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*Number 16 of 2018*

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**Planning and Development (Amendment) Act 2018**

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**PLANNING AND DEVELOPMENT (AMENDMENT) ACT 2018**

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*Number 16 of 2018*

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## **PLANNING AND DEVELOPMENT (AMENDMENT) ACT 2018**

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An Act to amend and extend the *Planning and Development Acts 2000 to 2018* and for that purpose to establish an office, to be known as the Office of the Planning Regulator, to evaluate and carry out assessments relating to planning matters and provide observations and recommendations in relation to those matters, to conduct reviews and examinations and to conduct education and training programmes and research in relation to planning matters; to provide for the organisation and staffing of that Office; to provide for a National Planning Framework; to provide for certain planning and development requirements to be taken into account by Irish Water; to make miscellaneous and consequential amendments to the Planning and Development Act 2000 and to various other Acts in so far as they relate to planning and development; to amend the Derelict Sites Act 1990; to give effect to Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014<sup>1</sup> establishing a framework for marine spatial planning; and to provide for matters connected therewith.

[19th July, 2018]

**Be it enacted by the Oireachtas as follows:**

### PART 1

#### PRELIMINARY AND GENERAL

##### **Short title, collective citation, construction and commencement**

1. (1) This Act may be cited as the Planning and Development (Amendment) Act 2018.
- (2) This Act, other than *Part 4* and *Schedule 3* at reference numbers 12 to 18, and the Planning and Development Acts 2000 to 2017 may be cited together as the *Planning and Development Acts 2000 to 2018* and shall be construed together as one.
- (3) This Act (other than *section 2* and *Part 4* and where otherwise expressly provided for) comes into operation on such day or days as the Minister may appoint by order or orders, either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and different provisions.

<sup>1</sup> OJ No. L257 of 28.8.2014, p.135

**Interpretation****2.** In this Act—

“Act of 2016” means the Planning and Development (Housing) and Residential Tenancies Act 2016;

“Minister” means Minister for Housing, Planning and Local Government;

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

**Expenses****3.** The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.**PART 2****OFFICE OF THE PLANNING REGULATOR****Office of the Planning Regulator****4.** The Principal Act is amended by inserting the following Part after Part IIA (inserted by the Dublin Transport Authority Act 2008):**“PART IIB****OFFICE OF THE PLANNING REGULATOR****CHAPTER I****PRELIMINARY AND GENERAL (PART IIB)****Definitions (Part IIB)****31K.** In this Part—

‘establishment day’ means the day appointed by order under section 31L to be the establishment day for the purposes of this Part;

‘Office’ means the Office of the Planning Regulator established under Chapter II;

‘Planning Regulator’ means the person appointed under section 31N as the Planning Regulator.

**CHAPTER II****ESTABLISHMENT, ORGANISATION, STAFFING ETC.****Establishment of Office of the Planning Regulator****31L.** The Minister shall by order appoint a day to be the establishment day for the purposes of this Part.

**Office of the Planning Regulator**

- 31M.** (1) There is established on the establishment day a body to be known as Oifig an Rialaitheoir Pleanáil or, in the English language, Office of the Planning Regulator, to perform the functions conferred on it by this Part.
- (2) The Office of the Planning Regulator shall have all such powers as are necessary for or incidental to the performance of the functions of the Office under this Act.

**Planning Regulator**

- 31N.** (1) There shall be appointed in accordance with section 31W a chief executive of the Office, to be known as the Planning Regulator, who shall be a corporation sole with perpetual succession and an official seal and with power—
- (a) to sue and be sued,
  - (b) to acquire, hold and dispose of land or an interest in land, and
  - (c) to acquire, hold and dispose of any other property.
- (2) The Planning Regulator shall—
- (a) perform such functions as are specified in this Part to be functions of the Office,
  - (b) be responsible for the performance by the Office of its functions under this Part, and
  - (c) otherwise carry out, manage and control generally the administration and business of the Office for the purposes of this Part.

**Seal of Planning Regulator**

- 31O.** (1) The seal of the Planning Regulator (in this section referred to as the ‘seal’) shall be authenticated by either—
- (a) the signature of the Planning Regulator, or
  - (b) the signatures of 2 members of the staff of the Office, at least one of whom shall be a director of the Office, and both of whom have been authorised by the Office to act in that behalf.
- (2) Judicial notice shall be taken of the seal and every document purporting to be an instrument made by the Office and to be sealed with the seal (purporting to be authenticated in accordance with subsection (1)) shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.
- (3) Any contract or instrument which, if entered into or executed by an individual, would not be required to be under seal may be entered into or executed on behalf of the Office by a member of the staff of the

Office or a person generally or specially authorised by the Office for that purpose.

### **Functions of Office**

**31P.** (1) The functions of the Office are—

- (a) to evaluate and assess—
  - (i) development plans, including draft development plans,
  - (ii) variations of development plans, including proposed variations,
  - (iii) local area plans, including the amendment or revocation of such plans, and
  - (iv) regional spatial and economic strategies,  
during their preparation and making under Chapters I to III of Part II in order for the Office to provide observations and recommendations to planning authorities and regional assemblies, as appropriate, on those plans and strategies,
- (b) in respect of any plan or strategy to which paragraph (a) relates, to inform the Minister if, in the opinion of the Office, any such plan or strategy is not consistent with its observations and recommendations, especially where, in its opinion, failure to be so consistent would affect the overall strategy for proper planning and sustainable development of the area concerned,
- (c) to conduct research, including research at the request of the Minister, as to what constitutes proper planning and sustainable development,
- (d) to conduct education and training programmes and research as provided for by section 31Q,
- (e) to conduct reviews under Chapter IV of the performance by the Board and by planning authorities of their respective functions,
- (f) to oversee the delivery of effective planning services to the public by planning authorities including having regard to—
  - (i) any relevant indicator (within the meaning of Part 12A of the Local Government Act 2001) identified by the National Oversight and Audit Commission or prescribed by the Minister under section 126C(1) of that Act, or
  - (ii) regulations made by the Minister under section 134A(7) of the Local Government Act 2001,
- (g) to prepare an annual report in accordance with section 31AH on the performance of its own functions,
- (h) to prepare a strategy statement for the Office in accordance with section 31T,

- (i) to make such observations as it considers appropriate to the Minister, or in its annual reports or otherwise, in relation to planning legislation, including:
    - (i) development plans, local area plans and regional spatial and economic strategies under Part II;
    - (ii) guidelines under section 28;
    - (iii) directions under section 31;
    - (iv) codes of conduct under section 31AL; and
    - (v) in so far as relates to planning matters to which paragraph (f) relates,

and
  - (j) to evaluate and assess strategic transport plans made by the National Transport Authority in accordance with section 12 of the Dublin Transport Authority Act 2008 and to issue a notice as provided for by subsection (10) of that section.
- (2) (a) The Minister may, with the consent of the Minister for Public Expenditure and Reform, by order confer on the Office such additional functions connected with the functions for the time being of the Office as the Minister determines, subject to such conditions (if any) as may be specified in the order.
- (b) An order under paragraph (a) may contain such incidental, supplementary and additional provisions as may, in the opinion of the Minister, be necessary to give full effect to the order.
- (3) In performing its functions, the Office shall take account of the objective of contributing to proper planning and sustainable development and the optimal functioning of planning under the *Planning and Development Acts 2000 to 2018*.

### **Education, training and research functions**

**31Q.** (1) The Office shall conduct education and training programmes—

- (a) for members of planning authorities and of regional assemblies in respect of—
  - (i) the role of such authorities, assemblies and their members under the *Planning and Development Acts 2000 to 2018*, including ministerial guidelines and policy directives under Chapter IV of Part II,
  - (ii) such matters relating to proper planning and sustainable development as the Minister may request, and
  - (iii) such other matters as the Office considers are of relevance to its functions, in particular, the functions relating to proper planning

and sustainable development,

- (b) for members of the staff of local authorities or regional assemblies in respect of—
  - (i) such matters relating to proper planning and sustainable development as the Minister may request, and
  - (ii) such other matters as the Office considers are of relevance to its functions, in particular, the functions relating to proper planning and sustainable development.
- (2) The Office shall conduct research in relation to matters relevant to its functions as well as such other matters as may be requested of the Office by the Minister.
- (3) The Office may enter into arrangements with any person or body that the Office considers to be suitably qualified, including any professional, educational or research organisation, to undertake the provision of such services that the Office sees fit to which paragraph (a) or (b) of subsection (1) or subsection (2) relates and that are relevant to its functions.
- (4) The Office shall include in its annual report to the Minister under section 31AH a report on—
  - (a) education and training activities, and
  - (b) research activities,undertaken by it in respect of the year to which that report relates.

#### **Performance of functions by Office**

- 31R.** (1) Subject to this Part, the Office is independent in the performance of its functions.
- (2) Subject to section 31O, the Office may perform any of its functions through any member of the staff of the Office duly authorised in that behalf—
    - (a) by the Planning Regulator, or
    - (b) to the extent provided for by the Planning Regulator under paragraph (a), by a director of the Office.

#### **Office to have regard to certain policies and objectives and to requirements**

- 31S.** (1) The Office shall, in performing its functions, have regard to—
- (a) the policies and objectives for the time being of the Government, a State authority (including Ministerial guidelines, policy directives and directions issued under Chapter IV of Part II), 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 public interest and any effect the performance of the Office's functions may have on issues of strategic, economic or social importance to the State,
- (c) the National Planning Framework (or, where appropriate, the National Spatial Strategy) and any regional spatial and economic strategy for the time being in force, and
- (d) the requirements of relevant acts of the European Union, in particular, those relating to—
  - (i) the Environmental Impact Assessment Directive,
  - (ii) Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment<sup>2</sup>,
  - (iii) the Habitats Directive, and
  - (iv) the Birds Directives,

in so far as those requirements relate to planning authorities by virtue of being designated as competent authorities for the purposes of those acts.

- (2) In this section 'public authority' means any body established by or under statute which is for the time being declared, by regulations made by the Minister, to be a public authority for the purposes of this section.

### **Corporate strategy of Office**

- 31T.** (1) The Planning Regulator shall prepare a strategy statement for the Office within 6 months of its establishment and thereafter not earlier than 6 months before and not later than the expiration of each subsequent period of 6 years following the establishment day.
- (2) The strategy statement shall be prepared on the basis of an organisational wide strategic approach encompassing the functions and principal activities of the Office and shall include:
- (a) a statement setting out the approach taken in respect of each of the Office's functions referred to in section 31P;
  - (b) a statement of the principal activities of the Office;
  - (c) the objectives and priorities for each of the principal activities and strategies for achieving those objectives;
  - (d) the manner in which the Office proposes to assess its performance in respect of each such activity, taking account of indicators which shall be identified by the Office and of the need to work towards

<sup>2</sup> OJ No. L197, 21.07.2001 p. 30

- best practice in service delivery and in the general operation of the Office;
- (e) human resources activities (including training and development) to be undertaken for the staff of the Office;
  - (f) the organisational structure of the Office, including corporate support and information technology and the improvements proposed to promote efficiency of operation and customer service and in general to support the strategy statement; and
  - (g) such other matters as the Planning Regulator considers necessary.
- (3) Within 3 months of the preparation of the statement of strategy for the purposes of subsection (1), the Office shall cause copies of it to be submitted to the Minister and laid before each House of the Oireachtas.
- (4) In this section ‘principal activities’ includes the following:
- (a) any observations and recommendations issued in respect of—
    - (i) the review of development plans,
    - (ii) variations of development plans,
    - (iii) the preparation and amendment of local area plans, and
    - (iv) the preparation of regional spatial and economic strategies;
  - (b) any plans and strategies made in a manner consistent with the observations and recommendations referred to in paragraph (a);
  - (c) any recommendations issued by the Office to the Minister that the Minister uses his or her powers of direction under section 31 or 31A as regards—
    - (i) the review of a development plan,
    - (ii) variations of development plans,
    - (iii) the preparation and amendment of local area plans, and
    - (iv) the preparation of a regional spatial and economic strategy;
  - (d) any directions issued in a manner consistent with the recommendations of the Planning Regulator;
  - (e) the research, education and training conducted;
  - (f) the reviews undertaken of the performance of planning functions of planning authorities and the Board.

#### **Monitoring of performance of Office**

- 31U.** (1) The Office shall conduct, at such intervals as it thinks fit or the Minister directs, reviews of its organisation and of the systems and procedures used by it in relation to the performance of its functions.

- (2) The Minister may direct the Office in respect of matters referred to under subsection (5) where the Minister has requested information.
- (3) Where the Minister gives a direction under subsection (2), the Office shall—
  - (a) report to the Minister the results of the review conducted pursuant to the direction, and
  - (b) comply with any direction the Minister may give in relation to all or any of the matters which were the subject of the review.
- (4) The Office may make observations or submissions to the Minister as regards any matter pertaining to its functions.
- (5) The Minister may consult with the Office as regards any matter pertaining to the performance of—
  - (a) the functions of the Office, or
  - (b) the functions assigned to the Minister by or under—
    - (i) the *Planning and Development Acts 2000 to 2018*, or
    - (ii) any other enactment in so far as those functions or the exercise of those functions relate or could relate to functions of the Office.

#### **Consultation between Minister and Planning Regulator**

**31V.** The Minister and the Planning Regulator shall, from time to time, consult with each other on matters relating to the functions of the Office and of the Planning Regulator.

#### **Appointment and term of office of Planning Regulator**

- 31W.** (1) Subject to this section, the Planning Regulator shall be appointed by the Minister and shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration and superannuation) as the Minister may determine with the consent of the Minister for Public Expenditure and Reform.
- (2) A person shall not be appointed as the Planning Regulator unless—
    - (a) except where subsection (3) applies, the Public Appointments Service have, following holding a competition on behalf of the Office, selected him or her for nomination by the Minister to the Government for the purpose of approving his or her appointment as the Planning Regulator, and
    - (b) his or her appointment has upon nomination by the Minister been approved by the Government.
  - (3) Subsection (2)(a) does not apply to a person who would, if appointed, be serving a second consecutive term as the Planning Regulator.
  - (4) The Planning Regulator—

- (a) shall be appointed in a wholetime capacity,
  - (b) shall be appointed for a term of office of 5 years or such shorter period where subsection (6)(b) applies, and
  - (c) shall not, at any time while holding office, hold any other office or employment in respect of which emoluments are made.
- (5) A person shall not be appointed for a term of office as Planning Regulator more than twice, subject to any provision provided for by law relating to retirement that would apply to the person, but nothing in this paragraph shall be read as preventing a former planning regulator from being a member of the staff or, subject to the consent of the Minister for Public Expenditure and Reform where relevant, otherwise being employed by the Office.
- (6) (a) The term of office of a person as Planning Regulator shall, except where paragraph (b) applies, be for the period of 5 years referred to in subsection (4)(b).
- (b) Where, within the period of 5 years from the date of appointment as Planning Regulator, the person concerned would attain the age of 65 years and he or she is neither—
- (i) a new entrant (within the meaning of the Public Service Superannuation (Miscellaneous Provisions) Act 2004) appointed having been previously appointed to a position in the public service (within that meaning) on or after 1 April 2004, nor
  - (ii) a Scheme member within the meaning of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012,
- then his or her term of office as Planning Regulator shall be such so that the term ceases upon his or her attaining the age of 65 years.
- (7) As soon as practical after the appointment of a person as the Planning Regulator, the Minister shall cause a notice of the appointment to be published in *Iris Oifigiúil*.

#### **Transitional provisions relating to Office**

- 31X.** (1) Before the establishment day the Minister may request the Public Appointments Service to hold a competition for the purpose of having selected a person to be nominated to the Government for its approval of the appointment of the person by the Minister as the Planning Regulator and, accordingly—
- (a) section 31W(2)(a) shall be deemed to have been complied with, whether or not any steps taken pursuant to that request occur on or after the establishment day, and
  - (b) where a person has been duly selected by the Public Appointments Service before the establishment day, then—

- (i) the Service shall advise the Minister accordingly, and
  - (ii) the Minister may before, on or after that day nominate the person to the Government for its approval of the appointment of that person by the Minister and the appointment shall take effect on whichever of the following is the last to occur:
    - (I) the establishment day;
    - (II) the date the appointment is made.
- (2) If with effect from the establishment day there is no Planning Regulator then the Minister may, on an interim basis and pending the appointment, appoint in writing a person to perform some or all of the functions of the Planning Regulator.
- (3) Where the Minister has appointed a person in accordance with subsection (2) to perform functions of the Planning Regulator and the functions performable include the function of appointing a director under section 31Z, then, notwithstanding section 31Z(1), not more than one person shall at any time stand appointed as a director unless the Minister approves any further appointments.

#### **Resignation and removal of Regulator**

- 31Y.** (1) A Planning Regulator may at any time resign his or her office by giving notice in writing to the Minister of his or her intention to resign and any such resignation shall take effect as of the date upon which the Minister receives notice of the resignation.
- (2) The Planning Regulator may be removed from office by the Government if—
- (a) in the opinion of the Government, the Regulator has become incapable through ill-health of effectively performing his or her functions,
  - (b) in the opinion of the Government, the Planning Regulator has committed stated misbehaviour,
  - (c) the Planning Regulator has been convicted on indictment by a court of competent jurisdiction and sentenced to imprisonment,
  - (d) the Planning Regulator is convicted of an offence involving fraud or dishonesty,
  - (e) the Planning Regulator is adjudicated bankrupt in the State or another jurisdiction and if so adjudicated, has not obtained a certificate of discharge from the bankruptcy in the State or that other jurisdiction, as appropriate, or
  - (f) the removal of the Planning Regulator appears to the Government to be necessary for the effective performance by the Office of its functions.

- (3) Where the Planning Regulator is removed from office under this section, the Government shall cause to be laid before each House of the Oireachtas a statement of the reasons for the removal.

### **Directors**

**31Z.** (1) For the purpose of supporting the Planning Regulator and the Office in carrying out functions under this Part, the Planning Regulator—

- (a) may appoint up to 3 persons but shall appoint at least one person,
- (b) subject to the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform, may appoint such number of additional persons as may be specified,

each to be a director of the Office (in this section referred to as ‘director’) to perform such functions as are duly assigned to each of them.

- (2) A director shall be a member of staff of the Office.
- (3) The Planning Regulator shall designate one director to be deputy Planning Regulator. The deputy Planning Regulator shall perform and carry out the functions of the Planning Regulator in the absence of the Planning Regulator or when there is no Planning Regulator and references to the Planning Regulator shall be read accordingly.
- (4) A director, on ceasing to be a member of the staff of the Office, shall be deemed to have vacated the position of director.

### **Staff of Office**

**31AA.** The Planning Regulator shall appoint such and so many persons to be staff of the Office as the Planning Regulator, subject to the approval of the Minister, given with the consent of the Minister for Public Expenditure and Reform, as to the number and grade of those staff, from time to time may determine, having regard to the need to ensure that an adequate number of staff are competent in the Irish language so as to enable the Office to provide service through Irish as well as English.

### **Membership of either House of Oireachtas, European Parliament or local authority**

**31AB.**(1) Where the Planning Regulator or a member of the staff of the Office—

- (a) accepts a nomination as a member of Seanad Éireann,
- (b) is elected to be a member of either House of the Oireachtas or to be a member of the European Parliament,
- (c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to the European Parliament, or
- (d) is elected or co-opted as a member of a local authority,

he or she shall thereupon—

- (i) in the case of the Regulator, cease to be the Regulator, and
  - (ii) in the case of any member of the staff of the Office, stand seconded from employment by the Office and not be paid by, or be entitled to receive from, the Office any remuneration or allowances for expenses in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected or on such election or co-option, and ending when he or she ceases to be a member of either such House, a member of such Parliament or a member of the local authority.
- (2) Without prejudice to the generality of subsection (1), that subsection shall be construed as prohibiting the reckoning of a period therein mentioned as service with the Office for the purpose of any superannuation benefits payable.
- (3) A person who is for the time being—
- (a) entitled under the Standing Orders of either House of the Oireachtas to sit therein,
  - (b) a member of the European Parliament, or
  - (c) entitled under the Standing Orders of a local authority to sit as a member thereof,

shall, while he or she is so entitled under paragraph (a) or (c) or is such a member under paragraph (b), be disqualified for being the Planning Regulator or a member of the staff of the Office.

