DRAFT PLANNING AND DEVELOPMENT BILL 2022

Note on Bill

- The draft Planning and Development Bill was approved by Government in December 2022. Once Pre-Legislative Scrutiny by the Joint Oireachtas Committee on Housing, Local Government and Heritage has been concluded, a finalised Bill will then be published and will proceed through the Houses of the Oireachtas.

- As this is a draft Bill, further technical drafting will occur (including finalisation of section numbers) and these changes will be included when the final Bill is published.

- Placeholders have also been included in certain sections of the draft Bill where technical issues still need to be finalised. These include: -

    - Timelines for various processes, including the actual timelines for decision making by An Comisiún Pleanála

    - Timelines for the procedure for the making of development plans by local authorities.

- The Planning & Development and Foreshore Act 2022 updated some provisions in relation to the Board of An Bord Pleanála. The related provisions in Part 17 of the draft Bill concerning the appointment of Planning Commissioners will be reviewed and updated to align with these changes and the finalised Bill will reflect these changes.

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PART 1

Preliminary and General

Short title and commencement

1. (1) This Act may be cited as the Planning and Development Act 2022.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Purposes of the Act

1A. **(1)** The purposes of this Act are to—

(a) Provide the legislative framework for the proper spatial planning and sustainable development of the State, to operate at national, regional and local levels;

(b) Ensure that the planning system functions to support and regulate the development of land and infrastructure, enhance assets and amenities and preserve, protect and improve the quality of the environment;

(c) Make clear provision for national planning policy, measures and guidance in the form of the National Planning Framework and National Planning Statements;

(d) Provide for a plan led system of planning and development based on an integrated hierarchy of plan-making consisting of :-

(i) A National Planning Framework

(ii) Three regional assembly Regional Spatial and Economic Strategies

(iii) Thirty-one local authority Development Plans

(iv) Area Plans as mandated or required by local planning authorities

(e) Support the development of a co-ordinated and integrated Marine Planning system;

(f) integrate the pursuit of the national climate objective with the plan-led development of the State;

(g) ensure that there is transparent and timely decision-making within the framework of policy and plans set out in this Bill;

(h) facilitate consistency and quality in decision-making that is proportionate and sound;

(i) incorporate public participation in plan-making and decision-making processes;

(j) ensure that, in the making of statutory plans and consent decisions under this Bill, there is a balance between the social, economic and environmental considerations of sustainable development in the interests of the common good;

(k) clarify the role of the Minister and planning bodies in the planning process:-

(i) The role of the Minister is to formulate national planning policy and to oversee the functioning of the planning system;

(ii) The role of regional assemblies is to formulate regional planning and related economic policy in alignment with the national policy

(iii) The role of planning authorities is to give effect at a local level to national and regional policy and to set a framework for the future sustainable development of its administrative area

(l) clarify that the Planning Commission is an independent body that determines appeals on planning consents and applications for strategic and other developments, including those in the maritime area;

(m) clarify that the Office of the Planning Regulator is an independent body that ensures planning authorities and the Planning Commission implement and support national planning policy as well as undertaking research, training and public awareness to promote public engagement in the planning process.

(n) reflect that the aim of the Act is to serve to enhance economic prosperity, quality of life, social cohesion and environmental standards for the benefit of present and future generations;

(2) The provisions of section (1) shall be employed in the interpretation of other provisions of the Act and any other law relating to matters governed by this Act.

Interpretation

2. In this Act—

"acquiring authority" has the meaning given to it by *section 362(1)*;

"acquisition of land" shall be construed in accordance with *section 359*;

"alteration", in relation to a structure, includes—

(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 182*, and
(b) in relation to a project, an assessment carried out in accordance with *section EVA.R*;

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

"Birds Directive" means Directive 2009/147/EC1[1] of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds;

"Board" means An Bord Pleanála;

"city" means—

(a) the administrative area of a city council, or
(b) a municipal district that includes the area of a city to which subsection (6) of section 10 (inserted by the Local Government Reform Act 2014) of the Local Government Act 2001 relates;

"Commission" means An Coimisiún Pleanála;

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

"condition" means a condition of a permission;

[1] OJ L 20, 26.1.2010, p. 7–25

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

"development" means –

(a) the carrying out of works –

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

(ii) in 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" means a development plan under *section TBC*;

"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 as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014[3] amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment;

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

"environmental report" means ;

"European site" shall be construed in accordance with *Part 6*;

[2] OJ L26, 28.1.2012, p.1
[3] OJ L24, 25.4.2014, p.1

"European Union" means European Union within the meaning of the European Communities Act 1972;

"exempted development" means –

(a) development of a class prescribed by the Minister under *section 7*, or

(b) development that is exempted development by virtue of *section 142*;

"Habitats Directive" means Council Directive 92/43/EEC[4] of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, amended by Corrigendum to Council Directive 92/43/EEC[5] of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora amended by Act concerning the conditions of accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded[6]; Council Directive 97/62/EC[7] of 27 October 1997 adapting to technical and scientific progress Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora; Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded[8], and Council Directive 2006/105/EC[9] of 20 November 2006 adapting Directives 73/239/EEC, 74/557/EEC and 2002/83/EC in the field of environment, by reason of the accession of Bulgaria and Romania;

"housing strategy" means a strategy prepared under *section 218*;

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

"Major Accidents Directive" means Council Directive 96/82/EC of 9 December 1996[10] amended by Directive 2003/105/EC of the European Parliament and Council of 16 December 2003[11];

[4] O.J.No.L206, 22.7.1992, p. 7
[5] O.J.No.L 176, 20.7.1993, p 29-30
[6] O.J. No. C241, 29.8.1994, p 21
[7] O.J.No.L305, 8.11.1997, p 42-65
[8] O.J. No. 236, 23.9.2003, p. 33
[9] O.J. No.L363, 20.12.2006, p 368-408 and O.J. L 059, 8.3.1996, p.63
[10] O.J. No. L10, 14.1.1997 p. 13
[11] O.J.No. L345, 31.12.2003 p.97-105

“maritime area” has the meaning assigned to it by the Maritime Area Planning Act 2021;

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

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

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

“National Planning Framework” shall be construed in accordance with *section TBC*;

“National Planning Statement” shall be construed in accordance with *section TBC*;

“Natura 2000 network” has the meaning assigned to it by Article 3, paragraph 1 of the Habitats Directive;

"Natura impact statement" shall be construed in accordance with *Part 6*;

“Natura impact report” shall be construed in accordance with *Part 6*;

“nearshore area” has the meaning assigned to it by the Maritime Area Planning Act 2021;

“Office” means Office of the Planning Regulator;

“open market value”—

(a) in relation to a house, means the price which the unencumbered fee simple of the house would fetch if sold on the open market, and

(b) in relation to land in respect of which planning permission is granted, means the price which the unencumbered fee simple of the land would have fetched if it had been sold on the open market on the date of the grant of planning permission;

“permission” means—

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

(b) permission for retention 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*;

“person” includes an individual, a company and any other body of persons;

“planning authority” means a local authority;

“Planning Regulator” means the person appointed under *section 430* as the Planning Regulator;

“planning scheme” means ;

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

“proposed protected structure” means a structure in respect of which a notice is issued under *section 55(4)* or under *256* or notice of a recommendation under *section 255* proposing to add the structure, or a specified part of a structure, to a record of protected structures is served, and, where that notice so indicates, includes any specified feature which is within the attendant grounds of the structure;

“Protected structure” means a structure or a specified part of a structure, as the context requires, that is included in a record of protected structures, and where that record so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition;

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

"public 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;

"publish" means ;

"record of protected structures" means the record included under *section 252* in a development plan;

"regional economic and spatial strategy" has the meaning assigned to it by *section 27*;

"register" has the meaning assigned to it by *section 333*;

"strategic environmental assessment" means an assessment carried out in accordance with Articles 4 to 9 of the Strategic Environment Assessment Directive and the Strategic Environmental Regulations;

"Strategic Environmental Assessment Directive" means Directive 2001/42/EC[12] of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment;

"Strategic Environmental Assessment Regulations" means regulations made by the Minister under *section 16*;

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

[12] OJ L 197, 21.7.2001, p. 30–37

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

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

(i) the interior of the structure,

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

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

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

"town" means a municipal district with a population in excess of 2,000 that is not a municipal district to which paragraph (b) of the definition of "city" relates;

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

"Water Framework Directive" means Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000[13] 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.

Disapplication of certain provisions of Act in relation to maritime area

3. (1) The following provisions shall not apply in relation to the maritime area, and accordingly references in those provisions to functional area, administrative area or area of a

[13] OJ L 327, 22.12.2000, p.1-73

planning authority or local authority shall not include references to the nearshore area of a coastal planning authority:

(a) *Part 3*; and

(b) *sections* .

(2) Subject to , a requirement under this Act to—

(a) comply (howsoever expressed) with a development plan, urban area plan, priority area plan, joint area plan or regional spatial and economic strategy, or

(b) act in accordance with, consider, have regard to or otherwise take account of (howsoever expressed) any such plan or strategy in the performance of any function under this Act,

shall not apply in relation to the maritime area.

(3) *Part* shall not apply to that part of the maritime area that does not consist of land covered by coastal water.

Repeal

4. The Planning and Development Act 2000 is repealed.

PART 2

Concept of Development

Material change in use

5. 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, tree or other object on land or a maritime site to, or by the addition of, a use that consists of 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 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,

(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 to use as 2 or more dwellings of a house or part of a house that, immediately before such change, was used as a single dwelling,

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

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

(f) any other change of a place or premises from one use to another use, as may be prescribed.

Short term lettings

6. (1) In this section –

"relevant period" means the period of 6 months after the commencement of section 3 of the Planning and Development, Maritime and Valuation (Amendment) Act 2022;

"relevant property" means a house or part of a house that –

(a) is located in a rent pressure zone, and

(a) is not a principal private residence;

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

(3) A person who –

(a) advertises or causes to be advertised the short term letting during the relevant period of a relevant property, or

(b) enters into an arrangement for the short term letting during the relevant period of a relevant property,

shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine.

(4) It shall be a defence to proceedings for an offence under *subsection (3)* for the defendant to prove on the balance of probabilities that, during the relevant period –

(a) the short term letting of the relevant property was permitted in accordance with a permission under *Part 4* of this Act or Part III of the Planning and Development Act 2000, or

(b) the short term letting of the relevant property constituted exempted development.

(5) The Minister may, by order made before the expiration of the relevant period, extend the relevant period by such further period, not exceeding 6 months, as is specified in the order, if he or she is satisfied that the making of the order is necessary by reason of an acute shortage of rental accommodation (other than for short term letting purposes) in rent pressure zones.

(6) Where an order under this section is proposed to be made, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving the draft is passed by each such House.

(7) 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.

(8) 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.

(9) 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

7. (1) Subject to *subsections (3), (4), (5)* and *(6)* the Minister may by regulations provide for any class of development (including development that would, but for the repeal of subsection (1) of section 4 of the Planning and Development Act 2000, be exempted development within the meaning of that Act) to be 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 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.

shall be exempted development.

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

(4) Development (other than development referred to in *subsection (1)* or *(2)* of *section 142*) shall not be exempted development 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 within the meaning of *section 281* 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) Notwithstanding *subsection (3),* the Minister may make regulations prescribing development or any class of development, in respect of which an environmental impact assessment or an appropriate 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 in accordance with a licence, consent, approval or other type of authorisation or permission (howsoever described), and

(b) 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.

(6) 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 may, before making the regulations, consult with that State authority in relation to the proposed regulations.

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

Declaration on development, exempted development, etc.

8. (1) In this section –

"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)* 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 81*, 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 works 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 works 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, or

(e) a prescribed person;

"relevant works" means –

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

(2) (a) Upon the payment of the prescribed fee, a relevant person may –

(i) in relation to relevant works (wholly outside the outer maritime area), make a request in writing to the planning authority within whose functional area the relevant works are, or are proposed to be, carried out, or

(ii) in relation to relevant works wholly or partly in the outer maritime area, make a request in writing to the Commission,

for a declaration on the question of whether or not those works constitute or would constitute development and, if they do or would constitute development, whether or not they constitute or would constitute exempted development.

(b) Upon the payment of the prescribed fee, a relevant person may –

(i) 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, or

(ii) 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 whether or not that change in use constitutes or would constitute development and, 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 Planning and Development Act 2000 may –

(i) 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, or

(ii) 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 the meaning or scope of the permission or 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) 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 (9)*.

(5) 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.

(6) Where a planning authority decides under *subsection (5)* 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.

(7) (a) A person (in this subsection referred to as the "appellant") to whom a declaration has been forwarded in accordance with *subsection (5)* may, not later than 4 weeks from the date of the declaration and on payment to the Commission of such fee as may be prescribed, 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 (5)* 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 302*.

(8) Particulars of every declaration under this section of a planning authority or the Commission shall be entered in the register.

(9) (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 –

(i) 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 (7)*, 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 3 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.

(10) A planning authority or the Commission shall, in the case of a declaration given upon a request under *paragraph (a)* or *(b)* of *subsection (2)* that the works or use or proposed works or use concerned constitute 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 (within the meaning of *Part 6*), and

(b) whether or not the development or proposed development, either individually or in combination with any plan or project (within the meaning of *Part 6*) is likely to have significant effect on a European site and requires the carrying out of an appropriate assessment (within the meaning of *Part 6*).

(11) 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.

(12) The Minister may prescribe additional, consequential or supplementary matters as regards procedures in respect of a request under *subsection (2)* or an appeal under this section, including -

(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.

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

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

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

(iii) under any enactment designating a site as a special area of conservation within the meaning of *section 171* or a special protection area within the meaning of that section, 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 determination and inform that Minister of the determination and the reasons for the determination.

(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.

(14) This section shall apply in relation to works or proposed works, a change in use or proposed change in use and development or a proposed development wholly or partly in the outer maritime area as if –

(b) *subsections (7)* and *(8)* were deleted,

(c) in *paragraph (c)* of *subsection (9)*, "the planning authority or" were deleted,

(d) in *subsection (11)*, "the planning authority or" were deleted,

(e) in *paragraph (a)* of *subsection (13)*, "the planning authority or" were deleted, and

(f) references to a planning authority or the planning authority (other than in *subsection (2)*, and *paragraph (e)* of *subsection (10)*) were references to the Commission.

Section 8 supplemental provision

9. (1) Where a planning authority makes a relevant declaration, that declaration shall be conclusive evidence of the matters stated in the declaration in –

(a) proceedings for an offence under *section 290* or *293*, or

(b) proceedings under *section 294*,

brought against the applicant for the declaration by an enforcement authority, unless –

(i) it is proved that –

(I) the applicant 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 declaration, and

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

(ii) it is proved that –

(I) the applicant 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 change in use or works, as the case may be, was or were development or exempted development, and

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

(2) A relevant declaration shall not be admissible in evidence in any proceedings brought by a person, other than an enforcement authority, relating to the change in use or works in respect of which the 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 8* -

(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 works –

(i) a declaration by a planning authority under *section 8* -

(I) that the works are not development or are 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 works are not development or are exempted development.

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

10. (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[14] establishing the European Electronic Communications Code), or

(b) an associated facility within such meaning.

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

(a) a vending machine,

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

(c) a hoarding, fence or scaffold,

(d) an advertisement structure,

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

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

(g) a telephone kiosk or pedestal, or

[14] OJ No. L321 of 17 December 2018, p.36

(h) any other appliance, apparatus or structure, prescribed by regulations made by the Minister as requiring a licence under this section,

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

(3) This section shall not apply to -

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

(b) a temporary hoarding, fence or scaffold erected in accordance with a condition of planning 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.

(4) (a) A person may apply to a planning authority for a licence under this section or for the continuation of a licence granted under this section, and the application shall be accompanied by 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.

(b) A planning authority may require any person who applied for a licence under this section or for the continuation of a licence granted under this section to submit further information with regard to the position, design and capacity of the appliance, apparatus or structure request in order to enable the planning authority to determine the application.

(c) 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) A planning authority may, upon an application under this section –

(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 planning authority 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 planning authority may specify, or

(iii) refuse to grant such licence or continuation.

(b) *Part 6* shall apply to an application under this section and, for that purpose, references in that Part to competent authority shall –

(i) be construed as references to the planning authority to which the application was made, and

(ii) in relation to an appeal to the Commission from a decision of the planning authority in relation to that application, be construed as references to the Commission.

(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 Planning and Development Act 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, and

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

(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 8 weeks from the date of receipt of the application, or 4 weeks from the date of receipt of the applicant's response to a request for additional information, whichever occurs later.

(b) Where a planning authority fails to make a decision within the period referred to in *paragraph (a)*, 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, unless an environmental impact assessment or an appropriate assessment within the meaning of *Part 6* is required in relation to the application for the licence concerned.

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

(b) A person who has been granted a licence or a continuation of a licence under this section by a planning authority may appeal the decision to attach any condition to the licence to the Commission not later than 4 weeks from the date of the decision.

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

(d) Any person who made submissions or observations in accordance with *Part 6* to the planning authority may, not later than 4 weeks from the date of the decision of the planning authority in relation to the application concerned appeal to the Commission any –

(i) refusal by the planning authority of a licence under this section,

(ii) conditions attached to a licence under this section, or

(c) revocation of a licence under this section,

of which that decision consists.

(e) 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) A notice of appeal from a decision of a planning authority under this section shall be accompanied by 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 (1)* as the Commission may require.",

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

(iii) references to applicant were references to appellant,

(iv) references to application or application for a licence were references to an appeal under this section,

(v) references to application for continuation of a licence were references to an 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.

(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

(c) 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.

Saving for national monuments

11. Nothing in this Act shall operate to restrict, prejudice, or affect the functions of the Minister for Arts, Heritage, Gaeltacht and the Islands under the National Monuments Acts 1930 to 2004.

Quarries

12. (1) The repeal of section 261 of the Planning and Development Act 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 Planning and Development Act 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 (Part 3)

Definitions (*Part 3*)

13. In this Part—

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

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

"appropriate assessment" means –

(a) in relation to a plan, an assessment carried out in accordance with *section 182*,

and

(b) in relation to a project, an assessment carried out in accordance with *section 189*;

"associate planning authority" means a planning authority appointed to be the associate planning authority in the preparation of a joint area plan;

"coastal planning authority" means the planning authority (within the meaning of *section 2*) for any of the following:

(a) the county of Louth, Meath, Fingal, Dun Laoghaire-Rathdown, Wicklow, Wexford, Carlow, Kilkenny, Tipperary, Cork, Kerry, Clare, Galway, Mayo, Sligo, Leitrim or Donegal;

(b) the City of Dublin, Cork or Galway;

(c) Waterford City and County or Limerick City and County;

"compact urban development" means, in relation to an urban area, 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;

"environmental report" means a report prepared for the purposes of Article 5 of the Strategic Environmental Assessment Directive;

"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;

"National Biodiversity Plan" means the National Biodiversity Action Plan 2017 to 2021 published by the Government on 5 October 2017 or any document published by the Government which amends or replaces that plan;

"European sites" 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 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 Article 4(1) of the Habitats Directive (which notice may be amended in accordance with such regulations under the Act of 1972), where the European Commission has not yet adopted the site in accordance with the procedure laid down in Article 21 of the Habitats Directive,

(c) a site that has been included in a list transmitted to the European Commission in accordance with Article 4(1) of the Habitats Directive or that has been added, in accordance with Article 5 of the Habitats Directive, to the list transmitted to the European Commission pursuant to Article 4(1) of the Habitats Directive, where the European Commission has not yet adopted the site 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 Article 5(1) of the Habitats Directive,

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

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

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

(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;

"functional area" means the administrative area of a planning authority for the purposes of the Act of 2001;

"greenfield site" means land that has not previously been built upon;

"housing delivery strategy" means a strategy included in a development plan in accordance with *section 45* or *section 46*;

"joint area plan" means a joint area plan prepared under *Chapter 6*;

"joint area plan committee" means the committee appointed under *section 70*;

"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 *section 28(6)*;

"local community development committee" means a committee established under section 49A of the Local Government Act 2001;

"long term strategic development site" means a large urban site that is suitable for development that will be carried out over a period exceeding one development plan cycle;

"metropolitan area" in relation to a city means the area defined by the geographical boundary set out in a regional spatial and economic strategy in accordance with *section 28(2)* or *(3A)*;

"metropolitan area strategic plan" means an integrated land-use and transportation strategy for a metropolitan area which is included in a regional spatial and economic strategy in accordance with *section 28(2)*;

"national climate objective" has the same meaning as it has in the Climate Action and Low Carbon Development Act 2015;

"National Marine Planning Framework" has the same meaning as it has in the Maritime Area Planning Act 2021;

"National Planning Policies and Measures" has the meaning assigned to it by *section 23(1)(a)*;

"National Planning Policy Guidance" has the meaning assigned to it by *section 23(1)(b)*;

"National Planning Statement" has the meaning assigned to it by *section 23(1)*;

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

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

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

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

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

"principal planning authority" means a planning authority appointed to be the principal planning authority in the preparation of a joint area plan;

"priority area plan" means a priority area plan prepared under *Chapter 6*;

“regional growth centre” means a settlement that has been identified and designated as a regional growth centre in a regional spatial and economic strategy in accordance with *section 28(6)*;

“settlement” means a village, town or city identified by the Central Statistics Office in its ‘Alphabetical List of Towns’, 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 context "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 the development plan in accordance with *subsections (3)(b)* and *(4)* of *section 42*;

“settlement strategy” means the settlement strategy set out the written statement of the development plan in accordance with *subsections (3)(c)* and *(5)* of *section 42*;

“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 required;

“urban area” means the built-up area of a town or city as identified by Ordnance Survey Ireland, the minimum threshold for which is at least 100 buildings each within a maximum distance of 65m of one another, also including 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 built-up area;

“urban area plan” means an urban area plan prepared under *Chapter 6*;

“urban development zone planning scheme” means ;

“zoning objectives” means objectives for the zoning of land for a particular use or range or mixture of uses included in a development plan in accordance with *section 42(6)*.

Public inspection

14. Where a provision under this Part requires a person to publish a notice stating that any matter or thing is or will be made available for inspection by the public, the person 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 is reasonable.

Evidence

15. (1) A document purporting to be a copy of a part or all of a plan, strategy or statement made under this Part and to be certified by an officer of the Department of Housing, Local Government and Heritage (in the case the National Planning Framework or a National Planning Statement), regional assembly (in the case of a regional economic and spatial strategy) or planning authority (in the case of a development plan, urban area plan, priority area plan and joint area plan), as the case may be, as a correct copy 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 subsection and it shall not be necessary to produce the plan, strategy or statement itself.

Regulations (*Part 3*)

16. 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

Continuation of National Planning Framework in force

17. The National Planning Framework that is in force immediately before the commencement of this Chapter shall, subject to *sections 42(4)* and *19*, continue in force after the commencement of this Chapter notwithstanding the repeal of any enactment effected by this Act.

Objectives and content of National Planning Framework

18. (1) The National Planning Framework shall contain a statement setting out the Government's broad 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) securing the co-ordination of regional spatial and economic strategies and development plans;

(d) providing for land-sea interactions and securing co-ordination with the National Marine Planning Framework;

(e) outlining how the pursuit and achievement of the national climate objective is to be integrated into plan-led development in the State.

(2) 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 development requirements;

(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, health care, 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,

and

(e) land-sea interactions and the promotion of co-ordination of development between the terrestrial and marine sectors.

(3) In making provision under *subsection (2)(e)*, the Government shall have regard to the National Marine Planning Framework.

(4) The Government shall take such steps as are necessary to ensure that the National Planning Framework in effect at any given time shall plan for a period in the future of not less than 10 years and not greater than 20 years.

(5) In this section, references to the National Planning Framework do not include references to the National Planning Framework referred to in *section 17*.

Review of National Planning Framework

19. (1) The Government shall review the National Planning Framework in accordance with this section.

(2) The first review shall be completed by 3 April 2024 or such other date as may be prescribed.

(3) Each subsequent review shall be completed before the expiry of the period of 2 years beginning on the second occurrence of a census of population of the State that occurs after the completion of the previous review under this section.

(4) Without prejudice to the requirement in *subsection (3)*, the Government may review the National Planning Framework before the expiry of the period of 2 years beginning on the first

occurrence of a census of population of the State that occurs after the completion of the previous review under this section.

(5) 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.

(6) Where the Government reviews the National Planning Framework, it may—

(a) revise the National Planning Framework,

(b) prepare a new National Planning Framework, or

(c) subject to *section 18*, determine that no revision or new National Planning Framework is required and publish a statement explaining the reasons for the determination.

Procedure for review of National Planning Framework

20. (1) Before carrying out a review under *section 19*, the Minister shall publish a notice of the Government's intention to do so.

(2) Provision shall be made by the Minister 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,

(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 agrees to such consultation), and

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

(3) The National Planning Framework shall be subject to the provisions of any applicable EU environmental Directive, including the Strategic Environmental Assessment Directive (and Strategic Environmental Assessment Regulations) and the Habitats Directive (and *Part 6*).

(4) In preparing the National Planning Framework, 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) As soon as practicable after the Government has, on foot of a review under *section 19*, approved a revised or new National Planning Framework, the Government shall publish the revised or new National Planning Framework, as the case may be.

(6) The Minister shall, within 10 days of publication under *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 sub*section (5)*.

Duty to have regard to certain other plans and documents

21. (1) In reviewing the National Planning Framework, the Government shall have regard to such plans or documents, or class or description of plan or documents, published by the European Union or the Government of the United Kingdom of Great Britain and Northern Ireland as may be prescribed.

(2) A plan or document, or class or description of plan or document may be prescribed under *subsection (1)* if it relates to any of the following:

(a) maritime planning;

(b) land-use planning;

(c) strategic planning;

(d) spatial planning;

(e) economic planning;

(f) territorial planning.

Chapter 3

National Planning Statements

Continuation in force of pre-commencement Ministerial guidelines

22. (1) Any guidelines issued by the Minister under section 28 of the Planning and Development Act 2000 prior to the commencement of this Chapter and still in force immediately before the commencement of this Chapter shall continue in force on and after the commencement of this Chapter notwithstanding the repeal of any enactment effected by this Act-

(a) until revoked by the Minister, or

(b) until replaced by a National Planning Statement issued under this Chapter,

whichever is the shorter period.

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

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

National Planning Statement

23. (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"), and

(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, revoke or amend 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 issued or amended under this section, and

(b) notice of the revocation of any National Planning Statement under this section.

(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,

(d) the Commission,

(e) the Environmental Protection Agency, and

(f) the Maritime Area Regulatory Authority.

Issuance of a National Planning Statement

24. (1) In deciding to issue and in formulating a National Planning Statement under this section, 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, joint area plans and urban development zone planning schemes;

(b) the pattern, layout and form 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 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 manmade 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) creation of conditions conducive to commercial and industrial development and the creation of employment at appropriate locations;

(k) promotion of sustainable settlement patterns and transportation strategies in urban and rural areas including measures to reduce anthropogenic greenhouse gas emissions, adaptation to and mitigation of climate change and measures necessary to achieve the national climate objective;

(l) integration of appropriate architectural urban design and quality standards into development plans, urban area plans, priority area plans and joint area plans applicable to the assessment of any application for consent under this Act;

(m) the performance by planning authorities and the Commission of any of their functions under this Act.

(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 Impact 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 the provisions of this section or the appropriate assessment in accordance with *Part 6* (and the Minister shall be the competent authority 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 under *subsection (6)(c)*, 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 under *subsection (6)(c)* 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 shall be deemed to be minor where–

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

(b) 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.

Limitation on Ministerial power

25. (1) Notwithstanding *section 23* and subject to *subsection (2)*, the Minister shall not exercise any power or control in relation to any particular case with which a planning authority or the Commission is or may be concerned save as provided for by *sections 183*, *184*, *190* and *191*.

(2) The Minister shall, in the performance of his or her functions under any enactment, be entitled to make observations in accordance with law in relation to any particular case with which a planning authority or the Commission is or may be concerned for the purpose of discharging those functions.

Chapter 4

Continuation in force of pre-commencement regional spatial and economic strategies

26. (1) A regional spatial and economic strategy made under Part II of the Planning and Development Act 2000 that is in force in respect of the region of a regional assembly immediately before the commencement of this Chapter shall continue in force on and after the commencement of this Chapter notwithstanding the repeal of any enactment effected by this Act-

(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 plan relates,

whichever is the shorter period.

(2) The Minister may, by order, for the purposes of ensuring the effective operation of this Part and subject to *section 27(4)*, extend 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.

Regional spatial and economic strategy

27 (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 makes provision for the matters set out in *section 28* (in this Act referred to as a "regional spatial and economic strategy").

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

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

(b) to support 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 relate to a period that is not less than 10 years nor 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 of, the making of, and the 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 co-operate in respect of such other matters as may be prescribed.

Content of regional spatial and economic strategy

28. (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 delivery strategy of each planning authority,

(e) a strategy relating to 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 co-ordination and co-operation between public bodies,

(f) a strategy relating to climate change adaptation and mitigation that reflects national policy objectives and provides for the co-ordination of public bodies in pursuance of the strategy,

(g) a strategy relating to marine and coastal matters that facilitates the co-ordination 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 the archaeological, architectural and natural heritage of the region,

(l) 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,

(m) 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,

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

(n) a flooding and flood management plan for the region,

(o) 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 *section 30(11)*, and

(III) the observations of the National Transport Authority submitted in accordance with *section 31(10)*, 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,

(p) 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,

(iii) any relevant National Planning Policies and Measures, and

(q) 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 was 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—

(a) set out the geographical boundary of the metropolitan area of the city, and

(b) include a metropolitan area strategic plan in respect of the metropolitan area, 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—

(a) set out the geographical boundary of the part of the metropolitan area of the city that is within the region, and

(b) 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 must be consistent with the regional spatial and economic strategy concerned.

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

(9) For the purposes of *subsection (8)*-

(a) 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, and

(b) a regional growth centre is a large settlement with a high level of self-sustaining employment and services that acts as a regional economic driver.

(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 joint 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* of this Part,

(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* of this Part,

(e) specifying the number of members from each planning authority referred to in *paragraphs (c)* and *(d)* to be appointed under *section 70(3)* to the joint 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 joint area plan is to be made,

(g) identifying the amount of land required to accommodate such housing development needs,

(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 joint area plan committee, in accordance with the requirements of *section 70*.

(11) The conditions referred to in *subsection (10)* are—

(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 the development plan of the principal planning authority 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) Without prejudice to the generality of *subsection (1)*, a regional spatial and economic strategy and a metropolitan area strategic plan within such a strategy shall include objectives 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, health care, retail, cultural and recreational facilities,

(b) 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) co-ordination between constituent local authorities, and the co-operation 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

29. (1) Not later than 6 months after the publication of a revised or new National Planning Framework by the Government under *Chapter 2* of this Part, a regional assembly shall—

(a) commence a review of any regional spatial and economic strategy for the time being in force, and

(b) determine whether it is necessary to replace or revise the regional spatial and economic strategy.

(2) In carrying out a review under this section, a regional assembly shall—

(a) take such steps as are necessary to 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, and

(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 34* since the making or revision of the regional spatial and economic strategy, and

(iv) 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 Maritime Area Planning Act 2021.

(3) Where a regional assembly makes a determination under *subsection (1)(b)*, it shall—

(a) make a new regional spatial and economic strategy in accordance with *section 31*,

(b) revise the existing regional spatial and economic strategy in accordance with *section 31*, or

(c) publish a statement explaining why the regional assembly has determined that it is not necessary to replace or revise the regional spatial and economic strategy.

Consultation about proposed new or revised regional spatial and economic strategy

30. (1) Before making or revising a regional spatial and economic strategy under *section 29*, 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) such of the following persons as the regional assembly considers appropriate—

(I) Ministers of Government,

(II) the Office,

(III) the National Transport Authority,

(IV) other regional assemblies,

(V) other public bodies, and

(VI) 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 one or more newspapers circulating in the region.

(2) A notice under *subsection (1)(c)* 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 28*, 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) The regional assembly shall send a copy of the notice published under *subsection (1)(c)* to—

(a) the Minster,

(b) the Office,

(c) the Commission,

(d) the local authorities within the region, and

(e) the National Transport Authority.

(4) Subject to *subsection (5),* a local authority which receives a notice under *subsection (3)* shall assist and co-operate with a regional assembly in making the arrangements referred to in *subsection (1)(a)* 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, under *section 31*,

(b) the establishment of committees to oversee and consider 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 31*, and

(iii) drawing up reports in respect of the strategy or revision.

(5) If agreement is not reached between a regional assembly and a local authority under *subsection (4)* within four weeks of the sending of a notice 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 co-operate 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 *subsection (4)* 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 the provisions of *subsection (7)*.

(10) Any Minister of Government or other public body consulted under *subsection (1*) shall –

(a) so far as practicable, assist and co-operate 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) Not later than 8 weeks after the publication of a notice under *subsection (1)(c),* the National Transport Authority shall 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 issues 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 revised strategy,

(b) recommendations on the matters that require to be included in the draft regional spatial and economic strategy or draft revised 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 it shall furnish a copy of the report submitted to the regional assembly under this subsection to the Office.

(12) In making or revising a regional spatial and economic strategy, a regional assembly shall co-ordinate 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 public bodies consulted under this section.

Preparation or revision of regional spatial and economic strategy: process

31. (1) As soon as reasonably practicable after agreeing any necessary arrangements under *section 30*, 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) take such steps as are necessary to 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,

(iii) any relevant National Planning Policies and Measures, and

(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 Maritime Area Planning Act 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 *section 30*.

(4) The preparation, making and revision of a regional spatial and economic strategy shall be subject to the provisions of any relevant EU Environmental Directives, including 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 out 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 the Strategic Environmental Assessment 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 reasonably 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—

(i) the Minister,

(ii) the Office,

(iii) the Commission,

(iv) the National Transport Authority,

(v) the local authorities in its region,

(vi) other regional assemblies, and

(vii) any other prescribed persons in its region, and

(b) publish notice of the draft on a website maintained by or on behalf of the assembly and in one or more newspapers circulating in its region.

(9) A notice under *subsection (8)(b)* 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) 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 shall be taken into consideration before the regional spatial and economic strategy or revision to the strategy is made.

(10) Not later than 10 weeks after a notice is sent under *subsection (8)(a)*, the National Transport Authority shall 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 is materially consistent with 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) is not materially consistent with 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 received by virtue of *subsection (9)(b)* or (*10*), and

(b) report from the committees referred to in *section 30(4)*.

(12) Having complied with *subsection (11)*, the regional assembly shall, subject to *section 32*, 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.

Material amendments to draft regional spatial and economic strategy or draft revision

32. (1) Where, having complied with *section 31(11)*, a regional assembly proposes to make a material amendment 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 amendment, and where it determines that it is necessary to do so, it shall conduct a strategic environmental assessment in accordance with the Strategic Environmental Assessment Regulations.

(2) Where, having complied with *section 31(11)*, a regional assembly proposes to make a material amendment 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 4 weeks) 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 8 weeks from the making of the determination) specified by the director of the regional assembly concerned 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 amendment,

(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 publish a notice on a website maintained by or on behalf of the regional assembly and in one or more newspapers circulating in the region which shall state—

(a) that a copy of—

(i) any proposed material amendment,

(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 4 weeks) so specified, and

(b) that observations with respect to the proposed material amendment 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 4 weeks) specified in the notice shall be taken into account by the regional assembly before the regional spatial and economic strategy, or revision, is made.

(7) Following consideration of observations 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 amendment, 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.

Publication of regional spatial and economic strategy

33. (1) Where a regional assembly makes a regional spatial and economic strategy or a revision to an existing strategy, it shall—

(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 one or more newspapers circulating in the functional area of each local authority in the region for which the strategy is prepared, and

(b) send a copy of the notice to the persons specified in *subsection (3),*

(c) send a copy of the new regional spatial and economic strategy, or the strategy as revised, and observations made by the Minister and the National Transport Authority under *sections 31* and *32* to the Office.

(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 *subsection (1)(b)* are—

(a) the Minister,

(b) the Office,

(c) the Commission,

(d) the National Transport Authority,

(e) the local authorities within the regional assembly's region,

(f) other regional assemblies, and

(g) 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 31* or *32*.

Implementation and monitoring of regional spatial and economic strategy

34. (1) A regional assembly shall keep under review the implementation of the regional spatial and economic strategy for its region.

(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 4 years thereafter, prepare and submit a report to the regional assembly setting out progress made in supporting objectives, relevant to that local authority, of the regional spatial and economic strategy.

(3) 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 four 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.

(4) 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), including any specific actions and outcomes, and

(b) may make any recommendations considered necessary in order to implement the regional spatial and economic strategy.

(5) A regional assembly shall send a copy of the monitoring report prepared by it to the Office.

(6) The Office—

(a) shall consider the monitoring report of each regional assembly, and

(b) may make recommendations to the Minister in relation to measures 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

35. (1) Where the Minister issues or amends a National Planning Statement, each regional assembly shall, within 2 months of publication of the National Planning Statement, submit a report to the Office setting out its view as to whether the regional spatial and economic strategy in force in 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 *subsection (1)* 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, 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 *subsection (1)* and–

(a) is satisfied that the steps proposed by the regional assembly shall be sufficient to remove the material inconsistency concerned-

(i) the Office shall, as soon as practical thereafter, so inform the regional assembly, and

(ii) the director of the regional assembly shall invoke the expedited amendment procedure set out in *section 36*,

(b) is not satisfied that the steps proposed by the regional assembly shall be sufficient to remove the material inconsistency concerned, the Office shall, as soon as practical thereafter, issue a draft direction under *section 38*, specifying the steps required to be taken to remove the material inconsistency concerned.

(4) Where a regional assembly fails to submit a report in accordance with *subsection (1)* and the Office is of the opinion that there is a material inconsistency for the purposes of that subsection, the Office shall as soon as practicable thereafter issue a draft direction under *section 38* specifying the steps required to be taken to remove the material inconsistency concerned.

(5) If the Office, upon consideration of a report submitted to it under *subsection (1)*, is satisfied that there is no material inconsistency for the purposes of *subsection (1),* it shall, as soon as practical thereafter, so inform the regional assembly.

(6) The Office 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 under *subsection (3)* or *(4).*

Expedited amendment of regional spatial and economic strategy

36.(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 revised National Planning Statement, and

(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.

(2) Within 6 weeks of being informed by the Office in accordance with *subsection (3)(a)(i)* of *section 35* that the Office 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 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 can only be made by way of a revision to the regional spatial and economic strategy under *section 31(8)* to *(14)* 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 reject the proposed amendment.

(7) Where an amendment is deemed to have been made under *subsection (6),* the publication requirements under *section 33(1), (2)* and *(3)* shall apply in respect of the regional spatial and economic strategy as amended.

(8) Where an amendment is deemed to have been made 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, the director shall advise the Office of this fact and the Office shall consider whether to issue a draft direction under *section 38*.

Assessment of regional spatial economic strategy and revision by Office

37. (1) The Office 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 PLA.Ch.3.K*,

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 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 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 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 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)*.

(3) In carrying out an assessment under *subsection (1)* or *(2)*, the Office shall, in particular, consider whether the regional spatial and economic strategy, revised regional spatial and economic strategy or amended regional spatial and economic strategy, as the case may be, is consistent with—

(a) any submissions and recommendations made by the Minister, the Office or the National Transport Authority under this Chapter in respect of a draft regional spatial and economic strategy or revision, or proposed material amendment thereto,

(b) the National Planning Framework,

(c) the National Marine Planning Framework,

(d) National Planning Policy and Measures, and

(e) any requirements imposed under this Act.

(4) Where the Office, 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 suspending the effect of the regional spatial and economic strategy or part or provision thereof concerned pending the completion of the assessment, and such notice shall take effect immediately upon issuance and shall remain in effect pending the completion of the assessment and the issuance by the Office of a draft direction under *subsection (8)* and *section 38* or the making of a decision by the Office under *subsection (9)* not to issue a draft direction.

(5) Where the Office issues a notice to a regional assembly under *subsection (4)*, it shall simultaneously provide a copy of the notice to the Minister and publish the notice on a website maintained by or on behalf of the Office.

(6) The Office, in carrying out an assessment under *subsection (1)* or *(2)*—

(a) shall consult with the director and members of the regional assembly concerned,

(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 with any documentation or additional information that may be requested by the Office, within the period specified in such a request.

(8) Where, following an assessment carried out pursuant to *subsection (1)* or *(2)*, the Office 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, no adequate explanation has been offered justifying that departure having regard to the proper planning and sustainable development of the region, or

(c) departs from any relevant transport strategy of the National Transport Authority and, in the opinion of the Office, 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 issue a draft direction in accordance with *section 38* together with a statement of reasons for issuing the draft direction.

(9) Where, following an assessment carried out pursuant to *subsection (1)* or *(2)*, the Office forms the opinion that none of the criteria in *subsection (8)* is met, it shall notify—

(a) the regional assembly concerned,

(b) the Minister, and

(c) where applicable, any other regional assembly which made a notification in accordance with *subsection (2)(b)*,

of its decision not to issue a draft direction and provide them with a statement of the reasons for that decision.

Power of Office to issue draft Direction and make recommendation to the Minister

38. (1) The Office may, subject to *section 37(8)* and *subsection (4)*, issue a draft direction requiring—

(a) a regional spatial and economic strategy to be amended in the manner specified in the direction, and

(b) a 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, 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 *section 39(4).*

(3) Where a draft direction issued under *subsection (1)* identifies a provision in accordance with *subsection (2)*, the issuance of the draft direction shall immediately have the effect of suspending the operation of the provision concerned pending the making of a recommendation under this section and consideration of the recommendation and the making of a decision by the Minister under *section 39(4).*

(4) Before issuing a draft direction under *subsection (1)*, the Office 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 impact assessment is required, the Office 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 shall prepare a Natura impact report in accordance with *Part 6.*

(6) Where the Office issues a draft direction under *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 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) the Commission, and

(v) the National Transport Authority.

(7) A notice published under *subsection (6)(a)* shall—

(a) state that the Office has issued a draft direction under this section,

(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 required in respect of the draft direction,

(c) state that copies of the draft direction, the determination made under *subsection (4)(a)* and *subsection (4)(b)* 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 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, 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 in making a recommendation to the Minister as to whether to issue the draft direction and by the Minister in deciding whether to issue the draft direction.

(8) Subject to *subsection (9),* the Office shall, not later than 4 weeks after the expiry of the period specified in a notice published under *subsection (6)(a),* and having considered any submissions received in relation to the draft direction, including any submissions received from the director and members of the regional assembly—

(a) recommend that the Minister issue a direction in the terms of the draft direction,

(b) recommend that the Minister issue a direction 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.

(9) Where the Office, following consideration of any submissions received, is of the opinion that none of the criteria in *section 37(8)* is met, the Office shall recommend that the Minister not issue the draft direction, without prejudice to the power of the Office to carry out further assessments pursuant to *subsection (2)* of *section 37*.

(10) A recommendation to the Minister under *subsection (8)* shall be accompanied by a report of the Office setting out-

(a) a copy of the draft direction,

(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 any written submissions referred to in *paragraphs (b)* and *(c)*,

(e) the reasons for the recommendation of the Office,

(f) where the Office is recommending that the Minister issue a direction 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, or both, as the case may be, in relation to the direction which the Office is recommending that the Minister issue.

(11) A copy of the recommendation and report sent to the Minister under *subsections (8)* and *(10)*, 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, and

(b) sent to the regional assembly concerned.

Power of Minister to issue a Direction

39. (1) The Minister may, subject to the provisions of this section, issue a direction requiring—

(a) a regional spatial and economic strategy to be amended in the manner specified in the direction, and

(b) a regional assembly to implement the amendment referred to in *paragraph (a)* and publish the regional spatial and economic strategy as so amended.

(2) The power to issue a direction under *subsection (1)* shall only be exercisable where the Office has issued a draft direction under *subsection (1)* of *section 38*.

(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 *subsection (8)* of *section 37* is met.

(4) Within 6 weeks of receipt of the recommendation and report of the Office in accordance with *subsections (8)* and *(10)* of *section 38*, the Minister shall—

(a) consider the recommendation and report,

(b) consider any submissions received by the Office in relation to the draft direction,

(c) make a decision, for stated reasons, as to whether to accept the recommendation of the Office, and

(d) where the decision is to issue a direction—

(i) identify in the stated reasons provided under *paragraph (c)* which of the criteria in *subsection (8)* of *section 37* the Minister considers to be met, and

(ii) issue the direction.

(5) A direction under *subsection (1)* may be issued—

(a) in the terms of the draft direction issued by the Office under *subsection (1)* of *section 38*,

(b) in the terms of any amended draft direction recommended by the Office under *subsection (8)(b)* of *section 38*,

(c) in the terms referred to in *paragraph (a)* or *(b)* with such minor amendments as the Minister considers appropriate.

(6) For the purposes of *subsection (5)(c)*, an amendment 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's report to the Minister in accordance with *subsection (10)(g)* of *section 38* and may adopt such assessment or make his or her own assessment and determination in respect of the direction.

(8) Where the Minister decides, whether or not in accordance with a recommendation made by the Office under *subsection (8)* of *section 38*, not to issue a direction under *subsection (1)*, the Minister may still request the Office to carry out a further assessment under *section 37(2).*

(9) A direction issued under *subsection (1)*, together with a statement of reasons for making the direction, shall, within 3 working days beginning on the date on which the direction is issued—

(a) be provided to the regional assembly concerned and the Office,

(b) be provided to all planning authorities within the region of the regional assembly concerned,

(c) be published on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage, and

(d) be laid before each House of the Oireachtas by the Minister.

(10) Within 2 working days of receipt of a direction in accordance with *subsection (9)*, the Office and the regional assembly concerned shall each publish the direction on a website maintained by or on behalf of the Office and the regional assembly.

(11) 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,

(b) cause a copy of the statement in *paragraph (a*) to be laid before each House of the Oireachtas, and

(c) as soon as practicable, make the statement in *paragraph (a)* available on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage.

(12) Where the Minister issues a direction under *subsection (1)*, the regional assembly shall, within 3 working days of receipt of the direction, comply with that direction and the director of the regional assembly or the members of the regional assembly shall not exercise any power or perform any function conferred on them by or under this Act in a manner that contravenes the direction.

(13) A direction issued by the Minister under *subsection (1)* is deemed to have immediate effect and its terms are considered to be incorporated into the regional spatial and economic strategy, or, if appropriate, to constitute the 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 the direction.

(14) Where, in any application for judicial review of a direction made pursuant to this section under Order 84 of 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 *subsection (8)* of *section 37* 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 *subsection (8)* of *section 37* is met, and

(b) the Court finds that the Minister was entitled to form such an opinion.

(15) 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, references to 'the regional assembly' in *sections 37, 38* and this section shall be construed as referring to each such regional assembly and the provisions shall apply *mutatis mutandis* in respect of each such regional assembly.

Chapter 5

Development Plans

Continuation in force of pre-commencement development plan

40. (1) A development plan made under Part II of the Planning and Development Act 2000 that is in force in respect of the functional area of a planning authority immediately before the commencement of this Chapter shall, continue in force on and after the commencement of this Chapter notwithstanding the repeal of any enactment effected by this Act-

(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) The Minister may, by order, for the purposes of ensuring the effective operation of this Part, extend 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.

Obligations to make and review development plan

41. (1) Subject to *section 40* and *subsection (5)(b)*, a planning authority shall make a development plan 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 that are to be prepared under *sections 43* to *50*, 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)* and *section 40*, a development plan shall have effect for a period of 10 years beginning on the date on which it comes into effect under *section 55(17)*.

(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 *subsection (5)(b)*, 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, as far as 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 co-ordinate the development plans for their 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 57*, a planning authority shall—

(a) ensure the proper planning and sustainable development of the area to which the development plan relates,

(b) take such steps as are necessary as to 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,

(iv) any relevant National Planning Policies and Measures, and

(v) 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

(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, and

(iii) any likely significant effects the implementation of the plan may have on the functional area of any adjoining planning authority, 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 Maritime Area Planning Act 2021.

Content of development plan

42. (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 prepared under *sections 43* to *50*,

(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 (2)* of *section 252*.

(2) The integrated overall strategy for the proper planning and sustainable development of the area referred to in *subsection (1)(a)* 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 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, and

(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 co-ordinates 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 referred to in *subsection (1)(b),*

(f) a statement demonstrating the manner in which the plan is co-ordinated with the integrated overall strategy of the development plan of any contiguous planning authority and any matters specified by the Minister under *section 41(7)*,

(g) a statement demonstrating the manner in which the plan is consistent with any relevant transport strategy made by the National Transport Authority,

(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 is consistent with implementation of—

(i) the climate action plan approved by the Government under section 4(9) of the Climate Action and Low Carbon Development Act 2015,

(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 *subsection (3)(b)*, 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 and range 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 *subsection (3)(c)*, 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 range 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 with the requirement in *section 41(8)*.

(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 referred to in *subsection (1)(b)* are co-ordinated 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 range of mixture of uses shall remain so zoned in any subsequent development plan.

Obligation to prepare strategy for sustainable development and regeneration

43 (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 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, 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

44. (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 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 economic and employment trends and for the purposes of enabling conditions for creating and sustaining jobs;

(c) the location of retail development;

(d) 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;

(e) such other matters as may be prescribed.

Obligation to prepare housing delivery strategy

45. (1) A planning authority other than one to which *section 46(1)* applies shall prepare a strategy for its functional area which distributes planned population and housing growth within the area, identifies the spatial capacity of urban and rural locations to accommodate planned population and prioritises infrastructural investment necessary for housing development.

(2) A housing delivery strategy prepared under *subsection (1)* shall be materially consistent with the housing strategy prepared under *section 218*.

(3) The housing delivery 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; and

(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 (a)(i)* and *(ii)*, 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 so that a scarcity of such land does not occur at any time during the period of the development plan, 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) a statement of measures to prioritise compact urban development sites for residential use or a mixture of residential and other uses;

(d) 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;

(e) 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;

(f) objectives to secure the implementation of the housing strategy, in particular, any of the matters referred to in *section 218(5),* 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 type referred to in *sections 218(5)(f)* and *218(6)*;

(g) a statement regarding the provision of accommodation for members of the Traveller community and the use of particular areas for that purpose;

(h) objectives relating to the monitoring of the progress achieved in implementing the housing delivery strategy;

(i) objectives relating to such other matters as may be prescribed.

(4) The housing delivery strategy may-

(a) include specific objectives as referred to in *paragraph (f)* 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 *section 218(6)*, different specific objectives may be indicated in respect of different areas, subject to the specified percentage referred to in *section 218(10)* 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 *section 218(6)* 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 *subsections (3)(b), (3)(f)* or *(4)* or *sections 221* or *229* shall prevent any land being developed exclusively for housing of the type referred to in *218(6)(a)* or *(b)*.

(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 has been designated as a regional growth centre or key town in the regional spatial and economic strategy that applies in relation to the settlement, 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 co-ordinated 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 delivery strategy where planning authority's functional area consists solely of a city

46. (1) A planning authority whose functional area consists solely of a city shall prepare a strategy which distributes planned population and housing growth within the city, identifies the spatial capacity of different areas of the city to accommodate planned population and prioritises infrastructural investment necessary for housing development.

(2) A housing delivery strategy prepared under *subsection (1)* shall be materially consistent with the housing strategy prepared under *section 218*.

(3) The housing delivery 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) a statement-

(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 so that a scarcity of such land does not occur at any time during the period of the development plan, 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 joint area plan or priority urban plan,

(III) any compact urban development sites identified as suitable for development for residential use or a mixture of residential and other uses, and

(IV) any greenfield site identified as suitable for development for residential use or a mixture of residential and other uses;

(d) 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;

(e) 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;

(f) objectives to secure the implementation of the housing strategy, in particular, any of the matters referred to in *section 218(5)*, 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 type referred to in *sections 218(5)(f)* and *218(6)*;

(g) a statement regarding the provision of accommodation for members of the Traveller community and the use of particular areas for that purpose;

(h) objectives relating to the monitoring of the implementation of the strategy;

(i) objectives relating to such other matters as may be prescribed.

(4) The housing delivery strategy may:

(a) include specific objectives as referred to in *paragraph (f)* 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 *section 218(6)*, different specific objectives may be indicated in respect of different areas, subject to the specified percentage referred to in *section 218(10)* 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 *section 218(6)* 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 *subsections (3)(c)(i), (3)(f)* or *(4)* or *sections 221* or *229* shall prevent any land being developed exclusively for housing of the type referred to in *218(6)(a)* or *(b)*.

(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 co-ordinated delivery of physical or other infrastructure that cannot otherwise be provided for in settlement-specific objectives included in the development plan in accordance with *section 52(2)* for the part of the city concerned.

Chief Executive report on adjustment of housing delivery strategy

47. The chief executive of a planning authority shall, where he or she considers that there has been a change in the housing market that significantly affects the housing delivery strategy, 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 delivery strategy be adjusted, and that the development plan be varied accordingly.

Obligation to prepare strategy relating to places of high quality and sustainable communities

48. (1) A planning authority shall prepare a strategy for the creation, improvement and preservation of places of high quality and sustainable communities for the functional area of the planning authority**.**

(2) The strategy shall include objectives for:

(a) the provision, facilitation of the provision, improvement, extension and preservation of amenities, facilities and services to meet the social, community, recreational and cultural requirements of the 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 Gaeltacht areas in the functional area to which the development plan relates;

(c) the promotion of high standards of urban design, architecture, public realm and landscaping to enhance, improve and maintain the quality and character of urban and rural areas;

(d) such other matters as may be prescribed.

Obligation to prepare strategy relating to environmental 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 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 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 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;

(e) the reduction of the risk of serious danger to human health or the environment arising from a major accident having regard to the provisions of the Major

Accidents Directive, and the limitation and mitigation of the consequences and effects of natural hazards or major accidents;

(f) the control, regulation and, where appropriate, promotion of the exploitation of natural resources;

(g) such other matters as may be prescribed.

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 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 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 national monuments as defined by or designated under the National Monuments Acts 1930 to 1994,

(e) Unesco sites, having due regard to the reasons for the designation as a Unesco site of the site concerned,

(f) archaeological sites,

(g) any architectural conservation area within the meaning of *section 276*,

(h) any structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest,

(i) places, caves, sites, features and other objects of archaeological, geological, historical, scientific or ecological interest,

(j) landscapes, views and prospects in a manner consistent with the strategy referred to in *section 28(1)(l)* 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,

(k) places and features of natural beauty or interest,

(l) such other land, or such other things relating to the natural or built heritage, as may be prescribed.

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 integrates and 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 fuelling of vehicles,

(iv) the objects which may be affixed to structures, and

(v) the purposes for and the manner in which structures may be used or occupied, including, in the case of a house, the letting of it 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 give access to seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility.

(3) An objective included in a development management statement may relate to the whole or part of the functional area or to a structure within the functional area.

(4) Nothing in this section shall affect the existence or validity of any public right of way.

(5) No objective included in a development plan under this section shall be construed as affecting the power of a local authority to extinguish a public right of way under section 73 of the Roads Act 1993.

Settlement-specific objectives

52. (1) A planning authority shall prepare a statement containing—

(a) objectives of the type specified in *subsection (3)* (in this section 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, and

(ii) settlements with a population of less than 1,500, where the planning authority considers that the settlement concerned has the capacity to accommodate significant growth relative to the scale of the settlement,

(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 set out in the written statement of the development plan in accordance with *subsection (3)(b)* of *section 42*, or the settlement strategy set out the written statement of the development plan in accordance with *subsection (3)(c)* of *section 42*, as the case may be, and

(c) a map identifying—

(i) a settlement boundary,

(ii) the zoning objectives applicable to lands as set out in the integrated overall strategy of the development plan in accordance with *section 42(6)*,

(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 joint 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 *section 50(2)(a)* to *(l)*, and

(ix) European Sites.

(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 *section 42(1)(a)* and *(b)*,

(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 *subsection (2)(a)* 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),* and

(c) details of the estimated capacity of the overall area to be the subject of the priority area plan.

(5) Where *subsection (2)(b)* 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),* and

(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 joint 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 such a plan 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.

Consultation with Office before preparation of draft development plan

53. (1) At least [3 months] before commencing the review of a development plan referred to in *section 41(2)*, a planning authority shall consult the Office 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,

(iv) any relevant National Planning Policies and Measures, and

(v) any relevant transport strategy of the National Transport Authority which relates to all or any part of the functional area of the planning authority,

(b) any relevant National Planning Policy Guidance, and

(c) 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 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 since the making of the development plan,

(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 shall, after taking due account of the matters referred to in *paragraphs (a)* to *(c)* of *subsection (1)*, issue a document (referred to in this Chapter as the "Opinion on Development Plan Strategy") identifying 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 Chapter as a "Strategic Issues and Options Paper") which shall take due account of the matters referred to in *paragraphs (a)* to *(c)* of *subsection (1)* and—

(a) 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 prepared under *sections 43* to *50* that are to be included in the development plan, and

(b) may set out for consideration alternative approaches relevant to the matters referred to in *paragraph (a).*

Notice of intention to review development plan

54. (1) The review of a development plan referred to in *section 41(2)* 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 this section shall state—

(a) that the planning authority intends to review the existing development plan and to prepare a new development plan,

(b) 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]) specified in the notice,

(c) that children, or groups representing the interests of children, are entitled to make submissions under *paragraph (b)*,

(d) that the planning authority intends to review the zoning objectives referred to in *section 42(6)* 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 zoning of particular land for any purpose shall not be considered at this stage,

(e) that the Office of the Planning Regulator has provided an Opinion on Development Plan Strategy to guide the preparation of the new development plan,

(f) 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,

(g) 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, 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,

(c) the Commission,

(d) the regional assembly for the region within which the functional area to which the development plan relates is situated,

(e) any local community development committee within the functional area of the planning authority,

(f) any adjoining planning authorities,

(g) the National Transport Authority, and

(h) 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 one or more newspapers circulating in the functional area of the planning authority.

(5) (a) As soon as reasonably 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 [10 working days] 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 disclosure,

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

(iii) to the extent that the planning authority has sought and received, either before or after the period of [10 working days] referred to in *paragraph (a)*, legal advice that part of the submission 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 issues which, in the opinion of the National Transport Authority, should be considered by the planning authority in the preparation of the draft 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 draft development plan to ensure the effective integration of transport and land-use planning, and

(iv) any recommendations on the matters that require to be included in the draft development plan so as to ensure that it is materially consistent with 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.

(8) On foot of receiving a notice under *subsection (1)*, a regional assembly shall-

(a) prepare and submit to the planning authority a report which shall set out—

(i) the issues 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 require 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.

(9) For the purposes of preparing a draft development plan, the planning authority shall disregard any part of a submission received by it that relates to the zoning objectives referred to in *section 42(6)* applicable to any particular land.

(10) (a) Not later than [16 weeks] after giving 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 or bodies who made submissions and any persons consulted by the authority,

(ii) summarise the submissions (excluding any submission that is to be disregarded under *subsection (7)*), 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, and

(iv) state the chief executive's recommendations as to the policies to be included in the draft development plan.

(d) A report under *paragraph (a)* shall summarise the issues 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 issues and recommendations should be taken account of in the draft development plan.

(e) A report under *paragraph (a)* shall summarise the issues 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 issues and recommendations should be taken account of in the draft development plan.

(f) A report under *paragraph (a)* shall be submitted to the members of the planning authority, or to a committee of the planning authority, as may be decided by the members of the authority, for their consideration.

(g) Following consideration of a report under *paragraph (f),* the members of the planning authority or of the committee, as the case may be, may, by resolution, issue no more than one direction to the chief executive regarding the overall strategic direction to be adopted in respect of the preparation of each of the following elements of the draft development plan-

(i) an integrated overall strategy for the proper planning and sustainable development of the functional area of the planning authority,

(ii) a strategy for the sustainable development and regeneration of the functional area of the planning authority,

(iii) a strategy for the economic development of the functional area of the planning authority,

(iv) a housing delivery strategy,

(v) a strategy for the creation, improvement and preservation of sustainable places and communities for the functional area of the planning authority,

(vi) 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, and

(vii) a strategy for the conservation, protection, management and improvement of the natural and built heritage and landscape in the functional area of the planning authority.

(h) Subject to *paragraph (i),* the chief executive of a planning authority shall comply with any such direction in the preparation of a draft development plan.

(i) The chief executive of the planning authority shall not be obliged to comply with any part of a direction made under *paragraph (g)* which relates to the zoning objectives referred to in *section 42(6)* applicable to any particular land.

(j) A direction under *paragraph (g)* shall be issued not later than [10 weeks] after the submission of a report under *paragraph (f).*

(11) (a) The chief executive of a planning authority shall, not later than 12 weeks after the issuing of any direction under *subsection (10)(g)* or, where no direction is issued, not later than [12 weeks] after the expiry of the period of [10 weeks] mentioned in *subsection (10)(j),* prepare a draft development plan and submit it to the members of the planning authority for their consideration.

(b) The members of a planning authority shall, as soon as may be, consider the draft development plan submitted by the 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] 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 the provisions of *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 [2 weeks] of the period referred to in *section 54(11)(c)* or the adoption of a resolution in accordance with that section, as the case may be—

(a) send notice and a copy of the draft development plan to-

(i) the Minister,

(ii) the Office,

(iii) the Commission,

(iv) the regional assembly for the region within which the functional area to which the development plan relates is situated,

(v) any local community development committee within the functional area of the planning authority,

(vi) any adjoining planning authorities,

(vii) the National Transport Authority, and

(viii) 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 one or more newspapers 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 screen 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]) 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 specified period will be taken into consideration before the making of the development plan.

(3) The Minister or the Office may, in relation to a draft development plan, make such recommendations as the Minister or the Office, as the case may be, considers appropriate.

(4) (a) Where a draft development plan includes any provision relating to any addition to or deletion from the record of protected structures, the planning authority shall serve on each person who is the owner or occupier of the proposed protected structure or the protected structure, as the case may be, a notice of the proposed addition or deletion, including the particulars.

(b) A notice under *paragraph (a)* shall state—

(i) that a copy of the proposed addition or deletion may be inspected at a specified place or places and at specified times during a specified period of not less than [8 weeks],

(ii) that written submissions with respect to the proposed addition or deletion made to the planning authority within the specified period will be taken into consideration before the making of the addition or deletion,

(iii) whether or not the proposed addition or deletion was recommended by the Minister for Housing, Local Government and Heritage, and

(iv) that, if the proposed addition or deletion was recommended by the Minister for Housing, Local Government and Heritage, the planning authority shall forward to that 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) (a) Written submissions received by a planning authority on foot of publication of a notice under *subsection (1)* shall, subject to *paragraph (b)*, be published on a website maintained by or on behalf of the authority within [10 working days] of their receipt by the authority.

(b) Publication in accordance with *paragraph (a)* does not apply where one or more of the criteria set out in *section 54(6)(b)* is met.

(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 under *subsection (3),* and

(iii) any observations received from the Minister under *subsection (4)(b)(iv),*

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 *paragraph (a).*

(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, 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 directions of the members of the authority or the committee under *section 54(10)(g),*

(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 for Housing, Local Government and Heritage under *subsection (4)(b)(iv),*

(iv) set out the recommendations of the chief executive as to how any recommendations made by the Minister and the Office should be taken account of in the development plan,

(v) summarise the issues raised in the submissions made by the National Transport Authority and outline the recommendations of the chief executive in relation to the manner in which those issues should be taken account of in the development plan,

(vi) summarise the issues raised in the 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 issues 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 under this section, they shall so inform the Minister or the Office, 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 *subsection (7)(c)* 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 and send notice and a copy of the material alteration to the persons specified in *subsection (1)(a)*.

(b) The planning authority shall determine, in accordance with the Strategic Environmental Assessment Regulations, whether a strategic environmental assessment requires 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 requires 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 *paragraph (c)* that a strategic environmental assessment or an appropriate assessment, as the case may be, requires 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 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]) as may be so specified, and

(ii) state that written submissions with respect to the material alteration, environmental report or Natura impact report made to the planning authority within the specified period 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 one or more newspapers circulating in the functional area of the planning authority.

(9) The Minister or the Office may, in relation to a material alteration, make such recommendations as the Minister or the Office, as the case may be, considers appropriate.

(10) (a) Written submissions received by a planning authority on foot of publication of a notice under *subsection (8)* shall, subject to *paragraph (b)*, be published on a website maintained by or on behalf of the authority within [10 working days] of their receipt by the authority.

(b) Publication in accordance with *paragraph (a)* does not apply where one or more of the criteria set out in *section 54(6)(b)* is met.

(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 *paragraph (a)*.

(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 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 should be taken account of in relation to the material alteration,

(iv) give the response of the chief executive to the issues raised and the recommendations of the chief executive in relation to the material alteration, and

(v) include any assessment carried out by the chief executive under *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)* of this subsection, the members of the 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 authority decide to make the plan with the material alteration, they may do so subject to any further modifications to the alteration that they consider appropriate, provided such modifications comply with *paragraph (c)* of this subsection.

(c) A further modification to the alteration—

(i) may be made where it is minor in nature and therefore not likely to have significant effects on the environment or adversely affect the integrity of a European site, and

(ii) shall not be made where it relates to—

(I) an increase in the area of land zoned for any purpose, or

(II) an addition to or deletion from the record of protected structures.

(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 under this section, they shall so inform the Minister or the Office, 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 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, 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 *subsection (7)(c)* or *subsection (12)*.

(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 [4 weeks] after the date of the making of the development plan).

(c) The planning authority shall, within [4 weeks] of the making of the development plan, send a copy of the development plan to-

(i) the Minister,

(ii) the Office,

(iii) the Commission,

(iv) the regional assembly for the region within which the functional area to which the development plan relates is situated,

(v) any local community development committee within the functional area of the planning authority,

(vi) any adjoining planning authorities,

(vii) the National Transport Authority, and

(viii) 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 under *paragraph (c)*, the planning authority shall also send to the Office 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 an addition to or a deletion from the record of protected structures under this section, a planning authority shall serve on the owner and on the occupier of the structure concerned a notice of the addition or deletion, including the particulars.

(17) A development plan made under this section shall have effect [8 weeks] from the date of the making of the plan under *subsection (7)(c*) or *subsection (14).*

(18) Notwithstanding any other provision of this Part, where a planning authority fails to make a development plan within a period of [2 years] from the giving of notice of intention to make a new development plan under *section 54*, 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 *section 41(5)(b),* the Minister has extended the period during which a development plan has effect, 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 person shall not question the validity of the development plan by reason only that the procedures as set out under *subsections (6), (10)* and *(11)* of *section 54* and *subsections (1), (5), (6), (7), (8), (10), (12), (13)* and *(15)* of this section were not completed within the time required under the relevant subsection.

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 implementation of the objectives of the development plan.

(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 referred to in *subsection (2)* 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), and

(v) in the case of a coastal planning authority, the marine planning policy statement prepared and published under section 6 of the Maritime Area Planning Act 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 prepared under *sections 43* to *50* (which, in the case of a housing delivery strategy, shall measure progress made by reference to the housing strategy, the monitoring objectives included in the housing delivery strategy and having regard to any relevant performance indicators and metrics specified in regulations made under *subsection (3)(i)* of *section 45* or *subsection (3)(i)* of *section 46* 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 urban development zone and the preparation and making of a planning and delivery scheme for any site designated as an urban development zone, and the implications of such progress or the lack thereof for the implementation of the housing delivery strategy,

(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 delivery 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 urban development zone 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 urban development zone, or remove the designation of the entire candidate urban development zone, as appropriate,

(iv) adjusting the housing delivery strategy where new or revised housing needs have been identified by the chief executive of the planning authority in accordance with *section 47*, 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 the making of such variation as recommended by the chief executive as the members consider appropriate.

(5) Where by resolution adopted under *subsection (4)*, the members of a planning authority do not propose to make a variation recommended by the chief executive for the purposes set out in *paragraph (e)(i)* of *subsection (3)*, they shall so inform the Minister and the Office 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)*, that resolution shall be deemed to be a resolution adopted under *subsection (3)(c)* of *section 57*.

Variation of development plan

57. (1) Subject to *section 58* and *subsection (2)*, a planning authority may at any time, for stated reasons, decide to make a variation of a development plan 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 joint 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 joint area plan is to be prepared,

unless the director of the regional assembly consents to the making of the variation concerned.

(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 may, by resolution, decide 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 a planning authority decides to propose to make a variation of a development plan under *subsection (3)* or *(4)*, it shall, as soon as practicable after making the decision—

(a) send notice and copies of the proposed variation of the development plan to—

(i) the Minister,

(ii) the Office,

(iii) the Commission,

(iv) the relevant regional assembly,

(v) any adjoining planning authority,

(vi) the National Transport Authority,

(vii) any local community development committee within the area of the development plan,

(viii) such other persons as may be prescribed, and

(ix) 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 joint 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 one or more newspapers 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 under *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) 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 or the Office 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 the Minister or the Office considers appropriate.

(10) (a) Written submissions received by a planning authority under this section shall, subject to *paragraph (b)*, be published on a website maintained by or on behalf of the authority within 10 working days of their receipt.

(b) Publication in accordance with *paragraph (a)* does not apply where one or more of the criteria set out in *section 54(6)(b)* is met.

(11) (a) Not later than [8 weeks] after giving 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 *paragraph (a)(i)* shall be published on a website maintained by or on behalf of the planning authority concerned as soon as practicable after its submission under *paragraph (a)(ii)*.

(c) A report prepared under *paragraph (a)* shall—

(i) list the persons or bodies who made submissions,

(ii) provide a summary of—

(I) the recommendations and submissions made by the Minister,

(II) the recommendations and submissions made by the Office,

(III) the submissions made by the regional assembly and the National Transport Authority, and

(IV) the 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 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] of the submission of the chief executive's report to the members of the authority.

(c) Where, following the consideration of the proposed variation and the chief executive's report, it appears to the members of the 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 under this section, they shall, as soon as practicable following the making of the variation, so inform the Minister, or the Office, 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 *subsection (12)(d)* 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 *subsection (12)(d)*, publish notice of the modification 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 *subsection (7)(a)(i)* to *(ix)*.

(b) The planning authority shall, in accordance with the Strategic Environmental Assessment Regulations, conduct a screening for strategic environmental assessment and, where required, a strategic environmental assessment of a modification that constitutes a material alteration of the proposed variation.

(c) The planning authority shall, in accordance with *Part 6*, conduct a screening for appropriate assessment and, where required, an appropriate assessment of a modification that constitutes a material alteration of the proposed variation.

(d) Where the planning authority determines under *paragraph (b)* or *paragraph (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 material alteration and the [2 week] period referred to in *paragraph (a)(ii)* may be

extended by such period as the chief executive specifies as being necessary for this purpose.

(e) A notice under *paragraph (a)* shall include notice of the making of any determination that an assessment referred to in *paragraph (b)* or *paragraph (c)* is required.

(f) A notice under *paragraph (a)* shall state—

(i) that a copy of—

(I) the modification to the proposed variation,

(II) any determination by the authority that an assessment referred to in *paragraph (b)* or *paragraph (c)* is 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]) as may be so specified, and

(ii) that written submissions with respect to the modification to 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 under *paragraph (b)* or an appropriate assessment is required under *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) (a) Written submissions received by a planning authority on foot of publication of a notice under *subsection (13)* shall, subject to *paragraph (b)*, be published on a website maintained by or on behalf of the planning authority within [10 working days] of their receipt by the authority.

(b) Publication in accordance with *paragraph (a)* does not apply where one or more of the criteria set out in *section 54(6)(b)* is met.

(15) (a) Not later than [12 weeks] after giving 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 *paragraph (a)(i)* shall be published on a website maintained by or on behalf of the planning authority concerned as soon as practicable after its submission under *paragraph (a)(ii)*.

(c) A report prepared under *paragraph (a)* shall—

(i) list the persons or bodies who made submissions,

(ii) provide a summary of—

(I) the 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) the recommendations and submissions made by the Office in relation to the modification to the proposed variation and any strategic environmental assessment or appropriate assessment of the modification,

(III) the submissions made by the regional assembly and the National Transport Authority, and

(IV) the 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 should be taken account of in relation to the modification to the proposed variation,

(iv) give the response of the chief executive to the issues raised in the submissions and the recommendations of the chief executive in relation to the modification to the proposed variation, and

(iv) include the assessment of the chief executive under *subsection (13)(g)*.

(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] after 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 modifications to the alteration that they consider appropriate, provided such modifications comply with *paragraph (c).*

(c) A further modification to the alteration—

(i) may be made where it is minor in nature and therefore not likely to have significant effects on the environment or adversely affect the integrity of a European site, and–

(ii) shall not be made where it relates to—

(I) an increase in the area of land zoned for any purpose under *section 42(6),* 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 under this section, they shall, as soon as practicable following the making of the variation, so inform the Minister or the Office, 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 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, notice of the making of the variation.

(b) A notice under this subsection shall state that a copy of the development plan as varied is 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 the date of the notice.

(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,

(iii) the Commission,

(iv) the relevant regional assembly,

(v) the National Transport Authority,

(vi) any adjoining planning authority,

(vii) any local community development committee within the area of the development plan, and

(viii) such other persons as may be prescribed.

(d) Where a planning authority sends a copy of any variation to the Office under *paragraph (c)*, the planning authority shall also send to the Office 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 person shall not question the validity of a variation of a development plan by reason only that the procedures set out in this section were not completed within the relevant time period.

(20) A variation made to a development plan shall have effect from the day that the variation is made.

Variation affecting settlement-specific objectives in urban area plan or priority area plan

58. (1) This section applies where a planning authority is considering in accordance with *section 57*—

(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 *section 57(7)*—

(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,

(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 57*, the chief executive of the planning authority shall take account of any submissions received by virtue of *subsection (3)(b)*.

(5) In making any decision for the purposes of *section 57*, the members of the planning authority shall take account of any submissions received by virtue of *subsection (3)(b)*.

(6) Where the planning authority under *section 57* 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 57* 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 57*.

(8) In this section, "relevant area plan" means—

(a) an urban area plan, or

(b) a priority area plan.

Public rights of way

59. (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 *57*, 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 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) as may be so specified,

(b) that written submissions with respect to the proposal made to the planning authority within the specified period will be taken into consideration by the planning authority,

(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 its inclusion.

(4) Any person on whom notice has been served under *subsection (1)* shall be served with a copy of the recommendation accordingly and a copy of such notice shall be published in one or more newspapers 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.

(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 or variation made under this Chapter.

(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;

(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)* of this section and shall not come into effect until the appeal has been finally determined.

(8) Where, upon the final determination of an appeal brought under *subsection (5)*, the 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 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) Where any existing development plan contains any provision relating to the preservation of a public right of way, the provision may be included in any subsequent development plan without the necessity to comply with this section.

(11) Nothing in this section shall affect the existence or validity of any public right of way which is not included in the 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

60. (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 setting out its view as to whether the development plan in force in its functional area is materially consistent the National Planning Policies and Measures.

(2) Where a planning authority is of the view that there is a material inconsistency or inconsistencies for the purposes of *subsection (1)*, the report referred to in *subsection (1)* shall set out what steps the planning authority proposes to take to vary its development plan, so as to remove the material inconsistency or inconsistencies concerned.

(3) If the Office, upon consideration of a report submitted to it under *subsection (1)*, is of the opinion that that there is a material inconsistency for the purposes of *subsection (1)* and—

(a) is satisfied that the steps proposed by the planning authority shall be sufficient to remove the material inconsistency concerned-

(i) the Office shall so inform the planning authority, and

(ii) the chief executive of the planning authority shall invoke the expedited amendment procedure set out in *section 61*,

(b) is not satisfied that the steps proposed by the planning authority shall be sufficient to remove the material inconsistency concerned, the Office shall issue a draft direction under *section 63*, specifying the steps required to be taken to remove the material inconsistency concerned.

(4) If the Office, 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 *subsection (1)*, it shall so inform the planning authority.

(5) The Office 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 under *subsection (3)* or *(4).*

Expedited amendment of development plan

61. (1) This section applies where amendments to a development plan for the time being in force-

(a) are necessitated by the issuance of a new or revised National Planning Statement, and

(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 a statement.

(2) Within [6 weeks] of being informed by the Office in accordance with *subsection (3)(a)(i)* of *section 60* that the Office 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 amendment to the development plan concerned and shall conduct a screening 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 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, an appropriate assessment, or both, as the case may be, is or are required in respect of a draft amendment, the draft amendment can only be made by way of a variation to the development plan concerned under *section 57* 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 amendment, the chief executive shall propose the draft amendment to the members of the planning authority for adoption by resolution.

(6) Where the chief executive of the planning authority proposes a draft amendment to the planning authority 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 planning authority, within that period, by resolution reject the proposed amendment.

(7) Where an amendment is deemed to have been made under *subsection (6),* the publication requirements under *subsection (18)* of *section 57* shall apply in respect of the development plan as amended.

(8) Where, within the 6 week period referred to in *subsection (6)*, the members of the planning authority by resolution reject the amendment proposed by the chief executive, the chief executive shall advise the Office of this fact and the Office shall consider whether to issue a draft direction under *section 63*.

Assessment of development plan and variation by Office

62. (1) The Office shall, upon being notified by a planning authority under this Chapter of–

(a) the making of a development plan,

(b) the making of any variation to a development plan, or

(c) the making of an amendment to a development plan under *section 61,*

carry out an assessment of the development plan, variation or amendment, as the case may be, in accordance with *subsections (3)* and *(4)*.

(2) (a) The Minister may, at any time, request the Office 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 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 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 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 shall, in particular, consider whether the development plan, variation or amendment is consistent with–

(a) any opinion of the Office issued to the planning authority concerned under *section 53*,

(b) any recommendations and submissions made by the Minister or the Office under this Chapter in respect of a draft development plan or variation, or proposed material alteration thereto,

(c) the National Planning Framework,

(d) the relevant regional spatial and economic strategy,

(e) National Planning Policies and Measures,

(f) any relevant transport strategy published by the National Transport Authority, and

(g) any requirements imposed under this Act.

(4) Without prejudice to *subsection (3)*, the Office shall, in carrying out an assessment under *subsection (1)* or *(2)*, consider whether the development plan or development plan as varied or

amended, 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 carrying out an assessment under *subsection (4)*, the Office shall have regard to whether the development plan or development plan as varied or amended, as the case may be, contains a statement in accordance with the requirements of *subsections (2)* to *(8)* of *section 42*.

(6) Where the Office, 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) 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 suspending the effect of the development plan or part or provision thereof concerned pending the completion of the assessment, and such notice shall take effect immediately upon issuance and shall remain in effect pending the completion of the assessment and the issuance by the Office of a draft direction under *section 63* in accordance with *subsection (10)* or the making of a decision by the Office under *subsection (11)* not to issue a draft direction.

(7) Where the Office issues a notice to a planning authority under *subsection (6)*, it shall simultaneously provide a copy of the notice to the Minister and publish the notice on a website maintained by or on behalf of the Office.

(8) The Office, 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, such information as it considers necessary,

(ii) consult with any other person it considers necessary.

(9) A planning authority shall furnish the Office with any documentation or additional information that may be requested by the Office, within the period specified in such a request.

(10) Where, following an assessment carried out pursuant to *subsection (1)* or *(2)*, the Office forms the opinion that the development plan or development plan as varied or amended, 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) the National Marine Planning Framework,

(iii) the relevant regional spatial and economic strategy,

(iv) National Planning Policies and Measures, or

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

(c) departs from any relevant guidance set out in National Planning Policy Guidance and, in the opinion of the Office, no adequate explanation has been offered justifying that departure having regard to the proper planning and sustainable development of the area, or

(d) is otherwise in contravention of a requirement of this Act,

it shall issue a draft direction in accordance with *section 63* together with a statement of reasons for issuing the draft direction.

(11) Where, following an assessment carried out pursuant to *subsection (1)* or *(2)*, the Office forms the opinion that none of the criteria in *subsection (10)* is met, it shall notify-

(a) the planning authority concerned,

(b) the Minister, and

(c) where applicable, any planning authority or regional assembly which made a notification in accordance with *subsection (2)(b)*,

of its decision not to issue a draft direction and provide them with a statement of the reasons for that decision.

Power of Office to issue draft direction and make recommendation to Minister

63. (1) The Office may, subject to *section 62(10)* and *subsection (5)* issue a draft direction requiring—

(a) a development plan to be amended in the manner specified in the direction, and

(b) a 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, 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 *section 64(4).*

(3) Where a draft direction issued under *subsection (1)* identifies a provision in accordance with *subsection (2),* the issuance of the draft direction shall have the immediate the effect of suspending the operation of the provision concerned pending the making of a recommendation under this section and consideration of the recommendation and the making of a decision by the Minister under *section 64(4).*

(4) 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 *section 64(4).*

(5) Before issuing a draft direction under *subsection (1),* the Office 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 impact assessment is required, the Office 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 shall prepare a Natura impact report in accordance with *Part 6*.

(7) Where the Office issues a draft direction under *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 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, and

(iii) the members of the planning authority,

(iv) the director of the relevant regional assembly,

(v) the Commission, and

(vi) the National Transport Authority.

(8) A notice published under *subsection (7)(a)* shall—

(a) state that the Office has issued a draft direction under this section,

(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 required in respect of the draft direction,

(c) state that copies of the draft direction, the determination made under *subsection (5)(a)* and *subsection (5)(b)* and any environmental report or Natura impact report prepared in accordance with *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 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, 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 in making a recommendation to the Minister as to whether to issue the draft direction and by the Minister in deciding whether to issue the draft direction.

(9) Subject to *subsection (10),* the Office shall, not later than 4 weeks after the expiry of the period specified in a notice published under *subsection (7)(a),* and having considered any submissions received in relation to the draft direction, 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 in terms of the draft direction,

(b) recommend that the Minister issue a direction 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.

