act of 2000", (b) in the definition of "planning authority", by the substitution of "*Act of 2024*" for "Act of 2000", and (c) by the insertion of the following new definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;". Section 14 is amended, in subsection (1)— (a) in the definition of "development plan", by the substitution of "*Act of 2024*" for "Act of 2000", (b) in the definition of "EIA Portal", by the substitution of "means the environmental impact assessment portal under *section 241* of the *Act of 2024*" for "has the same meaning as it has in the Act of 2000", (c) in the definition of "grant of permission"— (i) in paragraph (b), by the deletion of "or" where it last occurs, (ii) in paragraph (c), by the substitution of "2000, or" for "2000;", and (iii) by the insertion of the following paragraph after paragraph (c): "(d) a permission granted under *Chapter 3* or *4* of *Part 4* of the *Act of 2024*;", (d) in the definition of "local area plan", by the substitution of "means a plan continued in force by *section 81* of the *Act of 2024*" for "has the same meaning as it has in the Act of 2000", and (e) by the insertion of the following definitions: " 'coordinated area plan' has the same meaning as it has in the *Act of 2024*; 'priority area plan' has the same meaning as it has in the *Act of 2024*; 'urban area plan' has the same meaning as it has in the *Act of 2024*;". Section 22 is amended— (a) by the substitution of "*Act of 2024*" for "Act of 2000" where it first occurs, and (b) by the insertion of "or the *Act of 2024*" after "Act of 2000" where it last occurs.

Section 24 is amended, in subparagraph (vi) of paragraph (f) of subsection (4), by the substitution of "plan, urban area plan, priority area plan, coordinated area plan (or a draft of any such plan)," for "plan, draft development plan or draft local area plan,".

Section 25 is amended—

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

"(1) In subsections (2) to (6)—

(a) 'environmental impact assessment' and "environmental impact assessment report" have the same meanings as they have in the *Act of 2024*, and

(b) 'permission' means a permission granted under—

(i) *Chapter 3* of *Part 4* of the *Act of 2024*, or

(ii) *Chapter 4* of *Part 4* of the *Act of 2024* for—

(I) strategic infrastructure development (within the meaning of the *Act of 2024*), or

(II) Chapter 4 maritime development (within the meaning of the *Act of 2024*).",

(b) in subsection (2)—

(i) in paragraph (a)—

(I) in subparagraph (i), by the insertion of "or the *Act of 2024*" after "Act of 2000", and

(II) in subparagraph (ii), by the insertion of "or the *Act of 2024*" after "Act of 2000",

(ii) in subparagraph (ii) of paragraph (b), by the insertion of "or the *Act of 2024*" after "Act of 2000",

(c) in paragraph (d) of subsection (4), by the insertion of "or *section 102(5)* of the *Act of 2024*" after "Act of 2000", and

(d) in subsection (7), by the insertion of "or the *Act of 2024*, as the case may be," after "Act of 2000".

Section 37 is amended, in paragraph (b) of subsection (3), by the insertion of "or the *Act of 2024*" after "Act of 2000".

Section 38 is amended, in subsection (1)—

		(a) by the substitution of "*Act of 2024*" for "Act of 2000" where it first occurs, and (b) by the insertion of "or the *Act of 2024*" after "Act of 2000" where it last occurs. Section 58 is amended, in subsection (2), by the insertion of "or the *Act of 2024*" after "Act of 2000". Section 62 is amended, in paragraph (j) of subsection (3), by the substitution of "Part III of the Act of 2000 or *Part 4* of the *Act of 2024*, or a requirement to apply for such permission under those Acts" for "Part III of the Act of 2000, or a requirement to apply for such permission under that Act". Section 66 is amended— (a) in paragraph (b) of subsection (2), by the insertion of "or the *Act of 2024*" after "Act of 2000", and (b) in subsection (7), by the substitution of "*Act of 2024*" for "Act of 2000" in both places where it occurs. Section 67 is amended, in paragraph (b) of subsection (5), by the insertion of "or the *Act of 2024*" after "Act of 2000". Section 68 is amended, in subsection (7), by the substitution of "*section 522* of the *Act of 2024*" for "section 118 of the Act of 2000".
66.	Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023 (No. 26 of 2023)	Section 2 is amended, in subsection (1), by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;". Section 25 is amended, in subsection (1), by the substitution of the following definition for the definition of "EIA portal": " 'EIA portal' means the environmental impact assessment portal under *section 240* of the *Act of 2024*;". Section 26 is amended— (a) in subsection (4), paragraph (a), by the insertion of "or the *Act of 2024*" after "Act of 2000", and (b) in subsection (5), in the definition of "relevant authorisation", in paragraph (a), by the insertion of "or the *Act of 2024*" after "Act of 2000". Section 27 is amended, in subparagraph (i) of paragraph (d) of subsection (2), by the insertion of "or the *Act of 2024*" after "Act of 2000".

		Section 89 is amended, in subsection (5), by the substitution of "*section 268* or *269* of the *Act of 2024*" for "section 206 or 207 of the Act of 2000". Section 167 is amended by the substitution of the following subsection for subsection (2): "(2) Without prejudice to the generality of subsection (1) and sections 28 and 52 of the Act of 2000, or *sections 25* and *26* of the *Act of 2024*, guidelines issued under that subsection may relate to objectives which fall within section 10(2)(c) of the Act of 2000 or *section 50* of the *Act of 2024* in so far as such objectives relate to the conservation and protection of historic heritage, World Heritage Property, or property which is situated in the State that the Minister is satisfied may have the potential to become World Heritage Property.".
67.	Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024 (No. 7 of 2024)	Section 2 is amended, in subsection (1), by the insertion of the following definition: " '*Act of 2024*' means the *Planning and Development Act 2024*;". Part 2 is amended by the insertion of the following section after section 10: **"Application of certain provisions of *Act of 2024* in relation to Limerick City and County Council** **10A.** (1) A relevant function shall, insofar as it relates to Limerick City and County Council, be deemed to be a function of the director general. (2) A function (other than a relevant function) of a chief executive, within the meaning of the *Act of 2024*, under that Act shall, insofar as it relates to Limerick City and County Council, be deemed to be a function of the Mayor. (3) In this section, 'relevant function' means a function, under the following provisions of the *Act of 2024*, of a chief executive (within the meaning of that Act): (a) *Part 2*, *9*, *11*, *15*, *16* and *20*; (b) *Chapter 2* to *5* and *7* of *Part 4*, *Chapter 3* and *4* of *Part 6*, *Chapter 2* of *Part 7*, *Chapter 1*, *2* and *4* of *Part 8* and *Chapter 2* to *4* of *Part 12*;

		(c) *sections 31(4)* and *(7)*, *64(4)*, *79(4)*, *152*, *153(2)(b)*, *158*, *160*, *161*, *268*, *270*, *310*, *312* to *315*, *323*, *324*, *326*, *333*, *338*, *339*, *340*, *341*, *411*, *412*, *414*, *417*, *530(4)*, *567(4)*, *570*, *574(3)* and *(4)*, *577(7)*, *594* and *623*.". Section 29 is amended, in subsection (1)— (a) in the definition of "Limerick City and County Development Plan", by the substitution of "made under *Chapter 5* of *Part 3* of the *Act of 2024*, or continued in force by *section 68* of that Act," for "under subsection (1) of section 9 of the Act of 2000", (b) in the definition of "National Planning Framework", by the substitution of "*Act of 2024*" for "Act of 2000", and (c) in the definition of "regional spatial and economic strategy", by the substitution of "*Chapter 4* of *Part 3* of the *Act of 2024*" for "Chapter III of Part II of the Act of 2000".