#### **Members of staff of Office to be civil servants**

**31AC.** A member of the staff of the Office of the Planning Regulator shall be a civil servant (within the meaning of the Civil Service Regulation Act 1956) in the Civil Service of the State.

#### **Prohibition on disclosure of information relating to functions of Office**

**31AD.**(1) No person shall, without the consent of the Planning Regulator (which may be given to the person, subject to or without conditions, as regards any information, any particular information or any information of a particular class or description), disclose—

- (a) any information obtained by him or her while serving as a member of the staff of, or consultant or adviser to, the Office or as a person whose services are availed of by the Office by virtue of section 31AI or 31AJ, or
  - (b) any information so obtained relative to the business of the Office or to the performance of its functions.
- (2) A person who contravenes subsection (1) commits an offence.
- (3) Nothing in subsection (1) shall prevent—

- (a) disclosure of information in a report made to the Office or in a report made by or on behalf of the Office to the Minister,
- (b) disclosure of information by any person in the course of and in accordance with the functions of his or her office,
- (c) disclosure of information in accordance with the Freedom of Information Act 2014, or
- (d) disclosure of information in accordance with the European Communities Act, 1972 (Access to Information on the Environment) Regulations 1998 (S.I. No. 125 of 1998), and any regulations amending or replacing those regulations.

**Liability of Planning Regulator or member of staff for acts and omissions**

**31AE.** Neither—

- (a) the Planning Regulator or a former Planning Regulator, nor
- (b) a present or former member of the staff of the Office,

is liable for damages for anything done, anything purported to be done or anything omitted to be done by him or her in performing a function under this Act, unless the act or omission is shown to have been done in bad faith.

**Grants to Office**

**31AF.** There may, subject to such conditions, if any, as the Minister thinks proper, be paid to the Office in each financial year out of moneys provided by the Oireachtas a grant or grants of such amount or amounts as the Minister, with the consent of the Minister for Public Expenditure and Reform and after consultation with the Office in relation to its programme of expenditure for that year, may fix.

**Accounts and audits of Office**

**31AG.** (1) The Office shall—

- (a) submit estimates of income and expenditure to the Minister in such form, in respect of such periods and at such times as may be specified by the Minister, and
  - (b) provide to the Minister any information which the Minister may require regarding those estimates and also regarding the proposals and plans of the Office in respect of a period specified by the Minister.
- (2) The Office shall keep, in such form and in respect of such accounting periods as may be approved of by the Minister with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts of moneys received and spent by the Office, including an income and expenditure account and a balance sheet.
- (3) (a) The Planning Regulator and any relevant member of the staff of the

Office shall, whenever so required by the Minister, permit any person appointed by the Minister to examine the accounts of the Office in respect of any financial year or other period and shall facilitate any such examination, and the Office shall pay to the Minister such fee for the examination as may be fixed by the Minister.

- (b) In this subsection ‘relevant member of the staff’ means a member of the staff of the Office to whom duties relating to those accounts have been duly assigned.
- (4) (a) The accounts of the Office shall be approved by the Planning Regulator as soon as is practicable (but not later than 3 months after the end of the accounting period to which they relate) and submitted by it to the Comptroller and Auditor General for audit.
  - (b) A copy of the accounts and the report of the Comptroller and Auditor General on them shall be presented to the Planning Regulator and the Minister as soon as is practicable, and the Minister shall cause a copy of the accounts and report to be laid before each House of the Oireachtas.

#### **Annual report of Office**

- 31AH.** (1) The Office shall, not later than the 30th day of June in each year, prepare an annual report, which shall include information on the performance of its functions and its principal activities during the preceding year, including any matter to which section 31Q relates, and such other matters as the Minister may specify to the Office in writing.
- (2) The Planning Regulator shall cause a copy of the annual report to be laid before each House of the Oireachtas and shall cause a copy to be sent to the relevant Oireachtas Committee.
  - (3) The Planning Regulator shall, at the request in writing of the relevant Oireachtas Committee, attend before it to account for matters in relation to its annual report.
  - (4) In this section ‘relevant Oireachtas Committee’ means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas to which has been duly assigned the role of examining matters relating to environment and planning (other than the Committee of Public Accounts or the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a sub-committee of such a relevant Oireachtas Committee.

#### **Provision of services and resources by Minister to Office**

- 31AI.** (1) For the purposes of enabling the Office to perform its functions, the Minister may provide services (including services of staff either on secondment or a permanent basis) to the Office on such terms and conditions (including payment for such services) as may be agreed,

after consultation with the Minister for Public Expenditure and Reform, and the Office may avail of such services.

- (2) The Office may provide services (including services of staff) to the Minister on such terms and conditions (including payment for such services) as may be agreed, after consultation with the Minister for Public Expenditure and Reform, and the Minister may avail of such services.
- (3) Without prejudice to the generality of subsection (1), the Minister may make available or cause to be made available to the Office, on a request being made by the Planning Regulator, premises, equipment, services and other resources for the purpose of the performance by the Office of its functions as the Office may determine from time to time in consultation with the Minister and the Minister for Public Expenditure and Reform.
- (4) The Minister may, subject to the agreement with the relevant chief executive (by whatever name called) of any public body under the Minister's aegis, including any local authority, provide for the provision of services under subsection (3).

#### **Service providers**

- 31AJ.** (1) The Office may from time to time engage such consultants or advisers as it considers necessary for the performance of its functions and any fees due to a consultant or adviser engaged pursuant to this section shall be paid by the Office out of moneys at its disposal.
- (2) The Office shall include in each report made under section 31AH a statement of the names of the persons (if any) engaged pursuant to this section during the year to which the report relates.

#### **Fees payable to Office**

- 31AK.** (1) The Office of the Planning Regulator may determine fees that may be charged in relation to any matter referred to in subsection (2), subject to the approval of the Minister, and a fee as so determined shall be payable to the Office by any person concerned as appropriate, and different fees may be provided for in respect of different matters.
- (2) The matters in relation to which the Office of the Planning Regulator may determine fees under subsection (1) are in respect of reasonable costs for the provision or undertaking of—
    - (a) education and training programmes,
    - (b) research programmes, and
    - (c) any other services, subject to the approval of the Minister.
  - (3) Notwithstanding subsection (2), the Office may, subject to the approval of the Minister, provide for the payment of different fees in relation to different matters referred to in subsection (2), for

exemption from the payment of fees in specified circumstances and for the waiver, remission or refund in whole or in part of fees in specified circumstances.

**Code of conduct**

- 31AL.** (1) (a) The Office shall adopt a code of conduct for dealing with conflicts of interest and promoting public confidence in the integrity of the conduct of its business which is required to be followed by those persons referred to in subsection (3).
- (b) A code of conduct under this section shall be subject to the approval of the Minister and be adopted within one year of the establishment day.
- (2) A code of conduct shall consist of a written statement setting out the policy of the Office on at least the following matters:
- (a) disclosure of interests and relationships where the interests and relationships are of relevance to the work of the Office, as appropriate;
- (b) membership of other organisations, associations and bodies, professional or otherwise;
- (c) membership of, or other financial interests in, companies, partnerships or other bodies;
- (d) undertaking work, not being work on behalf of the Office both during and after any period of employment with the Office, whether as a consultant, adviser or otherwise;
- (e) acceptance of gifts, sponsorship, considerations or favours;
- (f) disclosure of information concerning matters pertaining to the work of the Office, as appropriate;
- (g) following of best practice to be adopted in relation to the functions of the Office including the procedures for the provision of observations, submissions or recommendations in accordance with this Act in relation to—
- (i) the review, making and variation of development plans,
- (ii) the review, making and amendment of local area plans,
- (iii) the review, making and amendment of regional spatial and economic strategies, and
- (iv) the disclosure by the Planning Regulator, staff of the Office or persons to whom section 31AJ relate of any representations relating to the work or functions of the Office made to the Planning Regulator, to any such staff member or person, whether in writing or otherwise in relation to those matters.

- (3) The code of conduct adopted by the Office applies—
- (a) to the Planning Regulator,
  - (b) to a member of the staff of the Office, or
  - (c) to the extent indicated in the code of conduct, to any person or class or classes of persons to whom section 31AJ relates,
- and the code of conduct shall be complied with by each person to the extent that it relates to him or her or has been duly applied to him or her.

### CHAPTER III

#### EVALUATION AND ASSESSMENT CARRIED OUT BY OFFICE OF THE PLANNING REGULATOR

#### **Evaluation and assessment by Office of matters relating to development plans**

**31AM.** (1) The Office shall evaluate and assess, at least at a strategic level—

- (a) a notice given under subsection (2) of section 11 by a planning authority to the Office for the purposes of that section of the intention of the planning authority to review its existing development plan,
- (b) a notice and a copy of the draft development plan sent to the Office under subsection (1)(a) of section 12 by the planning authority concerned for the purpose of that section,
- (c) a notice given under section 12(5)(aa) by the planning authority concerned to the Office in respect of a draft development plan,
- (d) a notice given to the Office by a planning authority under section 12(7)(a), together with the proposed amendment that would, if made, be a material alteration of the draft development plan concerned,
- (e) a notice sent together with the copy of any proposed variation of the development plan concerned sent to the Office under subsection (2)(a) of section 13 by the planning authority concerned for the purpose of that section,
- (f) a notice given under section 13(5)(aa) by the planning authority concerned to the Office in respect of a proposed variation of a development plan,

and the Office may make such observations or submissions for the purposes of the relevant provision.

- (2) In assessing and evaluating any requirement to which subsection (1) relates, the Office shall endeavour to ensure that, where appropriate, it addresses the legislative and policy matters relating to development plans as follows:

- (a) matters generally within the scope of section 10 and, in particular, subsection (2)(n) of that section in relation to climate change;
  - (b) consistency with the development plan and the National Planning Framework (or, where appropriate, the National Spatial Strategy) and regional spatial and economic strategies;
  - (c) relevant guidelines for planning authorities made under section 28, including the consistency of development plans with any specific planning policy requirements specified in those guidelines;
  - (d) policy directives issued under section 29;
  - (e) such other legislative and policy matters as the Minister may communicate to the Office in writing, the effect of which shall be published on the website of the Office.
- (3) In making observations or submissions for the purposes of the provisions referred to in subsection (1), or observations or submissions in respect of any evaluation or assessment to which subsection (2) relates, the Office shall—
- (a) make to the relevant planning authority such recommendations in relation to the Office's evaluation and assessments as it considers necessary to ensure effective co-ordination of national, regional and local planning requirements by the relevant planning authority in the discharge of its development planning functions, and
  - (b) send to the Minister a copy of any such observations or submissions, together with any recommendations made.
- (4) The report of the chief executive of the planning authority prepared for the elected members under—
- (a) section 11(4), in respect of the preparation of a new development plan,
  - (b) subsection (4) or (8) of section 12 in respect of a draft development plan, or
  - (c) section 13(4) in respect of a variation of a development plan,
- shall—
- (i) summarise the issues raised in the observations or submissions, including recommendations, made by the Office in relation to the Office's evaluation and assessments under subsection (1),
  - (ii) outline the recommendations of the chief executive in relation to the manner in which those issues and recommendations should be addressed, taking account of the proper planning and sustainable development of the area, and
  - (iii) make the report available on the website of the planning authority

as soon as practicable following submission to the members of the authority.

- (5) A regional assembly shall send to the Office, a copy of—
- (a) any observation or submissions, including recommendations, it makes to a planning authority under section 27A(1) in respect of the review of an existing development plan,
  - (b) any observation or submissions, including recommendations, it makes to a planning authority under section 27B(1) in respect of a draft development plan,
  - (c) any observation or submissions, including recommendations, it makes to a planning authority under section 27C(1) in respect of a proposed variation in a development plan.

- (6) A planning authority shall notify the Office within 5 working days of the making of a development plan or a variation to a development plan and send a copy of the written statement and maps as duly made and where the planning authority—
- (a) decides not to comply with any recommendations made in the relevant report of the Office, or
  - (b) otherwise make the plan in such a manner as to be inconsistent with any recommendation made by the Office,

then the chief executive shall inform the Office accordingly in writing, which notice shall state reasons for the decision of the planning authority.

- (7) Where paragraph (a) or (b) of subsection (6) applies, the Office shall consider whether or not the development plan as made, or the variation of it, by the planning authority is, in the Office's opinion, consistent with any recommendations made by the Office.
- (8) Where subsequent to any consideration for the purposes of subsection (7), the Office is of the opinion that—
- (a) the development plan or the variation of it, as the case may be, has not been made in a manner consistent with the recommendations of the Office,
  - (b) that the decision of the planning authority concerned results in the making of a development plan, or its variation, in a manner that fails to set out an overall strategy for the proper planning and sustainable development of the area concerned, and
  - (c) as a consequence of paragraphs (a) and (b), the use by the Minister of his or her functions to issue a direction under section 31 would be merited,

then the Office shall issue, no later than 4 weeks after the development

plan or the variation to the development plan is made, a notice to the Minister containing—

- (i) recommendations that the Minister exercise his or her function to take such steps as to rectify the matter in a manner that, in the opinion of the Office, will ensure that the development plan, or the development plan as varied by the planning authority, sets out an overall strategy for proper planning and sustainable development, and
  - (ii) a proposed draft of a direction to which paragraph (c) would relate.
- (9) A copy of the notice issued to the Minister under subsection (8) shall be made available by the Office on its website.

### **Consequential provisions to section 31AM**

**31AN.** (1) The Minister shall consider the recommendations of the Office in the notice issued under section 31AM and—

- (a) where the Minister agrees with that notice, then the Minister shall proceed, pursuant to section 31, to issue a notice for the purposes of subsections (3) and (4) of that section having taken account of the proposed draft direction submitted by the Office, or
  - (b) where the Minister does not so agree with the Office, then the Minister shall—
    - (i) prepare a statement in writing of his or her reasons for not agreeing,
    - (ii) cause that statement to be laid before each House of the Oireachtas, and
    - (iii) as soon as practicable, make that statement available on the website of the Department of Housing, Planning and Local Government.
- (2) As soon as practicable after a statement has been prepared under subsection (1)(b), the Minister shall cause a copy of it to be sent to the Office and to the planning authority concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.
- (3) Where the Minister issues a notice under section 31 for the purposes of subsections (3) and (4) of that section—
- (a) the notice shall specify that the report of the chief executive on the submissions on the draft direction shall be made to the Office, and
  - (b) the chief executive shall act accordingly.
- (4) The Office shall consider the report of the chief executive on the submissions, together with any submission made under section 31(10), and shall recommend to the Minister that he or she issue the direction

with or without minor amendments or where the Office is of the opinion that—

- (a) a material amendment to the draft direction may be required,
- (b) further investigation is necessary in order to clarify any aspect of the report furnished or submissions made, or
- (c) it is necessary for any other reason,

then the Office may, for stated reasons, appoint a person to be an inspector no later than 3 weeks after the date of receipt of the chief executive's report.

- (5) An inspector appointed under subsection (4) shall—
  - (a) be a person who, in the opinion of the Office, has satisfactory experience and competence to perform the functions required of him or her under this section, and
  - (b) be independent in the performance of those functions.
- (6) The inspector—
  - (a) shall review the draft direction, the report of the chief executive furnished and any submissions made,
  - (b) shall consult with the chief executive and elected members of the planning authority,
  - (c) may consult with the regional assembly and persons who made submissions, and
  - (d) shall no later than 3 weeks after he or she was appointed, furnish a report containing recommendations to the Office.
- (7) Copies of the report of the inspector under subsection (6) shall—
  - (a) be furnished without delay by the Office to the chief executive and, where relevant, to the regional assembly, and
  - (b) be made available electronically, in such manner as the Office considers appropriate in the circumstances, to persons who made submissions.
- (8) Any person to whom a copy of the report of the inspector has been furnished or made available may make a submission to the Office in relation to any matter referred to in the report no later than 10 days after—
  - (a) where subsection (7)(a) applies, the report was furnished to him or her, or
  - (b) where subsection (7)(b) applies, the report was made available to him or her.

- (9) No later than 3 weeks (or as soon as may be during such period extending that 3 week period as the Office may decide) after receipt of the report of the inspector, or of any submissions made to him or her, the Office, having considered the report, recommendations or submissions, as the case may be, shall recommend to the Minister for stated reasons—
- (a) to issue the direction,
  - (b) not to issue the direction, or
  - (c) to issue the direction, which has been amended by the Office to take account of any of the following matters as the Office considers appropriate:
    - (i) recommendations contained in the report of the inspector;
    - (ii) any submissions made,
- and, where paragraph (a) or (c) applies and the Minister agrees with the recommendation, then he or she shall, subject to subsection (16) issue the direction under section 31 with or without minor amendments.
- (10) A copy of the recommendations to the Minister under subsection (9), the report of the inspector and any submissions made shall be made available on the website of the Office and be sent to the relevant planning authority.
- (11) From the adoption of a development plan—
- (a) such provisions as—
    - (i) are required to be included in a development plan by virtue of a direction issued by the Minister under section 31, and
    - (ii) are not so included,shall be deemed to be included in that development plan, and
  - (b) such provisions of the development plan as do not comply with a direction so issued shall be deemed not to be included in that development plan.
- (12) The Minister shall cause a copy of a direction issued to be laid before each House of the Oireachtas.
- (13) As soon as may be after a direction is issued to a planning authority under this section, the planning authority shall make the direction so issued available to members of the public, during normal office hours of the authority, at the offices of the authority, and may also make the direction available by placing it on the website of the planning authority or otherwise in electronic form.
- (14) A copy of the direction issued by the Minister under section 31 shall

be copied to the Office and made available on its website.

- (15) The Minister shall publish a copy of the direction issued under section 31 on the website of the Department of Housing, Planning and Local Government.
- (16) (a) Where the giving of a direction by the Minister in accordance with subsection (9) would require the making of a material alteration to a development plan, the Minister shall, not later than 3 weeks after the making of the recommendation by the Office under that subsection—
- (i) publish a notice of the material alteration that would be so required in at least one newspaper circulating in the administrative area of the local authority that prepared the development plan, and
  - (ii) send a copy of that notice to the planning authority concerned, the regional assembly concerned, the Office, the Board and the prescribed authorities.
- (b) The Minister shall, before giving a direction in accordance with subsection (9), determine—
- (i) whether or not a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a development plan that would be required in order to comply with the direction, and
  - (ii) where he or she determines that a strategic environmental assessment or an appropriate assessment is so required, the period that it would take to carry out such strategic environmental assessment or appropriate assessment.
- (c) Where the Minister makes a determination under paragraph (b) that a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a development plan that would be required in order to comply with the direction, he or she shall publish a notice of that determination in at least one newspaper circulating in the administrative area of the local authority that prepared the development plan concerned.
- (d) A copy of the determination under paragraph (b) and a copy of the proposed material alteration to the development plan concerned shall, for a period of not less than 4 weeks from the date of the determination, be made available for inspection—
- (i) by members of the public at such place and at such times as are specified in the notice referred to in paragraph (c), and
  - (ii) on the internet website of the Minister and the internet website of the planning authority concerned.

- (e) A notice to which paragraph (c) applies shall—
  - (i) state that a determination under paragraph (b) has been made for the purposes of giving a direction in accordance with subsection (9),
  - (ii) specify the place at which and times during which copies of the determination under paragraph (b) and the proposed material alteration to the development plan concerned will be made available for inspection by members of the public,
  - (iii) state that such copies will be available for inspection on the internet website of the Minister and the internet website of the planning authority concerned,
  - (iv) invite written submissions or observations with respect to the proposed material alteration or a strategic environmental assessment or appropriate assessment required to be carried out by virtue of the said determination to be made to the Minister before the expiration of such period as specified in the notice, and
  - (v) that any such submissions or observations shall be taken into account by the Minister in giving a direction in accordance with subsection (9).
- (f) The Minister shall carry out a strategic environmental assessment, appropriate assessment, or both, of the proposed material alteration of the development plan within the period determined by the Minister in accordance with paragraph (b).
- (g) The Minister shall, not later than 8 weeks after the publication of a notice under paragraph (c), prepare a report on any submissions or observations received in accordance with that notice.
- (h) A report under paragraph (g) shall—
  - (i) specify the persons who made submissions or observations in accordance with the notice under paragraph (c),
  - (ii) provide a summary of those submissions and observations, and
  - (iii) set out the response of the Minister to those submissions and observations.
- (i) The Minister shall, in setting out his or her response to submissions or observations in accordance with the notice under paragraph (c), take account of the following:
  - (i) the proper planning and sustainable development of the area to which the proposed development plan is intended to apply,
  - (ii) the duties under statute of the local authority within whose administrative area the proposed development plan is intended

to apply,

- (iii) the necessity of ensuring that the proposed development plan will be consistent with—
  - (I) the national and regional development objectives set out in the National Planning Framework and the regional spatial and economic strategy,
  - (II) specific planning policy requirements specified in guidelines under section 28(1), and
  - (III) policies or objectives for the time being of the Government or of any Minister of the Government.