(10) Where the Office, following consideration of any submissions received, is of the opinion that none of the criteria in *section 62(10)* is met, the Office shall recommend that the Minister not make the draft direction, without prejudice to the power of the Office to carry out further assessments pursuant to *subsection (2)* of *section 62*.

(11) A recommendation to the Minister under *subsection (9)* shall be accompanied by a report of the Office setting out-

(a) a copy of the draft direction,

(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 any written submissions referred to in *paragraphs (b)* and *(c)*,

(e) the reasons for the recommendation of the Office,

(f) where the Office is recommending that the Minister issue a direction 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, or both, as the case may be, in relation to the direction which the Office is recommending that the Minister issue.

(12) A copy of the recommendation and report sent to the Minister under *subsections (9)* 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, and

(b) sent to the relevant planning authority.

Power of Minister to issue direction

64. (1) The Minister may, subject to the provisions of this section, issue a direction requiring-

(a) a development plan to be amended in the manner specified in the direction, and

(b) a planning authority to implement the amendment referred to in *paragraph (a)* and publish the development plan as so amended.

(2) The power to issue a direction under *subsection (1)* shall only be exercisable where the Office has issued a draft direction under *subsection (1)* of *section 63*.

(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 *subsection (10)* of *section 62* is met.

(4) Within 6 weeks of receipt of a recommendation and report of the Office in accordance with *subsections (9)* and *(11)* of *section 63*, the Minister shall-

(a) consider the recommendation and report,

(b) consider any submissions received by the Office in relation to the draft direction,

(c) make a decision, for stated reasons, as to whether to accept the recommendation of the Office, and

(d) where the decision is to issue a direction—

(i) identify in the stated reasons provided under *paragraph (c)* which of the criteria in *subsection (10)* of *section 62* the Minister considers to be met, and

(ii) issue the direction.

(5) A direction under *subsection (1)* may be issued-

(a) in the terms of the draft direction issued by the Office under *subsection (1)* of *section 63*,

(b) in the terms of any amended draft direction recommended by the Office under *subsection (9)(b)* of *section 63*,

(c) in the terms referred to in *paragraph (a)* or *(b)* with such minor amendments as the Minister considers appropriate.

(6) For the purposes of *subsection (5)(c)*, an amendment 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's report to the Minister in accordance with *subsection (11)(g)* of *section 63* and may adopt such assessment or make his or her own assessment and determination in respect of the direction.

(8) Where the Minister decides, whether or not in accordance with a recommendation made by the Office under *subsection (9)* of *section 63*, not to make a direction under *subsection (1)*, the Minister may still request the Office to carry out a further assessment under *section 62(2)*.

(9) A direction issued under *subsection (1)*, together with a statement of reasons for making the direction, shall, within 3 working days beginning on the date on which the direction is issued–

(a) be provided to the relevant planning authority and the Office,

(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.

(10) Within 2 working days of receipt of a direction in accordance with *subsection (9)*, the Office and the planning authority shall each publish the direction on a website maintained by or on behalf of the Office and the planning authority.

(11) Where the Minister decides not to make 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 and the Office,

(b) cause a copy of the statement in *paragraph (a*) to be laid before each House of the Oireachtas, and

(c) as soon as practicable, make the statement in *paragraph (a)* available on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage.

(12) Where the Minister issues a direction under *subsection (1)*, the planning authority shall, within 3 working days of receipt of the direction, comply with that direction and the chief executive or members shall not exercise any power or perform any function conferred on them by or under this Act in a manner that contravenes the direction.

(13) A direction issued by the Minister under *subsection (1)* is deemed to have immediate effect and its terms are considered 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 amended by the direction.

(14) Where, in any application for judicial review of a direction made pursuant to this section under Order 84 of 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 *subsection (10*) of *section 62* are 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 *subsection (10*) of *section 62* are met, and

(b) the Court finds that the Minister was entitled to form such an opinion.

Urgent direction requiring chief executive to amend development plan

65. (1) This section applies where the Minister is satisfied that—

(a) an event or situation with significant national 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 amendment 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") requiring the chief executive of a planning authority to amend 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,

(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, and

(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.

(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 joint 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 amended by virtue of the urgent direction.

(6) The chief executive of the planning authority shall, as soon as may be after amending a development plan and any urban area plan, priority area plan or joint area plan under this section—

(b) publish notice of the making of the amendments and a copy of the plan concerned as amended, and

(c) where the chief executive has amended a joint area plan under *subsection (5)(b)*, give to each of the other planning authorities to whose functional area the joint area plan relates—

(i) notice of the amendments, and

(ii) a copy of the joint area plan as amended.

(7) An amended development plan, urban area plan, priority area plan or joint area plan shall take effect on the making of the amendment by the chief executive of the planning authority.

Chapter 6

Urban Area Plans, Priority Area Plans and Joint Area Plans

66. Interpretation (*Chapter 6*)

In this Chapter –

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

"statutory obligations" includes an obligation to ensure that a plan is consistent with the objectives and strategies of the development plan and, also in the case of a joint area plan, of the objectives and provisions of the regional spatial and economic strategy relating to the settlement or the part of a settlement to which the plan relates.

Continuation in force of pre-commencement local area plans

67. (1) A local area plan made under Part II of the Planning and Development Act 2000 that is in force in respect of any particular area within the functional area of a planning authority immediately before the commencement of this Chapter shall continue in force on and after the

commencement of this Chapter notwithstanding the repeal of any enactment effected by this Act-

(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) Where the members 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.

(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),* the chief executive of the planning authority shall as soon as practicable thereafter notify the Minister of the extension.

Urban area plans

68. (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 72*, a plan (in this Part referred to as an "urban area plan") which shall-

(a) specify how the settlement-specific objectives of 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 area and the strategies of the development plan prepared under *sections 43* to *50,* 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 the public realm.

(2) An urban area plan shall be consistent with–

(a) the settlement-specific objectives of the development plan which apply to the settlement concerned,

(b) the zoning objectives of the development plan which apply to the settlement concerned,

(c) the integrated overall strategy for the proper planning and sustainable development of the development plan,

(d) the strategies prepared under *sections 43* to *50* of the development plan, and

(e) any relevant transport strategy of the National Transport Authority.

Priority area plans

69. (1) 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 72*, a plan (in this Part 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 of the development plan, the integrated overall strategy for the proper planning and sustainable development of the development plan and the strategies of the development plan prepared under *sections 43* to *50* 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 standards for the design and architecture of structures and the public realm.

(2) A priority area plan shall be consistent with-

(a) the settlement-specific objectives of 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,

(b) the zoning objectives of the development plan which apply to the part of the settlement concerned,

(c) the integrated overall strategy for the proper planning and sustainable development of the development plan,

(d) the strategies prepared under *sections 43* to *50* of the development plan, and

(e) 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 72*.

Joint area plans

70. (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 joint area plan, the principal planning authority and associate planning authority shall prepare, in accordance with the procedure set out in *section 73*, a plan (in this Part referred to as a "joint area plan") which shall-

(a) specify how the settlement-specific objectives, integrated overall strategy for the proper planning and sustainable development and the strategies prepared under *sections 43* to *50* 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 the public realm.

(2) A joint area plan shall be consistent with-

(a) the objectives and provisions of the regional spatial and economic strategy relating to the area of the joint area plan concerned,

(b) the settlement-specific objectives of the development plan for each planning authority in which the settlement concerned is situate which apply to the settlement concerned,

(c) the zoning objectives of the development plan for each planning authority in which the settlement concerned is situate which apply to the settlement concerned,

(d) the integrated overall strategy of the development plan for each planning authority in which the settlement concerned is situate,

(e) the strategies prepared under *sections 43* to *50* of the development plan for each planning authority in which the settlement concerned is situate in so far such strategies apply to the settlement or part of the settlement concerned, and

(f) any relevant transport strategy of the National Transport Authority.

(3) A principal planning authority and an associate planning authority shall collectively appoint a joint area plan committee for the purposes of preparing a joint area plan.

(4) A joint 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 economy strategy.

(5) A joint area plan committee shall liaise with the chief executive of the principal planning authority in relation to the preparation of a draft joint area plan under *section 73*.

Conditions of urban area plans, priority area plans and joint area plans

71. (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, replaces a 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 remains consistent with-

(a) the settlement-specific objectives of the new development plan which apply to the settlement or 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,

(b) the zoning objectives of the new development plan which apply to the settlement or part of the settlement concerned,

(c) the integrated overall strategy for the proper planning and sustainable development of the new development plan, and

(d) the strategies prepared under *sections 43* to *50* of the new development plan.

(5) A joint 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 replaces its development plan, whichever is the shorter period.

(6) Where the principal planning authority, subsequent to the coming into effect of a joint area plan, replaces a development plan, the new development plan may provide that the joint area plan concerned shall continue to have effect for the period of 10 years referred to in *subsection (5)* provided that—

(a) the principal planning authority is satisfied that the joint area plan remains consistent with-

(i) the settlement-specific objectives of 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 new development plan, and

(iv) the strategies prepared under *sections 43* to *50* of the new development plan, and

(b) the principal planning authority has obtained the consent of the associate planning authority to such extension of the period of effect of the joint area plan.

(7) A planning authority may at any time amend or revoke an urban area plan or a priority area plan 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 amend or revoke a joint area plan 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 by regulation prescribe such other matters to be addressed in an urban area plan, priority area plan or joint 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

72. (1) A planning authority shall commence the preparation of-

(a) an urban area plan not later than one year after the making of the development plan for the functional area in which the settlement concerned is situate, and

(b) a priority area plan not later than 2 years after the making of the development plan for the functional area in which the part of the settlement concerned is situate.

(2) Before the 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, where a sub-committee has been appointed under *section 69(3)*, the members of the sub-committee, and prepare a draft of the plan, and

(b) the planning authority shall determine, in accordance with the Strategic Environmental Assessment Regulations, whether a strategic environmental assessment requires to be carried out in respect of the draft plan and shall determine, in accordance with *Part 6*, whether an appropriate assessment requires to be carried out in respect of the draft plan.

(3) Where the planning authority determines under *subsection (2)(b)* 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 *subsection (2)(b)* that that it is necessary to carry out an appropriate assessment, 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 prepared under *subsection (3)* or Natura impact report prepared under *subsection (4)* to—

(i) the Minister,

(ii) the Office,

(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 area, Údarás na Gaeltachta,

(vii) the National Transport Authority, and

(viii) such other persons as may be prescribed,

and

(b) publish a notice of the proposal to make an urban area plan or priority area plan 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) that a draft of the proposed plan, any determination made under *subsection (2)(b*) and any environmental report prepared under *subsection (3)* or Natura impact report prepared under *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) as may be so specified, and

(c) that submissions, including submissions made by children or associations representing the interests of children, 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.

(7) Written submissions received by the planning authority in accordance with *subsection (6)(c)* shall, unless one or more of the criteria set out in *section 54(6)(b)* 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 receipt of the written submissions received in accordance with *subsection (6)(c)* 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 he or she proposes to

recommend to the members of the planning authority any assessment which has been determined under *subsection (3)* or *(4)* to be required.

(9) Not later than 12 weeks after giving notice under *subsection (5)*, the chief executive of a planning authority shall prepare a report on any submissions received under *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-

(i) made by the Office, the Minister or regional assembly, and

(ii) made by 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) contain the opinion of the chief executive in relation to the issues raised 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) 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, Minister, or regional assembly in respect of the proposed plan 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 respect of the proposed plan should be addressed, and

(f) contain 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 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) 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 *subsection (11)(a)* or *(b)* 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 *(16)*, the planning authority shall, not later than 3 weeks after the passing of a resolution under *subsection (11)(a)* or *(b)*-

(a) publish notice of the proposed material alteration 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, which notice shall state-

(i) that a copy of the proposed material alteration, any determination by the planning authority that an assessment referred to in *subsection (13)* or *(14)* is required 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) as may be so specified, and

(ii) 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 *section 54(6)(b)* 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 *subsection (5)(a).*

(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 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 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) Where applicable, a notice given under *subsection (12)* shall include notice of the making of a determination that an assessment referred to *subsection (13)* or *(14)* is required.

(17) Subsequent to receipt of the written submissions under *subsection (12)(a)(ii)* and before finalisation of his or her report in accordance with *subsection (18)*, the chief executive of the planning authority shall carry out in respect of the material alteration any assessment which has been determined under *subsection (13)* or *(14)* to be required.

(18) 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 *paragraph (a)(ii)* of that subsection and submit the report to the members of the planning authority for their consideration.

(19) A report prepared for the purposes of *subsection (18)* 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.

(20) A report under *subsection (18)* shall–

(a) list the persons who made submissions under *subsection (12)(a)(ii)*,

(b) provide a summary of–

(i) any submissions made by the Office, the Minister or regional assembly, and

(ii) any submissions made by 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, and

(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 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) 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, 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 (17)* of this subsection.

(21) The members of the planning authority shall consider the report of the chief executive prepared under *subsection (18)* 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 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) subject to *subsection (12)*, decides to make the plan with or without the proposed material alteration as published in accordance with *subsection (12)* or with a further modification of the proposed material alteration, or

(c) decides not to make the plan.

(22) An urban area plan or priority area plan may only be made with a further modification of a proposed material alteration where the modification is minor in nature and not likely to have significant effects on the environment or on any European site.

(23) A resolution referred to in *subsection (11)* or *subsection (21)* shall require to be passed by not less than half of the members of the planning authority and the requirements of this paragraph are in addition to, and not in substitution for, any other requirements, applying in relation to such a resolution.

(24) As soon as practicable and not later than 4 weeks after the making of an urban area plan or a priority area plan under *subsection (11)(a)* or *(b)* or *subsection (21)(a)* or *(b)* or the deemed making of an urban area plan or a priority area plan under *subsection (11)* or *subsection (21)*,

a planning authority shall send a copy of the plan as made to the persons to which a notice was sent in accordance with *subsection (5)(a)* and shall publish a copy of the plan on a website maintained by or on behalf of the planning authority.

(25) 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 or the Minister, the chief executive shall include notice of this fact when sending a copy of the plan as made to the Office and the Minister in accordance with *subsection (24).*

(26) Where a planning authority sends a copy of an urban area plan or a priority area plan to the Office under *subsection (24)*, the planning authority shall also send to the Office any submissions received by the planning authority from the Minister, a regional assembly or the National Transport Authority in accordance with this section.

Procedure for preparing and making joint area plans

73. (1) A principal planning authority shall commence the preparation of a joint area plan within one year of making a development plan for its functional area.

(2) Before the publication of a notice under *subsection (5)* of a proposal to make a joint area plan-

(a) the chief executive of the principal planning authority shall consult the joint area plan committee appointed under *section 70(3)* 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 requires to be carried out in respect of the draft plan and shall determine, in accordance with *Part 6*, whether an appropriate assessment requires to be carried out in respect of the draft plan.

(3) Where the principal planning authority determines under *subsection (2)(b)* 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 *subsection (2)(b)* 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 joint area plan, a draft of the proposed plan and any environmental report prepared under *subsection (3)* or Natura impact report prepared under *subsection (4)* to—

(i) the Minister,

(ii) the Office,

(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 area, Údarás na Gaeltachta,

(viii) the National Transport Authority, and

(ix) such other persons as may be prescribed,

and

(b) publish a notice of the proposal to make a joint area plan 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 joint area plan,

(b) that a draft of the proposed plan, any determination made under *subsection (2)(b*) and any environmental report prepared under *subsection (3)* or Natura impact report prepared under *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) as may be so specified, and

(c) that submissions, including submissions made by children or associations representing the interests of children, received before the expiry of the period specified in the notice, will be taken into consideration before the making of the joint area plan.

(7) Written submissions received by the principal planning authority in accordance with *subsection (6)(c)* shall, unless one or more of the criteria set out in *section 54(6)(b)* 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 receipt of the written submissions under this subsection 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 has been determined under *subsection (3)* or *(4)* to be required.

(9) Not later than 12 weeks after giving notice under *subsection (5),* the chief executive of the principal planning authority shall prepare a report on any submissions received under *subsection (6)* and shall submit the report to the members of the joint 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—

(i) made by the Office, the Minister or regional assembly, and

(ii) made by 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) contain the opinion of the chief executive in relation to the issues raised 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 authority 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, the Minister, or regional assembly in respect of the proposed plan 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 respect of the proposed plan should be addressed, and

(f) contain any assessment of the chief executive under *subsection (8*).

(11) The members of the joint area plan committee shall consider a report of the chief executive prepared under *subsection (9)* and shall within 6 weeks after the furnishing of the report to the members of the joint area plan committee, by resolution-

(a) make a recommendation to the principal planning authority and associate planning authority not to make the draft joint area plan,

(b) make a recommendation to the principal planning authority and associate planning authority to make the draft joint area plan with or without a non-material alteration, or

(c) subject to *subsection (12)*, propose an alteration to the draft joint area plan which, if made, would be a material alteration.

(12) Where the members of the joint area plan committee make a recommendation under *subsection (11)(a)* or *(b),* the principal planning authority and the associate planning authority shall consider the recommendation in accordance with *subsection (25).*

(13) Where the members of the joint 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 joint area plan committee and the principal planning authority and the associate planning authority shall consider this recommendation in accordance with *subsection (25).*

(14) Where the members of the joint area plan committee resolve in accordance with *subsection (11)(c)* to make a material alteration to the draft joint area plan, subject to *subsections (15)* to *(18),* the principal planning authority shall, not later than 3 weeks after the passing of a resolution under *subsection (11)(c)*-

(a) publish notice of the proposed material alteration in one or more newspapers circulating the settlement or the part of a settlement to which the proposed joint area plan relates and on a website maintained by or on behalf of the principal planning authority, which notice shall state-

(i) that a copy of the proposed material alteration, any determination by the principal planning authority that an assessment referred to in *subsection (15)* or *(16)* is required 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) as may be so specified, and

(ii) 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 *section 54(6)(b)* is met.

(b) send notice of the proposed material alteration (enclosing a copy of the proposed material alteration) to the persons referred to in *subsection (5)(a).*

(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 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 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) Where applicable, a notice given under *subsection (14)* shall include notice of the making of a determination that an assessment referred to *subsection (15)* or *(16)* is required.

(19) Subsequent to receipt of the written submissions under *subsection (14)(a)(ii)* and before finalisation of his or her report in accordance with *subsection (20),* the chief executive of the principal planning authority shall carry out in respect of the material alteration any assessment which has been determined under *subsection (15)* or *(16)* to be required.

(20) 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 *paragraph (a)(ii)* of that subsection and submit the report to the members of the joint area plan committee for their consideration.

(21) A report prepared for the purposes of *subsection (20)* 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 joint area plan committee.

(22) A report under *subsection (20)* shall–

(a) list the persons who made submissions under *subsection (14)(a)(ii)*,

(b) provide a summary of–

(i) any submissions made by the Office, the Minister or regional assembly, and

(ii) any submissions made by 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, and

(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, 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 (19)* of this subsection.

(23) The members of the joint area plan committee shall consider a report of the chief executive prepared under *subsection (20)* and shall within 6 weeks after the furnishing of the report to the members of the joint area plan committee, by resolution-

(a) make a recommendation to the principal planning authority and associate planning authority not to make the draft joint area plan, or

(b) make a recommendation to the principal planning authority and associate planning authority to make the draft joint area plan with or without with the proposed material alteration,

and the principal planning authority and the associate planning authority shall consider such recommendation in accordance within *subsection (25).*

(24) Where the members of the joint area plan committee fail to pass any resolution under *subsection (23)* 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 (20)* shall be deemed to be the recommendation of the joint area plan committee and the principal planning authority and the associate planning authority shall consider this recommendation in accordance with *subsection (25).*

(25) Within 4 weeks of receipt of a recommendation of a joint area plan committee under *subsections (11), (13), (23)* or *(24),* the members of the principal planning authority and the associate planning authority shall vote by resolution on whether to accept the recommendation.

(26) A resolution referred to in *subsection (25)* 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 members of each planning authority,

and the requirements of this paragraph are in addition to, and not in substitution for, any other requirements, applying in relation to such a resolution.

(27) As soon as practicable and not later than 4 weeks after the making of a joint area plan under *subsection (25)* 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 *subsection (5)(a)* 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.

(28) Where a principal planning authority and associate planning authority in making a joint area plan under this section act inconsistently with any submission made by the Office or the Minister, the chief executive of the principal planning authority shall include notice of this fact when sending a copy of the plan as made to the Office and the Minister in accordance with *subsection (27).*

(29) Where a principal planning authority sends a copy of joint area plan to the Office under *subsection (27)* 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.

(30) Where any notice, submission or report required 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.

(31) Where the members of the principal planning authority and the associate planning authority by resolution under *subsection (25)* 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.

(32) 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, a principal planning authority or an associate planning authority may refer that dispute to the Minister for resolution.

(33) Where a dispute is referred to the Minister under *subsection (32),* the Minister—

(a) shall consult with the principal planning authority and associate planning authority, the Office and regional assembly for the region in which the settlement or the part of a settlement to be the subject of the joint 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 joint area plan committee appointed under *section 70(3)* 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 joint 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 the provisions of this section,

and the planning authority, chief executive of a principal planning authority or joint area plan committee, as the case may be, shall comply with any such notice.

Automatic revocation of urban area plan, priority area plan and joint area plan in certain circumstances

74. (1) 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 joint 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.

(2) 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.

Assessment of urban area plan, priority area plan and joint area plan by Office

75. (1) The Office 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 joint area plan,

carry out an assessment of the urban area plan, priority area plan or joint area plan, as the case may be, in accordance with *subsection (3)*.

(2) (a) The Minister may, at any time, request the Office to carry out an assessment of an urban area plan, priority area plan or joint area plan.

(b) The Minister, a regional assembly or a planning authority may, at any time, notify the Office of any matter in an urban area plan, priority area plan or joint area plan (including, in the case of a planning authority, an urban area plan, priority area plan or joint 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 to be inconsistent with—

(i) the settlement-specific objectives of 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 a development plan which applies to the settlement or the part of a settlement concerned,

(iv) the strategies prepared under sections *43* to *50* of a development plan which apply to the settlement or the part of a settlement concerned,

(v) any relevant transport strategy of the National Transport Authority which applies to the settlement or the part of a settlement concerned, or

(vi) in the case of a joint area plan, the objectives and provisions of a regional spatial and economic strategy relating to the area of the joint area plan concerned.

(c) Where the Office 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 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 may, at its own initiative and for stated reasons, carry out an assessment of an urban area plan, priority area plan or joint area plan in accordance with *subsection (3).*

(3) In carrying out an assessment under *subsections (1)* or *(2),* the Office shall, in particular, consider whether the plan concerned is consistent with–

(a) any submissions made by the Minister, the Office, a regional assembly or the National Transport Authority under this Chapter in respect of a draft urban area plan, priority area plan or joint area plan or proposed amendment of such a plan,

(b) the settlement-specific objectives of 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 a development plan which applies to the settlement or the part of a settlement concerned,

(e) the strategies prepared under sections *43* to *50* of a development plan which apply to the settlement or the part of a settlement concerned,

(f) any relevant transport strategy of the National Transport Authority which applies to the settlement or the part of a settlement concerned,

(g) in the case of a joint area plan, the objectives and provisions of a regional spatial and economic strategy relating to the area of the joint area plan concerned, and

(h) any requirements imposed under this Act.

(4) Where the Office, as part of an assessment under *subsections (1)* or *(2)*, forms a preliminary view that the urban area plan, priority area plan or joint area plan concerned or any part or provision thereof should be suspended because it may be inconsistent with one or more of the items enumerated in *paragraphs (i*) to *(vi)* of *subsection (2)(b)*, it may issue a notice to the planning authority, or, in the case of a joint area plan, the principal planning authority and the associate planning authority, suspending the effect of the plan or part or provision thereof concerned pending the completion of its assessment, and such notice shall take effect immediately upon issuance and shall remain in effect pending the completion of the assessment and the issuance by the Office of a draft direction under *subsection (8)* and *section 76* or the making of a decision by the Office under *subsection (9)* not to make a draft direction.

(5) Where the Office issues a notice under *subsection (4)*, it shall simultaneously provide a copy of the notice to the Minister and publish the notice on a website maintained by or on behalf of the Office.

(6) The Office, in carrying out an assessment under *subsections (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,

(ii) in the case of a joint 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 with any documentation or information that may be requested by the Office, within the period specified in such a request.

(8) Where, following an assessment carried out pursuant to *subsections (1)* or *(2)*, the Office forms the opinion that an urban area plan, priority area plan or joint area plan-

(a) is inconsistent with—

(i) the settlement-specific objectives of 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 a development plan which applies to the settlement or the part of a settlement concerned,

(iv) the strategies prepared under *sections 43* to *50* of a development plan which apply to the settlement or the part of a settlement concerned,

(v) any relevant transport strategy of the National Transport Authority which applies to the settlement or the part of a settlement concerned, or

(vi) in the case of a joint area plan, the objectives and provisions of a regional spatial and economic strategy relating to the area of the joint area plan concerned, or

(b) is otherwise in contravention of a requirement of this Act,

it shall issue a draft direction in accordance with *section 76* together with a statement of reasons for issuing the draft direction.

(9) Where, following an assessment carried out pursuant to *subsections (1)* or *(2)*, the Office forms the opinion that none of the criteria for the issuance of a draft direction set out in *subsection (8)* is met, it shall notify the planning authority concerned (which in the case of a joint area plan shall mean the principal planning authority and the associate planning authority), the Minister and, where applicable, any planning authority or regional assembly which initiated the assessment in accordance with *subsection (2)(b),* of its decision not to issue a draft direction and provide them with a statement of the reasons for that decision.

Power of Office to issue a draft direction and make a recommendation to the Minister

76. (1) The Office may, subject to *section 75(8)* and *subsection (5)*, issue a draft direction requiring—

(a) an urban area plan, priority area plan or joint area plan to be amended in the manner specified in the direction, and

(b) a planning authority (which in the case of a joint 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 joint 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 subject of the draft direction the operation of which, in the opinion of the Office, 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 *section 77(4).*

(3) Where a draft direction issued under *subsection (1)* identifies a provision in accordance with *subsection (2),* the issuance of the draft direction shall immediately have the effect of suspending the operation of the provision concerned pending the making of a recommendation under this section and consideration of the recommendation and the making of a decision by the Minister under *section 77(4).*

(4) 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 joint 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 *section 77(4).*

(5) Before issuing a draft direction under *subsection (1),* the Office 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 impact assessment is required, the Office shall prepare an environmental report in accordance with the Strategic Environmental Assessment Regulations, and

(b) Where it is determined under *paragraph (b)* of *subsection (5)* that an appropriate assessment is required, the Office shall prepare a Natura impact report in accordance with *Part 6*.

(7) Where the Office 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 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 joint 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,

(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 joint 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) the Commission, and

(vi) the National Transport Authority.

(8) A notice published under *subsection (7)(a)* shall—

(a) state that the Office has issued a draft direction under this section,

(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 required in respect of the draft direction,

(c) state that copies of the draft direction, the determination made under *subsection (5)(a)* and *subsection (5)(b)* and any environmental report or Natura impact report prepared in accordance with *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 and of the planning authority concerned (and, in the case of a joint 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, 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 in making a recommendation to the Minister as to whether to issue the draft direction and by the Minister in deciding whether to issue the draft direction.

(9) Subject to *subsection (10),* the Office shall, not later than 4 weeks after the expiry of the period specified in a notice published under *subsection (7)(a),* and having considered the submissions received in relation to the draft direction, 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, shall—

(a) recommend that the Minister issue a direction in the terms of the draft direction,

(b) recommend that the Minister issue a direction in an amended form to take account of any submission made pursuant to *subsection (8),* or

(c) recommend that the Minister not issue a direction.

(10) Where the Office, following consideration of any submissions received, is of the opinion that none of the criteria in *section 75(8)* is met, the Office shall recommend that the Minister not make the draft direction, without prejudice to the power of the Office to carry out further assessments pursuant to *subsection (2)* of *section 75.*

(11) A recommendation to the Minister under *subsection (9)* shall be accompanied by a report of the Office setting out-

(a) a copy of the draft direction,

(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 any written submissions referred to in *paragraphs (b)* and *(c),*

(e) the reasons for the recommendation of the Office,

(f) where the Office is recommending that the Minister issue a direction 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, or both, as the case may be, in relation to the direction which the Office is recommending that the Minister issue.

(12) A copy of the report and recommendation sent to the Minister under *subsections (9)* 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, and

(b) sent to the relevant planning authority (which in the case of a joint area plan shall mean the principal planning authority and the associate planning authority).

Power of Minister to issue a direction

77. (1) The Minister may, subject to this section, issue a direction requiring—

(a) an urban area plan, priority area plan or joint area plan to be amended in the manner specified in the direction, and

(b) a planning authority (which in the case of a joint 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 joint area plan, as the case may be, as so amended.

(2) The power to issue a direction under *subsection (1)* shall only be exercisable where the Office has issued a draft direction under *subsection (1)* of *section 76.*

(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 under *subsection (8)* of *section 75* is met.

(4) Within 6 weeks of receipt of the recommendation and report of the Office in accordance with *subsections (9)* and *(11)* of *section 76*, the Minister shall-

(a) consider the recommendation and report,

(b) consider any submissions received by the Office in relation to the draft direction,

(c) make a decision, for stated reasons, as to whether to accept the recommendation of the Office, and

(d) where the decision is to issue a direction—

(i) identify in the stated reasons provided under *paragraph (c)* which of the criteria in *subsection (8)* of *section 75* the Minister considers to be met, and

(ii) issue the direction.

(5) The Minister may issue a direction-

(a) in the terms of the draft direction issued by the Office under *subsection (1)* of *section 76*,

(b) in the terms of any amended draft direction recommended by the Office under *subsection (9)(b)* of *section 76*, or

(c) in the terms referred to in *paragraph (a)* or *(b)* with such minor amendments as the Minister considers appropriate.

(6) For the purposes of *subsection (5)(c)*, an amendment 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's report to the Minister in accordance with *subsection (11)(g)* of *section 76* and may adopt such assessment or make his or her own assessment and determination in respect of the direction.

(8) Where the Minister decides, whether or not in accordance with a recommendation made by the Office under *subsection (9)* of *section 76*, not to make a direction under *subsection (1)*, the Minister may still request the Office to carry out a further assessment under *section 75(2).*

(9) A direction issued under *subsection (1)*, together with a statement of reasons for making the direction, shall, within 3 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 joint area plan shall mean the principal planning authority and the associate planning authority) and the Office,

(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.

(10) Within 2 working days of receipt of a direction in accordance with *subsection (9)*, the Office and the planning authority (which in the case of a joint 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 and the planning authority.

(11) 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 joint area plan shall mean the principal planning authority and the associate planning authority) and the Office,

(b) cause a copy of the statement in *paragraph (a)* to be laid before each House of the Oireachtas, and

(c) as soon as practicable, make the statement in *paragraph (a)* available on a website maintained by or on behalf of the Department of Housing, Local Government and Heritage.

(12) Where the Minister issues a direction under *subsection (1)*, the planning authority (which in the case of a joint area plan shall mean the principal planning authority) shall, within 3 working days of receipt of the direction, comply with that direction.

(13) The chief executive or members of a planning authority, principal planning authority or associate planning authority shall not exercise a power or perform a function conferred on them by this Act in a manner that contravenes a direction issued by the Minister under *subsection (1)*.

(14) A direction issued by the Minister under *subsection (1)* is deemed to have immediate effect and its terms are considered to be incorporated into the urban area plan, priority area plan or joint 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 joint area plan shall mean the principal planning authority) in accordance with the direction.

(15) Where, in any application for judicial review of a direction made pursuant to this section under Order 84 of 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 subsection (8*) of *section 75* 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 *subsection (8*) of *section 75* is met, and

(b) the Court finds that the Minister was entitled to form such an opinion.

PART 4

Development Consents

Chapter 1

Preliminary and general

Definitions

78. In this Part -

"Act of 1933" means the Foreshore Act 1933;

"Act of 1999" means the Electricity Regulation Act 1999;

"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;

"airport" means Dublin airport;

"approved local newspaper" means a newspaper (other than a national newspaper) –

(a) the paper form of which circulates in the functional area of a planning authority, and

(b) that is approved in a prescribed manner by that planning authority for the purposes of this Act;

"*Chapter 3* development" means development other than –

(a) strategic infrastructure development,

(b) electricity transmission infrastructure development,

(c) strategic gas infrastructure development,

(d) *Chapter 4* maritime development,

(e) *Chapter 4* local authority development,

(f) *Chapter 4* State authority development, and

(g) development for which retrospective consent is required;

"*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,

(i) wholly in the outer maritime area,

(ii) partly in the outer maritime area and partly in -

(I) the nearshore area of a coastal planning authority, or

(II) the nearshore areas of more than one coastal planning authority,

(iii) partly in the outer maritime area, partly in -

(I) the nearshore area of a coastal planning authority, or

(II) the nearshore areas of more than one coastal planning authority,

and partly on land, or

(iv) partly in the outer maritime area and partly on land,

(b) development situated -

(i) wholly in the nearshore areas of more than one coastal planning authority, or

(ii) partly on land and partly in the nearshore areas of more than one coastal planning authority, and

(c) development of a class specified in *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,

(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* State authority development" means -

(a) State authority prescribed development that requires appropriate assessment or environmental impact assessment,

(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 146*;

"*Chapter 6* State authority development" means -

(a) State authority prescribed development that does not require appropriate assessment or environmental impact assessment, and

(b) *Chapter 6* State authority emergency development;

"*Chapter 6* State authority emergency development" has the meaning assigned to it by *subsection (1)* of *section 146*;

"chief executive" means, in relation to a local authority (including a local authority when performing functions as 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;

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

"electricity transmission infrastructure development" means –

(a) development consisting of infrastructure for transmission within the meaning of Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996[15] concerning common rules for the internal market in electricity, or

(b) development for the purposes of such transmission,

and includes an interconnector within such meaning;

"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 and its nearshore area;

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

(a) the parking of vehicles by persons -

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

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

[15] OJ No. L27 of 30 January 1997, p.22

(b) in the case of applications for LRD, ancillary residential services, including gyms and child-care facilities;

"inspector" means a person assigned to report on an application, request or appeal under this Part on behalf of the Commission under *subsection (1)* of *section 318*;

"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;

"large-scale residential development" means -

(a) development consisting of not fewer than 100 housing units,

(b) development consisting of student accommodation that contains not fewer than 200 bed spaces,

(c) development consisting of not fewer than 100 housing units, and student accommodation, or

(d) development consisting of student accommodation that contains not fewer than 200 bed spaces, and housing units,

provided that –

(i) in the case of development to which *paragraph (a)* applies, 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 to which *paragraph (b)* applies, 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 to which *paragraph (c)* or *(d)* applies, 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" has the meaning assigned to it by the Act of 2001;

"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 98* of a decision of a planning authority that relates to an application for permission for large-scale residential development;

"LRD meeting" has the meaning assigned to it by *section 87*;

"LRD opinion" has the meaning assigned to it by *section 88*;

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

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

"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 -

(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;

[16] OJ No.L10 of 14 January 1997, p.13

[17] OJ No.L345 of 13 December 2003, p.97

"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, and

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

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

"national newspaper" means a newspaper, the paper form of which is published and circulates generally in the State;

"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, 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;

"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 person with a legal or beneficial estate in that land, whether in possession or in reversion, regardless whether other persons also hold any such estate;

"parties to the appeal" means -

(a) the planning authority,

(b) the appellant in an appeal to the Commission from a decision of a planning authority under this Part, and

(c) the applicant for permission where the applicant for permission is not the appellant;

"person" shall be construed as importing a body corporate (whether a corporation aggregate or a corporation sole) and an unincorporated body of persons, as well as an individual, and the subsequent use of any pronoun in place of a further use of "person" shall be construed accordingly;

"planning authority" means a local authority;

"prescribed" means prescribed by regulations made by the Minister under this Act;

"proposed application" means a proposed application for permission for development or retention under *Chapter 3* or *4* that is the subject of a pre-application consultation under *section 86*, or *111*;

"proposed development" means –

(a) development that is the subject of –

(i) an application 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*,

(c) proposed local authority development of a class prescribed under *subsection (1)* of *section 143*,

(d) proposed *Chapter 6* State authority development in respect of which the State authority concerned is required to comply with the procedure referred to in *subsection (4)* of *section 145*, or

(e) proposed *Chapter 6* State authority emergency development in respect of which the State authority concerned is required to comply with the procedure referred to in *subsection (2)* of *section 146*;

"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 132*;

"prospective LRD applicant" has the meaning given to it by *section 85*;

"retention" means the retention of development that is being or has been carried out;

"retrospective consent" means permission for retention granted in respect of development or part of a development –

(a) already carried out or that is being carried out, and

(b) in respect of which –

(i) compliance with Part X or XAB of the Planning and Development Act 2000 was required, or

(ii) compliance with *Part 6* is or was required;

"State authority" means -

(a) a Minister of the Government or

(b) the Commissioners of Public Works in Ireland;

"State authority development" means development by or on behalf of, or carried out jointly with, a State authority;

"State authority prescribed development" means –

(a) State authority development prescribed under *paragraph (a)* of *subsection (1)* of *section 145*, or

(b) State authority development of a class prescribed under that paragraph;

"State authority urgent development" has the meaning assigned to it by *section 147*;

"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 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, and includes –

(a) 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,

(b) an installation used for surface storage of natural gas, the storage capacity of which would exceed 1 million cubic metres,

(c) an installation used for underground storage of combustible gases, the storage capacity of which would exceed 1 million cubic metres,

(d) an onshore terminal, building or installation (whether above or below ground) associated with a natural gas storage facility, the storage capacity of which would exceed 1mscm,

(e) an onshore terminal, building or installation (whether above ground or below ground) 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, and

(f) an installation used –

(i) as a central grid injection facility –

(I) designed to operate at flows exceeding 250,000 m3 per day, and

(II) used for the reception, and injection directly into the transmission system, of natural gas, 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;

"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;

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

Obligation to seek permission for development

79. (1) Permission shall be required under this Part for -

(a) any development other than -

(i) exempted development,

(ii) *Chapter 6* State authority development, or

(iii) development required by—

(I) a notice under *section 284*,

(II) an order under *section 286*,

(III) an enforcement notice under *section 293*, or

(IV) a planning injunction under *section 295*, and

(b) retention of development specified in *paragraph (a)*, for which permission was not previously obtained.

(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

80. (1) Subject to *subsections (2)* and *(4)* –

(a) an application for permission for development, or

(b) an application for permission for retention of *Chapter 3* development,

shall be made to the relevant planning authority under *Chapter 3*.

(2) Subject to *subsection (3)*, an application for permission for development belonging to any of the following classes shall be made to the Commission under *Chapter 4* -

(a) strategic infrastructure development,

(b) electricity transmission infrastructure development,

(c) strategic gas infrastructure development,

(d) *Chapter 4* maritime development,

(e) *Chapter 4* local authority development,

(f) *Chapter 4* State authority development, and

(g) development for which retrospective consent is required.

(3) An application for permission (other than permission that is, or includes, retrospective consent) for development to which *subsection (2)* applies that is located wholly in an urban development zone shall be made to the relevant planning authority under *Chapter 3*.

(4) A request for the alteration of a permission, or the extension of the duration of a permission, shall -

(a) in the case of a permission granted by a planning authority under *Chapter 3*, be made to that planning authority under *Chapter 5*,

(b) in the case of a permission granted by the Commission under *Chapter 3* on appeal from a decision of a planning authority under that Chapter, be made to that planning authority under *Chapter 5*,

(b) in the case of a permission granted by the Commission under *Chapter 4*, be made to the Commission under *Chapter 5*.

(5) 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.

(6) 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,

(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,

(c) in relation to a request for an alteration of a permission for development, the planning authority to which the request is made, and

(d) in relation to a request for an alteration of a permission for development referred to in *paragraph (b)*, the planning authority or planning authorities to whose functional area or functional areas the requested alteration will apply.

Eligibility to make an application

81. (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 an owner of the land on which the development is situated or proposed to be situated,

(b) 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,

(c) 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

(d) makes the application with the consent in writing, or on behalf, of -

(i) an owner of the land on which the development is situated or proposed to be situated, or

(ii) a person who has a power, or who is under an obligation, referred to in *paragraph (b)* or *(c)*.

(2) Subject to *section 157*, 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 authorising the licensee to do any act or acts referred to in that section for the purpose of the development on, or in relation to, the maritime site in which the development is proposed to be situated,

(b) is an owner of land on which it is proposed to carry out the development, or part of the development, concerned,

(c) is the lessee under a lease -

(i) made under section 2 of the Act of 1933, of a part of the foreshore that consists of, or includes, the maritime site on which it is proposed to carry out the development concerned, and

(ii) that contains a covenant, condition or agreement, to which subsection (4) of the said section 2 applies, requiring the lessee to carry out, on that maritime site, the proposed development concerned, or

(d) makes the application with the consent in writing, or on behalf, of the owner of land on which it is proposed to carry out the development concerned, or

(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, or

(iii) the owner of the land to which the application relates.

(b) (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, or

(iv) the owner of land to which the application relates.

Chapter 2

Obligations on Planning Authority and Commission

Matters to which planning authority and Commission shall have regard

82. (1) When performing any function under this Part, the 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 a development plan, urban area plan, priority area plan or joint area plan applicable to the lands 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 *paragraph (i)*,

(iii) to National Planning Policy Guidance,

(iv) 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,

(v) in the case of development or proposed development that relates to a protected structure, to the protected status of the structure,

(vi) 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,

(vii) in the case of development or proposed development that relates to land situated in an area of special planning control, to an approved scheme under *section 281*,

(viii) 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),

(ix) 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,

(xiv) in the case of development or proposed development –

(I) for the purposes of the provision or modification of a major accident establishment within the meaning of the Major Accidents Directive, 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,

(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,

(iii) guidelines issued under section 7 of the Maritime Area Planning Act 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 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) as amended by Commission Directive (EU) 2017/845 of 17 May 2017, 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 establishing a framework for maritime spatial planning,

(ix) objectives of maritime spatial planning,

(x) the Climate Action and Low Carbon Development (Amendment) Act 2021 and the duties and obligations imposed by that Act, and

(xi) 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 a 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) in the case of development that comprises or is for the purpose of an activity for which an integrated pollution control licence or industrial emissions licence is required, to the fact that functions relating to the control of emissions arising from the activity vest (subject to section 99F of the Environmental Protection Agency Act 1992) in the Environmental Protection Agency,

(f) in the case of development that comprises or is for the purpose of an activity for which a waste water discharge licence or a waste licence is required, to the fact that functions relating to the control of emissions

arising from the activity vest (subject to section 54 of the Waste Management Act 1996) in the Environmental Protection Agency, and

(g) 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.

(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

(b) is not in accordance with any other requirement under this Act,

the planning authority or Commission, as appropriate, shall return that submission to the person who made it and shall not have regard to that submission under *paragraph (b)* of *subsection (3)*, unless it is a submission from –

(i) a prescribed body received by the planning authority or Commission not later than one week from such expiration, or

(ii) 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 plan or joint 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) In this section "application for permission" means -

(a) an application for permission for development under *Chapter 3* or *Chapter 4*,

(b) an application for permission for retention 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*, and

(e) 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

83. (1) When granting, altering or extending the duration of a permission under this Part, a planning authority or the Commission may attach such conditions as it considers appropriate.

(1A) Without prejudice to the generality of *subsection (1)*, the planning authority or the Commission, as the case may be, shall attach –

(a) such conditions as are required under *subsection (9)* of *section 189*, *subsection (10)* of *section 198* or *subsection (2)* of *section 207*, and

(b) conditions requiring the carrying out of any compensatory measures under *subsection (14)* of *section 190* or *subsection (17)* of *section 191*,

to a permission, or alteration to, or extension of duration of, a permission.

(2) 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 and 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 fewer 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 form a company within the meaning of the Companies Act 2014, or 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, sewers, watermains or drains and other public facilities or, where there is an agreement with the local authority in relation to such maintenance, conditions for maintenance in accordance with the agreement;

(k) conditions requiring the provision of such facilities for the collection or storage of recyclable materials for the purposes of the proposed development;

(l) 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;

(m) conditions requiring the provision of roads (including traffic calming measures) open spaces, car parks, sewers, watermains or drains, facilities for the collection or storage of recyclable materials and other public facilities in excess of the immediate needs of the proposed development, subject to the local authority paying for the cost of the additional works and taking them in charge or otherwise entering into an agreement with the applicant with respect to the provision of those public facilities;

(n) conditions 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 land or maritime site at the expiration of that period;

(o) conditions in relation to appropriate naming and numbering of, and the provision of appropriate signage for, the proposed development;

(p) conditions 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;

(q) conditions requiring, and relating to, the maintenance or management of the proposed development;

(r) conditions requiring, and relating to -

(i) the removal of any structures authorised by the permission, or

(ii) the discontinuance of any activity so authorised,

upon the expiration of such period as may be specified, and requiring the carrying out of any works necessary for the reinstatement of the site concerned upon such expiration;

(s) conditions regulating the hours and days during which a business premises may operate;

(t) conditions requiring the applicant to submit further 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 under *sections TBD* except in the case of an application for permission for *Chapter 4* local authority development.

(3) Without prejudice to the generality of *subsection (1)*, a planning authority or the Commission may, in addition to the conditions specified in *subsection (2)*, attach any one or more of the following conditions to a permission for maritime development under this Part:

(a) conditions requiring the carrying out of works for the preservation of any site of archaeological interest or any wreck within the meaning of the National Monuments (Amendment) Act 1987;

(b) conditions requiring the carrying out of such works as the coastal planning authority may specify for the purposes of the development;

(c) for the purpose of ensuring compliance with the terms of the maritime area consent granted for the occupation of the maritime site concerned, conditions regulating the development or use of any part of the maritime area that adjoins that maritime site;

(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, the provision to the coastal planning authority concerned, and maintenance, of adequate financial security for the purpose of ensuring the satisfactory completion of the proposed development;

(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.

(4) Where the application for permission relates to *Chapter 4* development or proposed *Chapter 4* development, the Commission may, in addition to any condition that it may attach to a permission in accordance with *subsection (1), (2)* or *(3),* 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 –

(I) in the area in which the development was carried out or is proposed to be carried out the development, and

(II) that, in the opinion of the Commission, 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 –

(I) in the area in which the development was carried out or is proposed to be carried out the development, and

(II) that, in the opinion of the Commission, 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.

(5) A condition attached to a permission in accordance with *paragraph (a)* of *subsection (4)* 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.

(6) 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 industrial emissions licence, waste water discharge licence or a waste licence is required, it shall not attach conditions to that permission that would be for the purpose of -

(a) controlling, preventing or limiting emissions resulting from the activity, or

(b) controlling emissions related to, or consequential on, the cessation of the activity.

(7) (a) A planning authority or the Commission may, in addition to any condition attached to a permission in accordance with *subsection (1)*, *(2)* or*(3)*, 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.

(8) Where the person carrying out the development has submitted to the planning authority points of detail to be agreed with the planning authority under *subparagraph (i)* or *(ii)* of *paragraph (a)* of *subsection (7)*, 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 -

(a) reach agreement with that person on those points, or

(b) 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,

and, where *subparagraph (i)* applies, that 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.

(9) Where no agreement is reached under *subsection (8)* or the matter is not referred to the Commission within the period specified in *subsection (8)*, or such longer period as may have been agreed, the authority shall be deemed to have not agreed to the points of detail as submitted.

(10) Where the person carrying out the development has submitted to the Commission points of detail to be agreed with the Commission under *subparagraph (iii)* of

paragraph (a) of *subsection (7)*, 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.

(11) 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 (10)*, the Commission shall be deemed to have agreed the points of detail as submitted by the person carrying out the development.

Chapter 3

Standard Planning Application

General

84. (1) This Chapter does not apply to applications for permission for development or under *Chapter 4* or *5*.

(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 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

85. (1) A person shall not be entitled to apply for permission under this Chapter for –

(a) development consisting of not fewer than 100 housing units,

(b) development consisting of student accommodation containing not fewer 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 86*,

(ii) in case the planning authority complies with *paragraph (a)* of *subsection (3)* of *section 86*, he or she participated in at least one consultation meeting under that section,

(iii) he or she makes the application with the written consent, or on behalf, of a person to whom *paragraph (a)* or *(b)* applies, or

(iv) a certificate referred to in *subsection (9)* of *section 86* was given to him or her.

(2) A person (in this Chapter referred to as a "prospective LRD applicant") shall not apply for permission under this Chapter for large-scale residential development on land the zoning of which facilitates its use for the purposes proposed in the application, unless in relation to the proposed development -

(a) he or she obtains an LRD opinion under *section 88* in relation to the proposed development within the period of 6 months before he or she makes the application for permission,

(b) he or she obtains a certificate referred to in *subsection (9)* of *section 86* in relation to the proposed development within the period of 6 months before he or she makes the application for permission, or

(c) he or she makes the application with the written consent, or on behalf, of a person to whom *paragraph (a)* or *(b)* applies.

(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 86* 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 88*.

Pre-application consultation

86. (1) Notwithstanding *section 85*, any person (in this section referred to as a "prospective applicant") who is eligible to apply for permission and intends to apply for permission under this Chapter may request a consultation meeting with the planning authority prior to making that application.

(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 85* 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 3(a)*, a consultation meeting has not taken place -

(a) the prospective applicant may make an application under *section TBD* 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 why the consultation meeting did not take place within the period referred to in *paragraph (a)* of *subsection (3).*

(5) A person shall not question the validity of any steps taken by a planning authority by reason only that a consultation meeting under this section was not held within the time limit referred to in *paragraph (a)* of *subsection (3).*

(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 to the matters that are the subject of that meeting.

(7) For the purposes of a consultation meeting under this section relating 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),

(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 joint 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 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 its decision in relation to the application, 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, notwithstanding *section 85*, 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 a permission granted –

(i) under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016, or

(ii) following consideration of -

(I) an application in relation to which there has been compliance with section TBD, or

(II) an application –

(A) by a person entitled to make the application in accordance with *section 85* (other than *paragraph (iv)* of *subsection (1)*), and

(B) in relation to which there has been compliance with *subsection (2)* (other than *paragraph (b)*) of that section.

LRD meeting

87. (1) An LRD applicant may, after having consulted with the appropriate planning authority in accordance with *section 86*, request a meeting (in this Part referred to as an "LRD meeting") with that planning authority.

(2) A request under *subsection (1)* of *section 89* 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 89* is included in the request under *subsection (1)*, the LRD applicant shall, in addition to complying with *subsection (3)*, comply with *subsection (2)* of the said *section 89*.

(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 an 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 89* 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 90* as well as for the purpose of this section and *section 88*, and accordingly the planning authority shall –

(a) in relation to the first-mentioned request, perform the functions conferred on it by *sections 89* (other than *subsections (5)* and *(8)*) and *90*, and

(b) in relation to the second-mentioned request, perform the functions conferred on it by this section and *section 88*.

(8) The following persons only shall be permitted to attend a meeting convened under *subsection (6)*:

(a) the planning authority;

(b) the prospective applicant; and

(c) any person nominated by the prospective applicant for the purpose of advising or representing him or her at the meeting.

(9) The planning authority shall ensure that 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 applicant with an explanation in writing of the reason that the LRD meeting did not take place within that period.

(11) A person shall not question the validity of any act done by a planning authority by reason only of the failure of the planning authority to comply with *subsection (4)* within the period specified therein.

LRD opinion

88. (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.

(3A) 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, on the day on which the planning authority receives an application for permission for the development to which the opinion relates.

(4) A person shall not question the validity of any steps taken by a planning authority by reason only that the procedures set out in this section were not completed within the time referred to in *subsection (1).*

Request for meeting where certain elements of proposed development not confirmed

89. (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 of the elements 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 request under *subsection (1)* shall –

(a) be in writing,

(b) include a description of -

(i) the elements of the proposed development that are not likely to be confirmed by the time the application is made, and

(ii) the circumstances including –

(I) such circumstances as may be prescribed, and

(II) the unavailability of technology at the time that the prospective applicant intends to make the application that is likely to become available before the commencement of the proposed development,

that would justify the making of the application before the confirmation of those elements,

(c) include such other information as may be prescribed,

(d) be accompanied by an undertaking in writing given by the prospective applicant that he or she will include with any such application -

(i) at least 2 proposals in respect of each element referred to in *subparagraph (i)* of *paragraph (a)*, and

(ii) the parameters of each such element, and

(e) be accompanied by the prescribed fee.

(4) A planning authority that receives a request under *subsection (1)* or *subsection (1)* of *section 87* may, before a meeting under *section 90* 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.

(5) A planning authority shall, upon receiving a request under *subsection (1),* convene a meeting (which shall take place not later than 4 weeks from on the date on which the request was received by the planning authority) with the prospective applicant.

(6) The following persons only shall be permitted to attend a meeting convened under *subsection (5)*:

(a) the planning authority;

(b) the prospective applicant; and

(c) any person nominated by the prospective applicant for the purpose of advising or representing him or her at the meeting.

(7) The planning authority shall ensure that such members of staff of the planning authority as attend the meeting have a sufficient knowledge and expertise in relation to the matters to which the meeting relates.

(8) Where a meeting referred to in *subsection (5)* 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 a explanation in writing of the reason for the failure to convene a meeting within that period.

(9) A person shall not question the validity of any act done by a planning authority by reason only of the failure of the planning authority to comply with *subsection (5)* within the period specified therein.

Opinion with regard to making of application where certain elements of proposed development not confirmed

90. (1) The planning authority shall, not later than 4 weeks from the date on which the meeting convened under *subsection (5)* of *section 89* 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 if the planning authority -

(a) 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 of the elements of the development concerned, it shall provide the prospective applicant (within the meaning of *section 89*) with an opinion to that effect, or

(b) is not so satisfied, it shall notify the prospective applicant (within the meaning of *section 89*) thereof in writing.

(2) An opinion under *subsection (1)* shall specify -

(a) elements 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 elements, and

(c) that the application shall be accompanied by the description and information referred to in , in addition to any other requirement imposed by or under this Act, be accompanied by the description referred to in *paragraph (b)* of *subsection (2)* of *section 89*.

(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) A person shall not question the validity of any act done by a planning authority by reason only of the failure of the planning authority to comply with *subsection (1)* within the period specified therein.

Standard planning application

91. (1) Prior to making an application under this section, the applicant shall, in addition to complying with *section 202* (where applicable), comply with such public notice requirements as may be prescribed.

(2) An application under this section 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 an LRD to which *subsection (2)* of *section 85* applies it shall, as soon as may be thereafter –

(a) make the application available for inspection by the elected members, 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 85* 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.

(4A) Subject to *subsection (6)*, an application that is not in accordance with this section, *section 85* and such regulations as are made for the purposes of this section shall be invalid.

(5) Following receipt by a planning authority of an application under this section for permission for land-based development, that 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.

(6) Where the planning authority determines, following the carrying out of an inspection under *subsection (5)*, or at any other time after the acknowledgment of receipt of a planning application under *paragraph (a)* of *subsection (4)*, that the application was not made in accordance with this section or regulations made for the purposes of this section -

(a) then where 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) where, in relation to the application, it is not satisfied with regard to the matters referred to in *subparagraphs (i)* and *(ii) of paragraph (a)* it shall -

(i) treat the application to be invalid and declare it to be so, or

(ii) where it considers it appropriate, by notice in writing –

(I) identify in what respect the application fails to be in accordance with this section, *section 85* or regulations prescribed for the purposes of this section, and

(II) require the applicant to remedy that failure within such period as may be prescribed,

and where that failure -

(A) is remedied within that period, the planning authority shall treat the application as valid, or

(B) is not remedied within that period, the planning authority shall treat the application as invalid and declare it to be so.

(7) (a) Notwithstanding *subsection (6),* where the planning authority determines at any time after the acknowledgment of receipt of a planning application in accordance with *paragraph (a)* of *subsection (4)* that –

(i) the development the subject of the application is not *Chapter 3* development, or

(ii) the applicant was not entitled to make the application in accordance with *subsection (1)* of *section 85* 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 186*, a planning authority makes a determination under *subsection (7)* of *section 186* in relation to an application for retention that the possibility of 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 198*, a planning authority makes a determination under that section in relation to an application for retention 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, in addition to the requirements of *section 155*, by notice in writing inform the applicant 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.

(8) The planning authority shall enter particulars of every application under this section in the register.

Outline Planning Permission

91A.—(1) An application under Section 91 may be made to a planning authority in accordance with the permission regulations for outline permission for the development of land, in respect of four housing units or fewer.

(2) Where outline permission is granted under CON.3F, that permission shall not operate to authorise the carrying out of any development to which the outline permission relates until a subsequent permission has been granted under that section.

(3) (a) Where outline permission has been granted by a planning authority, any subsequent application for permission must be made not later than 3 years beginning

on the date of the grant of outline permission, or such longer period, not exceeding 5 years, as may be specified by the planning authority.

(b) The outline permission shall cease to have effect at the end of the period referred to in paragraph (a) unless the subsequent application for permission is made within that period.

(c) Section 96 shall not apply to the grant of an outline permission.

(4) Where an application for permission is made to a planning authority consequent on the grant of outline permission, the planning authority shall not refuse to grant permission on the basis of any matter which had been decided in the grant of outline permission, provided that the authority is satisfied that the proposed development is within the terms of the outline permission.

(5) No appeal may be brought to the Commission under section 98 against a decision of a planning authority to grant permission consequent on the grant of outline permission in respect of any aspect of the proposed development which was decided in the grant of outline permission.

(6) In this section, "outline permission" means permission granted in principle under section 91 for the development of land subject to a subsequent detailed application for permission under that section.

Procedural powers of planning authority

92. (1) Any person may make a submission in writing to a planning authority in relation to a planning application in such manner and within such period as may be prescribed.

(2) Without prejudice to *paragraph (a)* of *subsection (3)* of *section 189*, before determining any application for permission under this Chapter a planning authority may, in such manner and within such period as may be prescribed, request the applicant for permission 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 *section 204*, where the planning authority receives further information, documents or submissions that it considers contain material information, including information in relation to the impact of the proposed development on the environment, under *subsections (1)* or *(2)* or any other provision of this Act or regulations under this Act, it shall -

(a) make the said 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 applicant that the applicant is required to give notice (in such manner and within such period as may be prescribed) to the public that -

(i) the said material information is available for inspection, and

(ii) the public are entitled to make submissions in relation to the said 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 (b)* of *subsection (3)* 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 on a standard planning application

93. (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 83*,

(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 83*,

(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 83*, or

(d) refuse to grant the permission.

(1A) 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 90* applies:

(a) a condition requiring the element of the proposed development concerned that has not yet been confirmed to be –

(I) within specified parameters, or

(II) limited to a specified proposal referred to in the undertaking under *subsection (2)* of *section 89*, and

(b) a condition requiring the applicant for permission to inform the planning authority in writing of particulars of the element of the proposed development concerned (that has not yet been confirmed) before the commencement of –

(i) the proposed development, or

(ii) the part of the proposed development to which that element relates.

(2) When granting a permission under *subsection (1)* a planning authority shall comply with *subsection (1A)* of *section 83* (where applicable).

(3) Where a planning authority considers that the performance by it of functions under this section in relation to an application under *section 91* 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.

(5) Where an application for permission under *section 91* is for development or proposed development situated wholly in an urban development zone, the planning authority concerned shall –

(a) subject to *Part 6*, grant permission for such development or proposed development if it is satisfied that the development or proposed development is or would be consistent (including by virtue of the attachment of conditions to the grant of permission in accordance with *section 83*) with any planning scheme, for the time being in force, applicable to the land on which the development is proposed to be carried out, or

(b) not grant permission for such development or proposed development if it is not satisfied that the development or proposed development is or would be consistent with any planning scheme, for the time being in force, applicable to the land on which the development is proposed to be carried out.

(6) This Part shall, in addition to *Part 5*, apply in relation to an application for permission for development or proposed development at the airport.

Application for permission for development in material contravention of development plan or National Marine Planning Framework

94. (1) (a) Where an application is made under *section 91* 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 93.*

(b) Where an application is made under *section 91* 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 93.*

(2) A planning authority may, by resolution (in this section referred to as a "material contravention resolution") in accordance with this section following a proposal of the chief executive of the planning authority, decide to grant permission under *section 93* 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 submissions may be made in respect of such motion in such form and manner, and within such period, as may be prescribed.

(3A) (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 the 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.

(4) 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.

(5) 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.

(6) Where a material contravention resolution has been passed by a planning authority, the planning authority shall -

(a) send a copy of the notice under *paragraph (a)* of *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

95. (1) A planning authority shall, not later than 3 working days from its having made a decision under *section 93,* 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 94*, 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 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 93* 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.

(4) (a) Where –

(i) a planning authority decides to grant permission under *section 93*,

(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 93*,

(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 93*, and

(ii) on appeal under this Part from the decision, the Commission gives a direction under *section 107*,

the planning authority shall grant the permission as soon as may be after the date of the direction.

(d) Where a planning authority decides to grant permission under *section 93* for development or proposed development in an urban development zone, the grant of permission shall be deemed to have been given on the date of the decision.

(5) A planning authority 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 (14)* of *section 190* where the Minister issued a notice under *subsection (8)* or *(9)* 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 *subsections (14)* and *(17)* of *section 191* where the Minister has issued a notice under *subsection (8)*, *(9)*, *(11)* or *(12)* of that section in relation to the development or proposed development to which the decision applies,

(d) comply (if it has not already done so) with *section 208* where an environmental impact assessment was carried out in relation to the development or proposed development to which the decision applies.

(6) A planning authority shall enter particulars of a decision under *section 93* in the register.

Time limit for decision of planning authority

96. **(**1) A planning authority shall not make a decision under *section 93* in relation to an application under *section 91* before the expiration of such period as may be prescribed from the date of receipt of the application.

(2) Subject to this section, a planning authority shall make a decision in relation to an application under *section 91* within 8 weeks (or such longer period as the applicant may consent to in accordance with *subsection (3)*) from the date of that application.

(3) An applicant for permission for development or proposed development under this Chapter may, within the period for making a decision prescribed under *subsection (2)*, consent in writing to the extension of the period for making a decision under *section 93*.

(4) Provision may be made by regulation for periods that shall be disregarded for the purposes of reckoning any period referred to in *subsection (2)*.

(5) Where the planning authority fails to make a decision under *section 93* in relation to an application under *section 91* within the period referred to in *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 from the date of the expiration of the period referred to in *subsection (2)*), and

(c) seeking the consent of the applicant to an extension of the time within which the planning authority shall make its decision.

(6) (a) If the applicant notifies the planning authority that he or she consents to an extension of time sought in a notice under *subsection (5)*, 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 notice.

(b) If, within such period as may be prescribed, the applicant notifies the planning authority that he or she does not consent to an extension of time sought in a notice under *subsection (5)*, the application shall be deemed to be refused, and the applicant may appeal that deemed refusal to the Commission under *section 98*.

(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 of time sought in the notice under *subsection (5)*, the applicant will be deemed to have consented to that extension of time.

(d) Where an application under *section 91* 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.

(7) (a) Where the applicant consents to an extension of time sought in a notice under *subsection (5)* and the planning authority fails to make a decision in relation to the application within the period specified in that notice, 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 (8)*, make a decision in relation to the application as soon as may be thereafter.

(b) In this paragraph "additional sum" means –

(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, where the sum first-mentioned in *paragraph (a)* would exceed €10,000.

(8) (a) Where the applicant consents to an extension of time sought in a notice under *subsection (5)* and the planning authority fails to make a decision in relation to the application within the period specified in that notice, the applicant may notify the planning authority in writing that it does not consent to the planning authority's making 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 102*.

(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.

(9) 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 period specified in *subsection (2)*,

(b) the number of planning applications not decided within that period,

(c) the number of planning applications deemed refused pursuant to *paragraph (c)* of *subsection (6)*,

(d) the number of payments made pursuant to *paragraph (d)* of *subsection (6)* and the aggregate value of all such payments, and

(e) the number of payments made pursuant to *subsection (7)* and the aggregate value of all such payments.

Persons eligible to appeal decision of planning authority

97. **(**1) Subject to *subsection (5)* and *(6)*, the following persons may, on payment of the prescribed fee, appeal the decision of a planning authority under *section 93* 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 *subsection (3), (5)* and *(6)*, the following persons shall be eligible to appeal the decision of a planning authority under *section 93* to the Commission:

(a) a prescribed body that was entitled to be given notice of any planning application in accordance the 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 *section 194*, 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 93*.

(b) An application under *paragraph (a)* shall state the name and address of the person making the application, the grounds upon which the application is made, and a description of the person's interest in the land.

(c) The 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 93* 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 *paragraphs (a)* or *(b)* shall be invalid.

(6) No appeal shall lie to the Commission from a decision of a planning authority in relation to an application for permission for development or proposed development in an urban development zone.

Bringing of appeal to Commission

98. (1) An appeal to the Commission under this Chapter shall be brought in such manner as may be prescribed.

(2) An appeal under this section shall be accompanied by such information, documentation and fee as may be prescribed and 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 the appeal under this Chapter, there has been a failure to comply with *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 85* or *91*, it shall declare the application to be invalid, unless it is satisfied that the lack of such compliance -

(i) has not resulted in any failure to comply with any requirement under this Act to give public notice of the application, and

(ii) does not otherwise materially affect the ability of the Commission to determine the appeal, or carry out any appropriate assessment or environmental impact assessment in relation to the development or proposed development concerned,

and where the Commission so declares –

(I) the application shall be invalid, and

(II) the decision of the planning authority shall, if it was a decision to grant permission (with or without conditions), stand annulled.

(5) Where the Commission determines at any time that the development the subject of the application to which the appeal relates is not *Chapter 3* development it shall declare the application invalid.

(6) An application for retention shall be declared to be invalid by the Commission on appeal under this section, where, in relation to the development to which the application relates –

(a) the Commission makes a determination under *subsection (7)* of *section 186* that the likelihood of significant effects on a European site cannot be excluded, or

(b) the Commission makes a determination under *section 198* 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 shall, 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.

Environmental assessment by Commission on appeal

99. The Commission may adopt a determination of the planning authority in respect of screening for appropriate assessment under *section 186* or a determination of the planning authority in respect of screening for environmental impact assessment under *section 198* where the Commission has determined that such screening was carried out adequately by the planning authority.

Submissions to Commission on appeal

100. (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 97* 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

101. (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 pursuant to this section,

(b) not contain such proposed alteration of the development or proposed development concerned as 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 that do not comply 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

102. (1) Before determining an appeal under this Chapter and notwithstanding any other provision of this Act, the Commission may, in such manner and within such period as may be prescribed -

(a) for the purpose of enabling it to perform its functions in relation to the appeal, 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 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 or body 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 an 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.

(2) Where the Commission receives further information, documents or submissions under *subsection (1)* or any other provision of this Act or the regulations that it considers contain material information, including information in relation to the impact of the proposed development on the environment, it shall -

(a) make that 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 applicant that he or she is required to give notice to the public, in such manner and within such period as may be prescribed, that -

(i) the material information identified by the Commission is available for inspection, and

(ii) the public are entitled to make submissions on that material information, within such period as may be specified in regulation.

(3) (a) Where an applicant for permission or 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 request was made to the appellant and the appellant was the applicant for permission, the appeal shall be deemed to have been withdrawn, or

(ii) if the request was made to the appellant and 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 (b)* 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.

103. (1) The Commission may dismiss an appeal where, having considered the grounds of appeal or any other matter to which, by virtue of this Act, the Commission may have regard in dealing with or determining an appeal, the Commission is of the opinion that the appeal -

(a) is vexatious, frivolous or without substance or foundation,

(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 regulations under *section 311* to determine whether or not an appeal is made with an intention referred to in *subparagraph (ii)* of *paragraph (a)* of *subsection (1).*

Decision of Commission on appeal

104. (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 as if it had been made to the Commission in the first instance 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 under *subsection (1)*, decide to -

(a) grant the permission, subject to such conditions (if any) as may be imposed under *section 83*,

(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 83*,

(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 83*, or

(d) refuse to grant the permission.

(2A) 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 90* applies:

(a) a condition requiring the element of the proposed development concerned that has not yet been confirmed to be –

(I) within specified parameters, or

(II) limited to a specified proposal referred to in the undertaking under *subsection (2)* of *section 89*, and

(b) a condition requiring the applicant for permission to inform the Commission in writing of particulars of the element of the proposed development concerned (that has not yet been confirmed) before the commencement of –

(i) the proposed development, or

(ii) the part of the proposed development to which that element relates.

(3) When granting a permission under *subsection (2)*, the Commission shall comply with *subsection (1A)* of *section 83* (where applicable).

(4) 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) taking account of such matters is appropriate having regard to the circumstances.

(5) 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.

(6) This Part shall, in addition to *Part 5*, apply in relation to an appeal to the Commission from a decision of a planning authority in relation to an application for permission for development or proposed development at the airport.

(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

105. (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 104*.

(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 104*.

(3) The Commission may grant permission under *section 104* 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 104* 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, and

(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 94*, 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 each such submission and 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) Where the planning authority whose decision is the subject of an appeal to which this section applies complied with *paragraph (a)* of *subsection (3)* of *section 94* in relation to the application for planning permission concerned, it shall provide copies of all submissions made to it in respect of the application to the Commission.

Notification of a decision of Commission on appeal

106. (1) The Commission shall give such notice of its decision under *section 104* in accordance with this section 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 104* in accordance with *section 105* –

(i) the reasons for the decision to grant such permission in accordance with *section 105*, and

(ii) the matters taken into consideration in making the decision in accordance with *section 105*, 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 was up to date on the day that the decision to grant permission was made,

(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 104* 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 *subsection (2)* shall specify the main reasons for not following the recommendation.

(4) Where the Commission grants permission under *section 104* in circumstances to which *section 105* 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 *subsection (14)* of *section 190* where the Minister issued a notice under *subsection (8)* or *(9)* 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 *subsections (14)* and *(17)* of *section 191* where the Minister has issued a notice under *subsection (8), (9), (11)* or *(12)* of that section in relation to the development or proposed development to which the decision applies,

(d) comply (if it has not already done so) with *section 208* where an environmental impact assessment was carried out in relation to the development or proposed development to which the decision applies.

Appeals against conditions

107. (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 (other than a condition or conditions under *section 183*, *184*, *190* or *191*) 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 by the giving of directions to the planning authority rather that 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 104*.

(2A) 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.

(3) (a) Where a condition to which *subsection (1)* applies is a condition under *subsection (9)* of *section 189*, the Commission shall -

(i) have regard to the Natura impact statement prepared under *section 187*, and

(ii) only give such direction or directions as, when complied with, would not cause the determination under *subsection (6)* of *section 189* that the development will not adversely affect the integrity of any European site to cease to be accurate.

(b) Where a condition to which *subsection (1)* applies is a condition under *subsection (9)* of *section 198*, the Commission shall only give such direction or directions as, when complied with, would not render obsolete the determination under *subsection (5)* of *section 198* that an environmental impact assessment was not required.

(c) Where a condition to which *subsection (1)* applies is a condition under *subsection (2)* of *section 207*, the Commission shall -

(i) have regard to the environmental impact report prepared under *section 200* and the reasoned conclusion under *section 207*, and

(ii) only give such direction or directions as, when complied with, would not render obsolete the reasoned opinion.

Time limits for determination of appeal by Commission

108. (1) Subject to this section, the Commission shall make a decision under *section 104* in relation to an appeal under this Chapter –

(a) not later than XX weeks from the date of the bringing of the appeal, or

(b) in the case of an appeal relating to development or proposed development in respect of which an appropriate assessment or environmental impact assessment is required, not later than _ weeks from the date of the bringing of the appeal.

(2) Provision may be made by regulations for periods that shall be disregarded for the purposes of reckoning the period referred to in *subsection (1).*

(3) Where the Commission fails, within the period specified in *subsection (1),* to make a decision on an appeal under this Chapter that has not been withdrawn or deemed to have been withdrawn, it shall -

(a) determine the appeal notwithstanding that the period has expired,

(b) pay to the applicant for permission such sum as may be prescribed, and

(c) publish a notice on its internet website that it has not made such decision within the period specified in *subsection (1)* and the reasons for its not having done so.

(4) Any sum payable under this *subsection (3)* shall be paid not later than 4 weeks after the expiration of the period referred to in *subsection (1)* applicable to the appeal.

(5) A person shall not question the validity of the decision of the Commission in relation to an appeal under this Chapter by reason only that the appeal was not determined within the period or periods specified in, or prescribed under, this section.

(6) Each report under *subsection (5)* of *section 418* shall –

(a) contain a statement of –

(i) the number of appeals (other than LRD appeals) that the Commission has decided under *section 104*, and

(ii) the number of such appeals so decided within the period referred to in *subsection (1)*,

during the period to which the report relates,

(b) contain a statement of –

(i) the number of LRD appeals that the Commission has decided under *section 104*,

(ii) the number of such appeals so decided within the period referred to in *subsection (1)*,

(iii) the number of such appeals so decided by the date specified under *subsection (5)*,

during the period to which the report relates,

(c) contain a statement of 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 *subsection (6)*,

(d) contain a statement of 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 *subsection (7)*, and

(e) contain such other information as to the time taken to decide such appeals as the Minister may direct.

Application of *Part 6*

109. (1) *Part 6* shall apply in relation to an application under this Chapter and. accordingly, a planning authority shall, for that purpose, be the competent authority under that Part.

(2) *Part 6* shall apply in relation to an appeal under this Chapter and, accordingly, the Commission shall, for that purpose, be the competent authority under that Part.

Chapter 4

Planning Applications Directly to Commission

General

110. (1) This Chapter applies to the following classes of development (referred to as "Chapter 4 development") —

(a) strategic infrastructure development,

(b) electricity transmission infrastructure development,

(c) strategic gas infrastructure development,

(d) Chapter 4 maritime development,

(e) Chapter 4 local authority development, other than proposed road development (within the meaning of section 2(1) of the Roads Act 1993) by or on behalf of a road authority,

(f) Chapter 4 State authority development, and

(g) development for which retrospective consent is required.

(2) An application for permission for Chapter 4 development shall be made to the Commission under *section 115*.

(3) 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.

(4) 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 if any)—

(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 a maritime site within which it is proposed to carry out the development or any part of the development,

(c) where an application relates to development that is partly land-based development and partly maritime development, the planning authorities specified at both *paragraph (a)* and *paragraph (b).*

(5) 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 (6).

(6) Those cases are where—

(a) the applicant for permission is a local authority and the permission sought relates to proposed development within the functional area of that local authority, 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.

(7) Part EVA shall apply in addition to any requirements under this Chapter.

(8) In any procedure required under this Chapter, the Commission shall be the competent authority for the purpose of Part EVA.

Pre-application consultation

111. (1) A person who is eligible to apply for permission and intends to apply for permission under this Chapter (in this Chapter referred to as a "prospective applicant") shall request a consultation with the Commission under this section prior to making the application.

(2) *Subsection (1)* does not apply where the proposed application is for permission for *Chapter 4* State authority emergency development, but in such a case the prospective applicant may request a consultation with the Commission under this section prior to making the application.

(3) 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.

(4) 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 (3)*, the Commission shall, as expeditiously as is practicable—

(a) subject to *subsection (5)* of *section 110*, notify the appropriate planning authority of the request, and

(b) subject to *subsection (7)*, enter into and carry out consultations under this section.

(5) Subject to *paragraph (b) of subsection (7)*, in any consultation under this section, the Commission—

(a) shall advise the prospective applicant as to the procedures involved in considering 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 timeframes and sequencing to be applied to the application process,

(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 on 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 joint 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 notices required to be published under *section 115*, by the 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,

(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 *section 115* being submitted, in addition to the 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.

(6) The Commission may consult with any 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.

(7) 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) stating that an application for permission for the proposed development cannot be made to the Commission under this Chapter, and

(ii) specifying the Chapter of this Part, if any, 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.

(8) 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 directing that the proposed application should be made to the Commission under this Chapter (in this Chapter referred to as a "Chapter 4 PAC notice").

(9) Subject to *subsection (5) of section 110*, the Commission shall give a copy of a notice under *subsection (7) or (8)*, as the case may be, to the appropriate planning authority.

(10) The Commission may, at any time, conclude a consultation under this section where it considers it appropriate to do so.

Requirement to enter into pre-application consultation prior to making an application under this Chapter

112. (1) A prospective applicant shall not make an application under section 115 unless—

(a) the prospective applicant has been given a Chapter 4 PAC notice 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 notice in relation to the proposed development.

(2) *Subsection (1)* does not apply where the proposed application is for permission for Chapter 4 State authority emergency development.

(3) For the purposes of this section "proposed development" means, in relation to a Chapter 4 PAC notice, the development that is the subject matter of the Chapter 4 PAC notice or a development that is not materially different from the development that is the subject matter of the Chapter 4 PAC notice.

Request for meeting where certain elements of proposed development not confirmed

113.(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 of the elements 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 request under *subsection (1)* shall –

(a) be in writing,

(b) include a description of -

(i) the elements of the proposed development that are not likely to be confirmed by the time the application is made, and

(ii) the circumstances including –

(I) such circumstances as may be prescribed, and

(II) the unavailability of technology at the time that the prospective applicant intends to make the application that

is likely to become available before the commencement of the proposed development,

that would justify the making of the application before the confirmation of those elements,

(c) include such other information as may be prescribed,

(d) be accompanied by an undertaking in writing given by the prospective applicant that he or she will include with any such application -

(i) at least 2 proposals in respect of each element referred to in *subparagraph (i)* of *paragraph (a)*, and

(ii) the parameters of each such element, and

(e) be accompanied by such fee 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.

(4) The Commission shall, upon receiving a request under *subsection (1)*, convene a meeting (which shall take place not later than 4 weeks from on the date on which the request was received by the Commission) with the prospective applicant.

(5) The following persons only shall be permitted to attend a meeting convened under *subsection (5)*:

(a) the Commission;

(b) the prospective applicant; and

(c) any person 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) A person shall not question the validity of any act done by the Commission by reason only of the failure of the Commission to comply with *subsection (4)* within the period specified therein.

Opinion with regard to making of application where certain elements of proposed development not confirmed

114.(1)The Commission shall, not later than 4 weeks from the date on which the meeting convened under *subsection (4)* of *section 113* 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 if the Commission -

(a) 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 of the elements of the development concerned, it shall provide the prospective applicant (within the meaning of *section 113*) with an opinion to that effect, or

(b) is not so satisfied, it shall notify the prospective applicant (within the meaning of *section 113*) thereof in writing.

(2) An opinion under *subsection (1)* shall specify -

(a) elements 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 elements, and

(c) that the application shall be accompanied by the description and information referred to in, in addition to any other requirement imposed by or under this Act, be accompanied by the description referred to in *paragraph (b)* of *subsection (2)* of *section 113*.

(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 Commission 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) A person shall not question the validity of any act done by the Commission by reason only of the failure of the Commission to comply with *subsection (1)* within the period specified therein.

Making of an application to Commission

115 (1) Prior to making an application under this section, an applicant shall comply with such requirements as to public notice as may be prescribed.

(2) Applications for permission under this Chapter shall be accompanied by such documents and by such fee as may be prescribed.

(3) On the date on which the application for permission 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) Following receipt by the Commission of an application under this section in relation to proposed 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.

(5) The Commission may declare an application which is not in accordance with this section or regulations made for the purposes of this section to be invalid.

(6) Particulars of the application shall be entered in the register.

Screening for appropriate assessment and environmental impact assessment

116. (1)Where—

(a) the Commission receives an application under *section 115* from a local authority or State authority, and

(b) that authority has already carried out screening for appropriate assessment and made a screening determination under *section 186*,

the Commission may adopt the screening determination made by the local authority or State authority, where it has determined that the screening was carried out adequately by the local authority or State authority.

(2) Where—

(a) the Commission receives an application under *section 115* from a local authority or State authority, and

(b) the authority has carried out screening for an environmental impact assessment and made a screening determination under *section 198*,

the Commission may adopt the screening determination made by the local authority or State authority where it has determined that the screening was carried out adequately by the local authority or State authority.

Information to be furnished by the appropriate planning authority

117. (1) Subject to *subsection (5)* of *section 110*, where the appropriate planning authority receives a copy of an application under *section 115* for permission for development, the planning authority shall prepare and submit to the Commission a report setting out the views of the authority in relation to the proposed development, having regard in particular to the matters specified in *section 82*.

(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, any application for permission made in relation to the site and the outcome of the application;

(b) information relating to any warning letter, enforcement notice or proceedings relating to offences under this Act that relate to the applicant;

(c) in the case of land-based development, information regarding the relevant provisions of the development plan and any local area plan as they affect the area of the site and the type of development concerned;

(d) in the case of maritime development, information regarding the relevant provisions of the National Maritime Planning Framework as they affect the area of the site and the type of development concerned;

(e) any information that the authority may have concerning—

(i) current, anticipated or previous significant effects on the environment, or on a European site associated with the development 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 shall, before any report of the authority in relation to a proposed development is submitted to the Commission under *subsection (1)*, submit the report to the members of the authority and seek the views of the members on the proposed development.

(4) (a) The members of the planning authority may, by resolution, decide to attach recommendations specified in the resolution to the report of the 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 *paragraph (b)* "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 (5)* of *section 110*, 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 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

118. (1) Any person or body may make a submission in writing to the Commission in relation to an application for permission under this Chapter.

(2) A submission is to be made in such manner and within such period as may be prescribed.

(3) Before determining an application for permission under this Chapter the Commission may, in such manner and within such period as may be prescribed—

(a) request that the applicant for permission 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 for permission 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 it may specify, by the applicant for permission, 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 an application relates to proposed development which comprises or is for the purposes of an activity for which an integrated pollution control licence or a waste licence is required, request the Environmental Protection Agency to make submissions in relation to the proposed development,

(e) without prejudice to *subsection (4)*, make any information relating to the application available for inspection, notify any person or the public that the information is so available and, if it considers appropriate, invite further submissions to be made to it within such period as it may specify,

(f) hold meetings with the applicant for permission 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 for permission 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 311* and *312*.