### **Evaluation and assessment by Office of matters relating to local area plans**

**31AO.** (1) The Office shall evaluate and assess, at least at a strategic level—

- (a) a notice given under subsection (3)(a)(i) of section 20 by a planning authority to that Office of a proposal to make, amend or revoke a local area plan for the purposes of that section,
- (b) a notice sent to that Office under subsection (3)(e) of section 20 by a planning authority relating to a material alteration to a local area plan (including, where sent, a copy of the proposed material alteration) for the purposes of that section,

and the Office may make such submissions or observations, recommendations or reports as provided for by the relevant provision.

- (2) In assessing and evaluating any requirement to which subsection (1) relates, the Office shall endeavour to ensure that, where appropriate, it addresses the legislative and policy matters relating to the following:
  - (a) matters generally within the scope of section 19;
  - (b) consistency with the objectives of the relevant development plan, its core strategy, any regional spatial and economic strategy that applies to the area and the transport strategy of the National Transport Authority;
  - (c) relevant guidelines for planning authorities made under section 28;
  - (d) policy directives issued under section 29;
  - (e) such other matters as the Minister may prescribe under section 262 or otherwise prescribe.
- (3) In making observations or submissions for the purposes of the provisions referred to in subsection (1), or observations or submissions in respect of any evaluation or assessment to which subsection (2) relates, the Office shall—
  - (a) make to the relevant planning authority such recommendations in relation to the Office's evaluation and assessments as it considers

necessary to ensure effective co-ordination of national, regional and local planning requirements by the relevant planning authority in the discharge of its development planning functions, and

- (b) send to the Minister a copy of any such observations or submissions, together with any recommendations made.
- (4) The report of the chief executive of the planning authority prepared for the elected members under section 20, in respect of the preparation, amendment or revocation of a local area plan, shall—
- (a) summarise the issues raised in the submissions or observations, including recommendations, made by the Office in relation to the Office's evaluation and assessments under subsection (1),
  - (b) outline the recommendations of the chief executive in relation to the manner in which those issues and recommendations should be addressed, taking account of the proper planning and sustainable development of the area, and
  - (c) make the report available on the website of the planning authority following the decision of the elected members.
- (5) A planning authority shall notify the Office within 5 working days of the making of a local area plan or an amendment to a local area plan and send a copy of the written statement and maps as made and where the planning authority—
- (a) decides not to comply with any recommendations made in the relevant report of the Office, or
  - (b) otherwise make the plan in such a manner as to be inconsistent with any recommendation made by the Office,
- then the chief executive shall inform the Office accordingly in writing, which notice shall state reasons for the decision of the planning authority.
- (6) Where paragraph (a) or (b) of subsection (5) applies, the Office shall consider whether or not the local area plan as made, amended or revoked by the planning authority is, in the opinion of the Office, consistent with any recommendations made by the Office.
- (7) Where subsequent to any consideration for the purposes of subsection (6), the Office is of the opinion that—
- (a) the local area plan has not been made, amended or revoked, as the case may be, in a manner consistent with the recommendations of the Office,
  - (b) that the decision of the planning authority concerned results in the making of a local area plan, or its amendment or revocation, as the case may be, in a manner that is inconsistent with the development

plan of the area concerned, and

- (c) as a consequence of paragraphs (a) and (b), the use by the Minister of his or her functions to issue a direction under section 31 would be merited,

then the Office shall issue, no later than 4 weeks after the local area plan has been made, amended or revoked, as the case may be, a notice to the Minister containing—

- (i) recommendations that the Minister exercise his or her function to take such steps as to rectify the matter in a manner that, in the opinion of the Office, will ensure that the local area plan, or the local area plan as varied by the planning authority, sets out an overall strategy for proper planning and sustainable development, and
- (ii) a proposed draft of a direction to which paragraph (c) would relate.
- (8) A copy of the notice issued to the Minister under subsection (7) shall be made available by the Office on its website.

#### **Consequential provisions to section 31AO**

**31AP.** (1) The Minister shall consider the recommendations of the Office in the notice issued under section 31AO, and—

- (a) where the Minister agrees with that notice then the Minister shall proceed, pursuant to section 31, to issue a notice for the purposes of subsections (3) and (4) of that section having taken account of the proposed draft direction submitted by the Office, or
- (b) where the Minister does not so agree with the Office, then the Minister shall—
- (i) prepare a statement in writing of his or her reasons for not agreeing,
- (ii) cause that statement to be laid before each House of the Oireachtas, and
- (iii) as soon as practicable, make that statement available on the website of the Department of Housing, Planning and Local Government.
- (2) As soon as practicable after a statement has been prepared under subsection (1)(b), the Minister shall cause a copy of it to be sent to the Office and to the planning authority concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.
- (3) Where the Minister issues a notice under section 31 for the purposes of subsections (3) and (4) of that section—
- (a) the notice shall specify that the chief executive's report on the

submissions on the draft direction shall be made to the Office, and

(b) the chief executive shall act accordingly.

(4) The Office shall consider the chief executive's report on the submissions, together with any submission made under section 31(10), and shall recommend to the Minister that he or she issue the direction with or without minor amendments or where the Office is of the opinion that—

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

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

(c) it is necessary for any other reason,

then the Office may, for stated reasons, appoint a person to be an inspector no later than 3 weeks after the date of receipt of the report of the chief executive.

(5) An inspector appointed under subsection (4) shall—

(a) be a person who, in the opinion of the Office, has satisfactory experience and competence to perform the functions required of him or her under this section, and

(b) be independent in the performance of those functions.

(6) The inspector—

(a) shall review the draft direction, the report of the chief executive furnished and any submissions made,

(b) shall consult with the chief executive and elected members of the planning authority,

(c) may consult with the regional assembly and persons who made submissions, and

(d) shall no later than 3 weeks after he or she was appointed, furnish a report containing recommendations to the Office.

(7) Copies of the report of the inspector under subsection (6) shall—

(a) without delay be furnished by the Office to the chief executive and, where relevant, to the regional assembly, and

(b) be made available electronically, in such manner as the Office considers appropriate in the circumstances, to persons who made submissions.

(8) Any person to whom a copy of the report of the inspector has been furnished or made available may make a submission to the Office in relation to any matter referred to in the report no later than 10 days after—

- (a) where subsection (7)(a) applies, the report was furnished to him or her, or
  - (b) where subsection (7)(b) applies, the report was made available to him or her.
- (9) No later than 3 weeks (or as soon as may be during such period extending that 3 week period as the Office may decide) after receipt of the report of the inspector, or of any submissions made to him or her, the Office, having considered the report, recommendations or submissions, as the case may be, shall recommend to the Minister for stated reasons—
- (a) to issue the direction,
  - (b) not to issue the direction, or
  - (c) to issue the direction, which has been amended by the Office to take account of any of the following matters as the Office considers appropriate:
    - (i) recommendations contained in the report of the inspector;
    - (ii) any submissions made,
- and, where paragraph (a) or (c) applies and the Minister agrees with the recommendation, then he or she shall, subject to subsection (16) issue the direction under section 31 with or without minor amendments.
- (10) A copy of the recommendations to the Minister under subsection (9), the report of the inspector and any submissions made shall be made available on the website of the Office and be sent to the relevant planning authority.
- (11) From the adoption of a local area plan—
- (a) such provisions as—
    - (i) are required to be included in the local area plan by virtue of a direction issued by the Minister under section 31, and
    - (ii) are not so included,shall be deemed to be included in that local area plan, and
  - (b) such provisions of the local area plan as do not comply with a direction so issued shall be deemed not to be included in that local area plan.
- (12) The Minister shall cause a copy of a direction issued to be laid before each House of the Oireachtas.
- (13) As soon as may be after a direction is issued to a planning authority under this section, the planning authority shall make the direction so

issued available to members of the public, during normal office hours of the authority, at the offices of the authority, and may also make the direction available by placing it on the authority's website or otherwise in electronic form.

- (14) A copy of the direction issued by the Minister under section 31 shall be copied to the Office and made available on its website.
- (15) The Minister shall publish a copy of the direction issued under section 31 on the website of the Department of Housing, Planning and Local Government.
- (16) (a) Where the giving of a direction by the Minister in accordance with subsection (9) would require the making of a material alteration to a local area plan, the Minister shall, not later than 3 weeks after the making of the recommendation by the Office under that subsection—
  - (i) publish a notice of the material alteration that would be so required in at least one newspaper circulating in the administrative area of the local authority that prepared the local area plan, and
  - (ii) send a copy of that notice to the planning authority concerned, the regional assembly, the Office, the Board and the prescribed authorities.
- (b) The Minister shall, before giving a direction in accordance with subsection (9), determine—
  - (i) whether or not a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a local area plan that would be required in order to comply with the direction, and
  - (ii) where he or she determines that a strategic environmental assessment or an appropriate assessment is so required, the period that it would take to carry out such strategic environmental assessment or appropriate assessment.
- (c) Where the Minister makes a determination under paragraph (b) that a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a local area plan that would be required in order to comply with the direction, he or she shall publish a notice of that determination in at least one newspaper circulating in the administrative area of the local authority that prepared the local area plan concerned.
- (d) A copy of the determination under paragraph (b) and a copy of the proposed material alteration to the local area plan concerned shall, for a period of not less than 4 weeks from the date of the determination, be made available for inspection—

- (i) by members of the public at such place and at such times as are specified in the notice referred to in paragraph (c), and
  - (ii) on the internet website of the Minister and the internet website of the planning authority concerned.
- (e) A notice to which paragraph (c) applies shall—
- (i) state that a determination under paragraph (b) has been made for the purposes of giving a direction in accordance with subsection (9),
  - (ii) specify the place at which and times during which copies of the determination under paragraph (b) and the proposed material alteration to the local area plan concerned will be made available for inspection by members of the public,
  - (iii) state that such copies will be available for inspection on the internet website of the Minister and the internet website of the planning authority concerned,
  - (iv) invite written submissions or observations with respect to the proposed material alteration or a strategic environmental assessment or appropriate assessment required to be carried out by virtue of the said determination to be made to the Minister before the expiration of such period as specified in the notice, and
  - (v) that any such submissions or observations shall be taken into account by the Minister in giving a direction in accordance with subsection (9).
- (f) The Minister shall carry out a strategic environmental assessment, appropriate assessment, or both, of the proposed material alteration of the local area plan within the period determined by the Minister in accordance with paragraph (b).
- (g) The Minister shall, not later than 8 weeks after the publication of a notice under paragraph (c), prepare a report on any submissions or observations received in accordance with that notice.
- (h) A report under paragraph (g) shall—
- (i) specify the persons who made submissions or observations in accordance with the notice under paragraph (c),
  - (ii) provide a summary of those submissions and observations, and
  - (iii) set out the response of the Minister to those submissions and observations.
- (i) The Minister shall, in setting out his or her response to submissions or observations in accordance with the notice under paragraph (c), take account of the following:

- (i) the proper planning and sustainable development of the area to which the proposed local area plan is intended to apply,
- (ii) the duties under statute of the local authority within whose administrative area the proposed local area plan is intended to apply,
- (iii) the necessity of ensuring that the proposed local area plan will be consistent with—
  - (I) the national and regional development objectives set out in the National Planning Framework and the regional spatial and economic strategy,
  - (II) specific planning policy requirements specified in guidelines under section 28(1), and
  - (III) policies or objectives for the time being of the Government or of any Minister of the Government.

**Evaluation and assessment by Office of matters relating to regional spatial and economic strategies**

**31AQ.** (1) The Office shall evaluate and assess, at a strategic level—

- (a) a notice given under subsection (2) of section 24 by a regional assembly to that Office for the purposes of that section of the intention of the regional assembly to make a regional spatial and economic strategy,
- (b) a notice and a copy of the draft of the regional spatial and economic strategy sent to the Office under subsection (4)(a) of section 24 by the regional assembly concerned for the purpose of that section,

and the Office may make such submissions or observations as provided for by section 24.

- (2) In assessing and evaluating any requirement to which subsection (1) relates, the Office shall endeavour to ensure that, where appropriate, it addresses the legislative and policy matters relating to the following:
  - (a) matters generally within the scope of section 23 and, in particular, subsection (2)(c)(viii) of that section in relation to climate change;
  - (b) consistency with the regional spatial and economic strategies and the National Planning Framework (or, where appropriate, the National Spatial Strategy) and the long-term strategic planning framework for the development of the region or regions, as the case may be, in respect of which they are made, in accordance with the principles of proper planning and sustainable development;
  - (c) relevant guidelines for planning authorities made under section 28;
  - (d) policy directives issued under section 29;

- (e) in respect of a regional assembly or local authorities to which the Greater Dublin Area (GDA) relates, consistency with regional spatial and economic strategies and the transport strategy of the National Transport Authority;
  - (f) such other matters as the Minister may prescribe under section 262 or otherwise prescribe.
- (3) In making observations or submissions for the purposes of the provisions referred to in subsection (1), or observations or submissions in respect of any evaluation or assessment to which subsection (2) relates, the Office shall—
- (a) make observations and recommendations to the regional assembly concerned in relation to the Office's evaluation and assessments as it considers necessary to ensure effective co-ordination of national, regional and local planning requirements by the relevant regional assembly, and
  - (b) send to the Minister a copy of any such observations or submissions, together with any recommendations made.
- (4) The report of the director of the regional assembly prepared for the members of the regional assembly under Chapter III of Part II shall, in so far as it relates to the preparation of the draft regional spatial and economic strategy—
- (a) summarise the issues raised in the submissions or observations, including recommendations, made by the Office in relation to the Office's evaluation and assessments under subsection (1),
  - (b) outline the recommendations of the director of the regional assembly in relation to the manner in which those issues and recommendations should be addressed, taking account of—
    - (i) the National Planning Framework (or, where appropriate, the National Spatial Strategy) and the long-term strategic planning framework for the development of the region or regions, as the case may be, in respect of which it is made, and
    - (ii) the principles of proper planning and sustainable development, and
  - (c) make the report available on the website of the regional assembly.
- (5) A regional assembly shall notify the Office within 5 working days of the making of a regional spatial and economic strategy and send a copy of the strategy where the regional assembly—
- (a) decides not to comply with any recommendations made in the relevant report of the Office, or
  - (b) otherwise make the strategy in such a manner as to be inconsistent

with any recommendations made by the Office,

then the director of the regional assembly shall inform the Office accordingly in writing, which notice shall state the reasons for the decision of the regional assembly.

- (6) Where paragraph (a) or (b) of subsection (5) applies, the Office shall consider whether or not the strategy as made by the regional assembly is, in its opinion, consistent with any recommendations made by the Office.
- (7) Where subsequent to any consideration for the purposes of subsection (6), the Office is of the opinion that—
- (a) the regional and spatial economic strategy has not been made in a manner consistent with the recommendations of the Office,
  - (b) that the decision of the regional assembly concerned results in the making of a regional spatial and economic strategy that is inconsistent with the National Planning Framework (or, where appropriate, the National Spatial Strategy) and the long-term strategic planning framework for the development of the region or regions, as the case may be, in respect of which it is made, and not in accordance with the principles of proper planning and sustainable development, and
  - (c) as a consequence of paragraphs (a) and (b), the use by the Minister of his or her functions under section 31 would be merited,
- then the Office shall issue, no later than 4 weeks after the regional spatial and economic strategy is made, a notice to the Minister containing—
- (i) recommendations that the Minister exercise his or her function to take such steps as to rectify the matter in a manner that, in the opinion of the Office, will ensure the strategy is made consistent with—
    - (I) the National Planning Framework (or, where appropriate, the National Spatial Strategy), and
    - (II) the long-term strategic planning framework for the development of the region or regions, as the case may be, in respect of which it is made,and is in accordance with the principles of proper planning and sustainable development, and
  - (ii) a proposed draft of a direction to which paragraph (c) would relate.
- (8) A copy of the notice issued to the Minister under subsection (7) shall be made available by the Office on its website.

**Consequential provisions to section 31AQ**

**31AR.** (1) The Minister shall consider the recommendations of the Office in the notice under section 31AQ and—

- (a) where the Minister agrees with the opinion of the Office as expressed in the notice issued under section 31AQ(7), then the Minister shall proceed, pursuant to section 31A, to issue a notice for the purposes of subsections (3) and (4) of that section, or
  - (b) where the Minister does not so agree with the Office, then the Minister shall—
    - (i) prepare a statement in writing of his or her reasons for not agreeing,
    - (ii) cause that statement to be laid before each House of the Oireachtas,
    - (iii) as soon as practicable, make that statement available on the website of the Department of Housing, Planning, and Local Government.
- (2) As soon as practicable after a statement has been prepared under subsection (1)(b), the Minister shall cause a copy of it to be sent to the Office and to the regional assembly concerned and the Office and that regional assembly shall, as soon as practicable thereafter, make it available on their respective websites.
- (3) Where the Minister issues a notice under section 31A for the purposes of subsection (3) or (4) of that section—
- (a) the notice shall specify that the report of the director of the regional assembly concerned on the submissions on the draft direction shall be made to the Office, and
  - (b) the director of the regional assembly shall act accordingly.
- (4) The Office shall consider the report of the director of the regional assembly concerned on the submissions, together with any submission made under section 31A(10) and shall recommend to the Minister that he or she issue the direction with or without minor amendments or where the Office believes that—
- (a) a material amendment to the draft direction may be required,
  - (b) further investigation is necessary in order to clarify any aspect of the report furnished or submissions made, or
  - (c) it is necessary for any other reason,
- then the Office may, for stated reasons, appoint a person to be an inspector no later than 3 weeks after the date of receipt of the director's report.