(4) Where the Commission holds a meeting in accordance with *subsection (3)(f)*, it shall keep a written record of the meeting and make that record available for inspection.

(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 *subsection (3)(f)*.

(6) Where the Commission receives further information, documents or submissions under *subsection (1)* or *(3)*, or any other provision of this Act or regulations under it, that it considers contain material information, including information in relation to the impact of the proposed development on the environment, it shall—

(a) make that 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 applicant that the applicant is required, in such manner and within such period as may be prescribed, to give notice to the public that—

(i) the material information identified by the Commission is available for inspection, and

(ii) the public are entitled to make submissions on that 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 deem the application for permission 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 under *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) deem the application for permission withdrawn.

Decision of Commission

119. (1) Subject to this Part, the Commission may, in respect of an application for permission under this Chapter, decide to—

(a) grant the permission, subject to such conditions (if any) as may be imposed under *section 83*,

(b) grant the permission, subject to—

(i) any modifications to the proposed development as it may specify, and

(ii) such conditions (if any) as may be imposed under *section 83*,

(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 83*, 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 under that subsection where the application for permission concerned is an application to which an opinion under *section 114* applies:

(a) a condition requiring the element of the proposed development concerned that has not yet been confirmed to be –

(i) within specified parameters, or

(ii) limited to a specified proposal referred to in the undertaking under *subsection (2)* of *section 113*, and

(b) a condition requiring the applicant for permission to inform the Commission in writing of particulars of the element of the proposed development concerned (that has not yet been confirmed) before the commencement of –

(i) the proposed development, or

(ii) the part of the proposed development to which that element relates.

(3) When granting a permission under *subsection (1)*, the Commission shall comply with *subsection (1A)* of *section 83* (where applicable).

(4) (a) When making its decision in relation to an application for permission under this Chapter, the Commission may consider any relevant information before it or any other matter to which, by virtue of this Act, it can have regard.

(b) Without prejudice to the generality of paragraph (a), *section 82* shall apply to a decision made under this section.

(5) The Commission may refuse permission for proposed development that consists, or is for the purpose, of an activity for which—

(a) a licence under Part IV of the Environmental Protection Agency Act 1992, or

(b) an authorisation under the Waste Water Discharge (Authorisation) Regulations 2007 (S.I. No. 684 of 2007),

is required (whether or not such licence or authorisation has been granted), if it is satisfied that the proposed development would not be consistent with objectives of maritime spatial planning or principles of proper planning and sustainable development.

(6) Where an application relates to proposed development which comprises or is for the purposes of an activity for which an integrated pollution control licence or a waste licence is required, the Commission may, in respect of that development, decide to refuse a grant of permission under this Chapter, 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 will be situated.

Decision on an application for planning permission for a development in material contravention

120. (1) (a) Where an application for permission under this Chapter 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 93*.

(b) Where an application for permission under this Chapter 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 (3)*, refuse permission under *section 93*.

(2) The Commission may grant permission for development referred to in *paragraph (a)* of *subsection (1)*, where it considers that—

(a) the development or proposed development is of strategic or national importance arising from 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 concerned, or

(c) reflects provisions of the National Planning Framework, National Planning Statement or the relevant regional spatial and economic strategy that are not articulated in the development plan.

(3) The Commission may grant permission for development referred to in *paragraph (b)* of *subsection (1)*, where it considers that—

(a) the development or proposed development is of strategic, economic or social importance to the State,

(b) the National Marine Planning Framework, as the case may be, contains objectives that conflict with one another or that are ambiguous with regard to their application to the development or proposed development, and

(c) the development or proposed development is consistent with provisions of the National Planning Framework, the National Planning Policies and Measures or the regional spatial and economic strategy where those provisions relate to the provision of the development plan which it is proposed to contravene.

Notification of decisions of Commission under Chapter 4

121. (1) The Commission shall give notice of its decision under *section 119* in such form and manner as may be prescribed.

(2) (a) A decision made under *section 119* and the notice of the decision under this section shall—

(i) state the main reasons and considerations on which the decision 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 Commission grants a permission in accordance with *section 120*, state the main reasons and considerations for granting permission for development that materially contravenes the development plan or the National Planning Framework, and

(iv) where the Commission decides to grant permission upon an application for permission that was accompanied by an environmental impact assessment report–

(I) state that the Commission is satisfied that the reasoned conclusion on the significant effects on the environment of the development 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 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 by the Commission under *section 119CON4J* does not follow any recommendation in a report of an inspector assigned to report on an application on behalf of the Commission, the statement under paragraph (a) shall specify main reasons for not following the recommendation in the report,

(c) The notice of the decision under this section shall also specify—

(i) the sum payable by the applicant to the Commission for the purpose of contributing to the cost to the Commission of—

(I) conducting consultations entered into by an applicant under *section 111*,

(II) compliance by the Commission with a request by an applicant for an opinion of the Commission under *section 199*, or

(III) determining an application under *section 119*,

(ii) the sum payable by the applicant to—

(I) any planning authority,

(II) where the application for permission relates to maritime development, the Maritime Area Regulatory Authority, or

(III) any other person,

for the purposes of contributing to the costs incurred as a result of the performance of functions in relation to the application by any or all of the foregoing.

(3) The Commission will be deemed to have adopted any report, or part of a report, of an inspector assigned to report on the application, where it does not state its disagreement and give reasons for disagreeing in accordance with the *subsection (2)(b)*.

(4) The cost to the Commission referred to in *paragraph (c)* of *subsection (2)* is the cost incurred by the Commission less the prescribed fee (referred to in *subsection (2)* of *section 115*), or any part thereof, paid to the Commission by or on behalf of the applicant.

(5) The requirements of this section are without prejudice to any notification requirements under Part 6.

(6) A grant of permission shall be made as soon as may be after the making of the relevant decision under *section 119.*

(7) The Commission shall provide the appropriate planning authority with copies of all documents relating to the application and a copy of its decision.

(8) Particulars of the decision of the Commission shall be entered in the register.

(9) Where the requirements of *section 120(2)* or *(3)* 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.

(10) Notwithstanding *subsection (6)*, a grant of permission under this section shall not become operative until any sum specified under *paragraph (c)* of *subsection (2)* in respect of costs has been paid by the applicant.

Time limits for the determination of an application

122. (1) The Commission may, at any time after the last 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 its decision under *section 119* on the application.

(2) Subject to *subsection (4)*, the Commission shall make a decision under *section 119* on an application for permission under this Chapter—

(a) in the case of strategic infrastructure development, electricity infrastructure or strategic gas infrastructure development, within XX weeks of the date the application was made;

(b) in the case of Chapter 4 local authority development or Chapter 4 state authority development, within XX weeks of the date the application was made;

(c) in the case of Chapter 4 maritime development, within XX weeks of the date the application was made;

(d) in the case of development requiring retrospective consent, within XX weeks of the date the application was made.

(3) Where an application under this Chapter includes an application for permission for more than one category of development referred to in *subsection (2)* then the Commission shall make a decision within whichever is the longer time period provided for in *subsection (2)*.

(4) Where, prior to the making of an application for permission under this Chapter, or within the period specified in *subsection (2)*, the applicant gives to the Commission the applicant's consent in writing to the extension of the period under *subsection (2)* for making a decision under *section 119*, the period for making the decision shall be extended for the period consented to by the applicant.

(5) Provision may be made by regulation for time periods that are to be disregarded in reckoning any period of time for the purpose of *subsection (2)*.

(6) Where the Commission fails to make a decision under *section 119* on an application within the period specified in *subsection (2)*, or such further period as is agreed under *subsection (4)*, it shall—

(a) proceed to determine the application notwithstanding that the period has expired,

(b) pay to the applicant for permission the sum as prescribed by regulation, and

(c) publish a notice on its website stating that it has failed to make a decision within the period in *subsection (2)* and stating the reasons for that failure.

(7) Any sum payable under this section shall be paid as soon as may be and in any event not later than 4 weeks after it becomes due.

(8) A person shall not question the validity of the determination of an application under *section 119* by reason only that the application was not determined within the time periods specified in, or prescribed under, this section.

(9) Where the Minister considers it necessary or expedient that decisions under *section 119*, 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.

(10) The Commission shall include in each report made under *section 418(5)* a statement of—

(a) the number of applications that the Commission has determined within each of the time periods referred to in this section, and

(b) the number and the aggregate amount of all sums paid (if any) by the Commission under *subsection (5)*, together with such other information as to the time taken to determine applications under this Chapter as the Minister may direct.

Additional provisions relevant to strategic gas infrastructure development

123. (1)

(2) In the case of any application to the Commission for permission under this Chapter, where the proposed development to which the application relates comprises or is for the purposes of strategic gas infrastructure development, the Commission shall request the Commission for Regulation of Utilities to make observations on safety or operational matters including any relevant safety advice or specific recommendations which the Commission for Regulation of Utilities considers appropriate within such period as may be specified (which period shall not be less than 3 weeks from the date of the request).

(3) Where the Commission is considering not accepting the observations of the Commission for Regulation of Utilities it shall give notice to and consult with the Commission for Regulation of Utilities, giving its reasons and the Commission shall request the Commission for Regulation of Utilities to respond not later than the end of the period of 3 weeks beginning with the giving of notice under this subsection.

(4) The Commission shall consider any response given by the Commission for Regulation of Utilities under *subsection (3)* before it makes a decision under *section 119* on the application.

(5) Where the Commission, in granting permission for a proposed development under *section 119*, or refusing permission for a proposed development under that section, does not follow the observations of the Commission for Regulation of Utilities or part thereof, it shall give reasons.

(6) In making observations on safety or operational matters including any relevant safety advice or specific recommendations which the Commission considers appropriate under this section, the Commission for Regulation of Utilities may, without prejudice to the generality of the entitlement to make such observations, refer to such matters as it considers appropriate, including—

(a) a safety framework established under section 13I of the Act of 1999,

(b) directions made by the Minister for Communications, Energy and Natural Resources under section 13J of the Act of 1999,

(c) guidelines issued under section 13L of the Act of 1999,

(d) a safety case as defined by section 13A(1) of the Act of 1999,

(e) a revised safety case within the meaning of section 13N of the Act of 1999,

(f) a safety permit issued pursuant to section 13P of the Act of 1999,

(g) an improvement notice issued under section 13Z of the Act of 1999,

(h) a prohibition notice issued under section 13AA of the Act of 1999,

(i) safety standards referred to in guidelines issued under section 13L of the Act of 1999,

(j) standards and codes of practice referred to in section 13L(3)(c) of the Act of 1999, and

(k) conditions relating to petroleum authorisations.

(7) In *subsection (6)* a term or expression used in that subsection has the same meaning as it has in Part IIA of the Electricity Regulation Act 1999.

Applications under this Chapter for retrospective consent

124. (1) An application for retrospective consent in respect of development—

(a) for which no planning permission has been granted, or

(b) for which planning permission has been granted for the development or any part of the development,

shall be made under this Chapter and shall be subject to the additional requirements in this section, *section 125*, *section 126*, *subsection (5)* of *section 187*, *section 211* and *section 212*.

(2) Where an application for retrospective consent is made in respect of development for which planning permission has been granted, that application may be made in relation to—

(a) that part of the development permitted under the permission that has been carried out at the time of the application, or

(b) subject to *subsection (3)*, that part of the development referred to in paragraph (a) and all or part of the development permitted under the permission that has not been carried out at the time of the application.

(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) development of the land or maritime site that is the subject of the application for retrospective consent;

(ii) development of land or a maritime site adjoining the land or maritime site that is the subject of the application for retrospective consent;

(b) Development referred to in subparagraph (i) or (ii) of paragraph (a) is not required to be the same as, or of the same description as, the development that is the subject of the application for retrospective consent referred to in that paragraph.

(4) Any Natura impact statement or environmental impact assessment report, whether submitted with the application or following a screening determination made by the Commission 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.

Submissions on applications for retrospective consent

125. (1) Without prejudice to any other public notice obligation 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) 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, in such manner and within such period as may be prescribed.

Decision on an application for retrospective consent

126. (1) Notwithstanding *section 125* and *119*, the Commission shall not grant retrospective consent under *section 119* (whether subject to conditions or not), unless it is satisfied under *section 213* that exceptional circumstances exist that justify the grant of such consent.

(2) Before deciding whether to grant retrospective consent under *section 119*, the Commission shall, in addition to consideration 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, which have occurred or which are occurring or could reasonably be expected to occur because the development the subject of the application for development consent has been carried out.

(3) 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 124*, the Commission shall not grant permission for that development unless it also grants the retrospective consent.

(4) Where the Commission grants retrospective consent, the Commission may, in addition to the conditions in *section 83* impose conditions requiring the taking any appropriate remedial measures to remedy any significant adverse effects on the environment and fixing a time within which such measures must be taken.

Applications for retrospective consent: direction to cease

127. (1) Where the Commission has received an application for retrospective consent made in accordance with *section 115* and is considering that application, it shall serve on the applicant a direction requiring the applicant to cease, within the period specified in the 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 direction before the end of the period of 2 weeks beginning with receipt of the direction as to the reasons why, in the applicant's opinion, the direction should not be confirmed, having regard to the likely significant effects 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 direction,

(b) give a direction to the applicant varying the direction,

(c) withdraw the direction,

and shall send a copy of the direction, or amended direction, to the appropriate planning authority, or inform the authority of its decision to withdraw the 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 direction given to the person by the Commission under *subsection (1)* within the time specified in the direction shall be guilty of an offence.

Refusal of retrospective consent: direction by Commission to take remedial measures

128. (1) Where the Commission decides under *section 119* to refuse to grant permission for 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 for either or both of the following—

(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 in relation 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 measures are necessary and shall inform the applicant to whom the direction is sent that the applicant may make submissions to the Commission in relation to the notice before the end of the period of 4 weeks beginning with the date of the notice.

(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 direction to the appropriate planning authority and shall inform the planning authority that it may make submissions to the Commission in relation to the direction before the end of the period of 4 weeks beginning with the date of the notice.

(4) In relation to the remedial measures that may be specified, a draft direction served under *subsection (1)* shall direct the person to whom the direction is given—

(a) to take the remedial measures specified in the draft direction,

(b) to keep records of the remedial measures being carried out in accordance with the draft direction,

(c) to carry out the remedial measures in such order, specified in the draft direction, as the Commission considers appropriate,

(d) to comply with any requirements relating to monitoring and inspection, by the relevant planning authority, of the remedial measures specified in the draft direction,

(e) to carry out the remedial measures within the period of time specified in the draft direction.

(5) The Commission shall consider any submissions in relation to the draft direction made to it, before the end of the period of 4 weeks beginning with the date of the draft direction by the applicant to whom the direction was issued or the appropriate planning authority and shall, as soon as may be—

(a) serve a direction to the applicant confirming the draft direction, or

(b) serve a direction to the applicant varying the draft direction, or

(c) withdraw the draft direction,

and shall send a copy of the direction, 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.

(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 direction issued by the Commission under *subsection (5)* within the period specified in the direction shall be guilty of an offence.

(8) Insofar as a direction is served requiring the taking of remedial measures in respect of a development referred to in *section 296(3)*, such remedial measures may be required in relation to such development that was carried out at any time, but not more than 7 years prior to the date on which this section comes into operation.

(9) Where monitoring and inspection of remedial measures by a planning authority are specified in a direction under this section, the planning authority shall carry out the monitoring and inspection in accordance with the direction.

Retrospective consent: enforcement

129. (1) Where a development is being carried out in compliance with a grant of permission for development for which retrospective consent is required or any condition to which the permission 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 permission for development for which retrospective consent is required or any condition to which the permission is subject it shall, notwithstanding any other provision in this Act, be unauthorised development.

(3) Where an application for retrospective consent is refused by the Commission under *section 119* or *126* the development shall, notwithstanding any other provision in this Act, be deemed to be unauthorised development and the relevant planning authority shall, as soon as may be after receipt of a copy of the relevant decision from the Commission, serve an enforcement notice under *section 293* requiring the cessation of activity and the taking of such steps as the planning authority considers appropriate.

(4) Where the Commission has served a direction to cease activities and operations and to take remedial measures under *section 128* and the applicant has failed to comply with such a

direction the relevant planning authority shall as soon as may be after receipt of a copy of the Commission's direction serve an enforcement notice under *section 293* requiring compliance with the Commission's directions and the taking of any additional steps as the planning authority considers appropriate.

(5) Land or a maritime site upon which such unauthorised development 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 under *section 128* or by an enforcement notice issued under *section 293* is complete.

Chapter 5

Alterations, Extensions and Revocations of Permissions

Interpretation and application (Chapter 5)

130. (1) In this Chapter—

"deciding authority", in relation to a permission, means—

(a) where the application for the permission was made to a planning authority, the planning authority, or

(b) where the application for the permission was made to the Commission, the Commission;

"material alteration" means an amendment requested under *section 131* or an alteration or extension requested under *section 133* that is determined to—

(a) require appropriate assessment under *section 185*,

(b) require environmental impact assessment under *section 194*, or

(c) otherwise constitute a material alteration of the terms of the permission;

"term", in relation to a permission, shall be construed as including a condition.

(2) Part 6 shall apply in addition to any requirements under this Chapter.

(3) In any procedure required under this Chapter, the planning authority, or the Commission, as the case may be, shall be the competent authority for the purposes of Part 6.

(4) This Chapter shall apply, in addition to Part 5, in relation to a permission for development at the airport.

Amendment of permission of clerical or technical nature

131. (1) A deciding authority may amend a permission 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 the terms of the permission as a whole but which was not expressly provided for in the permission,

(c) clarifying the terms of the permission, or

(d) otherwise facilitating the implementation or operation of the permission.

(2) (a) Subject to *paragraph (b)*, a person may make a request for an amendment of a permission in accordance with *subsection (1)*.

(b) *Section 81* shall apply to a request under *paragraph (a)* subject to—

(i) the modification that the references in *subsections (1)* and *(3)* of *section 81* to "an application for permission for land-based development under Chapter 3 or 4" shall be considered to be references to "a request under *section 131(2)(a)* to amend a permission for land-based development",

(ii) the modification that the references in *subsections (2)* and *(3)* of *section 81* to "an application for permission for maritime development under Chapter 3 or 4" shall be considered to be a reference to "a request under *section 131(2)(a)* to amend a permission for maritime development", and

(iii) all other necessary modifications.

(c) A request for an amendment of a permission under *paragraph (a)* shall be made to the deciding authority and shall specify the particulars of the amendment.

(d) Subject to *subsection (3)*, where the deciding authority is satisfied that the amendment is an amendment referred to in *paragraph (a), (b), (c)* or *(d)* of *subsection (1)* it shall make the amendment.

(e) Where the deciding authority is satisfied that the amendment is not an amendment referred to in *paragraph (a), (b), (c)* or *(d)* of *subsection (1)*, or that *subsection (3)* applies, it shall refuse to make the amendment.

(3) A deciding authority shall not amend a permission under *subsection (2)(d)*, if to do so would, in its opinion, result in a material alteration of the permission.

(4) Before making a decision to make or refuse an amendment under *subsection (2)* the deciding authority may invite submissions to be made to it in relation to the amendment by any person who made a submission to the deciding authority in relation to the permission.

(5) A decision under *paragraph (d)* or *(e)* of *subsection (2)* shall be made within such period as may be prescribed.

(6) (a) Where the deciding authority refuses to make an amendment under *subsection (2)(e)*, it shall inform the person who made the request of that refusal and the reasons for it as soon as practicable after making the refusal.

(b) A decision under *subsection (2)(e)* that *subsection (3)* applies shall not prevent the person who made the request from making a request for an alteration or extension of a permission under *section 133.*

(7) A decision under this section shall not be subject to appeal.

(8) A request under *subsection (2)* shall be accompanied by such documents, information or fee as may be prescribed.

(9) Where the Commission is the deciding authority under this section, it shall provide a copy of all documents relating to a request under this section, and to its decision in relation to the request, to the planning authority in the functional area of which the development is situate.

(10) Particulars of a decision under *paragraph (d)* or *(e)* of *subsection (2)* shall be entered in the register.

Consultation before request under *section 133*

132. (1) A person who is eligible to request an alteration, or extension of the duration of, a permission under *section 133* and intends to make such a request may request a consultation with the deciding authority prior to making the first-mentioned request.

(2) A request for a consultation shall be accompanied by—

(a) sufficient information to allow the deciding authority to carry out its functions under this section, and

(b) such documents, information or fee as may be prescribed.

(3) The deciding authority shall enter into consultation with the person who requested the consultation unless, in the opinion of the deciding authority doing so is unnecessary having regard to the nature and scope of the alteration or extension.

(4) Subject to *subsection (3)*, the deciding authority shall consult with the person who requested the consultation as expeditiously as is practicable after the making of the request for the consultation.

(5) In a consultation under this section the deciding authority may consult with any person who may, in the opinion of the deciding authority, have information that is relevant for the purposes of the consultation.

(6) In a consultation under this section, the deciding authority may do one or more than one of the following—

(a) advise the person who requested the consultation as to the procedures involved in making and considering a request for alteration or extension under this Chapter and the requirements of relevant regulations made under this Act,

(b) in so far as possible, indicate the objectives of—

(i) the development plan, and any applicable urban area plan, priority area plan or joint area plan that applies to the land where it is proposed to carry out the development the subject of the permission, or

(ii) where the permission relates to proposed maritime development, the National Marine Planning Framework,

that may, in the opinion of the deciding authority, have a bearing on the decision of the deciding authority,

(c) advise the person who requested the consultation regarding the considerations that may, in the opinion of the deciding authority, have a bearing on its decision, related to—

(i) the impact of the development on the environment,

(ii) proper planning and sustainable development, and

(iii) where the consultation relates to proposed maritime development, maritime spatial planning,

and

(d) on the request of the person who requested the consultation, provide an opinion to him or her as to the adequacy of the documents intended to be submitted with a request under *section 133*.

Request for alteration or extension of permission

133. (1) Subject to *subsection (2)*, a person may request the deciding authority to alter a permission or extend the duration of a permission.

(2) *Section 81* shall apply to a request under *subsection (1)* subject to—

(a) the modification that the references in *subsections (1)* and *(3)* of *section 81* to "an application for permission for land-based development under Chapter 3 or 4" shall be considered to be references to "a request under

section 133(1) to alter or extend the duration of a permission for land-based development",

(b) the modification that the references in *subsections (2)* and *(3)* of *section 81* to "an application for permission for maritime development under Chapter 3 or 4" shall be considered to be references to "a request under *section 133(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,

(b) the period of the extension, or

(c) both the particulars of the alteration and the period of the extension,

and shall be accompanied by—

(i) sufficient information to allow the deciding authority to assess the request, and

(ii) such documents, information or fee as may be prescribed.

(4) (a) Subject to *subsection (5)*, as soon as practicable after the making of a request under *subsection (1)*, the deciding authority shall make a determination as to whether the alteration or extension is a material alteration.

(b) Before making a determination under *paragraph (a)*, the deciding authority may invite submissions on the alteration or extension, to be made to it by such person or class of person, including the public, as the deciding authority considers appropriate.

(c) In making a determination under *paragraph (a)*, the deciding authority shall have regard to any submissions made to it under *paragraph (b)*.

(5) An alteration or extension shall be considered to be a material alteration—

(a) where the request under *subsection (1)* is accompanied by an environmental impact assessment report or a natura impact statement or both, or

(b) where the alteration or extension is the same as an amendment requested under *section 131*, and the deciding authority was of the opinion under *section 131(3)* that that amendment was a material alteration.

(6) A deciding authority shall give notice of a determination under *subsection (4)* in such form and manner as may be prescribed under *section 165*.

(7) Where the Commission is the deciding authority under this section, it shall notify the planning authority of the functional area in which the development the subject of the permission is situate of the receipt of a request under this section.

(8) Particulars of a request made under this section shall be entered in the register.

Non-material alteration of a permission

134. (1) Subject to Part 5, where an alteration or extension requested under *section 133(1)* is not a material alteration, the deciding authority shall alter the permission or extend the duration of the permission, accordingly.

(2) The deciding authority shall, as soon as practicable after making the alteration or extension, notify the person who made the request under *section 133(1)* of the alteration or extension.

(3) Where the deciding authority is the Commission, it shall notify the planning authority within whose functional area any part of the development to which the permission altered or extended relates is situated of the alteration or extension.

Material alteration of a permission

135. (1) Subject to this Part, Part 5, and Part 6, the deciding authority may, having regard to any submissions made under *section 133(4)* or *subsection (4)*:

(a) in relation to an alteration of a permission requested under *section 133* that is a material alteration, decide to—

(i) make the alteration, subject to such conditions (if any) as may be imposed under *section 83*,

(ii) make the alteration, subject to such modifications as the deciding authority considers appropriate and such conditions (if any) as may be imposed under *section 83*, or

(iii) refuse to make the alteration;

(b) in relation to an extension of the duration of a permission requested under *section 133* that is a material alteration, decide to—

(i) grant the extension, subject to such conditions (if any) as may be imposed under *section 83*,

(ii) grant the extension, subject to such modification of duration as the deciding authority considers appropriate and such conditions (if any) as may be imposed under *section 83*, or

(iii) refuse to grant the extension.

(2) Notwithstanding *subsection (1)*, the deciding authority shall, where a request for an alteration or an extension under *section 133* relates to development situated wholly in an urban development zone—

(a) subject to Part 6, decide to make the alteration or extension where it is satisfied that the development, if carried out in accordance with the permission so altered or extended or subject to any conditions that the planning authority may attach to the permission under *section 83*, would be consistent (including by virtue of the attachment of conditions to the grant of permission in accordance with *section 83*) with any planning scheme for the time being in force applicable to the land on which the development is to be carried out, or

(b) decide to refuse to make the alteration or extension where it is not satisfied that the development if carried out in accordance with the permission so altered or extended would be consistent with any planning scheme for the time being in force applicable to the land on which the development is to be carried out.

(3) When deciding to make an alteration or grant an extension under *subsection (1)* or *(2)* the deciding authority shall comply with *section 83(1A)* (where applicable).

(4) The deciding authority shall, prior to making a decision under *subsection (1)* or *(2)*, direct the person who made the request under *section 133* to give public notice of the alteration or extension requested and invite submissions to be made to it in relation to the request.

(5) The deciding authority may, prior to making a decision under *subsection (1)* or *(2)*—

(a) where the deciding authority is a planning authority, exercise any power under *section 92*, and

(b) where the deciding authority is the Commission, exercise any power under *section 118*.

(6) In making a decision under *subsection (1)* in relation to a request to alter or extend a permission for maritime development, the deciding authority shall, in addition to the matters set out in *section 82*, 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 requested alteration or extension,

(b) contractual commitments entered into by the person who made the request in relation to the development concerned, and

(c) the extent to which the development has already been advanced in accordance with the permission.

(7) A decision under *subsection (1)* shall be made within such period as may be prescribed or, where no such period is prescribed—

(a) where the deciding authority is the planning authority, within the period that would apply under *section 96(2)* if the request under *section 133* was an application for permission referred to in that section, or

(b) where the deciding authority is the Commission, within the period that would apply under *section 122(2)* if the request under *section 133* was an application for permission referred to in that section.

(8) Where the deciding authority decides to make an alteration or grant an extension under *subsection (1)*, the deciding authority shall make the alteration or extension—

(a) where the deciding authority is the planning authority, within the period that would apply under *section 95(4)* if the decision under *subsection (1)* was a decision to grant permission referred to in *section 95(1)*, or

(b) where the deciding authority is the Commission, as soon as practicable after the making of the decision under *subsection (1)*.

(9) A deciding authority shall give notice of a decision under *subsection (1)* in such form and manner as may be prescribed under *section 165*.

(10) The requirements of this section are without prejudice to any notification requirements under Part 6.

(11) A notice under *subsection* (9) shall—

(a) state the main reasons and considerations on which the decision to which the notice relates is based,

(b) where conditions are imposed under *section 83*, state the main reasons for the imposition of any such conditions,

(c) where the deciding authority decides to make an alteration or grant an extension referred to in *subsection (3)* or *(4)* of *section 136*, 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 the request was accompanied by an environmental impact assessment report—

(i) where a decision is made to alter or extend the permission, state that the deciding authority is satisfied that the reasoned conclusion 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 request on behalf of the deciding authority, specify the main reasons for not following the recommendation.

(12) Where the deciding authority is a planning authority, an appeal may be made against the decision of the planning authority under *subsection (1)* as if the decision to make or refuse the alteration or grant or refuse the extension was a decision to grant or refuse planning permission in accordance with *Chapter 3*, save that any appeal shall be confined to an appeal regarding the terms of the alteration or extension.

Material contraventions

136. (1) Where a request for an amendment of a permission under *section 131* or for the alteration or extension of a permission under *section 133* is made, and the permission relates to development, or proposed development situated or proposed to be situated wholly or partly on land, the deciding authority shall refuse to make the amendment or alteration, or refuse to grant the extension (as the case may be), where the development the subject of the amended, altered or extended permission would materially contravene the development plan for the functional area of the planning authority in which the development is or would be situate.

(2) Where a request for an amendment under *section 131*, or an alteration or extension under *section 133*, is made of a permission that relates to development, or proposed development, situated or proposed to be situated wholly or partly in the maritime area, the deciding authority shall refuse to make the amendment, or alteration, or refuse to grant the extension (as the case may be) where the development the subject of the amended, altered or extended permission, would materially contravene the National Marine Planning Framework.

(3) A planning authority may make an alteration or grant an extension to a permission to which *subsection (1)* or *(2)* applies where it complies with the requirements of *section 94*.

(4) The Commission may make an alteration or grant an extension to which *subsection (1)* or *(2)* applies where, in the case of a request to alter or extend a Chapter 3 development, the alteration or extension complies with the requirements of *section 105*, or, in the case of a request to alter or extend a Chapter 4 development, it complies with the requirements of *section 120*.

Provision of documents by Commission to planning authority

137. (1) Where the Commission is the deciding authority on a request to alter or extend the duration of a permission under *section 133*, it shall provide a copy of all documents relating to the request and of its decision on the request, to the planning authority in the functional area of which the development to which the permission relates is situate.

(2) Where an appeal is made to the Commission under *section 135(12)* in relation to a decision of a planning authority to make or refuse an alteration or a permission or grant or refuse to grant an extension of a permission, it shall—

(a) notify the planning authority in the functional area of which the development to which the permission relates is situate of the receipt of the appeal, and

(b) on determination of the appeal, provide a copy of all documents relating to the application and of its decision, to the planning authority.

(3) Particulars of the making of an alteration or granting of an extension under *section 134* or *135*, including on an appeal under *section 135(12)*, or the making of a decision under section 134(1) shall be entered in the register.

Application of certain provisions to railway orders

138. *Sections 132*, *131*, *133*, *134*, *135*, *136*, and *137* shall apply to a railway order under the Transport (Railway Infrastructure) Act 2001 as they apply to a permission referred to in those sections with the following modifications:

(a) a reference in those sections to the development shall be construed as a reference to the railway works the subject of the railway order;

(b) a reference in those sections to amending, altering, or extending, the permission shall be construed as a reference to amending, by order, the railway order with respect to the terms of the railway works, the subject of the railway order;

(c) a reference in those sections to the deciding authority shall be construed as a reference to the Commission.

Revocation or modification of permission by planning authority

139. (1) In the case of land-based development, if a planning authority considers that it is appropriate that a permission relating to 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 it is proposed to carry out the development, and on any other person who, in its opinion, will be materially affected by the revocation or modification.

(2) Subject to *subsection (3)*, in the case of maritime development, if a planning authority considers that it is appropriate that a permission relating to 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 it is proposed to carry out the development, the holder of a maritime area consent granted for the occupation of that maritime site for the purposes of the maritime 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 joint 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.

(5) The notice referred to in *subsections (1)* and *(2)* shall—

(a) specify the permission concerned,

(b) specify the reasons the planning authority is proposing revocation or modification of the permission, and

(c) invite the person served with the notice to make written submissions to the planning authority within the period specified in the notice (which shall be before the end of

the period of 4 weeks beginning on the date of the service of the notice) concerning the proposed revocation or modification.

(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 *subsection (5)(c)*.

(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 referred to in *subsection (4)* to which the development no longer conforms or the objectives of the plan 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, appeal to the Commission against the decision.

(9) Where an appeal is brought under *subsection (9)* 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 decision on the appeal.

(10) A notice of a proposal to revoke a permission may only be served prior to commencement of development under the permission.

(11) A notice of a proposal to modify a permission may only be served prior to completion of the development under the permission, and where development has commenced under the permission, the planning authority shall not propose to modify any part of the development which has been completed in accordance with the permission.

(12) A planning authority may, for stated reasons, by notice withdraw a notice served under this section.

(13) Where a decision is made by the Commission on appeal under *subsection (9)*, the Commission shall provide the planning authority with copies of all documents relating to the appeal and a copy of its decision on the appeal.

(14) Particulars of a notice served under *subsection (1)* or *(2)*, an appeal under *subsection (8)*, a decision of the Commission on appeal under *subsection (9)*, and the withdrawal of a notice under *subsection (12)* shall be entered in the register.

Revocation or modification of permission by Minister

140. (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 a permission, whether by extension of its duration or alteration of its terms, 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) the public's health,

and

(b) the revocation or modification concerned is necessary in the public interest.

(2) The Minister may, before making an order under this section, consult with—

(a) a planning authority within whose functional area any part of the development to which the permission relates is situated,

(b) the person to whom the permission was granted, or

(c) any other person who, in the opinion of the Minister, is likely to be materially affected by the making of 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 the making of an order, give a copy of the order 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 to whose functional area the order relates.

(4) Where an order is made under this section, the planning authority that granted the permission 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 in respect of which the permission was granted, 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 *subsection (4)(b)* shall comply with the notice.

(6) A permission to which an order under this section applies shall, upon the making of the order, stand revoked or modified, as may be appropriate, in accordance with the order.

(7) Any development carried out in contravention of an order under this section shall be unauthorised development.

(8) The Minister may revoke an order made under *subsection (1)* where he or she considers it appropriate to do so.

(9) Where the Minister makes an order revoking an order made under *subsection (1)*—

(a) the order which is 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 which is revoked and the revocation of that order 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.

(10) The Minister shall not, in relation to a permission, make an order under *subsection (1)* where the duration of the permission or any extension of duration granted to that permission has elapsed.

(11) The making of an order under this section shall be recorded in the register as soon as may be after it is made.

(12) (a) Proceedings before a court relating to an order made under *subparagraph (i)* or *(ii)* of *subsection (1)(a)* shall be heard in camera.

(b) A court before which proceedings relating to an order under *subparagraph (i)* or *(ii)* of *subsection (1)(a)* are heard shall take all reasonable precautions to prevent the disclosure—

(i) to the public, or

(ii) where the court considers it appropriate, to any party to the proceedings,

of any evidence given or document submitted for the purposes of the proceedings, the disclosure of which could reasonably be considered to be harmful to the security or defence of the State or to the State's relations with other states.

(c) Without prejudice to the generality of *paragraph (b)*, precautions referred to in that paragraph may include—

(i) the prohibition of the disclosure of such evidence or documentation as the court may determine, and

(ii) the hearing, in the absence of any person, 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 and State Authority Development

Definitions (Chapter 6 of Part 4)

141. In this Chapter –

"Act of 2011" means the Communications Regulation (Postal Services) Act 2011;

"Chapter 6 State authority emergency order" means an order under *section 146(1)*;

"development subject to the public notification and confirmation procedure" means –

(a) local authority development of a class prescribed in regulations under *section 143(1)*,

(b) State authority prescribed development in relation to which *section 145(4)* applies, and

(c) Chapter 6 State authority emergency development in respect of which a Chapter 6 State authority emergency order so provides pursuant to *subsection (2)* of *section 146*;

"Eircode" means a postcode allocated under the national postcode system;

"Minister concerned", in relation to State authority development, means—

(a) the Minister who proposes to carry out the development, or have it carried out on his or her behalf or in partnership or jointly with him or her, or

(b) where a State authority other than a Minister proposes to carry out the development, or have it carried out on its behalf or in partnership or jointly with him or her, the Minister for Public Expenditure and Reform;

"national postcode system" has the same meaning as it has in section 66 of the Act of 2011;

"postcode" has the same meaning as it has in section 66 of the Act of 2011.

Local authority development

142.—(1) Subject to *subsections (2)* and *(4)* and *section 7(3)*, local authority development in the functional area of the local authority shall be exempted development.

(2) Subject to *subsection (4)* and *section 7(3)*, development by a local authority that is a coastal planning authority in its nearshore area shall be exempted development where the local authority –

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

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

(3) Subject to subsection *(4)* and *section 7(3)*, local authority development 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 a road, or

(b) for the purpose of inspecting, repairing, renewing, altering or removing any sewers, mains, pipes, district heating systems, cables, overhead wires, or other apparatus, including the excavation of any street, other land or maritime site for that purpose,

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.

(5) In this section –

"district heat system" means a network by which thermal energy is distributed from one or more sources of production to more than one building;

"thermal energy" means heating, cooling or hot water.

Local authority development requiring public notice

143. (1) Subject to *subsection (2)*, the Minister may prescribe classes of local authority development in respect of which, having regard to the nature, scale or location of such classes of development, a local authority shall be required to comply with the public notification and confirmation procedure under *sections 148* and *149* prior to development of such a class being carried out.

(2) Regulations made under *subsection (1)* shall not apply in respect of local authority development –

(a) that consists of works of maintenance or repair, other than works to a protected structure, or a proposed protected structure, which would materially affect the character of—

(i) the 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,

(b) that is necessary for dealing urgently with any situation which the chief executive of the local authority concerned considers is an emergency situation calling for immediate action,

(c) that consists of works, other than works involving road widening, to provide traffic signs under section 95 of the Road Traffic Act 1961 or to provide traffic calming measures, within the meaning of section 38 of the Road Traffic Act 1994, under that section, to enhance public bus services (also within the meaning of the said section 38) or improve facilities for cyclists,

(d) that consists of works which a local authority is required to undertake—

(i) by or under any enactment,

(ii) by or under the law of the European Union, or a provision of any act adopted by an institution of the European Union, or

(iii) by order of a court, or

(e) that requires permission under *Chapter 4*.

(3) Sections 138, 139 and 140 of the Act of 2001 shall not apply to development of a class prescribed under *subsection (1).*

State authority development not requiring permission

144. (1) Subject to *subsection (2),* permission shall not be required for—

(a) State authority prescribed development, or

(b) State authority development carried out in accordance with a Chapter 6 State authority emergency order.

(2) State authority prescribed development that requires appropriate assessment in accordance with *section 185* or environmental impact assessment in accordance with *section 194* shall require permission under *Chapter 4.*

State authority prescribed development

145. (1) The Minister may make regulations –

(a) prescribing a State authority development or class of State authority development in respect of which planning permission shall not be required, where -

(i) the development, or class of development, is, in the opinion of the Minister, in connection with or for the purposes of public safety or order, the administration of justice, or national security or defence, or

(ii) *subsection (2)* applies,

and

(b) where the Minister so prescribes a State authority development or class of State authority development, providing that *subsection (3)* shall not apply in respect of such development or such class of State authority development as he or she considers appropriate.

(2) This subsection shall apply where –

(a) an event or situation with significant national or strategic implications has occurred or is likely to occur, and

(b) it is necessary in the opinion of the Minister to prescribe State authority development or class of State authority development as not requiring planning permission in order to address such likely implications.

(3) Regulations under *subsection (1)* shall not apply in respect of any Chapter 4 State authority development.

(4) Save where otherwise provided in regulations made under *subsection (1)(b)*, a State authority shall be required to comply with the public notification and confirmation procedure under *sections 148* and *150* prior to the carrying out of a State authority development, or development of a class, prescribed under *subsection (1)(a).*

State authority development emergency order

146. (1) The Minister concerned may by order provide that permission is not required for a State authority development or class of such development, where he or she is satisfied that –

(a) the carrying out of that development or class of development is required by reason of an accident or emergency, and

(b) the development or class of development does not require appropriate assessment in accordance with *section 185* or environmental impact assessment in accordance with *section 194*,

(in this Act referred to as "Chapter 6 State authority emergency development").

(2) A Chapter 6 State authority emergency order may provide that prior to the development or class of development being carried out, the State authority shall be required to comply with the public notification and confirmation procedure under *sections 148* and *150.*

(3) Where the Minister concerned is satisfied that the carrying out of a State authority development—

(a) is required by reason of an accident or emergency, and

(b) requires appropriate assessment in accordance with *section 185* or environmental impact assessment in accordance with *section 194*,

the Minister concerned may by order provide that any application for permission for that State authority development (in this Act referred to as "Chapter 4 State authority emergency development") shall be made to the Commission under *Chapter 4*.

(4) Before making a Chapter 6 State authority emergency order, the Minister concerned shall—

(a) other than where the Minister concerned is the Minister, inform the Minister of his or her intention to make a Chapter 6 State authority emergency order and provide to the Minister a draft of the order, and

(b) where, in the opinion of the Minister concerned, the draft order relates to the functions of another State authority, inform that State authority of his or her intention to make a Chapter 6 State authority emergency order and provide to the State authority a draft of the order.

(5) The Minister concerned shall give notice of the making of a Chapter 6 State authority emergency order to such other persons in such manner as may be prescribed.

(6) The Minister concerned may revoke a Chapter 6 State authority emergency order where he or she considers it appropriate to do so.

State authority urgent development order

147. (1) Where the Minister concerned is satisfied that the carrying out of a State authority development—

(a) is urgent in order to preserve, protect or improve the quality of the environment or protect human health, and

(b) requires appropriate assessment in accordance with *section 185* or environmental impact assessment in accordance with *section 194*,

the Minister concerned may by order provide that any 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) Nothing in this section or *Chapter 4* 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 which might prejudice the internal or external security of the development or facilitate any unauthorised entrance to, or exit from, the development of any person when it is completed.

Public notification procedure

148. (1) The authority shall publish notice of any proposed development that is development subject to the public notification and confirmation procedure in such manner as may be prescribed, which notice shall –

(a) identify the authority that proposes to carry out development or on whose behalf , or in partnership or jointly with whom, the development is proposed to be carried out, and

(b) contain such other information as may be prescribed.

(2) A local authority shall send a copy of a notice referred to in *subsection (2)* which relates to any development subject to the public notification and confirmation procedure by or on behalf of, or in partnership or jointly with, the local authority to such body or bodies as may be prescribed.

(3) A State authority shall send a copy of a notice referred to in *subsection (2)* which relates to any development subject to the public notification and confirmation procedure by or on behalf of, or in partnership or jointly with, the State authority to the planning authority for any functional area in which the proposed development would be situated.

(4) Where proposed development that is development subject to the public notification and confirmation procedure consists of or comprises the carrying out of works—

(a) which would materially affect the character of a protected structure or a proposed protected structure, or

(b) to the exterior of a structure which is located within an architectural conservation area, and the development would materially affect the character of the area concerned,

the authority proposing to carry out the development, or on whose behalf, or in partnership or jointly with whom, the development is proposed be carried out, shall send notice of such development to the Minister.

(5) Any person may make a submission in writing in accordance with regulations under *subsection (6)* to the authority in relation to a proposed development that is a development subject to the public notification and confirmation procedure.

(6) The Minister may make regulations for the purposes of *subsection (5)* which may make provision in relation to –

(a) the content of submissions under that subsection,

(b) the form and manner of such submissions, and

(c) the time period within which such submissions may be made.

(7) An authority shall make available for inspection or purchase, during office hours at the offices of the authority on payment of a specified fee not exceeding the reasonable cost of making such a copy, a copy of –

(a) such particulars as may be prescribed in relation to any proposed development that is development subject to the public notification and confirmation procedure, and

(b) any submissions pursuant to *subsection (5)* received by the authority in respect of any proposed development that is development subject to the public notification and confirmation procedure.

(8) For the purposes of this section, references to "the authority" means —

(a) in the case of local authority development, the local authority,

(b) in the case of State authority development, the State authority.

Confirmation by local authority

149. (1) Prior to a local authority making a decision under *subsection (3)* with respect to a development subject to the public notification and confirmation procedure, the chief executive of the local authority shall –

(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 authority within –

(i) 8 weeks of the expiry of such period as may be prescribed under *section 148(6)* for the making of subsmissions, or

(ii) where regulations made under *subsection (16)* of *section 198* apply in respect of the development, such further period as may be prescribed in those regulations.

(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 an appropriate plan of the development and appropriate map of the relevant area,

(c) specify any conditions being recommended by the chief executive,

(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 giving the reasons and the considerations for the evaluation,

(e) include any determination under section TBD as to whether an appropriate assessment, or under section TBD as to whether an environmental impact assessment, is required,

(f) list the persons or bodies who made submissions with respect to the proposed development under *section 148(5)*,

(g) include a summary of the issues, with respect to –

(i) in the case of land-based development, the proper planning and sustainable development of the area in which the proposed development would be situated, raised in any such submissions, 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 response of the chief executive thereto, and

(h) include a recommendation as to whether the proposed development should be proceeded with as proposed, with or without such variations or modifications as may be recommended in the report, or should not be proceeded with.

(3) The members of a local authority shall, within 6 weeks of the receipt of a report of the chief executive under *subsection (1)*, consider the proposed development to which it relates and the report, and by resolution, the members of a local authority shall decide to—

(a) carry out the proposed development as recommended in the chief executive's report,

(b) vary or modify the development, otherwise than as recommended in the chief executive's report, or

(c) not proceed with the development.

(4) If the members of the local authority fail to make a resolution under *subsection (3)* within the period specified in *subsection (3)*, the members of the local authority shall be deemed

to have made a resolution to carry out the proposed development as recommended in the chief executive's report.

(5) Any development to which this section applies which is carried out in advance of a resolution of the members of the authority under *subsection (3)*, or a resolution deemed to have been made under *subsection (4)*, deciding to proceed with the development shall be unauthorised development.

(6) (a) A local authority shall, as soon as may be after the making of a resolution under *subsection (3)* or a resolution being deemed to have been made under *subsection (4)*, notify —

(i) any body to which notice of the proposed development to which the resolution relates was sent pursuant to *subsection (4)* of *section 148*, and

(ii) subject to *paragraph (b)*, any other persons or bodies who made submissions in respect of the proposed development under *section 148(5)*,

of the making of the resolution.

(b) Where a large number of submissions, referred to in *paragraphs (a)(ii)*, are made as part of an organised campaign, or it is not possible to readily ascertain the name and address of those persons who made the submissions, a local authority may, instead of notifying in accordance with *paragraph (a)(ii)*, notify the public by such other means as the authority is satisfied can adequately draw the attention of the public to that notification.

(c) A notification referred to in *paragraph (a)* or *(b)* shall specify that the local authority shall carry out the proposed development, carry out the proposed development subject to variations or modifications, or not proceed with the proposed development, as the case may be.

(7) Particulars of a resolution made under *subsection (3)* or deemed to have been made under *subsection (4)* shall be entered in the register.

Confirmation by State authority

150. (1) A State authority shall, in deciding whether a proposed development that is development subject to the public notification and confirmation procedure is to be carried out, have regard to any submissions made by a planning authority or by any other person or body under *section 148(5)*.

(2) A State authority may, following compliance with the requirements of *section 148*, decide that a proposed development referred to in *subsection (1)* shall be carried out, with or without variations or modifications, or will not be carried out.

(3) Any decision made pursuant to *subsection (2)* shall state the main reasons and considerations on which the decision was based.

(4) Any development referred to in *subsection (1)* which is carried out in advance of a decision by the State authority concerned under *subsection (2)* to proceed with the development shall be unauthorised development.

(5) (a) A State authority shall, as soon as may be after making its decision on a proposed development under *subsection (2)*, notify ——

(i) the planning authority for the area in which the proposed development would be situated, if any,

(ii) subject to *paragraph (b)*, any person or body, other than the planning authority for the area in which the proposed development would be situated, who made submissions to the State authority with respect to the proposed development under *section 148(5)*,

(b) Where a large number of submissions referred to in *paragraph (a)(ii)* are made as part of an organised campaign, or it is not possible to readily ascertain the name and address of those persons who made the submissions, a State authority may, instead of notifying in accordance with *paragraph (a)(ii)*, notify the public by such other means as the authority is satisfied can adequately draw the attention of the public to that notification.

(c) A notification referred to in *paragraph (a)* or *(b)* shall specify that proposed development shall be carried out, carried out subject to variations or modifications, or not proceeded with, as the case may be.

Chapter 7

Miscellaneous

Consultations under Part

151. (1) The following matters shall not prejudice the performance by a planning authority or the Commission of its functions under this Act or any regulations under this Act or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings:

(a) the carrying out of a consultation;

(b) the taking place of an LRD meeting;

(c) the provision of an LRD opinion;

(d) the taking place of a meeting under *section 89*;

(e) the provision of an opinion under *section 90*;

(f) the making of a determination under *section 86(9)*.

(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 those who participated in the consultation or request for a consultation,

(b) any LRD meeting or request for an LRD meeting, including a copy of the accompanying documents, the names of those who participated in the meeting and any explanation provided under *section 87(7)* or *88(3), and*

(c) any meeting under *section 89(5)* or request for a meeting under that section, including a copy of the accompanying documents, the names of those who participated in the meeting and any explanation provided under *section 89(8)* or *90(6)*.

(3) A copy of any record in writing under *subsection (2)* shall be placed and kept with the documents to which any application in respect of that proposed development relates, and a copy of any record in writing under *subsection (2)(b)* shall be given to the applicant as soon as practical after the LRD meeting.

(4) A record kept by a planning authority under *subsection (3)* shall be made available to the public when an application or request in respect of the proposed development is made under this Part.

(5) A member or official of a planning authority who takes or seeks any favour, benefit or payment, direct or indirect (on his or her own behalf or on behalf of any other person or body), in connection with –

(a) any consultation or LRD meeting, any advice given during the course of a consultation or LRD meeting, or the provision of an LRD opinion,

(b) the provision of an opinion or notification under *section 89*, or

(c) the making of a determination under *section 86(9)*,

commits an offence.

(6) A member or official of the Commission who takes or seeks any favour, benefit or payment, direct or indirect (on his or her own behalf or on behalf of any other person or body), in connection with the provision of an opinion or notification under *section 114* commits an offence.

(7) In this section, "consultation" means a pre-application consultation under *section 86 or 111* or a pre-request consultation under section *132* and "request for consultation" shall be construed accordingly.

Major Accidents Directive

152. The applicant and the planning authority or the Commission shall comply with the relevant law transposing the Major Accidents Directive -

(a) where a proposed development -

(i) relates to the provision or modification of a major accident establishment, or

(ii) is to be carried out within the vicinity of an existing major accident establishment, and

(b) where the proposed development could have significant repercussions on major accident hazards.

Permission for demolition of protected structure

153. 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 proposed protected structure, save where the planning authority or the Commission as appropriate is satisfied that exceptional circumstances exist that justify that grant of permission.

Permission in breach of agreement with planning authority

154. 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, 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 233.*

Withdrawal or invalidity of planning applications and appeals

155. (1) A person who has made—

(a) an application under Chapter 3 or Chapter 4,

(b) an appeal under Chapter 3, or

(c) 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 appropriate, 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 the period specified in the notice (which shall be not less than two weeks or 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, declare that the application, appeal or request, as appropriate, shall be regarded as having been withdrawn.

(d) When making a declaration under *paragraph (c)*, a planning authority or the Commission shall have regard to the submission (if any) made within the period specified in the notice under *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 give notice that the application, appeal or request has been withdrawn, declared withdrawn or declared invalid and such application, appeal or request shall not be considered further.

(4) Where a planning authority or the Commission declares 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 notice, or

(c) the development the subject of the application was not Chapter 3 Development,

in addition to giving notice under *subsection (3)*, the planning authority or the Commission shall return the application to the applicant, together with any fee received from the applicant in respect of the application, and shall give reasons for its decision to the applicant.

(5) Where an appeal was brought to the Commission under Chapter 3 in relation to an application or request 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) notwithstanding any previous decision under *section 93* 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) notwithstanding any previous decision under *section 135* 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 93* or *135*, 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 declaration under *subsection (2)* and decision under *subsection (4)* shall be entered in the register.

Refusal of planning permission for past failures to comply

156. (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 a permission granted to the person (in this section referred to as a "previous permission") or with a condition to which the previous permission is subject,

(b) has carried out a substantial unauthorised development, or

(c) 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, 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 its 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 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 authority or the Commission, within a period specified in the notice, as to why the authority or the Commission should not exercise its power under *subsection (5)*, including that the views of the 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 with the date of receipt of the notification under *subsection (5)*, notwithstanding *section 321* and *Part 9*, apply, by motion on notice to the planning authority or the Commission, to the High Court for an order annulling the planning authority's or the Commission's decision and, on the hearing of such application, the High Court may, as it considers appropriate, confirm the decision of the authority or the Commission, annul the decision and direct the authority or the Commission to consider the applicant's application for permission without reference to the provisions of this section or make such other order as it thinks 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 the provisions of 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) In this section, any reference to "an application for permission" shall be construed as including reference to—

(a) an application for permission for development under Chapter 3 or Chapter 4 of this Part,

(b) an application for permission for retention under Chapter 3 of this Part,

(c) an application for retrospective consent under Chapter 4 of this Part,

(d) an appeal to the Commission of any decision by a planning authority under Chapter 3 of this Part, and

(e) a request for the amendment, 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 2014 that—

(i) carried out a development pursuant to a previous permission,

(ii) carried out a substantial unauthorised development, or

(iii) has been convicted of an offence under this Act,

or, during any period to which *subparagraph (i) or (ii)* relates or to which any conviction under *subparagraph (iii)* relates, the registered society was, during that period, controlled by the applicant—

(I) where, pursuant to section 15 of the Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Act 2014, "control" has the same meaning as in section 220(5) of the Companies Act 2014, or

(II) as a shadow director within the meaning of section 2(1) of the Companies Act 2014,

(d) in the case where the applicant for permission is a company—

(i) the company concerned is related to a company (within the meaning of section 2(10) of the Companies Act 2014) which carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act, or

(ii) the company concerned is under the same control as a company which carried out a development referred to in *subsection (1)(b)*, where "control" has the same meaning as in section 220(5) of the Companies Act 2014,

or

(e) a company which carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act, which company is controlled by the applicant—

(i) where "control" has the same meaning as in section 220(5) of the Companies Act 2014, or

(ii) as a shadow director within the meaning of section 2(1) of the Companies Act 2014.

Effect of judicial review of Maritime Area Consent on application or appeal under Part

157. (1) Where the Maritime Area Regulatory Authority grants a maritime area consent, the person who applied for that consent shall, notwithstanding the making by any other person of an application under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) for judicial review of the decision to grant that consent, be eligible to make an application under 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 that subsection, perform the functions conferred on it under this Act in relation to the appeal concerned as if no such application for judicial review had been made.

(4) A permission granted under 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 this section, and

(ii) upholding the grant of the maritime area consent concerned in respect of which that application was made, or

(b) the application for judicial review referred to in this section is withdrawn.

Effect of revocation of Maritime Area Consent on application under Part

158. Notwithstanding *subsection (3)* of *section 81*, 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, it shall deem the application for permission to be invalid.

Effect of appeal to Commission under Chapter 3 on making application under Part

159. (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 withdrawn or declared invalid pursuant to *section 98(6) or section 155*, or

(c) the appeal is dismissed by the Commission pursuant to *section 98 or 103*.

(2) Where an application for permission referred to in *subsection (1)* is made to a planning authority or the Commission, the planning authority or the Commission 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 this Part

160. (1) The duration of a permission for development granted under this Part shall be five years from the date of grant, unless specified otherwise 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 specified at *subsection (1)*.

(b) Where a duration other than the period specified at *subsection (1)* is requested under *paragraph (a)*, any notice of the proposed development required by or under this Act shall specify the duration sought.

(3) (a) On granting a permission for development under this Part, a planning authority or the Commission may, where requested by the applicant under *subsection (2)* or at its own discretion, specify the duration of the permission.

(b) The duration of a permission specified by a planning authority or the Commission under *paragraph (a)* shall be not less than 2 years and not more than 10 years.

(4) A planning authority or the Commission may 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) Without prejudice to the generality of *subsection (4)*, where an application for permission relates to a residential development comprising 10 or more housing units, the planning authority or the Commission, when determining the appropriate duration of the permission, may have regard to—

(a) any information available to the planning authority or the Commission, or furnished by the applicant, concerning implementation by the applicant or any person connected with the applicant, of any housing development in the previous 5 years, and

(b) the assessment by the planning authority or the Commission of the likelihood of the proposed development being implemented within the duration sought.

(6) (a) Where the planning authority or the Commission grants a permission for development under this Part with a duration other than the period specified at *subsection (1)*, the duration of the permission shall be specified in the grant of permission.

(b) 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.

(7) Notwithstanding *subsection (1)*, a permission granted under this Part for development in circumstances to which *section 157* 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 *section 157*, 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 *section 157* is withdrawn.

Phasing plans

161. (1) Where an application for permission under this Part relates to a proposed residential development comprising 10 or more 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 require 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

162. (1) Development, or 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) to any permission for the retention on land or a maritime site of any structure,

(ii) to any permission granted either for a limited period only or subject to a condition which is of a kind described in *subsection (2)(n)* of *section 83*,

(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 and 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) where a development has been completed (whether to an extent described in paragraph (a) or otherwise), the obligation of any person to comply with any condition attached to the relevant permission whereby something is required either to be done or not to be done.

Effect of grant of permission under Part

163. (1) Where permission to develop a land or maritime site or for retention 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) in case the grant specifies use as a dwelling as a purpose for which the structure may be used, the permission may also be granted subject to a condition specifying that the use as a dwelling shall be restricted to use by persons of a particular class or description and the requirement to that effect shall be embodied in an agreement under *section 233*.

(3) (a) Where permission to develop land is granted under this Part for a limited period only, nothing in this Part shall be construed as requiring permission to be obtained thereunder for the resumption, at the expiration of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.

(b) In determining for the purposes of this subsection the purposes for which land was normally used before the grant of permission, no account shall be taken of any use of the land begun in contravention of this Part.

(4) (a) With reference to land-based development, 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, with the 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 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

164. 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

165. (1) The Minister may by regulation provide for such additional, incidental, consequential or supplemental matters with respect to procedures under this Part as appears to the Minister to be necessary or expedient.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision in relation to any one or more of the following:

(a) matters relating to the holding of consultations under this Part including—

(i) specifying 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 specified information, drawings, plans or documents in relation to that request,

(iv) specifying matters that are required to be considered at the consultation,

(v) specifying matters that may be considered at the consultation,

(vi) specifying the manner in which the consultation is to be conducted, or

(viii) in the case of a consultation under *section 111*, requiring the provision of a Chapter 4 PAC notice under *subsection (8)* of that section in such form and within such period as may be prescribed;

(b) matters relating to the holding of an LRD meeting under *section 87*, 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 uses;

(V) road infrastructure;

(VI) any proposals to provide for services infrastructure (including water, wastewater and cabling, including broadband provision), and any phasing proposals;

(VII) proposals under *Part 7*, where relevant;

(VIII) details of protected structures and archaeological monuments included in the Record of Monuments and Places, where relevant;

(IX) any aspect of the proposed development likely to have significant effects on the environment or significant effects on a European site,

(iv) specifying matters that are required to be considered at the LRD meeting,

(v) specifying matters that may be considered at the LRD meeting, or

(vi) specifying the manner in which the LRD meeting is to be conducted;

(c) matters relating to the provision of an LRD opinion by the planning authority under *section 88*, including the form of the opinion;

(d) matters relating to the holding of a meeting convened under *section 89(5)* or *section 90(2)*, including—

(i) specifying 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) specifying matters that are required to be considered at the meeting,

(v) specifying matters that may be considered at the meeting,

(vi) specifying the manner in which the meeting is to be conducted;

(e) matters relating to the provision of an opinion by the planning authority under *section 90(1)* or by the Commission under *section 114(1)*, including the form of the opinion;

(f) matters relating to the making of an application for permission under this Part, including—

(i) specifying 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 specified notices with respect to applications for permission,

(iv) requiring applicants to furnish to any specified persons any specified 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 by the Minister,

(viii) requiring an applicant to submit specified information to the planning authority or the Commission with respect to development, or any class of development, carried out by a person to whom *section 156* 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 which a body or organisation referred to in *section 97(1)(2)(b)* must satisfy in order to make an appeal under *section 97(2)*, being requirements of a general nature and for the purposes of promoting transparency and accountability in the operation of such organisations, including requirements—

(i) in relation to its membership,

(ii) that the pursuit of its aims or objectives be otherwise than for profit,

(iii) in relation to the possession of a specified legal personality and the possession of a constitution or rules, 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

(q) specifying additional requirements with respect to revised particulars, plans or drawings included with a notice of appeal under *section 101*;

(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 or observations 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 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 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 planning authorities or the Commission 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 to do so under any provision of this Part in such manner and within such period as may be prescribed,

(x) enabling the planning authorities or the Commission 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 to furnish to the Minister and to any other specified persons any specified information with respect to applications and the manner in which they have been dealt with,

(xii) enabling the holding of meetings under *section 118(3)(f)* and specifying the procedures for the holding of such meetings,

(xiii) specifying the information and materials required to be submitted by planning authorities to the Commission under *section 100(2)* and the manner in which and period within which such information is required to be provided,

(xiv) providing for the furnishing of a report under *section 117* by a planning authority to the Commission in such form and within such period as may be prescribed,

(xv) providing for matters of procedure relating to the making of submissions by the Environmental Protection Agency under *section 118(3)(d)* and matters connected therewith,

(xvi) 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 *section 123(2)* and the making of observations by the Commission for Regulation of Utilities on foot of such a request,

(xvii) requiring planning authorities to give notice, in such manner as may be prescribed, of any motion for a material contravention resolution under *section 94(3)*,

(xviii) requiring the submission of the chief executive's report to the planning authority under *section 94(3A)(c)* in such manner and within such period as may be prescribed,

(xvix) requiring the Commission to give public notice of an appeal to which *section 105* applies in such manner and within such period as may be prescribed;

(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 or observations in respect of such applications;

(i) matters related to the public notification and confirmation procedure under *sections 148* and *149*, including—

(*i*) requiring the publication by a local authority or state authority of any specified 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 specified person, of any specified notice, documents, particulars, plans or other information with respect to the proposed development,

(ii*i*) 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 specified documents, particulars, plans or other information with respect to proposed development,

(*v*) enabling the making of submissions or observations 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, 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 specified 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 any of the provisions of *section 160* and *161*.

(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 *section **48**(2)(b)* require any applicant for permission to provide the planning authority with such information, in respect of development (including development of a particular class) that the applicant proposes to carry out in a Gaeltacht area, as it may specify.

(*b*) A requirement to which *paragraph (a)* applies may relate to development belonging to a particular class.

(*c*) Before making regulations containing a requirement to which *paragraph (a)* applies the Minister shall consult with the Minister for 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 permission for retention 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, 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 139*.

PART 5

Developments at Dublin Airport

Interpretation

166. (1) Section 2 (other than section 2(3)(b)) of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall apply to the interpretation of this Part, paragraph 24 of the Sixth Schedule and paragraph 18 of the Seventh Schedule.

(2) In this Part, "noise mitigation measures" includes land-use planning and management measures, measures to reduce noise at source and noise abatement operational measures (other than operating restrictions) that do not restrict the capacity of the airport.

Proposed development at Dublin Airport

167. (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 purposes of giving such assistance as the competent authority may require in order to enable the competent authority, within 4 weeks of the competent authority receiving such copy, to either form the opinion referred to in *subparagraph (iii)* or to conclude that it is not of that opinion.

(ii) The competent authority shall, where it concludes that it is not of the opinion referred to in *subparagraph (iii)*, as soon as is practicable after it so concludes, give notice of that conclusion to the planning authority.

(iii) The following provisions of this section apply where the competent authority, in considering the application, forms the opinion that the development—

(I) contains a proposal requiring the assessment for the need for a noise-related action, or

(II) indicates that a new operating restriction may be required.

(b) Subsections (1) to (3) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to the performance by the competent authority of its functions under this section.

(c) Subsections (4) to (7) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to measures and restrictions referred to in this section as those subsections apply to measures and restrictions referred to in those subsections.

(2) The competent authority shall, as soon as is practicable after it forms the opinion referred to in *subsection (1)(a)(iii)*, give notice to the planning authority of that opinion and the planning authority shall, as soon as is practicable after receiving the notice, consult with the competent authority in relation to, as appropriate, one or more of the following matters—

(a) any aspect of the development relating to noise that may arise in the operation of the development if it is carried out (including any such aspect relating to appropriate assessment or environmental impact assessment);

(b) any noise problem that would arise from the carrying out of the development as proposed, taking account of any noise mitigation measures or operating restrictions (if any), or any combination thereof, proposed in the application and any further information subsequently sought by the relevant authority from the applicant in relation to those matters and given by the applicant to the planning authority and the competent authority;

(c) where a noise problem would arise from the carrying out of the development as proposed—

(i) any information on the application of the Balanced Approach to the consideration of the inclusion of noise mitigation measures or operating restrictions (if any), or any combination thereof, in the application and any

further information subsequently sought by the relevant authority from the applicant in relation to those matters and given by the applicant to the planning authority and the competent authority,

(ii) whether noise mitigation measures or operating restrictions (if any), or any combination thereof, not proposed in the application are or is required and any information or plans subsequently sought by the relevant authority from the applicant in relation to such measures or restrictions, or combination thereof, as the case may be, and given by the applicant to the planning authority and the competent authority,

(iii) any information subsequently sought by the relevant authority from the applicant in relation to the application of the Balanced Approach to the noise mitigation measures or operating restrictions, or combination thereof, referred to in *subparagraph (ii)* and given by the applicant to the planning authority and the competent authority, and

(iv) subject to *subsection (4)*, whether permission could, in so far as noise-related issues are concerned, be granted for the development subject to conditions specified by the competent authority relating to noise mitigation measures or operating restrictions (if any), or any combination thereof.

(3) (a) In *subsection (2) and paragraph (b)*, "relevant authority" means the planning authority or the competent authority.

(b) Where the applicant gives any information or plans referred to in *subsection (2)* to one relevant authority, the applicant shall, on the same date (or as soon as is practicable thereafter), give copies of such information or plans, as the case may be, to the other relevant authority.

(4) Notwithstanding any other provision of this Act, the planning authority shall neither decide to refuse permission for the development nor decide to grant such permission subject to or without conditions until it receives a notice under *subsection (5)* or *(14)(a)(ii)* from the competent authority in respect of the application.

(5) (a) *Paragraph (b)* applies where the competent authority is satisfied that permission should not be granted for the development for the reason that inadequate provision has been made in the application (or in any plans or further information, or both, subsequently given by the applicant to the planning authority and the competent authority) to deal with the noise problem that would arise from the carrying out of the development as proposed.

(b) The competent authority shall, as soon as is practicable after it is so satisfied, give a notice 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 169* be treated as the decision, or part of the decision, as appropriate, of the planning authority on the application, and the other provisions of this Act shall be construed accordingly.

(6) *Subsection (7)* applies where the competent authority has applied the Balanced Approach to the noise problem referred to in *subsection (2)* and, in accordance with the Balanced Approach, assessed the noise mitigation measures or operating restrictions (if any), or any combination thereof, that may be required to be introduced as part of the development, and whether or not such measures or restrictions, or combination thereof, as the case may be, are or is in addition to, or in replacement of, one or more—

(a) noise mitigation measures or operating restrictions (if any), or any combination thereof, proposed in the application, or

(b) existing noise mitigation measures or operating restrictions (if any), or any combination thereof.

(7) The competent authority shall, as soon as it is practicable for it to do so, by notice in writing given to the applicant and copied to the planning authority—

(a) inform the applicant of the noise mitigation measures or operating restrictions (if any), or combination thereof, proposed to be required in a decision (if any) to grant permission for the development and its reasons for so proposing, and

(b) stating that the applicant may, within the period specified in the notice (being a period of not less than 4 weeks), make submissions 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 given to the competent authority and copied to the planning authority.

(8) The competent authority shall apply the Balanced Approach to its consideration of the counterproposals (if any) given to it by the applicant before the expiration of the period specified in the notice under *subsection (7)* concerned.

(9) Subject to *subsection (10)*, the competent authority shall, as soon as is practicable after it complies with *subsection (7)* and, if applicable, *subsection (8)* and (at its discretion) having consulted with the applicant or any other person that it wishes to, in accordance with the Aircraft Noise Regulation and the Aircraft Noise (Dublin Airport) Regulation Act 2019, make, and publish on its website, a draft regulatory decision—

(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 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 to address any noise problem;

(d) an evaluation of the cost-effectiveness of the various measures considered;

(e) the application of the Balanced Approach;

(f) the identification of additional or alternative measures (other than those proposed in the draft regulatory decision) that have been considered;

(g) particulars of any proposed noise mitigation measures and operating restrictions (if any) to be introduced;

(h) if applicable, the reasons for the proposed introduction of any noise mitigation measures and operating restrictions (if any);

(i) the relevant technical information in relation to any proposed noise mitigation measures and operating restrictions (if any) to be introduced;

(j) a non-technical summary of such of the matters concerned referred to in *paragraphs (a)* to *(i)*.

(11) The competent authority shall, as soon as is practicable after it complies with *subsections (9)* and *(10)*, publish, in a national newspaper, a notice—

(a) stating that the competent authority has—

(i) made a draft regulatory decision under *subsection (9)*, and

(ii) prepared the related report under *subsection (10)*,

(b) stating particulars of how persons may view or otherwise have access to the draft regulatory decision and related report (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the competent authority during office hours),

(c) inviting persons to make submissions 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.

(12) (a) The competent authority shall, as soon as is practicable after it complies with *subsections (9)* and *(10)* give each of the applicant, the airport authority and the planning authority copies of the draft regulatory decision that it made under *subsection (9)* and the related report that it prepared under *subsection (10)*.

(b) For the avoidance of doubt, it is hereby declared that the applicant, the airport authority and the planning authority may each make submissions referred to in *subsection (11)(c)* in accordance with that subsection.

(13) The competent authority shall, as soon as is practicable after the expiration of the 14 weeks referred to in *subsection (11)(c)* and having regard to the submissions (if any) referred to in that subsection received by it within such 14 weeks—

(a) make a regulatory decision consisting of the adoption by it of the draft regulatory decision made by it under *subsection (9)* without any amendments or with such amendments as it considers appropriate, and

(b) revise the related report prepared under *subsection (11)* to take into account such submissions (if any) and such adoption and to state the competent authority's reasons for such regulatory decision.

(14) The competent authority shall—

(a) as soon as is practicable after it complies with *subsection (13)*—

(i) publish on its website the regulatory decision it has adopted under *subsection 13(a)* and the related report it has revised under *subsection 13(b)*, and

(ii) send a copy of such decision, together with a copy of the notice referred to in paragraph (b) (whether before or after the notice is published), to the applicant, the airport authority, the planning authority, the elected members of Fingal County Council, the elected members of Dáil Éireann in whose constituencies the airport is located and the return addresses of the persons who have made submissions referred to in *subsection (11)(c)* in accordance with that subsection on the draft regulatory decision or related report concerned,

and

(b) as soon as is practicable after it complies with *paragraph (a)(i)*, publish, in a national newspaper, a notice stating—

(i) that the competent authority has adopted a regulatory decision under *subsection (13)(a)*,

(ii) that the competent authority has revised the related report under *subsection (13)(b)*,

(iii) particulars of how persons may view or otherwise have access to such regulatory decision and such related report (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a

reasonable cost, at the offices of the competent authority during office hours), and

(iv) that a right of appeal to the Commission against the regulatory decision exists under *Chapter 3* of *Part 4* as read with *section 169*.

(15) (a) The planning authority shall incorporate the competent authority's regulatory decision under *subsection (13)(a)*, the subject of the notice given to the planning authority under *subsection (14)(a)(ii)*, and the competent authority's reasons for such decision in the planning authority's decision on the application and shall do so regardless of whether the planning authority's decision is to refuse permission for the development or to grant permission for the development.

(b) Notwithstanding that a regulatory decision referred to in *paragraph (a)* is made by the competent authority, such decision and the reasons for it shall, for the purposes of *Chapter 3* of *Part 4* as read with *section 169*, be treated as the decision, or part of the decision, as appropriate, of the planning authority on the application, and the other provisions of this Act shall be construed accordingly.

(c) The planning authority shall make its decision on the application as soon as is practicable after it receives, pursuant to *subsection (14)(a)(ii)*, a copy of the competent authority's regulatory decision under *subsection (13)(a)*.

(16) Subject to *subsection (17)*, a noise mitigation measure to be introduced by virtue of a regulatory decision adopted under *subsection (13)(a)* shall—

(a) if no appeal under *section 98* as read with *section 169*, is made, within the appropriate period referred to in *section 96(6)* against the planning authority's decision on the application, come into effect on the expiration of such appropriate period, and

(b) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(17) The competent authority may, by notice published on its website on the same date as the regulatory decision adopted under *subsection (13)(a)* is, pursuant to *subsection (14)(a)*, also so published—

(a) authorise, for reasons stated in the notice, a lead in time for the coming into effect of a noise mitigation measure to be introduced by virtue of that decision, and

(b) specify the date, or the occurrence of the event, on which such noise mitigation measure shall come into effect.

(18) Subject to section 26(b) of the Aircraft Noise (Dublin Airport) Regulation Act 2019, the competent authority shall, in relation to an operating restriction to be introduced by virtue of a regulatory decision adopted under *subsection (13)(a)*, take such steps as it considers appropriate to cause Article 8 of the Aircraft Noise Regulation to be complied with as soon as is practicable after it applies to such restriction.

(19) Subject to *subsection (20)*, an operating restriction referred to in *subsection (18)* shall—

(a) come into effect on the day immediately following the day on which the operation of Article 8 of the Aircraft Noise Regulation ceases to further prevent the coming into effect of the operating restriction, and

(b) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(20) The competent authority may, by notice published on its website at any time before the day first-mentioned in *subsection (19)(a)*—

(a) authorise, for reasons stated in the notice, a lead in time for the coming into effect of the operating restriction referred to in *subsection (18)*, and

(b) specify the date, or the occurrence of the event, on which such operating restriction shall come into effect.

(21) *Subsection (2), (3), (4) and (5)* of *section 94* 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

168. (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 an application to the planning authority under *section 131* where the application is only for a relevant action to be taken.

(b) *Section 131, 133, 134* and the other provisions of this Act shall be read with all necessary modifications to take account of the relevant application.

(c) Subsections (4) to (7) of section (9) of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to measures and restrictions referred to in this section as those subsections apply to measures and restrictions referred to in those subsections.

(2) The planning authority shall give the competent authority a copy of the relevant application and consult with the competent authority in relation to, as appropriate, one or more of the following matters—

(a) any noise problem that would arise from taking the relevant action as proposed (including any implications that would arise therefrom in relation to appropriate assessment or environmental impact assessment matters) and any further information subsequently sought by the relevant authority from the applicant in relation to such action and given by the applicant to the planning authority and the competent authority;

(b) where a noise problem would arise from taking the relevant action as proposed—

(i) any information in the relevant application on the application of the Balanced Approach to the relevant action and any further information or plans

subsequently sought by the relevant authority from the applicant in relation to the relevant action or Balanced Approach and given by the applicant to the planning authority and the competent authority,

(ii) whether noise mitigation measures or operating restrictions (if any), or any combination thereof, not proposed in the relevant application are or is required and any information or plans subsequently sought by the relevant authority from the applicant in relation to such measures or restrictions, or combination thereof, as the case may be, and given by the applicant to the planning authority and the competent authority,

(iii) any information subsequently sought by the relevant authority from the applicant in relation to the application of the Balanced Approach to the noise mitigation measures or operating restrictions, or combination thereof, referred to in *subparagraph (ii)* and given by the applicant to the planning authority and the competent authority, and

(iv) subject to *subsection (4)*, whether permission could be granted for the taking of the relevant action subject to conditions specified by the competent authority relating to noise mitigation measures or operating restrictions (if any), or any combination thereof.

(3) (a) In *subsection (2)* and *paragraph (b)*, "relevant authority" means the planning authority or the competent authority.

(b) Where the applicant gives any information or plans referred to in *subsection (2)* to one relevant authority, it shall, on the same date (or as soon as is practicable thereafter), give copies of such information or plans, as the case may be, to the other relevant authority.

(4) Where this section applies and notwithstanding any other provision of this Act, the planning authority shall neither decide to refuse the relevant application nor grant the relevant application subject to or without conditions until it receives a notice under *subsection (5)* or *(15)(a)(ii)* from the competent authority in respect of the relevant application.

(5) (a) *Paragraph (b)* applies where the competent authority is satisfied that permission should not be granted for the relevant application for the reason that inadequate provision has been made in the application (or in any plans or further information, or both, subsequently given by the applicant to the planning authority and the competent authority) to deal with the noise problem that would arise from the carrying out of the relevant action as proposed.

(b) The competent authority shall, as soon as is practicable after it is so satisfied, give a notice 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 *subsection 10* of *section 134* as read with *section 169*, 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 165*, 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 Aircraft Noise (Dublin Airport) Regulation Act 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 to address any noise problem;

(d) an evaluation of the cost-effectiveness of the various measures considered;

(e) the application of the Balanced Approach;

(f) the identification of additional or alternative measures (other than those proposed in the draft regulatory decision) that have been considered;

(g) particulars of any proposed noise mitigation measures and operating restrictions (if any);

(h) if applicable, the reasons for the proposed introduction of any noise mitigation measures and operating restrictions (if any);

(i) the relevant technical information in relation to any proposed noise mitigation measures and operating restrictions (if any);

(j) a non-technical summary of such of the matters concerned referred to in paragraphs (a) to (i).

(12) The competent authority shall, as soon as is practicable after it complies with *subsections (10)* and *(11)*, publish, in a national newspaper, a notice—

(a) stating that the competent authority has—

(i) made a draft regulatory decision under *subsection (10)*, and

(ii) prepared the related report under *subsection (11)*,

(b) stating particulars of how persons may view or otherwise have access to the draft regulatory decision and related report (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the competent authority during office hours),

(c) inviting persons to make submissions 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 (10)* and *(11)*, give each of the applicant, the airport authority and the planning authority copies of the draft regulatory decision that it made under *subsection (10)* and the related report that it prepared under *subsection (11)*.

(b) For the avoidance of doubt, it is hereby declared that the applicant, the airport authority and the planning authority may each make submissions referred to in *subsection (12)(c)* in accordance with that subsection.

(14) The competent authority shall, as soon as is practicable after the expiration of the 14 weeks referred to in *subsection (12)(c)* and having regard to the submissions (if any) referred to in that subsection received by it within such 14 weeks—

(a) make a regulatory decision consisting of the adoption by it of the draft regulatory decision made by it under *subsection (10)* without any amendments or with such amendments as it considers appropriate, and

(b) revise the related report prepared under *subsection (11)* to take into account such submissions (if any) and such adoption and to state the competent authority's reasons for such regulatory decision.

(15) The competent authority shall—

(a) as soon as is practicable after it complies with *subsection (14)*—

(i) publish on its website the regulatory decision it has adopted under *subsection (14)(a)* and the related report it has revised under *subsection (14)(b)*, and

(ii) send a copy of such decision, together with a copy of the notice referred to in *paragraph (b)* (whether before or after the notice is published), to the applicant, the airport authority, the planning authority, the elected members of Fingal County Council, the elected members of Dáil Éireann in whose constituencies the airport is located and the return addresses of the persons who have made submissions referred to in *subsection (12)(c)* in accordance with that subsection on the draft regulatory decision or related report concerned,

and

(b) as soon as is practicable after it complies with *paragraph (a)(i)*, publish, in a national newspaper, a notice stating—

(i) that the competent authority has adopted a regulatory decision under *subsection (14)(a)*,

(ii) that the competent authority has revised the related report under *subsection (14)(b)*,

(iii) particulars of how persons may view or otherwise have access to such regulatory decision and such related report (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the competent authority during office hours), and

(iv) that a right to appeal to the Commission against the regulatory decision exists under *subsection 10 of section 134* as read with *section169*.

(16) (a) The planning authority shall—

(i) incorporate the competent authority's regulatory decision under *subsection (14)(a)*, the subject of the notice given to the planning authority under *subsection (15)(a)(ii)*, and the competent authority's reasons for such decision in the planning authority's decision on the application and shall do so regardless of whether the planning authority's decision is to refuse the relevant application or to grant the relevant application, and

(ii) notwithstanding any other provision of this Act, if necessary, revoke, revoke and replace, or amend the terms of, a condition of the relevant permission in order to make the relevant permission compatible with that regulatory decision.

(b) Notwithstanding that a regulatory decision referred to in *paragraph (a)* is a decision made by the competent authority, such decision and the reasons for it shall, for the purposes of *subsection 10 of section 134* as read with *section 169*, be treated as the decision of the planning authority on the relevant application, and the other provisions of this Act shall be construed accordingly.

(c) The planning authority shall make its decision on the application as soon as is practicable after it receives, pursuant to *subsection (15)(a)(ii)*, a copy of the competent authority's regulatory decision under *subsection (14)(a)*.

(17) Subject to *subsection (18)*, a noise mitigation measure to be introduced by virtue of a regulatory decision adopted under *subsection (14)(a)* shall—

(a) if no appeal under *subsection 10 of section 134* as read with *section 169* is made, within the appropriate period referred to in *section 96(6)*, against the planning authority's decision on the application, come into effect on the expiration of such appropriate period, and

(b) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(18) The competent authority may, by notice published on its website on the same date as the regulatory decision adopted under *subsection (14)(a)* is, pursuant to *subsection (15)(a)*, also so published—

(a) authorise, for reasons stated in the notice, a lead in time for the coming into effect of a noise mitigation measure to be introduced by virtue of that decision, and

(b) specify the date, or the occurrence of the event, on which such noise mitigation measure shall come into effect.

(19) Subject to section 26(b) of the Aircraft Noise (Dublin Airport) Regulation Act 2019, the competent authority shall, in relation to an operating restriction to be introduced by virtue of a regulatory decision adopted under *subsection (14)(a)*, take such steps as it considers appropriate to cause Article 8 of the Aircraft Noise Regulation to be complied with as soon as is practicable after it applies to such restriction.

(20) Subject to *subsection (21)*, an operating restriction referred to in *subsection (19)* shall—

(a) come into effect on the day immediately following the day on which the operation of Article 8 of the Aircraft Noise Regulation ceases to further prevent the coming into effect of the operating restriction, and

(b) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(21) The competent authority may, by notice published on its website at any time before the day first-mentioned in *subsection (20)(a)*—

(a) authorise, for reasons stated in the notice, a lead in time for the coming into effect of the operating restriction referred to in *subsection (19)*, and

(b) specify the date, or the occurrence of the event, on which such operating restriction shall come into effect.

(22) In this Part, health aspects shall be assessed in accordance with Environmental Noise Directive and the European Communities (Environmental Noise) Regulations 2018 (S.I. No. 549 of 2018).

(23) In this section—

"relevant action", in relation to a relevant operating restriction the subject of a relevant application, means—

(a) to revoke the operating restriction,

(b) to amend the terms of the operating restriction in the manner specified in the application,

(c) to replace the operating restriction with the alternative operating restriction specified in the application,

(d) to take an action referred to in *paragraph (a), (b) or (c)* together with introducing new noise mitigation measures or revoking, revoking and replacing, or amending the terms of, existing noise mitigation measures, or a combination thereof,

(e) if the relevant application relates to 2 or more relevant operating restrictions, to take any combination of any of the actions referred to in *paragraphs (a) to (d)*, or

(f) to take an action referred to in *paragraph (a), (b), (c), (d) or (e)* together with revoking, revoking and replacing, or amending the terms of, a condition of the relevant permission;

"relevant application" means an application referred to in *subsection (1)(a)*;

"relevant operating restriction", in relation to a relevant permission, means an operating restriction included in that permission;

"relevant permission" means a permission granted under *Chapter 3*—

(a) for development at the airport, and

(b) that includes an operating restriction.

Supplementary provisions relating to decisions on applications referred to in *section 167(1)* or *168(1)* which were not refused by virtue of *section 167(5)* or *168(5)*

169. (1) (a) This section applies in addition to *Chapter 3* in the case of an appeal under *98* against a decision of the planning authority under *section 93* where, pursuant to *section 167(15)* or *section 168(16)*, that decision incorporates a regulatory decision of the competent authority under *section 167(13)(a)* or *168(14)(a)*, as the case may be.

(*b*) The competent authority shall be a party to the appeal notwithstanding *section 167(15)(b)* or *168(16)(b)*.

(2) For the purposes of a relevant appeal, the reference in *subsection (1) or section 97* 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 *section 167(11)(c)* or *168(12)(c)* to the competent authority in relation to the draft regulatory decision or related report referred to in *section 167(9)* or *(10)*, as the case may be, or *section 168(10)* or *(11)*, as the case may be.

(3) (a) Subsections (1) to (3) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to the Commission's consideration of the relevant appeal as if any reference to the competent authority in those subsections were a reference to the Commission.

(b) Subsections (4) to (7) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to measures and restrictions forming part of the Commission's consideration of the relevant appeal as those subsections apply to measures and restrictions referred to in those subsections.

(c) The Commission may, in its decision on the relevant appeal and its related report (*subsection (7)(a)*), accept or reject all or any part of either or both—

(i) the relevant regulatory decision the subject of the appeal, or

(ii) the report prepared under *section 167(10)* and revised under *section 167(13)(b)*, or prepared under *section 168(11)* and revised under *section 168(14)(b)*, as appropriate, which relates to such relevant regulatory decision.

(4) (a) *Paragraphs (b)* and *(c)* 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 167* or *168*, as the case may be.

(*b*) Subsection (12) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to the Commission and the decision it is minded to make on the relevant appeal as if any reference to the competent authority in that subsection were a reference to the Commission and as if 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—

(I) identifying all the noise mitigation measures and operating restrictions (if any) proposed to be adopted by the Commission and not just such measures and restrictions (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 (*subsection (4)(b)*),

and

(ii) on the same date as complying with *subparagraph (i)* (or as soon as is practicable thereafter), publish a notice on its website and in a national newspaper—

(I) stating that the Commission has made a draft decision under *paragraph (c)(i)* on the relevant appeal in so far as the appeal relates to the relevant regulatory decision and prepared the related report (*subsection (4)(b)*),

(II) stating particulars of how persons may view or otherwise have access to the draft decision and related report (*subsection (4)(b)*) (which shall include being able to view the decision or report, or purchase a copy of the decision or report at a reasonable cost, at the offices of the Commission during office hours),

(III) 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 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 *subsection (4)(c)(i)*.

(b) For the avoidance of doubt, it is hereby declared that the appellant and the other parties to the relevant appeal may each make submissions referred to in *subsection (4)(c)(ii)(II)* 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 *subsection (4)(c)(i)*, and

(ii) inform the Commission of the outcome of those discussions before the expiration of the 14 weeks referred to in *subsection (4)(c)(ii)(II)*.

(b) The airport authority shall comply with a direction given to it under *paragraph (a)*.

(7) The 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 167* or *paragraphs (a)* to *(j)* of *subsection (11)* of *section 168*, 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 *subsection (3)(c)(ii)*), and

(ii) if *subsection (4)* applies, the related report (*subsection (4)(b)*) 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, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with Part 9,

(*c*) send a copy of such decision (whether with or without any annex thereto), together with the notice referred to in *paragraph (b)* (whether before or after the notice is published), to the appellant, the other parties to the relevant appeal and (if the airport authority is neither the appellant nor another party to the relevant appeal) the airport authority, and

(*d*) if *subsection (4)* applied, send a copy of such decision (whether with or without any annex thereto), together with the notice referred to in *paragraph (b)* (whether before or after the notice is published), to the return addresses of the persons who have made submissions referred to in *subsection (4)(c)(ii)(II)* in accordance with that subsection on the draft decision concerned.

(8) Where the Commission has failed to make a decision under *section 104* 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 104* notwithstanding such failure.

(9) A person shall not question the validity of the decision of the Commission in relation to an appeal under this Chapter by reason only that the appeal was not determined within the period or periods specified in, or prescribed under, this section.

(10) Subject to *subsection (10)*, a noise mitigation measure to be introduced by virtue of a decision on the relevant appeal in so far as the decision relates to the relevant regulatory decision shall—

(a) come into effect on the day immediately following the day on which, pursuant to *subsection (7)*, that first-mentioned decision is published on the website of the 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 (9)* is, pursuant to *subsection (7)*, also so published—

(a) authorise, for reasons stated in the notice, a lead in time for the coming into effect of a noise mitigation measure to be introduced by virtue of that decision, and

(b) specify the date, or the occurrence of the event, on which such noise mitigation measure shall come into effect.

(12) Subject to section 26(b) of the Aircraft Noise (Dublin Airport) Regulation Act 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 (13)*, an operating restriction to which *subsection (11)* applies shall—

(a) come into effect on the day immediately following the day on which the operation of Article 8 of the Aircraft Noise Regulation ceases to further prevent the coming into effect of the operating restriction, and

(b) after so coming into effect, remain in effect until revoked, or revoked and replaced, by the competent authority or the appeal body.

(14) The Commission may, by notice published on its website at any time before the day first-mentioned in *subsection (12)(a)*—

(a) authorise, for reasons stated in the notice, a lead in time for the coming into effect of the operating restriction to which *subsection (12)* applies, and

(b) specify the date, or the occurrence of the event, on which such operating restriction shall come into effect.

(15) In this section—

"related report (*subsection (4)(b)*)" means the report (if any) prepared by the Commission pursuant to *subsection (4)(b)*;

"related report (*subsection (7)(a)*)" means the report prepared by the Commission pursuant to *subsection (7)(a)*;

"relevant appeal" means an appeal referred to in *subsection (1)(a)*; and

"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 *93* that is the subject of the relevant appeal.

Supplementary provisions relating to decisions on applications referred to in *section 167(1)* or *168(1)*

170. (1) (a) This section applies in addition to Chapter 3 of Part 4 in the case of an appeal under *section 98* against a decision of the planning authority under *section 93* where—

(i) pursuant to *section 167(1)(a)*, the competent authority concludes that it is not of the opinion referred to in *section 167(1)(a)(iii)*, or

(ii) pursuant to *section 167(5)* or *168(5)*, that decision is to refuse the application concerned.

(b) The competent authority shall be a party to the appeal notwithstanding *section 167(5)(d)* or *168(5)(d)*.

(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 *subsection (1)(a)(i)* applies, take into account such of the provisions of *section 167* following *subsection (1)* of such *section 167*, and of section 26(b) (with all necessary modifications) of the Aircraft Noise (Dublin Airport) Regulation Act 2019, as are, in the Commission's opinion, relevant to the appeal,

(b) where the refusal referred to in *subsection (1)(a)(ii)* arises from the operation of *section 167(5)*, take account of such of the provisions of *section 167* following *subsection (5)* of such *section 167*, and of section 26(b) (with all necessary modifications) of the Aircraft Noise (Dublin Airport) Regulation Act 2019, as are, in the Commission's opinion, relevant to the appeal, or

(c) where the refusal referred to in *subsection (1)(a)(ii)* arises from the operation of *section 168(5)*, take account of such of the provisions of *section 168* following *subsection (5)* of such *section 168*, and of section 26(b) (with all necessary modifications) of the Aircraft Noise (Dublin Airport) Regulation Act 2019, as are, in the Commission's opinion, relevant to the appeal.

(3) Subsections (1) to (3) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to—

(a) the Commission's consideration of the appeal in so far as such consideration relates to—

(i) a conclusion referred to in *subsection (1)(a)(i)*, or

(ii) a refusal referred to in *subsection (1)(a)(ii)*,

and

(b) the 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 Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to measures and restrictions forming part of the Commission's consideration of the appeal as those subsections apply to measures and restrictions referred to in those subsections.

(5) Subsection (12) of section 9 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 shall, with all necessary modifications, apply to—

(a) the 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 *subsection (1)(a)(i)*, or

(ii) a refusal referred to in *subsection (1)(a)(ii)*,

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

171. (1) In this Part -

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

"appropriate assessment" means -

(a) in relation to a plan, an assessment carried out in accordance with *section 182*, and

(b) in relation to a project, an assessment carried out in accordance with *section 189*;

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

"competent authority" means the authority specified as such in respect of a decision-making function under a provision of this Act;

"consent" means a permission granted under sections TBD of this Act;

"energy from renewable resources" has the meaning assigned to it by Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable resources;

"environmental assessment portal" has the meaning assigned to it by *section 175*;

"environmental impact assessment" shall be construed in accordance with *section 195*;

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

"environmental impact assessment report" means a report of the effects (if any) that a project, if carried out, would have on the environment and shall include the information specified in *Schedule TBD*;

"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 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 Article 4(1) of the Habitats Directive (which notice may be amended in accordance with such regulations under the Act of 1972), where the European Commission has not yet adopted the site in accordance with the procedure laid down in Article 21 of the Habitats Directive,

(c) a site that has been included in a list transmitted to the European Commission in accordance with article 4(1) of the Habitats Directive or that has been added, in accordance with article 5 of the Habitats Directive, to the list transmitted to the European Commission pursuant to article 4(1) of the Habitats Directive, where the European Commission has not yet adopted the site 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 article 5(1) of the Habitats Directive,

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

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

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

(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;

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

"Minister" means for the purposes of this Act, the Minister for Housing, Local Government and Heritage;

"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;

"priority habitat" means a habitat that is of a priority habitat type specified in Annex I to the Habitats Directive;

"priority species" has the same meaning as in the Habitats Directive;

"project" means—

(a) the execution of construction works or of other installations or schemes, or

(b) other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources,

and includes, without prejudice to the generality of the foregoing, where applicable, any project that is a project within the meaning of the Habitats Directive;

"public" has the meaning assigned to it by the Environmental Impact Assessment Directive;

"public concerned", in respect of a project, includes any legal or natural person having sufficient interest, within the meaning of *paragraph (c)* of *subsection (10)* of *section JR.PROCEDURE*, to apply for judicial review of any decision to grant or refuse consent for that project;

"screening determination" has the meaning assigned to it by *section 198*;

"screening for appropriate assessment" means –

(a) in relation to a plan, an assessment carried out in accordance with section 179, and

(b) in relation to a project, carried out in accordance with *section 186*.

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

(2) For the purposes of this Part and subject to *subsection (3)*, a reference to any directive adopted by an institution of the European Community or an institution of the European Union is a reference to that directive as amended by any other act of an institution of the European Community or European Union amending that directive.

(3) *Subsection (2)* shall not have effect, in relation to an act of an institution of the European Union amending a directive referred to in that subsection that is required to be transposed by the State on a date that falls after the passing of this Act, until that date.

Duties of independence, confidentiality, etc.

172. (1) A competent authority 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 local authority shall not apply if that local 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 affect any obligation on the competent authority to respect any limitation imposed by law with regard to commercial and industrial confidentiality, including in respect of intellectual property, and the safeguarding of the public interest.

Scope of Application

173. (1) This Part applies to –

(a) each plan under this Act,

(b) an application for permission under *Part 4*,

(c) an application or appeal under *Part 4*,

(d) any application for a declaration under *section 8*, and

(e) proposed local authority or State authority development under *Chapter 6* of *Part 4*,

in respect of which –

(i) screening for appropriate assessment or an appropriate assessment within the meaning of *section 182* or *189*, is required, or

(ii) screening for environmental impact assessment within the meaning of *section 198* or an environmental impact assessment within the meaning of *section 195*, is required.

Regulations

174. The Minister may make regulations for the purpose of -

(a) giving further or better effect to the provisions of this Part, including setting out procedures for the conduct of applications or appeals under this Part;

(b) giving further or better effect to the Environmental Impact Assessment Directive, and

(c) giving further or better effect to the Habitats Directive.

Environmental assessment portal

175. The Minister shall provide, operate and maintain a website (in this Part referred to as the "environmental assessment portal")—

(a) to which the public has access,

(b) which contains summary information on applications and notifications of the intention to lodge applications for development consent subject to assessment under the Environmental Impact Assessment Directive or this Act, or both that Directive and this Act, as appropriate, and

(c) for the purposes of this Part and for such other purpose as may be prescribed.

Chapter 2

Habitat Assessment

Purpose

176. This Chapter gives effect to paragraph (3) and (4) of article 6 of the Habitats Directive.

Interpretation

177. (1) A word or expression that is used in this Chapter and in the Habitats Directive or the Birds Directive has the meaning in this Chapter that it has in those directives.

(2) This Chapter shall be construed in accordance with the Habitats Directive and the Birds Directive.

(3) A competent authority, in performing the functions conferred on it by or under this Chapter, shall take appropriate steps to avoid in a European site the deterioration of natural habitats and the habitats of species as well as the disturbance of the species for which the site has been designated, insofar as such disturbance could be significant in relation to the objectives of the Habitats Directive.

Appropriate Assessment of Plans

Obligation to carry out appropriate assessment of plans

178. (1) The competent authority shall carry out screening for appropriate assessment, in respect of every plan not directly connected with or necessary for the management of a European site.

(2) The competent authority shall not adopt a plan or part thereof where screening for appropriate assessment is required under *subsection (1)* unless -

(a) the competent authority has made a determination under *subsection (4)* of *section 179*,

(b) the competent authority has carried out an appropriate assessment and has made a determination under *subsection (5)* of *section 182*,

or

(c) the Minister has issued a notice under *subsection (4)* of *section 183*, *subsection (4)* of *section 184* or *subsection (7)* of *section 184*.

Screening for appropriate assessment of plans

179. (1) The competent authority shall ensure that it has access to such expertise as is necessary to enable it to perform its functions effectively under this section and may engage such consultants or advisers as it considers necessary for that purpose.

(2) (a) The competent authority shall undertake a screening assessment of each plan not directly connected with or necessary for the management of a European site in order to determine whether or not that plan, either individually or in combination with any another plan or project, is likely to have a significant effect on any European site.

(b) When carrying out a screening assessment under *paragraph (a)*, the competent authority shall not take into account any measures proposed in, or in connection with, the plan concerned that are intended to avoid or reduce the harmful effects of the plan on a European site.

(3) The competent authority may, for the purposes of the carrying out of a screening assessment under this section, consult with such persons as the competent authority considers appropriate.

(4) The competent authority may, on the basis of the screening assessment carried out under this section, determine that the likelihood of a plan's having significant effects on a European site can be excluded, and where it so determines it shall -

(a) publish its determination and the reasons therefor on its internet website,

(b) make the determination and those reasons 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 any person who made submissions in the course of a consultation under *subsection (3)* in relation to the plan, of the determination and those reasons.

(5) Where the competent authority makes a determination under *subsection (4)* an appropriate assessment of the plan shall not be required.

(6) The competent authority may, on the basis of the screening assessment carried out under this section, determine that the likelihood of a plan's having significant effects on a European site cannot be excluded, and where it so determines it shall -

(a) publish its determination and the reasons therefor on its internet website,

(b) make the determination and those reasons available for inspection by members of the public during normal office hours at its offices, and

(c) by notice in writing inform any person who made submissions in the course of a consultation under *subsection (3)* in relation to the plan, of the determination and those reasons.

(7) Where the competent authority makes a determination under *subsection (6)*, it shall carry out an appropriate assessment of the plan in accordance with *section 182*.

(8) Where, subsequent to the making of a determination under *subsection (4)* in relation to a plan, the plan is modified, amended or varied that determination shall be deemed not to have been made and, accordingly, the competent authority shall –

(a) carry out under this section a screening assessment of the plan as so modified, amended or varied, and

(b) make a determination under this section in relation the plan as so modified, amended or varied.

Natura impact report

180. (1) The competent authority shall cause a Natura impact report to be prepared in relation to a plan to which a determination under *subsection (6)* of *section 179* applies.

(2) A Natura impact report shall -

(a) be prepared by a person or persons with the necessary expertise to do so;

(b) identify all possible significant effects of the proposed plan on any European site, whether such effects would result from the proposed plan itself or from the proposed plan in combination with any other plan or project,

(c) having regard to the conservation objectives relating to that European site, include an examination of information and data relating to any European site for which possible significant effects were identified,

(d) include a statement of the implications of any such significant effects having regard to the conservation objectives relating to each such European site, and

(e) include such other information (if any) as may be prescribed.

(3) Where the competent authority concludes that the adoption and implementation of a plan would adversely affect the integrity of a European site and is satisfied that –

(a) there are imperative reasons (which may include those of a social or economic nature) of overriding public interest for the carrying out of the plan,

(b) there are no alternative solutions to the carrying out of the plan, and

(c) compensatory measures could be taken that would ensure the overall coherence of the Natura 2000 network,

it shall ensure that the reasons for its being so satisfied are stated in an appendix to the Natura impact report.

Consultation on Natura impact report

181. (1) The competent authority shall -

(a) publish on its internet website a Natura impact report prepared under *section 180*,

(b) make that Natura impact report available for inspection free of charge by members of the public at its offices during normal office hours,

(c) publish a notice on its internet website -

(i) specifying the times and places at which, and the period during which, a copy of that Natura impact report may be inspected,

(ii) stating that such copy may be so inspected free of charge,

(iii) inviting submissions, relating to the implications of the plan for a European site having regard to the conservation objective relating to that site, from members of the public during the period referred to in *subparagraph (i)*, and

(iv) 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 plan and the Natura impact 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 (iv)* of *paragraph (c)* of *subsection (1)*, submissions relating to the implications of the plan for a European site having regard to the conservation objective relating to that site.

(3) Where the competent authority includes an appendix to the Natura impact report setting out the information in *subsection (3)* of *section 180*, it shall state in its

invitation to members of the public under *subparagraph (iii)I* of *paragraph (c)* of *subsection (1)* that –

(a) submissions in relation to the appendix should be made in conjunction with any submissions on the plan itself, and

(b) the matters set out in the appendix will not be the subject of a subsequent consultation with members of the public.

(4) Nothing in this section shall be deemed to prevent a competent authority from complying with its obligations under this section as part of a wider consultation on a plan.

Appropriate assessment of plan

182. (1) The competent authority shall ensure that it has access to such expertise as is necessary to enable it to perform its functions under this section and may engage such consultants or advisers as it considers necessary for that purpose.

(2) (a) The competent authority shall carry out an appropriate assessment of each plan to which a determination under *subsection (6)* of *section 179* applies.

(b) In carrying out an appropriate assessment, the competent authority shall -

(i) identify, in the light of the best scientific knowledge in the field and using up-to-date reliable data, all aspects of the plan that, having regard to the conservation objectives relating to the European site concerned, are capable either of themselves or in combination with any other plan or project, of adversely affecting the integrity of that European site,

(ii) assess the implications of each aspect of the plan identified under *subparagraph (i)*, setting out complete, precise and definitive findings,

(iii) on the basis of the findings under *subparagraph (ii)*, reach a conclusion as to whether any reasonable scientific doubt exists

as to the absence of adverse effects on the integrity of any European site, and

(iv) where it concludes that no reasonable scientific doubt exists as to the absence of adverse effects on the integrity of any European site, make a determination under *subsection (5)*.

(c) Where the competent authority concludes that there is reasonable scientific doubt as to the absence of adverse effects on the integrity of any European site it shall make a determination under *subsection (7)*.

(3) The competent authority may, for the purposes of carrying out an appropriate assessment under this section, consult with such other persons as it considers appropriate.

(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 report;

(b) any advice obtained by the competent authority;

(c) any submissions received pursuant to an invitation under *section 181*; and

(d) any other information that the competent authority considers relevant.

(5) Subject to *subsection (9)*, the competent authority may, on the basis, of an appropriate assessment carried out under this section, determine that a plan will not adversely affect the integrity of a European site, and where it so determines, it shall -

(a) publish its determination and the reasons therefor on its internet website,

(b) make the determination and those reasons available for inspection free of charge by members of the public at its offices during normal office hours,

(c) publish its determination in a national newspaper, and

(d) by notice in writing inform any person who made submissions in relation to the plan, of the determination and those reasons.

(6) Where the competent authority makes a determination under *subsection (5)* it may adopt the plan or any part thereof.

(7) Subject to *subsection (9)*, where the competent authority is unable to conclude that the adoption and implementation of a plan would not adversely affect the integrity of a European site, it shall make a determination to that effect and shall -

(a) publish its determination and the reasons therefor on its internet website;

(b) make the determination and those reasons available for inspection free of charge by members of the public at its offices during normal office hours,

(c) publish its determination in a national newspaper, and

(d) by notice in writing inform any person who made submissions in relation to the plan, of the determination and those reasons.

(8) Subject to *subsection (4)* of *section 183* and *subsections (4)* and *(7)* of *section 184*, the competent authority shall not adopt a plan (either in whole or in part) where it has made a determination in relation to the plan under *subsection (7)*.

(8A) Where, on the basis of an appropriate assessment carried out in relation to a plan, the competent authority is satisfied that it could make a determination under *subsection (5)* in relation to the plan if such modifications were made or such conditions were attached to the plan as the competent authority considers appropriate , the competent authority may make such modifications or attach such conditions and make such determination and where it makes that determination it shall -

(a) publish its determination, (including details of any such modifications or conditions) and the reasons therefor on its internet website,

(b) make the determination and those reasons available for inspection free of charge by members of the public at its offices during normal office hours,

(c) publish its determination in a national newspaper, and

(d) by notice in writing inform any person who made submissions to the competent authority in relation to the plan, of the determination and those reasons.

(8B) Where the competent authority makes a determination under *subsection (8A)*, it may adopt the plan or part thereof.

(9) Where the competent authority makes a determination under *subsection (7)* in relation to a plan but is satisfied that –

(a) a specified part or specified parts of the plan would not adversely affect the integrity of a European site, and

(b) the implementation of that part or those parts, as the case may be, is not contingent upon the implementation of the rest of the plan,

the competent authority may make a determination under *subsection (5)* in respect of that part or those parts, as the case may be.

(10) Where, subsequent to the making of a determination under *subsection (5)* in relation to a plan, that plan is modified, that determination shall be deemed not to have been made and, accordingly, the competent authority shall –

(a) cause a Natura impact report under *section 180* to be prepared in relation to the plan as so modified,

(b) carry out an appropriate assessment under this section of the plan as so modified, and

(c) make a determination under this section in relation the plan as so modified.

Imperative reasons of overriding public interest (no priority habitat or priority species)

183. (1) In this section –

"Minister" has the meaning given to it by section 2 of the Wildlife Act 1976;

"relevant conditions" means, in relation to a relevant plan –

(a) the absence of alternative solutions to the carrying out of the relevant plan, and

(b) proposed compensatory measures specified in the statement referred to in *subsection (3)* that, in the opinion of the Minister, will ensure the overall coherence of the Natura 2000 network;

"relevant plan" means a plan in respect of which the competent authority has made a determination under *subsection (7)* of *section 182* relating to a European site or European sites that does not, or do not, host a priority habitat or priority species.

(2) 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,

the competent authority shall presume that imperative reasons of overriding public interest exist for the carrying out of the plan.

(3) The competent authority may prepare, and submit to the Minister, a statement in relation to a relevant plan specifying -

(a) the considerations that caused the competent authority to make the determination under *subsection (7)* of *section 182*;

(b) the imperative reasons of overriding public interest that, in the opinion of the competent authority, exist for the carrying out of the plan,

(c) the reasons for which the competent authority is of the opinion that there are no alternative solutions to the carrying out of the plan,

(d) the proposed compensatory measures that the competent authority believes are necessary to ensure that the overall coherence of the Natura 2000 network is protected, and

(e) such other information (if any) as the competent authority considers to be of relevance.

(4) Where the Minister is satisfied that, in relation to a relevant plan to which a statement under *subsection (3)* applies –

(a) the relevant conditions exist,

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 *subsection (11)*, adopt the plan or any part thereof.

(5) Where, in relation to a relevant plan to which a statement submitted to the Minister under *subsection (3)* applies, the Minister –

(a) is satisfied that imperative reasons (which may include reasons of a social or economic nature) such reasons exist but is not satisfied that the relevant conditions exist,

he or she shall forthwith issue a notice to that effect to the competent authority and the competent authority shall, subject to *subsection (5A)*, not adopt the plan or any part thereof.

(6) A statement submitted to the Minister under *subsection (3)* shall be accompanied by a copy of the relevant plan and the Natura impact report in respect thereof.

(7) The competent authority shall -

(a) publish the statement submitted to the Minister under *subsection (3)* on its internet website, and

(b) make the statement available for inspection by members of the public at its offices during normal office hours.

(8) The Minister shall, as soon as may be after having received a statement under *subsection (3)*, perform the functions conferred on him or her by *subsection (4)* or *(5)*.

(9) The Minister may, for the purposes of performing his or her functions under *subsection (4)* or *(5)* -

(a) consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister,

(b) consider any views of any Minister of the Government so consulted that are received by the Minister within such time as has been specified by the Minister,

(c) consult with the competent authority, who may submit -

(i) a revised or modified plan, or

(ii) a proposal of revised or modified compensatory measures.

(10) Upon receipt of a notice under *subsection (4)* or *(5)*, the competent authority shall -

(a) publish the notice on its internet website,

(b) make the notice available for inspection by members of the public at its offices during normal office hours, and

(c) publish the notice in a national newspaper.

(11) The competent authority shall not adopt a relevant plan or any part thereof unless it is satisfied that all compensatory measures necessary to ensure the overall coherence of the Natura 2000 network will be carried out.

(12) The competent authority shall inform the European Commission of the compensatory measures to ensure the overall coherence of the Natura 2000 network adopted in consequence of the adoption of a relevant plan.

Imperative reasons of overriding public interest (priority habitat or priority species)

184. (1) In this section –

"class A imperative reasons of overriding public interest" means, in relation to a relevant plan, imperative reasons of overriding public interest relating to -

(a) human health,

(b) public safety, or

(c) beneficial consequences of primary importance to the environment;

"class B imperative reasons of overriding public interest" means, in relation to a relevant plan, reasons that, in the opinion of the competent authority, are imperative reasons of overriding public interest having regard to an opinion of the European Commission given pursuant to a request under *subsection (6)* in relation to that plan;

"Minister" has the meaning given to it by section 2 of the Wildlife Act 1976;

"relevant conditions" means, in relation to a relevant plan –

(a) the absence of alternative solutions to the carrying out of the relevant plan, and

(b) proposed compensatory measures specified in the statement referred to in *subsection (3)* that, in the opinion of the Minister

will ensure the overall coherence of the Natura 2000 network.

"relevant plan" means a plan in respect of which the competent authority has made a determination under *subsection (7)* of *section 182* relating to a European site that hosts a priority habitat or priority species.

(2) 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,

the competent authority shall presume that class A imperative reasons of overriding public interest exist for the carrying out of the plan.

(3) The competent authority may prepare, and submit to the Minister, a statement in relation to a relevant plan specifying -

(a) the considerations that caused the competent authority to make the determination under *subsection (7)* of *section 182*,

(b) the imperative reasons of overriding public interest that, in the opinion of the competent authority, exist for the carrying out of the plan,

(c) the reasons for which the competent authority is of the opinion that there are no alternative solutions to the carrying out of the plan,

(d) the proposed compensatory measures that the competent authority believes are necessary to ensure that the overall coherence of the Natura 2000 network is protected,

(e) whether or not, in the opinion of the competent authority, the imperative reasons of overriding public interest are class A imperative reasons of overriding public interest, and

(f) such other information (if any) as the competent authority considers to be of relevance.

(4) Where the Minister is satisfied that, in relation to a relevant plan to which a statement under *subsection (3)* applies –

(a) the relevant conditions exist,

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 *subsection (14)*, adopt the plan or any part thereof.

(5) Where, in relation to a relevant plan to which a statement under *subsection (3)* applies, the Minister –

(a) is not satisfied that –

(i) the relevant conditions exist, and

(b) decides not to request an opinion under *subsection (6)*,

he or she shall forthwith issue a notice to that effect to the competent authority and the competent authority shall, subject to *subsection (5A)*, not adopt the plan or any part thereof.

(6) The Minister may, at his discretion, request from the European Commission an opinion referred to in paragraph (4) of article 6 of the Habitats Directive where -

(a) the statement under *subsection (3)* does not specify any reasons that are class A imperative reasons of overriding public interest, or

(b) the statement under *subsection (3)* specifies reasons that are class A imperative reasons of overriding public interest but the Minister considers those reasons not to be class A reasons of overriding public interest.

(7) Subject to *subsection (5A)*, where, in relation to a relevant plan –

(a) the Minister is satisfied that the relevant conditions exist,

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 *subsection (14)*, adopt the plan or any part thereof.

(8) Subject to *subsection (5A)*, where, in relation to a relevant plan –

(a) class B imperative reasons of overriding public interest do not exist for the carrying out of the plan, or

(b) class B imperative reasons of overriding public interest exist for the carrying out of the plan but the Minister is not satisfied that the relevant conditions exist,

he or she shall forthwith issue a notice to that effect to the competent authority and the competent authority shall not adopt the plan or any part thereof.

(9) A statement submitted to the Minister under *subsection (3)* shall be accompanied by a copy of the relevant plan and the Natura impact report in respect thereof.

(10) The competent authority shall -

(a) publish the statement submitted to the Minister under *subsection (3)* on its internet website, and

(b) make the statement available for inspection by members of the public at its offices during normal office hours.

(11) The Minister shall, as soon as may be after having received a statement under *subsection (3)*, perform –

(a) the functions conferred on him or her by *subsection (4)* or *(5)*, or

(b) the functions conferred on him or her by *subsection (6)*, *(7)* or *(8)*.

(12) The Minister may, for the purposes of performing his or her functions under *subsection (4), (5), (6), (7)* or *(8)* -

(a) consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister,

(b) consider any views of any Minister of the Government so consulted that are received by the Minister within such time as has been specified by the Minister,

(c) consult with the competent authority, who may submit -

(i) a revised or modified plan, or

(ii) a proposal of revised or modified compensatory measures.

(13) Where a notice is issued to the competent authority under this section, the competent authority shall -

(a) publish the notice on its internet website,

(b) make the notice available for inspection by members of the public at its offices during normal office hours; and

(c) publish the notice in a national newspaper.

(14) The competent authority shall inform the European Commission of the compensatory measures taken in relation to a relevant plan adopted in accordance with *subsection (4)* or *(7)*.

Appropriate Assessment of Projects

Obligation to carry out appropriate assessment of projects

185. (1) The competent authority shall carry out screening for appropriate assessment in respect of every project not directly connected with or necessary for the management of a European site.

(2) The competent authority shall not give consent to any project where screening for appropriate assessment is required under *subsection (1)* unless -

(a) the competent authority has made a determination under *subsection (5)* of *section 186* that an appropriate assessment is not required,

(b) the competent authority has carried out an appropriate assessment and has made a determination under *subsection (6)* of *section 189* that the project will not adversely affect the integrity of any European site,

(c) the Minister has issued a notice under *subsection (8)* of *section 190*, *subsection (8)* of *section 191*, or *subsection (11)* of *section 191*.

Screening for appropriate assessment of projects

186. (1) The competent authority shall ensure that it has access to such expertise as is necessary to enable it to perform its functions under this section and may engage such consultants or advisers as it considers necessary for that purpose.

(2) (a) The competent authority shall undertake a screening assessment of each project not directly connected with or necessary for the management of a European site in order to determine whether or not that project, either individually or in combination with any other plan or project, is likely to have a significant effect on a European site.

(b) When making a screening assessment under *paragraph (a)*, the competent authority shall not take into account any measures proposed in, or in connection with, the project concerned that are intended to avoid or reduce the harmful effects of the project on a European site.

(3) The competent authority may, for the purposes of the carrying out of the screening assessment under this section -

(a) request such information from the developer as it considers necessary to enable it to carry out that assessment, and

(b) consult with such persons as the competent authority considers appropriate.

(4) Where the developer does not provide information requested under *subsection (3)(a)* within such period as may be specified in the request, or within such further period as

the competent authority may subsequently specify, the application for consent for the project shall be deemed to have been withdrawn.

(5) The competent authority may, on the basis of the screening assessment carried out under this section, determine that the likelihood of a project's having significant effects on a European site can be excluded, and where it so determines it shall, before or at the same time as notifying its decision to grant or refuse consent -

(a) publish its determination and the reasons therefor on its internet website,

(b) make the determination and those reasons available for inspection by members of the public at its offices during normal office hours, and

(c) by notice in writing inform –

(i) the developer,

(ii) any person who made submissions in the course of a consultation under *subsection (3)* or *section 100*, and

(iii) any party to an appeal of a decision in relation to an application for consent for the project,

of that determination and those reasons.

(6) Where the competent authority makes a determination under *subsection (5)* an appropriate assessment of the project shall not be required.

(7) The competent authority may, on the basis of the screening assessment carried out under this section, determine that the likelihood of a project's having significant effects on a European site cannot be excluded, and where it so determines it shall -

(a) publish its determination and the reasons therefor on its internet website,

(b) make the determination and those reasons 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 developer,

(ii) any person who made submissions in the course of a consultation under *subsection (3)* or *section 100*, and

(iii) any party to an appeal of a decision in relation to an application for consent for the project,

of that determination and those reasons, and

(d) in circumstances where a Natura impact statement was not provided with the application for consent for the project concerned, either refuse the application for consent or give a direction in writing to the developer requiring him or her to provide the competent authority with a Natura impact statement within such period as the competent authority shall specify.

(8) Where the competent authority makes a determination under *subsection (7)* it shall carry out an appropriate assessment of the project in accordance with *section 189*.

(9) Where, subsequent to the making of a determination under *subsection (5)* in relation to a project, the project is modified, that determination shall be deemed not to have been made and, accordingly, the competent authority shall –

(a) carry out under this section a screening assessment of the project as so modified, and

(b) make a determination under this section in relation the project as so modified.

(10) (a) Where the competent authority carrying out a screening under this section is also the developer, there must be clear functional separation.

(b) The Minister may make regulations—

(i) prescribing the procedures that will apply where a competent authority carrying out screening of a project is also the developer, and

(ii) designating competent authorities within the meaning of this Part that will carry out screening of a project where the competent authority would otherwise be the developer.

Natura impact statement

187. (1) (a) At any time following an application for consent for a project and before the commencement of an appropriate assessment under *section 189*, the competent authority may, where no Natura impact statement was provided with the application for consent, give a direction in writing to the developer requiring him or her to prepare, and submit to, the competent authority a Natura impact statement within such period as shall be specified in the direction or such further period as the competent authority may subsequently specify in writing.

(b) Where an application is made for retrospective consent for a project, or the competent authority is of the view that a remedial assessment is required the competent authority may direct that a Natura impact statement be included with the application.

(2) Where a developer fails to comply with a direction under *subsection (1),* then –

(a) in the case of an application to which *paragraph (a)* of that subsection applies, the application shall be deemed to have been withdrawn, and

(b) in the case of an application to which *paragraph (b)* of that subsection applies, the application shall be declared to be invalid.

(3) A developer may prepare, and submit to, the competent authority a Natura impact statement for consideration as part of the appropriate assessment of a project in the absence of a direction under *subsection (1)*, or within the period specified by the competent authority under *paragraph (d)* of *subsection (7)* of *section 186* or such further period as may be specified in writing by the competent authority.

(4) A Natura impact statement prepared under *subsection (2)* or pursuant to a direction under *subsection (1)* shall -

(a) be prepared by a person with the necessary scientific expertise to so do,

(b) identify all significant effects of the project on one or more European sites, whether such effects arise from the project itself or from the project in combination with any other plan or project;

(c) having regard to the conservation objectives relating to that European site, include an examination of all information and data relevant to any European site for which significant effects have been identified.

(d) include a statement of the implications of any such significant effects having regard to the conservation objectives relating to that European site,

(e) include such other information (if any) as may be prescribed, and

(f) include such other information as the competent authority may reasonably require for the purpose of the performance of its functions under this Chapter in relation to the project concerned.

(5) Where -

(a) a developer has included a Natura impact statement with an application for consent, and

(b) the Natura impact statement indicates that the project concerned may adversely affect the integrity of a European site,

the developer may request the competent authority to submit a statement to the Minister under *subsection (3)* of *section 190* or *subsection (3)* of *section 191*, subject to the developer providing the competent authority with an appendix to the Natura impact statement –

(i) specifying the grounds for –

(I) there being imperative reasons (which may include those of a social or economic nature) of overriding public interest for the carrying out of the project, and

(II) there being no alternative solutions to the project's being carried out, and

(ii) specifying the compensatory measures that he or she will take or arrange to ensure the overall coherence of the Natura 2000 network.

Consultation on Natura impact statement

188. (1) Where a Natura impact statement has been received by the competent authority it shall –

(a) publish on its internet website any Natura impact statement received,

(b) make that Natura impact statement available for inspection by members of the public, free of charge, at its offices during normal office hours,

(c) publish a notice on its internet website -

(i) specifying the times and places at which, and the period during which, a copy of that Natura impact statement may be inspected free of charge,

(ii) inviting submissions, relating to the implications of the project for any European site having regard to the conservation objectives relating to that site, from members of the public, 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 consent and the Natura impact statement 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 relating to the implications of the project concerned for a European site having regard to the conservation objective relating to that site.

(3) Where the developer includes an appendix to the Natura impact statement setting out the information in *subsection (6)* of *section 187*, the competent authority shall state in its invitation to members of the public under *subparagraph (ii)* of *paragraph (c)* of *subsection (1)* that submissions on the appendix should be made alongside any submissions on the project itself and that the matters set out in the appendix will not be the subject of a later public consultation.

(4) (a) Nothing in this section shall be deemed to prevent a competent authority from complying with its obligations under this section as part of a wider consultation on a project.

(b) Where appropriate, the competent authority shall carry out the consultation in this section in accordance with the consultation provisions in *Chapter IV*, as provided for in *section 214(b)*.

Appropriate assessment of project

189. (1) The competent authority shall ensure that it has access to such expertise as is necessary to enable it to perform its functions under this section and may engage such consultants or advisers as it considers necessary for that purpose.

(2) (a) The competent authority shall carry out an appropriate assessment of each project to which a determination under *subsection (7)* of *section 186* applies.

(b) In carrying out an appropriate assessment, the competent authority shall –

(i) identify, in the light of the best scientific knowledge in the field and using up-to-date reliable data, all aspects of the project that, having regard to the conservation objectives relating to the European site concerned, are capable either of themselves or in combination with any other plan or project, of adversely affecting the integrity of that European site,

(ii) assess the implications of each aspect of the project identified under *subparagraph (i)*, setting out complete, precise and definitive findings,

(iii) on the basis of the findings under *subparagraph (ii)*, reach a conclusion as to whether any reasonable scientific doubt exists as to the absence of adverse effects on the integrity of any European site, and

(iv) where it concludes that no reasonable scientific doubt exists as to the absence of adverse effects on the integrity of a European site, make a determination under *subsection (6)*.

(c) Where, in respect of a project, the competent authority concludes that no reasonable scientific doubt would remain as to the absence of adverse effects on the integrity of a European site if –

(i) such modifications as it may specify were made to the project, or

(ii) such conditions as it may attach to any consent granted for the project were complied with,

it may make a determination under *subsection (8)*.

(d) Where the competent authority concludes that there is a reasonable scientific doubt as to the absence of adverse effects on the integrity of a European site it shall make a determination under *subsection (10)*.

(3) The competent authority may, for the purpose of carrying out an appropriate assessment under this section –

(a) request such information, including a revised Natura impact statement, from the developer concerned as the competent authority considers necessary to enable it to carry out the appropriate assessment, and

(b) consult with such other persons as the competent authority considers appropriate.

(4) Where the developer does not provide information requested under *paragraph (a)* of *subsection (3)* within –

(a) such period as the competent authority shall specify, or

(b) such further period (commencing on the expiration of the first-mentioned period) as may be so specified,

the application for consent for the project shall be deemed to have been withdrawn.

(5) 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;

(b) any information obtained by the competent authority pursuant to *paragraph (a)* of *subsection (3*);

(c) the results of any consultation carried out by the competent authority in accordance with *paragraph (b)* of *subsection (3)*;

(d) any advice obtained by the competent authority;

(e) any written submissions made to the competent authority in relation to the application for consent for the project;

(f) any submissions received pursuant to an invitation under *section 188*; and

(g) any other information that the competent authority considers relevant.

(6) The competent authority may, on the basis of an appropriate assessment carried out under this section in relation to a project, determine that the project will not adversely affecting the integrity of a European site, and where it so determines, it shall –

(a) publish its determination and the reasons therefor on its internet website,

(b) make the determination and those reasons available for inspection by members of the public at its offices during normal office hours,

(c) publish its determination in a newspaper circulating in the area in which the project is proposed to be located or in a national newspaper, as appropriate, and

(d) by notice in writing inform –

(i) the developer,

(ii) any person who made submissions to the competent authority in relation to the application for consent concerned, and

(iii) any party to an appeal of a decision in relation to an application for such consent,

of the determination and the reasons therefor.

(7) Where the competent authority makes a determination under *subsection (6)* it may, subject to *Part 4*, give consent to the project.

(8) Where, on the basis of an appropriate assessment carried out in relation to a project, the competent authority is satisfied that it could make a determination under *subsection (6)* in relation to the project if such conditions as the competent authority considers appropriate were attached to any consent granted in respect of the project, the competent authority may make such determination and where it so determines it shall -

(a) publish its determination (including details of such conditions) and the reasons therefor on its internet website,

(b) make the determination and those reasons available for inspection by members of the public at its offices during normal office hours,

(c) publish its determination in a newspaper circulating in the area in which the project is proposed to be located or in a national newspaper, as appropriate, and

(d) by notice in writing inform –

(i) the developer,

(ii) any person who made submissions to the competent authority in relation to the application for consent concerned, and

(iii) any party to an appeal of a decision in relation to an application for such consent,

of the determination and the reasons therefor.

(9) Where the competent authority makes a determination under *subsection (8),* it shall be a condition of any consent to the project that where conditions are required, the specified conditions are complied with.

(10) Where, on the basis of an appropriate assessment carried out under this section in relation to a project, the competent authority is unable to conclude that the project would not adversely affect the integrity of a European site, it shall make a determination to that effect and shall –

(a) publish its determination (including details of such modifications or conditions) and the reasons therefor on its internet website,

(b) make the determination and those reasons available for inspection by members of the public at its offices during normal office hours,

(c) publish its determination in a newspaper circulating in the area in which the project is proposed to be located or in a national newspaper, as appropriate,

(d) by notice in writing inform –

(i) the developer,

(ii) any person who made submissions to the competent authority in relation to the application for consent concerned, and

(iii) any party to an appeal of a decision in relation to an application for such consent,

of the determination and the reasons therefor, and

(e) in circumstances where an appendix referred to in *subsection (6)* of *section 187* was not attached to the Natura impact statement in respect of the project, inform the developer by notice in writing that he or she may provide the competent authority with such an appendix within such period as shall be specified in the notice.

(11) Subject to *section 190* or *191* where the competent authority makes a determination under *subsection (10)*, the competent authority shall not give consent to the project.

(12) Where, subsequent to the making of a determination under *subsection (6)* in relation to a project, the developer makes a modification to that project, that determination shall be deemed not to have been made and, accordingly, the developer shall, unless the modification is minor or consists of a reduction in the size or scale of the project –

(a) prepare, and submit to the competent authority, a Natura impact statement under *section 187* in relation to the project as so modified,

(b) carry out an appropriate assessment under this section of the project as so modified, and

(c) make a determination under this section in relation the project as so modified.

Imperative reasons of overriding public interest (no priority habitat or priority species)

190. (1) In this section –

"Minister" has the meaning given to it by section 2 of the Wildlife Act 1976;

"relevant conditions" means, in relation to a relevant project –

(a) the absence of alternative solutions to the carrying out of the relevant project, and

(b) proposed compensatory measures specified in the statement under *subsection (7)* that, in the opinion of the Minister, will ensure the overall coherence of the Natura 2000 network;

"relevant project" means a project in respect of which the competent authority has made a determination under *subsection (10)* of *section 189* relating to a European site or European sites that does not, or do not, host a priority habitat or priority species.

(3) The developer in relation to a relevant project who submitted a Natura impact statement that included an appendix referred to in *subsection (6)* of *section 187* or who provided the competent authority with such an appendix consequent upon receiving a notice under *paragraph (e)* of *subsection (10)* of that section, may request the competent authority to make a determination in relation to the question as to whether or not –

(a) imperative reasons (which may include reasons of a social or economic nature) of overriding public interest exist for the carrying out of the project, and

(b) the relevant conditions exist in relation to the project.

(4) Where, in relation to a relevant project, the competent authority receives an appendix referred to in *subsection (6)* of *section 187* or consequent upon a notice under *paragraph (e)* of *subsection (10)* of *section 189*, it shall -

(a) publish the appendix to the Natura impact statement on its internet website,

(b) publish a notice on its internet website –

(i) inviting members of the public to make submissions to the competent authority in relation to the appendix, and

(ii) specifying the period during which, and the manner in which, such submissions may be made,

(c) notify, in writing, any person who made submissions in relation to the Natura impact statement in respect of the relevant project pursuant to an invitation under *paragraph (b)* of *subsection (2)* of *section 188* of the receipt by the competent authority of such appendix, and invite him or her to make submissions to the competent authority in relation to the appendix within the period and in the manner specified under *subparagraph (ii)* of *paragraph (b)*,

(d) send a copy of such appendix 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 appendix within the period and in the manner specified under *subparagraph (ii)* of *paragraph (b)*.

(5) Where, in relation to a relevant project, the competent authority receives an appendix referred to in *subsection (6)* of *section 187* (whether or not consequent upon a notice under *paragraph (e)* of *subsection (10)* of *section 189*), it shall, upon consideration of that appendix and, in case that appendix was provided to the competent authority consequent upon a notice under *paragraph (e)* of *subsection (10)* of *section 189*, any submissions received by it pursuant to an invitation under *paragraph (b), (c) or (d)* of *subsection (4)*, either -

(a) determine that, in relation to the relevant project –

(i) imperative reasons (which may include reasons of a social or economic nature) of overriding public interest exist for the carrying out of the relevant project, and

(ii) the relevant conditions exist, or

(b) determine that, in relation to the relevant project –

(i) 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 relevant project, or

(ii) the relevant conditions do not exist,

and, upon the making of such determination, the competent authority shall inform the developer in relation to the relevant project forthwith of that determination and the reasons therefor.

(5A) Where a relevant project 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,

the competent authority shall presume that imperative reasons of overriding public interest exist for the carrying out of the project.

(6) (a) Where the competent authority makes a determination under *paragraph (b)* of *subsection (5)* by reason of its not being satisfied as to the adequacy of the compensatory measures (proposed by the developer) intended to ensure the overall coherence of the Natura 2000 network, it may consult with the developer for the purpose of ascertaining the feasibility and adequacy of alternative compensatory measures.

(b) Where, following consultation under *paragraph (a)*, the developer in relation to a relevant project proposes alternative compensatory measures (in this subsection referred to as the "revised proposal") that, in the opinion of the competent authority, are adequate to ensure the overall coherence of the Natura 2000 network, the competent authority shall –

(i) publish the revised proposal on its internet website,

(ii) publish a notice on its 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,

(ii) 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 appendix within the period and in the manner specified under *clause (II)* of *subparagraph (iii)*.

(c) The competent authority shall, following consideration by it of the revised proposal and any submissions made to it pursuant to an invitation under *paragraph (b)* –

(i) determine that, in relation to the relevant project –

(I) imperative reasons (which may include reasons of a social or economic nature) of overriding public interest exist for the carrying out of the relevant project, and

(II) the relevant conditions exist, or

(ii) determine that, in relation to the relevant project –

(I) 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 relevant project, or

(III) the relevant conditions do not exist,

and, upon the making of such determination, the competent authority shall inform the developer in relation to the relevant project forthwith of that determination and the reasons therefor.

(7) Where the competent authority makes a determination under *paragraph (a)* of *subsection (5)* or *subparagraph (i)* of *paragraph (c)* of *subsection (6)*, it shall prepare, and submit to the Minister, a statement in relation to the relevant project concerned specifying –

(a) the considerations that caused the competent authority to make the determination under *subsection (10)* of *section 189*;

(b) the imperative reasons of overriding public interest that, in the opinion of the competent authority, exist for the carrying out of the project,

(c) the reasons for which the competent authority is of the opinion that there are no alternative solutions to the carrying out of the project,

(d) the proposed compensatory measures that the competent authority believes are necessary to ensure that the overall coherence of the Natura 2000 network is protected, and

(e) such other information (if any) as the competent authority considers to be of relevance.

(8) Subject to *subsection (17)*, where the Minister is satisfied that, in relation to a relevant project to which a statement under *subsection (7)* applies –

(a) the relevant conditions exist,

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 *paragraph (a)* of *subsection (15)*, grant consent for the relevant project.

(9) Subject to *subsection (17)*, where, in relation to a relevant project to which a statement under *subsection (7)* received by him or her applies, the Minister –

(a) is satisfied that imperative reasons (which may include reasons of a social or economic nature) exist but is not satisfied that the relevant conditions exist,

he or she shall forthwith issue a notice to that effect to the competent authority and the competent authority shall, subject to *subsection (17)*, not grant consent for the relevant project.

(10) A statement submitted to the Minister under *subsection (7)* shall be accompanied by a copy of the application for consent for the relevant project and the Natura impact statement in respect thereof.

(11) The competent authority shall –

(a) publish the statement submitted to the Minister under *subsection (7)* on its internet website, and

(b) inform, by notice in writing, the developer in relation to the relevant project and any person who made submissions pursuant to an invitation under this section or *section 188* of the publication of that statement in accordance with this subsection.

(12) The Minister shall, as soon as may be after having received a statement under *subsection (7),* perform the functions conferred on him or her by *subsection (8)* or *(9)*.

(13) The Minister may, for the purposes of performing his or her functions under *subsection (8)* or *(9)* –

(a) consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister,

(b) consider any views of any Minister of the Government so consulted that are received by the Minister within such time as has been specified by the Minister,

(c) consult with the competent authority, who may, with the consent of the developer concerned, submit –

(i) a proposed revised or modified project, or

(ii) a proposed revised or modified compensatory measures.

(14) Upon receipt of a notice under *subsection (8)* or *(9),* the competent authority shall –

(a) publish the notice on its internet website,

(b) publish the notice in a newspaper circulating in the area in which the project is proposed to be located or in a national newspaper, as appropriate,

(c) notify, in writing –

(i) the developer in relation to the relevant project,

(ii) any person who made submissions pursuant to an invitation under this section or *section 188* in relation to the relevant project, and

(iii) any person who appealed a decision in relation to the application for consent for the relevant project,

of the contents of that notice.

(15) (a) Subject to *subsection (17)*, the competent authority shall not grant consent for a relevant project unless it -

(i) is satisfied that all compensatory measures necessary to ensure the overall coherence of the Natura 2000 network will be carried out, and

(ii) attaches as a condition to the grant of consent any compensatory measure that is to be carried out.

(b) The developer shall ensure that all compensatory measures that have to be carried out in relation to the relevant project in relation to which the competent authority has granted consent will be carried out.

(c) The competent authority may attach a condition to a grant of consent for a relevant project requiring the developer to make one, or more than one, financial contribution for the purpose any compensatory measures that the competent authority or Minister may have to carry out.

(16) The competent authority shall inform the European Commission of the compensatory measures to ensure the overall coherence of the Natura 2000 network adopted in consequence of the grant of consent in respect of a relevant project.

Imperative reasons of overriding public interest (priority habitat or priority species)

191. (1) In this section –

"class A imperative reasons of overriding public interest" means, in relation to a relevant project, imperative reasons of overriding public interest relating to -

(a) human health,

(b) public safety, or

(c) beneficial consequences of primary importance to the environment;

"class B imperative reasons of overriding public interest" means, in relation to a relevant project, reasons that, in the opinion of the competent authority, are imperative reasons of overriding public interest having regard to an opinion of the European Commission given pursuant to a request under *subsection (6)* in relation to that project;

"Minister" has the meaning given to it by section 2 of the Wildlife Act 1976;

"relevant conditions" means, in relation to a relevant project –

(a) the absence of alternative solutions to the carrying out of the relevant project, and

(b) proposed compensatory measures specified in the statement under *subsection (7)* that, in the opinion of the Minister, will ensure the overall coherence of the Natura 2000 network;

"relevant project" means a project in respect of which the competent authority has made a determination under *subsection (10)* of *section 189* relating to a European site that hosts a priority habitat or priority species.

(3) The developer in relation to a relevant project who submitted a Natura impact statement that included an appendix referred to in *subsection (6)* of *section 187* or who provided the competent authority with such an appendix consequent upon receiving a notice under *paragraph (e)* of *subsection (10)* of *section 189*, may request the competent authority to make a determination in relation to the question as to whether or not –

(i) class A imperative reasons of overriding public interest or other imperative reasons of overriding public interest exist for the carrying out of the project, and

(ii) the relevant conditions exist in relation to the project.

(4) Where, in relation to a relevant project, the competent authority receives an appendix referred to in *subsection (6)* of *section 187* consequent upon a notice under *paragraph (e)* of *subsection (10)* of *section 189*, it shall -

(a) publish the appendix to the Natura impact statement on its internet website

(b) publish a notice on its internet website -

(i) inviting members of the public to make submissions to the competent authority in relation to the appendix, and

(ii) specifying the period during which, and the manner in which, such submissions may be made,

(c) notify, in writing, any person who made submissions in relation to the Natura impact statement in respect of the relevant project pursuant to an invitation under *paragraph (b)* of *subsection (2)* of *section 188* of the receipt by the competent authority of such appendix, and invite him or her to make submissions to the competent authority in relation to the appendix within the period and in the manner specified under *subparagraph (ii)* of *paragraph (b)*,

(d) send a copy of such appendix 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 appendix within the period and in the manner specified under *subparagraph (ii)* of *paragraph (b)*.

(5) Where, in relation to a relevant project, the competent authority receives an appendix referred to in *subsection (6)* of *section 187* (whether or not consequent upon a notice under *paragraph (e)* of *subsection (10)* of *section 189*), it shall, upon consideration of that appendix and, in case that appendix was provided to the competent authority consequent a notice under *paragraph (e)* of *subsection (10)* of *section 189*, any submissions received by it pursuant to an invitation under *paragraph (b), (c) or (d)* of *subsection (4)*, either -

(a) determine that, in relation to the relevant project –

(i) class A imperative reasons of overriding public interest or other imperative reasons of overriding public interest exist for the carrying out of the relevant project, and

(ii) the relevant conditions exist, or

(b) determine that, in relation to the relevant project –

(i) class A imperative reasons of overriding public interest or other imperative reasons of overriding public interest do not exist for the carrying out of the relevant project, or

(ii) the relevant conditions do not exist,

and, upon the making of such determination, the competent authority shall inform the developer in relation to the relevant project forthwith of that determination and the reasons therefor.

(6) (a) Where the competent authority makes a determination under *paragraph (b)* of *subsection (5)* by reason of its not being satisfied as to the adequacy of the compensatory measures (proposed by the developer) intended to ensure the overall coherence of the Natura 2000 network, it may consult with the developer for the purpose of ascertaining the feasibility and adequacy of alternative compensatory measures.

(b) Where, following consultation under *paragraph (a)*, the developer in relation to a relevant project proposes alternative compensatory measures (in this subsection referred to as the "revised proposal") that, in the opinion of the competent authority, are adequate to ensure the overall coherence of the Natura 2000 network, the competent authority shall -

(i) publish the revised proposal on its internet website

(ii) publish a notice on its 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,

(ii) 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 appendix within the period and in the manner specified under *clause (II)* of *subparagraph (iii)*.

(c) The competent authority shall, following consideration by it of the revised proposal and any submissions made to it pursuant to an invitation under *paragraph (b)* -

(i) determine that, in relation to the relevant project –

(I) class A imperative reasons of overriding public interest or other imperative reasons of overriding public interest exist for the carrying out of the relevant project, and

(II) the relevant conditions exist, or

(ii) determine that, in relation to the relevant project –

(I) neither class A imperative reasons of overriding public interest nor other imperative reasons of overriding public interest exist for the carrying out of the relevant project, or

(III) the relevant conditions do not exist,

and, upon the making of such determination, the competent authority shall inform the developer in relation to the relevant project forthwith of that determination and the reasons therefor.

(6A) Where a relevant project 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,

the competent authority shall presume that class A imperative reasons of overriding public interest exist for the carrying out of the project.

(7) Where the competent authority makes a determination under *paragraph (a)* of *subsection (5)* or *subparagraph (i)* of *paragraph (c)* of *subsection (6)*, it may prepare, and submit to the Minister, a statement in relation to the relevant project concerned specifying -

(a) the considerations that caused the competent authority to make the determination under *subsection (10)* of *section 189*;

(b) the imperative reasons of overriding public interest that, in the opinion of the competent authority, exist for the carrying out of the project,

(c) the reasons for which the competent authority is of the opinion that there are no alternative solutions to the carrying out of the project,

(d) the proposed compensatory measures that the competent authority believes are necessary to ensure that the overall coherence of the Natura 2000 network is protected,

(e) whether or not, in the opinion of the competent authority, the imperative reasons of overriding public interest are class A imperative reasons of overriding public interest, and

(f) such other information (if any) as the competent authority considers to be of relevance.

(8) Subject to *subsection (20),* where the Minister is satisfied that, in relation to a relevant project to which a statement under *subsection (7)* applies –

(a) the relevant conditions exist,

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 *paragraph (a)* of *subsection (18),* grant consent to the relevant project.

(9) Subject to *subsection (20),* where, in relation to a relevant project to which a statement under *subsection (7)* received by him or her applies, the Minister –

(a) is not satisfied that class A imperative reasons of overriding public interest exist for the carrying out of the relevant project, or

(b) is satisfied that class A imperative reasons of overriding public interest exist but is not satisfied that the relevant conditions exist,

he or she shall forthwith issue a notice to that effect to the competent authority and the competent authority shall, subject to *subsection (20),* not grant consent for the relevant project.

(10) The Minister may, at his or her discretion, request an opinion referred to in paragraph (4) of article 6 of the Habitats Directive from the European Commission where -

(a) the statement under *subsection (7)* specifies reasons not to be class A imperative reasons of overriding public interest, or

(b) the statement under *subsection (7)* specifies reasons to be class A imperative reasons of overriding public interest but the Minister considers those reasons not to be class A reasons of overriding public interest.

(11) Subject to *subsection (20),* where, in relation to a relevant project –

(a) the Minister is satisfied that the relevant conditions exist,

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 *paragraph (a)* of *subsection (18),* grant consent to the relevant project.

(12) Subject to *subsection (20),* where, in relation to a relevant project –

(a) class B imperative reasons of overriding public interest exist for the carrying out of the project but the Minister is not satisfied that the relevant conditions exist,

he or she shall forthwith issue a notice to that effect to the competent authority and the competent authority shall not grant consent for the relevant project.

(13) A statement submitted to the Minister under *subsection (7)* shall be accompanied by a copy of the application for consent for the relevant project and the Natura impact statement in respect thereof.

(14) The competent authority shall -

(a) publish the statement submitted to the Minister under *subsection (7)* on its internet website, and

(b) inform, by notice in writing, the developer in relation to the relevant project and any person who made submissions pursuant to an invitation under this section or *section 188* of the publication of that statement in accordance with this subsection.

(15) The Minister shall, as soon as may be after having received a statement under *subsection (7),* perform the functions conferred on him or her by *subsection (8), (9), (10), (11) or (12).*

(16) The Minister may, for the purposes of performing his or her functions under *subsection (8, (9), (11) or (12)* -

(a) consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister,

(b) consider any views of any Minister of the Government so consulted that are received by the Minister within such time as has been specified by the Minister,

(c) consult with the competent authority, who may, with the consent of the– developer concerned, submit -

(i) a proposed revised or modified project, or

(ii) a proposed revised or modified compensatory measures.

(17) Upon receipt of a notice under *subsection (8)* or *(9)*, the competent authority shall -

(a) publish the notice on its internet website,

(b) publish the notice in a newspaper circulating in the area in which the project is proposed to be located or in a national newspaper, as appropriate,

(c) notify, in writing –

(i) the developer in relation to the relevant project,

(ii) any person who made submissions pursuant to an invitation under this section or *section 188* in relation to the relevant project, and

(iii) any person who appealed a decision in relation to the application for consent for the relevant project,

of the contents of that notice.

(18) (a) Subject to *subsection (20)*, the competent authority shall not grant consent for a relevant project unless it –

(i) is satisfied that all compensatory measures necessary to ensure the overall coherence of the Natura 2000 network will be carried out, and

(ii) attaches as a condition to the grant of consent any compensatory measure that is to be carried out.

(b) The developer shall ensure that all compensatory measures that have to be carried out in relation to the relevant project in relation to which the competent authority has granted consent will be carried out.

(c) The competent authority may attach a condition to a grant of consent for a relevant project requiring the developer to make one, or more than one, financial contribution for the purpose of any compensatory measures that the competent authority or Minister or both may have to carry out.

(19) The competent authority shall inform the European Commission of the compensatory measures to ensure the overall coherence of the Natura 2000 network adopted in consequence of the grant of consent in respect of a relevant project.

Chapter 3

Environmental Impact Assessment

Purpose

192. This Chapter gives effect to the Environmental Impact Assessment Directive.

Interpretation

193. (1) 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.

(2) This Chapter shall be construed in accordance with the Environmental Impact Assessment Directive.

Obligation to carry out environmental impact assessment

194. (1) The competent authority shall carry out an environmental impact assessment in respect of -

(a) a project of a prescribed class, or

(b) a project, of a prescribed class, in respect of which –

(i) such threshold as is prescribed in respect of that class is reached or exceeded, or

(ii) the competent authority makes a determination under *section 198* that the project is likely to have significant effects on the environment,

before it determines an application for consent in respect of that project.

(2) The Minister shall, for the purpose of giving effect to the Environmental Impact Assessment Directive, make regulations—

(a) identifying development which may have significant effects on the environment, and

(b) specifying the manner in which the likelihood that such development would have significant effects on the environment is to be determined.

(3) Without prejudice to the generality of *subsection (2)*, regulations under that subsection may provide for all or any one or more of the following matters:

(a) the establishment of thresholds or criteria for the purpose of determining which classes of development are likely to have significant effects on the environment;

(b) the establishment of different such thresholds or criteria in respect of different classes of areas;

(c) the determination on a case-by-case basis, in conjunction with the use of thresholds or criteria, of the developments which are likely to have significant effects on the environment;

(d) where thresholds or criteria are not established, the determination on a case-by-case basis of the developments which are likely to have significant effects on the environment;

(e) the carrying out of a screening for environmental impact assessment (within the meaning of *section 198*);

(f) the identification of selection criteria in relation to—

(i) the establishment of thresholds or criteria for the purpose of determining which classes of development are likely to have significant effects on the environment, or

(ii) the determination on a case-by-case basis of the developments which are likely to have significant effects on the environment.

Content and purpose of environmental impact assessment

195. (1) An environmental impact assessment shall consist of -

(a) the preparation, and submission to the competent authority, of an environmental impact assessment report by the developer in accordance with *section 200*;

(b) compliance with *sections 201*, *202*, *203*, *204*, *205* and *206*;

(c) the examination and consideration by the competent authority of –

(i) the information in the environmental impact assessment report,

(ii) any supplementary information provided by the developer in accordance with *subsection (2)* of *section 200*, and

(iii) any other information obtained by the competent authority in the course, or as a result, of its complying with *sections 201*, *202*, *203*, *204*, *205* and *206*;

(d) the reasoned conclusion under *subsection (1)* of *section 207*, and

(e) the integration of the competent authority's reasoned conclusion into its decision.

(2) An environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case, the direct and indirect significant effects of a project on the following factors:

(a) population and human health;

(b) biodiversity, with particular attention given to species and habitats protected under the Habitats Directive and the Bird Directive;

(c) land, soil, water, air and climate;

(d) material assets, cultural heritage and the landscape;

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

(4) The effects referred to in *subsection (2)* on the factors set out therein shall include the expected effects deriving from the vulnerability of the project concerned to risk of a major accidents or disasters that are relevant to the project concerned.

Prohibition on carrying out of project

196. (1) A person shall not carry out a project of a class prescribed for the purposes of *paragraph (a)* of *section 194* unless the project has first been the subject of an environmental impact assessment in accordance with the requirements of this Chapter and consent for the carrying out of the project has been granted in accordance with this Act.

(2) A person shall not carry out a project of a class prescribed for the purposes of *paragraph (b)* of *section 194* that reaches or exceeds the thresholds prescribed under that paragraph in respect of that class unless the project has first been the subject of an environmental impact assessment in accordance with the requirements of this Chapter and consent for the carrying out of the project has been granted in accordance with this Act.

(3) A person shall not carry out a project of a class prescribed for the purposes of *paragraph (b)* of *section 194* in respect of which the competent authority has made a determination under *section 198* that the project is likely to have significant effects on the environment, unless the project has first been the subject of an environmental impact assessment in accordance with the requirements of this Chapter

and consent for the carrying out of the project has been granted in accordance with this Act.

(4) Where an environmental impact assessment has been carried out in respect of a project, a person shall not carry out that project otherwise than under and in accordance with any conditions imposed for the purposes of this Chapter.

Exemption from requirement for assessment

197. (1) A developer may, before making an application for consent for a project, request the Commission to grant an exemption in respect of the project from the requirements of the EIA Directive and *sections 194* and *200* and the Commission may, subject to this section, grant such exemption.

(2) Before determining an application under *subsection (1)*, the Commission shall -

(a) invite the planning authority in whose functional area the developer proposes to carry out the project to make (within such period as the Commission may specify) observations to the Commission in relation to the request,

(b) consider whether any other state party to the Transboundary Convention should be informed about the project and, if the Commission considers that it should, invite such state party to make (within such period as the Commission may specify) observations to the Commission in relation to the request, and

(c) consider any such submissions made and any submissions made by the developer in his or her application.

(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 requirement to comply with the EIA Directive and *section 194* in relation to the proposed project would adversely affect the purpose of the project, and

(c) the objectives of the Environmental Impact Assessment Directive will be achieved by other means, in particular by the carrying out of any other form of assessment provided for by law of the effects of the project.

(3A) Without prejudice to subsection (3), no exemption may be granted under this section in respect of the project if any other state party to the Transboundary Convention, having been informed about the proposed development and its likely significant effects on the environment in that state has indicated that it intends to furnish views on those effects.

(4) Where the Commission grants an exemption under this section, it shall, as soon as may be thereafter and before granting consent under this Act for the project concerned -

(aa) consider whether the effects, if any, of the proposed development on the environment should be assessed in some other form,

(a) publish a notice of the grant, the information obtained under other forms of assessment referred to in paragraph (aa), and the reasons for the grant –

(i) on its internet website, and

(ii) in a national newspaper,

(b) ensure that a notice of the grant and the reasons therefor are accessible through the environmental assessment portal,

(c) give notice in writing of the grant, the information obtained under other forms of assessment referred to in paragraph (aa), and the reasons for the grant to –

(i) any planning authority in whose functional area the project is proposed to be located,

(ii) any state party to the Transboundary Convention which the Commission invited to make observations in accordance with *subsection (2)*, and

(iii) the European Commission.

(6) An application for consent for a project shall not be submitted to a competent authority where an application under this section is pending before the Commission, and any application made in contravention of this requirement shall be deemed invalid.

(7) Where the Minister -

(a) is satisfied that the carrying out of a project or part of a project 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 EIA Directive and this Part to the project or the said part of a project would adversely affect that purpose,

he or she may, by order, declare that the EIA Directive and this Part shall not apply to the project or the said part of a project.

(8) This Chapter shall not apply to a project or part of a project –

(a) in respect of which an exemption has been granted under this section, or

(a) declared by order under *subsection (7)* not to apply to that project or part.

Screening for environmental impact assessment

198.(1) A developer may, before making an application for consent for a project, request the competent authority to make a determination (in this Chapter referred to as a "screening determination") as to whether or not the carrying out of an environmental impact assessment of the project is required under this Chapter, and the competent authority shall, in accordance with this section, make such a determination.

(2) Where a developer applies for consent for a project without submitting an environmental impact assessment report with the application and the competent authority is not satisfied that an environmental impact assessment of the project is not required in accordance with *section 194*, it shall make a determination (in this Chapter also referred to as a "screening determination") as to whether or not an environmental impact assessment is required.

(3) Where a developer makes a request under *subsection (1)* or a competent authority is required to make a screening determination in accordance with *subsection (2)*, the developer shall, having regard to criteria prescribed under *paragraph (b)* of *subsection (2)* of *section 194*, submit (in the case of a request under *subsection (1)*, with the request) to the competent authority a document containing the following information:

(a) the name of the developer and address of the developer,

(b) the name and address of the owner of the land on which the project is proposed to be carried out , if the owner is not the developer,

(c) the name of the occupier of the land on which the project is proposed to be carried, if the occupier is neither the owner nor the developer,

(d) a map identifying the proposed location of the project,

(e) a description of the project, including in particular -

(i) a description of the physical characteristics of the project and, where applicable, of demolition works, and

(ii) a description of the location of the project, with particular regard to the environmental sensitivity of geographical areas likely to be affected;

(f) a description of the aspects of the environment likely to be significantly affected by the project;

(g) a description of any likely significant effects, to the extent of the information available on such effects, of the project 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;

(h) a description of any features of the project, or measures proposed in relation to the project, aimed at avoiding or preventing significant adverse effects on the environment; and

(e) the result of any other assessment of the effects of the project 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) Where -

(a) a request is made under *subsection (1)* but is not accompanied by the document referred to in *subsection (3)*, or

(b) a competent authority is required to make a screening determination in accordance with *subsection (2)*,

the competent authority shall, by notice in writing to the developer, require the submission by the developer of the document referred to in *subsection (3)* to the competent authority, and the developer shall submit that document to the competent authority within *TBC* days from the date of the notice or such longer period as may be specified in the notice.

(4A) For the purpose of the performance of its functions under *subsection (1)* or *(2)* the competent authority may, by notice in writing, require the developer, or any other person that the competent authority considers appropriate, to provide it with such additional information in relation to the project concerned within such period as is specified in the notice.

(4B) For the purpose of the performance of its functions under *subsection (1)* or *(2)* the competent authority may consult with any public authority that it considers appropriate and where it decides to so consult, it shall notify the public authority concerned in writing of the date by which any submissions, responses or communications from the public authority forming part of the consultation shall be made.

(4C) Where the competent authority is required to make a screening determination and the developer is not the owner or occupier of the land on which the project is proposed to be located, the competent authority shall, by notice in writing, invite -

(a) the owner (if any), and

(b) the owner is not the occupier of that land, the occupier (if any) of that land,

to make a submission to the competent authority in relation to the project within such period as is specified in the notice.

(4D) The invitation under *subsection (4C)* shall state that the owner or occupier may provide a description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the development.

(5) The competent authority shall, following a consideration by it of –

(a) the information submitted by the developer in accordance with *subsection (3)*,

(b) any additional information provided pursuant to a requirement under *subsection (4A)*,

(c) any submission, response or communication of a public authority in the course of a consultation under *subsection (4B)*, and

(d) any submissions received by it pursuant to a notice under *subsection (4C)*,

make a screening determination in relation to the project concerned before the expiration of the period of 90 days, or such longer period as the competent authority may specify under *subsection (8)*, from the date on which the developer submits in full the information required to be submitted under *subsection (3)* to the competent authority.

(6) Where the competent authority is required to make a screening determination pursuant to *subsection (1)* or *(2)*, but the developer does not submit in full the information required to be submitted under *subsection (3)* to the competent authority -

(a) all periods within which any act or function may or shall be done or performed relating to the determination of the application for consent in question shall be suspended until such date as the developer has submitted in full the information referred to in *subsection (3)*,

(b) the competent authority shall without delay serve notice on the developer requiring the developer to submit that information,

(c) the application shall not be treated as complete until that information has been submitted in full, and

(d) if the developer does not provide that information to the competent authority within period of TBD from date, or within such further period as the competent authority may subsequently specify, the application for consent concerned shall be deemed to have been withdrawn.

(8) If the competent authority considers that exceptional circumstances (which may include those relating to the nature, complexity, location or size of the project) exist that prevent it from making a determination under this section within the period of 90 days specified in *subsection (5)*, the competent authority may specify a period longer than 90 days

for the purposes of that subsection, and where it so does, it shall, by notice in writing, inform –

(a) the developer,

(b) any public authority that made a submission, response or communication under *subsection (4B)* in relation to the project, and

(c) any person who made a submissions pursuant to a notice under *subsection (4C)*,

of the reasons therefor and of the date when it expects to make its determination.

(9) Where the competent authority determines under this section that, in relation to a project, an environmental impact assessment is not required it shall state –

(a) the main reasons for its so determining with reference to the criteria prescribed under *paragraph (b)* of *subsection (2)* of *section 194*, and

(b) any features of the project, or measures proposed in relation to the project, aimed at avoiding or preventing significant adverse effects on the environment,

and where, by reason of any proposed measures referred to in *paragraph (b)*, the competent authority so determines, it shall make it a condition of any subsequent grant of consent for the project that those measures be implemented.

(9A) Where the competent authority determines under this section that, in relation to a project, an environmental impact assessment is required it shall include, or refer to, the main reasons for its so determining with reference to the criteria prescribed under *paragraph (b)* of *subsection (2)* of *section 194* in the decision in relation to the application for consent for the project.

(10) The competent authority shall -

(a) give notice in writing of any determination under *subsection (9)* to –

(i) the developer,

(ii) any public authority that made a submission, response or communication under *subsection (4B)* in relation to the project, and

(iii) any person who made a submissions pursuant to a notice under *subsection (4C)*,

(b) publish notice of any determination under *subsection (9)* -

(i) on its internet website, and

(ii) in a newspaper circulating in the area in which the project is proposed to be located, or in a national newspaper, as appropriate,

(c) ensure that notice of its determination is accessible through the environmental assessment portal.

(11) A notice under *subsection (10)* shall include a statement that the determination may be referred to the Commission for review by –

(a) the developer,

(b) any public authority that made a submission, response or communication under *subsection (4B)* in relation to the project, and

(c) any person who made a submissions pursuant to a notice under *subsection (4C)*.

(12) A competent authority shall –

(a) publish on its internet website,

(b) make available for inspection by members of the public at its offices during normal office hours, and

(c) ensure the accessibility on the environmental assessment portal of

all documents relating to any screening determination made by the competent authority, when so publishing or making available a copy of the application for consent for the project concerned.

(13) Subject to *subsection (14)* where a competent authority has made a screening determination pursuant to a request under *subsection (1)*, it shall not make a further screening determination pursuant to *subsection (2)*.

(14) If, subsequent to the making of a screening determination by a competent authority that an environmental impact assessment is not required in relation to a project, that

competent authority forms the opinion that an environmental impact assessment under *section 194* is required in relation to that project, the competent authority may make a determination (in this Chapter also referred to as a "screening determination") that an environmental impact assessment is required, and in such circumstances, the developer shall submit an environmental impact assessment report in relation to the project to the competent authority.

(15) Where a competent authority has made a screening determination that an environmental impact assessment of a project is not required that screening determination shall be included in the decision in relation to the application for consent for the project concerned.

(16) (a) Where the competent authority carrying out a screening under this section is also the developer, there must be clear functional separation.

(b) The Minister may make regulations—

(i) prescribing the procedures that will apply where a competent authority carrying out screening of a project is also the developer, and

(ii) designating competent authorities within the meaning of this Part that will carry out screening of a project where the competent authority would otherwise be the developer.

Scoping opinion

199. (1) Where a developer proposes to apply for consent for a project in respect of which an environmental impact assessment is required to be carried out in accordance with *section 194*, he or she may request the competent authority to give an 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 that environmental impact assessment report.

(1A) A competent authority shall, upon receiving a request under *subsection (1)*, give a scoping opinion to the developer who made the request.

(2) In considering the application for a scoping opinion, the competent authority -

(aa) shall consult with the developer who made the request and such bodies as may be specified by the Minister for the purpose,

(a) shall take into account the information provided by the developer, in particular on the specific characteristics of the project, including its location and technical capacity, and its likely impact on the environment,

(b) may take into consideration any information or documentation considered by it or the Commission for the purposes of a screening determination.

(2A) The developer who made the request shall give the Commission such information in relation to the project as the Commission may reasonably require for the purpose of enabling it to comply with *subsection (1A).*

(3) The competent authority shall give the scoping opinion to the developer who made the request under *subsection (1)* as soon as is practicable.

(4) The failure of the competent authority to comply with *subsection (3)* shall not affect the entitlement of the developer who made the request under *subsection (1)* to apply for consent for the project concerned.

(6) The giving of a scoping opinion shall not operate to restrict the competent authority in, or prevent it from requesting the developer of the project concerned or any other person to provide the competent authority with such information as the competent authority is entitled to require under any other provision of this Act for the purposes of the performance of its functions in relation to that application.

(6A) The giving of a scoping opinion shall not prejudice the performance by the Commission of any other of its functions under this Act or regulations under this Act and cannot be relied upon in the formal planning process or in legal proceedings.

(7) The competent authority shall –

(a) attach a request under *subsection (1)* and any scoping opinion given pursuant to that request to the application for consent for the development concerned, and

(b) make that request and opinion available for inspection free of charge by members of the public at its offices during normal office hours.

Submission of environmental impact assessment report

200. (1) (a) A developer may, when making an application for consent for a project, request the competent authority to carry out an environmental impact assessment of the project, and accordingly the developer shall include an environmental impact assessment report in respect of the project with any such request.

(b) Where a competent authority makes a screening determination that a project requires an environmental impact assessment in accordance with *section 194*, the developer concerned shall include an environmental impact assessment report in respect of the project with any application for consent for the project.

(1A) Where a developer fails to include an environmental impact assessment report under *subsection (1)*, then the application shall be declared to be invalid.

(2) For the purpose of ensuring the completeness and quality of an environmental impact assessment report -

(a) the developer concerned shall ensure that the environmental impact assessment report is prepared by persons who are competent and have the requisite expertise,

(b) the developer concerned shall ensure that the information provided in the environmental impact assessment report includes at least the information prescribed under *paragraph (b)* of *section 174*

(ba) shall contain a summary of the information referred to in *paragraph (a)* expressed in language that could reasonably be considered to be easily comprehensible to an ordinary member of the public,

(c) the competent authority shall ensure that it has, or has access as necessary to, the requisite expertise to examine and consider the environmental impact assessment report,

(ca) the competent authority may have regard to and adopt in whole or in part any reports prepared by its officials or by consultants, experts or other advisers,

(d) the competent authority, where it considers it necessary, shall by notice in writing, require the developer to provide it with such additional information, including a revised environmental impact assessment report, in accordance with regulations under *paragraph (b)* of *section 174*, as the competent authority considers to be of relevance for the purpose of its coming to a reasoned conclusion on the effects of the project on the environment, and

(e) the developer to whom a notice is given under *paragraph (d)* shall comply with the requirement in the notice within such period as is specified in the notice.

(2A) Where the developer does not provide information requested under *paragraph (d)* of *subsection (2)* within –

(a) such period as the competent authority shall specify in paragraph (e) of that subsection, or

(b) such further period (commencing on the expiration of the first-mentioned period) as may be so specified,

the application for consent for the project shall be deemed to have been withdrawn.

(3) The competent authority shall, where it has reason to believe that any public authority has information relevant to any of the matters referred to in *subsection (2)* of *section 195* request that authority to confirm whether it is in possession of that information or not and, where it is in possession of that information to make such information available to the developer, and a public authority shall comply with a request made of it under this subsection.