- (5) The inspector appointed, under subsection (4), shall—
- (a) be a person who, in the opinion of the Office, has satisfactory experience and competence to perform the functions required of him or her under this section, and
  - (b) be independent in the performance of those functions.
- (6) The inspector—
- (a) shall review the draft direction, the report of the director of the regional assembly furnished and any submissions made,
  - (b) shall consult with the director and members of the regional assembly,
  - (c) any persons who made submissions, and
  - (d) shall no later than 3 weeks after he or she was appointed, furnish a report containing recommendations to the Office.
- (7) Copies of the report of the inspector under subsection (6) shall—
- (a) be furnished without delay by the Office to the director of the regional assembly concerned, and
  - (b) be made available electronically, in such manner as the Office considers appropriate in the circumstances, to persons who made submissions.
- (8) Any person to whom a copy of the report of the inspector has been furnished or made available may make a submission to the Office in relation to any matter referred to in the report no later than 10 days after—
- (a) where subsection (7)(a) applies, the report was furnished to him or her, or
  - (b) where subsection (7)(b) applies, the report was made available to him or her.
- (9) No later than 3 weeks (or as soon as may be during such period extending that 3 week period as the Office may decide) after receipt of the report of the inspector, or of any submissions made to him or her, the Office, having considered the report, recommendations or submissions, as the case may be, shall recommend to the Minister for stated reasons—
- (a) to issue the direction,
  - (b) not to issue the direction, or
  - (c) to issue the direction, which has been amended by the Office to take account of any of the following matters as the Office considers appropriate:

- (i) recommendations contained in the report of the inspector;
  - (ii) any submissions made,
- and, where paragraph (a) or (c) applies and the Minister agrees with the recommendation, then he or she shall, subject to subsection (16) issue the direction under section 31A with or without minor amendments.
- (10) A copy of the recommendations issued to the Minister under subsection (9), the report of the inspector and any submissions made shall be made available on the website of the Office and be sent to the relevant regional assembly.
- (11) From the adoption of a regional spatial and economic strategy—
- (a) such provisions as—
    - (i) are required to be included in the regional spatial and economic strategy by virtue of a direction issued by the Minister under section 31A, and
    - (ii) are not so included,shall be deemed to be included in that regional spatial and economic strategy, and
  - (b) such provisions of the regional spatial and economic strategy as do not comply with a direction so issued shall be deemed not to be included in that regional spatial and economic strategy.
- (12) The Minister shall cause a copy of a direction issued to be laid before each House of the Oireachtas.
- (13) As soon as may be after a direction is issued to a regional assembly under this section, the regional assembly shall make the direction so issued available by placing it on the website of the assembly.
- (14) A copy of the direction issued by the Minister under section 31A shall be copied to the Office and made available on its website.
- (15) The Minister shall publish a copy of the direction issued under section 31A on the website of the Department of Housing, Planning and Local Government.
- (16) (a) Where the giving of a direction by the Minister in accordance with subsection (9) would require the making of a material alteration to a regional spatial and economic strategy, the Minister shall, not later than 3 weeks after the making of the recommendation by the Office under that subsection—
- (i) publish a notice of the material alteration that would be so required in at least one newspaper circulating in the administrative areas of the local authorities to which the

- regional spatial and economic strategy applies, and
- (ii) send a copy of that notice to the planning authorities concerned, the regional assembly concerned, the Office, the Board and the prescribed authorities.
- (b) The Minister shall, before giving a direction in accordance with subsection (9), determine—
- (i) whether or not a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a regional spatial and economic strategy that would be required in order to comply with the direction, and
  - (ii) where he or she determines that a strategic environmental assessment or an appropriate assessment is so required, the period that it would take to carry out such strategic environmental assessment or appropriate assessment.
- (c) Where the Minister makes a determination under paragraph (b) that a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a regional spatial and economic strategy that would be required in order to comply with the direction, he or she shall publish a notice of that determination in at least one newspaper circulating in the administrative areas of the local authorities to which the proposed regional spatial and economic strategy is intended to apply.
- (d) A copy of the determination under paragraph (b) and a copy of the proposed material alteration to the regional spatial and economic strategy concerned shall, for a period of not less than 4 weeks from the date of the determination, be made available for inspection—
- (i) by members of the public at such place and at such times as are specified in the notice referred to in paragraph (c), and
  - (ii) on the internet website of the Minister, the internet website of the regional assembly concerned and the internet websites of the planning authorities to which the proposed regional spatial and economic strategy concerned is intended to apply.
- (e) A notice to which paragraph (c) applies shall—
- (i) state that a determination under paragraph (b) has been made for the purposes of giving direction in accordance with subsection (9),
  - (ii) specify the place at which and times during which copies of the determination under paragraph (b) and the proposed material alteration to the regional spatial and economic strategy concerned will be made available for inspection by members of

- the public,
- (iii) state that such copies will be available for inspection on the internet website of the Minister and the internet website of the planning authorities to which the proposed regional spatial and economic strategy concerned is intended to apply,
  - (iv) invite written submissions or observations with respect to the proposed material alteration or a strategic environmental assessment or appropriate assessment required to be carried out by virtue of the said determination to be made to the Minister before the expiration of such period as specified in the notice, and
  - (v) that any such submissions or observations shall be taken into account by the Minister in giving a direction in accordance with subsection (9).
- (f) The Minister shall carry out a strategic environmental assessment, appropriate assessment, or both, of the proposed material alteration of the regional spatial and economic strategy within the period determined by the Minister in accordance with paragraph (b).
- (g) The Minister shall, not later than 8 weeks after the publication of a notice under paragraph (c), prepare a report on any submissions or observations received in accordance with that notice.
- (h) A report under paragraph (h) shall—
- (i) specify the persons who made submissions or observations in accordance with the notice under paragraph (c),
  - (ii) provide a summary of those submissions and observations, and
  - (iii) set out the response of the Minister to those submissions and observations.
- (i) The Minister shall, in setting out his or her response to submissions or observations in accordance with the notice under paragraph (c), take account of the following:
- (i) the proper planning and sustainable development of the administrative areas of the local authorities to which the proposed regional spatial and economic strategy is intended to apply,
  - (ii) the duties under statute of the local authorities within whose administrative areas the proposed regional spatial and economic strategy is intended to apply,
  - (iii) the necessity of ensuring that the proposed regional spatial and economic strategy will be consistent with—
    - (I) the national and regional development objectives set out in

the National Planning Framework,

- (II) specific planning policy requirements specified in guidelines under section 28(1), and
- (III) policies or objectives for the time being of the Government or of any Minister of the Government.

#### CHAPTER IV

##### REVIEW OF PLANNING FUNCTIONS

#### **Review at instigation of Office**

**31AS.** (1) Where the Office considers it necessary or appropriate in the circumstances, the Office may conduct a review of a planning authority or the Board in respect of the systems and procedures used by such authority or the Board in relation to the performance of its functions under this Act.

- (2) An authorised person may be appointed under section 31AW for the purposes of a review under this section.
- (3) Where a review under this section is being conducted and, before it is completed, a request is made by the Minister to the Office under section 31AT to conduct a review under that section and such a review would include the matters to which the review under this section relates, then, where appropriate—
  - (a) any steps taken by the Office for the purpose of the review under this section may be regarded as steps taken for the purposes of the request of the Minister under section 31AT,
  - (b) the appointment by virtue of subsection (2) of an authorised person may be deemed to be an appointment under section 31AW for the purposes of a review under section 31AT, and
  - (c) it shall not be necessary to complete the review under this section.
- (4) Where a review conducted for the purposes of this section is completed, then the Office shall send a draft of the proposed report on the review together with any recommendations it makes to the planning authority concerned, the Board and the Minister, as appropriate.
- (5) Within such period of time as the Office shall specify, having regard to the nature, size and complexity of a draft report and any issue of urgency associated with its finalisation, the planning authority concerned, the Board or the Minister, as the case may be, may make submissions or observations to the Office on the draft report.
- (6) The Office shall review any submissions or observations made for the purposes of subsection (5) before finalising the report, including any recommendations, and the Office—

- (a) shall send a copy of the report to any person to whom the draft report was sent under subsection (4),
  - (b) shall publish, or cause to be published, the report on the Office's website, and
  - (c) may send a copy of the report to such other persons as it considers appropriate in the circumstances.
- (7) A recommendation by the Office relating to a planning authority, which is included in a draft of a proposed report under subsection (4) or in a report under subsection (6), may, where appropriate and without prejudice to making any other recommendation, include a recommendation that the Minister consider exercising his or her functions under any of the following:
- (a) section 28 to issue guidelines;
  - (b) section 29 to issue policy directives;
  - (c) subsection (2) of section 255 to give a directive under that subsection;
  - (d) subsection (4) of section 255 to appoint a commissioner to carry out and have full responsibility for all or any one or more of the functions of the planning authority concerned.

**Review by Office at instigation of Minister**

**31AT.** (1) Where the Minister has formed the opinion that a planning authority—

- (a) may not be carrying out its functions in accordance with the requirements of or under this Act,
- (b) is not in compliance with guidelines issued under section 28, a policy directive issued under section 29, a direction issued under section 31 or a directive issued under section 255(2),
- (c) may not be exercising its enforcement functions under Part VIII appropriately to ensure compliance in its administrative area with the *Planning and Development Acts 2000 to 2018*, including enforcement consequent on the issue to it of any policy directive under section 29 for the purpose of such compliance,
- (d) may be applying inappropriate standards of administrative practice or otherwise acting contrary to fair or sound administration in the conduct of its functions,
- (e) may be applying systemic discrimination in the conduct of its functions,
- (f) may be operating in a manner whereby there is impropriety or risks of corruption in the conduct of its functions, or
- (g) may be operating in a manner whereby there are serious

diseconomies or inefficiencies in the conduct of its functions,

then the Minister may request the Office to conduct a review of the organisation and the systems and procedures used in relation to the performance of functions under this Act by—

- (i) the planning authority concerned, or
  - (ii) where relevant, the planning authority concerned and, in so far as it relates to that authority, the Board.
- (2) Where a request has been made by the Minister to the Office under subsection (1), the Office shall conduct a review under this Chapter and, for that purpose, an authorised person may be appointed under section 31AW.
  - (3) Where a review conducted for the purposes of this section is completed, then the Office shall send a draft of the proposed report on the review together with any recommendations it makes to the planning authority concerned, the Board and the Minister, as appropriate.
  - (4) Within such period of time as the Office shall specify, having regard to the nature, size and complexity of a draft report and any issue of urgency associated with its finalisation, the planning authority concerned, the Board or the Minister, as the case may be, may make submissions or observations to the Office on the draft report.
  - (5) The Office shall review any submissions or observations made for the purposes of subsection (4) before finalising the report, including any recommendations, and the Office—
    - (a) shall send a copy of the report to any person to whom the draft report was sent under subsection (4),
    - (b) shall publish, or cause to be published, the report on the Office's website, and
    - (c) may send a copy of the report to such other persons as it considers appropriate to send it to in the circumstances.
  - (6) A recommendation by the Office relating to a planning authority, which is included in a draft of a proposed report under subsection (3) or in a report under subsection (5), may, where appropriate and without prejudice to making any other recommendation, include a recommendation that the Minister consider exercising his or her functions under any of the following:
    - (a) section 28 to issue guidelines;
    - (b) section 29 to issue policy directives;
    - (c) subsection (2) of section 255 to give a directive under that subsection;

- (d) subsection (4) of section 255 to appoint a commissioner to carry out and have full responsibility for all or any one or more of the functions of the planning authority concerned.

**Complaint to Office in respect of planning authority**

**31AU.** (1) The Office may examine—

- (a) complaints made by any person to the Office, or
- (b) where requested by the Minister, complaints made by a person to the Minister,

in respect of a planning authority where such complaint relates to the organisation of the authority and of the systems and procedures used by it in relation to the performance of its functions under this Act.

- (2) Where in respect of a complaint to which subsection (1) relates the Office has formed the opinion, having carried out a preliminary examination of the complaint and having regard to any relevant information, records or documents available to it, that an examination into the complaint would be warranted and that the planning authority concerned—

- (a) may not be carrying out its functions in accordance with the requirements of or under this Act,
- (b) is not in compliance with guidelines issued under section 28, a directive issued under section 29, or a direction issued under section 31,
- (c) may be applying inappropriate standards of administrative practice or otherwise acting contrary to fair or sound administration in the conduct of its functions,
- (d) may be applying systemic discrimination in the conduct of its functions,
- (e) may be operating in a manner whereby there is impropriety or the risk of corruption in the conduct of its functions, or
- (f) may be operating in a manner whereby there are serious diseconomies or inefficiencies in the conduct of its functions,

then the Office shall decide to undertake an examination or to prepare a report on the preliminary examination (including any recommendations) and, where an examination is undertaken, prepare a report on the examination (including any recommendations) and, accordingly, the Office shall as it considers it appropriate in the circumstances—

- (i) submit the report concerned to the planning authority or the Minister or to both, or
- (ii) submit the report concerned or complaint, including any relevant

information, records or documents available to one or more of the following:

- (I) the Ombudsman;
  - (II) the Standards in Public Office Commission;
  - (III) the Garda Síochána;
  - (IV) such other State authority as may be prescribed.
- (3) A recommendation by the Office relating to a planning authority, which is included in a report under subsection (2) may include a recommendation that the Minister consider exercising his or her functions under any of the following:
- (a) section 28 to issue guidelines;
  - (b) section 29 to issue policy directives;
  - (c) subsection (2) of section 255 to give a directive under that subsection;
  - (d) subsection (4) of section 255 to appoint a commissioner to carry out and have full responsibility for all or any one or more of the functions of the planning authority concerned.
- (4) Where upon a preliminary examination of a complaint, the Office is of the opinion that a complaint received by it is not one to which subsection (1) relates, then it shall cease to examine it for the purposes of the other provisions of this section but may, if the Office considers it appropriate in the circumstances, refer it to, or refer the complainant to, the Minister or a body to which subsection (2)(ii) relates.
- (5) The Office may—
- (a) having carried out a preliminary examination of a complaint to which subsection (1) relates, decide not to carry out an examination under this section into any matter in respect of which a complaint is made, or
  - (b) decide not to conduct a preliminary examination, or to discontinue a preliminary examination, under this section into such matter if the Office forms the opinion that—
    - (i) the complaint cannot be substantiated or appears to the Office to be trivial or vexatious in nature,
    - (ii) the person making the complaint, or the person in respect of whom the complaint was made, does not appear to have any interest in the subject matter to which the complaint was made,
    - (iii) the person making the complaint has not taken reasonable steps to pursue the subject matter of the complaint with the planning authority concerned,

- (iv) the person making the complaint has not exhausted any appeal or review procedures open to him or her in respect of the subject matter of the complaint, or
  - (v) legal proceedings have been instituted in respect of the subject matter of the complaint.
- (6) Where the Office makes a decision under subsection (5) it shall in writing inform the person who made the complaint of the reasons for the Office's decision.
- (7) In determining whether to initiate, continue or discontinue a review or examination under this section, the Office of the Planning Regulator shall be subject to the provisions of this section.
- (8) An examination by the Office of the Planning Regulator shall not, of itself, affect the validity of the matter examined or any power or duty of the performance of the function of the planning authority or the Board under this Act to exercise further functions of the planning authority or the Board under this Act with respect to any matters the subject of the examination.
- (9) The Office shall not exercise any of its functions in relation to any particular case with which a planning authority or the Board is either involved or could be involved.

#### **Information and records to be made available to Office**

- 31AV.** (1) The Office as part of its review or examination may request from a planning authority or the Board access to such information, records or documents relating to the performance by the planning authority or the Board of its functions.
- (2) Where the Office conducts a review or examination, the planning authority or the Board shall co-operate and comply with any request of the Office in relation to all or any of the matters which are the subject of the review or examination.
- (3) It is the duty of each member of a planning authority or the Board, and each member of its staff, to co-operate with the Office.
- (4) A public body may, for the purposes of a review or examination under section 31AS, 31AT or 31AU, disclose information, records or documents (including personal data within the meaning of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>3</sup>) in its possession to the Office relating to matters that are the subject of that review or examination.
- (5) In this section—
- ‘company’ has the meaning assigned to it by the Companies Act 2014;
- ‘public body’ means—

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- (a) a Department of State,
- (b) the Office of the Comptroller and Auditor General,
- (c) the Office of the Ombudsman,
- (d) a local authority (within the meaning of the Local Government Act 1941),
- (e) a body (other than a company) established by or under statute,
- (f) a company established pursuant to a power conferred by or under an enactment, and financed wholly or partly by—
  - (i) moneys provided, or loans made or guaranteed, by a Minister of the Government, or
  - (ii) the issue of shares held by or on behalf of a Minister of the Government,
- or
- (g) a company, a majority of the shares in which are held by or on behalf of a Minister of the Government.

**Access to information (Part IIB)**

- 31AW.** (1) The Office may appoint any person (in this section referred to as an ‘authorised person’) to carry out a review or examination authorised by this Chapter.
- (2) The planning authority or the Board shall supply the authorised person with such information, records, or documents relating to the performance by the planning authority or the Board of its functions as the authorised person may from time to time request.
  - (3) An authorised person appointed for the purposes of this section, accompanied by such other persons as he or she considers appropriate in the circumstances, is entitled at all reasonable times to enter and inspect any land or premises or structure (other than a dwelling) which is owned, used, controlled or managed by a planning authority or the Board and shall be afforded every facility and co-operation by the planning authority (its chief executive and staff) or the Board including the giving of information which he or she reasonably requires and shall have access to all documents, records, or other information which he or she may reasonably require and shall be afforded facilities to make notes from, or to take copies of, any such documents or records.

**Offences (Part IIB)**

- 31AX.** (1) Any person who—
- (a) commits an offence under section 31AD, or
  - (b) obstructs or impedes or, without reasonable excuse, fails to comply

with a request of—

- (i) the Planning Regulator or a member of the staff of the Office, or
- (ii) an authorised person, including any other person to whom section 31AW(3) relates,

acting in the exercise of functions to which section 31AW(2) relates commits an offence,

and is liable on summary conviction to a Class C fine or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both.

- (2) Summary proceedings for an offence under this section may be brought and prosecuted by the Planning Regulator.”.

### PART 3

#### MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS TO PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

##### **Office of the Planning Regulator and amendments to Part II of Principal Act**

- 5. The provisions of Part II of the Principal Act referred to in *column (2)* of *Schedule 1* are amended in the manner referred to in *column (3)* of that Schedule opposite the reference in *column (2)* to the provision concerned.

##### **References to manager, etc., in Principal Act**

- 6. (1) References, however expressed, in the Principal Act to the manager of a local authority or the manager of a planning authority are amended to chief executive of a local authority or chief executive of a planning authority, as the case may be, and for that purpose the provisions of that Act referred to in *column (2)* of *Schedule 2* are amended in the manner referred to in *column (3)* of that Schedule opposite the reference in *column (2)* to the provision concerned.
- (2) The reference in section 147(13) of the Principal Act to “assistant manager” is amended in the manner set out in *Schedule 2*.

##### **Amendment of section 2 of Principal Act**

- 7. Subsection (1) of section 2 of the Principal Act is amended, in paragraph (b) of the definition of “strategic infrastructure development”, by substituting “subsection (3) or (6) of section 226” for “226(6)”.

##### **Amendment of section 4 of Principal Act**

- 8. Section 4 of the Principal Act is amended, in subsection (1), by substituting the following paragraph for paragraph (ia):

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

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

(II) works ancillary to such construction, maintenance or improvement;”.

#### **Amendment of section 7 of Principal Act**

9. Section 7 of the Principal Act is amended in subsection (2) by substituting the following for paragraph (e):

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

#### **Development plan to be consistent with specific planning policy requirements**

10. Section 10 of the Principal Act is amended—

(a) in subsection (1A), by inserting “and with specific planning policy requirements specified in guidelines under subsection (1) of section 28” after “regional spatial and economic strategy”, and

(b) in paragraph (a) of subsection (2A), by inserting “and with the specific planning policy requirements specified in guidelines under subsection (1) of section 28” after “regional spatial and economic strategy”.

#### **Amendment of section 10 of Principal Act**

11. Section 10 of the Principal Act is amended by deleting subsections (1B) and (1C).

#### **Amendment of section 11 of Principal Act**

12. Section 11 of the Principal Act is amended by substituting the following for subsection (1):

“(1) (a) Not later than 4 years after the making of a development plan, a planning authority shall, subject to paragraph (b), give notice of its intention to review its existing development plan and to prepare a new development plan for its area.

(b) For the purpose of enabling the incorporation of the National Planning Framework and a regional spatial and economic strategy

into a development plan—

- (i) where notice of a development plan review to be given in accordance with paragraph (a) is prior to the making of the relevant regional spatial and economic strategy, then notice of the review shall be deferred until not later than 13 weeks after the relevant regional spatial and economic strategy has been made,
- (ii) where a development plan review referred to in paragraph (a) has commenced and a draft plan has not been submitted to the members of the planning authority concerned in accordance with subsection (5)(a) prior to the making of the relevant regional spatial and economic strategy, then the review process shall be suspended until not later than 13 weeks after the making of the relevant regional spatial and economic strategy,
- (iii) where notice of a development plan review to be given in accordance with paragraph (a) would, but for this subparagraph, be more than the period of 26 weeks after the making of the relevant regional spatial and economic strategy, then each planning authority concerned shall, within that period, either—
  - (I) give notice of a development plan variation in accordance with section 13, or
  - (II) give notice of a development plan review.”.

#### **Amendment of section 11B of Principal Act**

- 13.** Section 11B of the Principal Act is amended by inserting the following after subsection (1):

“(1A) Where a planning authority to which subsection (1) relates has not commenced the preparation of a development plan in accordance with this section before the initial making of the relevant regional spatial and economic strategy, then the reference in that subsection to ‘within 12 months of the making of regional planning guidelines that take into account the amalgamation of the administrative areas concerned’ shall be read as a reference to ‘no later than 26 weeks after the making of the initial regional spatial and economic strategy that takes into account the amalgamation of the administrative areas concerned’.”.