Consultation with public authorities

201. (1) When the developer has submitted all the information required in accordance with *section 200*, the competent authority shall notify the public authorities that it considers are likely to be concerned by the project by reason of their specific environmental responsibilities or local and regional competences of the receipt of the environmental impact

assessment report, and shall give them an opportunity to make submissions in relation to the project concerned.

(2) Without prejudice to the generality of *subsection (1)*, the Minister shall by regulation designate the public authorities to be consulted, generally or in respect of any particular class of project prescribed by the Minister in regulations as requiring a mandatory environmental impact assessment or where the Minister in regulations has set thresholds specific to any particular class of project and shall prescribe procedures for consultation with those authorities.

Public notice

202. (1) Where an environmental impact assessment is required in respect of an application for consent for a project in accordance with *section 194*, the developer shall publish a notice stating -

(a) that he or she has applied or intends to apply for consent for the project,

(b) that an environmental impact assessment report will be submitted to the competent authority and, if a screening determination was made in respect of the project, that such screening determination was made,

(c) the name and address of the principal office of the competent authority,

(d) the nature of the decisions that the competent authority is permitted to make in relation to the assessment,

(e) that the environmental impact assessment report and other documentation submitted by the developer to the competent authority in connection with the application will be available for inspection at the offices of the competent authority during normal office hours,

(f) that the environmental impact assessment report and other documentation submitted by the developer will be published on the internet website of the competent authority and will be accessible on the environmental assessment portal, and

(g) that any person may make a submission within such period as is specified in the notice or, where an environmental impact assessment report or any additional information is submitted by the developer to the competent authority, within such period as is specified in the notice from the date of its being so submitted.

(2) Where the environmental impact assessment report is submitted with the application for consent for the project concerned, the information referred to in *subsection (1)* shall be included in any public notice of the application that is required to be published under *Part 4*.

Environmental assessment portal

203. (1) The Minister shall provide, operate and maintain a website—

(*a*) to which the public has access,

(*b*) which contains summary information on applications and notifications of the intention to lodge applications for development consent subject to assessment under the Environmental Impact Assessment Directive or this Act, or both that Directive and this Act, as appropriate, and

(*c*) for the purpose of providing a point of access to the applications referred to in *paragraph (b)* and associated information, assessments and decisions held by the authorities to which the applications have been or are to be made.

(2) An applicant who intends to apply for consent for a project in respect of which an environmental impact assessment is required shall, not later than 2 weeks before -

(a) the making of the application, or

(b) the submission of the environmental impact assessment report consequent upon a screening determination under section 198 requiring the carrying out of an environmental impact assessment in relation to the project concerned,

provide the prescribed information in such form so that it can be made accessible on the environmental assessment portal in the manner set out on the portal.

(3) Where any enactment provides that a person other than the applicant for consent shall provide information so that it is accessible on the environmental assessment portal, that person shall, not later than the lodging of the application for the consent to which that enactment relates, provide the prescribed information in electronic form so that it can be made accessible on the environmental assessment portal in the manner set out on the portal.

Obligation to make information available

204. (1) Where an environmental impact assessment of a project is required, the competent authority shall, not later than 3 days from the submission of an environmental impact assessment report to the competent authority in relation to the project -

(a) publish the relevant information on its internet website

(b) ensure that the relevant information is accessible through the environmental assessment portal, and

(c) make the relevant information available for inspection free of charge by members of the public at its office during normal office hours.

(2) In this section "relevant information" means, in relation to a project -

(a) any screening determination and any –

(i) information submitted by the developer in accordance with *subsection (3)* of *section 198*,

(ii) any additional information provided pursuant to a requirement under *subsection (4A)* of that section,

(iii) any submission, response or communication of a public authority in the course of a consultation under *subsection (4B)* of that section, or

(iv) any submissions received by it pursuant to a notice under *subsection (4C)* of that section,

(b) the application for consent and all documentation submitted by the applicant to the competent authority in connection with the application,

(c) the environmental impact assessment report and all documentation submitted to the competent authority in connection with the report,

(d) any reports or submissions made to the competent authority by any other public authority in relation to the application, and

(e) any other information that the competent authority considers to be of relevance in connection with the application or environmental impact assessment report.

Right to make submissions

205. (1) Where an environmental impact assessment of a project is required, any person may make a submission in relation to the project within the period of TBD from the submission of the application for consent, or, where an environmental impact assessment report or any additional information relating to the environmental impact assessment is submitted after the date of the application for consent, within the period of TBD from the submission of that report or additional information.

(2) Where, in accordance with *section TBD*, the competent authority holds an oral hearing in relation to a project, any person attending the oral hearing may make a submission to the hearing in relation to the project.

(3) The competent authority shall, for the purpose of carrying out an environmental impact assessment, take account of any submission made in accordance with this section.

Transboundary impacts

206. (1) In this section "State" means a Member State of European Union or a state which is party to the Transboundary Convention.

(2) Where the competent authority considers that a project is likely to have significant effects on the environment in another State, or where another State so requests, the competent authority shall send to that State, forthwith and no later than when making a screening determination for the purposes of *section 198* -

(a) a description of the project and any available information on its potential effect on the environment of that other State, and

(b) information on the nature of the decisions or determinations that may be taken under this Act in relation to the project,

and may include therewith the relevant information within the meaning of *section 204*.

(3) The competent authority shall give a State a reasonable time in which to indicate whether it wishes to participate in the environmental impact assessment.

(4) If another State, having received information in accordance with *subsection (2)*, informs the competent authority that it wishes to participate in the environmental impact assessment, the competent authority shall, where it has not already done so, send the relevant information within the meaning of *section 204* to that other State and shall allow that other State a reasonable period of time within which to make submissions, which period shall apply to any submission made by that State, in place of any time period provided for the making of submissions under *Part 4*.

(5) Where the Minister, or any other Minister of the Government, is informed by another State or by the competent authority in another State of a project that is likely to have significant effects on the environment in the State, he or she shall give a copy of that notification to any competent authority he or she considers may be relevant, and that competent authority may participate in the environmental impact assessment carried out in that other State in relation to the project, and shall inform the first-mentioned competent authority as to whether or not it wishes to so participate.

(6) Where the competent authority determines for the purposes of *subsection (5)* that it wishes to participate in an environmental impact assessment in another state, it shall -

(a) request the competent authority in that other State to provide it with the information received by the competent authority in that other state in

accordance with the Environmental Impact Assessment Directive or its equivalent in connection with the project concerned,

(b) comply with *sections 203* and *204* as if it were the developer of the project for the purposes of those sections and the project were to be carried out in the State,

(c) in relation to that comply with *section 204* as if the information were relevant information within the meaning of that section, and

(d) comply with *section 201* in relation to the project as if the project were to be carried out in the State.

(7) (a) In circumstances to which *subsection (6)* applies, any person may make a submission in relation to the project concerned within the period of TBD from _____.

(b) The competent authority shall take account of any submission received in accordance with *paragraph (a)* when consulting with a competent authority of another state

in accordance with this section.

(8) In circumstances to which *subsection (4)* applies, the competent authority shall –

(a) consult with the competent authority in the other state concerned in relation to the project, including in relation to the potential transboundary effects of the project and the measures envisaged to reduce or eliminate such effects, and

(b) agree a reasonable period of time for the conduct of the consultation,

and the competent authority may jointly, with a person or persons who in that other Member State perform functions the same as or similar to those performable under this Part by the competent authority in the State, establish or participate in a body or bodies for the purpose of facilitating such consultations.

(9) In entering into arrangements (which may include the setting of periods of time for the conduct of consultations) for the purposes of this section, the competent authority shall comply with paragraphs (5) and (7) of article 6 of the Environmental Impact

Assessment Directive, and shall ensure that adequate time is given to the public concerned in the State to participate effectively in the environmental impact assessment process under this Part and paragraph (2) of article 2 of the Environmental Impact Assessment Directive.

Reasoned conclusion

207. (1) The competent authority shall, in relation to a project in respect of which an environmental impact assessment is required -

(a) examine the environmental impact assessment report and any other information submitted to it by the developer concerned in accordance with this Chapter,

(b) examine any relevant information received by the competent authority during the course of its compliance with *sections 201*, *202*, *203*, *204*, *205* and *206*, and

(c) reach a reasoned conclusion on the significant effects (if any) of the project on the environment, taking into account the results of the examination referred to in *subsection (1)* and, where appropriate, its own supplementary examination.

(1A) For the purpose of *paragraph (c)* of *subsection (1)*, the competent authority may have regard to and adopt in whole or in part any reports prepared by its officials or by consultants, experts or other advisers.

(1B) The reasoned conclusion under *subsection (1)* shall be integrated into any decision granting consent for the project concerned.

(2) Where the competent authority decides to grant consent for a project that has been the subject of an environmental impact assessment, it may, in addition to any other condition that may be attached to a consent in accordance with this Act or any other enactment, attach to the consent the following conditions:

(a) a condition that any features of the project aimed at avoiding, preventing, reducing and offsetting any likely environmental effects of the project be implemented;

(b) conditions that are necessary to avoid, prevent, reduce, or offset any likely environmental effects of the project;

(c) a condition that any measures necessary to monitor any significant adverse effects on the environment of the project are adopted.

(3) The competent authority shall, in relation to a condition to which *paragraph (c)* of *subsection (2)* applies, ensure that the extent and duration of the monitoring shall be proportionate to the nature, location and size of the project and the significance of the project's effects on the environment.

(5) The competent authority shall, in carrying out the environmental impact assessment, ensure that it is satisfied that its reasoned conclusion referred to in *subsection (2)* is still up to date when taking a decision whether or not to grant consent and, where it is not so satisfied, shall seek such further information as it may consider appropriate in accordance with *section 200* and shall give relevant public authorities and the public an opportunity to make submissions in relation to such further information in accordance with *sections 201*, *202*, *203*, *204*, *205* and *206* subject to such modifications and time limits as may be specified by the competent authority.

Notification of decision

208. (1) Subject to *subsection (2),* the competent authority shall give notice in writing of a reasoned conclusion under *section 207* to -

(a) the developer,

(b) every person and public authority who made a submission in relation to the environmental impact assessment,

(c) any local authority in whose functional area the project would be located, where that local authority is not the competent authority, and

(d) any State that made a submission to it in relation to the environmental impact assessment,

and shall include in that notice the reasons and conditions required under that section.

(2) Notice (howsoever described) of the grant or refusal of consent required under any enactment shall –

(a) include any reasoned conclusion in relation to the project to which the grant or refusal relates,

(aa) include any report referred to in *sections 200(1)(ca)* and *207(1A)*,

(ab) include, where appropriate, the comments received from an affected party to the Transboundary Convention, and

(b) without prejudice to that enactment, be given to the persons referred to in *subsection (1)*,

and where such notice is given, the giving of a notice in accordance with *subsection (1)* shall not be required.

(3) (a) The competent authority shall, not later than 3 days from coming to a reasoned conclusion -

(i) publish a notice of that reasoned conclusion on its internet website,

(ii) ensure that the reasoned conclusion is accessible through the environmental assessment portal,

(iii) publish a notice of that reasoned conclusion in a national newspaper, and

(iv) publish a notice of that reasoned conclusion in a newspaper (other than a national newspaper) circulating in the area in which the project is proposed to be located, if appropriate.

(b) The notice referred to in *paragraph (a)* shall state -

(i) that the competent authority has carried out an environmental impact assessment in respect of the project,

(ii) the internet website from which a copy of that decision may be obtained, and

(iii) that that decision may be inspected free of charge at the offices of the competent authority during normal office hours.

Chapter 4

Application for Retrospective Consent

Interpretation

209. (1) In this Chapter—

"exceptional circumstances" shall be construed in accordance with *section 213*;

"retrospective consent" bears the same meaning as in *Part 4*.

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

Deemed screening in of appropriate assessment and environmental impact assessment in certain cases

210. (1) Where the Commission receives an application which is accompanied by a Natura impact statement containing the information identified in *section 211*, and the application is not, under this Act or any regulations made under it, invalid or withdrawn, for the purposes of *section 186* the Commission shall be deemed to be satisfied that an appropriate assessment is required and was required and the Commission shall consider the application.

(2) Where the Commission receives an application which is accompanied by an environmental impact assessment report containing the information identified in *section 212*, and the application is not, under this Act or any regulations made under it, invalid or withdrawn, for the purposes of *section 198* the Commission shall be deemed to be satisfied that an environmental impact assessment is required and was required and the Commission shall consider the application.

Natura impact statement – application for retrospective consent

211. (1) A Natura impact statement provided to a competent authority with, or for the purposes of, an application for retrospective consent shall, in addition to the material specified in *section 187*, contain the following:

(a) identification of all significant effects on each European site that have already occurred, are occurring or can reasonably be expected to occur by reason of the project's having already been carried out in whole or in part, whether such effects result from the project itself or from the project in combination with any other plan or project,

(b) an examination of all information and data relating to any European site relating to significant effects identified in accordance with paragraph (a), having regard to the conservation objectives relating to that European site, and

(c) a statement of the implications of any such significant effects identified in accordance with paragraph (a) having regard to the conservation objectives relating to the European site or European sites concerned, and

(d) details of -

(i) any measures taken by, or on behalf of, the developer for the purpose of remedying or mitigating any significant effects on each European site referred to in paragraph (a), and

(ii) any measures proposed to be taken by, or on behalf of, the developer for the purpose of remedying or mitigating any significant effects on any European site referred to in paragraph (a) and the period within which it is proposed that such measures would be taken.

(2) Where the applicant submitted an environmental impact assessment report with the information specified in 212, but did not submit a Natura impact statement with the information specified in *subsection (1)*, and the Commission determines that a Natura impact statement containing that information was required or is required, the Commission shall require the applicant to submit such a report within a specified period.

Environmental impact assessment report in relation to application for retrospective consent

212. (1) An environmental impact assessment report provided to a competent authority with, or for the purposes of, an application for retrospective consent shall, in addition to the material specified in *section 199*, contain the following:

(a) a statement of the significant effects, if any, on the environment, which have occurred or which are occurring or which can reasonably be expected to occur because the development the subject of the application for substitute consent was carried out;

(b) details of—

(i) any appropriate remedial measures undertaken or proposed to be undertaken by the applicant for substitute consent to remedy any significant adverse effects on the environment;

(ii) the period of time within which any proposed remedial measures shall be carried out by or on behalf of the applicant;

(c) such information as may be prescribed under *section 174*.

(2) Where the applicant submitted a Natura impact statement with the information specified in *section 211*, but did not submit an environmental impact assessment report with the information specified in *subsection (1)*, and the Commission determines that an environmental impact assessment containing that information was required or is required, the Commission shall require the applicant to submit such a report within a specified period.

Exceptional circumstances

213. (1) In considering whether exceptional circumstances exist under *section 126(1)* the Commission shall have regard to the following matters:

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

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

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

(d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development;

(e) the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated;

(f) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development;

(g) such other matters as the Commission considers relevant.

Chapter 5

Coordinated Environmental Assessment

Joint environmental assessment of projects

214. (1) Where, in relation to a project –

(a) an appropriate assessment within the meaning of *Chapter 2* is required under that Chapter, and

(b) an environmental impact assessment within the meaning of *Chapter 3* is required in accordance with that Chapter,

the competent authority may, with a view to avoiding duplication of assessment, carry out both assessments jointly to the extent that such a joint assessment is compatible with the provisions of this Part.

(2) The Minister may make regulations prescribing the procedure for the carrying out of joint assessments under this section.

Environmental impact assessment and integrated pollution prevention and control licences

215. (1) In this section -

"Act of 1992" means the Environmental Protection Agency Act 1992;

"activity" shall have the meaning assigned to it by section 3 of the Act of 1992;

"application for a licence" means, in relation to an integrated pollution prevention and control licence under Part IV of the Act of 1992, an application made to the Environmental Protection Agency—

(*a*) for such a licence under section 83 of the Act of 1992, or

(*b*) by the licensee under section 90(1)(*b*) of the Act of 1992 for a review of such a licence or a revised licence;

"application for consent" means—

(*a*) an application for permission for development under *Part 4*, or

(*c*) an application for retrospective consent under *Part 4*;

(2) Where a planning authority or the Commission is considering an application for consent and is requested by the developer to confirm in writing that the project the subject of the application relates to an activity in respect of which an integrated pollution prevention and control licence under Part IV of the Act of 1992 is required, the planning authority or the Commission shall, as soon as possible, confirm in writing that the project the subject of the application for consent so relates to the activity.

(3) Where a request is made by a developer under *subsection (2)* and the application for consent concerned was not accompanied by an environmental impact assessment report and the planning authority or the Commission did not require the submission of an environmental impact assessment report, the planning authority or the Commission shall, upon request by the developer, also provide written confirmation to the developer that an environmental impact assessment in respect of the project is not required by or under this Act.

(4) Where consent has been granted for a project comprising or for the purposes of an activity in respect of which an integrated pollution prevention and control licence under Part IV of the Act of 1992 is required and the relevant planning authority or the Commission is requested by the Environmental Protection Agency, in connection with an application for a licence, to—

(*a*) state whether the activity to which the application for a licence relates is permitted by the consent that has been granted under this Act, and

(*b*) furnish a copy of all documents relating to the environmental impact assessment carried out in respect of the project, and

(*c*) furnish any observations it has in relation to the application for a licence,

the planning authority or the Commission shall comply with the request within the period specified in the request by the Environmental Protection Agency.

(5) Where a planning authority or the Commission is considering an application for consent in respect of a project—

(*a*) of a class prescribed by regulations under *section 174* that does not exceed a quantity, area or limit prescribed under those regulations,

(*b*) in respect of which the planning authority or the Commission is obliged under this Act to make a determination whether an environmental impact assessment is required, and

(*c*) in respect of which application for consent the planning authority or the Commission consider an integrated pollution prevention and control licence under Part IV of the Act of 1992 is required,

the planning authority or the Commission shall request observations from the Environmental Protection Agency to assist the planning authority or the Commission in its deliberations in relation to the determination referred to in *paragraph* (*b*) and shall take into account any such observations when making that determination.

(6) Where a developer applies for consent for a project under this Act and has made, intends to make or is considering making an application for an integrated pollution prevention and control licence under Part IV of the Act of 1992 in respect of an activity relating to that project, the developer shall so notify the planning authority or the Commission when making the application for consent.

(7) Where a planning authority receives a notification from the Environmental Protection Agency that it has received an application for a licence to which section 87(1I) of the Act of 1992 applies, the planning authority shall—

(*a*) within 4 weeks of the date of receipt of the notification from the Environmental Protection Agency, respond to the Agency, forwarding any observations that it has in relation to the application for a licence including any observations on the environmental impact assessment report, and

(*b*) enter into consultations with the Environmental Protection Agency, as the Agency considers appropriate, in relation to any environmental impacts of the proposed activity to which the application for a licence relates.

Environmental impact assessment and waste licences

216. (1) In this section—

"Act of 1996" means the Waste Management Act 1996;

"activity" shall be construed in accordance with section 4 of the Act of 1996;

"application for a licence" means, in relation to a waste licence under Part V of the Act of 1996, an application made to the Environmental Protection Agency—

(*a*) for such a licence under section 40 of the Act of 1996, or

(*b*) by the holder of the licence, for a review of a waste licence under section 46 of the Act of 1996;

"application for consent" means—

(*a*) an application for permission under *Part 4*, or

(*c*) an application for retrospective consent under *Part 4*.

(2) Where a planning authority or the Commission is considering an application for consent and is requested by the developer to confirm in writing that the project the subject of the application relates to an activity in respect of which a waste licence under Part V of the Act of 1996 is required, the planning authority or the Commission shall, as soon as possible, confirm in writing that the project the subject of the application so relates to the activity.

(3) Where a request is made by a developer under *subsection (2)* and the application for consent concerned was not accompanied by an environmental impact assessment report and the planning authority or the Commission did not require the submission of an environmental impact assessment report, the planning authority or the Commission shall, upon request by the developer, also provide written confirmation to the developer that an environmental impact assessment in respect of the project is not required by or under this Act.

(4) Where consent has been granted for a project comprising or for the purposes of an activity in respect of which a waste licence under Part V of the Act of 1996 is required and the relevant planning authority or the Commission is requested by the Environmental Protection Agency, in connection with an application for a licence, to—

(*a*) state whether the activity to which the application for a licence relates is permitted by the consent that has been granted under this Act, and

(*b*) furnish a copy of all documents relating to the environmental impact assessment carried out in respect of the project, and

(*c*) furnish any observations it has in relation to the application for a licence,

the planning authority or the Commission shall comply with the request within the period specified in the request by the Environmental Protection Agency.

(5) Where a planning authority or the Commission is considering an application for consent in respect of a project—

(*a*) of a class prescribed under *section 174* that does not exceed a quantity, area or limit prescribed under those regulations,

(*b*) in respect of which the planning authority or the Commission is obliged under this Act to make a determination whether an environmental impact assessment is required, and

(*c*) in respect of which application for consent the planning authority or the Commission consider a waste licence under Part V of the Act of 1996 is required,

the planning authority or the Commission shall request observations from the Agency to assist the planning authority or the Commission in its deliberations in relation to the determination referred to in *paragraph (b)* and shall take into account any such observations when making that determination.

(6) Where a developer applies for consent in respect of a project under this Act and has made, intends to make or is considering making an application for a waste licence under Part V of the

Act of 1996 in respect of an activity relating to that project, the person shall so notify the planning authority or the Commission when making the application for consent.

(7) Where a planning authority receives a notification from the Environmental Protection Agency that it has received an application for a licence to which section 42(1I) of the Act of 1996 applies, the planning authority shall—

(*a*) within 4 weeks of the date of receipt of the notification from the Environmental Protection Agency, respond to the Agency, forwarding any observations that it has in relation to the application for a licence including any observations on the environmental impact assessment report, and

(*b*) enter into consultations with the Environmental Protection Agency, as the Agency considers appropriate, in relation to any environmental impacts of the proposed activity to which the application for a licence relates.

Environmental impact assessment relating to waste water discharges

217. (1) Where a planning authority or the Commission is considering an application for permission referred to in subparagraph (a) of paragraph (3A) (inserted by subparagraph (b) of Regulation 16 of the Regulations of 2020) of Regulation 16 of the Regulations of 2007, it shall, upon the request in writing of the person who made the application and not later than 3 working days from the date of the request, provide that person with –

(*a*) the confirmation first-mentioned in the said subparagraph (a), and

(*b*) in circumstances where an environmental impact assessment in relation to the application is not required, the confirmation referred to in clause (ii) of the said subparagraph (a).

(2) Where a planning authority or the Commission grants a permission referred to in subparagraph (b) of paragraph (3A) of Regulation 16 of the Regulations of 2007 but did not require an environmental impact assessment in relation to the application for that permission, it shall, upon the request in writing of the person to whom the permission was granted and not later than 3 working days from the date of the request, provide that person with the confirmation referred to in clause (ii) of the said subparagraph (b).

(3) (*a*) A planning authority shall comply with a request under subparagraph (a) of paragraph (6) (inserted by Regulation 22 of the Regulations of 2020) of Regulation 21 of the Regulations of 2007 within the period second-mentioned in that subparagraph.

(*b*) The Commission shall comply with a request under subparagraph (a) of paragraph (6) of Regulation 21 of the Regulations of 2007 within the period second-mentioned in that subparagraph.

(4) (*a*) A planning authority shall comply with a request under subparagraph (a) of paragraph (7) of Regulation 21 of the Regulations of 2007 within the period second-mentioned in that subparagraph.

(*b*) The Commission shall comply with a request under subparagraph (a) of paragraph (7) of Regulation 21 of the Regulations of 2007 within the period second-mentioned in that subparagraph.

(5) (*a*) A planning authority shall comply with a request under subparagraph (a) of paragraph (8) of Regulation 21 of the Regulations of 2007 within the period specified in that subparagraph.

(*b*) The Commission shall comply with a request under subparagraph (a) of paragraph (8) of Regulation 21 of the Regulations of 2007 within the period specified in that subparagraph.

(6) Where a planning authority or the Commission is considering an application for permission referred to in subparagraph (a) of paragraph (1) (inserted by Regulation 26 of the Regulations of 2020) of Regulation 24A of the Regulations of 2007, it shall, upon the request in writing of the person who made the application and not later than 3 working days from the date of the request, provide that person with –

(*a*) the confirmation first-mentioned in the said subparagraph (a), and

(*b*) in circumstances where an environmental impact assessment in relation to the application is not required, the confirmation second-mentioned in that subparagraph.

(7) Where a planning authority or the Commission grants a permission referred to in subparagraph (b) of paragraph (1) of Regulation 24A of the Regulations of 2007 but did not require an environmental impact assessment in relation to the application for that permission, it shall, upon the request in writing of the person to whom the permission was granted and not later than 3 working days from the date of the request, provide that person with the confirmation referred to in that subparagraph.

(8) Where a planning authority or the Commission is considering an application for permission in respect of a project –

(*a*) belonging to a class prescribed under *paragraph (a)* of *subsection (2)* of *section 194*, and

(*b*) that in its opinion requires an authorisation under the Regulations of 2007,

it shall, for the purpose of making a determination as to whether or not an environmental impact assessment in relation to the application is required, invite the Environmental Protection Agency to make observations within such period as may be specified by the planning authority or the Commission, as may be appropriate, in relation to the application, and the planning authority or the Commission, as may be appropriate, shall take account of any such observations when making that determination.

(9) A person who –

(*a*) makes an application for permission to a planning authority or the Commission, and

(*b*) has made an application, or proposes to make an application, to the Agency for –

(i) a licence or review of a licence, or

(ii) a certificate or review of a certificate,

under the Regulations of 2007 in connection with the application referred to in paragraph (a),

shall, when making the application referred to in *paragraph (a)*, inform the planning authority concerned or the Commission, as may be appropriate, in writing of his or her having so made the application referred to in *paragraph (b)* or his or her proposal to make such an application, as the case may be.

(10) In this section –

"permission" means –

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

(b) retrospective consent under *Part 4*;

"Regulations of 2007" means the Waste Water Discharge (Authorisation) Regulations 2007 (S.I. No. 684 of 2007);

"Regulations of 2020" means the European Union (Waste Water Discharge) Regulations 2020.

PART 7

Housing Supply

Chapter 1

Housing Strategy

Housing Strategy

218. (1) Prior to the preparation of a development plan, a planning authority shall prepare a housing strategy for the purpose of ensuring that the housing delivery strategy makes adequate provision for the housing of the existing and future population in accordance with the proper planning and sustainable development of the area.

(2) A housing strategy under this section may, or pursuant to the direction of the Minister shall, be prepared jointly by 2 or more planning authorities in respect of the combined area of their development plans.

(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 the functional area, taking account of the factors specified in *subsection (6)*,

(b) have regard to the most recent summary of social housing assessments prepared under section 21(a) of the Housing (Miscellaneous Provisions) Act 2009 that relate to the area of the development plan,

(c) consult with an approved housing body (within the meaning of the Housing (Regulation of Approved Housing Bodies) Act 2019) in its functional area, and

(d) have regard to relevant policies or objectives for the time being of the Government or any Minister of the Government that relate to housing and, in particular, social integration in the provision of housing services.

(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 economic and spatial 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 the provision of social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009,

(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 the different categories of households, as may be determined by the planning authority, and including the special requirements of elderly persons and persons with disabilities,

(e) the need to counteract 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) the Housing Need Demand Assessment prepared by the local authority,

(j) any planned or existing development under Part 9 of the Land Development Agency Act 2021,

(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 different areas for the purposes of one or more of paragraphs (a) to (c) within the area of the development plan.

(7) When making an estimate under *subsection (6)(b)*, 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 mortgages for house purchase;

(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 or as may be prescribed for the purposes of this subsection.

(8) When making an estimate under *subsection (6)(c)*, 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 or 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 housing delivery strategy, or housing strategy within the meaning of the Planning and Development Act 2000, or the objectives of any development plan made before those regulations come into operation.

(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 which is not zoned for residential use, or for a mixture of residential and other uses, but in respect of which permission for the development of houses is granted,

shall be reserved 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), (ii) and (iii) of *subsection (10)* apply.

Development Plans for which a housing strategy has already been made

219. (1) This section applies where –

(a) a development plan includes a housing strategy, within the meaning of the Planning and Development Act 2000, on the date on which *section 218* comes into operation, and

(b) the chief executive of the planning authority has not prepared an estimate referred to in this section on or after 2 September 2021.

(2) Where this section applies, the chief executive of the planning authority shall, for the purpose of the performance by a planning authority of its functions under this Part, make an estimate of the amount of housing referred to in-

(a) *section 218(5)(f)* required in the area of the development plan during the period of the development plan, and

(b) *section 218(10)(ii)* and *(iii)* required in the area of the development plan during the period of the development plan.

(3) An estimate under *subsection (2)* –

(a) may state the 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 concerned.

Chapter 2

Housing Supply

Interpretation (chapter 2)

220. In this chapter-

"certificate" has the meaning given to it by *section 230(3)*;

"owner" means—

(a) a person, other than a mortgagee not in possession, who is for the time being entitled to dispose (whether in possession or reversion) of the fee simple of the land, and

(b) a person who, under a lease or agreement the unexpired term of which exceeds 5 years, holds or is entitled to the rents or profits of the land.

"net monetary value", in relation to land, means the open market value less the existing use value;

"existing use value", in relation to land, means the value of land in relation to which permission referred to in *section 222* is granted, calculated by reference to its existing use on the date of such grant on the basis that, on and from that date, it would be unlawful to carry out development in relation to that land other than exempted development.

"open market value"—

(a) in relation to a house, means 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 planning permission is granted, means the price which the unencumbered fee simple of the land would have fetched if it had been sold on the open market on the date of the grant of planning permission;

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

Application of Chapter

221. (1) Subject to *section 230* and *subsection (2)*, this chapter shall apply to an application for permission for the development of houses on land, or where an application relates to a mixture of developments, to that part of the application which relates to the development of houses on such land, in addition to the provisions of *section 93* and, where applicable, Part 9 of the Land Development Agency Act 2021.

(2) This chapter shall not apply to applications for permission for—

(a) the development of holiday homes and student accommodation,

(b) development consisting of the provision of cost rental housing or houses by an approved housing body (within the meaning of the Housing (Regulation of Approved Housing Bodies) Act 2019), 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 such houses 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, provided that 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, or

(e) development of houses pursuant to an agreement under this chapter.

Provision of social and affordable housing, etc.

222. 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, prior to the lodgement of a commencement notice within the meaning of Part II of the Building Control Regulations 1997, enter into an agreement under this chapter with the planning authority.

Agreement relating to transfers to a planning authority

223. (1) Subject to *subsections (2), (10)* and *(12),* an agreement under this chapter shall provide for the transfer to the planning authority of the ownership of 20 per cent of the land that is subject to the application for permission for the provision of housing referred to in *paragraphs (i), (ii)* and *(iii)* of *section 218(10)*.

(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 the *paragraphs (a)* to *(c),* or

(e) the carrying out any combination of the matters referred to in p*aragraphs (a)* to *(c),*

provided that such provision, grant or transfer, as the case may be, results in the aggregate of the net monetary value of the property transferred, or the reduction in rent payable over the term of a lease referred to in paragraph (c) (excluding any reduction for maintenance, management and void periods specified in such lease), by virtue of the agreement being equivalent to the net monetary value of the land that the planning authority would receive if the agreement solely provided for a transfer of land in accordance with *subsection (1)*.

(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 with the meaning for the Housing (Miscellaneous Provisions) Act 2009.

(4) Where property is 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 *subsection (2)(c)* (excluding any reduction for maintenance, management and void periods specified in such lease), the planning authority shall use at least half of the aggregate of the net monetary value of that property, and of any reduction in such rent, for the provision of social housing support with the meaning for the Housing (Miscellaneous Provisions) Act 2009.

(5) In considering whether to enter into an agreement under *subsection (2)*, the 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 delivery strategy;

(b) whether such an agreement will constitute the best use of the resources available to it to ensure an adequate supply of housing and any financial implications of the agreement for its functions;

(c) the need to counteract undue segregation in housing between persons of different social background in the area of the local authority;

(d) whether such an agreement is in accordance with the provisions of the development plan;

(e) the time within which housing referred to in paragraphs (i), (ii) and (iii) of *section 218(10)* is likely to be provided as a consequence of the agreement.

(6) Where houses are to be transferred to the planning authority, or persons nominated by the authority, in accordance with an agreement under *subsection (2)*, the price of such houses shall be determined on the basis of—

(a) the site cost of the houses calculated in accordance with *section 226(1)*, 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 at the time of the agreement, the planning authority shall indicate to the applicant for permission to which this Chapter applies 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 subsection shall be construed as requiring the applicant 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—

(i) the proper planning and sustainable development of the area to which the application relates,

(ii) the housing delivery strategy and the specific objectives of the development plan which relate to the implementation of the strategy,

(iii) the need to ensure the overall coherence of the development to which the application relates, where appropriate, and

(iv) the views of the applicant in relation to the impact of the agreement on the development.

(11) Government guidelines on public procurement shall not apply to an agreement made under *subsections (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 on public procurement and repealing Directive 2004/18/EC on the co-ordination of procedures relating to the award of Public Works Contracts and any directive amending or replacing that 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,

the references to "20 per cent of the land" in *subsection (1)* and *(2)(d)* shall be read as "10 per cent of the land" and the reference in *subsection (3)* to "at least half of

the aggregate of the net monetary value" shall be read as "all of the aggregate of the net monetary value".

Conditions attaching to permissions for the purpose of Chapter

224. 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 under 222, were the planning authority to attach such a condition to any permission granted on foot of such application, and where the planning authority grants permission to the applicant subject to any such condition it shall have regard to any proposals so specified.

Disputes in respect of the entering into of an agreement

225. A dispute in relation to any matter that may be the subject of an agreement under this Chapter, other than a dispute referred to in *section 227*, may be referred by the planning authority, or by any other prospective party to the agreement, to the Commission for determination.

Compensation

226. (1) Where ownership of land is transferred to a planning authority pursuant to *section 223*, 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 there is a mortgage on the land, interest paid in respect of the mortgage) as may be determined by the property arbitrator,

(ii) in the case of land the ownership of which was acquired by the applicant by way of a gift or inheritance taken (within the meaning of the Capital Acquisitions Tax 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,

(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 mortgage) as may be determined by the property arbitrator,

or

(b) the value of the land calculated by reference to its existing use on the date on which the permission referred to in *section 222* is granted on the basis that on that date it would have been, and would thereafter have continued to be, unlawful to carry out any development in relation to that land other than exempted development.

(2) *Section 391* shall apply to compensation payable under this section.

Property Arbitrator

227. (1) Subject to paragraphs (b) and (d), a property arbitrator appointed under section 2 of the Property Values (Arbitration and Appeals) Act 1960, shall, in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919, in default of agreement, fix any one or more of the following where appropriate:

(a) the number and price of houses to be transferred under *subsection (2)(a), (b), (d)* or *(e)* of *section 223*;

(b) in the case of an agreement referred to in *subsection (2)(c)* of *section 223*, the number of houses and the rent payable under such an agreement;

(c) the compensation payable under *section 226* by a planning authority to the owner of land;

(d) the payment of an amount to the planning authority under *subsection (2)(d)* or *(e)* of *section 223*.

(2) For the purpose of determining any matter in subsection (1), the property arbitrator appointed shall have regard to any material difference between the units in terms of size and location within the development.

(3) In selecting the type of sites and units 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), (ii)* and *(iii)* of *section 218(10)*.

(4) For the purposes of *subsection (1)*, section 2(2) of the Acquisition of Land (Assessment of Compensation) Act 1919 shall not apply and the value of the land shall be calculated

on the assumption that it was at that time and would remain unlawful to carry out any development in relation to the land other than exempted development.

(5) The property arbitrator appointed shall determine the matter as soon as practicable.

Transfers

228. (1) Where ownership of land is transferred to a planning authority in accordance with *section 223*, the authority may—

(a) provide, or arrange for the provision, on the land of housing of the type referred to in paragraphs (i), (ii) and (iii) of *section 218(10)*,

(b) make land available to persons eligible for social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009 or eligible applicants within the meaning of Part 2 of the Affordable Housing Act 2021 for the development of houses by them for their own occupation, or

(c) make land available to an approved housing body (within the meaning of the Housing (Regulation of Approved Housing Bodies) Act 2019), for the provision on the land of housing of the type referred to in paragraphs (i), (ii) and (iii) of *section 218(10)*.

(2) Pending the provision of houses or sites in accordance with *subsection (1)(a)*, or the making available of land or sites in accordance with *subsection (1)(b)* or *(c)*, 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 *section 223(2)*, it shall be used for the housing of persons eligible under regulations under section 31(3) of the Affordable Housing Act 2021 to be tenants of cost rental dwellings, persons eligible for social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009 or eligible applicants within the meaning of Part 2 of the Affordable Housing Act 2021.

(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 a body approved for the purposes of the Housing (Regulation of Approved Housing Bodies) Act 2019 for the provision of housing of the type referred to in *paragraphs (i)*, *(ii)* and *(iii)* of *section 218(10)*.

(5) Notwithstanding any provision of this or any other enactment, if a planning authority becomes satisfied that land, a site or a house transferred to it under *section 223* is no longer required for the purposes specified in *subsections (1)* to *(4)*, it may use the land, site or house for another purpose connected with its functions or sell it for the best price reasonably obtainable and, in either case, it shall pay an amount equal to the market value of the land, site or house or the proceeds of the sale, as the case may be, into the separate account referred to in *subsection (6)*.

(6) Any amount referred to in *subsection (5)* and any amount paid to a planning authority in accordance with *section 223(2)(d)* or *(e)* 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 the condition imposed by this section has been complied with.

Sale, lease or exchange of Land

229. 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 applicant for permission, in accordance with *section 357*.

Development to which chapter shall not apply

230. (1) In this section—

"applicant" includes a person on whose behalf another person applies for a certificate;

"the 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 (in this section referred to as a "certificate") stating that this chapter shall not apply to a grant of permission in respect of the development concerned, 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 *(12)*, and

(b) compliance by the applicant for a certificate with *subsection (8)*,

a planning authority to which an application has been made under and in accordance with this section may grant a certificate to the applicant.

(5) An application for a certificate shall be accompanied by a statutory declaration made by the applicant—

(a) giving, in respect of the period of 5 years preceding the application, such particulars of the legal and beneficial ownership of the land, on which it is proposed to carry out the development to which the application relates, as are within the applicant's knowledge or procurement,

(b) identifying any persons with whom the applicant is acting in concert,

(c) giving particulars of—

(i) any interest that the applicant has, or had at any time during the 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 such development, and

(ii) any interest that any person with whom the applicant is acting in concert has, or had at any time during the period of 5 years preceding the application, in any land in the said immediate vicinity, of which the applicant has knowledge,

(d) stating that the applicant is not aware of any facts or circumstances that would constitute grounds under *subsection (12)* for the refusal by the planning authority to grant a certificate, and

(e) giving such other information as may be prescribed.

(6) (a) A planning authority may require an applicant for a certificate to provide it with such further information or documentation as is reasonably necessary to enable it to perform its functions under this section.

(b) Where an applicant refuses to comply with a requirement under *paragraph (a)*, or fails, within a period of 8 weeks from the date of the making of the requirement, to so comply, the planning authority concerned shall refuse to grant the applicant a certificate.

(7) A planning authority may, for the purpose of performing its functions under this section, make such further inquiries as it considers appropriate.

(8) It shall be the duty of the applicant for a certificate, at all times, to provide the planning authority concerned with such information as it may reasonably require to enable it to perform its functions under this section.

(9) The Minister may make regulations in relation to the making of an application under this section.

(10) Where a planning authority fails 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) in relation to a requirement under *subsection (6)*, 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.

(11) Particulars of a certificate shall be entered in the register.

(12) Subject to *subsection (13)*, a planning authority shall not grant a certificate in relation to a development if the applicant for such certificate, or any person with whom the applicant is acting in concert—

(a) has been granted, not earlier than 5 years before the date of the application, a certificate in respect of a development 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.

(13) A planning authority may, where *subsection (12)(a)* or *(b)* apply 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 *subsection (12)(a)* or *(b)* relates and the first-mentioned development referred to in *subsection (12)* 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)* relates and the land on which it is proposed to carry out the first-mentioned development does not exceed 0.1 hectares.

(14) Where a planning authority refuses to grant a certificate, it shall by notice inform the applicant of the reasons for the refusal.

(15) (a) Where a planning authority to which an application for a certificate has been made under *subsection (3)* 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 to the applicant a certificate in respect of the development.

(b) The court may at the hearing of an appeal under paragraph (a)—

(i) dismiss the appeal and affirm the refusal of the planning authority to grant the certificate, or

(ii) allow the appeal and direct the planning authority to grant the applicant a certificate in respect of the development concerned.

(16) A planning authority shall comply with a direction of the court under this section.

(17) (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.

(18) 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.

Offences in relation to certificate

231. (1) A person who, knowingly or recklessly—

(a) makes a statutory declaration under *section 230(5)*, or

(b) in purported compliance with a requirement under *section 230(6)*, provides a planning authority with information or documentation,

that is false or misleading in a material respect, or who believes any such statutory declaration made 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 to 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 to both.

(2) A person who—

(a) forges, or utters, knowing it to be forged, a certificate purporting to have been granted under *section 230* (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 under that subsection, order the payment into court by the person of an amount that, in the opinion of the court, is equal to the amount of any gain accruing to that person by reason of the grant of a certificate on foot of the statutory declaration, information or documentation, as the case may be, to which the offence relates, and such sum shall, when paid in accordance with such order, stand forfeited.

(4) All sums that stand forfeited under *subsection (3)* shall be paid to the planning authority that granted the certificate concerned and shall be accounted for in the account referred to in *section 228(6)* and be applied only for the purposes specified in that section.

(5) Where a person is convicted of an offence under *subsection (1)*, 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

232. Where a planning authority performing any function under this Part is not the local authority for the area in which the function is carried out, 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

233. (1) A planning authority may enter into an agreement with any person interested in 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 any such 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 in entering into an agreement under this section may join with a body which is prescribed under *section 54(3)(h)*.

(3) An agreement made under this section with any person interested in land may be enforced by the planning authority, or any body joined with it, against the owner for the time being of the land as if the planning authority or body, as may be appropriate, were possessed of adjacent land, and as if the agreement had been expressed to be made for the benefit of that adjacent land.

(4) Without prejudice to *subsection (3)*, where the agreement, or part thereof, is made pursuant to a condition attached to a permission, any breach of that part of the agreement shall constitute a breach of the relevant condition unless the condition otherwise provides and any breach shall be subject to Part 11.

(5) (a) A planning authority may only discharge or modify an agreement made under this section upon an application being made to it by the owner for the time being of the land the subject of the agreement, or of part of that land, where the planning authority is satisfied, that continued compliance with the agreement would be unduly burdensome or unnecessary, having regard as appropriate to the following matters:

(i) the circumstances in which, and the purposes for which, the agreement was made;

(ii) any benefits accrued to persons interested in the land or the part of the land in consequence of the making of the agreement;

(iii) the time that has elapsed since the agreement was made;

(iv) any changes in the character of the land or the part of the land or its neighbourhood since the agreement was made;

(v) any changes in the objectives in any development plan, urban area plan, priority area plan or joint area plan relating to the land or the part of the land or of its neighbourhood since the agreement was made;

(vi) whether the agreement secures and is capable of securing any practical benefit and, if so, the nature and extent of that benefit;

(vii) whether compliance with the agreement has become unduly onerous compared with the benefit derived from such compliance and any benefit that accrued to the owner of the land at the time the agreement was made;

(viii) the likely consequences of any discharge or modification of the agreement;

(ix) any representations made by any person interested in the performance of the agreement pursuant to any public notice prescribed by regulations under *subsection (9)*;

(x) any other relevant factors particular to the agreement and the land or the part of the land.

(b) Subject to regulations made under *subsection (9)*, 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 *paragraph (a)*.

(c) No appeal shall lie to the Commission from a decision of a planning authority under this subsection.

(6) Subject to *section 154*, nothing in this section, or in any agreement made thereunder, shall be construed as restricting the exercise, in relation to land which is the subject of any such agreement, of any powers exercisable by the Minister, the Commission or the planning authority under this Act, so long as those powers are not exercised so as to contravene materially provisions of the development plan or as requiring the exercise of any such powers so as to contravene materially those provisions.

(7) Particulars of an agreement made under this section, and of any decision to discharge or modify the agreement under *subsection (6)*, shall be entered in the register.

(8) (a) Where an agreement is made under this section the agreement may be registered—

(i) as an act of the owner of the land concerned in the Registry of Deeds, or

(ii) as a burden on any part of the land concerned that is registered in the Land Registry.

(b) Where an agreement is modified under *subsection (5)*, an entry may be made in the Registry of Deeds or the Land Registry to that effect.

(c) Where an agreement made under this section is discharged in whole or in part under *subsection (5)*—

(i) the discharge or partial discharge may be registered in the Registry of Deeds, or

(ii) the burden registered in the Land Registry in respect of such agreement may be cancelled or amended as required.

(d) The cost of registering—

(i) an agreement, shall be borne by the planning authority that made the agreement under *subsection (1)*, 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)*.

(9) 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 to particular people or the public and the making of submissions on such applications.

(10) This section shall not apply in relation to the maritime area.

Notice requiring removal or alteration of works or discontinuance of use

234. (1) If a planning authority considers in relation to land in its functional area that, in exceptional circumstances—

(a) any works (including any structure) thereon should be demolished, removed, altered or replaced,

(b) any use thereof should be discontinued, or

(c) any conditions should be imposed on the continuance of a use thereof,

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 or use:

(i) the owner of the works or land concerned;

(ii) the occupier of the works or land concerned;

(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 in the outer maritime area or in the nearshore area that, in exceptional circumstances—

(a) any works (including any structure) therein should be demolished, removed, altered or replaced,

(b) any use thereof should be discontinued, or

(c) any conditions should be imposed on the continuance of a use thereof,

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 or use:

(i) the holder of any maritime area consent in respect of the maritime site concerned;

(ii) the occupier of the works or the maritime site concerned;

(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) *Subsection (1)* or *(2)* shall not apply to any unauthorised development unless enforcement action may not be taken, by virtue of *section 296*, in respect of the unauthorised development.

(4) A notice referred to in *subsection (1)* or *(2)* shall—

(a) identify the works, or the use, and the location of the land, or maritime site concerned,

(b) specify the steps that will be required to be taken within a specified period after the confirmation of the notice under *subsection (6)*, including, where appropriate—

(i) the demolition, removal, alteration or replacement of any works, or

(ii) the discontinuance of any use or the imposition of conditions on the use,

(c) state the reasons for the service of the notice,

(d) invite any person served with the notice to make written submissions to the planning authority or the Maritime Area Regulatory Authority in respect of the matters referred to in the notice within a specified period (being not less than 4 weeks from the date of service of the notice), and

(e) state that the notice requires confirmation by the Commission and that any submissions received will be considered before the notice is confirmed.

(5) As soon as practicable after the expiry of the period for making submissions, the planning authority or the Maritime Area Regulatory Authority shall refer the notice (accompanied by any submissions made under *subsection (4)(e)* 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 order, with or without modifications, or refuse to confirm the order.

(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 referred to in *subsection (1)* or *(2)* 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 pursuant to this section, shall consider—

(a) the principles of proper planning and sustainable development and, where applicable, the objectives of maritime spatial planning,

(b) where relevant, the provisions of—

(i) the National Planning Framework,

(ii) regional spatial and economic strategies,

(iii) development plans,

(iv) urban area plans,

(v) joint 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, and any relevant strategy under *section 50*, and

(d) any other relevant provision of this Act and any regulations made thereunder.

(8) A notice under this section shall take effect when confirmed by the Commission.

Provisions consequential on notice under *section 234*

235. (1) If, within the period specified in a notice confirmed under *section 234*, or within such further period as the planning authority or the Maritime Area Regulatory Authority may allow, any step required by the notice has not been effected, the planning authority or the

Maritime Area Regulatory Authority may enter the lands or maritime site concerned and any structure on the land or in the site under *section 345* and take the step.

(2) Where a notice is complied with, the planning authority or the Maritime Area Regulatory Authority shall pay to the person complying with the notice the expenses reasonably incurred by the person in carrying out the steps specified in the notice, less the value of any salvageable materials.

(3) Where any person served with a notice confirmed under *section 234* 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 unless it is shown on the balance of probabilities that he or she took all reasonable steps to secure compliance with the notice.

(4) In any proceedings for an offence under *subsection (3)*, a document which purports to be a notice confirmed under *section 234* shall be taken to be such a notice unless the contrary is shown.

(5) A planning authority or the Maritime Area Regulatory Authority may, prior to or after confirmation by the Commission, for stated reasons, by notice in writing withdraw a notice served under *section 234*.

(6) Particulars of a notice confirmed under *section 234(6)*, or withdrawn under this section, shall be entered in the register.

Chapter 2

Public components of certain developments

Application of Chapter and definition of "public components"

236. (1) Subject to *subsection (2)* this Chapter applies to development, for which permission under Chapter 3 of Part 4 has been granted, that is being or has been carried out which includes not less than 2 houses (whether or not it also includes development other than houses) and provision of public components.

(2) Notwithstanding *subsection (1)*, where *section 238(1)(b)(iii)* applies *section 238* applies to any land-based development for which permission under Chapter 3 of Part 4 has been granted that is being or has been carried out and which includes provision of public components.

(3) This Chapter shall not apply in relation to the maritime area.

(4) In this Chapter "public components" of a development means those parts of a development which are described in the application for permission referred to in *subsection (1)*, or expressly or impliedly required on foot of the permission, or are otherwise dedicated, as being for the use or enjoyment of the public or the planning authority, and may include roads, open spaces, car parks, sewers, water mains, service connections (within the meaning of the Water Services Act 2007) and such other parts as are prescribed as such in regulations, and shall, where the context requires, include the land on, in, over and under which such components are located.

Taking in charge of public components of estates

237. (1) 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 that development are taken in charge, a planning authority shall, within six months of such request, consider whether to commence the procedure in *subsection (4)* for taking all or part of the public components the subject of the request in charge.

(2) Subject to *section 238*, the planning authority receiving a request under *subsection (1)* shall commence the procedure in *subsection (4)* if—

(a) the development has been completed to the satisfaction of the planning authority in compliance with the permission 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 and any conditions to which the permission is subject, and the planning authority has failed to take enforcement action in relation to such non-compliance within 4 years of the expiry of such permission (and any extension thereof), or

(c) such other case as may be prescribed in regulations applies.

(3) Where the planning authority decides not to commence the procedure under *subsection (4)* or to omit any parts of the public components from the procedure, the planning authority shall notify the person making the request of that decision and of the reasons therefor.

(4) Where the planning authority decides to commence the procedure for taking all or part of the public components the subject matter of the request in charge—

(a) the planning authority shall prepare a report setting out in relation to the public components the subject matter of the decision—

(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) the planning authority shall publish notice, in one or more newspapers circulating in its functional area, of the proposal to take the relevant 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 two weeks after the end of the period for inspection),

(c) not later than 4 weeks after the expiry of the period for making submissions under *paragraph (b)* the chief executive of the planning authority shall prepare a report on any submissions so received and not withdrawn, and submit that to the members of the authority for their consideration,

(d) the planning authority shall consider, subject to *subsection (6)* the reports referred to in *paragraphs (a)* and *(c)*, and

(e) the planning authority shall make an order taking all or part of the public components the subject matter of the proposal in charge, as it considers appropriate, or refusing to take any of the public components in charge.

(5) The consideration of reports under *subsection (4)(d)* and the making of an order under *subsection (4)(e)* shall be reserved functions.

(6) The Minister may, by regulation, 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.

(7) Any roads taken in charge by a planning authority pursuant to this section shall be deemed to be public roads within the meaning of the Roads Act 1993.

(8) Without prejudice to any other of its powers in relation to lands taken in charge, the planning authority may undertake on any public components taken in charge—

(a) any works which, in the opinion of the planning authority, are necessary for the completion of the public components of the development in accordance with any applicable grants of planning permission, or

(b) any works which, in the opinion of the planning authority, are necessary to make the public components safe,

and may recover the costs of such works from the developer (and for that purpose apply any bond or other security held by it towards the costs of such works).

(9) For the avoidance of doubt, a request under *section 237(1)* is, for the purposes of the definition of "public components" in *section 236(4)*, a dedication of the public components the subject of the request to the public and an order to take public components in charge under *subsection (4)(e)* is an acceptance of the dedication in so far as it relates to the second mentioned public components.

(10) Water service conduits taken in charge under this section may, pursuant to an agreement between Irish Water and the planning authority, be taken in charge by Irish Water

and shall in that case be deemed to have been taken into public charge under section 95 of the Water Services Act 2007.

Acquisition of public components of certain developments

238. (1) Where—

(a) a development has been or is being carried out, and

(b) either—

(i) any public components of the development have been taken in charge pursuant to *section 237(4)*,

(ii) a request has at any time been made pursuant to *section 237 (1)* in relation to any public components of the development within 6 months prior to issuance of an acquisition notice under *subsection (2)*, or

(iii) the public components of the development have not been completed in compliance with the requirements of the permission authorising the development to the satisfaction of the planning authority within the duration 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 that may have been taken in relation to such non-compliance),

the planning authority may by agreement, or compulsorily, acquire all or part of the relevant public components.

(2) Where a planning authority proposes to compulsorily acquire public components under this section, it shall—

(a) serve notice on the owner or reputed owner of the public components, and

(b) publish a notice in one or more newspapers circulating in its functional area,

of its intention to acquire such public components, as more particularly described therein (identifying any strata of land, or any easements, rights, privileges, or other interests proposed to be excluded therefrom), and the notice (in this section referred to as an "acquisition notice") shall specify therein a period (being a period of not less than 4 weeks commencing on the date on which notice is given as aforesaid) within which an appeal may be made under this section.

(3) Any person having an interest in the public components to which an acquisition notice relates may within the period specified in the acquisition notice appeal to the Commission.

(4) Where an appeal is brought under this section the Commission may—

(a) annul the acquisition notice to which the appeal relates, or

(b) confirm the acquisition notice, with or without modification, in respect of all or such part of the public components as the Commission considers reasonable.

(5) If a planning authority publishes an acquisition notice and either—

(a) the period for appealing against the notice has expired and no appeal has been taken, or

(b) an appeal has been taken against the notice and the appeal has been withdrawn or the notice has been confirmed with or without modifications,

the planning authority may make an order in the prescribed form which order shall be expressed and shall operate to vest the public components to which the acquisition notice (as confirmed where appropriate) relates in the planning authority on a specified date for the estate and subject as set out in *subsection (7).*

(6) Where an acquisition notice made following a request under section *237(1)* is annulled by the Commission under *subsection (4)(a),* the planning authority shall proceed to consider the request after the expiry of the period of 2 months from the date of the annulment and the power under *subsection (1)(b)(ii)* shall not apply.

(7) An order under *subsection (5)* shall vest the public components the subject of such order in the planning authority—

(a) for all the estate of the persons entitled thereto in possession or in reversion,

(b) together with all easements, rights and privileges appurtenant thereto,

(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 acquired public components provided that, in a case where the acquired public components 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 acquired public components 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) all or any easements, rights, privileges or interests reinstated under *subsection (10)(d),* and

(v) the obligation on the part of the planning authority—

(I) to undertake within a reasonable time any works which, in the opinion of the authority, are necessary for the satisfactory completion of the acquired 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 freed of all other estates, rights and interests, including those of the State.

(8) Any roads acquired by a planning authority pursuant to this section shall be deemed to be public roads within the meaning of the Roads Act 1993.

(9) Any person holding an interest in or over the public components to which an order under this section 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 acquired, 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 order under *subsection (5)* and the order reinstating the easement, right, privilege or interest in question.

Supplementary provisions relating to *sections 237* and *238*

239. (1) The exercise of the powers under *sections 237* and *238* to take public components in charge or to acquire public components shall not prejudice any right of the planning authority to bring or continue enforcement action in respect of any unauthorised development, or to apply any security given pursuant to any condition in the permission to the satisfactory completion of the development or any part thereof.

(2) The Minister may make regulations for the purposes of giving effect to this Chapter.

(3) Without prejudice to the generality of *subsection (2)*, regulations under this section may be made for the purposes of:

(a) identifying public components of developments to which *sections 237* and *238* apply;

(b) the inclusion in applications for permission for developments to which *sections 237* and *238* apply of details, to such extent as may be prescribed or requested, of the public components of the proposed development;

(c) ascertaining the wishes of the owners of houses in a development to which this section applies (including by plebiscite);

(d) specifying the form and content of any request, notice, procedures and orders provided for in *sections 237* and *238*;

(e) the agreement of, or resolution of any differences in relation to, apportionment of obligations under *section 238(8)*, or the obligations of a planning authority under *section 238(7)(c)(v)(I)*.

(4) The following matters shall be entered in the register:

(a) particulars of a request under *section 237(1)*,

(b) particulars of a decision under *section 237(3)* not to commence the procedure under *section 237(4)*,

(c) particulars of an order under *section 237(4)(e)*,

(d) particulars of a notice under *section 238(2)(a)*,

(e) particulars of an appeal under *section 238(3)*,

(f) particulars of an annulment or confirmation under *section 238(4)*, and

(g) particulars of an order under *section 238(5)*.

Chapter 3

Amenities

Area of special amenity

240. (1) Where, in the opinion of the planning authority, by reason of—

(a) its outstanding natural beauty, or

(b) its special recreational value,

and having regard to any benefits for nature conservation, an area should be declared under this section to be an area of special amenity, it may, by resolution, make an order to do so and the order may state the objective of the planning authority in relation to the preservation or enhancement of the character or special features of the area, including objectives for the prevention or limitation of development in the area.

(2) Where it appears to the Minister that an area should be declared under this section to be an area of special amenity by reason of—

(a) its outstanding natural beauty, or

(b) its special recreational value,

and having regard to any benefits for nature conservation, he or she may, if he or she considers it necessary, direct a planning authority to make an order under this section in relation to an area specified in the direction and may, if he or she thinks fit, require that objectives specified in the direction be included by the planning authority in the order in respect of matters and in a manner so specified, and if the Minister gives a direction under this subsection the planning authority concerned shall comply with the direction.

(3) Where the functional areas of two planning authorities are contiguous, either authority may, with the consent of the other, make an order under this section in respect of an area in or partly in the functional area of the other.

(4) As soon as may be after it has made an order under *subsection (1)* or *(2)*, a planning authority shall publish in one or more newspapers circulating in its functional area, and in the functional area of any planning authority which has given its consent under *subsection (3)*, a notice—

(a) stating the fact of the order having been made, and describing the area to which it relates,

(b) naming a place where a copy of the order and of any map referred to therein may be seen during office hours,

(c) specifying the period (not being less than 4 weeks) within which, and the manner in which, 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 to the order and are not withdrawn, an oral hearing may be held and the submissions will be considered before the order is confirmed.

(5) 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, when making any such referral, it shall also provide to the Commission any submissions in relation to the order which have been duly made and have not been withdrawn.

(6) The Commission, having considered the order and any submissions provided to it, may confirm the order, with or without modifications, or refuse to confirm it.

(7) An order under this section shall come into operation on being confirmed by the Commission, whether with or without modification, under *subsection (6*).

(8) An order made and confirmed under this section may be revoked or amended in the same manner by which an order is made and confirmed (and in the case of an order made pursuant to a direction under *subsection (2)*, only on the direction of or with the consent of the Minister).

(9) Subject to *subsection (8)*, a planning authority may, from time to time, review an order made under this section (excepting any order merely revoking a previous order), for the purpose of deciding whether it is desirable to revoke or amend the order.

(10) Any reference in this Act, or any other enactment, to a special amenity area order shall be construed as a reference to an order confirmed under this section.

(11) Particulars of an order under *subsection (1)* or *(2)*, a confirmation or refusal to confirm under subsection (6), and of revocation or amendment of an order under *subsection (8)* shall be entered in the register.

(12) This section shall not apply in relation to the maritime area.

Tree preservation orders

241. (1) If it appears to the planning authority that it is expedient, in the interests of amenity or the environment, to make provision for the preservation of any tree, group of trees or woodlands, it may, for that purpose, make an order with respect to any such tree, group of trees or woodlands as may be specified in the order.

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

(a) prohibit (subject to any conditions or exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of 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 woodlands (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, or reputed owner, and the occupier of the land affected by the proposed order, and

(ii) cause notice of the proposed order to be published in one or more newspapers circulating in its functional area.

(b) A notice under paragraph (a)(i) shall be accompanied by a map indicating the tree, group of trees or woodland to be preserved.

(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 woodlands,

(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, and that the submissions will be taken into consideration by the planning authority, and

(d) that any person who contravenes an order or, pending the decision of a planning authority, a proposed order under this section, shall be guilty of an offence.

(6) Not later than 4 weeks after the expiry of the period for making submissions under *subsection (5)(c)*, 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, having considered the report referred to in *subsection (6)*, may by resolution, as it considers appropriate, make the order, with or without modifications, or refuse to make the order, and any person on whom notice has been served under *subsection (4)* shall be notified accordingly.

(8) (a) Where a planning authority proposes to amend or revoke an order made under this section, the planning authority shall give notice of its proposal to amend or revoke the order, as the case may be—

(i) to the owner, or reputed owner, and the occupier of the land affected by the amendment or revocation, and

(ii) in one or more newspapers circulating in its functional area.

(b) A notice under *paragraph (a)(i)* shall be accompanied by a map indicating the tree, group of trees or woodland the subject of the proposed amendment or revocation.

(9) A notice under *subsection (8)* shall give particulars of the tree, group of trees or woodland the subject of the order, and shall state that—

(a) the planning authority proposes to amend or revoke the order (with particulars of the proposed amendment or revocation), and

(b) submissions regarding the proposal may be made to the planning authority within a stated period of not less than 6 weeks, and that the submissions will be taken into consideration by the planning authority.

(10) Not later than 4 weeks after the expiry of the period for making submissions under *subsection (9)(b)*, 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, having considered the report referred to in *subsection (10)*, may by resolution, as it considers appropriate, revoke the order or amend the order, with or without modifications, or refuse to do so, as the case may be, and any person on whom notice has been served under *subsection (8)* shall be notified accordingly.

(12) Any person who contravenes an order or, pending the decision of a planning authority, a proposed order under this section, without reasonable excuse, shall be guilty of an offence.

(13) Particulars of a notice under *subsection (4)*, a resolution under *subsection (7)*, a notice under *subsection (8)* or a resolution under *subsection (11)* shall be entered in the register.

Creation of public rights of way pursuant to agreement

242. (1) A planning authority may enter into an agreement with any person having the necessary power in that behalf for the creation, by dedication by that person, of a public right of way over land.

(2) An agreement made under this section shall be on such terms as to payment or otherwise as may be specified in the agreement, and may, if it is so agreed, provide for limitations or conditions affecting the public right of way.

(3) Where an agreement has been made under this section, it shall be the duty of the planning authority to take all necessary steps for securing that the creation of the public right of way is effected in accordance with the agreement.

(4) Particulars of an agreement made under this section shall be entered in the register.

Compulsory powers for creation of public rights of way

243. (1) If it appears to the planning authority that there is need for a public right of way over any land, the planning authority may, by resolution, make an order creating a public right of way over the land.

(2) (a) Where a planning authority proposes to make an order under this section, it shall—

(i) serve a notice (which shall include particulars of the proposed order) of its intention to do so on the owner, or reputed owner, and the occupier of the land over which the public right of way is proposed to be created and on any other person who in its opinion will be affected by the creation of the public right of way, and

(ii) cause notice of the proposed order to be published in one or more newspapers circulating in its functional area.

(b) A notice under *paragraph (a)(i)* shall be accompanied by a map indicating the public right of way to be created.

(3) A notice under *subsection (2)* shall state that—

(a) the planning authority proposes to make an order creating the public right of way, and

(b) submissions regarding the proposed order may be made to the planning authority within a stated period of not less than 6 weeks and that the submissions 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 *subsection (3)(b)*, 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, having considered the proposal and the report referred to in *subsection (4)*, may by resolution, as it considers appropriate, make the order, with or without modifications, or refuse to make the order and the owner, or reputed owner, and the occupier of the land over which the public right of way is created, and any other person who in its opinion will be affected by the creation of the public right of way, shall be notified accordingly.

(6) Any person who has been notified of the making of an order under *subsection (5)* may appeal to the Commission against the order within 4 weeks of being notified under that subsection.

(7) Where an appeal is brought under this section 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 taken, on the expiry of the period for taking an appeal, or

(b) where an appeal or appeals is or are taken against it, either when the appeal or appeals have 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) Any public right of way created under an enactment repealed by this Act that was in force immediately before the commencement of this section shall be deemed to have been made under this section.

(11) The exercise by the planning authority of any powers under this section or *section 244* 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 385*) 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

244. (1) Where a public right of way is created pursuant to this Act, or where a provision in a development plan in force on the coming into operation of this section relates to the preservation of a public right of way, the way shall be maintained by the planning authority.

(2) (a) Where a right of way is required by this section to be maintained by the planning authority, a person shall not damage or obstruct the way, or hinder or interfere with the exercise of the right of way.

(b) A person who contravenes this subsection shall be guilty of an offence.

(3) Where, in the case of a right of way required by this section to be maintained by the planning authority, the way is damaged or obstructed by any person, the planning authority maintaining the right of way may repair the damage or remove the obstruction, and the expenses incurred by it in the repair or removal shall be paid to them by that person and, in default of being so paid, shall be recoverable from him or her.

Chapter 4

Miscellaneous

Repair and tidying of advertisement structures and advertisements

245. (1) If it appears to a planning authority that, having regard to the interests of public safety or amenity, an advertisement structure or advertisement in its area should be repaired or tidied, the planning authority may serve a notice on the owner, or reputed owner, or person having control, of the structure or advertisement requiring him or her to repair or tidy the advertisement structure or advertisement within a specified period.

(2) If it appears to a planning authority that any advertisement structure or advertisement is derelict, the planning authority may serve a notice on the owner, or reputed owner, or person having control, of the structure or advertisement requiring him or her to remove the advertisement structure or advertisement within a specified period.

(3) If within the period specified in a notice under this section, the advertisement structure or advertisement is not repaired or tidied, or removed, as the case may be, the planning authority may enter on the land on which the structure is situate or the advertisement is exhibited and repair, tidy or remove the structure or advertisement and may recover from the owner, or person having control, of the structure or advertisement any expenses reasonably incurred by it in that behalf.

Cables, wires and pipelines (land)

246. (1) Where it considers it necessary to do so a planning authority may—

(a) place, construct, lay or connect cables, wires or pipelines (including water pipes, sewers, drains and district heating systems) and any ancillary apparatus, on, into, through, under or over any land not forming part of a public road and not being State land or land owned by a State authority,

(b) attach to or erect on any land not forming part of the public road or structure and not being State land or land owned by a State authority any bracket or other fixture required for the carrying or support of the cables, wires or pipelines and ancillary apparatus, and

(c) erect or affix on any land or structure and not being State land or land owned by a State authority, and maintain, notices indicating the position of the cables, wires or pipelines and ancillary apparatus.

(2) Where any works referred to in *subsection (1)* are carried out, the planning authority—

(a) may, in the course of carrying out the works make minor modifications to their location as identified in the notice under *subsection (5)*, where the modification is immaterial,

(b) may, from time to time after the carrying out of the works, inspect, repair, alter, renew or remove any of the works,

(c) may licence the use of the cables, wires 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 carrying out of the works or any inspection, repair, alteration, renewal or removal under paragraph (b), or reimburse the owner the reasonable costs and expenses of such making good.

(3) Where any works are carried out pursuant to *subsection (1)* or *(2)(b)*, a person shall not damage, obstruct or otherwise interfere with the works carried out, without the prior written consent of the planning authority.

(4) The powers in *subsection (1)* shall not be exercised unless the owner and the occupier of the land referred to in that subsection, as appropriate, have given their consent in the manner provided for in *subsection (6)* or an order has been made by the Commission under *subsection (7)*.

(5) Where a planning authority proposes to exercise a power under *subsection (1)*, it shall first serve notice of the proposal on the owner and occupier, as appropriate, of the land concerned, which notice shall—

(a) describe the power which it proposes to exercise (including the location of any proposed works by reference to a map),

(b) request the consent of the owner and occupier, as appropriate, to the carrying out of the works, to be provided by executing the enclosed form of consent,

(c) enclose the prescribed form of consent,

(d) state that, where consent has not been given within 28 days 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 carry out the works the subject matter of the notice without such consent,

(e) state that where the planning authority is authorised to carry out the works prescribed by the notice, it shall be entitled to the rights and subject to the obligations set out in *subsection (2)* and *that subsection (3)* shall apply to the works, and

(f) inform the owner and occupier of the obligation on the planning authority under *subsection (2)(d)*.

(6) (a) Consent to the carrying out of any works under *subsection (1)* may be given in the prescribed form.

(b) Where any person on whom a notice under *subsection (5)* has been served has not given their consent in the prescribed form within 28 days from the date of the giving 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.

(7) The Commission in considering an application under this *subsection (6)(b)* 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 384* refers.

(8) Where the Commission confirms the notice under *subsection (7)(a)*, the planning authority may carry out the works the subject of the notice without the consent of the owner and occupier.

(9) (a) Where consent has been given pursuant to *subsection (6)(a)* or an order confirming the notice has been made under *subsection (7)*, the consent or order may be registered—

(i) as an act of the owner of the land concerned in the Registry of Deeds, or

(ii) 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 which served the notice under *subsection (5)*.

(10) For the purpose of Part 6, neither a consent under *subsection (6)(a)* nor an order under *subsection (7)* constitutes a development consent.

(11) Particulars of a notice under *subsection (5)*, a consent under *subsection (6)* or a decision of the Commission under *subsection (7)* shall be entered on the register.

(12) In this section and *section 247*, "State land" and "State authority" have the meaning they have in section 2(1) of the State Property Act 1954.

Cables, wires and pipelines (maritime sites)

247. (1) Where it considers it necessary to do so a planning authority may—

(a) place, construct, lay or connect cables, wires or pipelines (including water pipes, sewers, drains and district heating systems) and any ancillary apparatus, on, into, through, under or over any maritime site other than a maritime site that is State land or land owned by a State authority,

(b) attach to or erect on any maritime site, other than a maritime site that is State land or land owned by a State authority, or structure thereon any bracket or other fixture required for the carrying or support of the cables, wires or pipelines and ancillary apparatus, and

(c) erect or affix on any maritime site, other than a maritime site that is State land or land owned by a State authority, or structure thereon, and maintain, notices indicating the position of the cables, wires or pipelines and ancillary apparatus.

(2) Where any works referred to in *subsection (1)* are carried out, the planning authority—

(a) may, in the course of carrying out the works make minor modifications to their location as identified in the notice under *subsection (5)*, where the modification is immaterial,

(b) may, from time to time after the carrying out of the works, inspect, repair, alter, renew or remove any of the works,

(c) may licence the use of the cables, wires 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 carrying out of the works or any inspection, repair, alteration, renewal or removal under paragraph (b), or reimburse the owner the reasonable costs and expenses of such making good.

(3) Where any works are carried out pursuant to *subsection (1)* or *(2)(b)*, a person shall not damage, obstruct or otherwise interfere with the works carried out, without the prior written consent of the planning authority.

(4) The powers in *subsection (1)* shall not be exercised unless the owner and the occupier (if any) of the maritime site referred to in that subsection, as appropriate, and the Maritime Area Regulatory Authority have given their consent in the manner provided for in *subsection (6)* or an order has been made by the Commission under *subsection (7)*.

(5) Where a planning authority proposes to exercise a power under *subsection (1)*, it shall first serve notice of the proposal on the owner and occupier, as appropriate, of the maritime site concerned, and the Maritime Area Regulatory Authority, which notice shall—

(a) describe the power which it proposes to exercise (including the location of any proposed works by reference to a map),

(b) request the consent of the owner and occupier, as appropriate, and the Maritime Area Regulatory Authority to the carrying out of the works, to be provided by executing the enclosed form of consent,

(c) enclose the prescribed form of consent,

(d) state that, where consent has not been given within 28 days 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 carry out the works the subject matter of the notice without such consent,

(e) state that, where the planning authority is authorised to carry out the works prescribed by the notice, it shall be entitled to the rights and subject to the obligations set out in *subsection (2)* and that *subsection (3)* shall apply to the works, and

(f) inform the owner and occupier of the obligation on the planning authority under *subsection (2)(d)*.

(6) (a) Consent to the carrying out of any works under *subsection (1)* may be given in the prescribed form.

(b) Where any person on whom a notice under *subsection (5)* has been served has not given their consent in the prescribed form within 28 days from the date of the giving 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.

(7) The Commission in considering an application under this *subsection (6)(b)* 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 384* refers.

(8) Where the Commission confirms the notice under *subsection (7)(a)*, the planning authority may carry out the works the subject of the notice without the consent of a person who has not given consent.

(9) (a) Where consent has been given by the owner and occupier pursuant to *subsection (6)(a)* or an order confirming the notice has been made under *subsection (7)*, the consent or order may be registered—

(i) as an act of the owner of the maritime site concerned in the Registry of Deeds, or

(ii) 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 which served the notice under *subsection (1)*.

(10) For the purpose of Part 6, neither a consent under *subsection (6)(a)* nor an order under *subsection (7)* constitutes a development consent.

(11) Particulars of a notice under *subsection (5)*, any consent under *subsection (6)* and any decision of the Commission under *subsection (7)* shall be entered on the register.

PART 9

Judicial Review under the Act

Interpretation (Part 9)

248. (1) In this Part "court", save where stated otherwise, means the High Court.

(2) Without prejudice to the generality of *section 249*, a reference in this Part to the date on which a body fails to perform a function shall be read as a reference to the earlier of the following dates applicable to the failure or alleged failure in question:

(a) where the failure relates to a failure to exercise a function that the authority was required by law to exercise, on the earliest date on which such failure occurs;

(b) where the failure relates to the cessation of the performance of a function by a body, on the date of such cessation.

Judicial review of applications, appeals, referrals and other matters

249. (1) A person shall not question the validity of any decision made or act done in the performance or purported performance of any function under this Act, other than an approval or consent referred to in *Chapters 2 and 5 of Part 17*, or allege any failure to perform such a function, by—

(a) a planning or local authority,

(b) the Commission,

(c) the Minister,

(d) the Office of the Planning Regulator,

(e) the competent authority (within the meaning of the Aircraft Noise (Dublin Airport) Regulation Act 2019) or the Commission on appeal from the competent authority,

(f) a regional assembly,

(g) the Government, or

(h) any other public body,

otherwise than by way of an application for judicial review, made in accordance this section and with the applicable provisions of the Rules of the Superior Courts and the court, or the Supreme Court as the case may be, shall determine such application as expeditiously as possible consistent with the administration of justice and with due regard to the interest of saving costs.

(2) Subject to *subsection (6)*, an application under *subsection (1)* shall be commenced by motion on notice issued out of the Central Office of the High Court within the period of 8 weeks beginning on the date of the decision, the date of the doing of the act or the date of the failure to perform as the case may be.

(3) All motions, affidavits and exhibits to ground an application issued under *subsection (2)*, shall be served in accordance with the applicable provisions of the Rules of the Superior Courts on all respondents and notice parties named in the proceedings, within 10 days of the date of issue under *subsection (2*) or, upon application by the applicant for judicial review, within such extended period as the court may direct in the interests of justice taking into account the interest in finality of the decision, acts done or of the failure to perform a function, as the case may be.

(4) At any time after the issuing of proceedings to which *subsection (1)* applies and before the return date for the motion, an applicant may, in accordance with the applicable provisions of the Rules of the Superior Courts, make an ex parte application for a stay on the decision or act, as the case may be, to which the proceedings relate.

(5) (a) At any time within 8 weeks from the date of the decision, the date of the act done or the date of the failure to perform a function, as the case may be, or at any time after the issuing of proceedings to which *subsection (1)* applies, any of the bodies concerned may make an amended decision, correcting any error of law or fact contained in that decision (and the text of the amended decision shall be taken to be the decision), or may carry out any act or may perform the function concerned.

(b) For the purpose of *paragraph (a)*, the body concerned may –

(i) take any steps remedying –

(I) any alleged failure to perform the function, or

(II) remedying an act done,

(ii) do an act,

(iii) make an amended decision,

(iv) apply to the court for a stay on the determination of the judicial review proceedings pending the taking of any steps to amend the decision, do an act perform the function or otherwise correct the error, as the case may be,

and

(v) apply to the court for such directions as to the performance of any steps in the process (including the service of notices or public notification) as may be considered necessary to amend the decision, do an act, perform the function or otherwise correct the error.

(6) Where judicial review proceedings are issued outside the period of 8 weeks specified in *subsection (2)*, an applicant must seek from the court an extension of time for the issuing of the proceedings at the return date of the motion, which may only be granted where the court is satisfied that-

(a) there is good and sufficient reason for doing so, and

(b) the circumstances that resulted in the failure to issue or to serve the proceedings within the period were outside the control of the applicant and the applicant's advisers (including legal advisers), and

(c) there has been no delay in making the application to extend time.

(7) An applicant shall only be entitled to amend the statement required to ground the application for judicial review outside the 8 week period specified in *subsection (2)*, where the court is satisfied that—

(a) there is good and sufficient reason for doing so, and

(b) the circumstances that resulted in the failure to include the amendment within the said period were outside the control of the applicant and the applicant's advisers (including legal advisers).

(8) (a) Upon the return date of the motion, which shall be no later than 6 weeks from the date of issue of the proceedings under *subsection (2)*, any respondent or notice party served with the pleadings shall indicate to the court—

(i) whether it opposes the grant of leave to seek judicial review,

(ii) where applicable, whether it opposes any application to extend time under *subsection (6)* or to amend grounds under *subsection (7)*,

(iii) where an ex parte stay has been granted, whether it opposes its continuation or is seeking a variation of such stay, and

(iv) any other matter arising.

(b) No later than three working days prior to the return date under *paragraph (a)*, the respondents and any notice parties shall inform the applicant in writing of the position they intend to indicate to the court on the matters set out in *subparagraphs (i)* to *(v)* of *paragraph (a)*.

(9) (a) Where no respondent or notice party indicates to the court that it is opposing leave to seek judicial review-

(i) the court shall, at the return date, deem leave to seek judicial review to be granted and shall thereupon fix a date for hearing and make the directions in accordance with *subsection (12)*,

(ii) the respondent and the notice party shall not be deemed to have accepted for the purposes of the proceedings that any or all of the grounds pleaded in the application for judicial review discloses a substantial basis for contending that the decision or act impugned is invalid or ought to be quashed, or that there has been a failure to perform a function within the meaning of *subsection (10)*, and

(iii) the fact that the respondent or notice party did not indicate that it is opposing leave to seek judicial review shall be without prejudice to their entitlement to object, at the hearing of the application for judicial review, that the applicant does not have sufficient interest in accordance with *paragraph (c)* of *subsection (10)*.

(b) Where any respondent or notice party is opposing leave to seek judicial review or an extension of time under *subsection (6)*, or amendment of pleadings under *subsection (7)* where applicable, the court shall fix a date for the expeditious hearing of such leave application or other matter and make such consequential directions concerning the delivery of affidavits and submissions in accordance with the applicable provisions of the Rules of the Superior Courts.

(10) Where leave is opposed under *paragraph (b)* of *subsection (9)*, the court shall not grant an application for leave on any grounds pleaded in the statement required to ground an application for judicial review, unless it is satisfied that—

(a) the ground pleaded discloses a substantial basis for contending that the decision or act impugned is invalid or ought to be quashed, or that there has been a failure to perform a function, and for these purposes a ground will be regarded as substantial where there is a reasonable prospect of relief being granted on that ground following the hearing of the application for judicial review,

(b) there are no appeal procedures or other administrative remedies available to the applicant in respect of the decision or act concerned, and

(c) the applicant has a sufficient interest in the ground and for these purposes—

(i) an applicant shall not be regarded as having a sufficient interest for the purpose of this section unless that applicant is or may be directly or indirectly materially affected by the matters to which the application relates,

(ii) a sufficient interest shall not be limited to an interest in land or a financial interest,

(iii) where an application for judicial review relates to a development identified in or under regulations made under *section 194* as being development that may have significant effects on the environment or that is likely to have a significant effect on a European site, an applicant shall be regarded as having a sufficient interest for the purpose of this section where -

(I) it is a company (within the meaning of the Companies Act 2014) that has existed for a period of not less than one year prior to the bringing of the application for judicial review,

(II) the constitution of the company includes objects related to the promotion of environmental protection which are relevant to the matters to which the decision, act or failure to which the proceedings relate and it has pursued those objects for a period of not less than one year prior to the bringing of the application for judicial review,

(III) the company has no fewer than 10 members at the time of bringing the application for judicial review, and

(IV) the company has passed a resolution in accordance with its constitution prior to the bringing of the application for judicial review authorising the bringing of the proceedings,

and

(iv) without prejudice to sub-paragraphs (i) to (iii), an applicant shall be regarded as having a sufficient interest in any ground that relates to matters raised by the applicant in submissions before the relevant decision-maker provided that the applicant has legal capacity to bring proceedings.

(11) The court shall deliver judgment on such leave application as soon as practicable and not later than 3 weeks after the hearing of the matter save where this is not consistent with the due administration of justice and in the event of the grant of leave shall make the directions set out in *subsections (12)* and (*13)* as appropriate.

(12) (a) Where leave is deemed to be granted under *paragraph (a)* of *subsection (9)* or leave is granted following judgment of the court under *subsection (11)*, the court shall, save in exceptional circumstances or where special cause is shown by any party, fix a date for hearing of all grounds in the proceedings except where the modularisation of the hearing of grounds is in the circumstances more consistent with the expeditious and efficient disposal of proceedings.