#### **Amendment of section 12 of Principal Act**

- 14.** Section 12 of the Principal Act is amended—

- (a) by inserting the following subsection:

“(2A) The Minister or the Office of the Planning Regulator may, in relation to a draft development plan, make such recommendations as the

Minister or that Office, as the case may be, considers appropriate.”,

(b) in subsection (4), by—

(i) substituting the following subparagraph for subparagraph (ii) of paragraph (b):

“(ii) provide a summary of—

(I) the recommendations, submissions and observations made by the Minister, where the notice under paragraph (a) of subsection (2) was sent before the establishment of the Office of the Planning Regulator,

(II) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(III) the submissions and observations made by any other persons,

in relation to the draft development plan in accordance with this section.”,

and

(ii) inserting the following paragraph:

“(ba) A report prepared and submitted in accordance with paragraph (a) shall contain a summary of the observations, submissions and recommendations made by the Office of the Planning Regulator under section 31AM to the planning authority concerned.”,

(c) in paragraph (aa) of subsection (5), by—

(i) inserting “or from the Office of the Planning Regulator made to that planning authority under section 31AM” after “under this section”, and

(ii) inserting “the Office of the Planning Regulator and” after “shall so inform”,

(d) in subsection (8), by substituting the following subparagraph for subparagraph (ii) of paragraph (b):

“(ii) provide a summary of—

(I) the recommendations, submissions and observations made by the Minister, where the notice under paragraph (a) of subsection (2) was sent before the establishment of the Office of the Planning Regulator,

(II) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(III) the submissions and observations made by any other persons,

in relation to the draft development plan in accordance with this

section,”

and

(e) by inserting the following subsection:

“(18) In this section ‘statutory obligations’ includes, in relation to a local authority, the obligation to ensure that the development plan is consistent with—

(a) the national and regional development objectives specified in—

(i) the National Planning Framework, and

(ii) the regional spatial and economic strategy,

and

(b) specific planning policy requirements specified in guidelines under subsection (1) of section 28.”.

#### **Amendment of section 13 of Principal Act**

**15.** Section 13 of the Principal Act is amended—

(a) by inserting the following subsection:

“(3A) The Minister or the Office of the Planning Regulator may, in relation to a proposed variation of a development plan, make such recommendations as the Minister or that Office, as the case may be, considers appropriate.”,

(b) in subsection (4), by—

(i) substituting the following subparagraph for subparagraph (ii) of paragraph (b):

“(ii) provide a summary of—

(I) the recommendations, submissions and observations made by the Minister, where the notice under paragraph (a) of subsection (2) was sent before the establishment of the Office of the Planning Regulator,

(II) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(III) the submissions and observations made by any other persons,

in relation to the draft development plan in accordance with this section,”

and

(c) by inserting the following subsection:

“(14) In this section ‘statutory obligations’ includes, in relation to a local authority, the obligation to ensure that the development plan is consistent with—

(a) the national and regional development objectives specified in—

(i) the National Planning Framework, and

(ii) the regional spatial and economic strategy,

and

(b) specific planning policy requirements specified in guidelines under subsection (1) of section 28.”.

### **Request to manager to report on proposal by members of planning authority to vary development plan**

**16.** Section 13 of the Principal Act is amended by inserting the following subsection after subsection (1):

“(1A) (a) The members of a planning authority may at any time, for stated reasons, submit a resolution to the manager of the planning authority requesting him or her to prepare a report on a proposal by them to initiate a process to consider the variation of the development plan which for the time being is in force where three quarters of the members of that authority have approved such a resolution.

(b) The manager of a planning authority shall submit a report further to a request under paragraph (a) to the elected members within four weeks of the adoption of the resolution.”.

### **Amendment of section 20 of Principal Act**

**17.** Section 20 of the Principal Act is amended—

(a) by inserting the following subsection:

“(1A) The Minister or the Office of the Planning Regulator may, in relation to a local area plan, make such recommendations as the Minister or that Office, as the case may be, considers appropriate.”.

(b) in subsection (3), by—

(i) substituting the following clause for clause (II) of subparagraph (ii) of paragraph (c):

“(II) provide a summary of—

(A) the recommendations, submissions and observations made by the Minister, where the notice under paragraph (a) of subsection (2) was sent before the establishment of the Office of the Planning Regulator,

(B) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(C) the submissions and observations made by any other persons,

in relation to the draft local area plan in accordance with this section,”

and

(ii) substituting the following subparagraph for subparagraph (ii) of paragraph (1):

“(ii) provide a summary of—

(I) the recommendations, submissions and observations made by the Minister, where the notice under paragraph (a) of subsection (2) was sent before the establishment of the Office of the Planning Regulator,

(II) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(III) the submissions and observations made by any other persons,

in relation to the draft local area plan in accordance with this section,”

and

(c) by inserting the following subsection:

“(5) In this section ‘statutory obligations’ includes, in relation to a local authority, the obligation to ensure that the local area plan is consistent with—

(a) the objectives of the development plan,

(b) the national and regional development objectives specified in—

(i) the National Planning Framework, and

(ii) the regional spatial and economic strategy,

and

(c) specific planning policy requirements specified in guidelines under subsection (1) of section 28.”

### **National Planning Framework**

**18.** (1) The Principal Act is amended in Part II by inserting the following Chapter after Chapter II:

## “CHAPTER IIA

## NATIONAL PLANNING FRAMEWORK

**National Planning Framework**

**20A.** The National Spatial Strategy, as amended having regard to the provisions of this Chapter including any document published by the Government which amends or replaces that Strategy or such subsequent document, shall be known as the National Planning Framework.

**Objective of National Planning Framework**

**20B.** The objectives of the National Planning Framework are—

- (a) to establish a broad national plan for the Government in relation to the strategic planning and sustainable development of urban and rural areas,
- (b) to secure balanced regional development by maximising the potential of the regions, and support proper planning and sustainable development, and
- (c) to secure the co-ordination of regional spatial and economic strategies and city and county development plans.

**Matters to be addressed in National Planning Framework**

**20C.** (1) Any document, published after the commencement of this Chapter, that amends or replaces the National Spatial Strategy or thereafter revises or replaces the National Planning Framework shall address the matters set out in subsection (2)—

- (a) for the purposes of the objectives of the National Planning Framework, and
  - (b) in respect of a period that is not less than 10 years nor more than 20 years after such publication or in any revision or replacement of the National Planning Framework.
- (2) The matters referred to in subsection (1) are as follows:
- (a) the identification of nationally strategic development requirements as respects cities, towns and rural areas in relation to employment, future population change, and associated housing and commercial development requirements;
  - (b) the indication of national infrastructure priorities to address the strategic development requirements referred to in paragraph (a) as regards transportation (including public transportation), water services, waste management, energy and communications networks and the provision of educational, health care, retail, cultural and recreational facilities;
  - (c) the promotion of co-ordination of development between the terrestrial and marine sectors, having regard to Directive

2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning<sup>4</sup>, and of any measures taken by the State to give effect to that Directive;

- (d) the conservation of the environment and its amenities, including the landscape and archaeological, architectural and natural heritage;
  - (e) the promotion of sustainable settlement and transportation strategies in urban and rural areas including the promotion of measures to reduce anthropogenic greenhouse gas emissions and to address the necessity of adaptation to climate change;
  - (f) the documents to which subsection (3) relates.
- (3) The National Planning Framework shall—
- (a) have regard to the document entitled “EDSP – European Spatial Development Perspective Towards Balanced and Sustainable Development of the Territory of the European Union” which was adopted on 11 May 1999 at Potsdam at the close of an Informal Council of EU Ministers responsible for spatial planning in Member States at Potsdam, 10 and 11 May 1999, and
  - (b) shall take account of the provisions of the Regional Development Strategy 2035 published by the Northern Ireland Department for Regional Development and any document that amends or replaces a document to which this paragraph relates.
- (4) The Government shall prepare and publish the National Planning Framework and keep its implementation under review.
- (5) Every 6 years after the date of publication of the National Planning Framework, the Government shall either—
- (a) revise the Framework or replace it with a new one, or
  - (b) publish a statement explaining why the Government has decided not to revise the Framework and include in the statement an indication of a date by which it will be revised or a new National Planning Framework will be published.
- (6) Provision shall be made by the Minister for public consultation in the preparation of a new or revised National Planning Framework including arrangements for consultation with—
- (a) regional assemblies,
  - (b) local authorities,
  - (c) the Board,
  - (d) bodies prescribed under planning regulations for the purposes of

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public consultation on plan-making, and

- (e) the Northern Ireland Department for Regional Development, where that Department agrees to such consultation being undertaken with it.
  - (7) The preparation of the National Planning Framework shall be subject to the provisions of relevant EU Environmental Directives including the Strategic Environmental Assessment (SEA) and Habitats (Appropriate Assessment) Directive.
  - (8) The Government shall submit the draft of the revised or new National Planning Framework, together with the Environmental Report and Appropriate Assessment Report for the approval of each House of the Oireachtas before it is published.
  - (9) In preparing or revising the National Planning Framework, the Government shall have regard to any resolution or report of, or of any committee of, the Oireachtas that is made, during the period for consideration, as regards the proposed strategy or, as the case may be, the Framework as proposed to be revised.”.
- (2) For the purposes of the amendment provided for by *subsection (1)*, the provisions of the Acts set out in *columns (2) and (3) of Schedule 3* are amended in the manner referred to in *column (4) of that Schedule* opposite the reference in *columns (2) and (3)* to the Act and provision concerned respectively.

#### **Publication of certain documents on website of planning authorities**

- 19.** For the purpose of the publication of certain documents on the websites of planning authorities, sections 9, 11, 12, 13 and 20 of the Principal Act are amended in the manner referred to in *column (3) of Schedule 4* opposite the reference in *column (2)* of that Schedule to the section concerned.

#### **Amendment of section 28 of Principal Act**

- 20.** Section 28 of the Principal Act is amended by—

- (a) substituting the following subsection for subsection (1C):

“(1C) Without prejudice to the generality of subsection (1), guidelines under that subsection may contain specific planning policy requirements with which planning authorities, regional assemblies and the Board shall, in the performance of their functions, comply.”,

and

- (b) inserting the following subsection:

“(1D) A strategic environmental assessment or an appropriate assessment shall, as the case may require, be conducted in relation to a draft of guidelines proposed to be issued under subsection (1).”.

**Amendment of section 31 of Principal Act**

**21.** Section 31 of the Principal Act is amended, in subsection (1), by—

(a) substituting the following paragraph for paragraph (a):

“(a) a planning authority, in making a development plan, a variation of a development plan, a local area plan or an amendment to a local area plan (in this section referred to as a ‘plan’) has failed to—

(i) implement a recommendation made to the planning authority by—

(I) the Minister under section 12, 13 or 20, or

(II) the Office of the Planning Regulator under section 31AM or 31AO,

or

(ii) take account of any submission or observation made to the planning authority by—

(I) the Minister under section 12, 13 or 20, or

(II) the Office of the Planning Regulator under section 31AM or 31AO,”

(b) inserting the following paragraph:

“(ba) a plan is not consistent with—

(i) the national and regional development objectives set out in the National Planning Framework and the regional spatial and economic strategy, or

(ii) specific planning policy requirements specified in guidelines issued by the Minister under subsection (1) of section 28,”

(c) substituting the following subsection for subsection (3):

“(3) (a) The Minister may, following the making of a recommendation by the Office of the Planning Regulator under subsection (9) of section 31AN or subsection (9) of section 31AP, give a direction under this section to a planning authority in relation to a plan.

(b) The Minister shall, before giving a direction under this section to a planning authority, issue a notice in writing to the planning authority of his or her intention to give such direction and such notice shall not be issued after the expiration of 4 weeks from the making of a plan by the planning authority.”

**Amendment of section 33 of Principal Act**

**22.** Section 33 of the Act of 2000 is amended in subsection (2)—

(a) by inserting the following after paragraph (c):

“(ca) providing for the waiving or reduction of a fee to which paragraph (c) would relate, or the payment of a different fee, in respect of submissions or observations made by a person in his or her capacity as a member of a local authority;”,

and

(b) by inserting the following after paragraph (k):

“(ka) facilitating the making and processing by electronic means of—

- (i) planning applications, appeals, referrals, applications for approval, submissions and consents under this Act, and
- (ii) the payment of fees, the issuing of decisions and setting out of requirements to which subparagraph (i) relates;

(kb) requiring the inputting of data by planning authorities into such databases or national planning systems as may be prescribed by the Minister;”.

#### **Amendment of section 34 of Principal Act**

**23.** (1) Section 34 of the Principal Act is amended in subsection (2)(a) by deleting “and” in subparagraph (v) and by inserting the following after subparagraph (v):

“(va) previous developments by the applicant which have not been satisfactorily completed,

(vb) previous convictions against the applicant for non-compliance with this Act, the Building Control Act 2007 or the Fire Services Act 1981, and”.

(2) Section 34 of the Principal Act is amended in subsection (3) by substituting “the applicant, and” for “the applicant.” in paragraph (b) and by inserting the following after paragraph (b):

“(c) where an application for permission relates to a residential development comprising 10 or more houses—

- (i) any information available to the planning authority, or furnished to it by the applicant, concerning implementation by the applicant of any housing development in the previous 5 years, and
- (ii) an assessment by the planning authority of the likelihood of the proposed development being implemented within the appropriate period sought, being the appropriate period within the meaning provided for by section 40(3).”.

(3) Section 34 of the Principal Act is amended in subsection (4)(g) by substituting “the giving and maintaining of adequate security” for “the giving of adequate security”.

(4) Section 34 of the Principal Act is amended by substituting the following for subsection (5):

“(5) The conditions under subsection (1) may provide that points of detail relating to a grant of permission be agreed between the planning authority and the person carrying out the development and, accordingly—

(a) where for that purpose that person has submitted to the planning authority concerned such points of detail, then that authority shall, within 8 weeks of those points being so submitted, or such longer period as may be agreed between them in writing, either—

(i) reach agreement with that person on those points, or

(ii) where that authority and that person cannot so agree on those points, that authority may—

(I) advise that person accordingly in writing, or

(II) refer the matter to the Board for its determination,

and, where clause (I) applies, that person may, within 4 weeks of being so advised, refer the matter to the Board for its determination,

or

(b) where none of the events referred to in subparagraph (i) or in clause (I) or (II) of subparagraph (ii) occur within those 8 weeks or such longer period as may have been so agreed, then that authority shall be deemed to have agreed to the points of detail as so submitted.”.

(5) Section 34 of the Principal Act is amended in subsection (6)—

(a) in paragraph (a)(i) by inserting “or local area plan, as the case may be,” after “development plan”,

(b) in paragraph (a)(ii), by inserting the following after clause (I):

“(IA) the regional assembly for the area in which the planning authority is situated,”,

and

(c) by inserting the following after paragraph (b):

“(ba) Where a resolution referred to in paragraph (a) has been passed by a planning authority in accordance with paragraph (b), the planning authority shall—

(i) send to the regional assembly for the area and the Office of the Planning Regulator a copy of the notice under paragraph (a) that relates to the resolution, and

- (ii) at the same time, inform the regional assembly for the area and the Office of the Planning Regulator in writing that the resolution was passed.”.

- (6) Section 34 of the Principal Act is amended in subsection (10) by substituting “chief executive” for “manager”.

#### **Amendment of section 35 of Principal Act**

24. Section 35 of the Principal Act is amended in subsection (7) by inserting the following after paragraph (b):

“(ba) a registered society under the Industrial and Provident Societies Acts 1893 to 2014 that—

- (i) carried out a development pursuant to a previous permission,
- (ii) carried out a substantial unauthorised development, or
- (iii) has been convicted of an offence under this Act,

or, during any period to which subparagraph (i) or (ii) relates or to which any conviction under subparagraph (iii) relates, the registered society was, during that period, controlled by the applicant—

- (I) where, pursuant to section 15 of the Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Act 2014, ‘control’ has the same meaning as in section 220(5) of the Companies Act 2014, or
- (II) as a shadow director within the meaning of section 2(1) of the Companies Act 2014,”.

#### **Amendment of section 38 of Principal Act**

25. Section 38 of the Principal Act is amended by substituting the following for subsection (1) other than paragraphs (a) to (e):

“(1) Where a planning authority gives its decision in respect of a planning application the following documents shall be made available by the authority within 3 working days by placing the documents on its website, and may also make available such documents both in electronic form and for inspection and purchase by members of the public during office hours:”.

#### **Power to vary appropriate period, etc.**

26. (1) The Principal Act is amended by substituting the following for section 41:

##### **“Power to vary appropriate period**

41. (1) Without prejudice to the powers conferred on them by this Part to

grant a permission to develop land for a limited period only, in deciding to grant a permission under section 34, 37, 37G or 37N, a planning authority or the Board, as may be appropriate, may, having regard to the nature and extent of the relevant development and any other material consideration, specify the period during which the permission is to have effect, being a period—

- (a) in the case of all development requiring permission, of not less than 2 years, and
- (b) in the case of residential development requiring permission, of not more than 10 years,

and where the planning authority or the Board exercises, or refuses to exercise, the power conferred on it by this section, the exercise or refusal shall be regarded as forming part of the relevant decision of the authority or the Board under section 34, 37, 37G or 37N.

- (2) Where an application for permission relates to a residential development comprising 10 or more houses—
  - (a) material considerations in subsection (1) may include any information available to the planning authority or furnished to it by the applicant concerning implementation by the applicant of any housing development in the previous 5 years, and
  - (b) an assessment by the planning authority of the likelihood of the proposed development being implemented within the appropriate period sought, being the appropriate period within the meaning provided for by section 40(3).”.

- (2) Section 42A of the Principal Act is repealed.

### **Revocation or modification of planning permission for certain reasons**

27. The Principal Act is amended by inserting the following section:

“44A. (1) The Minister may, upon the request of the Minister for Justice and Equality, the Minister for Foreign Affairs and Trade or the Minister for Defence and with the approval of the Government, make an order revoking or modifying a grant of permission under this Act if he or she is satisfied that—

- (a) the carrying out of the development to which the grant of permission relates is likely to be harmful to—
  - (i) the security or defence of the State, or
  - (ii) the State’s relations with other states,and
- (b) the revocation or modification concerned is necessary in the public interest.

- (2) The Minister may, before making an order under this section, consult with—
- (a) the planning authority that granted the permission concerned,
  - (b) the person to whom the permission was granted, or
  - (c) any other person who, in the opinion of the Minister, is likely to be materially affected by the making of such order,
- but shall not so consult if he or she considers that to do so would be harmful to the security or defence of the State or to the State's relations with other states.
- (3) This section shall apply to permissions whether granted before, on or after the passing of the *Planning and Development (Amendment) Act 2018*.
- (4) Where an order is made under this section, the planning authority that granted the permission to which the order relates shall, within such period as may be specified in the order, serve—
- (a) a notice in writing on—
    - (i) the person to whom the permission concerned was granted, and
    - (ii) any other person specified in the order,informing him or her of the revocation or modification effected by the order, and
  - (b) a notice in writing—
    - (i) in the case of development commenced but not completed, on any person carrying out the development in respect of which the permission was granted, or on whose behalf such development is being carried out, requiring him or her to cease the development and restore the land, on which the development concerned is being carried out, to the condition it was in before the development commenced, or
    - (ii) in the case of development completed, on any person who carried out the development, or on whose behalf the development was carried out, requiring him or her to restore the land, on which the development concerned was carried out, to the condition it was in before the development was commenced.
- (5) A person on whom a notice is served under paragraph (b) of subsection (4) shall comply with the notice.
- (6) (a) The Minister shall, as soon as practicable after the making of an order under this section, give a copy of the order to the planning authority that granted the permission to which the order relates.
- (b) A planning authority shall, as soon as practicable after the copy of

an order has been given to it in accordance with paragraph (a), give a copy of the order to—

- (i) the person to whom the permission to which the order applies was granted, and
  - (ii) any other person the Minister may direct.
- (7) A permission to which an order under this section applies shall, upon the making of the order, stand revoked or modified, as may be appropriate, in accordance with the order.
- (8) Any development carried out in contravention of an order under this section shall be an unauthorised development.
- (9) Where the Minister makes an order revoking an order under this section—
- (a) the second-mentioned order shall, for all purposes, be deemed never to have been made, and the register shall be amended accordingly, and
  - (b) the period between the making of the second-mentioned order and the first-mentioned order shall not be reckonable for the purpose of calculating the period since the granting of the permission.
- (10) The Minister shall not, in relation to a permission, make an order under this section if the period since the grant of the permission exceeds 5 years.
- (11) The making of an order under this section shall be recorded in the register as soon as may be after it is made.
- (12) (a) Any proceedings before a court relating to an order under this section shall be heard *in camera*.
- (b) A court before which proceedings relating to an order under this section are heard shall take all reasonable precautions to prevent the disclosure—
    - (i) to the public, or
    - (ii) where the court considers it appropriate, to any party to the proceedings,of any evidence given or document submitted for the purposes of the proceedings, the disclosure of which, could reasonably be considered to be harmful to the security or defence of the State or to the State's relations with other states.
  - (c) Without prejudice to the generality of paragraph (b), precautions referred to in that paragraph may include—
    - (i) the prohibition of the disclosure of such evidence or documentation as the Court may determine, and

- (ii) the hearing, in the absence of any person or persons including any party to the proceedings, of any evidence or the examination of any witness or document that, in the opinion of the Court, could reasonably be considered to be harmful to the security or defence of the State or to the State's relations with other states.”.