(b) Subject to *paragraphs (c) and (d)* and any regulations made under paragraph (e), the court shall direct that the parties shall be allowed the following periods of time:

(i) for the delivery of opposition papers and affidavits, a period of no longer than 3 weeks from the date of the direction to a respondent and up to one additional week thereafter to a notice party, and where in the particular circumstances of the case the court considers that further affidavits from any party are necessary, a further period of up to 3 weeks from the date of the direction for the delivery of such affidavits;

(ii) for written legal submissions, a period of no longer than 3 weeks after the delivery of the final affidavits to the applicant and, for the delivery of replying submissions, a period of up to 2 weeks thereafter to any respondent and one additional week thereafter to any notice party,

and, where applicable, a date shall be fixed for the hearing of any motion and other consequential directions relating thereto shall be made.

(c) The court may –

(i) vary, abridge or extend any period specified in *paragraph (b)* where it considers it necessary to do so in the interests of justice or the particular circumstances of the case, and

(ii) fix different periods, within the ranges set out in paragraph (b), in respect of each respondent, applicant and notice party as it sees fit.

(d) The Rules of the Superior Courts may specify that certain periods of the year shall be excluded from the reckoning of time for any period specified under *paragraph (b)*, and any such period so specified shall stand excluded.

(e) In relation to a time period referred to in paragraph (b), the Minister may, 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 of public importance, prescribe a time period, either generally or in relation to such class of cases as may be prescribed, other than that so referred to, and that paragraph shall be read in accordance with the time periods so prescribed.

(13) The court shall-

(a) deliver judgment on the hearing of an application for judicial review or, where applicable, make a reference to the Court of Justice of the European Union under Article 267 of the Treaty on the Functioning of the European Union, as soon as practicable and no later than 8 weeks from the conclusion of the hearing of the matter, save where this is not consistent with the due administration of justice,

(b) determine any consequential orders as soon as practicable and no later than 3 weeks after the delivering judgment under *paragraph (a)*, and

(c) perfect an order arising from a judgment under paragraph (a) as soon as practicable notwithstanding that any consequential order remains outstanding under paragraph (b).

(14) (a) If an application is made for judicial review in accordance with this Part in respect of all or part only of a decision or other act or failure to perform a function the court may, if it thinks fit, declare to be invalid or quash part only of the decision or other act concerned or any provision thereof without declaring invalid or quashing the remainder of the decision or other act or part of the decision or other act, and if the court does so, it may make any consequential amendments to the remainder of the decision or other act or the part thereof that it considers appropriate to reflect the Court's determination.

(b) Where an order is made quashing all or part of a decision or other act done, there shall be a presumption that the court, in addition to quashing it-

(i) shall, unless it is unlawful to do so, remit the matter to the decision-maker concerned with a direction to recommence or resume the process leading to the decision or act quashed, at such point as the court may specify,

(ii) shall give consequential directions as to the performance of any steps in the process (including the service of notices or public notification) in such manner as the court considers necessary to remedy in substance any error or other deficiency found by the court, and avoid unnecessary duplication of steps, and

(iii) shall, unless it considers that there are good reasons to direct otherwise, direct that the decision-maker concerned shall make any new decision by reference to a plan or policy in force at the date of the new decision.

(c) If an application is made for judicial review in accordance with this Part in respect of all or part only of a decision or other acts or failure to perform a function the Court may, if it thinks fit, direct that any error found by it in any part of the decision-making process be corrected without declaring invalid or quashing the decision or other act and if the Court does so, it may make such consequential amendments to the remainder of the decision or part thereof as it considers appropriate to reflect its determination.

(15) (a) The determination of the court of—

(i) an application for leave for judicial review,

(ii) any application for judicial review on foot of such leave, or

(iii) any other application or motion whatsoever relating to *subparagraph (i)* or *(ii)*,

shall be final and no appeal shall lie from the decision of the court to the Court of Appeal.

(b) No appeal shall lie from the decision of the court to the Supreme Court save on the basis of an application for leave to appeal under Article 34.5.4° of the Constitution.

(16) *Subsection (15)* shall not apply to a determination of the court in so far as it involves a question as to the validity of any law having regard to the provisions of the Constitution.

(17) Where the court considers that –

(a) a party has failed to comply with a direction to deliver any paper, affidavit, submission or other pleadings, or take any other action, within a period of time to which a direction under *subsection (12)(b)* relates, or that is otherwise provided for in this section, and

(b) it is in the interests of justice to do so,

it may do one or more of the following as it sees fit:

(i) direct that the paper, affidavit, submission or other pleadings to which the failure relates, or the proceedings generally, be struck out;

(ii) notwithstanding *section 250*, make an extraordinary order as to costs in light of the failure;

(iii) direct that the paper, affidavit, submission or other pleadings to which the failure relates be lodged within a certain period of time;

(iv) make such directions as it sees fit ancillary to a direction or order under this subsection.

Costs in relation to certain proceedings
250.

Draft Head

(1) The Court shall make no order as to costs in any proceedings relating to non-compliance with national law, or the law of the European Union, relating to the environment unless the Court considers, for stated reasons, that the proceedings are frivolous or vexatious or constitute an abuse of process.

(2) An administrative scheme to deal with costs in Judicial Review proceedings under this Part is to be established by the Minister for the Environment, Climate and Communications, or a body authorised to do so on his behalf, having consulted the Minister for Housing, Local Government and Heritage, the Minister for Justice, and with the consent of the Minister for Public Expenditure and Reform.

PART 10

Architectural Heritage

Chapter 1

Protected Structures

Interpretation and general (Part 10)

251. (1) In this Part -

"relevant Minister" means the Minister who has responsibility for architectural heritage;

"endanger", in relation to a protected structure or proposed protected structure, includes causing damage to the structure;

"protection", in relation to a protected structure or 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;

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

(a) any person who is entitled to the immediate use, enjoyment or control of that land or structure, and

(b) any person who is in substantial control of that land or structure.

(2) In relation to a time period referred to in this Part, where it appears to the Minister or the relevant Minister to be necessary to do so in the interests of the proper functioning of this Act or for other reasons of serious public importance, the Minister or the relevant Minister, as the case may be, may prescribe a time period, either generally or in relation to such class of cases as may be prescribed, other than that so referred to.

(3) Where a person to whom a planning authority is required to give or serve notice or information under *section 255(2)(a)*, *section 256(2)(a)* or *(12)*, *section 259(1)*, *section 260(1)*, *section 261(2)*, *section 277(2)(a)*, *section 281(3)* or *section 284(1)* is not given such notice or information –

(a) that shall not, where the authority has made efforts in good faith to identify and serve all such persons, of itself invalidate the procedure to which the notice relates,

(b) the person may, at any time before the decision of the authority to which the notice relates is made, apply in writing to the authority requesting that they be provided with the notice and any documents that should have been referred to in, or should have accompanied, the notice, and

(c) the authority shall, where satisfied that the request is made by a person to whom a planning authority was required to give such notice, comply with a request referred to in paragraph (b).

Record of protected structures

252.—(1) For the purpose of protecting structures, or parts of structures, a planning authority shall prepare a record (in this Part referred to as a "record of protected structures") of every structure within its functional area which, in the opinion of the planning authority, forms part of the architectural heritage and which is of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

(2) The relevant Minister shall prescribe the form of a record of protected structures.

(3) A record of protected structures, including additions or deletions 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 57*.

(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.

Additions to and deletions from record of protected structures

253. (1) Having prepared a record of protected structures under *section 252*, 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 its 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, and

(b) delete a structure, a specified part of a structure or a specified feature within the attendant grounds of a structure from its 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 special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, and to the proper planning and sustainable development of the area.

(2) The making of an addition to, or a deletion from, a record of protected structures shall be a reserved function.

(3) A planning authority may make an addition or deletion under *subsection (1)* whether or not a recommendation has been made under *section 255*.

National Planning Statements issued by Relevant Minister

254. (1) The relevant Minister may issue national planning statements to planning authorities concerning development objectives—

(a) for protecting structures, or parts of structures, or specified features which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, and

(b) for preserving the character of architectural conservation areas,

and any such national planning statements shall include the criteria to be applied when selecting proposed protected structures for inclusion in the record of protected structures.

(2) The relevant Minister may issue national planning statements concerning the consideration by planning authorities of developments affecting protected structures, proposed protected structures and architectural conservation areas.

(3) In this section, 'development objective' means an objective that a planning authority proposes to include in its development plan.

Recommendations to planning authorities concerning specific structures

255. (1) The relevant Minister may, in writing, make recommendations (in this section referred to as a "recommendation") to a planning authority concerning the addition to or deletion from its record of protected structures of any or all of the following:

(a) particular structures;

(b) specific parts of particular structures;

(c) specific features within the attendant grounds of particular structures.

(2) Within 4 weeks of receiving a recommendation, a planning authority shall—

(a) serve on each person who is the owner, occupier of, or any person appearing to the authority to have an interest in, the particular structure a notice of the recommendation, and

(b) cause notice of the recommendation to be published in one or more newspapers circulating in its functional area.

(3) Where a recommendation relates to an addition to the record of protected structures, the notice shall inform a person notified under *subsection (2)(a)* of their obligations under *section 258*.

(4) A planning authority shall decide whether to –

(a) follow,

(b) decline to follow, or

(c) otherwise act on,

a recommendation within 8 weeks of receiving it.

(5) A planning authority that decides to follow, or otherwise act on, a recommendation shall serve a notice under *section 256* as soon as reasonably practicable.

(6) Where a planning authority declines to follow, or otherwise act on, a recommendation, it shall inform the relevant Minister in writing of the reason for its decision as soon as reasonably practicable.

(7) Where a planning authority fails to make a decision under *subsection (4)* within the timeframe referred to in that section, the planning authority shall be bound by the recommendation and shall serve a notice under *section 256* as soon as reasonably practicable.

(8) The decision under *subsection (4)* shall be a reserved function.

(9) In making a decision under *subsection (4)*, the members shall be restricted to considering the proper planning and sustainable development of the area.

Procedure for making additions or deletions to the record of protected structures

256. (1) A planning authority shall not add a structure to, or delete a structure from, its record of protected structures other than in accordance with this section or in the course of a review of the development plan under *section 55*.

(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 or a deletion from its record of protected structures shall—

(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 proposed protected structure or the protected structure, as the case may be, of the proposed addition or deletion, including the particulars of the proposed addition or deletion,

(b) send particulars of the proposed addition or deletion to the relevant Minister and to any other prescribed bodies, and

(c) cause notice of the proposed addition or deletion to be published in one or more newspapers 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 or deletion may be inspected at a specified place, during a specified period of not less than 10 weeks;

(b) that, during the period specified in paragraph (a), any person may make written submissions or observations, with respect to the proposed addition or deletion, to the planning authority in the manner specified in the notice, and that any such submissions or observations will be taken into consideration before making a decision on the addition or deletion concerned;

(c) that, during the period specified in paragraph (a), 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;

(d) whether or not the proposed addition or deletion was recommended by the relevant Minister under *section 255(1)*;

(e) the obligations of each owner or occupier arising under *section 258*,

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 or deletion was recommended by the relevant Minister under *section 255(1)*, the planning authority shall, as soon as practicable after the expiry of the period specified in the notice under *subsection (3)(a)*, forward to the relevant Minister -

(a) a copy of all submissions or observations made under *subsection (3)(b)*, and

(b) all requests made under *subsection (3)(c)*.

(5) The relevant Minister may make written observations to the planning authority concerning submissions or observations made under *subsection (3)(b)* or requests made under *subsection (3)(c)* within 4 weeks of the date on which that Minister receives a copy of such submission, observation or request.

(6) Not later than 6 weeks after the expiry of the period referred to in *subsection (3)(a)* or *subsection (5)*, whichever is the later, the chief executive of a planning authority shall-

(a) prepare a report on submissions or observations received under *subsection (3)(b)* or requests made under *(3)(c)*, and

(b) submit the report to the members of the authority for their consideration.

(7) A chief executive's report prepared 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 under *subsection (6)(b)*.

(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 relevant Minister has made a recommendation under *section 255(1)*, provide a summary of the recommendation,

(c) list the persons or bodies who made submissions or observations under this section,

(d) provide a summary of the submissions and observations made,

(e) where the relevant 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 observations or submissions received by the planning authority under *subsection (3)(b)* or *(5)*,

(g) provide a summary of the response of the chief executive to any request received by the planning authority under *subsection (3)(c)*,

(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 made by the relevant Minister under *section 255(1)*, taking account of any guidelines issued under *section 254*,

(i) include a recommendation from the chief executive on whether the members of the planning authority should –

(i) support the addition to, or deletion from, the record of protected structures,

(ii) support the addition or deletion subject to modifications, or

(iii) not support the addition or deletion.

(9) Within 6 weeks of the submission of the chief executive's report under *subsection (6)(b)*, the members of the planning authority shall, having regard to the report and to the notice served under *subsection (2)*, decide -

(a) whether or not the proposed addition or deletion should be made to the record of protected structures,

(b) where requested to do so, the extent of the curtilage and features in the attendant grounds to be recorded in the record of protected structures, and

(c) whether modifications should be made to, the proposed addition or deletion.

(10) The members of the planning authority may, by resolution -

(a) accept the addition or deletion, reject the addition or deletion or accept the addition or deletion subject to modifications and accordingly shall make the addition to or deletion from its record of protected structures, and

(b) where requested to do so, accept, reject or accept subject to modification the extent of the curtilage and features in the attendant grounds to be recorded in the record of protected structures.

(11) Where the proposed addition or deletion was recommended by the relevant Minister, the planning authority shall inform the relevant Minister in writing of its decision.

(12) A planning authority shall, no later than 2 weeks from the date on which a resolution under *subsection (10)* is made—

(a) serve on the owner and occupier of the structure concerned notification of the resolution,

(b) serve on the owner and occupier of any lands identified as lying within the curtilage or features within the attendant grounds where same are defined pursuant to a request under *subsection (3)(c)* where the owner and occupier are not the same as the owner and occupier of the protected structure,

(c) cause notice of the resolution to be published in one or more newspapers circulating in its functional area, and

(d) make a copy of the resolution available—

(i) for inspection and purchase of a hard copy of the resolution 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.

(13) The addition to or deletion of a structure from the record of protected structures shall be subject to the provisions of any applicable European Union environmental Directives, including the Strategic Environmental Assessment Directive and the Habitats Directive.

Declarations relevant to works relating to protected structures or proposed protected structures

257. (1) An owner or occupier of a protected structure or proposed protected structure may make a written request to the planning authority within whose functional area the structure is situated as to one or more of the following –

(a) for a declaration as to the type of works which the authority considers would or would not materially affect the character of the structure or of any element of that structure,

(b) for a declaration as to whether specified works identified in detail in the request would materially affect the character of the structure or of any element of that structure, or

(b) for a declaration as to features within the attendant grounds and the extent of the curtilage of the structure that are to be protected.

(2) No later than 12 weeks from the date on which it receives a request under *subsection (1)*, or within such other period as may be prescribed, a planning authority shall, where it is satisfied that the request was accompanied by sufficient information to enable it to perform its functions

under this section and that the request is valid, issue the declaration (in this section referred to as a "declaration") to the person who made the request.

(3) Before issuing a declaration, a planning authority or the Commission shall have regard to—

(a) any national planning statement, and

(b) any recommendations made to the authority under *section 255*.

(4) Where the planning authority, or the Commission, considers proposed works for the purpose of enabling a residential use of a protected structure or proposed protected structure, to be reasonably necessary and proportionate and appropriate to the objective of enabling such residential use while protecting the character and element of the structure, it shall issue 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.

(5) A planning authority may at any time after issuing a declaration under *subsection (2)* revise the declaration, but the revision shall not affect any works carried out in reliance on the declaration prior to the revision.

(6) Any person to whom a declaration under *subsection (2)*, or a declaration revised under *subsection (5)*, has been issued, may, on payment to the Commission of such fee as may be prescribed, appeal to the Commission within 4 weeks from the date of the issuing of a declaration, or a declaration as revised, as the case may be, and where such an appeal is brought the Commission may confirm the declaration with or without modifications, or annul the declaration, and it shall specify the main reasons and considerations for its decision.

(7) Particulars of each declaration made by a planning authority or decision by the Commission on appeal shall be entered in the register.

(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 or by the Commission on appeal-

(a) for inspection and purchase during office hours of the planning authority, and

(b) in electronic form including by placing a copy on the planning authority 's website.

(9) The Commission shall keep a record of any declaration made by it on appeal under this section and the main reasons and considerations on which its decision is based and shall make the record available -

(a) for inspection and purchase during office hours, and

(b) 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 8*.

(11) 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 may request a declaration;

(c) the process by which a declaration may be requested, including the information or matters that shall accompany such a request.

Duty of owners and occupiers to protect structures from endangerment

258. (1) Subject to *subsection (2)*, each owner and each occupier shall take all reasonable steps to ensure that the protected structure or proposed protected structure, or any element of it which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, is not endangered.

(2) The duty imposed by *subsection (1)* in relation to a proposed protected structure arises from the time the owner or occupier is notified, under *section 256*, or under *section 55(4)(a)* or under *section 255*, of the proposal or recommendation to add the structure to the record of protected structures.

(3) Neither of the following shall be a breach of the duty imposed on each owner and each occupier under this section:

(a) development in respect of which permission under *Part 4* has been granted;

(b) development consisting only of works of a type which, in a declaration issued under *section 257 a planning authority or the Commission has declared would not materially affect th*e character or any element of the protected structure or proposed protected structure.

(4) Any person who, without lawful authority, endangers a protected structure or a proposed protected structure shall be guilty of an offence.

(5) In any prosecution for an offence under this section, the onus of proving the existence of—

(a) any planning permission, or

(b) any declaration under *section 257*,

shall be on the defendant on the balance of probabilities.

(6) It shall be a defence in any prosecution for an offence under this section for the defendant to prove on the balance of probabilities that the endangerment of the protected structure or proposed protected structure resulted from works which were—

(a) urgently required in order to avoid the 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 or any element of it referred to in *subsection (1)*.

Notice to require works to be carried out in relation to endangerment of protected structures and proposed protected structures

259. (1) Where, in the opinion of the planning authority, it is necessary to do so in order to prevent a protected structure or proposed protected structure or any part of the 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 which the planning authority considers necessary in order to prevent the proposed protected structure or protected 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 advice, financial aid, materials, equipment and the services of the authority's staff.

(3) Any person on whom a notice under *subsection (1)* has been served may, no later than 6 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-

(a) where the planning authority does not receive a representation under *subsection (3)*, 6 weeks from the date on which the period referred to in *subsection (3)* ends, or

(b) where the planning authority receives at least one representation under *subsection (3)*, 6 weeks from the day on which the planning authority receives the last such representation,

confirm, modify or revoke the notice and shall notify the persons who made representations 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.

Issue of notice to require works to be carried out in relation to endangerment of protected structures and proposed protected structures in cases of urgency

260. (1) Notwithstanding *section 259*, where, in the opinion of the planning authority, there is an immediate danger to the protected structure or proposed protected structure or any element of it that contributes to its special interest characteristics or to the public, the planning authority may serve a notice on the owner or occupier specifying works reasonable and necessary to address this immediate danger to be undertaken by the owner or occupier.

(2) Where the planning authority cannot identify the owner or occupier of the protected structure or proposed protected structure and the planning authority is satisfied that urgent works are required to address an immediate danger to the protected structure or proposed protected structure or any element of it that contributes to its special interest characteristics or to the public, the planning authority may take such steps as it considers reasonable and necessary to address this immediate danger including-

(a) entry on land by authorised persons in accordance with *section 345*, and

(b) the carrying out, or arranging the carrying out, of the works which it considers reasonable and necessary to address the immediate danger.

(3) Notwithstanding *section 348(5)*, a notice served under this section takes effect immediately upon service.

Notice to require restoration of the character of protected structures and structures in architectural conservation areas

261. (1) In this section, "works", in relation to a structure or any element of a structure, includes the removal, alteration or replacement of any specified part of the structure or element, and the removal or alteration of any advertisement structure.

(2) A planning authority may serve a notice that complies with *subsection (3)* on each person who is the owner or occupier of a structure situated within its functional area, if—

(a) the structure is a protected structure and, in the opinion of the planning authority, it is necessary, in order to preserve the character of the area, that the structure or any element of the structure ought to be restored, or

(b) the structure is in an architectural conservation area and, in the opinion of the planning authority, it is necessary, in order to preserve the character of the area, that the structure or any element of the structure ought to be restored.

(3) A notice under *subsection (2)* shall—

(a) specify the works required to be carried out for the purposes of restoring the structure or element referred to in the notice,

(b) state that the person on whom the notice is served may, within a specified period of not less than 8 weeks from the date of the service of the notice, make written representations to the planning authority concerning the notice,

(c) invite that person to enter into discussions with the planning authority, within a specified period of not less than 8 weeks from the date of the service of the notice, concerning the notice and in particular concerning—

(i) the provision by the planning authority of advice, materials, equipment, the services of the authority's staff or other assistance in carrying out the works specified in the notice, and

(ii) the period within which the works are to be carried out,

(d) specify 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 that are reasonably incurred by that person in carrying out the works in accordance with the notice other than expenses that relate to an unauthorised development which could be restrained by any court.

(4) 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 255*.

(5) If the invitation under *subsection (3)(c)* to enter into discussions is accepted, the planning authority shall as far as practicable facilitate the holding of those discussions.

(6) After considering any representations made under *subsection (3)(b)* and any discussions held under *subsection (5)*, the planning authority may confirm, modify or revoke the notice and shall notify the person who made the representations of its decision within 6 weeks of the later of the receipt of the representations or the occurrence of any such discussions.

(7) Particulars of a notice served under *subsection (2)* and of a decision made under *subsection (6)* shall be entered in the register.

Appeals against notices

262. (1) No later than 4 weeks from the date of a notice under *section 259(4)* or *261(6)* of the confirmation or modification of a notice, any person who made representations in relation to the notice may appeal against the notice to the District Court, on any one or more of the following grounds:

(a) that the person is not the owner or occupier of the structure in respect of which the notice was served;

(b) that, in the case of a notice under *section 259(1)*, compliance with the requirements of the notice would involve unreasonable expense, and that the person had stated in

representations made to the planning authority under *section 259(3)* that he or she did not have the means to pay;

(c) that the person has, at the time the appeal is heard, taken all reasonable steps to—

(i) in the case of a notice under *section 259(1)* or a modified notice under *section 259(4)*, to prevent the structure from becoming, or continuing to be endangered,

(ii) in the case of a notice under *section 261(2)* or a modified notice under *section 261(6)* in relation to a structure, restore the character of the structure or the element, or

(iii) in the case of a notice under *section 261(2)* or a modified notice under *section 261(6)* in relation to a structure that forms part of a place, area, group of structures or townscape referred to in *paragraph (b)* of that subsection, assist in restoring the character of that place, area, group of structures or townscape, as the case may be;

(d) that the time for complying with the notice is unreasonably short.

(2) The court may, where the circumstances of the case require, extend the period provided for in *subsection (1)* within which an appeal referred to in that subsection may be made.

(3) A person making an appeal under *subsection (1)* shall give notice of the appeal on the planning authority to whom they made the representations referred to in *subsection (1)*, and the planning authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.

(4) On the hearing of the appeal, the District Court may —

(a) confirm the notice unconditionally,

(b) confirm the notice subject to such modifications or additions as the Court considers reasonable, or

(c) annul the notice.

(5) Where the notice is confirmed under *subsection (4)(b)* subject to modifications or additions, the notice shall have effect subject to those modifications or additions.

(6) Particulars of any decision made under *subsection (4)* shall be entered in the register.

Effective date of notices

263. Notwithstanding *section 348(5)*, a notice under *sections 259(1), 259(4), 261(1)* and *261(6)* shall not have effect until the expiry of 4 weeks from the date of service of the notice, subject to the following exceptions:

(a) if any representations have been made under *section 259* or *261* in relation to the notice, and no appeal is taken within the period allowed under *section 262*, the notice has effect on the expiry of the appeal period;

(b) if an appeal is taken under *section 262(1)* and the notice is confirmed, the notice has effect on the date on which the decision of the District Court is pronounced, or the date on which that order is expressed to take effect, whichever is later;

(c) if an application is made to the District Court under *section 266(1)* and an order is made under *section 266(3)*, the notice has effect on the date on which the decision of the Court is pronounced, or the date on which that order is expressed to take effect, whichever is later.

Offence relating to endangerment of protected structures or proposed protected structure

264. (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 259*, or

(b) an order under *subsection (3)*.

(2) It shall be a defence to a prosecution under this section for the defendant to prove on the balance of probabilities that—

(a) the notice did not comply with the requirements of *section 259*, or

(b) he or she took all reasonable steps to secure compliance with the notice served under *section 259*.

(3) Where a person—

(a) is convicted of an offence under *subsection (1*), or

(b) is acquitted on foot of a defence under *subsection (2)(b)*,

the court, in addition to imposing a penalty referred to in *section 297* in the case of a conviction, may order the person to take all or any of the steps specified in the notice served under *section 259* within such period as the court considers appropriate.

Owners' powers in relation to notices concerning endangerment or restoration of structures

265. (1) Subject to *subsection (2)*, a person who is the owner of the land or structure in respect of which a notice under *section 259* or *261* has been served, and his or her servants or agents, 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

266. (1) Without prejudice to *section 265*, a person served with a notice under *section 259* or *261* 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 withholds consent to the carrying out of those works.

(2) An application under *subsection (1)* shall be on notice to the person referred to *in subsection (1)(b)*.

(3) If, on hearing an application under *subsection (1)*, the District Court determines that the consent of the person referred to in *subsection (1)(b)* has been unreasonably withheld—

(a) the Court may, at its discretion, make an order deeming consent to have been given, and

(b) in that case, the person making the application shall be entitled to carry out the works required under the notice.

Jurisdiction of District Court

267. The jurisdiction conferred on the District Court—

(a) by *section 262* in relation to an appeal against a notice, or

(b) by *section 266* in relation to an application for an order deeming consent to have been given,

shall be exercised by a judge of that Court having jurisdiction in the district in which the structure that is the subject of the appeal or application is situated.

Application to court for contribution to cost of carrying out works on endangered structures

268. (1) A person who has been served with a notice under *section 259*, and who has carried out the works required under the notice, may apply to a court of competent jurisdiction for an order directing that all, or such part as may be specified in the order, of the cost of those works be borne by some other person who has an interest in the structure concerned.

(2) An application under *subsection (1)* shall be on notice to persons referenced in that subsection.

(3) On the hearing of an application under *subsection (1)*, the court shall make such order as it considers just, having regard to all the circumstances of the case.

Permission not required for any development required under this Chapter

269. Notwithstanding *section 79*, permission shall not be required in respect of a development required by a notice under *section 259* or *261* or an order under *section 262* or *264*.

Planning authority's power to carry out works to protected structures, proposed protected structures and structures in architectural conservation areas

270. Where a person on whom a planning authority has served a notice under *section 259* or *261*, or in relation to whom a court has made an order under *section 262* or *264*, 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 345*, and

(b) the carrying out, or arranging the carrying out, of the works specified in the notice or order by an authorised person.

Recovery by planning authority of expenses for carrying out works on endangered structures

271. Where a planning authority serves a notice under *section 259* or where a court order is made pursuant to *section 262* or *264* in respect of a *section 259* notice, the planning authority may recover, from the owner or occupier, any expenses reasonably incurred by the authority under *section 270*, including any assistance provided under *section 259(2)*.

Power to acquire protected structures

272. (1) Without prejudice to the generality of Parts 13 and 14, a planning authority may acquire by agreement or compulsorily in accordance with those Parts any protected structure situated within its functional area where it appears to the planning authority that it is necessary to do so in order to protect the structure, or where the structure is otherwise required for any of the authority's functions.

(2) A planning authority shall not acquire any land under *subsection (1)* that is lawfully occupied as a dwelling house by any person other than a person employed therein as a caretaker in relation to the structure.

(3) The power to acquire a protected structure under *subsection (1)*, includes a power to acquire any land which—

(a) forms part of the attendant grounds of that structure, and

(b) it is necessary to acquire that land in order to protect the structure, or where the land is otherwise required for any of the authority's functions,

whether or not the land lies within the curtilage of the structure or is specified as a feature in the record of protected structures.

Use of protected structure acquired by planning authority

273. Without prejudice to the generality of Parts 13 and 14, a planning authority may—

(a) use a protected structure acquired by it under this Act or any other enactment for any purpose connected with the functions of the authority, or

(b) sell, let, transfer or exchange all or any part of that protected structure,

and in doing so shall have regard to its protected status.

Obligations of sanitary authorities in respect of proposed protected structures and protected structures

274. **(**1) Before issuing a notice under section 3(1) of the Local Government (Sanitary Services) Act 1964, in respect of a protected structure or a proposed protected structure, a sanitary authority shall consider—

(a) the protected status of the structure, and

(b) whether, instead of a notice under section 3(1) of that Act, a notice should be issued under section 59(1) or section 11 of the Derelict Sites Act 1990.

(2) As soon as practicable after serving or proposing to serve a notice in accordance with section 3(1) of the Local Government (Sanitary Services) Act 1964, in respect of a protected structure or a proposed protected structure, a sanitary authority shall inform the relevant Minister in writing of the particulars of the notice if he or she recommended that the structure be protected.

(3) A sanitary authority which carries out works on a protected structure, or a proposed protected structure, under section 3(2) of the Local Government (Sanitary Services) Act 1964, shall as far as possible preserve that structure (or elements of that structure which may be of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest), in as much as the preservation of that structure is not likely to cause a danger to any person or property.

(4) When carrying out works in accordance with section 3(2) of the Local Government (Sanitary Services) Act 1964, on a protected structure or a proposed protected structure, a sanitary authority shall, as soon as practicable, inform the relevant Minister of the works if he or she recommended that the structure be protected.

Grants to planning authorities in respect of functions under this Part

275. The relevant Minister may, with the consent of the Minister for Finance, 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 259* or *261* 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 relevant Minister for the receipt of such assistance.

Chapter 2

Architectural Conservation Areas and Areas of Special Planning Control

Architectural conservation areas

276. (1) In this chapter, "architectural conservation area" means a place, area, group of structures or townscape that—

(a) is of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest or value, or

(b) contributes to the appreciation of protected structures.

(2) A development plan shall include an objective to preserve the character of an architectural conservation area in the functional area of the planning authority making the plan, taking account of building lines and heights, if the planning authority is of the opinion that its inclusion is necessary for the preservation of the character of the architectural conservation area.

(3) 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 57*, also include that objective.

Recommendations to planning authorities concerning architectural conservation areas

277. (1) The Minister may, in writing, make recommendations (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, or a material alteration to an architectural conservation area.

(2) Where a recommendation is made to a planning authority under *subsection (1)*, the planning authority shall—

(a) serve on each person who is the owner or occupier of land situated within the architectural conservation area or proposed architectural conservation area a notice of the recommendation, including the particulars,

(b) cause notice of the recommendation to be published in one or more newspapers circulating in its functional area.

(3) A planning authority shall make a decision on whether to commence the variation process under *section 57* in respect of the recommendation within 8 weeks of receiving the recommendation.

(4) A planning authority that decides under *subsection (3)* to commence the variation process under *section 57* shall do so as soon as is reasonably practicable.

(5) A planning authority which decides, under *subsection (3)*, not to commence the variation process shall inform the Minister in writing of its decision.

(6) Where a planning authority fails to make a decision under subsection (3) within the prescribed timeframe, the Chief Executive shall commence the variation process under *section 57(4)(b)* in respect of the recommendation as soon as reasonably practicable.

(7) The decision under *subsection (3)* shall be a reserved function.

(8) In making a decision under *subsection (3)* the members shall be restricted to considering the proper planning and sustainable development of the area.

Declaration on works affecting the character of architectural conservation areas

278. (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–

(a) for a declaration as to the type of works which the authority considers would or would not materially affect the character of the area, or

(b) for a declaration as to whether specified works identified in the request would materially affect the character of the area.

(2) No later than 12 weeks from the date on which it receives a request under *subsection (1)*, or within such other period as may be prescribed, a planning authority shall issue the declaration (in this section referred to as a "declaration") to the person who made the request.

(3) Before issuing a declaration, a planning authority or the Commission shall have regard to—

(a) any national planning statement, and

(b) any recommendations made to the authority under *section 277*.

(4) 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.

(5) Any person to whom a declaration under *subsection (2)*, or a declaration revised under *subsection (4)* has been issued, may, on payment to the Commission of such fee as may be prescribed, appeal to the Commission within 4 weeks from the date of the issuing of the declaration, or the declaration as revised, as the case may be, and where such an appeal is brought the Commission may confirm the declaration with or without modifications, or annul the declaration, and it shall specify the main reasons and considerations for its decision.

(6) A planning authority shall make available —

(a) a copy of the request made under *subsection (1)*, and

(b) the details of any declaration issued by the authority or by the Commission on appeal-

(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.

(7) The Commission shall keep a record of any decision made by it on appeal under this section and the main reasons and considerations on which its decision is based and shall make it available -

(a) for inspection and purchase during office hours, and

(b) in electronic form including by placing a copy on the Commission's website.

(8) A declaration under this section is without prejudice to the application of *section 8*.

(9) 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 may request a declaration;

(c) the process by which a declaration may be requested, including the information or matters that shall accompany such a request.

Power of acquisition within architectural conservation area

279. (1) Without prejudice to the generality of Parts 13 or 14, a planning authority may acquire by agreement or compulsorily in accordance with those Parts any land situated within its functional area which is within an architectural conservation area where it appears to the planning authority that it is necessary to do so in order to protect land or a structure, preserve the character of the architectural conservation area or where the land is otherwise required for any of the authority's functions.

(2) A planning authority shall not acquire any land compulsorily under *subsection (1)* that is lawfully occupied as a dwelling house by any person other than a person employed therein as a caretaker in relation to the structure.

Special Planning Control Scheme

280. (1) A planning authority may, if 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, prepare a draft scheme in accordance with *subsection (3)* and *section 281* (in this chapter referred to as a "draft special planning control scheme") 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 one or more 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, 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,

(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.

Preparation of a Special planning control scheme

281. (1) A planning authority shall, as soon as may be after the preparation of a draft special planning control scheme—

(a) notify the relevant 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 scheme to each of the persons referred to in paragraph (a), and

(c) publish a notice of the preparation of the draft scheme in one or more newspapers circulating in its functional area.

(2) A notice under *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 a copy of the draft scheme shall be kept available for inspection accordingly), and

(b) invite submissions or observations in relation to the draft scheme within such period (being not less than 8 weeks) 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 height 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 may be after the preparation of a draft special planning control scheme, notify 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 proposed objective or objectives,

(b) 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 copy shall be kept available for inspection accordingly), and

(c) invite submissions or observations in relation to the proposed objective or provision within such period (being not less than 8 weeks) as is specified in the notice.

(5) 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 *subsection (1)(c)* is published, or

(b) the date on which notifications under *subsection (3)* have been made,

prepare a report on any submissions or observations received in relation to a draft special planning control scheme prepared under *section 280* 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 or observations in relation to the draft special planning control scheme,

(b) give a summary of the matters raised in those submissions or observations, and

(c) include the response of the chief executive to the submissions or observations.

(7) In responding to submissions or observations made in relation to a draft special planning control scheme prepared under *section 280*, 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 and any relevant policies or objectives of the Government or of any Minister of the Government.

(8) A planning authority may, after considering a draft special planning control scheme prepared under *section 280*, 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 referred to as a "special planning control scheme".

(9) An architectural conservation area, or that part of an architectural conservation area, to which a special planning control scheme applies is referred to in this Act as an "area of special planning control".

(10) 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 one or more newspapers 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 relevant Minister, the Commission and such other persons as may be prescribed.

(11) The approval of a draft special planning control scheme shall be subject to the provisions of any applicable European Union environmental Directives, including the Strategic Environmental Assessment Directive and the Habitats Directive.

Variation and review of a special planning control scheme

282. (1) A planning authority shall review a special planning control scheme from time to time as circumstances require and in any case not later than 6 years from the later of—

(a) the date on which the special planning control scheme is approved under *section 281(8)*, or

(b) the date on which the special planning control scheme has most recently been reviewed,

and after such review may, by resolution, modify, revoke or extend the scheme.

(2) Where a planning authority proposes to modify, revoke or extend a special planning control scheme under this section, *section 281* shall, apply with respect to any such modification, revocation or extension.

(3) The planning authority shall give notice of the modification, revocation or extension of an approved scheme under this section in one or more newspapers circulating in its functional area.

(4) The modification, revocation or extension of a special planning control scheme shall be without prejudice to the validity of anything previously done thereunder.

(5) The modification, review or extension of a special planning control scheme shall be subject to the provisions of any applicable European Union environmental Directives, including the Strategic Environmental Assessment Directive and the Habitats Directive.

Declaration on development affecting an area of special planning control

283. (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 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 will be required to be undertaken in respect of the land to ensure compliance with such objectives or provisions.

(2) No later than 12 weeks from the date on which it receives a request under *subsection (1)*, or within such other period as may be prescribed, a planning authority shall issue a declaration under this section to the person who made the request.

(3) Before issuing a declaration, a planning authority or the Commission shall have regard to any national planning statement.

(4) 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.

(5) Any person to whom a declaration under *subsection (2)* or a declaration revised under *subsection (4)* has been issued, may, on payment to the Commission of such fee as may be prescribed, refer the declaration for appeal to the Commission no more than 4 weeks from the later of the date on which the declaration was issued or the date on which the declaration was reviewed, as the case may be, and where such an appeal is brought the Commission may confirm the declaration with or without modifications, or annul the declaration, and it shall specify the main reasons and considerations for its decision.

(6) Particulars of any declaration issued by a planning authority or of a decision by the Commission on appeal under this section shall be entered in the register.

(7) 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 -

(a) for inspection and purchase during office hours of the planning authority, and

(b) in electronic form including by placing a copy of a declaration on the planning authority ’s website.

(8) The Commission shall keep a record of any declaration made by it on appeal under this section and the main reasons and considerations on which its decision is based and shall make it available -

(a) for inspection and purchase during office hours, and

(b) in electronic form including by placing a copy of the declaration on the Commission's website.

(9) A declaration under this section is without prejudice to the application of *section 8*.

(10) 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 may request a declaration;

(c) the process by 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 an area of special planning control

284. (1) A planning authority may serve a notice that complies with *subsection (2)* on each person who is the owner or occupier of land to which an objective or provision of special planning control scheme applies.

(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 *subsection (2)(e)* 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 *subsection (2)(d)* 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 provisions of the development plan, urban area plan, joint area plan for the area,

(c) integrated area plan (within the meaning of the Urban Renewal Act 1998) in force relating to the area to which the scheme relates, and

(d) the provisions of the 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 upon withdrawal shall cease to have effect on and from the date of the notice of withdrawal.

(8) Notwithstanding *section 348(5),* a notice under this section 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).*

Implementation of the notice under *section 284*

285. (1) If, within 8 weeks from the date of the coming into force of a notice under *section 284* or such longer period as may be agreed by the planning authority and the person to whom the notice is addressed, the restoration, demolition, removal, alteration, replacement, maintenance, repair or cleaning required by the notice has not been effected, the planning authority, or a person lawfully authorised by a planning authority to do so, may, subject to *section 345* and *subsection (2),* enter the structure or land for the purpose of effecting such restoration, demolition, removal, alteration, replacement, maintenance, repair or cleaning as is specified in the notice.

(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 a notice under *section 284*

286. (1) Where a person served with a notice under *section 284* 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 said notice, including requiring such person as is specified in the order to carry out any works, including the restoration, demolition, removal, alteration, replacement, maintenance, repair or cleaning of any structure or other feature 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 the subject of the application does not exceed €3,000,000.

(c) Where the market value of any land 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 person having an interest in the proceedings, transfer the proceedings to the High Court, but any order made or act done in the course of such proceedings before the transfer shall be valid unless discharged or varied by order of the High Court.

(d) In this subsection "market value" means, in relation to land, the price that would have been obtained in respect of the unencumbranced fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.

(4) Rules of Court made in respect of section 27 of the Local Government (Planning and Development) Act 1976 (inserted by section 19 of the Local Government (Planning and Development) Act 1992) or section 160 of the Planning and Development Act 2000 shall apply with any necessary modifications to an application under this section.

(5) 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.

(6) Costs or expenses to be paid to the planning authority under *subsection (5)* 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.

(7) An order made under *subsection (5)* may contain such terms and conditions as to the payment of such costs and expenses as the court considers appropriate.

(8) Subject to *section 294(3)(b)*, 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,

(b) the court 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 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, 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, 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.

(9) 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 a notice under *section 284*

287. (1) A person shall be guilty of an offence where he or she fails to comply with a notice served on him or her under *section 284* or fails to comply with a requirement of the notice, or causes or permits a person to fail to comply with such a requirement.

(2) It shall be a defence to a prosecution under this section for the defendant to prove on the balance of probabilities that—

(a) the notice did not comply with the requirements of *section 284*, or

(b) he or she took all reasonable steps to secure compliance with the notice served under *section 284*.

(3) Where a person—

(a) is convicted of an offence under *subsection (1)*, or

(b) is acquitted on foot of a defence under *subsection (2)(b)*,

the court, in addition to imposing a penalty referred to in *section 297* in the case of a conviction, may order the person to take all or any of the steps specified in the notice under *section 284* within such period as the court considers appropriate.

Permission not required for any development required under this Chapter

288. Notwithstanding *section 79*, permission shall not be required in respect of a development required by a notice under *section 284* or an order under *section 286* or *287*.

PART 11

Enforcement

Definitions

289. In this Part –

"enforcement action" means –

(a) the service of an enforcement notice in accordance with *section 293*, or

(b) the making of an application for a planning injunction in accordance with *section 294*;

"enforcement authority" means –

(a) a planning authority,

(b) a regional enforcement authority, or

(c) the Maritime Area Regulatory Authority;

"enforcement notice" means a notice served in accordance with *section 293*;

"enforcement area" means –

(a) in relation to a coastal planning authority –

(i) its functional area (other than the nearshore area), and

(ii) any maritime site to which an agreement under *paragraph (a)* of *subsection (10)* of *section 291* applies made by the coastal planning authority with the Maritime Area Regulatory Authority,

(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 300* as respects that regional enforcement authority, and

(d) in relation to the Maritime Area Regulatory Authority –

(i) the maritime area, and

(ii) any land within the functional area of a coastal planning authority to which an agreement under *paragraph (b)* of *subsection (10)* of *section 291* applies made by the Maritime Area Regulatory Authority with the coastal planning 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 294*;

"urgent enforcement notice" has the meaning assigned to it by *paragraph (b)* of *subsection (4)* of *section 291*;

"warning letter" means a letter served in accordance with *section 292*.

Offence

290. A person who carries out unauthorised development shall be guilty of an offence.

Powers and obligations of planning authorities in enforcement of planning control

291. (1) Where unauthorised development has been, is being, or is likely to be, carried out or continued, an enforcement authority may do any one or more 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)* –

(a) carry out any investigations or make any inquiries that it considers appropriate, or

(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 290*,

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 and any other material considerations, an urgent need to serve such notice exists.

(5) An enforcement authority shall –

(a) not later than 2 weeks after the service by it of a warning letter in accordance with *paragraph (b)* of *subsection (3)*, notify the person who made the planning complaint in writing of such service, and

(b) not later than 2 weeks after the making of a decision not to serve a warning letter in accordance with *paragraph (b)* of *subsection (3)*, notify the person who made the complaint in writing of the decision.

(6) Where 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 292* or any extended period under *subsection (5)* of that section,

(iii) any declaration made under *section 8*, and

(iv) any relevant grant of permission,

is of the opinion that an unauthorised development has been, is being or is likely to be carried out or continued, it shall, as soon as practicable thereafter but subject to *subsection (7)*, do one or both of the following:

(I) subject to *subsection (4)*, serve an enforcement notice in accordance with *section 293* in relation to the development or proposed development concerned; or

(II) make an application for a planning injunction in accordance with *section 294* 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 296*, 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 extension of a period for making submissions in relation to a warning letter under *subsection (5)* of *section 292*;

(c) the withdrawal of a warning letter under *subsection (9)* of *section 292*;

(d) a decision under *subsection (7)* not to take enforcement action;

(e) the service of an enforcement notice;

(f) the service of an enforcement notice in accordance with *subsection (5)* of *section 293*;

(g) the extension of an enforcement notice under *subsection (6)* of *section 293*;

(h) the withdrawal (in whole or in part) of an enforcement notice under *subsection (12)* of *section 293*; and

(i) compliance with an enforcement notice by a person on whom the notice was served.

(10) (a) A coastal planning authority and the Maritime Area Regulatory Authority may agree in writing that the coastal planning authority shall be the enforcement authority in respect of a particular development or proposed development situated or proposed to be situated partly on land and partly in the nearshore area of the coastal planning authority, and for that purpose the maritime site upon which the development or proposed development is partly situated or proposed to be partly situated shall form part of the enforcement area of the coastal planning authority.

(b) 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 partly on land and partly in the nearshore area of the coastal planning authority, and for that purpose the land upon which the development or proposed development is partly situated or proposed to be partly 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 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

292. (1) The following persons are the persons on whom a warning letter shall be served where an enforcement authority decides in accordance with *subsection (2)* of *section 291* 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 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 make submissions or observations in writing to the enforcement authority regarding the matters to which the letter relates not later than –

(i) 4 weeks from the date of the warning letter, or

(ii) the expiration of any extended period or periods under *subsection (5)*,

(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 293*, 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) An enforcement authority may, upon the request of a person served with a warning letter or otherwise, extend the period referred to in *subparagraph (ii)* of *paragraph (b)* 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) an application for -

(i) a declaration under *section 8* in relation to the subject matter of the warning letter, or

(ii) permission authorising the development or proposed development in respect of which the warning letter was served,

has been made (but a decision in relation thereto has not been made by a planning authority or the Commission, as may be appropriate) or is proposed to be made,

(b) any delay in relation to such application is not attributable to any act or omission on the part of the applicant, and

(c) the extension is reasonable in all of the circumstances.

(6) Conditions under *subsection (5)* may include conditions –

(a) that, in the opinion of the enforcement authority, are likely to discourage any delay by the person on whom the warning letter is served in relation to the progression of any application for permission or any application for a declaration under *section 8* by that person in respect of the development or proposed development concerned, or

(b) requiring the cessation or restriction of the development or proposed development in respect of which the warning letter was served.

(7) The enforcement authority shall, not later than 2 weeks after the expiration of any extended period or periods under *subsection (5)*, notify all persons served with the

warning letter and any person who made a planning complaint that caused the enforcement authority to serve the warning letter of the extended period or periods.

(8) 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)*.

(9) 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 (8)*, or

(ii) the date specified in a notification under *paragraph (b)* of that subsection,

whichever occurs later.

(10) The withdrawal of a warning letter or the failure by the enforcement authority to make a decision to which *subsection (8)* 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

293. (1) Subject to *section 291*, 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 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 292*, 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 -

(a) that that person has taken all reasonable steps to comply with the enforcement notice,

(b) that the enforcement notice will be complied with within a reasonable period, and

(c) that 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 345* or *346*, 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 or 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 292* including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers, and

(b) any costs or 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 on foot of a defence under *paragraph (c)* of *subsection (8)* of *section 298*, or

(c) in proceedings for an offence under either such subsection, 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 297* 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 of the service of an enforcement notice shall not operate to invalidate the notice.

(15) An enforcement notice shall have effect from the date of the service of the notice.

Planning injunctions in relation to unauthorised development

294. (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 when considering the matter may 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 8*.

(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 8*, 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 8*, 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 the existence of -

(i) any permission, or

(ii) that the development the subject matter of 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, 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 Planning and Development Act 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 –

(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 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.

(e) In this subsection "market value" means, in relation to land or 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) Where an order is made under *paragraph (a)* it may contain such terms and conditions (if any) as 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 any works required under this Part

295. Permission shall not be required in respect of development required by an enforcement notice or an order under *section 294*.

Time limits

296. (1) Enforcement action shall not be commenced -

(a) in respect of a development where no permission has been granted, after the expiration of a period of 7 years from the date of the commencement of the development,

(b) in respect 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 respect of a development for which permission was granted under the Planning and Development Act 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

Planning and Development Act 2000) within the meaning of section 40 of the Planning and Development Act 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 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 Planning and Development Act 2000 and the appropriate period (including any extension of that period under section 42 of the Planning and Development Act 2000) within the meaning of section 40 of the Planning and Development Act 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 293* 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 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 293* 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 –

–

(i) 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,

(ii) 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

(iii) 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)*.

Penalties for offences under this Act

297. (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 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 -

(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 _____, 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 *subsection (3)* of *section 235*, *paragraph (b)* of *subsection (2)* of *section 244* or *subsection (6)* of *section 345* 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 312*, 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 290* or *241*,

(b) *subsection (9), (10)* or *(11)* of *section 293*,

(c) *subsection (5)* of *section 127*,

(d) *subsection (7)* of *section 128*,

(e) *subsection (5)* or *(6)* of *section 151*,

(f) *subsection (4)* of *section 258*,

(g) *subsection (1)* of *section 264*,

(h) *subsection (12)* or *(13)* of *section 312*, or

(i) subsection (3) of section 230, or section 239, of the Planning and Development Act 2000.

Prosecution of offences

298. (1) Subject to *section 403*, 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 292*, or

(c) since the date of service of an urgent enforcement notice.

(7) It shall be a defence to proceedings under *section 293* for the defendant to prove on the balance of probabilities that -

(a) the subject matter of the enforcement notice was not unauthorised development, or

(b) 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 8* 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 293*, 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

299. (1)Subject to *subsection (2)*, the Minister may by order –

(a) designate a planning authority (in this section 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 referred to as "designated 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 designated 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 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 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 designated development that is situated wholly or partly in that enforcement area, or

(ii) any designated 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 designated development –

(i) pending immediately before the intervention of the regional enforcement authority, and

(ii) to which 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 designated 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 designated development.

(c) The discontinuance (in whole or in part) of any proceedings (including enforcement action) under this Part in relation to designated 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 designated development.

(d) In this section "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 designated development notwithstanding that it has not received a complaint or notification referred to in *subsection (3)*.

(6) Where designated 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 designated 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

300. For the avoidance of doubt, Dublin City Council is the planning authority/enforcement authority in respect of development in respect of 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

Process

Chapter 1

Procedures in relation to appeals, referrals and applications

Interpretation

301. (1) In this Chapter —

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

"class-specific provision", in relation to a class of appeal, referral or application means—

(a) a provision of this Act (other than in this Chapter) applicable to the class,

(b) a provision of an enactment other than this Act applicable to the class, and

(c) a regulation made under a provision referred to in *paragraph (a)* or *(b)* applicable to the class.

"railway order" means an order under section 37 of the Act of 2001.

(2) A reference to an "appeal, referral or application" in Parts 12 and 17 shall be construed as a reference to a procedure referred to in column (3) of the table to this section provided in the provision of the enactment referred to in column (2) of the table opposite the mention of that procedure.

(3) A reference to a party to an appeal, referral or application in Parts 12 and 17 shall be construed as a reference to the party referred to in column (4) of the table to this section opposite the mention of the corresponding appeal, referral or application in column (3) of the table.

Table

Appeals, referrals and applications

Reference No. (1)	Provision (2)	Procedure (3)	Parties (4)

1	*Section 8(7)*	An appeal from a declaration under *section 8(5)*	The appellant, any other person to whom a declaration is notified under *section 8(5)* or pursuant to regulations under *section 8(13)* and the planning authority
2	*Section 8(13)*	An application	The Minister and the planning authority
3	*Section 10(9)*	An appeal	The appellant and the planning authority
4	*Section 83(8)*	A referral of points of detail	The person carrying out the development and the planning authority
5	*Section 97(4)*	An application for leave to appeal	The applicant for leave to appeal, the applicant for permission for *Chapter 3* development and the planning authority.
6	*Section 98(1)*	An appeal	The appellant, the applicant for permission for *Chapter 3* development (if a different person), and the planning authority
7	*Section 115*	An application for permission for Chapter 4 Development	The applicant for permission and the planning authority
8	*Section 131*	A request for an amendment to a permission where the Commission was the deciding authority	The applicant
9	*Section 133*	A request for an alteration or extension to a permission where the Commission was the deciding authority	The applicant

10	*Section 135(10)*	An appeal against a decision on an application under *section 133*	The appellant, the applicant for the alteration or extension (if a different person), and the planning authority
11	*Section 139(6)*	An appeal	The appellant, any other person served or issued by a planning authority with a notice or order, or copy thereof, under *section 139(1)* and the planning authority
12	*Section 159(3)*	A referral under *section 159(3)*	The person who made the referral, and the planning authority
13	*Section 225*	A referral	The prospective party to an agreement under *section 223* and the planning authority
14	*Section 257(6)*	An appeal	The appellant and the planning authority
15	*Section 278(5)*	An appeal	The appellant and the planning authority
16	*Section 283(5)*	An appeal	The appellant and the planning authority
17	*Section 284(5)*	An appeal	The appellant, any other person served with a notice under *section 284(1)* and the planning authority
18	*Section 238(3)*	An appeal	The appellant, any other person served with a notice under *section 238(2)(a)* and the planning authority
19	*Section 234(5)*	A referral for confirmation	The planning authority or MARA, as the case may be, and any person served with a notice under *subsection (1) or (2) of section 234*

20	*Section 240(6)*	A referral for confirmation	The planning authority and any person who has made submissions on foot of a notice under *section 240(5)*
21	*Section 243(6)*	An appeal	The appellant, any other person served with a notice under *section 243(2)* or order under *section 243(5)* and the planning authority
22	*Section 246(6)*	A referral for confirmation	The planning authority, and any person served with notice under *section 246(5)*
23	*Section 247(6)*	A referral for confirmation	The planning authority, and any person served with notice under *section 247(5)*
24	*Section 197(1)*	A request for an exemption from the requirements of *sections 194* and *200*	The requesting party and (if it is not the competent authority) the planning authority
25	*Section 198*	A request for a screening determination	The requesting party and (if it is not the competent authority) the planning authority
26	*Section TBD*	A review of a screening determination	The party who requested the screening determination, any public authority making submissions under *section 198(4B)*, any person who made a submission under *section 198(4C)*, and the competent authority
27	*Section 199*	A request for a scoping opinion	The requesting party
28	*Section 379(2)*	A referral	The person who made the referral and any other person by whom the application for permission

			for erection of the new structure was made
29		An appeal against a planning scheme under section 169(6) of the Act of 2000	The appellant, the planning authority and the development agency
30		An appeal against a planning scheme under *section 465(6)*	The appellant, the planning authority and the development agency
31		An application for an amendment to a planning scheme under *section 467*	The planning authority and the development agency
32	Section 37 of Act of 2001	An application for a railway order	The person who made the application and the planning authority

Period for decision-making

302. (1) Subject to *subsection (2)*, the Commission shall determine an appeal, referral or application within—

(a) the period specified in a class-specific provision that applies to the appeal, referral or application, or

(b) in the absence of a period being specified, within 18 weeks of the appeal, referral or application being received by the Commission or, in the case of an appeal, where more than one appeal in relation to the same matter is made to the Commission, within 18 weeks of the receipt by the Commission of the last such appeal.

(2) *Subsection (1)* is subject to—

(b) any regulations made under *subsection (6)*,

(c) *section 353*,

(d) any period specified under *section 98(4)(b)*,

(e) an extension of the period referred to in *subsection (1)* for the period specified in a notice under *section 308* for the delivery of submissions,

(f) an extension of the period referred to in *subsection (1)* for the period specified in a notice under *section 309* for the submission of any documents or information, and

(g) any provision in regulations under *section 319* or in a class-specific provision requiring periods to be disregarded for the purposes of reckoning any period referred to in *subsection (1)*, either generally or in relation to particular classes of appeal, referral or other application.

(4) Where the Commission fails to determine an appeal, referral or application within the period specified in *subsection (1)*, or such further period as is specified by the Commission under *subsection (3)*, it shall—

(a) determine the appeal, referral or application notwithstanding that the period has expired, and

(b) repay to each party and person who made submissions to the Commission any fees paid to the Commission in accordance with *section 323*.

(5) A failure by the Commission to comply with *subsection (1)* shall not invalidate the determination of the Commission on the appeal, referral or application concerned.

(6) The Minister may by regulations vary the period referred to in *subsection (1)(b)* either generally or in respect of a particular class of appeal, referral or application where it appears to him or her to be necessary, by virtue of exceptional circumstances, to do so and for so long as such regulations are in force this section shall be construed and have effect in accordance with the regulations.

(7) Where the Minister considers it to be necessary or expedient that a particular class of appeal, referral or application relating to development of a class of special strategic, economic or social importance to the State, be determined 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, referrals or applications of the class, and the Commission shall comply with the direction.

(8) A report under *section 418* shall–

(a) contain a statement of –

(i) the number of appeals, referrals and applications that the Commission has decided,

(ii) the number of appeals, referrals and applications decided within the period referred to in *subsection (1)*,

during the period to which the report relates,

(b) contain a statement of 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 *subsection (4)(b)*, and

(c) contain such other information as to the time taken to decide such appeals, referrals or applications as the Minister may direct.

Making of appeals, referrals, and applications

303. (1) An appeal, referral or application shall—

(a) be made in writing,

(b) state the name and address of the person making it (including, in the case of an unincorporated association, a list of the members of that association at the time of the making of the appeal, referral or application) and of the person, if any, acting on his or her behalf,

(c) state its subject matter,

(d) state in full the grounds of appeal, referral or application and the reasons, considerations and arguments on which it is based,

(e) be accompanied by such fee (if any) as may be payable in respect of the appeal, referral or application in accordance with *section* 323,

(f) be made within the period for making the appeal, referral or application in accordance with *section 302*,

(g) comply with the requirements of a class-specific provision relating to the appeal, referral or application, and

(h) comply with any applicable rules of the Commission made pursuant to *section 320*.

(*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, referral or application.

(3) (*a*) An appeal, referral or application which does not comply with the requirements of *subsection (1)* or prescribed under *subsection (2)* shall be invalid.

(*b*) The requirement under *subsection (1)(d)* shall apply whether or not the person making the appeal, referral or application requests, or proposes to request, in accordance with *section 311*, an oral hearing.

(4) Without prejudice to *section 308* or *311*, the person who made the appeal, referral or application shall not be entitled to elaborate in writing upon, or make further submissions in writing in relation to, the grounds referred to in *subsection (1)(d)*, or to submit further grounds and any such elaboration, further submissions or grounds received by the Commission shall not be considered by it.

(5) (*a*) An appeal, referral or application shall be accompanied by such documents or information relating to the appeal, referral or application as may be required by a class-specific provision and such other documents or other information as the person making the appeal, referral or application considers necessary or appropriate.

(*b*) Without prejudice to *section 309* or *311*, the Commission shall not consider any documents or information submitted by a person making an appeal, referral or

application other than the documents or information which accompanied the appeal, referral or application.

(6) An appeal, referral or application shall be made—

(a) by sending the appeal, referral or application by prepaid post to the Commission,

(b) by leaving the appeal, referral or application with an employee of the Commission at the offices of the Commission during office hours (as determined by the Commission), or

(c) by such other means as may be prescribed.

Notification of the making of appeals, referrals or applications

304. (1) The Commission shall, as soon as may be after receipt of an appeal, referral or application, give a copy of it to each other party, and, if not a party, the planning authority concerned.

(2) The Commission may give such notice to the public in relation to an appeal, referral or application as it considers appropriate or, where it considers it appropriate, may require the person making the appeal, referral or application 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, in particular, notice at any land or structure to which the appeal, referral or application referred to in that subsection relates or notice by publication in a newspaper circulating in the functional area in which the land or structure to which the appeal, referral or application relates is situate and such additional functional areas, or nationally, as the Commission considers appropriate, or where the appeal, referral or application relates to a maritime site, in a national newspaper.

Submission of documents to Commission by planning authorities

305. (1) Where an appeal, referral or application is made to the Commission the planning authority concerned shall, within a period of 2 weeks beginning on the day on which a copy of the appeal, referral or application is sent to it by the Commission, or within such further period as the Commission may permit, submit to the Commission, any information or documents in its possession which is or are—

(a) required to be supplied in any class-specific provision, and

(b) otherwise, relevant to that appeal, referral or application.

(2) The Commission, in determining an appeal, referral or application, may take into account any fact or submission in any document or information submitted under *subsection (1)*.

Submissions by other parties

306. (1) (*a*) A party to an appeal, referral or application other than the person making it may make submissions in writing to the Commission in relation to it within a period of 5 weeks beginning on the day on which a copy of the appeal, referral or application is sent to that party by the Commission.

(*b*) Any submissions received by the Commission after the expiry of the period referred to in *paragraph (a)* or which do not comply with any rules under *section 320* shall not be considered by the Commission.

(2) Where no submissions have 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, referral or application.

(3) Without prejudice to *section 308* or *311*, a party shall not be entitled to elaborate in writing upon any submissions made in accordance with *subsection (1)* or make any further submissions in writing in relation to the appeal, referral or application and any such elaboration or further submissions received by the Commission shall not be considered by it.

Submissions by persons other than parties

307. (1) A person other than a party may make submissions in writing to the Commission in relation to:

(a) an appeal under *section 98(1)*,

(b) an application for permission for *Chapter 4* development,

(c) a request under *section 133* for an alteration to or extension of the duration of a permission where the Commission was the deciding authority,

(d) an appeal under *section 135(12)* against a decision on a request under *section 133* in respect of which the Commission was the deciding authority,

(e) a referral under *section 240(5)*,

(f) an application for a railway order, or

(g) such other appeal, referral or application as may be prescribed.

(2) Without prejudice to *section 308* or *311*, submissions may be made under this section within such of the following periods as applies—

(*a*) where notice of receipt of an environmental impact assessment report is published in accordance with regulations under *section 174*, the period of 5 weeks beginning on the day of publication of the notice,

(*b*) where notice is given by the Commission or is required by the Commission to be given by the person making the appeal, referral or application under *section 304(2)*, the period of 5 weeks beginning on the day of publication of the notice, or

(*c*) in the case of any other appeal, referral or application the period of 5 weeks beginning on the day of receipt of the appeal, referral or application by the Commission or, in the case of an appeal to the Commission, where more than one appeal is received in relation to the same matter, the day on which the Commission last receives an appeal in relation to the matter.

(3) Submissions which do not comply with *subsections (1)* and *(2)* shall be invalid and shall not be considered by the Commission.

(4) *Subsection (3)* shall not apply to submissions or observations made by a Member State or another state which is a party to the Transboundary Convention arising from consultation in accordance with the Environmental Impact Assessment Directive or the Transboundary Convention, as the case may be, in relation to the effects on the environment of the development to which the appeal, referral or application relates.

(5) Without prejudice to *section 308* or *311*, a person who makes submissions to the Commission in accordance with this section shall not be entitled to elaborate in writing upon the submissions or make further submissions in writing in relation to the appeal, referral or application and any such elaboration or further submissions received by the Commission shall not be considered by it.

Power of Commission to invite submissions

308. (1) Where the Commission is of opinion that, in the particular circumstances of an appeal, referral or application, it is appropriate to request—

(*a*) a party to the appeal, referral or application,

(*b*) a person who has made submissions to the Commission in relation to the appeal, referral or application, or

(*c*) any other person,

to make submissions in relation to the appeal, referral or application, or any part of, or issue in, the appeal, referral or application, the Commission may, notwithstanding *section 302(1), 303(4), 306(3), 307(5)* or *315(5)(b),* give notice to any such party or person—

(i) requesting that party or person, within a period specified in the notice to make submissions to the Commission in relation to the matter in question, and

(ii) stating that, if submissions are not received before the expiry of the period specified in the notice, the Commission will, after the expiry of that period and without further notice to the party or person, pursuant to *section 310*, determine the appeal, referral or application.

(2) The period referred to in *subsection (1)(i)* shall be—

(a) in a case where an environmental impact assessment is required, not less than 5 weeks and not more than 7 weeks beginning on the date of the notice, or

(b) in any other case, not less than 2 weeks and not more than 4 weeks beginning on the date of the notice.

(2) The Commission may give directions in relation to the form or presentation of any submissions referred to in *subsection (1)* and any person making submissions shall comply with such directions.

Power of Commission to require submission of documents

309. (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, referral or application, the Commission may, notwithstanding *section 302(1)*, give notice to a party to, or to a person who has made submissions to the Commission in the appeal, referral or application—

(*a*) requiring the party or person, within a period specified in the notice to submit 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 310*, determine the appeal, referral or application.

(2) Nothing in this section shall be construed as affecting any other power of the Commission under this Act to require the submission of further or additional information or documents.

Powers of Commission where notice is given under *section 308* or *309*

310. (1) Where a notice has been given under *section 308* or *309*, the Commission, at any time after the expiry of the period specified in the notice, may, having considered any submissions, document or information submitted by the person to whom the notice has been given, without further notice to that person determine the appeal, referral or application.

(2) *Subsection (1)* shall not restrict the power of the Commission to exercise its powers under *section 308* or *309* on more than one occasion before determining the appeal, referral or application.

Power to hold oral hearings of appeals, referrals and applications

311. (1) (a) The Commission, on request under this section or of its own motion, where it considers it necessary or expedient for the purposes of making a determination on an appeal, referral or application, may hold an oral hearing of the appeal, referral or application.

(b) The Commission may limit an oral hearing of an appeal, referral or application to any part of, or issue in, the appeal, referral or application.

(2) (*a*) A party to an appeal, referral or application may request an oral hearing of the appeal, referral or application.

(*b*) (i) Subject to *subparagraph (iii)*, where a request for an oral hearing is made by a person making an appeal, referral or application, the request shall accompany the appeal, referral or application.

(ii) A request for an oral hearing by a party other than the person who made the appeal, referral or application shall be made within the period within which a person may make submissions to the Commission in relation to the appeal, referral or application.

(iii) Where one or more submissions have been made in relation to an appeal, referral or application, the person making the appeal, referral or application may request an oral hearing within two weeks of his or her receipt of the last such submission.

(c) A request for an oral hearing shall be made in writing to the Commission and shall be accompanied by such fee (if any) as may be payable in respect of the request in accordance with *section 323*.

(3) A request for an oral hearing of an appeal, referral or application which is not made in accordance with *subsection (2)* shall not be considered by the Commission.

(4) A request for an oral hearing may be withdrawn at any time.

(5) Where the Commission is requested to hold an oral hearing of an appeal, referral or application and either the request is withdrawn or the Commission decides to determine the appeal, referral or application without an oral hearing, the Commission shall, as soon as may be, give notice of its decision to all parties to the appeal, referral or application and every person who made a valid submission in relation to the appeal, referral or application.

Supplemental provisions relating to oral hearings

312. (1) The Commission or an employee of the Commission duly authorised by the Commission in that behalf may assign a person to conduct an oral hearing of an appeal, referral or application 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 (but subject to any direction given by the Commission under *paragraph (a)* or *(b)* of *subsection (3)*).

(3) (a) The person assigned to conduct an oral hearing may, and shall where so directed by the Commission, require persons intending to appear at the hearing to submit to him or her, in writing by such period in advance of the hearing as he or she may specify, and in such format as her or she may specify, the points or a summary of the arguments they propose to make or evidence they propose 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 written report under *section 318*, 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 *subsection (3)* to be given to other parties to the appeal, referral or application or to persons who made submissions on the appeal, referral or application, 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 an appeal, referral, or application, and

(*b*) each person who has made objections or submissions to the Commission in an appeal, referral or application.

(6) Where a requirement is made 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 *subsection (3)(b)*.

(7) Subject to the foregoing provisions, the person conducting the oral hearing—

(*a*) shall decide the order of appearance of persons at the hearing,

(*b*) shall permit any person to appear in person or to be represented by another person,

(*c*) may limit the time within which each person may make points or arguments (including arguments in refutation of arguments made by others at the hearing), or question the evidence of others, at the hearing,

(*d*) may refuse to allow the giving of evidence or the making of a point or an argument if—

(i) the point or a summary of the evidence or argument has not been submitted in advance to the person in accordance with a requirement made under *subsection (3)(a)*,

(ii) the point, evidence or argument 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, evidence or argument, or

(iv) the point, evidence or argument relates to revised particulars, plans or drawings in relation to a proposed development, that do not comply with *section 100* or any regulations made under that section,

(*e*) may refuse to allow the giving of evidence or the making of a point or an argument in relation to any matter where—

(i) a requirement has been made under *subsection (3)(b)* and the matter is not specified in the requirement, and

(ii) he or she has not formed the opinion referred to in *subsection (3)(c)* in relation to the matter,

(*f*) may hear a person other than a person who has made submissions to the Commission in relation to the subject matter of the hearing if it is considered appropriate in the interests of justice to allow the person to be heard, 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 evidence or the making of a point or an argument concerned 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.

(9) A person conducting an oral hearing of an appeal, referral or application may require any member of staff of a planning authority to give to him or her any information in relation to the appeal, referral or application which he or she reasonably requires for the purposes of the

appeal, referral or application, 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, referral or application may take evidence on oath or affirmation and for that purpose may administer oaths or affirmations, and a person giving evidence at any such hearing shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.

(11) (*a*) Subject to *paragraph (b)*, the Commission in relation to an oral hearing of an appeal, referral or application may, by giving notice in that behalf in writing to any person, require that person to do either or both of the following:

(i) to attend at such time and place as is specified in the notice to give evidence in relation to any matter in question at the hearing;

(ii) to produce any books, deeds, contracts, accounts, vouchers, maps, plans, documents or other information in his or her possession, custody or control which relate to any such matter.

(*b*) Where a person is given a notice under *paragraph (a)*—

(i) the 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 document or other information to which the notice relates or who, having so attended, refuses to give evidence or refuses or wilfully fails to produce any document or other information to which the notice relates shall be guilty of an offence.

(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 in paragraphs (a) to (e),

the person shall be guilty of an offence.

(14) (*a*) An oral hearing may be conducted through the medium of the Irish or the English language.

(*b*) Where an oral hearing relates to land or a structure within the Gaeltacht, the hearing shall be conducted through the medium of the Irish language, unless the parties to the appeal, referral or application to which the hearing relates agree that the hearing should be conducted in English.

(*c*) Where an oral hearing relates to development wholly or partly outside the Gaeltacht, the hearing shall be conducted through the medium of the English language, unless the parties to the appeal, referral or application to which the hearing relates agree that the hearing should be conducted in the Irish language.

Convening of meetings on certain appeals, referrals and applications

313. (1) Where it appears to the Commission to be expedient or convenient for the purposes of determining a referral under *section 83(8), 225* or *379(2)* the Commission may convene a meeting of the parties to the referral.

(2) The Commission shall keep a record in writing of a meeting convened in accordance with this section and a copy of the record shall be placed and kept with the documents to which the referral concerned relates.

Meetings held remotely

314. (1) The Commission or any person authorised on its behalf to conduct an oral hearing or meeting of the parties or a meeting relating to, or for the purpose of making a, decision in relation to an appeal, referral or application may direct that the oral hearing or meeting, or any part of it, be held 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 authorised on its behalf to conduct an oral hearing or meeting shall give reasonable notice of a direction under *subsection (1)* to the parties or persons who made submissions, as the case may require, in the case of an oral hearing or a meeting.

Matters other than those raised by parties

315. (1) The Commission in determining an appeal, referral or application may take into account matters other than those raised by the parties or by any person who has made submissions to the Commission in relation to the appeal, referral or application 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 to the proper determination of an appeal, referral or application that submissions should be invited on any matter not raised by the parties or in submissions, it may exercise its powers under *section 308* subject to the proviso that all parties and all persons who made submissions (and any other person the Commission may consider ought to be invited) are invited to make submissions on that matter.

Commission may dismiss appeals, referrals or applications if vexatious

316. (1) The Commission may dismiss an appeal, referral or application—

(*a*) where, having considered the grounds or material in it or any other matter to which, by virtue of this Act, the Commission may have regard in dealing with or determining the appeal, referral or application, the Commission is of the opinion that–

(i) the appeal, referral or application is vexatious, frivolous or without substance or foundation, or

(ii) is made with the sole intention of delaying a development or proposed development or the intention of securing the payment of money, gifts, consideration or other inducement by any person,

or

(*b*) where, the Commission is satisfied that, in the particular circumstances, the appeal, referral or application should not be further considered by it having regard to—

(i) the nature or contents of the appeal, referral or application (including any question that in the Commission's opinion is raised by the appeal, referral or application), or

(ii) any previous permission, within the meaning of *section 156(1)*, which in its opinion is relevant.

(2) A decision made under this section shall state the main reasons and considerations on which the decision is based.

(3) The Commission may receive additional evidence and hold an oral hearing under *section 311* to determine whether an appeal, referral or application is made with an intention referred to in *subsection (1)(a)(ii)*.

Withdrawal and invalidity of appeals**, referrals, applications**

317. (1) A person (including a planning authority) who has made an appeal, referral or application, other than an appeal, referral or application referred to in *section 155*, may withdraw it, in writing, under this section, at any time before it is determined by the Commission.

(2) (*a*) Without prejudice to *subsection (1)*, where the Commission is of the opinion that an appeal, referral, or application other than an appeal, referral or application referred to in *section 155* has been abandoned, the Commission may serve on the person who made it 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 Commission as to why the appeal, referral, or application should not be regarded as having been abandoned, within the period specified in the notice (which shall be not less than 2 weeks or more than 4 weeks beginning on the date of service of the notice).

(c) Where a notice has been served under paragraph (a), the Commission may, at any time after the expiry of the period specified in the notice, declare that the appeal, referral, or application shall be regarded as having been withdrawn.

(d) When making a declaration under paragraph (c), the Commission shall have regard to the submissions (if any) made within the period specified in the notice under paragraph (b).

(3) Where—

(a) a person withdraws an appeal, referral, or application under *subsection (1)*,

(b) the Commission declares an appeal, referral, or application to be withdrawn under *subsection (2)*, or

(c) an appeal, referral or application is invalid under *section 303* or any class specific provision, and the invalidity has not been remedied or the appeal, referral or application otherwise permitted to proceed in accordance with any class-specific provision

the Commission shall give notice, that the appeal, referral, or application has been withdrawn, declared withdrawn or deemed or declared invalid and shall give the reasons for any declaration or deeming made by the Commission.

Reports to the Commission

318. (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, assign a person to report on any matter on behalf of the Commission.

(2) A person assigned in accordance with *subsection (1)* (in this Act referred to as an "inspector) shall make a written report on the matter to the Commission, which shall include a recommendation, and the Commission shall consider the report and recommendation before determining the matter.

(3) Where a decision by the Commission under this Act is different from any recommendation in a report referred to in *subsection (2)* the Commission shall indicate its main reasons for not accepting the recommendation.

Regulations regarding appeals, referrals and applications

319. (1) The Minister may by regulation provide for such additional, incidental, consequential or supplemental matters as regards procedure in respect of appeals, referrals and applications as appear to the Minister to be necessary or expedient.

(2) Regulations under this section may make different provision with respect to appeals, applications and referrals in relation to development by the Central Bank of Ireland where the disclosure of information in relation to an application for permission for 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 309* or *325* or *Chapter PRO.REC* in relation to such appeals, referrals and applications.

Rules

320. The Commission, with the approval of the Minister, may prepare and publish rules with regard to the procedures for appeals, referrals or applications, and any person making, or making submissions in relation to, an appeal, referral or application shall comply with such rules.

Question of law

321. Where a question of law arises on an appeal, referral or application which is pending before the Commission, the Commission may, on notice to the parties to the appeal, referral or application, refer the question of law to the High Court for decision.

Commission to have regard to certain policies and objectives

322. (1) The Commission shall, in performing its functions, have regard to—

(a) the policies and objectives for the time being of the Government, a State authority, the Minister, planning authorities and any other body which is a public authority whose functions have, or may have, a bearing on the proper planning and sustainable development of cities, towns or other areas, whether urban or rural,

(b) the national interest and any effect the performance of the Commission's functions may have on issues of strategic economic or social importance to the State, and

(c) the National Planning Framework and any regional spatial and economic strategy for the time being in force.

(2) In this section "public authority" means any body established by or under statute which is for the time being declared, by regulations made by the Minister, to be a public authority for the purposes of this section.

Fees payable to Commission

323. (1) The Commission may determine fees that may be charged, subject to the approval of the Minister, in relation to—

(a) any appeal, referral or application,

(b) any other function of the Commission under this Act,

(c) any function of the Commission under any other enactment,

(d) any process arising in connection with an appeal, referral, application or other function 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 *(d)* of *subsection (1)*, 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.

(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 necessity of the Minister's approval under *subsection (1)*.

(4) Where the Commission determines or amends fees in accordance with this section, it shall give notice of the fees in one or more national newspapers not less than 8 weeks before the fees come into effect.

(5) Fees determined in accordance with section 144 of the Act of 2000, as that section had effect before its repeal by this Act, shall continue to be payable to the Commission in accordance with that section until such time as the Commission determines fees in accordance with this section.

(6) The Commission shall specify fees for the making of copies of any document required to be made available by it to the public not exceeding the cost of making the copies.

(7) For the purposes of this section, "change in the consumer price index" means the difference between the All Items Consumer Price Index Number last published by the Central Statistics Office before the date of the determination under this section and the said number last published before the date of the review under *subsection (2)*, expressed as a percentage of the last-mentioned number.

Expenses of appeal, referral or application

324 Where an appeal, referral or application is made to the Commission—

(a) the Commission, if it thinks appropriate and irrespective of the result of the appeal, referral or application, may direct the planning authority to pay—

(i) to the person making the appeal, referral or application, such sum as the Commission, may specify as reasonable compensation for the expense occasioned to him or her in relation to the appeal, referral or application, and

(ii) to the Commission, such sum as the Commission may specify as reasonable compensation to the Commission towards the expense incurred by the Commission in relation to the appeal, referral or application,

and

(b) in case—

(i) a decision of the planning authority in relation to the subject matter of an appeal, referral or application is confirmed or varied and the Commission, in determining the appeal, referral or application, does not accede in substance to the grounds of an appeal, referral or application, or

(ii) the appeal, referral or application is decided, dismissed under *section 316* or withdrawn under *section 317* and the Commission, in any of those cases, considers that the appeal, referral or application was made with the intention

of delaying the development or securing a monetary gain by a party to it or any other person,

the Commission may, if it so thinks proper, direct the appellant or person making the referral to pay—

(I) to the planning authority, such sum as the Commission may specify as reasonable compensation to the planning authority for the expense occasioned to it in relation to the appeal, referral or application,

(II) to any of the other parties to the appeal, referral or application, such sum as the Commission may specify as reasonable compensation to the party for the expense occasioned to him or her in relation to the appeal, referral or application, and

(III) to the Commission, such sum as the Commission may specify as reasonable compensation to the Commission towards the expense incurred by the Commission in relation to the appeal, referral or application.

Reports and documents of Commission

325. (1) Where, during the consideration by it of any matter falling to be decided by it in performance of a function under this Act or any other enactment, the Commission either—

(*a*) is required by or under this Act or that other enactment to supply to any person documents, maps, or other information in relation to the matter, or

(*b*) considers it appropriate, in the exercise of its discretion, to supply to any person such documents, maps, or information ('relevant material or information'),

subsection (2) applies as regards compliance with that requirement or such supply in the exercise of that discretion.

(2) It shall be sufficient compliance with the requirement referred to in *subsection (1)* for the Commission—

(*a*) where an environmental impact assessment report is submitted with an appeal, referral or application, or is received by the Commission in the course of considering an appeal, referral or application, to place on its website for inspection and make available for inspection and purchase by members of the public at the offices of the Commission from as soon as may be after receipt of such report—

(i) the appeal, referral or application, as the case may be,

(ii) the environmental impact assessment report,

(iii) the notice or notices, as the case may be, published in one or more newspapers circulating in the area in which it is proposed to carry out the development, or in which the development is located, indicating the nature

and location of the proposed development or development, as the case may be,

(iv) any further information furnished by, or alterations to the terms of the development made by, or a revised environmental impact assessment report furnished by, the person who is proposing to carry out or who has carried out the development, as the case may be, and

(v) any other relevant material or information, or

(*b*) in any other case, to do both of the following (or, as appropriate, the Commission, in the exercise of the discretion referred to in *subsection (1)*, may do both of the following):

(i) make the relevant material or information available for inspection—

(I) at the offices of the Commission or any other place, or

(II) by electronic means, and

(ii) notify the person concerned that the relevant material or information is so available for inspection.

(3) Within 3 days following the making of a decision on any matter falling to be decided by it in performance of a function under this Act or under any other enactment, the documents relating to the matter—

(*a*) shall be made available by the Commission for inspection at the offices of the Commission by members of the public, and

(*b*) may be made available by the Commission for such inspection—

(i) at any other place, or

(ii) by electronic means,

as the Commission considers appropriate.

(4) Copies of the documents referred to in *subsection (3)* and of extracts from such documents shall be made available for purchase at the offices of the Commission, or such other places as the Commission may determine, for a fee not exceeding the reasonable cost of making the copy.

(5) The documents referred to in *subsection (3)* shall—

(*a*) where an environmental impact assessment was carried out, be made available for inspection on the Commission's website in perpetuity beginning on the third day following the making by the Commission of the decision on the matter concerned, or

(*b*) where no environmental impact assessment was carried out, be made available by the means referred to in *subsection (5)(b)* for a period of at least 5 years beginning

on the third day following the making by the Commission of the decision on the matter concerned.

Chapter 2

Review of planning functions of planning authorities and the Commission

Review of planning functions by the Office

326. (1) Subject to *subsection (4)*, the Office may conduct a review of the organisation and management of, and the systems and procedures used by, a planning authority or the Commission in relation to the performance by it of all or any of its functions under this Act, where it considers it necessary or appropriate to do so.