**Development contributions and supplementary development contribution schemes**

28. (1) Section 48 (which relates to development contributions) of the Principal Act is amended—

- (a) in subsection (3A) (inserted by the Urban Regeneration and Housing Act 2015) by substituting the following for paragraph (b);

“(b) where the development comprises houses and one or more of those houses has not been rented, leased, occupied or sold,”,

and

- (b) by substituting the following for subsection (3B) (as so inserted):

“(3B) Where a development referred to in subsection (3A) comprises houses one or more of which has not been rented, leased, occupied or sold the planning authority shall apply the change in the basis for the determination of the contribution referred to in that subsection only in respect of any house or houses that have not been rented, leased, occupied or sold.”.

(2) Section 48 (which relates to development contributions) of the Principal Act is amended in subsection (17)—

- (a) by substituting the following for paragraph (c):

“(c) the provision of roads, car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure,”,

and

- (b) by substituting the following for paragraph (e):

“(e) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, surface water sewers, flood relief work and ancillary infrastructure,”.

(3) Section 49 (which relates to supplementary development contribution schemes) of the Principal Act is amended in subsection (7) by substituting the following for paragraph (c):

“(c) the provision of new surface water sewers and ancillary infrastructure,”.

**Amendment of section 50B of Principal Act**

**29.** Section 50B of the Principal Act is amended—

(a) in paragraph (a) of subsection (1), by—

- (i) substituting “statutory provision” for “law of the State”,
- (ii) deleting “or” in clause (II),
- (iii) substituting “applies, or” for “applies; or” in clause (III), and
- (iv) inserting the following clause after clause (III):

“(IV) paragraph 3 or 4 of Article 6 of the Habitats Directive; or”,

and

(b) inserting the following subsection:

“(6) In this section ‘statutory provision’ means a provision of an enactment or instrument under an enactment.”.

**Amendment of section 144 of Principal Act**

**30.** Section 144 of the Principal Act is amended in subsection (1A) (inserted by the Planning and Development (Amendment) Act 2010) by inserting the following paragraph after paragraph (a)—

“(aa) an appeal to the Board under Part 2 of the Urban Regeneration and Housing Act 2015;”.

**Amendment of section 162 of Principal Act**

**31.** Section 162 of the Principal Act is amended in subsection (2) by substituting “section 34(12C)” for “section 34(12)”.

**Amendment of section 169 of Principal Act**

**32.** Section 169 of the Principal Act is amended—

(a) in subsection (8), by inserting “any specific planning policy requirements contained in guidelines under subsection (1) of section 28,” after “the provisions of the housing strategy,” and

(b) by inserting the following subsection:

“(8A) (a) A planning scheme that contains a provision that contravenes any specific planning policy requirement in guidelines under subsection (1) of section 28 shall be deemed to have been made, under paragraph (b) of subsection (4) of section 169, subject to the deletion of that provision.

(b) Where a planning scheme contravenes a specific planning policy requirement in guidelines under subsection (1) of section 28 by

omission of a provision in compliance with that requirement, the planning scheme shall be deemed to have been made under paragraph (b) of subsection (4) of section 169 subject to the addition of that provision.”.

**Amendment of section 176A of Principal Act**

33. Section 176A of the Principal Act is amended in subsection (7)(a) by deleting “together with any fee received from the applicant,”.

**Amendment of section 176C of Principal Act**

34. Section 176C of the Principal Act is amended—

- (a) by inserting the following subsection after subsection (9):

“(9A) Following the notification by the Board under subsection (8), the Board shall publish its determination and the main reasons and considerations on which its determination was based, along with a notice referred to in subsection (9), on its website.”,

and

- (b) in subsection (10) by substituting the following for paragraph (c):

“(c) make the record, and the main reasons and considerations on which its determination was based, available on its website and available for purchase and inspection during office hours.”.

**Amendment of section 177S of Principal Act**

35. Section 177S of the Principal Act is amended in subsection (2) by inserting the following paragraph after paragraph (a):

“(aa) in relation to a draft National Planning Framework, the Minister.”.

**Amendment of section 177T of Principal Act**

36. Section 177T of the Principal Act is amended in subsection (3) by inserting the following paragraph after paragraph (a):

“(aa) as respects a draft National Planning Framework, the Minister.”.

**Amendment of section 180 of Principal Act**

37. Section 180 of the Principal Act is amended—

- (a) in subsection (1)—

(i) by substituting “Subject to subsection (7), where a development” for “Where a development”, and

(ii) by substituting “not later than 6 months after being so requested” for “as

soon as may be”,

- (b) in subsection (2)(a) by substituting “4 years” for “seven years”,
- (c) in subsection (2)(b) to insert “, or a condition attached to a permission under section 9(4) of the Planning and Development (Housing) and Residential Tenancies Act 2016” after “section 34(4)(g)”,
- (d) in subsection (2A)(a)(i) by substituting “4 years” for “seven years”,
- (e) in subsection (2A)(b) to insert “, or a condition attached to a permission under section 9(4) of the Planning and Development (Housing) and Residential Tenancies Act 2016” after “section 34(4)(g)”,
- (f) in subsection (2A) by inserting the following after paragraph (b):
  - “(c) The initiation of procedures under section 11 of the Roads Act 1993 shall not preclude the planning authority concerned from pursuing, under the *Planning and Development Acts 2000 to 2018* or otherwise, a developer for the costs incurred by that authority in respect of works undertaken on a development to enable it to be taken in charge by that authority.”,
- (g) by inserting the following after subsection (6):

“(7) This section applies to that part of a development for which permission is granted under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016 that relates to the construction of houses and the provision of—

- (a) new roads, open spaces or car parks, or
- (b) sewers, water mains or service connections, within the meaning of the Water Services Act 2007,

relating to such houses and references to ‘development’ in other provisions of this section shall be read accordingly.”.

**Amendment of section 195 of Principal Act**

**38.** Section 195 of the Principal Act is amended by inserting the following subsection:

“(3) This section shall apply to an order made under section 44A subject to—

- (a) the modification that references to planning authority shall be construed as references to the Minister, and
- (b) any other necessary modifications.”.

**Amendment of section 208 of Principal Act**

**39.** Section 208 of the Principal Act is amended in subsection (1) by inserting the following after “development plan”:

“or local area plan”.

### **Members of local authorities exempt from payment of certain fees**

**40.** Section 246 of the Principal Act is amended—

(a) in subsection (1), by substituting the following paragraph for paragraph (b):

“(b) the payment to planning authorities of prescribed fees in relation to the making of submissions or observations respecting applications for permission referred to in paragraph (a), with the exception of local authority members who are exempt from all fees in relation to the making of submissions or observations respecting applications for permission referred to in paragraph (a), insofar as it concerns applications made within the local authority members’ local electoral area.”.

### **Amendment of section 246 of Principal Act**

**41.** Section 246 of the Principal Act is amended—

(a) in subsection (1), by substituting the following paragraph for paragraph (d):

“(d) the payment—

- (i) to local authorities of prescribed fees in relation to applications for grants of licences under section 231 or certificates of safety under section 239, and
- (ii) to planning authorities of prescribed fees in relation to any consultation or advice under section 247, and”.

and

(b) in subsection (3), by substituting the following paragraphs for paragraph (a):

“(a) Where, under regulations under this section, a fee is—

- (i) payable to a planning authority by an applicant in respect of an application to which paragraph (a) or (e) of subsection (1) applies, or
  - (ii) payable to a local authority in respect of an application to which subparagraph (i) of paragraph (d) of that subsection applies,
- a decision in relation to the application shall not be made until the fee is paid.

(aa) Where, under regulations under this section, a fee is payable to a planning authority by a person in respect of—

- (i) a request to which paragraph (c) of subsection (1) applies, or
- (ii) a consultation or advice to which subparagraph (ii) of paragraph (d) of that subsection applies,

the planning authority shall not—

- (I) give the declaration, or
  - (II) provide the consultation or advice,
- as may be appropriate, until the fee is paid.”.

#### **Exemption from fees for submissions and observations by councillors on planning applications**

**42.** Section 246 of the Planning and Development Act 2000 is amended by inserting the following new subsection after subsection (1):

“(1A) Regulations under subsection (1) shall not apply to the making of a submission or observation to a planning authority, respecting an application for permission referred to in paragraph (a) of that subsection, where the person by whom the submission or observation is made is an elected member of the planning authority concerned.”.

#### **Amendment of section 247 of Principal Act**

**43.** Section 247 of the Principal Act is amended—

- (a) in subsection (1) by substituting “Subject to subsection (1A), a person who has an interest in land” for “A person who has an interest in land”,
- (b) by inserting the following after subsection (1):

“(1A)(a) Subject to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016, prior to making an application to a planning authority or authorities under section 34 in respect of a development that—

- (i) consists of or includes either or both residential development of more than 10 housing units or non-residential development of more than 1,000 square metres gross floor space, or
- (ii) such other development as may be prescribed,

a prospective applicant shall have consulted the appropriate planning authority or authorities in whose area or areas the proposed development would be situated, comprising at least one meeting, and for that purpose—

- (I) subject to paragraph (b), section 247 applies, with any necessary modifications to those consultations, and
- (II) those consultations shall have regard to so much of Part V as would be relevant to proposals that include housing development.

- (b) Consultations under section 247 in relation to proposed development referred to in paragraph (a) shall be held within 4

weeks of the date of receipt by the planning authority, or planning authorities, as the case may be, of a request by the prospective applicant for such a consultation, unless the prospective applicant requests that the period be extended by a specified period, in which case—

- (i) the period shall be extended by the planning authority, or planning authorities, as the case may be, by such specified period upon the first such request, and
  - (ii) the period may be extended, at the discretion of the planning authority or planning authorities, as the case may be, by such specified period upon a second or subsequent such request.
- (c) The failure by a planning authority to comply with the requirement to hold a consultation meeting for the purposes of section 247 by virtue of paragraph (b) within the time limits provided for by that paragraph shall not prevent the prospective applicant, after the expiration of the period specified in that paragraph, from making an application to a planning authority or authorities under section 34 to which the request for a consultation under paragraph (a) relates.
- (d) The Minister may by regulations prescribe for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of requests to which paragraph (a) relate and may be so prescribed in respect of different classes of such requests.
- (e) Without prejudice to the generality of paragraph (d), regulations under that paragraph may make provision for the following—
- (i) the manner in which requests under paragraph (a) are to be made to planning authorities,
  - (ii) requiring planning authorities to acknowledge in writing the receipt of requests under paragraph (a),
  - (iii) requiring any person making a request under paragraph (a) to furnish to the planning authority concerned any specified types of drawings, plans, documents or other information in relation to that request.
- (f) For the purposes of this subsection ‘gross floor space’ means the area ascertained by the internal measurement of the floor space on each floor of a building (including internal walls and partitions), disregarding any floor space provided for the parking of vehicles by persons occupying or using the building or buildings where such floor space is incidental to the primary purpose of the building.”,

and

- (c) in subsection (5) by inserting “or request for consultations” after “consultations” in both places where it occurs.

#### **Amendment of section 248 of Principal Act**

**44.** Section 248 of the Principal Act is amended—

- (a) in subsection (2)(c) by deleting “, if the person to whom the document or other information is required or permitted to be given consents to the information being given in that form”, and
- (b) in subsection (5) after “electronic form” to insert “, and may deal with applications, appeals and referrals by electronic means.”.

#### **Amendment of section 255 of Principal Act**

**45.** Section 255 of the Principal Act is amended by inserting the following after subsection (4):

“(4A) In subsection (4) ‘information available to him or her’ includes any information or recommendation of the Office of the Planning Regulator having regard to—

- (a) a draft report under subsection (4) of section 31AS or, where the report has been finalised, in the report under subsection (6) of that section,
- (b) a draft report under subsection (3) of section 31AT or, where the report has been finalised, in the report under subsection (5) of that section,
- (c) a report on a preliminary examination under section 31AU, or
- (d) directions issued by the Minister on foot of recommendations from the Office under Chapter III of Part IIB.”.

#### **Amendment of First Schedule to Principal Act**

**46.** (1) The First Schedule to the Principal Act is amended in Part III (which relates to community facilities) by inserting the following after paragraph 3:

“4. Regulating, restricting or controlling the development of licensed premises within the meaning of the Licensing Acts 1833 to 2011.”.

- (2) This section takes effect in respect of a new development plan of a planning authority to which section 11(1) of the Principal Act will relate where the planning authority first gives notice, after the passing of the *Planning and Development (Amendment) Act 2018*, of its intention under section 11(1) of the Principal Act to review its existing development plan and to prepare a new development plan for its area.

**Amendment of Fourth Schedule to Principal Act**

47. The Fourth Schedule to the Principal Act is amended by inserting the following paragraph after paragraph 23:

“23A.(1)The proposed development is by an applicant associated with a previous development (whether or not such previous development was within the functional area of the planning authority to which the proposed development relates) which—

- (a) in the opinion of the planning authority in whose functional area the previous development is situated, has not been satisfactorily completed in the ordinary course of development, or
- (b) the estate to which the previous development relates has not been taken in charge by the local authority concerned because the estate has not been completed to the satisfaction of that authority.

(2) In this paragraph ‘associated’, in relation to a previous development, means a development under the *Planning and Development Acts 2000 to 2018* to which section 180 relates and in respect of which the development has not been satisfactorily completed or taken in charge by the local authority concerned due to the actions (whether of commission or omission) of—

- (a) the applicant for the proposed development,
- (b) a partnership of which the applicant is or was a member and which, during the membership of that applicant, carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act,
- (c) a registered society under the Industrial and Provident Societies Acts 1893 to 2014 that—
  - (i) carried out a development pursuant to a previous permission,
  - (ii) carried out a substantial unauthorised development, or
  - (iii) has been convicted of an offence under this Act,

or, during any period to which subclause (i) or (ii) relates or to which any conviction under subclause (iii) relates, the registered society was, during that period, controlled by the applicant—

- (I) where, pursuant to section 15 of the Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Act 2014, ‘control’ has the same meaning as in section 220(5) of the Companies Act 2014, or

- (II) as a shadow director within the meaning of section 2(1) of the Companies Act 2014,
- (d) where the applicant for the proposed development is a company—
  - (i) the company concerned is related to a company (within the meaning of section 2(10) of the Companies Act 2014) which carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act, or
  - (ii) the company concerned is under the same control as a company that carried out a development referred to in subparagraph (1) where ‘control’ has the same meaning as in section 220(5) of the Companies Act 2014,
 or
- (e) a company that carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act, which company is controlled by the applicant—
  - (i) where ‘control’ has the same meaning as in section 220(5) of the Companies Act 2014, or
  - (ii) as a shadow director within the meaning of section 2(1) of the Companies Act 2014.”.

**Construction of Fifth Schedule to Principal Act**

48. (1) The Act of 2016 is amended by inserting the following section after section 25:

**“Construction of Fifth Schedule (conditions which may be imposed, on the granting of permission to develop land, without compensation) to Act of 2000 during specified period**

25A. The Fifth Schedule to the Act of 2000 has effect during the specified period as if in paragraph 1 ‘or section 9(4) of the Planning and Development (Housing) and Residential Tenancies Act 2016’ were inserted after ‘section 34(4)(g)’.”.

(2) Section 1(3) of the Act of 2016 (which relates to commencement of provisions of that Act) applies to the commencement of the amendment provided for by subsection (1).

**Amendment of Seventh Schedule to Principal Act**

49. The Seventh Schedule to the Principal Act is amended by inserting the following:

*“Communications and Data Infrastructure*

5. Development comprising the following:

A facility consisting of one or more than one structure, the combined gross floor space of which exceeds 10,000 square metres, used primarily for the storage, management and dissemination of data, and the provision of associated electricity connections infrastructure.”.

### **Amendment of section 3 of Act of 2016**

**50.** (1) Section 3 of the Act of 2016 is amended—

(a) by inserting the following definition after the definition of “consultation meeting”:

“ ‘gross floor space’ means the area ascertained by the internal measurement of the floor space on each floor of a building (including internal walls and partitions), disregarding any floor space provided for the parking of vehicles by persons occupying or using the building or buildings where such floor space is incidental to the primary purpose of the building;”

(b) by inserting the following definition:

“ ‘shared accommodation’ means a building or part thereof used for the provision of residential accommodation consisting of—

(a) communal living and kitchen facilities and amenities shared by the residents, and

(b) bedrooms rented by the residents,

but does not include student accommodation or a building, or part thereof, used for the provision of accommodation to tourists or visitors;”

(c) in the definition of “strategic housing development”—

(i) by inserting the following paragraph after paragraph (b):

“(ba) development—

(i) consisting of shared accommodation units that, when combined, contain 200 or more bed spaces, and

(ii) on land the zoning of which facilitates the provision of shared accommodation or a mixture of shared accommodation thereon and its application for other uses;”

(ii) by substituting the following paragraph for paragraph (c):

“(c) development that contains developments of the type to which all of the foregoing paragraphs, or any two of the foregoing paragraphs, apply, or”

(iii) by inserting “, (ba)” after “(b)” in paragraph (d),

(iv) in paragraph (i), by—

(I) substituting “houses, student accommodation units, shared

accommodation units or any combination thereof” for “houses or student accommodation units, or both, as the case may be,” and

(II) by inserting “or shared accommodation” after “within student accommodation”,

(v) by substituting “or shared accommodation” for “, or both, as the case may be,” in clause (I) of paragraph (ii), and

(vi) by inserting “or shared accommodation” after “student accommodation” in clause (II) of paragraph (ii),

(d) by inserting the following definition:

“ ‘student accommodation’—

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

(i) as permanent residential accommodation, or

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

and

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

and

(e) in the definition of “strategic housing development” by substituting “gross floor space” for “gross floor area” in paragraph (i).

(2) This section comes into operation upon the passing of this Act.

#### **Amendment of section 5 of Act of 2016**

**51.** (1) Section 5 of the Act of 2016 is amended—

(a) in subsection (4) by deleting “with the application concerned” and substituting “with the request concerned”, and

(b) in subsection (8), by—

(i) substituting “, student accommodation units or shared accommodation units” for “or student accommodation units, or both, as appropriate,”, and

(ii) substituting “gross floor spaces” for “internal floor spaces”.

(2) This section comes into operation upon the passing of this Act.

**Amendment of section 6 of Act of 2016**

**52.** (1) Section 6 of the Act of 2016 is amended—

- (a) in subsection (1)(b) by substituting “under this section” for “under paragraph (a)”,
- (b) in subsection (5)(a) by substituting “notification under subsection (4)(a)” for “receipt by the Board of the request under section 5(1)”, and
- (c) in subsection (7) by deleting “the” before “those meetings”.

(2) This section comes into operation upon the passing of this Act.

**Amendment of section 8 of Act of 2016**

**53.** (1) Section 8 of the Act of 2016 is amended—

(a) in subsection (1)—

(i) by substituting the following subparagraph for subparagraph (i):

“(i) specifying the location of the proposed development and containing a brief description of the proposed development, including a description—

(I) of the number of houses, student accommodation units or shared accommodation units of which the proposed development is intended to consist, and

(II) in the case of student accommodation units or shared accommodation units, of—

(A) the combined number of bed spaces of which the proposed development is intended to consist, and

(B) any other uses to which those units are intended to be put,”

(ii) by substituting “plan, or” for “plan, and” in paragraph (a)(iv)(I), and

(iii) by substituting “appropriate authority” for “prescribed authority” in paragraph (c),

and

(b) in subsection (3)(c)(iii) by deleting “prospective”.

(2) This section comes into operation upon the passing of this Act.

**Amendment of section 10 of Act of 2016**

**54.** (1) Section 10 of the Act of 2016 is amended in subsection (2) by substituting the following for paragraph (a):

“(a) The Board shall publish on its website both a notice and a copy of a decision under section 9.”.

(2) This section comes into operation upon the passing of this Act.

**Amendment of section 12 of Act of 2016**

**55.** (1) Section 12 of the Act of 2016 is amended in subsection (2) by substituting the following for paragraph (c):

“(c) the making available for inspection by members of the public, at the offices of the Board or the relevant planning authority or authorities in whose area or areas the development will be situated, and in electronic form, of any specified documents, particulars, plans or other information with respect to applications under section 4;”.

(2) This section comes into operation upon the passing of this Act.

**Amendment of section 13 of Act of 2016**

**56.** Section 13 of the Act of 2016 is amended by the deletion of paragraph (d).

**Amendment of section 28 of Act of 2016**

**57.** (1) Section 28 of the Act of 2016 is amended by substituting the following for subsection (1) (which provides for an amendment of section 42 of the Principal Act):

“(1) Section 42 of the Act of 2000 is amended—

(a) in subsection (1) by substituting the following for paragraph (a):

‘(a) (i) the authority is satisfied that—

- (I) the development to which the permission relates was commenced before the expiration of the appropriate period sought to be extended,
- (II) an environmental impact assessment or an appropriate assessment, or both of those assessments, was or were not required before the permission was granted,
- (III) substantial works were carried out pursuant to the permission during that period, and
- (IV) the development will be completed within a reasonable time,’

and

(b) by substituting the following for subsection (4):

‘(4) A decision to extend the appropriate period of a permission shall be made not more than twice under this section and a planning authority shall not further extend the appropriate period. Where a second decision to extend an appropriate period is made under this section, the combined duration of the 2 extensions of the

appropriate period shall not exceed 5 years.’”.

- (2) This section comes into operation upon the passing of this Act.

## PART 4

### MISCELLANEOUS AMENDMENTS

#### **Definition**

- 58.** In this Part “Act of 2015” means the Urban Regeneration and Housing Act 2015.

#### **Amendment of section 23 of Derelict Sites Act 1990**

- 59.** Section 23 of the Derelict Sites Act 1990 is amended by—

- (a) substituting the following subsection for subsection (3):

“(3) The amount of the derelict sites levy shall—

- (a) in respect of the local financial year prescribed in accordance with subsection (1), be such amount as is equal to 3 per cent of the market value of urban land concerned,
  - (b) in respect of any subsequent local financial year falling before the year 2020, be such amount as is equal to—
    - (i) 3 per cent of the said market value, or
    - (ii) such other percentage (not exceeding 3 per cent) of the said market value as may stand prescribed for the time being,
- and
- (c) in respect of the local financial year 2020 or any subsequent local financial year, be such amount as is equal to—
    - (i) 7 per cent of the said market value, or
    - (ii) such other percentage (not exceeding 7 per cent) of the said market value as may stand prescribed for the time being.”,

and

- (b) substituting the following subsection for subsection (4):

“(4) Where it is proposed to make regulations under subsection (3), a draft of the regulations shall be laid before each House of the Oireachtas not later than 3 months before the beginning of the year in which it is proposed that the regulations would come into operation, and the regulations shall not be made unless a resolution approving the draft is made by each such House.”.

**Amendment of section 12 of Dublin Transport Authority Act 2008**

**60.** Section 12 of the Dublin Transport Authority Act 2008 is amended—

- (a) in subsection (8) by substituting “the Minister for Housing, Planning and Local Government, the Office of the Planning Regulator,” for “the Minister for the Environment, Heritage and Local Government,”
- (b) in subsection (10) by substituting “the Authority shall send a copy of that draft to the regional authorities within the GDA and to the Office of the Planning Regulator and those regional authorities and that Office shall” for “the Authority shall send a copy of that draft to the regional authorities within the GDA and those regional authorities shall”, and
- (c) in subsection (12)—
  - (i) by inserting “or from the Office of the Planning Regulator under that subsection,” after “from the regional authorities within the GDA under subsection (10),”
  - (ii) by inserting “or of the Office of the Planning Regulator so given,” after “the advice of the regional authorities given under subsection (10),” and
  - (iii) by substituting “shall inform in writing the regional authorities or that Office, as appropriate,” for “shall inform the regional authorities in writing”.

**Amendment of section 4 of Environment (Miscellaneous Provisions) Act 2011**

**61.** Section 4 of the Environment (Miscellaneous Provisions) Act 2011 is amended—

- (a) in subsection (1), by—
  - (i) inserting “, notice” after “lease” in paragraph (a), and
  - (ii) inserting “, notice” after “lease” in paragraph (b),and
- (b) in subsection (4), by—
  - (i) substituting “Planning and Development Act 2000,” for “Planning and Development Act 2000.” in paragraph (n),
  - (ii) inserting the following paragraphs:
    - “(o) a consent to a plan or project for which a screening for appropriate assessment is required under regulation 42 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011), and
    - (p) a consent or notice under regulation 43 of those regulations.”.

**Amendment of section 33 of Water Services (No. 2) Act 2013**

**62.** Section 33 (which relates to a water services strategic plan) of the Water Services (No. 2) Act 2013 is amended in subsection (5)(b)(i) by inserting “in line with any development

plans within the meaning of the Act of 2000, in particular with the core strategy under section 10 of that Act” after the words “proper planning and sustainable development”.

#### **Amendment of section 5 of Act of 2015**

**63.** Section 5 of the Act of 2015 is amended, in paragraph (a) of subsection (1), by substituting the following subparagraph for subparagraph (iii):

“(iii) the site, or the majority of the site is—

(I) vacant or idle, or

(II) being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, provided that the most recent purchase of the site occurred—

(A) after it became residential land, and

(B) before, on or after the commencement of *section 63* of the *Planning and Development (Amendment) Act 2018.*”.

#### **Vacant site levy**

**64.** The Act of 2015 is amended by substituting the following section for section 16:

“**16.** (1) The amount of the vacant site levy shall—

(a) in respect of the year 2018, be such amount as is equal to 3 per cent of the market value of the vacant site determined in accordance with section 12, and

(b) in respect of the year 2019 and every subsequent year thereafter, be such amount as is equal to—

(i) 7 per cent, or

(ii) such other percentage (not exceeding 7 per cent) as may stand prescribed, for the time being, by regulations,

of the market value of the vacant site determined in accordance with section 12.

(2) The Minister shall, in prescribing a percentage for the purpose of subparagraph (ii) of paragraph (b) of subsection (1), have regard to changes in the value of property and the Residential Property Price Index published by the Central Statistics Office.

(3) Where regulations under subparagraph (ii) of paragraph (b) of subsection (1) are proposed to be made, a draft of the regulations shall be laid before each House of the Oireachtas not later than 3 months before the beginning of the year in which it is proposed that the regulations shall come into operation, and the regulations shall not be made unless a resolution approving the draft is passed by each such

House.”.

### Miscellaneous amendments of Act of 2015

65. The Act of 2015 is amended—

- (a) in section 3, by deleting the following:
  - “ ‘prescribe’ means prescribe by regulations;”,
- (b) in paragraph (d) of section 8, by inserting “by regulations” after “prescribe”,
- (c) in section 9, by—
  - (i) substituting “was not a vacant site” for “, or a majority of the site, was not vacant or idle” in subsection (2), and
  - (ii) substituting “a vacant site” for “vacant or idle” in subsection (3),
- (d) in subsection (2) of section 18, by substituting the following paragraph for paragraph (a):
  - “(a) the site was no longer a vacant site on 1 January in the year concerned, or”,

and
- (e) by substituting the following section for section 25:
  - “25. (1) The Minister may make regulations for the purposes of this Part.
  - (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision in relation to—
    - (a) the establishment and maintenance of the register under section 6,
    - (b) the procedure for the making of an entry in the register under section 7,
    - (c) the procedure for the cancellation of an entry in the register,
    - (d) the form of notice to be given under section 7, 9, 11, 12, 13 or 18,
    - (e) the form of a demand for payment under section 15,
    - (f) the form of a receipt or certificate under section 21.
  - (3) Regulations under this Part may contain such incidental, supplemental and consequential provisions as appear to the Minister to be necessary or expedient.
  - (4) Every regulation (other than a regulation under subparagraph (ii) of paragraph (b) of subsection (1) of section 16) or order under this Part shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation or order is passed by either such House within the next 21 days on which that House sits after the regulation or order is laid before it, the regulation

or order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.

## PART 5

### MARINE SPATIAL PLANS

#### Interpretation

66. (1) In this Part—

“Act of 2006” means the Sea-Fisheries and Maritime Jurisdiction Act 2006;

“coastal waters” means, in relation to the State—

- (a) surface water on the landward side of a line, every point of which is at a distance of one nautical mile on the seaward side from the nearest point of the baseline (within the meaning of section 85 of the Act of 2006), and
- (b) the outer limit of those bodies of surface water in the vicinity of river mouths that are partly saline in character as a result of their proximity to surface water referred to in paragraph (a) and that are substantially influenced by freshwater flows;

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

“Directive” means Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014<sup>5</sup> establishing a framework for marine spatial planning;

“enactment” has the meaning assigned to it by the Interpretation Act 2005;

“marine spatial plan” has the meaning assigned to it by *section 69*;

“maritime area” means—

- (a) the foreshore within the meaning of the Foreshore Act 1933,
- (b) the territorial seas within the meaning of Part 3 of the Act of 2006,
- (c) the exclusive economic zone within the meaning of Part 3 of the Act of 2006,
- (d) any area of the sea bed or subsoil outside the said foreshore, territorial seas and exclusive economic zone over which the State has rights for the purposes of exploration thereof and exploitation of natural resources, and
- (e) coastal waters;

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

“North-East Atlantic marine region” means the marine region to which the Convention for the Protection of the Marine Environment of the North-East Atlantic, done at Paris on 22 September 1992, applies;

“public body” means—

<sup>5</sup> OJ No. L257 of 28.8.2014, p.135

- (a) a Minister of the Government,
  - (b) a local authority within the meaning of the Local Government Act 2001,
  - (c) a body (other than a company) established by or under an enactment,
  - (d) 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.
- (2) A word or expression used in this Part that is also used in the Directive shall have the meaning that it has in the Directive.

### **Competent authority**

67. The Minister shall be the competent authority for the purposes of the Directive.

### **Application of Part**

68. (1) This Part shall apply to the maritime area.
- (2) This Part shall not apply to those parts of the maritime area to which a development plan, a local area plan, the national planning framework, a regional spatial and economic strategy, a guideline or a directive under Part II of the Principal Act applies.
- (3) This Part shall not apply to activities that relate solely to defence or national security.

### **Marine spatial plans**

69. (1) The Minister shall, following the carrying out of a process of marine spatial planning, prepare and publish a plan (in this Part referred to as a “marine spatial plan”) for the maritime area in accordance with this Part and the Directive.
- (2) The objectives of the marine spatial plan shall be—
- (a) to analyse and organise activities in the maritime area for the purpose of achieving ecological, economic and social priorities,
  - (b) to establish a national strategy for Government in relation to the strategic planning and sustainable development in the maritime area,
  - (c) to apply an ecosystem based approach for the purpose of supporting proper planning and sustainable development in the maritime area, and
  - (d) to encourage the colocation of relevant activities and developments in the maritime area.
- (3) The Minister may prepare—
- (a) one marine spatial plan for the entire of the maritime area,
  - (b) different marine spatial plans for different parts of the maritime area, or

- (c) a marine spatial plan referred to in *paragraph (a)* and different marine spatial plans referred to in *paragraph (b)*.
- (4) The Minister shall, in the performance of his or her functions under this section—
  - (a) give consideration to the matters specified in paragraph 1 of Article 5 of the Directive, and
  - (b) aim to contribute to the matters specified in paragraph 2 of Article 5.
- (5) A marine spatial plan shall identify the matters specified in paragraph 1 of Article 8 of the Directive and the Minister shall, when making a marine spatial plan, ensure compliance with paragraph 2 of that Article.
- (6) Marine spatial plans for the time being in force shall be known collectively as the National Marine Planning Framework.

### **Requirements of marine spatial planning**

- 70.** (1) The Minister shall, for the purpose of marine spatial planning and the preparation of a marine spatial plan—
- (a) comply, or ensure compliance, with the requirements of paragraphs 1 and 2 of Article 6, and Articles 10, 11 and 12, of the Directive, and
  - (b) take account of circumstances particular to the North-East Atlantic marine region.
- (2) The Minister shall, not later than 6 years after publication of the most recent National Marine Planning Framework, carry out a review thereof and, following the completion of the review, either—
- (a) prepare and publish in accordance with this Part and the Directive a new National Marine Planning Framework replacing the first-mentioned National Marine Planning Framework, or
  - (b) in circumstances where he or she decides not to prepare and publish a new National Marine Planning Framework, prepare and publish a statement setting out the reasons why he or she has decided not to do so.

### **Public participation on marine spatial plans**

- 71.** The Minister shall make arrangements to ensure compliance by the State with the requirements of Article 9 of the Directive.

### **Strategic environmental assessment and appropriate assessment**

- 72.** The Minister shall, in the preparation of a National Marine Planning Framework, ensure that the National Marine Planning Framework does not contravene the following acts of the institutions of the European Union, or any provision of an Act of the Oireachtas or instrument under an Act of the Oireachtas enacted or made for the purpose of giving effect to any such act:
- (a) Directive 2001/42/EC of the European Parliament and of the Council of 27 June

2001<sup>6</sup> on the assessment of the effects of certain plans and programmes on the environment;

- (b) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009<sup>7</sup> on the conservation of wild birds;
- (c) Council Directive 92/43/EEC of 21 May 1992<sup>8</sup> on the conservation of natural habitats and of wild fauna and flora.

### **Laying of marine spatial plans before each House of Oireachtas**

- 73.** (1) Where the Minister proposes to make a marine spatial plan, he or she shall lay a draft of the plan, together with the Environmental Report and Appropriate Assessment Report in respect thereof, before each House of the Oireachtas, and shall not make the plan until a resolution approving of the draft has been passed by each such House.
- (2) The Minister shall, in the making of a marine spatial plan, have regard to any resolution, report or recommendation of any committee of both Houses of the Oireachtas or either such House in so far as such resolution, report or recommendation relates to a draft laid before each such House in accordance with *subsection (1)*.

### **Compliance by public bodies**

- 74.** (1) A public body shall adopt such measures as—
- (a) are consistent with its functions, and
  - (b) necessary to secure the objectives of the National Marine Planning Framework.
- (2) In this section “functions” includes—
- (a) the formulation of any policy, programme or plan in relation to development or activity, or proposed development or activity, in the maritime area,
  - (b) the giving of any consent or approval, or the grant or issue of licences, certificates or other like documents, under any enactment for the purposes of any such development or activity, or any such proposed development or activity,
  - (c) the regulation of any such development or activity.

### **Directions of Minister**

- 75.** (1) The Minister may give a direction to a public body to adopt such measures as are specified in the direction relating to—
- (a) the implementation of marine spatial planning,
  - (b) compliance with a marine spatial plan, or
  - (c) compliance with the State’s obligation under the Directive.

<sup>6</sup> OJ No. L197 of 21.7.2001, p.30

<sup>7</sup> OJ No. L20 of 26.1.2010, p.7

<sup>8</sup> OJ No. L20 of 26.1.2010, p.7

- (2) A direction under this section shall be in writing and may apply to one or more than one public body.
- (3) A public body to whom a direction under this section is given shall comply with the direction.
- (4) In this section “public body” does not include the Minister.

**Revocation**

- 76.** (1) The Regulations of 2016 are revoked.
- (2) In this section “Regulations of 2016” means the European Union (Framework for Marine Spatial Planning) Regulations 2016 (S.I. No. 352 of 2016).

## SCHEDULE 1

## MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS TO PART II OF PLANNING AND DEVELOPMENT ACT 2000

## Section 5

Reference No. (1)	Provision (2)	Amendment (3)	
1	Section 11(2)	Insert “, the Office of the Planning Regulator” after “the Minister”.	5
2	Section 12(1)(a)	Insert “, the Office of the Planning Regulator” after “the Minister”.	10
3	Section 12(4)(b)(ii)(I)	Substitute “Minister,” for “Minister; and”.	
4	Section 12(4)(b)(ii)	After clause (I), insert:  “(IA) issues raised by the Office of the Planning Regulator, and”.	15
5	Section 12(5)(aa)	Insert “, or from the Office of the Planning Regulator,” after “from the Minister”.	
6	Section 12(5)(aa)	Insert “, the Office of the Planning Regulator” after “it shall so inform the Minister”.	
7	Section 12(7)(a)	Insert “the Office of the Planning Regulator,” after “the Minister,”.	20
8	Section 12(12)(c)	Insert “the Office of the Planning Regulator,” after “the Minister,”.	
9	Section 12(17)	Substitute “6 weeks” for “4 weeks”.	
10	Section 13(2)(a)	Insert “the Office of the Planning Regulator,” before “the Board”.	25
11	Section 13(4)(b)(ii)(I)	Delete “and”.	
12	Section 13(4)(b)(ii)	After clause (I), insert:  “(IA) issues raised by the Office of the Planning Regulator, and”.	30
13	Section 13(5)(aa)	Insert “, or from the Office of the Planning Regulator,” after “from the Minister”.	
14	Section 13(5)(aa)	Insert “, the Office of the Planning Regulator” after “it shall so inform the Minister”.	35
15	Section 13(8)(c)	Insert “the Office of the Planning Regulator,” before “the Board”.	
16	Section 13(11)	Substitute “6 weeks” for “4 weeks”.	
17	Section 20(1)	Insert “, the Office of the Planning Regulator” after “the Minister”.	40

18	Section 20(3)(a)(i)	Insert “the Office of the Planning Regulator,” after “the Minister.”	
19	Section 20(3)(e)	Insert “the Office of the Planning Regulator,” after “the Minister.”	
20	Section 20(4A)	Substitute “6 weeks” for “4 weeks”.	5
21	Section 24(2)	Insert “the Office of the Planning Regulator,” after “the Minister.”	
22	Section 24(4)(a)	Insert “the Office of the Planning Regulator,” after “the Minister.”	
23	Section 27A	Insert after subsection (4):  “(5) A regional assembly shall send a copy of any report under this section to the Office of the Planning Regulator.”.	10
24	Section 27B(4)	Insert “and the Office of the Planning Regulator” after “to the Minister”.	15
25	Section 27C(4)	Insert “and the Office of the Planning Regulator” after “to the Minister”.	
26	Section 31(1)	Substitute “a local area plan or an amendment to a local area plan” for “or a local area plan”.	
27	Section 31(1)	Substitute “then, subject to compliance with the relevant provisions of sections 31AM and 31AN or sections 31AO and 31AP, as the case may be, the Minister may” for “the Minister may”.	20
28	Section 31	Substitute for subsection (3):  “(3) Before he or she issues a direction under this section, the Minister shall, no later than 6 weeks after a plan is made, issue a notice in writing to a planning authority consequent on a recommendation being made to him or her by the Office of the Planning Regulator under section 31AN(9) or 31AP(9), as the case may be.”.	25 30
29	Section 31	Substitute for subsection (5):  “(5) The Minister shall furnish a copy of the notice referred to in subsection (3)—  (a) to the chief executive and to the Cathaoirleach of the planning authority concerned,	35