(2) Subject to *subsection (4)*, the Office shall conduct a review of the organisation and management of, and the systems and procedures used by, a planning authority or the Commission in relation to the performance by it of all or any of its functions under this Act, where the Minister has formed the opinion that the planning authority or the Commission—

(a) may not be carrying out its functions in accordance with the requirements of or under this Act,

(b) may not be performing its functions in a manner which is in accordance with the national and regional plans and policies made under this Act, including development plans, urban area plans, priority area plans, and joint area plans,

(c) may not be complying with a national planning statement, a direction under *section 64* or *section 77* or, in the case of a planning authority, a direction issued under *section 330(2)*,

(d) may be applying inappropriate standards of administrative practice or otherwise acting contrary to fair or sound administration in the performance of its planning functions,

(e) may be applying systemic discrimination in the performance of its planning functions,

(f) may be operating in a manner whereby there is impropriety or risks of corruption in the performance of its planning functions,

(g) may be operating in a manner whereby there are serious diseconomies or inefficiencies in the performance of its planning functions, or

(h) in the case of a planning authority, may not be performing its enforcement functions under *Part 11* appropriately to ensure compliance in its functional area or its nearshore 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 section.

(3) Subject to *subsection (4)*, the Office shall conduct a review of the organisation and management of, and the systems and procedures used by, a planning authority or the Commission in relation to the performance by it of all or any of its functions under this Act, where the Office, on foot of a complaint and preliminary examination under *subsection (5)*, forms the view that one or more of the matters referred to in *subsection (2)* may apply to the Commission or a planning authority.

(4) The Office shall not exercise any of its functions under *subsections (1)* to *(3)* in relation to a particular application, appeal, referral or other process which is ongoing at the time of the exercise of the function and with which a planning authority or the Commission is involved or could be involved.

(5) (a) Where the Office receives a complaint made to it, or made to the Minister and referred to it by the Minister, that relates to one or more of the matters referred to in *subsection (2)*, the Office shall (subject to *paragraph (b)*) carry out a preliminary examination of the complaint to determine whether *subsection (2)* may apply.

(b) The Office may decide not to conduct a preliminary examination, or to discontinue a preliminary examination, arising from a complaint if it forms the opinion that—

(i) the subject matter of the complaint is outside the scope of its powers of review under this Chapter,

(ii) the complaint cannot be substantiated or appears to the Office to be trivial or vexatious in nature,

(iii) 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,

(iv) the person making the complaint has not taken reasonable steps to pursue the subject matter of the complaint with the planning authority concerned, or the Commission, as the case may be,

(v) 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

(vi) legal proceedings have been instituted in respect of the subject matter of the complaint.

(c) Where the Office decides not to conduct a review or not to conduct or continue a preliminary examination, it shall inform the person who made the complaint of the reasons for its decision in writing, but 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 *section 328(4)(b)*.

(d) A preliminary examination or review arising from a preliminary examination shall not, of itself, affect the validity of any matter examined or any power or duty exercised by the planning authority or the Commission or the performance of any function of the planning authority or the Commission under this Act or any other enactment.

(6) Where the Office is conducting a review under *subsection (1)* or *(3)* 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 review being conducted (including the appointment of an appointed person) 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.

Conduct of a review and preliminary examination

327. (1) The Office may appoint a person (in this Chapter referred to as an "appointed person") to carry out all or part of a review or preliminary examination under this Chapter.

(2) The planning authority or the Commission shall co-operate 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 the Commission, and each member of its staff, to co-operate with the Office and an appointed person in conducting a review or preliminary examination.

(4) Without prejudice to the generality of *subsections (2)* and *(3)*, the planning authority or the Commission shall give the Office or an appointed person such information or documents relating to the performance by the planning authority or the Commission of its functions as the Office or the appointed person may request, in such manner or form, and within such time period, as may be prescribed in regulations or (where no such manner, form or time period has been 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[18]) 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,

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(c) the Office of the Ombudsman,

(d) the Local Government Management Agency,

(e) the National Oversight and Audit Commission,

(f) regional assemblies,

(g) a local authority (within the meaning of the Local Government Act 2001),

(h) a body (other than a company) established by or under statute,

(i) a company established pursuant to a power conferred by or under an enactment, and financed wholly or partly by—

(i) moneys provided, or loans made or guaranteed, by a Minister of the Government, or

(ii) the issue of shares held by or on behalf of a Minister of the Government,

or

(j) a company, a majority of the shares in which are held by or on behalf of a Minister of the Government.

(6) An appointed person, accompanied by such other persons as he or she considers appropriate in the circumstances, is entitled at all reasonable times to enter and inspect any land, 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 the Commission and, without prejudice to the generality of *subsections (2)* and *(3)*, shall—

(a) be afforded every facility and co-operation by the planning authority (including its chief executive and staff) or the Commission (including the Planning Commissioners and staff) including the giving of information which the appointed person reasonably requires,

(b) shall have access to all documents, records, or other information which the appointed person may reasonably require, and

(c) shall 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.

Draft report and final report

328 (1) Subject to *subsection (5)*, where a review under *section 326* is completed, the Office shall send a draft of the report on the review together with any recommendations it proposes to make to the planning authority concerned or the Commission, as the case may be, to the Minister and to any person who made a complaint referred to in *section 326(3)*.

(2) Within such period as the Office shall specify, having regard to the nature, size and complexity of the draft report and any issue of urgency associated with its finalisation, the planning authority concerned, the Commission, the Minister, or any person who made a complaint referred to in *section 326(3)* may make submissions to the Office on the draft report.

(3) The Office shall review any submissions made under *subsection (2)* before finalising the draft report and any proposed recommendations, and, subject to *subsection (5)*, the Office shall finalise the report and send a copy of the report to any person to whom the draft report was sent under *subsection (1)*.

(4) Subject to *subsection (5)*:

(a) in the case of a review under *subsection (1)* or *(2)* of *section 326* the Office may publish, or cause to be published, the report on the Office's website, and

(b) in the case of a review under *section 326(3)*, the Office may send a copy of the report to:

(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)* or *(3)* without first providing a copy of the draft report and any recommendations it proposes to make or report to the Minister, or the Garda Síochána, as appropriate and obtaining his or her consent to its further publication in accordance with *subsection (1)* or *(3)*.

(6) A recommendation by the Office relating to a planning authority or the Commission, which is included in a draft report under *subsection (1)* or in a report under *subsection (3)*, may, where appropriate and without prejudice to making any other recommendation, include a

recommendation that the Minister consider exercising his or her functions under *section 330(2)* or *331*.

Action on foot of a report under *section 328*

329. (1) Where the Office makes a recommendation relating to a planning authority or the Commission in a report under *section 328*, and the Office or the Minister has directed that the planning authority or the Commission comply with it, the planning authority or the Commission, as appropriate, shall take steps to implement the recommendation and provide a report to the Office on the implementation of that recommendation within such period as may be specified in the Report (and if no period is specified within 12 weeks of the direction).

(2) The planning authority or the Commission shall provide further reports on the implementation of the recommendation every 8 weeks following the provision of the report referred to in *subsection (1)* to the Office until the recommendation has been implemented to the written satisfaction of the Office.

Ministerial oversight of performance of functions by planning authorities

330. (1) A planning authority shall supply the Minister with such information relating to the performance of its functions as the Minister may request.

(2) (*a*) A planning authority 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.

(*b*) Where the Minister gives a direction under this subsection, the planning authority shall report to the Minister the results of any review conducted pursuant to the direction and shall comply with any requirement which the Minister may, after consultation with the planning authority as regards those results, impose in relation to all or any of the matters which were the subject of the review.

(3) The Minister may appoint a person, not being the planning authority concerned, to carry out a review in accordance with *subsection (2)*.

Appointment of a commissioner

331. (1) Without prejudice to the powers of the Minister under Part 21 of the Local Government Act 2001, the Minister may appoint 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 in accordance with the requirements of or under this Act,

(b) may not be performing its functions in a manner which respects the national and regional plans and policies made under this Act, including development plans, urban area plans, priority area plans and joint area plans,

(c) may be applying inappropriate standards of administrative practice or otherwise acting contrary to fair or sound administration in the conduct of its planning functions,

(d) may be applying systemic discrimination in the conduct of its planning functions,

(e) may be operating in a manner whereby there is impropriety or risks of corruption in the conduct of its planning functions,

(f) may be operating in a manner whereby there are serious diseconomies or inefficiencies in the conduct of its planning functions,

(g) may not be complying with a national planning statement, a direction issued under *section 64* or a direction issued under *section 330(2)*, or

(h) may not be exercising its enforcement functions under *Part 11* appropriately to ensure compliance in its functional area or nearshore area with this Act.

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

(a) a report or information arising from a review under *section 330(2)*,

(b) a draft report under *section 328(1)* or, where the report has been finalised, the report referred to in *subsection (3)* of that section,

(c) a report or information arising from a preliminary examination of a complaint under *section 326(5)*,

(d) directions issued by the Minister on foot of recommendations from the Office under *Chapters 4* and *5* of *Part 3*, or

(e) information otherwise available to him or her.

(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 the provisions of *subsection (1)*, 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 and every chief executive and member of staff of a planning authority to co-operate with, and comply with a request of, a commissioner appointed under this section.

Offences

332. (1) A person who obstructs or impedes or, without reasonable excuse, fails to comply with a request of the Office, or an appointed person (including any other person to whom *section 327(6)* relates) or a commissioner under this Chapter is 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.

Chapter 3

The planning register and records

Planning register

333. (1) Each planning authority and the Maritime Area Regulatory Authority shall maintain a register (referred to in this Act 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 all matters required to be entered in the register under this Act (in this section called "registrable matters").

(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) may be entered in the register by both the Maritime Area Regulatory Authority and the planning authority.

(3) The Minister may prescribe particulars of any registrable matter that shall be registered under *subsection (1)*.

(4) The register shall incorporate a map to enable a person to trace any entry in it.

(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 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 after the receipt by it of a document putting it on notice of a registrable matter or the doing by it of a registrable matter.

(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 concerned or the Maritime Area Regulatory Authority, as the case may be, the information necessary to enable it to perform its functions under this section.

(8) The failure by a planning authority or the Maritime Area Regulatory Authority, as the case may be, 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 concerned, the Maritime Area Regulatory Authority, or by the Commission.

(9) The register shall be made available for public inspection in accordance with *section 335*.

Documents to be available for inspection

334. (1) Without prejudice to any requirement of or under this Act that documents or information relating to an application, appeal, referral, request or other process be made available for inspection by the public before the conclusion of the application, appeal, referral, request or other process concerned, copies of the documents or information referred to in *subsection (2)* shall be made available by a planning authority (where the document or information relates primarily to land) or the Maritime Area Regulatory Authority (where the document or information relates primarily to the maritime area) for public inspection in the manner set out in *section 335*.

(2) The documents or information referred to in *subsection (1)* are:

(a) in respect of an application for permission under *Chapter 3* or *Chapter 4* of *Part 4*, or a request for an amendment, alteration or extension of a permission under *Chapter 5* of that Part–

(i) the application or request and any particulars, evidence, environmental impact assessment report, natura impact statement, other written study, scoping opinion under *section 198*, screening determination under *section 199* or further information received by the planning authority from the applicant in accordance with this Act or any regulations made under it,

(ii) any submissions in relation to the application or request which have been 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 matter referred to in *section 83(7)*,

(b) in respect of an application for a declaration under *section 8, 257*, *278* or *283*–

(i) the application and any particulars, evidence, environmental impact assessment screening report, appropriate assessment screening report, other written study or further 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 application, and

(iii) the decision of the planning authority in respect of the application,

(c) in respect of an appeal from an application for permission under Chapter 3 of Part 4, an appeal against a declaration under *section 8, section 257, section 278* or *283*, and a review under *section EVA.Z* of a screening determination:

(i) the appeal and all documents and information submitted with it,

(ii) all submissions and documents received by the Commission from the appellant any other parties to the appeal and any other person,

(iii) the report of the person assigned to report to the Commission on the appeal, and

(iv) the full decision on the appeal,

(d) in respect of local authority development requiring public notice under *section 143*—

(i) the notice of the proposed development as published

(ii) any particulars and submissions made available for public inspection under *section 148(6)*,

(iii) the report of the chief executive under *section 149*,

(iv) the resolution of the local authority under *section 149(3)* including any plans and particulars showing any variation or modification of the proposed development, and

(e) such additional documents or information in relation to the matters listed in *paragraphs (a)* to *(d)* or any other matter arising under this Act as may be prescribed.

(3) A planning authority or the Maritime Area Regulatory Authority shall retain all documents or information particulars of which are entered in the register, other than the documents or information referred to in *subsection (2)*, arising from the exercise of any of its functions under this Act for a period of 12 years from the creation, or the receipt, as the case may be, by the planning authority or the Maritime Regulatory Area Authority, of the document or information and shall make those documents available for inspection in accordance with *section 335*.

Manner of and requirements for public inspection of the register and documents

335. (1) The register and documents referred to in *section 334(1)* shall be made available for public inspection at the offices of the planning authority during office hours.

(2) Copies of entries in the register and any documents referred to in *section 334(2)* shall be made available on payment to the planning authority of a fee not exceeding the reasonable cost of making the copy.

(3) (a) Subject to paragraph (b), a planning authority may, and shall where it is prescribed in regulations, make all or any part of the register or any documents referred to in *section 334(2)* available for public inspection on a website maintained by or on behalf of the planning authority or in another electronic form.

(b) Where any application referred to in *section 334(2)* is accompanied by an environmental impact assessment report or a natura impact statement, the documents referred to in *section 334(1)* shall be made available on a website maintained by or on behalf of the planning authority for inspection.

(4) The Minister may prescribe additional means by which public inspection of the register and documents referred to in *section 334(2)* may occur, or additional requirements which a person must comply with in order to inspect the register or documents referred to in *section 334(2)*.

(5) (a) 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 for public inspection 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 for public inspection.

(b) The Minister may prescribe—

(i) additional restrictions upon access to certain information or classes of information in the register or in documents referred to in *section 334(2)*, and

(ii) circumstances in which a planning authority may restrict access to the register or documents referred to in *section 334(2)*,

in the interests of protection of the privacy, reputation or personal safety of an individual, commercial sensitivity, the administration of justice, or the security of the State.

(6) Without prejudice to the Freedom of Information Act 2014, and 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), the documents or information referred to in 334(3) (other than planning complaints and all notices to or correspondence with a person who made a planning complaint and such other documents as may be prescribed) shall be made available for inspection by the owner or occupier of the land or maritime site to which the documents or information relate, or a person acting on behalf of or with the authority of such owner or occupier, at the offices of the planning authority or the Maritime Area Regulatory Authority, as the case may be, during office hours and copies of such documents shall be made available to such persons on payment to the planning authority of a fee not exceeding the reasonable cost of making the copy.

Documents of the Commission

336. (1) Without prejudice to any requirement of or under this Act that documents or information relating to any application, appeal, referral, request or other process be made available for inspection by the public before the conclusion of the application, appeal, referral, request or other process concerned, the Commission shall, as soon as practicable after the conclusion of the application, appeal, referral or request, or the conclusion of the other process, give copies of the documents and information referred to in *section 334(2)*—

(a) where the application, appeal, referral, request or other process relates primarily to land, to the planning authority in whose functional area the land is situate, or

(b) where the application, appeal, referral, request or other process relates primarily to a maritime site, to the Maritime Regulatory Area Authority.

(2) The Commission shall make available on a website maintained by or on behalf of the Commission copies of every decision and report of a person assigned to make a written report under *section 318* arising from any appeal, referral or application conducted by it.

(3) The Commission shall retain all other documents and information arising from the exercise of any of its functions under this Act, other than the documents or information supplied to a public authority or the Maritime Area Regulatory Authority under *subsection (1)*, for a period of 12 years from the creation of the document or information, and shall make those documents or that information available for inspection in accordance with *subsection (4)*.

(4) Without prejudice to the Freedom of Information Act 2014, and 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) the documents and information referred to in *subsection (3)* (other than planning complaints and all notices to or correspondence with a person who made a planning complaint and such other documents as may be prescribed) shall be made available for inspection by the owner or occupier of the land or maritime site to which the documents or information relate, or a person acting on behalf of or with the authority of such owner or occupier, at the offices of the Commission, during office hours and copies of such documents shall be made available to such persons on payment to the Commission of a fee not exceeding the reasonable cost of making the copy.

Information to be retained in electronic form

337. (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, as the case may be, 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 a specified class or classes of documents or other information in electronic form, and may deal with applications, appeals and referrals by electronic means.

(4) Without prejudice to the generality of *subsection (3)*, regulations under that subsection may apply to a particular class or classes of documents or other information, or for a particular period.

Proof of the register and documents

338. (1) Every document purporting to be a copy of an entry in the register or a document referred to in *section 334* or *336* and purporting to be certified by a member of staff of the planning authority or the Commission to be a true copy of the entry shall, without proof of the signature of the person purporting so to certify or that he or she was such an officer, be received

in evidence in any legal proceedings and shall, until the contrary is proved, be deemed to be a true copy of the entry and to be evidence of the terms of the entry.

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

Data sharing

339. (1) Subject to any regulations made under *subsection (2)*, a planning authority, the Commission or the Office 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, or any other public body of its functions under this Act or any other enactment.

(2) For the purposes of *subsection (1)*, the Minister may prescribe—

(a) the information (including personal data) which may be disclosed under *subsection (1)*,

(b) the purposes for which the information may be disclosed under *subsection (1)*, including specifying the public bodies to whom the information may be disclosed, and

(b) such conditions as the Minister considers appropriate to impose on the disclosure of the information.

(3) In this section—

"General Data Protection Regulation" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016[19];

"personal data" has the same meaning as it has in the General Data Protection Regulation;

"public body" has the same meaning as it has in section 10 of the Data Sharing and Governance Act 2019 and shall also include—

(a) the Commission,

[19] OJ No. L 119, 4.5.2016, p.1.

(b) the Office, and

(c) a planning authority.

Chapter 4

Miscellaneous powers and procedures

Definitions

340. In this Chapter—

"appropriate authority" means—

(a) a planning authority

(b) the Commission, or

(c) the Minister;

"authorised person" means a person who is appointed by a planning authority, the Commission or the Maritime Area Regulatory Authority under *section 344* to be an authorised person;

"document for service" has the meaning it has in *section 348*.

Consultants and advisers

341 (1) The Commission, the Minister 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 under this Act.

(2) Any fees due to a consultant or adviser appointed under this section shall be paid by the Commission, the Minister or the regional assembly out of moneys at its disposal.

Power of examination, investigation and survey

342. An appropriate authority, the Office and the Maritime Area Regulatory Authority shall have all such powers of examination, investigation and survey as may be necessary for the performance of its functions under this Act.

Obligation to give information to planning authority, Commission or Maritime Area Regulatory Authority

343 (1) A planning authority, or the Commission or the Maritime Area Regulatory Authority (in respect of a maritime site or a structure on a maritime site) may, for any purpose arising in relation to its functions under this Act or any other enactment, by notice in writing served on—

(a) the occupier or reputed occupier of any land, maritime site or structure, or

(b) any person receiving or reputedly receiving, whether for himself or herself or for another, rent out of any land, maritime site or structure,

require him or her to state in writing to the planning authority, the Commission or the Maritime Area Regulatory Authority (other than in so far as it would tend to incriminate him or her), within a specified time not less than 2 weeks after being so required, particulars of the estate, interest, or right by virtue of which he or she occupies the land, maritime site or structure or receives the rent, as the case may be, and the name and address (so far as they are known to him or her) of every person who to his or her knowledge has any estate or interest in, or right over, or in respect of, the land, maritime site or structure.

(2) Every person who is required under this section to state in writing any matter or thing to a planning authority, the Commission or the Maritime Area Regulatory Authority, and either fails so to state the matter or thing within the time appointed under this section or, when so stating any such matter or thing, makes any statement in writing which is to his or her knowledge false or misleading in a material respect, shall be guilty of an offence.

Appointment of authorised person

344 (1) A planning authority, the Commission or the Maritime Area Regulatory Authority (without prejudice to section 138 of the Maritime Area Planning Act 2021) may appoint a person to be an authorised person for the purposes of *section 345*, and a planning authority or the Maritime Area Regulatory Authority may appoint a person to be an authorised person for the purposes of *section 346*, 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 to that person.

Power of authorised person to enter land, a maritime site or a structure

345. (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—

(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, and

(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 the planning authority, the Commission or the Maritime Area Regulatory Authority shall either—

(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 48 hours' 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 this section by a planning authority, the Commission or the Maritime Area

Regulatory Authority may, not later than 14 days (or 48 hours 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, as the case may be to—

(a) where the notice is in respect of a maritime site or structure on a maritime site, a judge of the District Court assigned to the Dublin Metropolitan District, or

(b) in any other case, the 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,

for an order prohibiting the entry, and, upon the hearing of the application, the judge may either prohibit the entry or specify conditions to be observed by the person making the entry.

(5) An authorised person may where he or she anticipates any obstruction in the exercise of any power conferred on him or her by or under this Act, request a member of the Garda Síochána to assist him or her in the exercise of such a power and any member of the Garda Síochána of whom he or she makes such a request shall comply with the request.

(6) A person who, by act or omission, obstructs an authorised person in the lawful exercise of the powers conferred by this section shall be guilty of an offence.

Powers of entry and to seek information in relation to enforcement

346. (1) Subject to *section 291*, and without prejudice to any powers contained in *section 345*, an authorised person appointed by a planning authority or the Maritime Area Regulatory Authority may, for any purpose connected with Part 11, at all reasonable times, or at any time if he or she has reasonable grounds for believing that an unauthorised development has been, is being or is likely to be carried out, enter any land, maritime site or structure 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) Subject to *subsection (4)*, an authorised person shall not, other than with the consent of the occupier, enter into a dwelling or the curtilage of a dwelling (other than any part of the curtilage to which the public have access whether as of right or by permission and whether subject to or free of charge) under *subsection (1)* unless he or she has given to the occupier of the dwelling not less than 24 hours' notice in writing of his or her intended entry.

(3) When an authorised person enters land, a maritime site or a structure pursuant to *subsection (1)*, the authorised person may, in addition to the powers set out in *section 345(2)*, 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—

(a) in the case of a maritime site or a structure on a maritime site, the Maritime Area Regulatory Authority or an authorised person appointed by it, may apply to a judge of the District Court assigned to the Dublin Metropolitan District, or

(b) in the case of land or a structure on land, the planning authority or an authorised person appointed by it, may apply 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, or

(c) in the case of an area containing both land and a maritime site–

(i) the Maritime Area Regulatory Authority, or an authorised person appointed by it, may apply to a judge of the District Court assigned to the Dublin Metropolitan District, or

(ii) the planning authority, or an authorised person appointed by it, may apply 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

for a warrant authorising the authorised person to enter the land, maritime site, or structure, as the case may be.

(b) If on application being made to him or her under this subsection, a judge of the District Court is satisfied, on the sworn information of the applicant, that the authorised person concerned has been 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 under his or her hand authorising that person, accompanied, if the judge considers it appropriate so to provide, by such number of members of the Garda Síochána as may be specified in the warrant, at any time within 4 weeks from the date of the issue of the warrant, on production, if so requested, of the warrant, to enter the land, maritime site or structure concerned, if need be by force and exercise the powers referred to in *subsection (3)*.

(5) Without prejudice to any powers contained in *section 343*, 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, 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 or thing to the planning authority or the Maritime Area Regulatory Authority and either fails so to state the matter or thing within the time specified under this section or, when so stating any such matter or thing, makes any statement in writing which is to his or her knowledge false or misleading in a material respect, shall be guilty of an offence.

(7) In this section, "curtilage", in relation to a dwelling, means an area immediately surrounding or adjacent to the dwelling and used in conjunction with the dwelling.

Submissions by a public body

347. Neither the making of submissions by a public body under this Act nor the content of such submissions, shall preclude or otherwise effect, the performance by the body of any of its functions, including the exercise by it of any discretion it may have, under this Act or any other enactment.

Service of documents

348. (1) Where an order, notice, warning letter or other document or information is required under this Act to be served on a person by an appropriate authority, the Office or the Maritime Area Regulatory Authority (in this Chapter referred to as "a document for service") it shall be in writing and shall be addressed to him or her and served on him or her in one or more of the following ways—

(a) by personal service on 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 supplied by or on his or her behalf;

(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 supplied by or on behalf of him or her;

(e) where service in accordance with paragraph (d) is unsuccessful and the appropriate authority, Office or the Maritime Area Regulatory Authority, is satisfied that the person 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) subject to *subsection (6)*, where the address at which that person ordinarily resides cannot be ascertained by reasonable inquiry and the document for service is so required 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) subject to *subsection (6*), in the case of an enforcement notice, 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 document for service relates to a maritime site, and the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry, by publishing the document for service in a national newspaper on 7 consecutive days.

(2) (a) Service shall be effected in accordance with *subsection (1)(b)* where—

(i) the electronic communication is sent to—

(I) an email address or other electronic contact point provided to the appropriate authority, the Office or the Maritime Area Regulatory Authority by 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,

(ii) the appropriate authority, the Office or the Maritime Area Regulatory Authority 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

(iii) the document for service 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.

(b) The Minister may prescribe additional requirements with regard to the requirements for electronic communication for the purpose of this section.

(3) Where a document for service is required 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.

(4) For the purposes of this section, a company registered under the Companies Acts 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.

(5) A person who, at any time during the period of 12 weeks after a document for service is affixed in a conspicuous place on or near land or a structure in accordance with *paragraph (f)* or *(g)* of *subsection (1)* removes, damages or defaces the document for service without lawful authority shall be guilty of an offence.

Notice

349. (1) Where any document or information is required to be notified or given to, but not served on, a person by or under this Act by an appropriate authority, the Office or the Maritime Area Regulatory Authority, the document or information shall be in writing and may be notified or given to the person by any means the appropriate authority, the Office or the Maritime Area Regulatory Authority considers appropriate.

(2) Where a document or information referred to in *subsection (1)* is required by or under this Act to be notified or given to 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.

Dispensation with service or giving of notice

350. (1) Where an appropriate authority, the Office or the Maritime Area Regulatory Authority is satisfied that reasonable grounds exist for dispensing with the serving, giving or notifying by it of notifiable material 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 or the Maritime Area Regulatory Authority may dispense with the serving, giving or notifying of the notifiable material 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 notifiable material 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 notifiable material would, but for the dispensation, be a condition precedent.

(3) Where a provision of or under this Act requires notifiable material to be served on, or given or notified to, a person who has made representations or submissions to an appropriate authority, the Office, 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 or the Maritime Area Regulatory Authority may substitute an alternative means of service, giving or notification that is reasonably likely to bring the notifiable material, to the attention of such persons, including, in the case of an organised campaign referred to in *paragraph (a)*, serving the notifiable material on or giving or notifying the notifiable material to (as the case may be) any person who, in the opinion of the appropriate authority, the Office or the Maritime Area Regulatory Authority organised the campaign.

(4) Where notifiable material 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 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 notifiable material, the appropriate authority, the Office 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 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 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 or the Maritime Area Regulatory Authority serving, giving or notifying the notifiable material considers appropriate.

(6) In this section, "notifiable material" means a document for service or other document or information required under this Act to be given or notified to a person.

Public notification

351 (1) Where a provision of 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 forms of communication for the provision of information.

(2) The Minister may make provision in regulations pertaining to 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) A planning authority shall maintain and publish in such manner as it considers appropriate a list of newspapers deemed to circulate in its functional area.

(4) A regional authority shall maintain and publish in such manner as it considers appropriate a list of newspapers deemed to circulate in the region of the regional authority.

(5) Where this Act requires a notice to be published in a newspaper circulating in an area in which a maritime site is located—

(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 of part of the site is located in the outer maritime area, the notice shall be published in a national newspaper.

(6) A person who, without lawful authority, removes, damages or defaces a notice required to be erected or affixed on any lands or structure at the site of a development under the permission regulations or by the Commission under *section 304(2)* shall be guilty of an offence.

Recovery of monies

352. Where a person is liable under this Act to pay an appropriate authority, the Office or the Maritime Area Regulatory Authority any sum—

(a) such sum may be recovered by the appropriate authority, the Office or the Maritime Area Regulatory Authority on demand as a simple contract debt in any court of competent jurisdiction (which court shall be entitled to adjudicate upon any dispute as to the quantification of the sum due), and

(b) the appropriate authority, the Office or the Maritime Area Regulatory Authority may set off against such sum any sum due by the appropriate authority, the Office or the Maritime Area Regulatory Authority to the person.

Running of time

353. (1) Subject to *subsection (2)*, where calculating any period or time limit referred to in this Act or in any regulations made under this Act, of one year or less, 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.

(3) Where the doing of a thing within a period or time limit specified under this Act requires an office of an appropriate authority, the Office 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.

Transitional provision

354. A period disregarded in accordance with section 251A of the Act of 2000 before the date of the repeal of that section by this Act shall, on and after that date, notwithstanding the repeal, continue to be disregarded in accordance with that section.

Disregard of time limits in certain circumstances

355. (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 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, when calculating any period or time limit under this Act, 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 planning authority, the Commission, the Office, the Maritime Area Regulatory Authority or the Minister, 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 by order, at the request of the Minister made after consultation with such other Minister of the Government as he or she considers appropriate—

(a) before the expiration 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 expiration of the period specified in the order made under *paragraph (a)*, or where an order has been previously made under this paragraph, before the expiration of the period specified in the last order so made, specify a date later than the date specified in that order, on which the period to be disregarded under *subsection (1)* shall end.

PART 13

Appropriation, disposal and development

Appropriation of land for local authority purposes

356. (1) Where—

(a) land is held by a local authority for the purposes of any of its functions under this or any other enactment, and

(b) the local authority is satisfied that the land should be made available for the purposes of any one or more of its other functions, or for any other lawful purpose,

the local authority may, in accordance with this section, appropriate the land for those purposes.

(2) Where land vested in a local authority by means of compulsory acquisition under any enactment is appropriated under this section -

(a) no claim for compensation other than that claimed in respect of the compulsory acquisition shall be made in respect of the appropriation, and

(b) the acquisition shall not be challenged on any grounds relating solely to the appropriation.

(3) A local authority may appropriate lands by means of a written order of the Chief Executive of the local authority.

Disposal of land by local authorities

357. (1) Any land acquired or appropriated by a local authority may, subject to such conditions as the local authority may consider necessary, be sold, leased or exchanged, where the local authority no longer requires the land for any of its functions, or in order to secure—

(a) the best use of that or other land, and any structures or works which have been, or are to be, constructed, erected, made or carried out on, in or under that or other land, or

(b) the construction, erection or making of any structures or the carrying out of works appearing to it to be needed for the proper planning and sustainable development of its functional area.

(2) The consent of the Minister shall, subject to *subsection (3)*, be required for any sale, lease or exchange under *subsection (1)* where the proposed price or rent, or what is to be obtained by the local authority on the exchange, is not the best reasonably obtainable, but in any other case, shall not be required notwithstanding the provisions of any other enactment.

(3) The Minister may, where reasons of urgency so require or where it is otherwise in the public interest to do so, by regulations provide for the disposal of land under *subsection (1)* without the consent of the Minister as required by *subsection (2)* in such circumstances as may be specified in the regulations and subject to compliance with such conditions (including conditions for the giving of public notice) as may be so specified.

(4) Capital money arising from the disposal of land under *subsection (1)* shall be applied for a capital purpose for which capital money may be properly applied or for 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 will not be required for any of the authority's functions for a particular period, the authority may grant a lease of the land for that period or any lesser period and the lease shall be expressed as a lease granted for the purposes of this subsection.

(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 planning authorities

358. (1) A planning authority may develop, secure or facilitate the development of land in connection with any of its functions under this Act or any other enactment.

(2) A planning authority may, in connection with any of its functions under this Act or any other enactment, make and carry out arrangements or enter into agreements with any person or body for the development or management of land, and may incorporate a company for those purposes.

(3) A planning authority may use any of the powers available to it under any enactment in order to facilitate the assembly of sites for the purposes of the orderly development of land.

PART 14

Compulsory purchase and acquisition

Chapter 1

Compulsory Purchase and Similar Orders

Land Acquisition by Local Authorities

359. (1) In this chapter –

"acquiring authority" has the meaning given to it by *section 362*;

"relevant interest" means, in relation to relevant land, an easement, profit a prendre, public or private right of way, wayleave or any other like right or interest, in, over or relating to the land;

"relevant land" includes –

(a) any estate or interest in or over land other than a relevant interest,

(b) any estate or interest, other than a relevant interest, in, over or relating to the substratum below the surface or any part thereof whether or not owned in horizontal, vertical or other layers apart from the surface of the land,

(c) mines, minerals and other substances in the substratum below the surface, whether or not owned in horizontal, vertical or other layers apart from the surface of the land,

(d) land covered by water,

(e) buildings or structures of any kind on land and any part of them, whether the division is made horizontally, vertically or in any other way,

(f) the airspace above the surface of land or above any building or structure on land which is capable of being or was previously occupied by a building or structure and any part of such airspace, whether the division is made horizontally, vertically or in any other way,

(g) any part of land;

but does not include –

(i) "state land", within the meaning of section 2(1) of the State Property Act 1954,

(ii) land owned by a "state authority" within the meaning of section 2(1) of the State Property Act 1954,

(iii) any part of the maritime area;

"relevant property" means both relevant land and relevant interests.

(2) A local authority may, for the purposes of performing any of its functions, as it considers appropriate —

(a) acquire relevant property, permanently or temporarily, by agreement or compulsorily,

(b) extinguish, restrict or otherwise interfere with, permanently or temporarily, by agreement or compulsorily, relevant interests.

(3) A reference in *subsection (2)* to acquisition by agreement shall include acquisition by way of purchase, lease, exchange, dedication, gift or otherwise.

(*4*) The power to acquire, restrict or interfere conferred on a local authority by *subsection (2)* may be exercised in relation to relevant property whether or not it is in the local authority's functional area.

(5) Without prejudice to the generality of this section, a local authority may effect an acquisition, restriction or interference under this section, by agreement or compulsorily, in relation to relevant property—

(a) that is not immediately required for a purpose but, in the opinion of the local authority, will be required by the authority for that purpose in the future,

(b) where the local authority has not, at the time of its acquisition, determined the specific manner in which, or the specific purpose for which, it will be used, and

(c) required by the local authority in connection with a development for which a permission, consent or approval is required under this Act or any other enactment, whether or not such permission, consent or approval has been applied for.

Compulsory acquisition by local authorities

360. (1) Where a local authority intends to acquire relevant property compulsorily, it shall make a draft order in writing (in this section referred to as a "draft compulsory purchase order"), which shall –

(a) where the draft order relates to relevant land–

(i) identify the relevant property by reference to a map,

(ii) set out the full extent of the estate or interest sought to be acquired in the relevant property, and

(iii) either –

(I) specify relevant interests, if any, that will, upon completion of the acquisition to which the draft order relates, be extinguished under *section TBD*, or

(II) where the local authority is of the opinion that it may not have sufficient information to specify all relevant interests under subparagraph (i), state that relevant interests shall be so extinguished upon completion of the acquisition to which the draft order relates,

(b) where the draft order relates to a relevant interest only–

(i) identify the relevant property by reference to a map,

(ii) set out the full extent of the estate or interest sought to be acquired in the relevant property,

(c) state –

(i) the specific or general purpose for which the local authority intends to acquire the relevant property and whether or not the land is immediately required for that purpose, or

(ii) where a local authority intends to acquire relevant land compulsorily in the circumstances set out in section COP.A(5)(b), state, to the extent practicable, the general purpose as to why it intends to acquire the relevant property,

(d) state the reasons for which the relevant property is required for the specific or general purposes, as the case may be,

and

(e) include such other information as may be prescribed.

(2) As soon as practicable and no later than four weeks after the making of the draft compulsory purchase order, or such other time as may be prescribed, the local authority shall submit the draft compulsory purchase order to the Commission for confirmation in accordance with the requirement of any regulations made under *section 361*.

(3) No less than 2 weeks before the date on which the draft compulsory purchase order is submitted to the Commission under *subsection (2)* the local authority shall—

(a) make documents relating to the draft compulsory purchase order available for inspection at the office of the local authority during office hours and on its website,

(b) publish, in a newspaper circulating in the locality of the relevant property to which the draft compulsory purchase order relates, in Iris Oifigiúil and on its website, a notice stating that –

(i) persons with an estate or interest in the relevant property may make an objection in accordance with *subsection (5)*, and

(ii) documents referred to in *paragraph (a)* may be inspected in the manner set out in that paragraph, and

(c) serve a copy of the notice referred to in *paragraph (b)*–

(i) where the acquisition relates to relevant land, on-

(I) every person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion,

(II) every person who holds or is entitled to the rents and profits of the land under a lease or agreement, the unexpired term of which exceeds three years, and

(III) every lessee and occupier of the lands (other than tenants for a month or a period less than a month),

and

(ii) where the acquisition relates to a relevant interest, on –

(I) every person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the relevant land to which the interest relates, whether in possession or reversion,

(II) every person who holds or is entitled to the rents and profits of the relevant land to which the interest relates under a lease or agreement, the unexpired term of which exceeds three years, and

(III) every lessee and occupier of the relevant land to which the interest relates (other than tenants for a month or a period less than a month).

(4) Where a person referred to in *subsection (3)(c)* is not given a notice by the authority as required by that subsection –

(a) that shall not of itself invalidate a draft compulsory purchase order,

(b) the person may, at any time before the Commission makes a decision on the draft compulsory purchase order under *subsection (6)* or *(7)*, apply in writing to the authority or to the Commission requesting that they be provided with the documents referred to in *subsection (3)(a)* and the notice referred to in *subsection (3)(b)*, and

(c) the Commission or the authority, as the case may be-

(i) shall, where satisfied that the request is made by a person referred to in *subsection (3)(c)*, comply with the request, and

(ii) where it considers it appropriate to do so may, at any time before the draft compulsory purchase order is confirmed by the Commission, stipulate a period within which the person can make an objection.

(5) Any person with an estate or interest in the relevant property to which the draft compulsory purchase order relates may, within 5 weeks of the submission of the draft compulsory purchase order to the Commission or such other period as may be specified under *subsection (4)(c)(ii)*, make a written objection to the confirmation of the compulsory purchase order to the Commission, setting out the nature and extent of their estate or interest in the relevant property, the grounds for their objection and any other information as may be prescribed.

(6) Where –

(a) a draft compulsory purchase order is made in respect of an acquisition by a local authority, and

(b) either -

(i) no valid objection under *subsection (5)* is made within the period referred to in that subsection, or

(ii) all objections made under *subsection (5)* meet one or more of the following criteria:

(I) the objection was made by persons without an estate or interest in the relevant property to which the draft compulsory purchase order relates;

(II) the objection was withdrawn by the person who made it at any time before the Commission makes its decision;

(III) the Commission is of opinion that the objection relates exclusively to matters of compensation which can be dealt with by a property arbitrator,

the Commission shall, unless it is manifest from the terms of the draft order that the acquisition concerned is not reasonably required for the purpose of performing a function of the local authority, confirm the draft compulsory purchase order.

(7) Where *subsection (6)* does not apply and the Commission, having had regard to any objections made-

(a) is satisfied that –

(i) the acquisition to which the draft compulsory purchase order relates is reasonably required for the purpose of performing a function of the local authority

(ii) *subsection (1)* has been complied with in relation to the draft compulsory purchase order, and

(iii) the local authority has taken all reasonable steps to comply with *subsection (3)*,

the Commission shall confirm the draft compulsory purchase order, or confirm the draft compulsory purchase order subject to such modifications or conditions as it sees fit in accordance with *subsection (13)*,

(b) is satisfied that *subparagraph (a)(ii)* and *(iii)* apply to the draft compulsory purchase order, and is satisfied that part of the relevant property to which the draft order relates is reasonably required for the purpose of performing a function of the local authority, the Commission may confirm the draft compulsory purchase order subject to modifying it so that it relates only to such part of the relevant property,

(c) is satisfied that *subparagraph (a)(i)* applies to the draft compulsory purchase order and that at least one of *subparagraphs (a)(ii)* and *(iii)* do not apply to the draft compulsory purchase order, the Commission may –

(i) direct a local authority to take such steps as the Commission considers are required to satisfy the Commission that the requirements of *subsection (1)* or (3), as the case may be, have been substantially satisfied in relation to the draft compulsory purchase order,

(ii) make such directions as it sees fit (including directions as to the time within which its directions are to be carried out) ancillary to a direction under *subparagraph (i)*, and

(iii) confirm the draft compulsory purchase order subject to compliance with all directions given under this paragraph,

(d) is satisfied that *subparagraphs (i)* to *(iii)* of *paragraph (a)* do not apply to the draft compulsory purchase order, and is not satisfied that the order can be confirmed under *paragraphs (b)* or *(c)*, refuse to confirm the order.

(8) The Commission shall as soon as may be after making a decision under *subsection (6)* or *(7)*, notify the local authority concerned and any person who made a valid objection to the Commission of its decision.

(9) Where the Commission confirms a draft compulsory purchase order under *subsections (6)* or *(7)*, or confirms such an order under *subsection (7)* subject to modifications or conditions, the draft compulsory purchase order as confirmed by the Commission shall be known as a compulsory purchase order.

(10) A compulsory purchase order shall become operative on–

(a) the date that is 3 weeks from the date on which a decision was made under *subsection (6)* or *(7)*, or

(b) such date, which shall be –

(i) no less than 3 weeks from the date on which a decision was made under *subsection (6)* or *(7)*, and

(ii) not more than 4 months from the date on which a decision was made under *subsection (6)* or *(7)*,

as the local authority concerned may specify, within one week of the decision, by publishing a notice in one or more newspapers circulating in the area or areas to which order relates, notice in writing.

(11) A notice referred to in *subsection (10)(b)* shall be served by the local authority on each person referred to in *section (3)(c)* within 3 weeks of the decision under *subsection (6) or (7)*.

(12) Not later than 3 weeks from the date of confirmation of the compulsory acquisition by the Commission, the local authority concerned shall serve notice of the confirmation of the compulsory acquisition on every owner, lessee and occupier of the relevant land or, where the acquisition relates only to a relevant interest, of the relevant land to which the interest relates.

(13) The modifications that may be made, or the conditions that may be imposed, by the Commission in relation to a draft compulsory purchase order include—

(a) modifying the extent of the relevant property the subject matter of the confirmed compulsory purchase order, which shall not include any relevant property not included in the draft compulsory purchase order without the agreement of all persons who have an estate or interest in such relevant property,

(b) modifying the extent of the legal estate or interest, which may be less but shall not be greater than any estate or interest sought to be acquired in the draft compulsory purchase order without the agreement of all persons who have an estate or interest in such relevant property,

(c) the imposition of conditions requiring—

(i) the construction or the financing, in whole or in part, of the construction of a facility, or

(ii) the provision or the financing, in whole or in part, of the provision of a service,

in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Commission, would constitute a substantial gain to the community,

and

(d) making any modification or imposing any condition in order to amend, delete, clarify or otherwise change any matter that, absent such amendment, deletion, clarification or change, would, in the opinion of the Commission, mean that the draft compulsory purchase order, if confirmed, would be unlawful.

(14) A modification made, or condition imposed, by the Commission under this section shall not require such an amount of financial resources to be committed for the purposes complying with it as would substantially deprive the person in whose favour the order operates of the benefits likely to accrue from the grant of the order.

(15) Where a local authority makes reasonable efforts to effect service under *subsections (11)* or *(12)*, the failure to serve each of the persons referred to in those subsection shall not, in itself, invalidate a compulsory purchase order.

Power to make Regulations

361. (1) The Minister may make regulations prescribing any one or more of the following:

(a) the form and content of a draft compulsory purchase order;

(b) the form of a notice of the making of a draft compulsory purchase order;

(c) persons or bodies , other than those referred to in 360(3)(c), to be served with a notice of the making of the draft compulsory purchase order;

(d) the means of service of a notice relating to a draft compulsory purchase order;

(e) the form and content of objections under 360(5);

(f) the form and content of a notice by the Commission to a local authority under *section 360(6)*;

(g) any additional, incidental, consequential or supplemental matters as regards procedure in respect of the functions performed by the Commission under this Part;

(h) the form and content of a notice to treat and any claim for compensation;

(i) the form and content of a notice of entry;

(j) the form and content of a vesting order.

(2) In relation to a time period referred to in this Part, the Minister may, 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 of public importance, prescribe a time period, either generally or in relation to such class of cases as may be prescribed, other than that provided for this Act, and the reference to such time periods shall be read in accordance with the time periods so prescribed.

Compulsory Acquisition by acquiring authorities

362. (1) For the purpose of this section, "acquiring authority" means any person, body or authority, other than a local authority, having powers to acquire relevant property compulsorily under any of the following enactments:

(a) the Harbours Act 1996;

(b) the Air Navigation and Transport (Amendment) Act 1998;

(c) the Gas Act 1976;

(d) [other legislation]

(2) Subject to *section 363(3)*, the provisions of *sections 359*, *360* and *364* apply, subject to necessary modifications, to the compulsory acquisition by an acquiring authority as if references in those sections to "local authority" were references to the acquiring authority.

(3) In relation to a compulsory acquisition by an acquiring authority, the functions of any Minister of the Government relating to the acquisition prior to, and including, the decision on whether or not to confirm a draft compulsory purchase order under *section 360* are transferred to and vested in the Commission and the relevant references to any Minister, shall be construed as a reference to the Commission and any connected references shall be construed accordingly, except that any powers to make regulations or to prescribe any matter shall remain with the Minister of the Government concerned.

(4) The transfer of the functions of the Minister to the Commission in relation to compulsory acquisition in accordance with *subsection (2)* shall, where applicable, include the transfer of all necessary ancillary powers in relation to deviation limits, substrata of land, easements, rights over land or water (including wayleaves and public rights of way), rights of access to land, the revocation or modification of planning permissions, where applicable under the relevant enactment or other such functions as may be necessary in order to ensure that the Commission can fully carry out its functions in relation to the enactments specified in *subsection (3).*

(5) In the case of the Gas Act 1976, the functions of the Commission for Regulation of Utilities in relation to the compulsory acquisition of lands and all necessary ancillary powers, are transferred and vested in the Commission.

Repeals and Transitional Arrangements

363 (1) Subject to *subsections (2)* and *(3)*, a local authority or acquiring authority shall not exercise a power relating to, or rely on a procedure for, compulsory acquisition set out in the enactments specified in *section 362(1)* or in column (3) of *Schedule 3*.

(2) Notwithstanding the disapplication of a provision by *subsection (1)*, where, prior to any repeal, a local authority, road authority, acquiring authority, Minister, the Commission or other person as the case may be, has taken any step or exercised any power or function under any such enactment in respect of any relevant property, that Act and applicable regulations, shall continue to apply until the completion of any process for the compulsory acquisition of such relevant property set out in such enactment.

(3) Where an authority, body, Minister or any other person –

(a) has the power to compulsorily acquire relevant property under any enactment referred to in in *section 362(1)* or in column (3) of *Schedule 3*, and

(b) it is not possible or lawful for the procedure for the compulsory acquisition of relevant property set out in this Part to apply to such an acquisition,

the power and applicable procedure set out in such an enactment shall continue to apply and remain in force notwithstanding the disapplication of the enactment by this section.

Power of authorities to require information

364. (1) Where a local authority, road authority or acquiring authority exercises, or intends to exercise, any function in connection with compulsory acquisition under this Part, such authority may, at any time, serve a notice on the owner, occupier, any person with an interest in the relevant property being acquired or any other person whom the authority reasonably believes has an interest in, or possessed information in relation to, that property, requiring such person to provide to the authority—

(a) a statement in writing setting out –

(i) the name and address of any person they believe to be an owner, lessee, tenant (whatever the tenancy period) or occupier of the relevant land being acquired, or of the relevant land to which the relevant interest being acquired relates, as the case may be, and

(ii)the name and address of any person they believe to have an interest in the relevant land being acquired, or of the relevant land to which the relevant interest being acquired relates, as the case may be,

or

(b) a statement in writing to the effect that no information referred to in paragraph (a) is known to the person, and is not within the person's power, possession or procurement.

(2) A person who -

(a) provides a statement under *subsection (1)(b),* and

(b) knows that the information (or some of the information) referred to in *subsection (1)(a)(i)* or *(ii)* is in the power, possession or procurement or one or more other persons,

shall provide the name and address of all such persons.

(3) A notice under *subsection (1)* shall be in writing and shall—

(a) identify the relevant property to which it relates,

(b) identify the power or function in connection with the compulsory acquisition under this Part which the authority is considering exercising, intends to exercise or is exercising,

(c) identify the legislative basis for the exercise of the power or function concerned, and

(d) specify the period within which the information requested must be given to the authority (being a period of not less than 14 days beginning with the day on which the notice is served).

(4) A person commits an offence where the person–

(a) fails without reasonable excuse to comply with a notice served on the person under *subsection (1)* or (2), or

(b) in response to such notice gives information that the person knew, or ought reasonably to have known, to be false in a material particular.

(5) If an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to—

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) a person purporting to act in any such capacity,

such person, as well as the body corporate, is guilty of that offence and liable to be proceeded against accordingly.

Power of Commission to request submissions and meetings and to make directions

365. (1) The Commission may, in respect of its functions under this Chapter at its 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 relevant to its decision concerning the compulsory acquisition or the scheme or proposed road development (and shall have regard to any submission or observation so made in the making of its decision),

(b) hold meetings with the local authority, acquiring authority or 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 concerning the confirming or otherwise of such compulsory acquisition or approval or otherwise of a road scheme or proposed road development, or

(ii) resolving any issue with the local authority, acquiring authority, or road authority, as may be appropriate, or any disagreement between the authority, as may be appropriate, and any other person, including resolving any issue or disagreement in advance of an oral hearing,

(c) direct the local authority, acquiring authority or road authority concerned, to serve notice of the making of the draft compulsory order and any other accompanying matter on any person, including but not limited to persons who were required to be served but who were not served with a notice under *section 360(5)*,

(d) make such further directions, including the publication of any notices or other documents or other acts, as it considers appropriate, or

(e) request the local authority, acquiring authority or road authority to submit further information and where appropriate, to direct such authority to serve notice of such information on any person or publish notice of the submission of such information.

(2) Where the Commission holds a meeting in accordance with *subsection (1)(b)*, it shall keep a written record of the meeting and, as soon as practicable after an order to the which the meeting related is confirmed under *section 360*, make that record available for inspection by members of the public.

(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 *subsection (1)(b).*

Oral hearings before the Commission in relation to compulsory acquisition

366. (1) The Commission, may, at its discretion, hold an oral hearing in relation to any matter relating to a draft compulsory purchase order or compulsory acquisition under any enactment.

(2) *Sections 312*, *322*, *318*, *325* and *336* shall apply and have effect in relation to any oral hearing under this Part and those sections shall be construed accordingly.

(3) The Commission shall not hear any objection that relates exclusively to compensation for compulsory acquisition.

Certain procedures may run in parallel

367. (1) Where relevant property is proposed to be compulsorily acquired in connection with a proposed development for which the consent of the Commission is required under this Act or any other enactment, the Commission may, at its discretion, conduct an oral hearing in respect of both the draft compulsory acquisition order and any consent for the proposed development at the same time.

(2) The person conducting such an oral hearing may hear evidence in relation to the likely effects on the environment of such development, where the proposed development requires an Environmental Impact Assessment in accordance with *section 194* or any other relevant statutory provision.

(3) Where applicable, the person conducting such an oral hearing may hear evidence in relation to whether such development is likely to have significant effects on a Natura 2000 site or may adversely affect the integrity of a Natura 2000 site.

(4) Where the Commission has conducted an oral hearing in respect of both the draft compulsory acquisition order and any consent for the proposed development at the same time under *subsection (1)*, the Commission shall make a decision on such matters at the same time

Power to direct payment of certain costs

368. (1) Notwithstanding any contrary provision in any other Part of this Act or any other enactment, where the Commission has made a decision in the performance of any functions under this Part, it may at its discretion direct the payment of such sum as it considers reasonable by the local authority, road authority, or acquiring authority concerned—

(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 312*, reasonably incurred by that person of appearing at that hearing,

and the local authority, road authority or acquiring authority, as the case may be, shall pay the sum.

(2) The reference in *subsection (1)(b)* to costs shall be construed as a reference to such costs as the Commission in its discretion considers to be reasonable.

(3) If a local authority, road authority or acquiring authority 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, as appropriate, as a simple contract debt in any court of competent jurisdiction.

Commission to determine matters expeditiously

369. (1) It shall be the duty of the Commission to ensure that any matters submitted to it under this Part are disposed of as expeditiously as may be and, for that purpose, to take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the determination of those matters.

(2) Without prejudice to the generality of *subsection (1)* and subject to *subsections (3), (4), (5),* and *(6)* it shall be the objective of the Commission to ensure that—

(a) the matter is determined within a period of 18 weeks beginning on the last day for making objections, observations or submissions, as the case may be, in accordance with the relevant enactment, and

(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, or

(3) The Commission shall, insofar as is practicable, afford priority to a matter submitted under this Part, where requested for stated reasons by the local authority or acquiring authority concerned or by the Minister.

(4) (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 (2)*, the Commission shall, by notice in writing to any local authority, road authority or acquiring 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 given 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.

(5) Where the Minister considers it to be necessary or expedient that certain functions of the Commission 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.

(6) For the purposes of the Commission meeting its duty under this section, the chairperson may, or shall when so directed by the Minister, assign the functions performed by the Commission under this Part to a particular division of the Commission in accordance with *section 413*.

(7) The Commission shall include in each report made under *section 418* a statement of the number of matters which the Commission has determined within a period referred to in *paragraph (a)* or *(b)* of *subsection (2)* and such other information as to the time taken to determine such matters as the Minister may direct.

(8) Subsections (8) and (9) of section 52 of the Roads Act 1993 (as inserted by section 5 of the Roads (Amendment) Act 1998) and subsections (2) to (4) of section 78 of the Housing Act, 1966) shall not apply in relation to decisions of the Commission under this Part.

Alteration of Time Limits for Serving Notice to Treat

370. (1) 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 Housing Act 1966) within 18 months of the order becoming operative

(2) (a) Notwithstanding *subsection (1)*, where legal proceedings are in being challenging the validity of either—

(i) the compulsory purchase 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, the period shall be extended for a further period expiring on the earlier of the following—

(I) 30 days after the day on which the legal proceedings are concluded, or

(II) 18 months after the day on which the first period expires.

(b) Where proceedings referred to in *paragraph (a)* have not been concluded during the extended period, the local authority, road authority or acquiring authority concerned may before the expiration of such period, apply to the High Court for a further extension and the court may, if it considers that, in the particular circumstances there is good and sufficient reason for doing so, extend the period by such further period from its expiration as it believes necessary and just.

Chapter 2

Compulsory acquisition under the Roads Acts 1993 to 1998

Scope of Chapter 2

371. (1) This Chapter applies to the compulsory acquisition of lands arising under an application for approval of a road scheme or road development under the Road Act 1993.

(2) Subject to the provisions of this chapter and to the roads enactments, the provisions of chapter 1 apply, subject to necessary modifications, to the compulsory acquisition of lands arising under an application for approval of a road scheme or road development under the Road Act 1993 as if references in that Part to "local authority" were references to a roads authority within the meaning of the Road Act 1993.

(3) In the event of any conflict between the procedures under Chapter 1 and those under the roads enactments, the procedures under the roads enactments shall apply.

(4) In this section, "roads enactments" means –

(a) the Roads Act 1993, and

(b) any enactments made under the Roads Act 1993,

Transfer of Functions under Roads Act

372. (1) The functions of the Minister in relation to a scheme or proposed road development under sections 49, 50 and 51 of the Roads Act 1993, are transferred to and vested in the Commission and relevant references in that Act to the Minister shall be construed as references to the Commission and any connected references shall be construed accordingly, except that any powers under those sections to make regulations or to prescribe any matter shall remain with the Minister.

(2) The references to the Minister in section 19(7) and paragraphs (a), (c), (e) and (f) of section 20(1) of the Roads Act 1993, shall be deemed to be references to the Commission.

(3) Notwithstanding any provision of the Roads Act 1993 concerning the approval of any scheme or proposed road development, the Commission shall, in relation to any of the functions transferred under this Part respecting those matters, have the power to approve the scheme or development or any part thereof, with or without conditions or modifications, or to refuse to approve the scheme or development or any part thereof.

(4) Without prejudice to the generality of the power to attach conditions, the Commission may attach to any approval of a scheme or proposed road development under the Roads Act 1993 a condition requiring—

(a) the construction or the financing, in whole or in part, of the construction of a facility, or

(b) the provision or the financing, in whole or in part, of the provision of a service,

in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Commission, would constitute a substantial gain to the community.

(5) A condition attached pursuant to *subsection (4)* 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.

(6) The references to local inquiries or public local inquiries in Part IV of the Roads Act 1993, shall be deemed to be references to oral hearings under *section 368*.

Request for further information or alterations

373. (1) 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 Roads Act 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 alterations specified in the notification and, if the authority makes those alterations, to furnish to it such information (if any) as it may specify in relation to the scheme or road development, in the terms as so altered, or, where necessary, a revised environmental impact assessment report in respect of it.

(2) 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 (1)*, the terms of the scheme or road development as so altered shall be deemed to be the scheme or proposed road development for the purposes of sections 49, 50 and 51 of the Roads Act 1993.

(3) The Commission shall—

(a) where it considers that any further information received pursuant to a requirement made under *subsection (1)(a)* contains significant additional data relating to—

(i) the likely effects on the environment of the scheme or proposed road development, and

(ii) the likely consequences for proper planning and sustainable development in the area or areas in which it is proposed to situate the said scheme or road development of such scheme or road development,

or

(b) where the road authority has made the alterations to the terms of the proposed development specified in a notification given to it under *subsection (1)(b)*, require the authority to do the matters referred to in *subsection (4)*.

(4) The matters which a road authority shall be required to do under *subsection (3)(b)* are—

(a) to publish in one or more newspapers circulating in the area or areas in which the development to which the scheme relates or, as the case may be, the proposed road development would be situate a notice stating that, as appropriate—

(i) further information in relation to the scheme or proposed road development has been furnished to the 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 section 51(3)(b) or (c) of the Roads Act 1993—

(i) a notice of the furnishing to the Commission of, as appropriate, the further information referred to in paragraph (a)(i) or the information, report or statement referred to in paragraph (a)(ii), and

(ii) a copy of that further information, information, report or statement,

and to indicate to the body or prescribed 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.

(5) The Commission shall, in making its decision in respect of a scheme or proposed road development, have regard to any information 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 (4)*.

Conditions relating to a facility or service

374. (1) Without prejudice to the generality of the power to attach conditions, the Commission may attach to any approval of a scheme or proposed road development under the Roads Act 1993 a condition requiring—

(a) the construction or the financing, in whole or in part, of the construction of a facility, or

(b) the provision or the financing, in whole or in part, of the provision of a service,

in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Commission, would constitute a substantial gain to the community.

(2) 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.

PART 15

Compensation

Chapter 1

Compensation for refusal of permission or imposition of conditions

Right to compensation

375. **(**1) Subject to *subsection (2)* and the provisions of this Part, where a decision is made by the Commission, following an appeal from a decision of a planning authority or where the application is made to the Commission in the first instance, either -

(a) to refuse permission, or

(b) to grant permission subject to conditions,

a person with an interest in the land, or occupier of lands, to which the decision relates, shall be entitled to compensation where it results in a reduction in the value of such interest at the date of the decision or damage to the occupier in accordance with *section 376*.

(2) Compensation shall not be payable under *subsection (1)* in respect of the refusal of permission or the grant of permission subject to conditions for any development -

(a) of a class or description set out in *Schedule 5*,

(b) in respect of which the reason or one of the reasons for the refusal is a reason set out in *Schedule 6*,

(c) in respect of which the refusal of permission is based on any change of the zoning of any land as a result of the making of a new development plan or the variation of an existing development plan or the preparing, making, amending or revoking of an urban area plan, a priority area plan or a joint area plan,

(d) in respect of the imposition, on the granting of permission to develop land, of any condition of a class or description set out in *Schedule 7*,

(e) in respect of the refusal of permission, or of the imposition of conditions on the granting of permission, for the retention on land of any unauthorised structure, or

(f) where a notice preventing compensation is served and has the effect of preventing compensation in accordance with *section 378*.

Amount of compensation

376. (1) A person with an interest in land under *section 375* is entitled to compensation of such amount as may be agreed or, where not agreed, as is to be determined in accordance with *Schedule 4*.

(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

377. (1) Where a claim for compensation is made, it shall be made to the relevant planning authority which determined the application in the first instance or, where the application is made directly to the Commission, where the development is situate.

(2) A claim for compensation can be made by the person with the interest in lands or, with their consent, by any person.

Notices preventing compensation

378. (1) Where a claim for compensation is made under *section 375*, the planning authority concerned may, not later than 12 weeks after the claim is received, and having regard to all the circumstances of the case, serve a notice in such form as may be prescribed on the person by whom or on behalf of whom the claim has been made stating that, notwithstanding the refusal of permission to develop land or the grant of permission to develop land subject to conditions, the land in question is in its opinion capable of other specified types of development for which permission may be granted.

(2) Where a notice is sent identifying other development which the planning authority considers may be granted, the planning authority shall be restricted to considerations of proper planning and sustainable development.

(3) The sending of a notice by a planning authority does not prejudice the entitlement of a planning authority to refuse permission for an application for other development.

(4) A notice shall continue in force for a period of 5 years unless -

(a) the notice is withdrawn by the planning authority,

(b) a permission is granted to develop the land to which the notice relates in a manner consistent with the other development specified in the notice, subject to no conditions or to conditions of a class or description set out in *Schedule 7*, or

(c) the notice is annulled.

(5) Where a notice is withdrawn or annulled, the reasons 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 375* where -

(a) a notice is in force in relation to that claim,

(b) a notice was in force in relation to that claim but has ceased to be in force by reason of the expiration of the period referred to in *subsection (4)* of *section 378*, and an application for permission to develop the land to which the notice relates, in a manner consistent with the other development specified in the notice, has not been made within that period, or

(c) a notice 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 notice shall be annulled where, upon an application for permission to develop the land to which the notice relates in a manner consistent with the other development specified in the notice, the permission is refused or is granted subject to conditions other than conditions of a class or description set out in *Schedule* 7.

(8) No claim for compensation shall lie in relation to a decision to refuse permission or grant permission subject to conditions following an application for permission. to develop the land to which the notice relates in a manner consistent with the other development specified in the notice.

Special provision for structures substantially replacing structures demolished or destroyed by fire

379. (1) Nothing in this Part 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 within the 2 years preceding the date of application for permission,

(b) where a proposed new replacement 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 would or does replace substantially a demolished or destroyed structure (other than an unauthorised structure) shall be referred to the Commission for determination by the planning authority or claimant.

Chapter 2

Compensation for other grounds under Act

Compensation where permission revoked or modified

380.(1)Where a grant of permission to develop land has been revoked or modified by a planning authority or on appeal by the Commission, with or without modifications -

(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 or expenditure or contract, and

(b) the provisions of this Part shall apply in relation to the decision where it revoked the permission or modified it by the imposition of conditions -

(i) where it revoked the permission, as they apply in relation to refusal of permission to develop land, and

(ii) where it modified the permission by the imposition of conditions, as they apply in relation to a grant of permission to develop land subject to conditions.

(2) For the purposes of this section, any expenditure reasonably incurred in the preparation of plans for the purposes of any works or upon other similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out those works but no compensation shall be paid by virtue of this section in respect of any works carried out before the grant of the permission which is revoked or modified, or in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of that permission.

(3) This section shall apply to an order made under *section 140* 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 on structure land

381. 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 234*, the value of an interest of any person in the structure existing at the time of the confirmation of the notice is reduced, or that any person having an interest in the structure at that time has suffered damage by being disturbed in his or her enjoyment of the structure, that person shall, subject to the other provisions of this Part, be entitled to be paid by the planning authority by way of compensation the amount of the reduction in value or the amount of the damage.

Compensation regarding discontinuance of use on land

382. (1) If, on a claim made to the planning authority, it is shown that, as a result of the discontinuance or the compliance with conditions on the continuance of any use of land consequent upon a notice served by it under *section 234*, the value of an interest of any person in the land existing at the time of the confirmation of the notice is reduced, or that any person having an interest in the land at that time has suffered damage by being disturbed in his or her enjoyment of the land, that person shall, subject to the other provisions in this Part, be entitled to be paid by the planning authority by way of compensation the amount of the reduction in value or the amount of the damage.

(2) Notwithstanding *subsection (1)*, no compensation shall be paid under this section in relation to reduction in value or damage resulting from the imposition of conditions 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 less than 5 years, whether the use was continuous or intermittent or whether or not, while the land was being so used, advertising was exhibited at the same place on the land.

Compensation claim relating to area of special planning control

383. 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 284*, 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

384. If, on a claim made to the local authority, it is shown that, as a result of a local authority exercising its powers pursuant to *section 246* 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, be entitled to be paid by the local authority by way of compensation the amount of the reduction in value or the amount of the damage.

Compensation regarding creation of public rights of way

385. 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 243* made by that authority, is reduced, or that any person having an interest in the land has suffered damage by being disturbed in his or her enjoyment of the land in consequence of the creation of the public right of way, that person shall, subject to the other provisions of this Part, be entitled to be paid by the planning authority by way of compensation the amount of the reduction in value or the amount of the damage.

Compensation regarding entry on land

386. If, on a claim made to the planning authority or the Commission it is shown that, as a result of anything done under *sections 345* or *346* 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, be entitled to be paid by the planning authority or the Commission by way of compensation the amount of the damage.

Chapter 3

General provisions applicable to claims under Chapters 1 and 2

Application

387. The provisions of this Chapter apply to any compensation claim made under *Chapters 1* and *2*.

Time limits

388. (1) Subject to *subsection (2),* a claim for compensation under this Part shall be made not later than 6 months after -

(a) in the case of a claim under *section 375,* the date of the notification of the decision of the Commission to refuse permission or to grant permission subject to conditions,

(ab) in the case of a claim under *section 380,* the date of the decision of the planning authority or the Commission, as the case may be,

(b) in the case of a claim under *section 381* or TBD, the date of the decision of the Commission to confirm a notice sent under *section 234*, with or without modifications, to require the demolition or removal or alteration or replacement of a structure,

(c) in the case of a claim under *section 382* or *TBD*, the date of the decision of the Commission to confirm a notice sent *under section 234*, with or without modifications, to require the discontinuance of any use or to impose conditions on a continuance of a use,

(d) in the case of a claim referred to in *section 383*, the date of the approval of a scheme under *section 280* or the date for complying with a notice under *section 284*, as the case may be,

(e) in the case of a claim under *section 384*, the date on which (if consent is given) the owner of the land gives consent pursuant to *subsection (6)* of *section 246* or (if consent is not given) the date on which the Commission makes an order under *subsection (7)* of *section 246*,

(f) in the case of a claim under *section 385*, 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 386*, 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 may be brought, upon application being made to it in that behalf.

Determination of claim for compensation

389. (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 shall, in default of agreement, be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act, 1919, but subject to -

(a) *Schedule 4* 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 the rules set out in *Schedule 4*.

(4) The Minister may make regulations to provide for the following -

(a) the form in which claims for compensation are to be made,

(b) the provision by a claimant of evidence in support of his or her claim, and information as to his or her interest in the land to which the claim relates,

(c) a statement by a claimant of the names and addresses of all other persons (so far as they are known to him or her) having an interest in the land to which the claim relates and, unless the claim is withdrawn, the notification by the planning authority (or, 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

390. (1) Where a valid claim for compensation is made under this Part 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 claim compensation under any other enactment.

(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

391. (1) All compensation payable under this Part 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, be recoverable from that authority as a simple contract debt in any court of competent jurisdiction.

(2) All costs and expenses of parties to an arbitration to determine the amount of any compensation shall, in so far as the costs and expenses are payable by the planning authority (or, as the case may be, the Commission), be recoverable from that authority as a simple contract debt in any court of competent jurisdiction.

Registration of compensation

392. (1) Where, on a claim for compensation under this Part, 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 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

393. (1) No person shall carry out any development to which this section applies, on land in respect of which a statement ("compensation statement") stands registered 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 under *Part 4* where the permission was granted subject to conditions other than conditions of a class or description set out in *Schedule 7*, and

(b) in a case where the compensation specified in the statement became payable in respect of the imposition of conditions on the granting of permission to develop land, this section shall not apply to the development for which that permission was granted.

(3) The amount recoverable under this section in respect of the compensation specified in a compensation statement -

(a) if the land on which the development is to be carried out (the "development area") is identical with, or includes (with other land) the whole of the land comprised in the compensation statement, shall be the amount of compensation specified in that statement, or

(b) if the development area forms part of the land comprised in the compensation statement, or includes part of that land together with other land not comprised in that statement, shall be so much of the amount of compensation specified in that statement as is attributable to land comprised in that statement and falling within the development area.

(4) The attribution of compensation shall be in accordance with the following -

(a) the planning authority shall (if it appears to it to be practicable to do so) apportion the amount of the compensation between the different parts of the land, according to the way in which those parts appear to it to be differently affected by the refusal of permission or grant of permission subject to conditions,

(b) if no apportionment is made, the amount of the compensation shall be treated as distributed rateably according to area over the land to which the statement relates,

(c) if an apportionment is made, the compensation shall be treated as distributed in accordance with that apportionment, as between the different parts of the land by reference to which the apportionment is made, and so much of the compensation as, in accordance with the apportionment, is attributed to a part of the land shall be treated as distributed rateably according to area over that part of the land, 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 (Arbitration and Appeals) Act, 1960.

(5) Where, in connection with the development of any land, an amount becomes recoverable under this section in respect of the compensation specified in a compensation statement, then no amount shall be recoverable, in so far as it is attributable to that land, in connection with any subsequent development thereof.

(6) An amount recoverable under this section in respect of any compensation shall be payable to the planning authority, and -

(a) shall be so payable, either as a single capital payment or as a series of instalments of capital and interest combined (the interest being determined at the same rate as for a judgment debt), or as a series of other annual or periodical payments, of such amounts, and payable at such times, as the planning authority may direct, after taking into account any representations made by the person by whom the development is to be carried out, and

(b) except where the amount is payable as a single capital payment, shall be secured by that person in such manner (whether by mortgage, covenant or otherwise) as the planning authority may direct.

(7) If any person initiates any development to which this section applies in contravention of *subsection (1)*, the planning authority may serve a notice upon him or her specifying the amount appearing to it to be the amount recoverable under this section in

respect of the compensation in question and requiring him or her to pay that amount to the planning authority within such period, not being less than 12 weeks after the service of the notice, as may be specified in the notice, and, in default of the amount being paid to the planning authority within the period specified in the notice, it shall be recoverable as a simple contract debt in any court of competent jurisdiction.

Restriction on assignment

394. A person shall not be entitled to assign to any other person all or any part of any prospective compensation under this Part, 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

This Part will replicate Part 26 (Sections 229 to 241) of the Planning and Development Act, 2000 and will be be included in the final Bill

PART 17

An Coimisiún Pleanála

Chapter 1

Definitions (Part 17)

Definitions (Part 17)

395. In this Part—

"Act of 2005" means the Interpretation Act 2005;

"appeals, referrals and applications" has the meaning given to it by *section 301*;

"Chief Commissioner" means the Chief Commissioner appointed under *section 406* or *405(7)*;

"chief executive" means the chief executive of the Governing Executive appointed under *section 399*;

"code of conduct" shall have the meaning assigned to it by *section 401*;

"company" has the meaning it has in the Companies Act 2014;

"Deputy Chief Commissioner" means the Deputy Chief Commissioner appointed under *section 406* or *405(7)*;

"enactment" has the meaning it has in the Act of 2005;

"Governing Executive" shall have the meaning assigned to it by *section 398*;

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

"ordinary Planning Commissioner" means a Planning Commissioner other than the Chief Commissioner or Deputy Chief Commissioner appointed under *section 407* or *405(7)*;

"Planning Commissioners" means the Chief Commissioner, the Deputy Chief Commissioner and the ordinary Planning Commissioners;

"Planning Inspectorate" means the persons assigned in accordance with *section 318* for the purpose of reporting to the Commission and making recommendations to it on appeals, referrals and applications made to the Commission;

"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 such a relevant Oireachtas Committee;

"statutory instrument" has the meaning it has in the Act of 2005;

"zoning objectives" means objectives for the zoning of land for a particular use or range or mixture of uses included in a development plan in accordance with *section 42(6).*

Chapter 2

An Coimisiún Pleanála

An Coimisiún Pleanála

396. (1) Notwithstanding the repeal of any enactment effected by this Act, An Bord Pleanála shall continue in being and on and from the date of the coming into operation of this section shall be known as An Coimisiún Pleanála (referred to in this Act as the "Commission").

(2) The Commission shall consist of—

(a) the Governing Executive, and

(b) the Planning Commissioners.

(3) On and from the date of the coming into operation of this section any reference to An Bord Pleanála in any other enactment, statutory instrument, legal proceeding or other document, shall be construed as a reference to the Commission.

(4) The chairperson, deputy chairperson and any other member of An Bord Pleanála in office immediately prior to the date of the coming into operation of this section under an enactment repealed by this Act shall on and from that date continue in office as Chief Commissioner, Deputy Chief Commissioner and an ordinary Planning Commissioner of the Commission respectively, in accordance with the terms and conditions of his or her appointment under the repealed enactment.

Commission to be body corporate

397. (1) The Commission shall be a body corporate with perpetual succession and a seal and power to sue and be sued in its corporate name and to acquire, hold and dispose of land.

(2) The seal of the Commission shall be authenticated by the signature of the Chief Commissioner, Deputy Chief Commissioner, an ordinary Planning Commissioner, the chief executive or a 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 (purporting to be authenticated in accordance with *subsection (2)*) of the Commission shall be received in evidence and be deemed to be such an instrument without proof unless the contrary is shown.

Chapter 3

Governing Executive of the Commission

Governing Executive

398 (1) The Commission shall have a board of governing executives (referred to in this Act as the "Governing Executive").

(2) The Governing Executive shall perform–

(a) the functions assigned to it by or under this Act or any other enactment, and

(b) subject to *subsection (3)*, any function of the Commission under this Act or any other enactment assigned to the Governing Executive by order of the Minister under this subsection.

(3) The Minister shall not assign to the Governing Executive under *subsection (2)(b)* the function of considering or determining an appeal, referral or application required to be determined by the Commission under this Act or any other enactment.

(4) The members of the Governing Executive shall be—

(a) the chief executive of the Commission, and

(b) not more than 7 persons, who are not members of the staff of the Commission, appointed by the Minister.

(5) The meetings of the Governing Executive shall be chaired by one of the persons appointed under *subsection (4)(b)*.

(6) The chief executive shall be an *ex officio* member of the Governing Executive.

(7) The Minister shall ensure that each of the members of the Governing Executive appointed by him or her under *subsection (4)(b)* 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 discharge the functions of the Governing Executive.

(8) The quorum for a meeting of the Governing Executive shall be 3.

(9) A Planning Commissioner shall not be appointed to the Governing Executive.

(10) The persons appointed by the Minister to be members of the Governing Executive under *subsection (4)(b)* shall hold office on such terms and conditions (including terms and conditions relating to remuneration and superannuation) as the Minister may determine with the consent of the Minister for Public Expenditure and Reform.

(11) The Governing Executive shall ensure that there are sufficient resources and personnel available to the Planning Commissioners to enable them to discharge their functions and, in particular, to determine appeals, referrals and applications in an expeditious manner.

(12) For the purpose of discharging its functions, the Governing Executive may delegate any of its functions to the chief executive.

(13) For the purpose of discharging its functions, the Governing Executive shall regularly consult with the Chief Commissioner and may for that purpose request the Chief Commissioner to attend before it to discuss the procedures of the Planning Commissioners and where so requested the Chief Commissioner shall attend.

Chief executive

399. (1) Subject to *subsection (2)*, the Governing Executive shall appoint a person to be the chief executive of the Commission (in this Act referred to as the "chief executive") on such terms and conditions as the Governing Executive may, with the consent of the Minister for Public Expenditure and Reform, determine.

(2) The Minister, with the consent of the Minister for Public Expenditure and Reform, may designate a person to be appointed the first chief executive on such terms and conditions as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine.

(3) If immediately before the date of the coming into operation of *section 396*, a person stands designated by the Minister under *subsection (2)*, he or she shall, on that date, stand appointed as the first chief executive.

(4) The chief executive shall, in consultation with the Governing Executive, carry on and manage and control generally the administration and business of the Commission and perform such other functions as may be determined and assigned to him or her by order by the Minister in consultation with the Chief Commissioner.

(5) The chief executive may attend meetings of the Governing Executive and shall be entitled to speak at and advise such meetings, but shall not be entitled to vote at those meetings.

(6) The chief executive may be removed from office, with the consent of the Minister, by the Governing Executive for stated reasons.

Approval by Governing Executive of procedures of Planning Commissioners

400. (1) Subject to this Act, and to any statutory instrument made under it, and subject to any other enactment or statutory instrument which regulates or otherwise affects the procedure of the Commission or the Planning Commissioners, the chief executive shall, within 3 months of the date of the coming into operation of this section, cause to be published on a website maintained by or on behalf of the Commission written procedures approved by the Governing Executive in consultation with the Chief Commissioner to be followed by the Planning Commissioners when performing their functions.

(2) The procedures referred to in *subsection (1)* may include any procedure the Governing Executive, in consultation with the Chief Commissioner, considers necessary for the efficient performance by the Planning Commissioners of their functions or for the effectiveness of decision making by the Planning Commissioners and shall, without prejudice to the generality of the foregoing, address, at least, the following:

(a) the process by which appeals, referrals and applications shall be handled by the Commission once received;

(b) the process by which Planning Commissioners shall be assigned to determine particular appeals, referrals and applications or to particular divisions of Planning Commissioners;

(c) the process by which members of the Planning Inspectorate shall be assigned to report or advise on appeals, referrals and applications;

(d) the process by which external experts or consultants shall be engaged by the Planning Commissioners;

(e) the steps to be taken to ensure that any member of the Planning Inspectorate assigned to report or advise on an appeal, referral or application is independent of the Planning Commissioners when making any recommendations as required by *section 318*;

(f) the steps to be taken in respect of each appeal, referral and application to ensure that no conflict of interest exists when assigning appeals, referrals and applications to Planning Commissioners or staff;

(g) the steps to be taken in the event a conflict of interest arises in the course of determining an appeal, referral or application;

(h) the steps to be taken to ensure that no breach of the code of conduct occurs during the course of determining an appeal, referral or application;

(i) 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;

(j) the recording, including where considered appropriate by electronic means, of all engagements between the Planning Commissioners and the Planning Inspectorate and of any decisions by the Planning Commissioners in relation to an appeal, referral or application.

(3) The procedures referred to in *subsection (1)* shall be reviewed by the Governing Executive in consultation with the Chief Commissioner not less than once every 12 months and, if necessary, any amended, or additional procedure approved by the Governing Executive shall be published on a website maintained by or on behalf of the Commission.

(4) The Governing Executive shall make such recommendations as it considers appropriate to the Planning Commissioners regarding their procedures and, in particular, regarding any corporate governance matters affecting the performance by the Planning Commissioners of their functions.

Code of Conduct

401. (1) Within three months of the date of coming in to operation of this section, the Governing Executive shall adopt a code of conduct (in this Act referred to as the "code of conduct") for dealing with conflicts of interest and promoting public confidence in the integrity of the conduct of the Commission's business, and for such other matters relating to the Commission's functions as the Governing Executive considers appropriate.

(2) A code of conduct shall be complied with by—

(a) a member of the Governing Executive,

(b) a Planning Commissioner,

(c) a member of the staff of the Commission, and

(d) a person to whom *section 341* relates,

to the extent, indicated in the code, that the code relates to him or her or has been applied to him or her.

(3) A code of conduct adopted under *subsection (1)* shall not have effect until it is approved by the Minister.

(4) The code of conduct shall consist of a written statement setting out the policy of the Commission on at least 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 Commission, 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 other than work on behalf of the Commission 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,

(g) disclosure of information concerning matters pertaining to the work of the Commission,

and

(h) the disclosure by the Governing Executive, the Planning Commissioners, the staff of the Commission or persons to whom *section 341* relates of any representations relating to the work or functions of the Commission made to the Governing Executive, the Planning Commissioners, the staff or the persons to whom *section 341* relates, whether in writing or otherwise.

(5) A person referred to in *subsection (1)* shall not take up position or hold office within the Commission except on condition that he or she shall comply with the code of conduct to the extent the code of conduct relates to him or her or has been applied to him or her.

(6) The Governing Executive may at any time review the code of conduct and may amend the code or adopt a new code, and *subsection (3)* shall apply to such adoption or amendment.

(7) The Governing Executive shall cause a copy of the code of conduct to be laid before each House of the Oireachtas and published on a website maintained by or on behalf of the Commission within the period of two weeks after it is approved by the Minister.

Declaration of interests

402. (1) A relevant person shall give to the Commission a declaration in the prescribed form, signed by the person and containing particulars of every interest referred to in *subsection (2).*

(2) The interests to be contained in a declaration given under *subsection (1)* are—

(a) any legal or beneficial interest which the relevant person has in land, including—

(i) any interest in a contract for the purchase of land, 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, whether or not any consideration has been paid in respect thereof, or

(II) land in respect of which such an option has been exercised but which has not yet been conveyed,

but excluding any interest in land consisting of a private home where the relevant person is the person occupying the private home,

(b) any business of dealing in or developing land 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.

(3) Without prejudice to the generality of *subsection (1)*, where a relevant person gives a declaration referred to in *subsection (1)*, the particulars given by the relevant person of an interest referred to in *subsection (2)* shall include the zoning objectives applicable to any land referred to in *subsection (2).*

(4) (a) A declaration under *subsection (1)* shall be given by a relevant person—

(i) within the period of 28 days beginning on the day on which he or she becomes such a person, and

(ii) thereafter, at least once every 12 months.