		<p>(b) where there is a regional spatial and economic strategy in force for the area of the planning authority, to the director of the regional assembly concerned,</p> <p>(c) where it concerns any matter to which Part IIB relates, to the Office of the Planning Regulator, and</p> <p>(d) where relevant, to the National Transport Authority.”.</p>	5 10
30	Section 31(7)	<p>Substitute for paragraph (c):</p> <p>“(c) that written submissions or observations in respect of the draft direction may be made to the planning authority during such period and shall be taken into consideration by the Office of the Planning Regulator before it makes a recommendation to the Minister on the matter.”.</p>	15 20
31	Section 31	<p>Substitute for subsection (8):</p> <p>“(8) No later than 4 weeks after the expiry of the period referred to in subsection (7) (b), the chief executive shall prepare a report on any submissions or observations received under subsection (7)(c) which shall be furnished to the elected members of the planning authority, the Office of the Planning Regulator and the Minister.”.</p>	25 30
32	Section 31	<p>Substitute for subsection (10):</p> <p>“(10) In relation to the notice issued by the Minister under subsection (3), the elected members of the planning authority—</p> <p>(a) may make a submission to the Office of the Planning Regulator at any time up to the expiry of the period of time referred to in subsection (7)(b), and</p> <p>(b) where so submitted, shall send a copy of it to the Minister.”.</p>	35 40
33	Section 31	Delete subsections (11) to (15).	
34	Section 31	Substitute for subsection (16):	

		“(16) Where paragraph (a) or (c) of section 31AN(9) or paragraph (a) or (c) of section 31AP(9) applies to a matter to which this section relates, then the Minister shall issue a direction accordingly.”.	5
35	Section 31	Substitute for subsection (20): “(20) The Minister shall— (a) make available on the website of the Department of Housing, Planning and Local Government a direction under subsection (16), and (b) otherwise publish or cause to be published in such manner as he or she considers appropriate directions issued under subsection (16).”.	10 15
36	Section 31A(1)	Insert after paragraph (d): “(e) the Office of the Planning Regulator has issued a notice to the Minister pursuant to section 31AQ(7) in respect of a regional assembly or assemblies, as the case may be.”.	20
37	Section 31A(1)	Substitute “then, subject to compliance with the relevant provisions of sections 31AQ and 31AR, the Minister may” for “the Minister may”.	25
38	Section 31A	Substitute for subsection (3): “(3) Before he or she issues a direction under this section, the Minister shall, no later than 6 weeks after a regional spatial and economic strategy is made, issue a notice in writing to a regional assembly or regional assemblies, as the case may be, consequent on a recommendation being made to him or her by the Office of the Planning Regulator under section 31AR(9).”.	30 35
39	Section 31A	Substitute for subsection (5): “(5) The Minister shall furnish a copy of the notice referred to in subsection (3)— (a) to the regional assembly or regional assemblies concerned, as the case may be,	40

		(b) to the Office of the Planning Regulator, and (c) to the National Transport Authority.”.	
40	Section 31A(7)	Substitute for paragraph (c): “(c) that written submissions or observations in respect of the draft direction may be made to the regional assembly or regional assemblies, as the case may be, during such period and shall be taken into consideration by the Office of the Planning Regulator before it makes a recommendation to the Minister on the matter.”.	5 10
41	Section 31A	Substitute for subsection (8): “(8) No later than 4 weeks after the expiry of the period referred to in subsection (7) (b), the director shall prepare a report on any submissions or observations received under subsection (7)(c) which shall be furnished to the members of the regional assembly or regional assemblies, as the case may be, the Office of the Planning Regulator and the Minister.”.	15 20
42	Section 31A	Substitute for subsection (10): “(10) In relation to the notice issued by the Minister under subsection (3), the members of the regional assembly, or assemblies, as the case may be— (a) may make a submission to the Office of the Planning Regulator at any time up to the expiry of the period of time referred to in subsection (7)(b), and (b) where so submitted, shall send a copy of it to the Minister.”.	25 30 35
43	Section 31A	Delete subsections (11) to (15).	
44	Section 31A	Substitute for subsection (16): “(16) Where paragraph (a) or (c) of section 31AR(9) applies to a matter to which this section relates, then the Minister shall issue a direction accordingly.”.	40
45	Section 31A	Substitute for subsection (20):	

		<p>“(20) The Minister shall—</p> <ul style="list-style-type: none"><li>(a) make available on the website of the Department of Housing, Planning and Local Government a direction under subsection (16), and</li><li>(b) otherwise publish or cause to be published in such manner as he or she considers appropriate directions issued under subsection (16).”.</li></ul>
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## SCHEDULE 2

## AMENDMENTS TO PLANNING AND DEVELOPMENT ACT 2000 RELATING TO CHIEF EXECUTIVE OF LOCAL AUTHORITIES, ETC.

## Section 6

Reference No. (1)	Provision (2)	Amendment (3)	
1	Section 2(1)	Delete definition of “manager”.	5
2	Section 2(1)	After definition of “chairperson” insert the following definition: “ ‘chief executive’, in relation to a local authority, including a local authority exercising functions as a planning authority, means the chief executive appointed under Chapter 2 of Part 14 (as amended by section 54 of the Local Government Reform Act 2014) of the Local Government Act 2001;”	10 15
3	Section 5(6)	In paragraph (d) substitute “chief executive” for “manager”.	
4	Section 11(4)	In paragraph (a) substitute “chief executive” for “manager”.	20
5	Section 11(4)	In paragraph (b)(iii) substitute “chief executive” for “manager”.	
6	Section 11(4)	In paragraph (b)(iv) substitute “chief executive’s recommendations” for “manager’s recommendations”.	25
7	Section 11(4)	In paragraphs (bb) and (bc) substitute “chief executive” for “manager”.	
8	Section 11(4)	In paragraph (d) substitute “chief executive” for “manager” in both places where it occurs.	30
9	Section 11(5)	In paragraphs (a) and (b) substitute “chief executive” for “manager”.	
10	Section 12(4)	In paragraph (a) substitute “chief executive” for “manager”.	
11	Section 12(4)	In paragraph (b)(iii) substitute “chief executive” for “manager”.	35
12	Section 12(4)	In paragraphs (bb) and (bc) substitute “chief executive” for “manager”.	
13	Section 12(5)	In paragraphs (a) and (aa) substitute “chief executive” for “manager”.	40
14	Section 12(5)	In paragraph (b) substitute “chief executive’s report” for “manager’s report” in both places where it occurs.	
15	Section 12(6)	Substitute “chief executive’s report” for “manager’s report”.	45
16	Section 12(7)	In paragraphs (ab) and (ae) substitute “chief executive” for “manager”.	

17	Section 12(8)	In paragraph (a) substitute “chief executive” for “manager”.	
18	Section 12(8)	In paragraph (b)(iii) substitute “chief executive” for “manager”.	
19	Section 12(9)	In paragraph (a) substitute “chief executive” for “manager”.	5
20	Section 12(9)	In paragraph (b) substitute “chief executive’s report” for “manager’s report” in both places where it occurs.	
21	Section 12(10)	In paragraph (a) substitute “chief executive’s report” for “manager’s report”.	10
22	Section 12(14)	In paragraph (a) substitute “chief executive” for “manager” in both places where it occurs.	
23	Section 12(14)	In paragraph (b)(ii)(II) substitute “chief executive” for “manager”.	15
24	Section 13(4)	In paragraph (a) substitute “chief executive” for “manager”.	
25	Section 13(4)	In paragraph (b)(iii), (bb) and (bc) substitute “chief executive” for “manager”.	
26	Section 13(5)	In paragraphs (a) and (aa) substitute “chief executive” for “manager”.	20
27	Section 13(5)	In paragraph (b) substitute “chief executive’s report” for “manager’s report” in both places where it occurs.	
28	Section 13(6)	In paragraph (a) substitute “chief executive’s report” for “manager’s report”.	25
29	Section 13(6)	In paragraphs (ab) and (ae) substitute “chief executive” for “manager”.	
30	Section 15(2)	Substitute “chief executive” for “manager”.	
31	Section 16(2)	Substitute “chief executive” for “manager”.	30
32	Section 16(3)	Substitute “chief executive” for “manager”.	
33	Section 19(1)	In subparagraphs (i) and (ii) of paragraph (e) substitute “chief executive” for “manager”.	
34	Section 20(3)	In subparagraph (i) of paragraph (c) substitute “chief executive” for “manager”.	35
35	Section 20(3)	In subparagraph (ii)(III) of paragraph (c) substitute “chief executive” for “manager”.	
36	Section 20(3)	In paragraph (cc) substitute “chief executive” for “manager”.	
37	Section 20(3)	In subparagraph (i) and (ii) of paragraph (d) substitute “chief executive” for “manager” and in subparagraph (ii)(I) of that paragraph substitute “chief executive’s report” for “manager’s report”.	40
38	Section 20(3)	In paragraph (e) to substitute “chief executive’s report” for “manager’s report”.	45
39	Section 20(3)	In paragraphs (g) and (i) substitute “chief executive” for “manager”.	

40	Section 20(3)	In paragraph (k) substitute “chief executive” for “manager” in both places where it occurs.	
41	Section 20(3)	In paragraphs (l)(iii) and (m) substitute “chief executive” for “manager”.	
42	Section 20(3)	In paragraph (n) substitute “chief executive’s report” for “manager’s report”.	5
43	Section 31(2)	Substitute “chief executive” for “Manager”.	
44	Section 31(5)	Substitute “chief executive” for “manager”.	
45	Section 31(7)	Substitute “chief executive” for “manager”.	
46	Section 31(8)	Substitute “chief executive” for “manager”.	10
47	Section 31(13)	In paragraph (b) substitute “chief executive” for “manager”.	
48	Section 31(14)	Substitute “chief executive” for “manager”.	
49	Section 31A(2)	Substitute “chief executive” for “Manager”.	
50	Section 34(10)	In paragraph (b) substitute “chief executive” for “manager”.	15
51	Section 37E(5)	Substitute “chief executive” for “manager”.	
52	Section 48(6)	In paragraphs (a) and (b)(iii) substitute “chief executive” for “manager”.	
53	Section 48(7)	Substitute “chief executive” for “manager”.	20
54	Section 48(8)	In paragraphs (a) and (b) substitute “chief executive’s report” for “manager’s report” in each place where it occurs.	
55	Section 85(5)	In paragraphs (a) and (b)(iii) substitute “chief executive” for “manager”.	25
56	Section 85(6)	Substitute “chief executive” for “manager”.	
57	Section 85(7)	Substitute “chief executive” for “manager”.	
58	Section 95(3)	In paragraphs (a) and (b) substitute “chief executive” for “manager” in each place where it occurs.	30
59	Section 147(13)	In paragraph (a)(i) substitute “chief executive” for “manager” in both places where it occurs.	
60	Section 147(13)	In paragraph (a) substitute for subparagraph (ii):  “(ii) the deputy chief executive (within the meaning of section 148, inserted by section 54 of the Local Government Reform Act 2014, of the Local Government Act 2001) of a local authority shall be deemed to be an officer of the planning authority concerned, and”.	35  40  45
61	Section 148(4)	Substitute “chief executive” for “manager”.	

62	Section 148(5)	In paragraph (b) substitute “chief executive” for “manager” in each place where it occurs.	
63	Section 169(3)	In paragraphs (a) and (b)(iii) substitute “chief executive” for “manager”.	
64	Section 169(4)	In paragraphs (a), (bb) and (be) substitute “chief executive” for “manager”.	5
65	Section 177I(2)	In paragraph (e) substitute “chief executive” for “manager”.	
66	Section 179(3)	In paragraphs (a), and (b)(iv) substitute “chief executive” for “manager”.	10
67	Section 179(4)	In paragraph (a) substitute “chief executive” for “manager”.	
68	Section 179(4)	In paragraphs (b) and (c) substitute “chief executive’s report” for “manager’s report” in each place where it occurs.	15
69	Section 179(6)	In paragraph (b) substitute “chief executive” for “manager”.	
70	Section 238(3)	In paragraphs (a), (b)(iv) and (c) substitute “chief executive” for “manager”.	
71	Section 238(3)	In paragraphs (d) and (e) substitute “chief executive’s report” for “manager’s report” in each place where it occurs.	20

## SCHEDULE 3

## NATIONAL PLANNING FRAMEWORK AND REFERENCES TO NATIONAL SPATIAL STRATEGY

## Section 18(2)

Reference No. (1)	Short title of Act (2)	Provision (3)	Amendment (4)	
1	Planning and Development Act 2000	Section 10	In subsection (1A) substitute “National Planning Framework” for “National Spatial Strategy”.	5
2		Section 10	In paragraphs (a) and (f)(i) of subsection (2A) substitute “National Planning Framework” for “National Spatial Strategy”.	10
3		Section 10	In subsection (2C)(a) substitute “National Planning Framework” for “National Spatial Strategy”.	15
4		Section 22A	In subsection (3) substitute “National Planning Framework” for “National Spatial Strategy”.	
5		Section 23	In subsection (1)(a) substitute “National Planning Framework” for “National Spatial Strategy” in both places where it occurs.	20
6		Section 23	In subsection (2)(a) substitute “National Planning Framework” for “National Spatial Strategy”.	25
7		Section 23	In subsection (3)(a)(iii) substitute “National Planning Framework” for “National Spatial Strategy or any successor strategy”.	30
8		Section 27A	In subsection (3)(b) substitute “regional development through maximising the potential of the regions” for “balanced regional development”.	35
9		Section 37A	In subsection (2)(b) substitute “National Planning Framework” for “National Spatial Strategy”.	
10		Section 143	In subsection (1)(c) substitute “National Planning Framework” for “National Spatial Strategy”.	40

11		Section 177T	In subsection (3) substitute “As respects a draft National Planning Framework, the Government shall prepare a Natura impact report in relation to a draft Land use plan and the following bodies shall also prepare a Natura impact report in relation to a draft Land use plan” for “The following bodies shall prepare a Natura impact report in relation to a draft Land use plan”.	5 10
12	Water Services Act 2007	Section 30	In subsection (3)(c) substitute “National Planning Framework” for “National Spatial Strategy”.	
13	Dublin Transport Authority Act 2008	Section 2	Delete definition of “National Spatial Strategy”.	15
14		Section 12	In subsection (5)(a) substitute “National Planning Framework” for “National Spatial Strategy”.	
15	Public Transport Regulation Act 2009	Section 2	Delete definition of “National Spatial Strategy”.	20
16		Section 10	In subsection (1)(b)(v) substitute “National Planning Framework” for “National Spatial Strategy”.	
17	Water Services (No. 2) Act 2013	Section 33	In subsection (5)(a)(i) substitute “National Planning Framework” for “National Spatial Strategy”.	25
18		Section 33	Delete subsection (12).	

## SCHEDULE 4

## AMENDMENT TO PLANNING AND DEVELOPMENT ACT 2000

PUBLICATION ON WEBSITE OF A PLANNING AUTHORITY OF CERTAIN SUBMISSIONS AND OBSERVATIONS, AND  
REPORTS OF THE CHIEF EXECUTIVE, RELATING TO PLANNING PROCESS

## Section 19

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Reference No. (1)	Provision (2)	Amendment (3)	
1	Section 9	<p>After subsection (5) insert:</p> <p>“(5A) (a) Written observations or submissions received by a planning authority under subsection (3) or (4) shall, subject to paragraph (b), be published on the website of the authority within 10 working days of its receipt by that authority.</p> <p>(b) Publication in accordance with paragraph (a)—</p> <p>(i) does not apply where the planning authority is of the opinion that the observation or submission is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure,</p> <p>(ii) does not apply where the planning authority has sought and receives, either before or after the period of 10 working days referred to in paragraph (a), legal advice to the effect that it should not publish under that paragraph or should cease to so publish, as the case may be, the observations or submissions concerned,</p>	<p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p>

		<p>(iii) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in paragraph (a), legal advice that part of the observations or submissions concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or</p> <p>(iv) does not apply where the observations or submissions relate to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the observations or submissions relate to matters prescribed by the Minister.”.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p>
<p>2</p>	<p>Section 11</p>	<p>After subsection (3) insert:</p> <p>“(3A) (a) Written submissions or observations received by a planning authority under subsection (3) or (4) shall, subject to paragraph (b), be published on the website of the authority within 10 working days of its receipt by that authority.</p> <p>(b) Publication in accordance with paragraph (a)—</p> <p>(i) does not apply where the planning authority is of the opinion that the submission or observation is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure,</p>	<p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p>

		<p>(ii) does not apply where the planning authority has sought and receives, either before or after the period of 10 working days referred to in paragraph (a), legal advice to the effect that it should not publish under that paragraph or should cease to so publish, as the case may be, the submission or observation concerned, 5</p> <p>(iii) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in paragraph (a), legal advice that part of the submission or observation concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or 15</p> <p>(iv) does not apply where the submission or observation relates to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the submission or observation relates to matters prescribed by the Minister.”. 20</p>	25
3	Section 11(4)	After paragraph (a) insert: “(aa) A chief executive’s report prepared for the purposes of paragraph (a) shall be published on the website of the planning authority concerned as soon as practicable following its preparation.”.	30
4	Section 12(4)	After paragraph (a) insert:	35

		<p>“(aa) A chief executive’s report prepared for the purposes of paragraph (a) shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under paragraph (a).”.</p>	5
5	Section 12(8)	<p>After paragraph (a) insert:</p> <p>“(aa) A chief executive’s report prepared for the purposes of paragraph (a) shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under paragraph (a).”.</p>	10 15
6	Section 12	<p>After subsection (8) insert:</p> <p>“(8A) (a) Written submissions or observations received by a planning authority under this section shall, subject to paragraph (b), be published on the website of the authority within 10 working days of its receipt by that authority.</p> <p>(b) Publication in accordance with paragraph (a)—</p> <p>(i) does not apply where the planning authority is of the opinion that the submission or observation is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure,</p>	20 25 30 35 40

		<p>(ii) does not apply where the planning authority has sought and receives, either before or after the period of 10 working days referred to in paragraph (a), legal advice to the effect that it should not publish under that paragraph or should cease to so publish, as the case may be, the submission or observation concerned, 5</p> <p>(iii) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in paragraph (a), legal advice that part of the submission or observation concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or 15</p> <p>(iv) does not apply where the submission or observation relates to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the submission or observation relates to matters prescribed by the Minister.”. 20</p>	35
7	Section 13	<p>After subsection (3) insert:</p> <p>“(3A) (a) Written submissions or observations received by a planning authority under this section shall, subject to paragraph (b), be published on the website of the authority within 10 working days of its receipt by that authority. 40</p>	

		<p>(b) Publication in accordance with paragraph (a)—</p> <p>(i) does not apply where the planning authority is of the opinion that the submission or observation is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure,</p> <p>(ii) does not apply where the planning authority has sought and receives, either before or after the period of 10 working days referred to in paragraph (a), legal advice to the effect that it should not publish under that paragraph or should cease to so publish, as the case may be, the submission or observation concerned,</p> <p>(iii) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in paragraph (a), legal advice that part of the submission or observation concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or</p> <p>(iv) does not apply where the submission or observation relates to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the submission or observation relates to matters prescribed by the Minister.”.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p>
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8	Section 13(4)	<p>After paragraph (a) insert:</p> <p>“(aa) A chief executive’s report prepared for the purposes of paragraph (a) shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under paragraph (a).”.</p>	5
9	Section 20(3)(c)	<p>After subparagraph (i) insert:</p> <p>“(ia) A chief executive’s report prepared for the purposes of subparagraph (i) shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under subparagraph (i).”.</p>	10 15 20
10	Section 20(3)	<p>After paragraph (j) insert:</p> <p>“(ja) (i) Written submissions or observations received by a planning authority under this subsection shall, subject to subparagraph (ii), be published on the website of the authority within 10 working days of its receipt by that authority.</p> <p>(ii) Publication in accordance with subparagraph (i)—</p>	25 30

	(I) does not apply where the planning authority is of the opinion that the submission or observation is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure,	5
	(II) does not apply where the planning authority has sought and receives, either before or after the period of 10 working days referred to in subparagraph (i), legal advice to the effect that it should not publish under that subparagraph or should cease to so publish, as the case may be, the submission or observation concerned,	15
	(III) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in subparagraph (i), legal advice that part of the submission or observation concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or	30
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		<p>(IV) does not apply where the submission or observation relates to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the submission or observation relates to matters prescribed by the Minister.”.</p>	5 10
11	Section 20(3)	<p>After paragraph (k) insert:</p> <p>“(ka) A chief executive’s report prepared for the purposes of paragraph (k) shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under paragraph (k).”.</p>	15 20