(b) Notwithstanding *paragraph (a)*, for so long as such a person continues to be a relevant person it shall be his or her duty, where he or she is aware or ought reasonably to be aware that—

(i) there is a change regarding an interest particulars of which are contained in a declaration already given by the person, or a change in the zoning objectives applicable to any land the relevant person has an interest in contained in a declaration under *subsection (1)*, or

(ii) any other interest to which this section applies is acquired by a relevant person,

to give to the Commission a fresh declaration within 7 days of the day on which the change occurs or the other interest is acquired.

(5) For the purposes of this section, a relevant person shall be regarded as having an interest in land if he or she, or any nominee or trustee of his or hers, is a member of a company or other body that has an interest in the land.

(6) For the purposes of this section, a relevant person shall not be regarded as having an interest to which this section applies, if the interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence 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.

(7) Where a relevant person has an interest to which this section applies by reason only of the beneficial ownership of shares in a company or other body by him or her or by his or her nominee 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 *(4)* shall not have effect in relation to that interest.

(8) The Commission shall, for the purposes of this section, keep a register (referred to in this Act as "the register of interests") and shall enter in it the particulars contained in declarations given to the Commission under this section.

(9) The register of interests shall be kept at the offices of the Commission and shall be available for public inspection during office hours.

(10) Where a person ceases to be a relevant person, any particulars entered in the register of interests as a result of a declaration being given by the person to the Commission pursuant to this section shall be removed, 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, from the register of interests by the Commission.

(11) Subject to *subsection (12)*, a person who fails to comply with *subsection (1)* or *(4)* or who, when purporting to comply with the requirements of *subsection (1)* or *(4)*, gives particulars that are false or misleading in a material respect shall be guilty of an offence.

(12) In any proceedings for an offence under *subsection (11)* it shall be a defence for the defendant to prove that at the relevant time he or she believed, in good faith and upon reasonable grounds, that—

(a) the relevant particulars were true, or

(b) either there was no matter as regards which he or she was then required to make a declaration under *subsection (1)* or that the matter in relation to which the offence is alleged was not one as regards which he or she was required to make such a declaration, as applicable.

(13) In this section–

"land" has the same meaning as it has in the Land and Conveyancing Law Reform Act 2009;

"relevant person" means—

(a) a Planning Commissioner,

(b) a member of staff of the Commission, or

(c) any other person—

(i) whose services are availed of by the Commission, and

(ii) who is of a class, description or grade prescribed for the purposes of this section.

Provisions relating to offence under *section 402*

403..—(1) Proceedings for an offence under *section 402* shall not be instituted except by or with the consent of the Director of Public Prosecutions.

(2) Where a Planning Commissioner is convicted of an offence under *section 402*, he or she shall on conviction cease to be a Planning Commissioner.

(3) Where a person by virtue of *subsection (2)* ceases to be a Planning Commissioner, he or she shall be disqualified from being a Planning Commissioner during the period which, but for the cessation, would be the remainder of his or her term or during a fixed period of 5 years, whichever is the longer period.

(4) 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.

(5) Where a person contravenes or fails to comply with a requirement of *section 402*, or acts as a Planning Commissioner while disqualified 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 Commission.

Review of performance of Commission by Governing Executive

404. (1) The Governing Executive shall supply the Minister with such information relating to the performance of the Commission's functions as he or she may request.

(2) (a) The Governing Executive shall conduct, at such intervals as it thinks fit or the Minister directs and not less than every 3 years, reviews of the Commission's organisation and of the systems and procedures used by the Commission in relation to appeals, referrals and applications.

(b) Where the Minister gives a direction under this subsection, the Governing Executive shall report to the Minister the results of the review conducted pursuant to the direction and shall comply with any requirement which the Minister may, after consultation with the Governing Executive as regards those results, make in relation to all or any of the matters which were the subject of the review.

(3) The Governing Executive may make submissions to the Minister as regards any matter pertaining to the Commission's functions.

(4) The Minister may consult with the Governing Executive as regards any matter pertaining to the performance of—

(a) the functions of the Commission, or

(b) the functions assigned to the Minister by or under this Act or by any other enactment or by any order, regulation or other instrument.

(5) Where the Office carries out a review of the performance by the Commission of its functions, the Governing Executive, the Planning Commissioners and the members of the staff of the Commission shall co-operate with such a review and provide any information requested by the Office.

Chapter 4

The Planning Commissioners

Planning Commissioners

405. (1) The Commission shall have the following Planning Commissioners—

(a) the Chief Commissioner,

(b) the Deputy Chief Commissioner, and

(c) subject to *subsections (4), (6),* and *(7)(b),* 13 ordinary Planning Commissioners.

(2) The Planning Commissioners shall perform the functions of the Commission under this Act or any other enactment save where the function is assigned to the Governing Executive under *section 398(2).*

(3) The Planning Commissioners shall, in particular, have responsibility for determining an appeal, referral or application required to be determined by the Commission under this Act or any other enactment.

(4) The Minister may by order increase the number of ordinary Planning Commissioners by not more than xx Commissioners, where he or she is of the opinion that the number of appeals, referrals and applications with which the Commission is concerned necessitates the appointment of additional ordinary Planning Commissioners to enable the Commission to fulfil its functions.

(5) An order made under *subsection (4)* shall have effect for such period, not exceeding 5 years, as shall be specified therein.

(6) Subject to *section 410,* the Minister shall not fill a vacancy that arises in relation to an ordinary Planning Commissioner, for such period as he or she considers appropriate, where he or she is of the opinion that—

(a) the number of appeals, referrals and applications, or

(b) the balance of expertise of the Planning Commissioners,

does not necessitate that the vacancy is filled to enable the Commission to fulfil its functions.

(7) (a) Notwithstanding *section 406,* where the position of Chief Commissioner or Deputy Chief Commissioner is vacant and the Minister is of the opinion that a Chief Commissioner or Deputy Chief Commissioner should be appointed as a matter of urgency due to the number of appeals, referrals and applications with which the Commission is concerned, the Minister may, subject to *paragraphs (c) and (d),* appoint a suitably qualified person to be the Chief Commissioner or the Deputy Chief Commissioner for a specified term.

(b) Notwithstanding *subsection (1)(c)* or *(4)* or *section 407,* where the Minister 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 *subsection (1)(c)* or under *subsection (4)* or in addition to the number of ordinary Planning Commissioners specified in *subsection (1)(c)* or under *subsection (4),* as a matter of urgency due to the number of appeals, referrals and applications with

which the Commission is concerned, the Minister may, subject to *paragraphs (c)* and *(d)*, appoint a suitably qualified person to be an ordinary Planning Commissioner for a specified term.

(c) A person shall not be appointed as Chief Commissioner, Deputy Chief Commissioner or as an ordinary Planning Commissioner under this subsection for a term in excess of 12 months.

(d) The Minister shall not appoint more than 3 persons under this subsection at any one time, and the number of ordinary Planning Commissioners appointed under this subsection shall not exceed one third of the total number of ordinary Planning Commissioners at any one time.

(8) The Planning Commissioners shall be independent in the performance of their functions under this Act or any other enactment.

Appointment of Chief Commissioner and Deputy Chief Commissioner

406. (1) The Chief Commissioner shall be appointed by the Government following the making of a recommendation under *section 408*.

(2) The Government shall ensure that the Chief Commissioner is a person who, in the opinion of the Government, has satisfactory experience of, or a satisfactory mix of experience and knowledge of, infrastructure delivery, housing, physical planning, sustainable development, architecture, heritage, community affairs, social affairs, planning and environmental law and corporate governance.

(3) The Minister shall appoint a person to be the Deputy Chief Commissioner following the making of a recommendation under *section 408*.

(4) The Minister shall ensure that the Deputy Chief Commissioner appointed under *subsection (3)* is a person who, in the opinion of the Minister, has satisfactory experience of, or a satisfactory mix of experience and knowledge of, infrastructure delivery, housing, physical planning, sustainable development, architecture, heritage, community affairs, social affairs, planning and environmental law and corporate governance.

Appointment of ordinary Planning Commissioners

407. (1) The Minister shall appoint persons to be ordinary Planning Commissioners following the making of a recommendation under *section 408*.

(2) The Minister shall ensure that -

(a) the ordinary Planning Commissioners are persons who, in the opinion of the Minister, have satisfactory experience of, or a satisfactory mix of experience and knowledge of, infrastructure delivery, housing, physical

planning, sustainable development, architecture, heritage, community affairs, social affairs, planning and environmental law and corporate governance, and

(b) there is, in so far as is practicable, an equitable balance between men and women amongst the ordinary Planning Commissioners.

Recommendation of candidates for appointment to be Planning Commissioners

408. (1) The Minister shall by regulations provide for a suitable independent, objective, and transparent procedure (which may include the establishment of a committee), in accordance with which recommendations may be made to the Government or the Minister in relation to appointments under *section 406* or to the Minister in relation to appointments under *section 407*.

(2) Regulations under *subsection (1)* may provide for such matters as the Minister considers necessary for the purpose of the procedure referred to in that subsection including, where a committee is established, regulations pertaining to the membership of the committee.

(3) The procedure provided for under *subsection (1)* shall provide that —

(a) applications be invited from suitably qualified persons for appointment as Chief Commissioner, Deputy Chief Commissioner, or an ordinary Planning Commissioner, as the case may be,

(b) a panel of candidates suitable for appointment as Chief Commissioner, Deputy Chief Commissioner or ordinary Planning Commissioner be prepared, having regard to the knowledge, experience, qualifications and personal qualities appropriate to enable a person effectively to perform the functions of Chief Commissioner, Deputy Chief Commissioner or ordinary Planning Commissioner,

(c) the Government or the Minister, as appropriate, be informed of the names of the candidates on the panel and of the reasons why they are suitable for the appointment, and

(d) a recommendation be made regarding which of the panel of candidates the Government or the Minister should appoint as Chief Commissioner or Deputy Chief Commissioner under *section 406*, or the Minister should appoint as an ordinary Planning Commissioner under *section 407*, as the case may be.

Conditions of appointment of Planning Commissioners

409. (1) A Planning Commissioner shall be appointed in a full-time capacity and shall not at any time during his or her term of office hold any other office or employment in respect of which emoluments are payable.

(2) Where a person is appointed to be a Planning Commissioner under *section 405(7)*, *406* or *407*, the Minister shall, as soon as practicable after the appointment, cause a notice of the appointment to be published in *Iris Oifigiúil.*

(3) Subject to the other provisions of this section, the Chief Commissioner and Deputy Chief Commissioner shall hold office for a term of 5 years and may be re-appointed by the Government or the Minister, as the case may be, for a second or subsequent term of office, provided that a person shall not be re-appointed unless, at the time of his or her re-appointment, he or she is or was the outgoing Chief Commissioner or Deputy Chief Commissioner.

(4) An ordinary Planning Commissioner shall hold office for such term (not exceeding 5 years) as shall be specified by the Minister when appointing him or her to office and may be re-appointed by the Minister for a second or subsequent term of office provided that a person shall not be re-appointed unless, at the time of his or her re-appointment, he or she is or was an outgoing Planning Commissioner.

(5) (a) A Planning Commissioner may resign his or her office by letter addressed to the Minister and the resignation shall take effect on and from the date of the receipt of the letter by the Minister.

(b) 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.

(c) A person shall cease to be a Planning Commissioner if he or she—

(i) is adjudicated bankrupt,

(ii) makes a composition or arrangement with creditors,

(iii) is convicted of an indictable offence in relation to a company,

(iv) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,

(v) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(vi) is the subject of an order under section 842 of the Companies Act 2014, or

(vii) ceases to be resident in the State.

(6) (a) There shall be paid by the Commission to each Planning Commissioner such remuneration and allowances for expenses as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines.

(b) Subject to the other provisions of this section, Planning Commissioners shall hold office on such terms and conditions as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines.

(7) A Planning Commissioner may at any time be removed from office by the Government 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 Government to be necessary for the effective performance by the Commission of its functions,

and where a Planning Commissioner is removed from office under this subsection, the Government shall cause to be laid before each House of the Oireachtas a statement of the reasons for the removal.

Quorum for meetings of Planning Commissioners and vacancies

410. (1) Subject to *subsections (2)* and *(3)*, a quorum for a meeting of the Planning Commissioners shall be 3, or such other quorum as the Minister may prescribe.

(2) A quorum for a meeting of the Planning Commissioners dealing with an application for permission under *Chapter 4* of *Part Development Consents*, an application under Chapter 5 of that Part to amend, alter or extend the duration of a permission under Chapter 4 of that Part, or an appeal to the Commission under *section 139(8)* 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 *subsection (1)* or *(2)*, the Planning Commissioners may continue to perform the functions of the Commission under this Act notwithstanding a vacancy in the office of Chief Commissioner or Deputy Chief Commissioner or among the ordinary Planning Commissioners.

(4) Where a vacancy occurs or is due to occur among the Planning Commissioners, the Minister or the Government, 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.

Chief Commissioner to ensure efficient discharge of functions of Planning Commissioners

411. (1) The Chief Commissioner and, subject to *subsection (2)*, the Deputy Chief Commissioner (under the overall direction of the Chief Commissioner), shall each have the function of—

(a) ensuring the efficient performance of the functions of the Planning Commissioners, and

(b) arranging the distribution of appeals, referrals and applications among the Planning Commissioners.

(2) The functions referred to in *subsection (1)* shall be performed by the Deputy Chief Commissioner where the Chief Commissioner is not available or where the office of Chief Commissioner is vacant.

(3) The Chief Commissioner may assign to the Deputy Chief Commissioner or an ordinary Planning Commissioner the performance of any function necessary to ensure the best or most efficient performance of the functions of the Planning Commissioners.

(4) Where the Chief Commissioner receives a complaint or otherwise considers that the conduct of a Planning Commissioner may have breached the code of conduct of the Commission adopted under *section 401*, or has been such as to bring the Commission into disrepute or has been prejudicial to the effective performance by the Commission of any of its functions, he or she shall—

(a) other than where the complaint or consideration relates to the conduct of the Chief Commissioner, require the Planning Commissioner to attend before him or her for interview and provide such information as he or she may require and, where appropriate, inform him or her of the complaint or consideration,

(b) refer the matter to the chief executive to investigate, or

(c) other than where the complaint or consideration relates to the conduct of the Chief Commissioner, where he or she considers it appropriate to do so, otherwise investigate the matter.

(5) Notwithstanding *paragraphs (a)* and *(c)* of *subsection (4)*, where the complaint or other consideration referred to in *subsection (4)* relates to a systemic breach of the Commission's procedures or processes, including of those made pursuant to *section 400*, the Chief Commissioner shall refer the matter to the chief executive to investigate.

(6) Where the chief executive receives a complaint or otherwise considers that the conduct of a Planning Commissioner may have breached the code of conduct of the Commission adopted under *section 401*, or has been such as to bring the Commission into disrepute or has been prejudicial to the effective performance by the Commission of any of its functions, he or she shall—

(a) require the Planning Commissioner to attend before him or her for interview and provide such information as he or she may require and where appropriate inform him or her of the complaint or consideration,

(b) other than where the complaint or consideration relates to the conduct of the Chief Commissioner, refer the matter to the Chief Commissioner to investigate, or

(c) where he or she considers it appropriate to do so, otherwise investigate the matter.

(7) Notwithstanding *paragraphs (a)* and *(c)* of *subsection (6)*, where the complaint or other consideration referred to in *subsection (6)* relates to a particular appeal, referral or application, the chief executive shall refer the matter to the Chief Commissioner to investigate.

(8) Where the Chief Commissioner or chief executive conducts an interview or investigation under *subsection (4)* or *(6)* and he or she considers it appropriate to do so, he or she shall report to the Minister the result of the interview or investigation.

(9) Where the Chief Commissioner or chief executive conducts an interview or investigation under *subsection (4)* or *(6)*, he or she may request the Minister to suspend the Planning Commissioner the subject of the interview or investigation until such time as the outcome of the interview or investigation is completed.

(10) The Minister may upon the request of the Chief Commissioner or chief executive under *subsection (9),* suspend a Planning Commissioner who is the subject of the interview or investigation.

(11) Where the Minister considers that the conduct of a Planning Commissioner may have breached the code of conduct of the Commission adopted under *section 401*, or has been such as to bring the Commission into disrepute or has been prejudicial to the effective performance by the Commission of any of its functions, he or she may request the Chief Commissioner or chief executive to-

(a) conduct an interview with the Planning Commissioner privately, or

(b) otherwise investigate the matter,

and report to the Minister the result of the interview or investigation.

(12) Where the Minister is satisfied that the Planning Commissioner has breached the code of conduct of the Commission adopted under *section 401*, or has been such as to bring the Commission into disrepute or has been prejudicial to the effective performance by the Commission of any of its functions, he or she may take such action in relation to the Planning Commissioner as she considers appropriate.

Meetings and procedure of Planning Commissioners

412. (1) The Planning Commissioners shall hold such and so many meetings as may be necessary for the performance of their functions under this Act.

(2) Each Planning Commissioner at a meeting of the Planning Commissioners shall have a vote.

(3) At a meeting of the Planning Commissioners—

(a) the Chief Commissioner shall, if present, be the chairperson of the meeting,

(b) if the Chief Commissioner is not present the Deputy Chief Commissioner shall, if present, be the chairperson of the meeting, or

(c) if neither the Chief Commissioner nor the Deputy Chief Commissioner is present, the ordinary Planning Commissioners who are present shall choose one of their number to be the chairperson of the meeting.

(4) Every question at a meeting of the Planning Commissioners relating to the performance of the Commission's functions shall be determined by a majority of votes of the Planning Commissioners present and, in the event that voting is equally divided, the person who is chairperson of the meeting shall have a casting vote.

(5) (a) Subject to *paragraphs (b)* and *(c)*, the Planning Commissioners may perform any of their functions through or by any Planning Commissioner or other person who has been authorised by the Planning Commissioners in that behalf.

(b) *Paragraph (a)* shall be construed as enabling a Planning Commissioner or other person authorised under *paragraph (a)* to finally determine points of detail relating to a decision on a particular appeal, referral or application if the appeal, referral or application to which an authorisation under that paragraph relates has been considered at a meeting of the Planning Commissioners prior to the giving of the authorisation and the determination shall conform to the terms of the authorisation.

(c) *Paragraph (a)* shall not be construed as enabling the Planning Commissioners to authorise a Planning Commissioner or other person to finally determine any particular appeal, referral or application with which the Planning Commissioners are concerned.

(6) The Governing Executive 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, the number of those persons who vote and whether they vote for or against those decisions and shall, within five working days of the date of the meeting, make such record available for inspection by members of the public on a website maintained by or on behalf of the Commission and at the offices of the Commission.

(7) A meeting of the Commission may take place 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.

Divisions of Planning Commissioners

413. (1) Where the Minister considers that it is appropriate for the purposes of the expeditious conduct of the business of the Commission that the Planning Commissioners should act by divisions, he or she may direct that such number of divisions of the Planning Commissioners as he or she considers appropriate be constituted and, until the direction is revoked, the Chief Commissioner shall assign to each division the business to be transacted by it and a sufficient number of Planning Commissioners to conduct such business.

(2) Where the Chief Commissioner considers that it is appropriate for the purposes of the 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.

(3) For the purpose of the business assigned to it under *subsection (1)* or *(2)*, a division shall have all of the functions of the Planning Commissioners under this Act or any other enactment.

(4) Either—

(a) the Chief Commissioner or, in his or her absence, the Deputy Chief Commissioner, or

(b) a person acting as chairperson of a meeting of the division,

may, at any stage before a decision is made by a division of Planning Commissioners, transfer the consideration of any matter from the division to a meeting of all available Planning Commissioners, where he or she considers the matter to be of particular complexity or significance.

(5) The chief executive shall take all practical steps to ensure that the organisation and disposition of the staff and resources of the Commission are such as to support a division of the Planning Commissioners to discharge its business expeditiously.

(6) Where necessary in order to ensure that the business of the Commission is discharged expeditiously, the Chief Commissioner, or the Deputy Chief Commissioner where the Chief Commissioner is not available or where the office of Chief Commissioner is vacant, may assign additional Planning Commissioners to a division on a temporary basis.

(7) 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.

Prohibition of certain communications in relation to appeals, referrals or applications

414. (1) A person who communicates with the Planning Commissioners, the Governing Executive, a member of the staff of, or consultant or adviser to, the Commission or a person whose services are availed of by the Commission by virtue of *section 422(2)* or *424* for the

purpose of influencing improperly the consideration of an appeal, referral, application or other decision of the Planning Commissioners as regards any matter shall be guilty of an offence.

(2) If a Planning Commissioner, a member of the Governing Executive, a member of the staff of, or consultant or adviser to, the Commission or a person whose services are availed of by the Commission by virtue of *section 422(2)* or *424*, becomes of the opinion that a communication is in contravention of *subsection (1)*, it shall be his or her duty not to entertain the communication further and he or she shall notify the Chief Commissioner and the chief executive of the communication.

Liability for acts and omissions

415. (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 Commissioners,

(b) the members of the Governing Executive, and

(c) a present or former member of the staff of the Commission.

Regulations

416. The Minister may provide by regulations for such procedures of the Commission as he or she considers necessary or appropriate for the purposes of the efficient and transparent performance by the Planning Commissioners of their functions.

Chapter 5

Organisational matters

Grants to Commission

417. 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 and Reform and after consultation with the Governing Executive in relation to the Commission's programme of expenditure for that year, may fix.

Accounts and audits of Commission

418. (1) The Governing Executive 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 and also regarding the proposals and plans of the Commission in respect of a period specified by the Minister.

(2) The Governing Executive shall keep, in such form and in respect of such accounting periods as may be approved of by the Minister with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts of moneys received and spent by the Commission, including an income and expenditure account and a balance sheet.

(3) The chief executive 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) (a) The accounts of the Commission shall be approved by the chief executive 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 him or her to the Comptroller and Auditor General for audit.

(b) A copy of the accounts and the report of the Comptroller and Auditor General on them shall be presented to the chief executive and the Minister, by the Comptroller and Auditor General, 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 and shall cause a copy to be sent to the relevant Oireachtas Committee.

Accountability of chief executive to Public Accounts Committee

419. (1) The chief executive shall, whenever required in writing to do so by 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, 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 section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or in any other report of the Comptroller and Auditor General (insofar 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 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.

Annual Report

420. (1) The Governing Executive 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 the Commission's functions and its principal activities during the preceding year,

(b) a statement of the names of the persons (if any) engaged pursuant to *section 341* during the preceding year, and

(c) such other matters as the Minister may specify to the Governing Executive in writing.

(2) The Chief Commissioner shall, for the purpose of the preparation of the annual report referred to in *subsection (1)* and on the request of the Governing Executive, provide a report to the Governing Executive of such matters as may be prescribed.

(3) The chief executive 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 shall, at the request in writing of the relevant Oireachtas Committee, attend before it to account for matters in relation to the annual report.

Superannuation of Planning Commissioners

421. (1) The Minister may, with the consent of the Minister for Public Expenditure and Reform, make a scheme for the granting of pensions, gratuities or other allowances 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 pension, gratuity or other allowance.

(3) The Minister may, with the consent of the Minister for Public Expenditure and Reform, amend a scheme made by him or her under this section.

(4) If any dispute arises as to the claim of any person to, or the amount of, any pension, gratuity, or allowance payable in pursuance of a scheme under this section, the dispute shall be submitted to the Minister who shall refer it to the Minister for Public Expenditure and Reform, whose decision shall be final.

(5) A scheme under this section shall be carried out by the Governing Executive in accordance with its terms.

(6) No pension, gratuity or other allowance 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 pensions, gratuities or other allowances 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 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

422. (1) The Governing Executive shall appoint such and so many persons to be members of the staff of the Commission as the Governing Executive, subject to the approval of the Minister, given with the consent of the Minister for Public Expenditure and Reform, as to the number and kind of those members of the staff, considers appropriate, having regard to the need to ensure that an adequate number of staff are competent in the Irish language so as to be able to provide service through Irish as well as English.

(2) The Governing Executive may employ a person in a part-time capacity to be remunerated by the payment of fees in such amounts as the Governing Executive may, with the approval of the Minister, given with the consent of the Minister for Public Expenditure and Reform, determine.

(3) A member of the staff of the Commission shall hold his or her employment on such terms and conditions as the Commission, subject to the approval of the Minister, 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 Commission may, subject to the approval of the Minister, with the consent of the Minister for Public Expenditure and Reform, determine.

Superannuation of staff of Commission

423. (1) The Governing Executive may prepare and submit to the Minister for his or her approval, a scheme for the granting of pensions, gratuities and other allowances on retirement or death to or in respect of such full-time members of the staff of the Commission, which may include the chief executive, as it considers appropriate.

(2) The Governing Executive may, at any time, prepare and submit to the Minister a scheme amending a scheme under this section.

(3) Where a scheme is submitted to the Minister pursuant to this section, the Minister may, with the consent of the Minister for Public Expenditure 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 of by the Minister, with the consent of the Minister for Public Expenditure and Reform, be carried out by the Governing Executive in accordance with its terms.

(5) A scheme approved of under this section shall fix the time and conditions of retirement for all persons to or in respect of whom pensions, gratuities or other allowances are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(6) If any dispute arises as to the claim of any person to, or the amount of, any pension, gratuity or other allowance payable in pursuance of a scheme under this section, the dispute shall be submitted to the Minister who shall refer it to the Minister for Public Expenditure and Reform, whose decision shall be final.

(7) A scheme made under this section shall not provide for the granting of pensions, gratuities or other allowances 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 of under this section shall be laid before each House of the Oireachtas as soon as may be after it is approved of and if either House within the next 21 days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Provision of services and resources by Minister to Commission

424. (1) For the purposes of enabling the Commission to perform its functions, the Minister may provide services (including services of staff either on secondment or a permanent basis) 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 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 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 Commission, on a request being made by the chief executive, premises, equipment, services and other resources for the purpose of the performance by the Commission of its functions, as the Commission may consider appropriate from time to time in consultation with the Minister and the Minister for Public Expenditure and Reform.

(4) The Minister may, subject to the agreement with the relevant chief executive (by whatever name called) of any public body under the Minister's aegis, including any local authority, provide for the provision of services under *subsection (3)*.

Membership of either House of Oireachtas, European Parliament or local authority

425. (1) Where a Planning Commissioner—

(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 cease to be a Planning Commissioner.

(2) Where a member of the Governing Executive, or a member of the staff of the Commission–

(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 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 such co-option, and ending when he or she ceases to be a member of either such House, a member of such Parliament or a member of the local authority.

(3) A person who is for the time being—

(a) entitled under the Standing Orders of either House of the Oireachtas to sit therein,

(b) a member of the European Parliament, or

(c) entitled under the Standing Orders of a local authority to sit as a member thereof,

shall, while he or she is so entitled under paragraph (a) or (c) or is such a member under paragraph (b), be disqualified from being a Planning Commissioner, a member of the Governing Executive, or a member of the staff of the Commission.

PART 18

Office of the Planning Regulator

Chapter 1

Interpretation (Part 18)

Definitions (*Part 18*)

426. In this Part-

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

"Birds Directive" means Directive 2009/147/EC[20] of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds;

"Deputy Planning Regulator" means the person appointed under *section 437* as the Deputy Planning Regulator;

"Environmental Impact Assessment Directive" means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011[21] on the assessment of the effects of certain public and private projects on the environment as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014[22] amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment;

"Habitats Directive" means Council Directive 92/43/EEC[23] of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, amended by Corrigendum to Council Directive 92/43/EEC[24] of 21 May 1992 on the conservation of natural habitats and of

[20] OJ L 20, 26.1.2010, p. 7–25
[21] OJ L26, 28.1.2012, p.1
[22] OJ L24, 25.4.2014, p.1
[23] O.J.No.L206, 22.7.1992, p. 7
[24] O.J.No.L 176, 20.7.1993, p 29-30

wild fauna and flora amended by Act concerning the conditions of accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded[25]; Council Directive 97/62/EC[26] of 27 October 1997 adapting to technical and scientific progress Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora; Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded[27], and Council Directive 2006/105/EC[28] of 20 November 2006 adapting Directives 73/239/EEC, 74/557/EEC and 2002/83/EC in the field of environment, by reason of the accession of Bulgaria and Romania;

"Office" means the Office of the Planning Regulator;

"Planning Regulator" means the person appointed under *section 430* as the Planning Regulator;

"principal activities", in relation to the Office, includes the following:

(a) carrying out assessment of, and making 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 or expedited amendments thereof,

(ii) development plans, draft development plans, variations or proposed variations or expedited amendments thereof,

(iii) urban area plans, priority area plans and joint area plans and drafts, amendments or proposed amendments thereof;

(b) carrying out consultations with the Minister, regional assemblies, planning authorities and, as appropriate, other persons or bodies, in relation to plans and

[25] O.J. No. C241, 29.8.1994, p 21
[26] O.J.No.L305, 8.11.1997, p 42-65
[27] O.J. No. 236, 23.9.2003, p. 33
[28] O.J. No.L363, 20.12.2006, p 368-408 and O.J. L 059, 8.3.1996, p.63

strategies made under this Act, including for the purposes of ensuring compliance with *sections 27*, *28*, *41*, *42*, *68*, *69* and *70*;

(c) where necessary, issuing a draft direction, and making a recommendation that the Minister issue a direction, under *sections 38*, *63* and *76*;

(d) carrying out education, training, research and public awareness activities;

(e) undertaking reviews of the performance of planning authorities and the Commission in accordance with *Chapter 3* of this Part;

"Strategic Environmental Assessment Directive" means Directive 2001/42/EC[29] of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment;

"Water Framework Directive" means Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000[30] establishing a framework for Community action in the field of water policy.

Chapter 2

Establishment and Regulation

Continuance of the Office of the Planning Regulator

427. (1) Notwithstanding the repeal of the Planning and Development Act 2000 effected by this Act-

[29] OJ L 197, 21.7.2001, p. 30–37
[30] OJ L 327, 22.12.2000, p.1-73

(a) the body known as the Office of the Planning Regulator shall continue in being in accordance with the provisions of this Act, and

(b) anything commenced, but not completed, by the Office before such repeal may be carried on and completed by the Office 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

428. (1) There shall be a Planning Regulator appointed in accordance with *section 430*.

(2) The person who immediately before the commencement of *section 427* was 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 seal of the Planning Regulator (in this section referred to as the "seal") shall be authenticated by either—

(a) the signature of the Planning Regulator,

(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.

(7) 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 (6)*) shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

(8) 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

429. (1) There shall be a Deputy Planning Regulator appointed in accordance with *section 437*.

(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 430*.

Appointment of the Planning Regulator

430. (1) Subject to this section, the Planning Regulator shall be appointed by the Minister and shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration and superannuation) as the Minister may determine with the consent of the Minister for Public Expenditure and Reform.

(2) 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 Appointment) 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) *Subsection (2)(a)* does 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 *subsection (2)(a)*, 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 *subsection (2)(a)* 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)(b)* 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, but nothing in this paragraph shall be read as preventing a former planning regulator from being a member of the staff or, subject to the consent of the Minister for Public Expenditure and Reform where relevant, otherwise being employed by the Office.

(8) (a) The term of office of a person appointed as Planning Regulator shall, except where *paragraph (b)* applies, be for the period of 5 years referred to in *subsection (6)(b)*.

(b) Where, within the period of 5 years from the date of appointment as Planning Regulator, the person concerned would attain the age of 70 years and he or she is neither—

(i) a new entrant (within the meaning of the Public Service Superannuation (Miscellaneous Provisions) Act 2004) appointed having been previously appointed to a position in the public service (within that meaning) on or after 1 April 2004, nor

(ii) a Scheme member within the meaning of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012,

then his or her term of office as Planning Regulator shall be such that the term ceases upon him 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 of the Planning Regulator

431. (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 has been convicted on indictment by a court of competent jurisdiction and sentenced to imprisonment,

(d) the Planning Regulator is convicted of an offence involving fraud or dishonesty,

(e) the Planning Regulator is adjudicated bankrupt in the State or another jurisdiction and if so adjudicated, has not obtained a certificate of discharge from the bankruptcy in the State or that other jurisdiction, as appropriate, or

(f) the removal of the Planning Regulator appears to the Government to be necessary for the effective performance by the Office of its functions.

(3) Where the Planning Regulator is removed from office under this section, the Government shall cause to be laid before each House of the Oireachtas a statement of the reasons for the removal.

Functions of the Office

432. (1) The functions of the Office are—

(a) to consult the Minister, regional assemblies, planning authorities and, as appropriate, other persons or bodies, in relation to plans and strategies made under this Act, including for the purposes of ensuring compliance with *sections 27, 28, 41, 42, 68, 69* and *70*,

(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, including draft regional spatial and economic strategies, revisions or proposed revisions and expedited amendments to same,

(ii) development plans, including draft development plans, variations or proposed variations and expedited amendments to same, and

(iii) urban area plans, priority area plans and joint area plans, including drafts, amendments or proposed amendments to same

in accordance with the provisions of *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, in accordance with *Chapter 3* of *Part 3*,

(d) where necessary, to issue a draft direction, and to recommend that the Minister issues a direction, in accordance with *sections 38, 63* and *76*,

(e) to consider the report prepared by a regional assembly in accordance with *section 34* 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 435* 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 the provisions of *Chapter 3* of *Part 12*,

(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 Local Government Act 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 Local Government Act 2001,

(j) to prepare an annual report in accordance with *section 444* on the performance of its own functions,

(k) to prepare a strategy statement for the Office in accordance with *section 341*,

(l) to make such observations as it considers appropriate to the Minister, or in its annual reports or otherwise, in relation to planning legislation, including:

(i) 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 joint area plans under *Chapter 6* of *Part 3*;

(ii) National Planning Statements under *Chapter 3 of Part 3*;

(iii) draft directions and directions under *sections 38, 39, 63, 64, 76* or *77*;

(iv) codes of conduct under *section 448*; and

(v) any other legislation which the Planning Regulator deems appropriate,

and

(m) to evaluate and assess strategic transport plans made by the National Transport Authority in accordance with section 12 of the Act of 2008 and to issue a notice as provided for by subsection (10) of that section.

(2) (a) The Minister may, with the consent of the Minister for Public Expenditure and Reform, by order confer on the Office such additional functions connected with the functions for the time being of the Office as the Minister determines, subject to such conditions (if any) as may be specified in the order.

(b) An order under *paragraph (a)* may contain such incidental, supplementary and additional provisions as may, in the opinion of the Minister, be necessary to give full effect to the order.

(3) Without prejudice to the requirement of *section 433(1)*, the Minister and the Planning Regulator shall, 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

433. (1) Subject to this Part, the Office is independent in the performance of its functions.

(2) Subject to *section 428(6)*, 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.

(3) 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.

(4) 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.

(5) In this section "public authority" means any body established by or under statute which is for the time being declared, by regulations made by the Minister, to be a public authority for the purposes of this section.

Evaluation and assessment of plans and strategies

434. (1) Without prejudice to the requirements of *section 433*, in carrying out its functions prescribed under *section 432*, the Office shall, when evaluating and assessing any plans or strategies, or drafts or revisions, variations or amendments of plans or strategies, consider the following—

(a) all matters relevant to the making of the relevant plan or strategy under this Act,

(b) the consistency of a plan or strategy, or draft or revision, variation or amendment thereof, with the National Planning Framework and National Marine Planning Framework,

(c) the consistency of a plan or strategy, or draft or variation thereof, with 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 consistency of a plan, or draft or variation or amendment thereof, with any regional spatial and economic strategy,

(e) the consistency of a plan or strategy, or draft or variation thereof, with any relevant transport strategy made 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, and

(g) any other matters prescribed from time to time.

(2) Without prejudice to the requirements of *section 433*, 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,

(iv) the regional spatial and economic strategy of the region concerned, and

(v) any transport strategy of the National Transport Authority which relates to all or any part of the functional area of the planning authority,

(c) any relevant National Planning Policy Guidance, and

(d) any other matters prescribed from time to time.

(3) Where the Office makes any observations or recommendations to a regional assembly or a planning authority under *Chapters 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

435. (1) Without prejudice to the requirements of *section 433*, the Office shall conduct education and training programmes for planning authorities and regional assemblies and the Commission, including the members and 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 27*, *28*, *41*, *42*, *68*, *69* and *70*,

(b) the role of such authorities and assemblies in respect of guidelines issued under section 7 of the Maritime Area Planning Act 2001 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 of the Office by the Minister.

(3) The Office may enter into arrangements with any person or body that the Office considers to be suitably qualified, including any professional, educational or research organisation, to undertake 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 public's role in such process.

Corporate strategy

436. (1) (a) The Planning Regulator shall prepare a strategy statement for the Office within 6 months of the commencement of this Act and thereafter not earlier than 6 months before and not later than the expiration of each subsequent period of 6 years following the commencement day.

(b) A strategy statement prepared under the Act of 2000 and in force immediately before the commencement of this Part shall, notwithstanding the repeal of the Act of 2000, remain in force after the commencement of this Part pending the preparation of a strategy in accordance with *paragraph (a)*.

(2) 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 Office's functions referred to in *section 432*,

(b) a statement of the principal activities of the Office,

(c) the objectives and priorities for each of the principal activities and strategies for achieving those objectives,

(d) the manner in which the Office proposes to assess its performance in respect of each such activity, taking account of indicators which shall be identified by the Office and of the need to work towards best practice in service delivery and in the general operation of the Office,

(e) human resources activities (including training and development) to be undertaken for the staff of the Office,

(f) the organisational structure of the Office, including corporate support and information technology and the improvements proposed to promote efficiency of

operation and customer service and in general to support the strategy statement, and

(g) such other matters as the Planning Regulator considers necessary.

(3) Within 3 months of the preparation of the strategy statement for the purposes of *subsection (1)*, the Office shall cause copies of it to be submitted 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

Staffing and Administration of the Office

Directors of the Office

437. (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 each of them.

(2) The Minister may, after consultation with the Minister for Public Expenditure 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 Deputy Planning Regulator and the director so designated shall carry out the functions specified in *subsection (2)* of *section 429*.

Staff of the Office

438. (1) The Planning Regulator shall appoint such and so many persons to be staff of the Office as the Planning Regulator, subject to the approval of the Minister, given with the consent of the Minister for Public Expenditure and Reform, as to the number and grade of those staff, from time to time may determine, having regard to the need to ensure that an adequate number of staff are competent in the Irish language so as to enable the Office to provide service through Irish as well as English.

(2) 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

439. Notwithstanding the repeal of the Planning and Development Act 2000 effected by this Act, a person who was a member of staff of the Office appointed under section 31AA of that Act, immediately before the repeal of that section shall be deemed to be a member of the staff of the Office—

(a) as if, on that commencement, the Office had appointed under *section 438* the person to be a member of the staff of the Office for the remaining period (if any) that was left to run for the person to hold office as such member of staff, immediately before that commencement, and

(b) on the same conditions (including those relating to termination of appointment) as the person held office as such member of staff immediately before that commencement,

and the other provisions of this Act shall be construed accordingly.

Membership of either House of Oireachtas, European Parliament or local authority

440. (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

441. (1) No person shall, without the consent of the Planning Regulator (which may be given to the person, subject to or without conditions, as regards any information, any particular information or any information of a particular class or description), disclose—

(a) any information obtained by him or her while serving as a member of the staff of, or consultant or adviser to, the Office or as a person whose services are availed of by the Office 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)* commits 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 both.

(4) Nothing in *subsection (1)* shall prevent—

(a) disclosure of information in a report made to the Office or in a report made by or on behalf of the Office to the Minister,

(b) disclosure of information by any person in the course of and in accordance with the functions of his or her office,

(c) disclosure of information in accordance with the Freedom of Information Act 2014,

(d) disclosure of information in accordance with the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007), or

(e) disclosure of information where otherwise required by law.

Liability of Planning Regulator or member of staff for acts and omissions

442. (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 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.

Grants to Office

443. There may, subject to such conditions, if any, as the Minister thinks proper, be paid to the Office in each financial year out of moneys provided by the Oireachtas a grant or grants of such amount or amounts as the Minister, with the consent of the Minister for Public Expenditure and Reform and after consultation with the Office in relation to its programme of expenditure for that year, may fix.

Accounts, Audits and Annual Report of Office

444. (1) The Office shall—

(a) submit estimates of income and expenditure to the Minister in such form, in respect of such periods and at such times as may be specified by the Minister, and

(b) provide to the Minister any information which the Minister may require regarding those estimates and also regarding the proposals and plans of the Office in respect of a period specified by the Minister.

(2) The Office shall keep, in such form and in respect of such accounting periods as may be approved of by the Minister with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts of moneys received and spent by the Office, including an income and expenditure account and a balance sheet.

(3) (a) The Planning Regulator and any relevant member of the staff of the Office shall, whenever so required by the Minister, permit any person appointed by the Minister to examine the accounts of the Office in respect of any financial year or other period and shall facilitate any such examination, and the Office shall pay to the Minister such fee for the examination as may be fixed by the Minister.

(b) In this subsection "relevant member of the staff" means a member of the staff of the Office to whom duties relating to those accounts have been duly assigned.

(4) (a) The accounts of the Office shall be approved by the Planning Regulator as soon as is practicable (but not later than 3 months after the end of the accounting period to which they relate) and submitted by it to the Comptroller and Auditor General for audit.

(b) A copy of the accounts and the report of the Comptroller and Auditor General on them shall be presented to the Planning Regulator and the Minister as soon as is practicable, and the Minister shall cause a copy of the accounts and report to be laid before each House of the Oireachtas.

(5) 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, including, in particular, its principal activities during the preceding year,

(b) any matter to which *section 435* relates,

(c) a statement of the names of the persons (if any) engaged pursuant to *section 341* during the year to which the report relates, and

(d) such other matters as the Minister may specify to the Office in writing.

(6) The Planning Regulator 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.

(7) 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.

(8) 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

445. (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 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.

Provision of services and resources by Minister to Office

446. (1) For the purposes of enabling the Office to perform its functions, the Minister may provide services (including services of staff either on secondment or a permanent basis) to the Office on such terms and conditions (including payment for such services) as may be agreed, after consultation with the Minister for Public Expenditure and Reform, and the Office may avail of such services.

(2) The Office may provide services (including services of staff) to the Minister on such terms and conditions (including payment for such services) as may be agreed, after consultation with the Minister for Public Expenditure and Reform, and the Minister may avail of such services.

(3) Without prejudice to the generality of *subsection (1)*, the Minister may make available or cause to be made available to the Office, on a request being made by the Planning Regulator, premises, equipment, services and other resources for the purpose of the performance by the Office of its functions as the Office may determine from time to time in consultation with the Minister and the Minister for Public Expenditure and Reform.

(4) The Minister may, subject to the agreement with the relevant chief executive (by whatever name called) of any public body under the Minister's aegis, including any local authority, provide for the provision of services under *subsection (3)*.

(5) Services and resources provided to the Office by the Minister under the Act of 2000 and available to the Office upon the commencement to this Part shall, notwithstanding the repeal of the Act of 2000, continue to be available to the Office without the requirement for a fresh grant of such services or resources under this section.

Fees payable to Office

447. (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, and different fees may be provided for in respect of different matters.

(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) Fees determined to be payable under the Act of 2000 shall, notwithstanding the repeal of the Act of 2000, remain the fees payable for the matters concerned upon the commencement of this Part pending the determination of new fees under this section.

Code of conduct

448. (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 which is required to be followed by (in this section referred to as the "code of conduct") —

(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 341* 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) A code of conduct prepared under the Act of 2000 and in force immediately before the commencement of this Part shall, notwithstanding the repeal of the Act of 2000, remain in force after the commencement of this Part pending the preparation of a code in accordance with *subsection (1)*.

(3) The code of conduct shall be subject to the approval of the Minister.

(4) The code of conduct shall consist of a written statement setting out the policy of the Office on at least 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 28*,

(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 42*,

(iii) the preparation, making and amendment of urban area plans, priority area plans and joint area plans, including for the purposes of ensuring compliance with *sections 68*, *69* and *70* and the adjudication of certain disputes in relation to those plans;

and

(i) the disclosure by the Planning Regulator, Deputy Planning Regulator, staff of the Office or persons to whom *section 341* 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 341* 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) 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 two weeks after it is approved by the Minister.

PART 19

Further Provisions relating to Planning Bodies

Chapter 1

Independence and Impartiality of Regional Assemblies, Planning Authorities and Commission

Interpretation (*Part 19*)

449. (1) In this Part—

"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;

"deputy chief executive" means a person appointed under section 148 of the Local Government Act 2001;

"LRD opinion" has the meaning assigned to it by *section 88*;

"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;

"private home" means a building or part of a building that is occupied by a person as a separate dwelling and any garden or other land or maritime site usually occupied with the dwelling, being land that is subsidiary or ancillary to it, is required for its amenity or convenience and is not being used or developed primarily for commercial purposes;

"State authority" means—

(a) a Minister of the Government, or

(b) the Commissioners of Public Works in Ireland.

(2) For the purposes of this Part—

(a) a chief executive of a planning authority, or any person to whom such a chief executive has delegated any function, shall be deemed to be an officer of the planning authority concerned,

(b) a deputy chief executive of a planning authority, or any person to whom such a deputy chief executive has delegated any function, shall be deemed to be an officer of the planning authority concerned, and

(c) an officer of a planning authority who, by virtue of an arrangement or agreement entered into under any enactment, is performing functions on behalf of another planning authority, shall be deemed to be also an officer of the other authority.

(3) Where any company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act is deemed to be a subsidiary of another or to be another such company's holding company, a person who is a member of the first-mentioned such company shall, for the purposes of this Part, be deemed also to be a member of the other company.

Duty to be independent and impartial

450. (1) A regional assembly, planning authority, the Commission and a State authority shall act in an independent and impartial manner when making a decision under a function conferred by this Act.

(2) Where a local authority or other public authority exercises any function as a planning authority or State authority under this Act where conflict may arise between that function and its other functions as a local authority or public authority, it shall ensure that there is appropriate internal separation between the conflicting functions.

(3) The Minister may by regulations specify steps that a local authority or State authority shall be required to take in order to comply with its obligations under *subsection (2)*.

Codes of conduct

451. (1) The Minister shall ensure that any code of conduct issued under section 169 of the Local Government Act 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 of information concerning matters pertaining to the work of a planning authority;

(c) the obligation to follow proper procedure in relation to the functions of a planning authority, including, as applicable, in respect of—

(i) the review, making, variation or amendment of plans made by the planning authority under *Part 3*,

(ii) the making of a declaration in response to a request submitted under *section 8*,

(iii) the processing and determination of planning applications and appeals under *Part 4*,

(iv) the granting of permission under *Part CON* that would materially contravene a development plan,

(v) the making of a declaration in response to a request submitted under *section 256*, and

(vi) the taking of enforcement action under *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 code of conduct prepared under section 169 of the Local Government Act 2001 and in force immediately before the commencement of this Part shall remain in force after the commencement of this section pending the preparation of a code in accordance with *subsection (1).*

(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 Local Government Act 2001.

Prohibition on disclosure of information relating to functions of the Commission

452. (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 under a function conferred by 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

453. (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 authority of a function under this Act, or

(ii) in relation to the acquisition or disposal by the 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 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 authority of a function under this Act, or

(b) in relation to the acquisition or disposal by the 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 authority as regards 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 authority of a function under this Act, or

(b) in relation to the acquisition or disposal by the 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 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 as regards 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 member of the Commission 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 member of the Commission in relation to the matter; and

(d) he or she shall neither influence nor seek to influence a decision of the Commission as regards 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, 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 as regards the matter; and

(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 *subsection (1), (2), (3), (4), (5)* or *(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) In this section, "connected 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 the Commission and planning authorities

454. (1) Any person who communicates with—

(a) the chairperson, the deputy chairperson, an ordinary member, a member of the staff of, or consultant or adviser to, the Commission or a person whose services are availed of by the Commission by virtue of *sections 422(2)* or *424*, or

(b) any member of a planning authority or any officer of a planning authority where the office is of a class, description or grade as may be prescribed for the purposes of this section,

for the purpose of influencing improperly any of the above persons as to the exercise of functions under this Act shall be guilty of an offence.

(2) In circumstances where—

(a) the chairperson, the deputy chairperson, an ordinary member, a member of the staff of, or consultant or adviser to, the Commission or a person whose services are availed of by the Commission by virtue of *sections 422(2)* or *424*, or

(b) any member of a planning authority or any officer of a planning authority where the office is of a class, description or grade as may be prescribed for the purposes of this section,

becomes of the opinion that a communication is in contravention of *subsection (1)*, it shall be his or her duty not to entertain the communication further and he or she shall notify the Commission or the relevant planning authority of the communication.

Provisions relating to offences

455. (1) A person who is guilty of an offence under this Chapter shall be liable on summary conviction, to a fine not exceeding €5,000 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both.

(2) Proceedings for an offence under *section 453* 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 453*, 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 453*, 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.

Chapter 2

Financial Provisions

Expenses of administration of Minister

456. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Charging of expenses of planning authority

457. 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

458. (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

459. Where a sum is due under this Act to any person by a planning authority and, at the same time, another sum under this Act is due by that person to that authority, the 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

460. (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 8*,

(d) the payment to planning authorities of prescribed fees in relation to requests for declarations under *section 256*,

(e) the payment to planning authorities of prescribed fees in relation to any consultation or advice under *section 86, 87* or *132*,

(f) the payment to planning authorities of prescribed fees in relation to the provision of an LRD opinion under *section 88*,

and

(g) the payment to planning authorities of prescribed fees in relation to applications for grants of licences under *section 10.*

(2) Regulations under this section may provide for:

(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) The Minister may prescribe the fee payable to the authority for an application for permission for retention under *Chapter 3* of *Part 4*.

(4) (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 *(g)* 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—

(i) a request to which *paragraph (c)* of *subsection (1)* applies, or

(ii) a consultation or advice to which *paragraph (e)* of that subsection applies,

the planning authority shall not—

(I) give the declaration, or

(II) provide the consultation or advice,

as may be appropriate, until the fee is paid.

(5) A submission referred to in *subsection (1)(b)* 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 limited prescribed.

(6) A planning authority shall specify fees for the making of copies under *sections 335* and *95(5)(d)*, not exceeding the reasonable cost of making such copies.

PART 20

Transitionals

This Part will be included in the final Bill and will set out the transitional provisions required to enact the Act on a phased basis

PART 21

Strategic Development Zones

Interpretation.

461. 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;

“strategic development zone” means a site or sites to which a planning scheme made under section 169 of the Act of 2000 applies.

Designation of sites for strategic development zones.

462. (1) Sites designated under section 166 of the Act of 2000 for the establishment of strategic development zones shall, unless 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 reduction of the area of the site, sane in exceptional circumstances.

Acquisition of site for strategic development zone.

463. (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 462.

(2) Where a person, other than the relevant development agency, has an interest in land, or any part of land, on which a site or sites referred to in an order under section 166(1) 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.

464. (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 exclude 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 463* 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 463* 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.

(2) 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.

(3) The Minister may, for the purposes of giving effect to Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (No. 2001/42/EC, O.J. No. L 197, 21 July 2001 P. 0030 - 0037)[31], by regulations make provision in relation to consideration of the likely significant effects on the environment of implementing a planning scheme.

(3A) A screening for appropriate assessment and, if required, an appropriate assessment of a draft planning scheme shall be carried out in accordance with Part EVA.

(4) (a) A draft planning scheme for residential development shall be consistent with the housing strategy prepared by the planning authority in accordance with Part V 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 section TBD.

(5) 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 465*,

and the words "planning authority" shall be construed accordingly.

(6) In this section, the Land Development Agency shall not be a relevant development agency unless each site referred to in *subsection (1)* is wholly or partly on relevant public land or land owned by the Agency.

Making of planning scheme.

465. (1) Where a draft planning scheme has been prepared and submitted to the planning authority in accordance with *section 464*, 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,

(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 or bodies who made submissions or observations for the purposes of *subsections (1)* and *(2)*,

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

(iii) give the response of the 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 (ba) and (be)), or

(ii) not to make the draft planning scheme.

(ba) The planning authority shall determine if a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, is or are to be carried out as respects one or more than one proposed variation or modification that would, if made, be a material alteration of the draft planning scheme.

(bb) The chief executive shall, not later than 2 weeks after a determination under paragraph (ba) specify such period as he or she considers necessary following the determination as being required to facilitate an assessment referred to in paragraph (ba).

(bc) The planning authority shall publish notice of the proposed material alteration, and where appropriate in the circumstances, the making of a determination that an assessment referred to in paragraph (ba) is required, in at least one newspaper circulating in its area.

(bd) The notice referred to in paragraph (bc) shall state—

(i) that a copy of the proposed material alteration and of any determination by the authority that an assessment referred to in paragraph (ba) is required may be inspected at a stated place or places and at stated times, and on the authority's website, during a stated period of not less than 4 weeks (and that copies will be kept for inspection accordingly), and

(ii) that written submissions or observations with respect to the proposed material alteration or an assessment referred to in paragraph (ba) and made to the planning authority within a stated period shall be taken into account by the authority before the draft planning scheme is made.

(be) The planning authority shall carry out an assessment referred to in paragraph (ba) of the proposed material alteration of the draft planning scheme within the period specified by the chief executive

(c) Where a draft planning scheme is—

(i) deemed, in accordance with paragraph (b), to have been made, or

(ii) made in accordance with paragraph (b)(i),

it shall have effect 4 weeks from the date of such making unless an appeal is brought to the 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 one or more newspapers circulating in its area.

(b) A notice under paragraph (a) shall—

(i) give the date of the decision of the planning authority in respect of the draft planning scheme,

(ii) state the nature of the decision,

(iii) state that a copy of the planning scheme is available for inspection at a stated place or places (and the copy shall be kept available for inspection accordingly),

(iv) state that any person who made submissions or observation regarding the draft scheme may appeal the decision of the planning authority to the 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 (7A)*, approve the making of the planning scheme, with or without any modifications, or

(ii) refuse to approve the making of the planning scheme.

(b) Except where otherwise provided for by and in accordance with p*aragraph (c)* and *subsection (7A)*, 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 Directive 2001/42/EC[32] on the assessment of the effects of certain plans and programmes on the environment) or on a European site, then it may approve the planning scheme with such a modification and notify the planning authority or each planning authority for the area or areas concerned, of the modification, or

(ii) constitutes the making of a material change but would not constitute a change in the overall objectives of the planning scheme concerned, then, subject to *subsection (7A)*, it shall approve the planning scheme with such modification.

(d) Where the 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.

(7A) (a) Before making a decision under *subsection (7)(c)(ii)* 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 Directive 2001/42/EC)[33] 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 *subsection (7)(c)(ii)* —

(i) is not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC)[34] or on a European site, then it may approve the planning scheme concerned with the modification, or

(ii) is likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC)[3536] 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.

O.J. No. L197, 21.7.2001 p.30

O.J. No. L197, 21.7.2001 p.30

(c) Before making a determination under *subsection (7)(c)(ii)*, 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 one or more newspapers circulating in that area,

and every such notice shall state—

(I) the reason or reasons for the proposed modification,

(II) that a copy of the proposed modification, along with any assessment undertaken in accordance with paragraph (b)(ii), may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks, and

(III) that written submissions or observations with respect to the proposed modification may be made to the planning authority within the stated period, being a period of not less than 4 weeks, and any such submissions or observations will be taken into consideration before making a decision on the proposed modification,

and the copy of the proposed modification shall be made available for inspection accordingly.

(d) Not later than 8 weeks after giving notice under paragraph (c), or such additional time as may be required to complete any assessment that may be required pursuant to *subsection (7A)(b)(ii)* and agreed with the 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 or bodies who made submissions or observations for the purposes of paragraph (c)(III),

(ii) summarise the issues raised in the submissions or observations so made,

(iii) include, where and if required for the purposes of *subsection (7A)(b)(ii)*, either or both—

(I) the environmental report and strategic environmental assessment, and

(II) the Natura impact report and appropriate assessment,

of the planning authority, and

(iv) give the response of the planning authority to the issues raised, taking account of the proper planning and sustainable development of the area, the overall

objectives of the planning scheme, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(f) Where a report has been submitted to the 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), and

(h) Subject to any obligations that may arise under Part EVA, if the Commission makes a determination to make a modification as referred to in *subsection (7)(c)(ii)*, it shall—

(i) approve the planning scheme with the modification accordingly,

(ii) notify the planning authority or each planning authority for the area or areas concerned of the modification, and

(iii) notify any person who made a submission or observation in accordance with paragraph (c)(III) of the determination under *subsection (7)(c)*.

(8) In considering a draft planning scheme under this section a planning authority or the 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.

(8A) (a) A planning scheme that contains a provision that contravenes any specific planning policy requirement in guidelines under subsection (1) of section TBD shall be deemed to have been made, under paragraph (b) of subsection (4) of section TBD, 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.

(9) 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.

466. (1) Where an application is made to a planning authority under Chapter 3 for a development in a strategic development zone, that section and any permission regulations shall apply, subject to the other provisions of this section.

(2) Subject to the provisions of Part EVA, a planning authority shall grant permission in respect of an application for a development in a strategic development zone where it is satisfied that the development, where carried out in accordance with the application or subject to any conditions which the planning authority may attach to a permission, would be consistent with any planning scheme in force for the land in question, and no permission shall be granted for any development which would not be consistent with such a planning scheme.

(3) Notwithstanding *section 98*, 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.

467. (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 465* 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 Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment) or on a European site, then it may approve the making of the amendment to the planning scheme and notify the planning authority or each planning authority for the area or areas concerned, of the amendment, or

(b) constitutes the making of a material change but is within the criteria set out in *subsection (3)(b)*, then, subject to *subsection (5)*, it may approve the making of the amendment to the planning scheme with such amendment, or an alternate amendment, being an amendment that would be different from that to which the request relates but would not represent, in the opinion of the Commission, a more significant change than that which was proposed.

(5) Before making a determination to which *subsection (4)(b)* 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 *subsection (4)(b)* relates,

are such that, if the amendment were to be made, it would be likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site and, for that purpose, the 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 *subsection (4)(b)* —

(a) is not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, it shall proceed to make a determination under *subsection (4)(b)*, or

(b) is likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, then it shall require the planning authority to undertake a strategic environmental assessment or an

appropriate assessment or both such assessments, as the case may be, in relation to the making of the proposed amendment or alternative amendment.

(7) Before making a determination to which *subsection (4)(b)* would relate, the 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 *subsection (6)(b)*, may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks, and

(iii) that written submissions or observations with respect to the proposed amendment may be made to the planning authority within the stated period, being a period of not less than 4 weeks, and any such submissions or observations will be taken into consideration before making a decision on the proposed amendment,

and the copy of the proposed amendment shall be made available for inspection accordingly.

(8) Not later than 8 weeks after giving notice under *subsection (7)*, or such additional time as may be required to complete any assessment that may be required pursuant to *subsection (6)(b)* and agreed with the 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 or bodies who made submissions or observations for the purposes of *subsection (7)(iii)*,

(b) summarise the issues raised in the submissions or observations so made,

(c) include, where and if required for the purposes of *subsection (6)(b)*, either or both—

(i) the environmental report and strategic environmental assessment, and

(ii) the Natura impact report and appropriate assessment,

of the planning authority, and

(d) give the response of the planning authority to the issues raised, taking account of the proper planning and sustainable development of the area, the overall objectives of the planning scheme, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(10) The 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 EVA, 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 *subsection (7)(iii)* 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)*, Chapter TBD and Chapter TBD shall apply to any permission granted under this Part.

SCHEDULE 1

STRATEGIC INFRASTRUCTURE DEVELOPMENT

Section 78

Energy Infrastructure

1.—Development comprising or for the purposes of any of the following:

—An installation for the onshore extraction of petroleum or natural gas.

—A crude oil refinery (excluding an undertaking manufacturing only lubricants from crude oil) or an installation for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.

—A thermal power station or other combustion installation with a total energy output of 300 megawatts or more.

—An industrial installation for the production of electricity, steam or hot water with a heat output of 300 megawatts or more.

—An oil pipeline and any associated terminals, buildings and installations, where the length of the pipeline (whether as originally provided or as extended) would exceed 20 kilometres.

—An installation for the surface storage of oil or coal, where the storage capacity would exceed 100,000 tonnes.

—An installation for hydroelectric energy production with an output of 300 megawatts or more, or where the new or extended superficial area of water impounded would be 30 hectares or more, or where there would be a 30 per cent change in the maximum, minimum or mean flows in the main river channel.

—An installation for the harnessing of wind power for energy production (a wind farm) with more than 25 turbines or having a total output greater than 50 megawatts.

—An onshore terminal, building or installation, whether above or below ground, associated with a natural gas storage facility, where the storage capacity would exceed 1mscm.

—An onshore terminal, building or installation, whether above or below ground, associated with an LNG facility and, for the purpose of this provision, ‘LNG facility’ means a terminal which is used for the liquefaction of natural gas or the importation, offloading and re-gasification of liquefied natural gas, including ancillary services.

Transport Infrastructure

2.— Development comprising or for the purposes of any of the following:

—An intermodal transhipment facility, an intermodal terminal or a passenger or goods facility which, in each case, would exceed 5 hectares in area.

—A terminal, building or installation associated with a long-distance railway, tramway, surface, elevated or underground railway or railway supported by suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport, but excluding any proposed railway works referred to in section 37(3) of the Transport (Railway Infrastructure) Act 2001 (as amended by the Planning and Development (Strategic Infrastructure) Act 2006).

A harbour or port installation (which may include facilities in the form of loading or unloading areas, vehicle queuing and parking areas, ship repair areas, areas for berthing or dry docking of ships, areas for the weighing, handling or transport of goods or the movement or transport of passengers (including customs or passport control facilities), associated administrative offices or other similar facilities directly related to and forming an integral part of the installation)—

(*a*) where the area or additional area of water enclosed would be 20 hectares or more, or

(*b*) which would involve the reclamation of 5 hectares or more of land, or

(*c*) which would involve the construction of one or more quays which or each of which would exceed 100 metres in length, or

(*d*) which would enable a vessel of over 1350 tonnes to enter within it.

Environmental Infrastructure

3.— Development comprising or for the purposes of any of the following:

—A waste disposal installation for—

(*a*) the incineration, or

(*b*) the chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC**1** under heading D9), or

(*c*) the landfill,

of hazardous waste to which Council Directive 91/689/EEC**2** applies (other than an industrial waste disposal installation integrated into a larger industrial facility).

—A waste disposal installation for—

(*a*) the incineration, or

(*b*) the chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9),

of non-hazardous waste with a capacity for an annual intake greater than 100,000 tonnes.

—An installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes.

—A groundwater abstraction or artificial groundwater recharge scheme, where the annual volume of water abstracted or recharged is equivalent to or exceeds 2 million cubic metres.

—Any works for the transfer of water resources between river basins, where the annual volume of water abstracted or recharged would exceed 2 million cubic metres.

—A waste water treatment plant with a capacity greater than a population equivalent of 10,000 and, for the purpose of this provision, population equivalent shall be determined in accordance with Article 2, point 6, of Council Directive 91/271/EEC **3** .

—A sludge-deposition site with the capacity for the annual deposition of 50,000 tonnes of sludge (wet).

—Any canalisation or flood relief works where—

(*a*) the immediate contributing sub-catchment of the proposed works (namely the difference between the contributing catchments at the upper and lower extent of the works) would exceed 1000 hectares, or

(*b*) more than 20 hectares of wetland would be affected, or

(*c*) the length of river channel on which works are proposed would be greater than 2 kilometres.

—A dam or other installation designed for the holding back or the permanent or long-term storage of water, where the new or extended area of water impounded would be 30 hectares or more or where a new or additional amount of water held back or stored would exceed 10 million cubic metres.

—An installation of overground aqueducts each of which would have a diameter of 1,000 millimetres or more and a length of 500 metres or more.

—Any coastal works to combat erosion or maritime works capable of altering the coast through the construction, for example, of dikes, moles, jetties and other sea defence works, where in each case the length of coastline on which the works would take place would exceed 1 kilometre, but excluding the maintenance or reconstruction of such works or works required for emergency purposes.

Health Infrastructure

4. Development comprising the following:

A health care facility (other than a development which is predominantly for the purposes of providing care services (within the meaning of **section 3** of the **Nursing Homes Support Scheme Act 2009**)) which, whether or not the facility is intended to form part of another health care facility, shall provide in-patient services and shall have not fewer than 100 beds in order to so provide.

SCHEDULE 2

Section 78

Classes of Development specified for purposes of *Chapter 4* of *Part 4*

1. Development referred to in the First Schedule.

2. Development consisting of a trading port or pier for loading and unloading goods that -

(a) is connected to land, and

(b) can accommodate vessels of over 1,350 tonnes.

3. Development consisting of a pipeline that is not less than 20 kilometres in length and that is intended for the transport of -

(a) gas, oil or chemicals, or

(b) carbon dioxide (CO2) streams for the purposes of geological storage, including associated booster stations.

4. Development consisting of the construction of an electrical power line that has a voltage of not less than 220 kilovolts and a length of not less than 15 kilometres.

5. Development consisting of the laying of a telecommunications cable or pipeline of not less than 15 kilometres in length.

6. Development consisting of the construction of a storage site within the meaning of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009[37] on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006.

7. Development consisting of an installation for the capture of CO2 streams within the meaning of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 -

(a) intended for geological storage of CO2 within such meaning, or

[37] OJ No. L140, 5.6.2009, p.114

(b) where the intended capture of CO2 is not less than 1,500,000 tonnes per annum.

8. Development consisting of the drainage or reclamation of not less than 2 hectares of wetland.

9. Development consisting of a seawater fish breeding installation with an intended output exceeding 100 tonnes per annum.

10. Development consisting of the reclamation of not less than 10 hectares of land from the sea.

11. Development consisting of -

(a) the extraction of stone, gravel, sand or clay where the area of extraction would be greater than 5 hectares, or

(b) the extraction of stone, gravel, sand or clay by marine dredging (other than maintenance dredging), where the area of extraction would be greater than 5 hectares.

12. Development consisting of deep drilling (other than deep drilling for the purposes of investigating the stability of the soil, seabed or substrata beneath the soil or seabed) for -

(a) geothermal purposes, or

(b) the purpose of securing water supplies exceeding 2 million cubic metres per annum.

13. Development consisting of the construction or operation of -

(a) an installation for the manufacture of vegetable or animal oils or fats, where the capacity for processing raw materials would exceed 40 tonnes per day, or

(b) any fish-meal or fish-oil factory.

14. Development consisting of the construction or operation of a sea water marina where the number of berths exceeds 300.

15. Development consisting, or for the purposes, of -

(a) a terminal, building or installation ancillary to a natural gas storage facility (either above or below the surface of the water or seabed) the storage capacity of which would exceed 1mscm, or

(b) a terminal, building or installation ancillary to a terminal that is used for the liquefaction of natural gas or the importation, offloading and re-gasification of liquefied natural gas, and ancillary services.

16. Development consisting, or for the purposes, of an installation for the storage of -

(a) natural gas, where the storage capacity would exceed 200 tonnes,

(b) combustible gases, where the storage capacity would exceed 200 tonnes, or

(c) oil or coal, where the storage capacity would exceed 100,000 tonnes.

17. An installation for the production of hydroelectric energy -

(a) that has an output of not less than 20 megawatts,

(b) that would result in the new or extended area of water impounded being not less than 20 hectares, or

(c) that would result in a 30 per cent change in the maximum, minimum or mean flows in the main river channel or tidal bay concerned.

18. An installation for the production of energy by harnessing the power of the wind that has -

(a) more than 5 turbines, or

(b) a total output of more than 5 megawatts.

19. Any floating or fixed installation (either temporary or permanent) for the production of energy by harnessing the power of the sun.

20. An installation for the production of energy by harnessing wave or tidal power that has a total output greater than 5 generating units or 5 megawatts.

21. A harbour or port installation, including -

(a) loading or unloading areas,

(b) vehicle queuing and parking areas,

(c) ship repair areas,

(d) areas for berthing or dry docking of ships, and

(e) areas for the weighing, handling or transport of goods or the movement or transport of passengers (including customs or passport control facilities), and any associated offices or other similar facilities that would -

(i) result in the enclosed area of water in the harbour or port installation being not less than 20 hectares,

(ii) involve the reclamation of an area of land of not less than 5 hectares,

(iii) involve the construction of a quay greater than 100 metres in length, or

(iv) be capable of admitting a vessel of more than 1,350 tonnes.

SCHEDULE 3

EXCLUDED COMPULSORY ACQUISITION POWERS

Section 363

Reference (1)	**Number and Year** (2)	**Short Title** (3)
1.	38 & 39 Vic. c. 17	Explosives Act 1875
2.	41 & 42 Vict. c. 52.	Public Health Ireland Act 1878
3.	1909 (9 Edw. 7) c. 44	Housing, Town Planning &C. Act 1909
4.	No. 24 of 1924	Dublin Reconstruction (Emergency Provisions) Act 1924
5.	No. 5 of 1925	Local Government Act 1925
6.	No. 44 of 1935	Cork Fever Hospital Act 1935
7.	No. 21 of 1936	Dublin Fever Hospital Act 1936
8.	No. 40 of 1936	Air Navigation and Transport Act 1936
9.	No. 54 of 1936	Liffey Reservoir Act 1936
10.	No. 21 of 1939	Air Raid Precautions Act 1939
11.	No. 24 of 1941	Neutrality (War Damage to Property) Act 1941
12.	No. 13 of 1943	District of Fergus Drainage Act 1943

13.	No. 23 of 1960	Local Government (no.2) Act 1960
14.	No. 29 of 1964	Local Government (Sanitary Services) Act 1964
15.	No. 21 of 1966	Housing Act 1966
16.	No. 14 of 1990	Derelict Sites Act 1990
17.	No. 7 of 1997	Dublin Docklands Development Authority Act, 1997
18.	No. 30 of 2000	Planning and Development Act 2000

SCHEDULE 4

RULES FOR DETERMINATION OF AMOUNT OF COMPENSATION

Sections 376 and 389

1. The reduction in value shall, subject to the other provisions of this Schedule, be determined by reference to the difference between the antecedent and subsequent values of the land, where -

(a) the antecedent value of the land is the amount which the land, if sold in the open market by a willing seller immediately prior to the relevant decision under *Part 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) 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 as defined in *paragraph 5*:

Provided that any bona fide offer for the purchase of the land which may be brought to the notice of the arbitrator shall be taken into consideration,

(iii) any increase in the value of land attributable to the use thereof or of any structure thereon in a manner which could be restrained by any court, or is contrary to law, or detrimental to the health of the inmates of the structure, or to public health or safety, or to the environment,

(iv) any depreciation or increase in value attributable to the land, or any land in the vicinity, being reserved for a particular purpose in a development plan,

(v) any value attributable to any unauthorised structure or unauthorised use,

(vi) the existence of proposals for development of the land or any other land by a statutory body, or

(vii) the possibility or probability of the land or other land becoming subject to a scheme of development undertaken by a statutory body, and

(c) all returns and assessments of capital value for taxation made or acquiesced in by the claimant may be considered.

(2) In this paragraph "statutory body" means -

(*a*) a Minister of the Government,

(*b*) the Commissioners,

(*c*) a local authority within the meaning of the Local Government Act 2001,

(*d*) a harbour authority within the meaning of the Harbours Act, 1946,

(*e*) the Health Service Executive established under the Health Act 2004,

(*f*) an education and training board,

(*g*) a board or other body established by or under statute,

(*h*) a company (within the meaning of the Companies Act 2014) in which all the shares are held by, or on behalf of, or by directors appointed by, a Minister of the Government,

(*i*) a company (within the meaning of the Companies Act 2014) in which all the shares are held by a board or other body referred to in *subparagraph (g)*, or a company referred to in *subparagraph (h)*,

(j) the Maritime Area Regulatory Authority, or

(k) 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 the *Schedule* 7 (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 378*, already existing at the time of the relevant decision under *Part 4*.

4. (1) In determining the subsequent value of the land in a case in which there has been a refusal of permission -

(a) it shall be assumed, subject to *subparagraph (2)*, that, after the refusal, permission under *Part 4* would not be granted for any development of a kind specified in a notice served under *subsection (1)* of *section 378*,

(b) regard shall be had to any conditions in relation to matters referred to in the *Schedule 7* (but no other conditions) which might reasonably be imposed in the grant of permission to develop the land.

(2) In a case in which there has been a refusal of permission in relation to land in respect of which there is in force an undertaking under Part VI of the Act of 1963, it shall be assumed in determining the subsequent value of the land that, after the refusal, permission under *Part 4*of this Act would not be granted for any development other than development to which the undertaking relates.

SCHEDULE 5

DEVELOPMENT IN RESPECT OF WHICH NO COMPENSATION FOR REFUSAL OF PERMISSION

Section 375

1. Any development that consists of or includes the making of any material change in the use of any structures or other land.

2. The demolition of a habitable house.

3. Any development which would materially affect a protected structure or proposed protected structure.

4. The erection of any advertisement structure.

5. The use of land for the exhibition of any advertisement.

6. Development in an area to which a special amenity area order relates.

7. Any development on land with respect to which there is available (notwithstanding the refusal of permission) a grant of permission under *Part 4* for any development of a residential, commercial or industrial character, if the development consists wholly or mainly of the construction of houses, shops or office premises, hotels, garages and petrol filling stations, theatres or structures for the purpose of entertainment, or industrial buildings (including warehouses), or any combination thereof, subject to no conditions other than conditions of the kind referred to in the *Schedule 7*.

8. Any development on land with respect to which compensation has already been paid under –

(a) *section 375* in relation to a decision to refuse permission under *Part 4*,

(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 _____, or

(d) section 55 of the Act of 1963 in relation to a decision to refuse permission under Part IV of the Act of 1963.

SCHEDULE 6

REASONS FOR REFUSAL OF PERMISSION THAT EXCLUDES COMPENSATION

Section 375

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*, Part III of the Act of 2000, an undertaking under Part VI of the Act of 1963 or a notice under section 13 of the Act of 1990, section 192 of the Act of 2000 or *section 378* exists,

(c) the capacity of existing or prospective water supplies or sewerage facilities being required for the prospective development of another part of the functional area of the planning authority, as indicated in the development plan,

(d) the capacity of existing or prospective water supplies or sewerage facilities being required for any other prospective development or for any development objective, as indicated in the development plan,

(e) any existing deficiency in the road network serving the area of the proposed development, including considerations of capacity, width, alignment, or the surface or structural condition of the pavement, which would render that network, or any part of it, unsuitable to carry the increased road traffic likely to result from the development,

(f) any prospective deficiency (including the considerations specified in *subparagraph (e)*) in the road network serving the area of the proposed development which -

(i) would arise because of the increased road traffic likely to result from that development and from prospective development as

regards which a grant of permission under *Part 4*, Part III of the Act of 2000, an undertaking under Part VI of the Act of 1963 or a notice under section 13 of the Act of 1990, section 192 of the Act of 2000 or *section 378* of this Act 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,

(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 joint area plan or pending the adoption of an urban area plan, priority area plan or joint area plan or any other plan which has been identified in the development plan or urban area plan, priority area plan or joint 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 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 joint 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 most recent approved climate action plan,

(b) the most recent approved national long term climate action strategy,

(c) the most recent approved national adaptation framework and approved sectoral adaptation plans,

(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) infringe an existing building line or, where none exists, a building line determined by the planning authority or by the Commission,

(b) be under a public road,

(c) seriously injure the amenities, or depreciate the value, of property in the vicinity,

(d) tend to create any serious traffic congestion,

(e) endanger or interfere with the safety of aircraft or the safe and efficient navigation thereof,

(f) endanger the health or safety of persons occupying or employed in the structure or any adjoining structure, or

(g) be prejudicial to public health.

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 historic monument which stands registered in the Register of Historic Monuments under section 5 of the National Monuments (Amendment) Act 1987, or which is situated in an archaeological area so registered.

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 joint 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 a landscape conservation area.

19. In accordance with *section 156*, 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,

and which have been selected by the Minister for Arts, Heritage, Gaeltacht and the Islands in accordance with Annex III (Stage 1) of that Directive,

(ii) species of bird or their habitat or other habitat specified in Article 4 of the Birds Directive, which formed the basis of the classification of that site, or

(b) would have a significant adverse effect on any other areas referred to in *subsection (2)* of *section 50*.

21. The development would contravene materially a development objective indicated in the development plan. For these purposes, development objective includes 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 transport strategy of the NTA.

24. 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.

25. (1) Subject to *paragraph 26*, *paragraphs 20* and *21* shall not apply in a case where a development objective for the use specified in *paragraph 21* applied to the land at any time during the period of a development plan and the development objective of which was changed as a result of a variation of the plan during such period prior to the date on which the relevant application for permission was made to develop the land, and the development would not have contravened materially that development objective.

(2) Paragraph 21 shall not apply in a case where, as a result of a direction by the Minister under *section 64* given within one year of the making of a development plan, a planning authority amends or revokes a development objective referred to in *paragraph 20*

but without prejudice to any right of compensation which may otherwise arise in respect of any refusal of permission under *Part 4* in respect of an application made before such direction was issued by the Minister.

26. *Paragraph 25* shall not apply in a case where a person acquired his or her interest in the land -

(a) after the objective referred to in *paragraph 20* or *21* has come into operation, or

(b) after notice has been published,

(i) in accordance with *sections 55* or *PLA.Ch4.O*, of a proposed new development plan or of proposed variations of a development plan, as the case may be, or

(ii) in accordance with *section 55*, of a material alteration of the draft concerned,

indicating in draft the development objective referred to *in paragraph 20* or *21*, or

(c) in the case of *paragraph 20*, after notice has been published by the Minister for Arts, Heritage, Gaeltacht and the Islands of his or her intention to propose that the land be selected as a European site.

27. For the purposes of *paragraph 26*, the onus shall be on a person to prove all relevant facts relating to his or her interest in the land to the satisfaction of the planning authority.

28. The planning authority has formed the opinion in *subsection (1)* of *section 156* in relation to the application.

29. In this Schedule "road authority" and "national road" have the meanings assigned to them by the Roads Act 1993.

SCHEDULE 7

CONDITIONS TO WHICH GRANT OF PERMISSION MAY BE SUBJECT WITHOUT ENTITLEMENT TO COMPENSATION

Sections 375 and *378*

1. A condition under *paragraph (g)* or *(j)* of *subsection (2)* of *section 83* requiring the giving of security for satisfactory completion of the proposed development (including maintenance until taken in charge by the local authority concerned of roads, open spaces, carparks, sewers, watermains or drains).

2. A condition included in a grant of permission requiring the payment of a development contribution.

3. A condition under *paragraph (n)* of *subsection (2)* of *section 83* requiring the removal of an advertisement structure.

4. Any condition under *paragraph (n)* of *subsection (2)* of *section 83* in a case in which the relevant application for permission relates to a temporary structure.

5. Any condition relating to the reservation or allocation of any particular land, or all land in any particular area, for development of a specified class or classes, or the prohibition or restriction either permanently or temporarily, of development on any specified land.

6. Any condition relating to the preservation of the quality and character of urban or rural areas.

7. Any condition relating to the regulation, restriction and control of development of coastal areas or development in the vicinity of inland waterways.

8. Any condition relating to the protection of the linguistic or cultural heritage of the Gaeltacht.

9. Any condition relating to reducing the risk or limiting the consequences of a major accident, or limiting the risk of there being any serious danger to human health or the environment.

10. Any condition regulating, restricting or controlling development in areas at risk of flooding.

11. Any condition relating to -

(a) the regulation and control of the layout of areas and structures, including density, spacing, grouping and orientation of structures in relation to roads, open spaces and other structures,

(b) the regulation and control of the design, colour and materials of structures and groups of structures,

(c) the promotion of design in structures for the purposes of flexible and sustainable use, including conservation of energy and resources.

12. Any condition limiting the number of structures or the number of structures of a specified class which may be constructed, erected or made on, in or under any area.

13. Any condition regulating and controlling all or any of the following matters -

(a) the size, height, floor area and character of structures,

(b) building lines, coverage and the space about houses and other structures,

(c) the extent of parking places required in, on or under structures of a particular class or size or services or facilities for the parking, loading, unloading or fuelling of vehicles,

(d) the objects which may be affixed to structures,

(e) the purposes for and the manner in which structures may be used or occupied, including, in the case of dwellings, the letting thereof in separate units, or

(f) the persons of a particular class or description to whom the use of a dwelling may be restricted.

14. Any condition relating to the alteration or removal of unauthorised structures.

15. Any condition relating to the provision and siting of sanitary services and waste facilities, recreational facilities and open spaces.

16. Any condition relating to the protection and conservation of the environment including the prevention of environmental pollution and the protection of waters, groundwater, the seashore and the atmosphere.

17. Any condition relating to measures to reduce or prevent the emission or the intrusion of noise or vibration.

18. 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.

19. 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.

20. Any condition relating to the protection of features of the landscape which are of major importance for wild fauna and flora.

21. Any condition relating to the preservation and protection of trees, shrubs, plants and flowers.

22. Any condition relating to the preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest.

23. 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 for Arts, Heritage, Gaeltacht and the Islands 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*.

24. Any condition relating to the preservation of the landscape in general, or a landscape conservation order in particular, including views and prospects and amenities of places and features of natural beauty or interest.

25. Any condition for preserving any existing public right of way.

26. Any condition reserving, as a public park, public garden or public recreation space, land normally used as such.

27. 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.

28. Any condition preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any structure, or from the objectionable or neglected condition of any land attached to a structure or abutting on a public road or situate in a residential area.

29. 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.

30. Any condition prohibiting the demolition of a habitable house.

31. Any condition relating to the filling of land.

32. Any condition in the interest of ensuring the safety of aircraft or the safe and efficient navigation thereof.

33. Any condition determining the sequence in which works shall be carried out or specifying a period within which works shall be completed.

34. 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.

35. Any conditions relating to the protection of a protected structure or a proposed protected structure.