



**AN BILLE RIALTAIS AITIUIL (PLEANAIL AGUS
FORBAIRT), 1973**
**LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT)
BILL, 1973**

Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas

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SCHEDULE

AN BORD PLEANÁLA



AN BILLE RIALTAIS AITIUIL (PLEANAIL AGUS
FORBAIRT), 1973
LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT)
BILL, 1973

BILL

entitled

AN ACT TO MAKE BETTER PROVISION, IN THE INTERESTS
OF THE COMMON GOOD, IN RELATION TO THE
PROPER PLANNING AND DEVELOPMENT OF CITIES,
TOWNS AND OTHER AREAS, WHETHER URBAN OR
RURAL, AND, FOR THAT PURPOSE, TO ESTABLISH A
BODY TO BE KNOWN AS AN BORD PLEANALA AND
TO DEFINE ITS FUNCTIONS AND TO AMEND AND
EXTEND THE LOCAL GOVERNMENT (PLANNING AND
DEVELOPMENT) ACT, 1963, AND TO PROVIDE FOR
OTHER MATTERS CONNECTED WITH THE MATTERS
AFORESAID.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :

1.—In this Act—

Interpretation.

20 “the appropriate day” means the day on which *section 14* of this
Act comes into operation;

“the Board” has the meaning assigned to it by *section 3* of this Act;

25 “company” except in *section 34 (4)*, means a company within the
meaning of *section 2* of the Companies Act, 1963, or a company in-
corporated outside the State;

1963, No. 33.

“the establishment day” means the day appointed to be the estab-
lishment day for the purposes of this Act by order of the Minister
under *section 2* of this Act;

30 “judicial office” means an office, being the office of Chief Justice,
President of the High Court, ordinary judge of the Supreme Court or
ordinary judge of the High Court;

45 “manager” means a manager within the meaning of *section 1* of
the City and County Management (Amendment) Act, 1955;

1955, No. 12.

35 “the Principal Act” means the Local Government (Planning and
Development) Act, 1963;

1963, No. 28.

“shares” includes stock and “share capital” shall be construed
accordingly.

2.—The Minister may by order appoint a day to be the establish-
ment day for the purposes of this Act.

Establishment day.

Establishment of
Bord Pleanála.

3.—(1) On the establishment day there shall be established a body to be known as An Bord Pleanála (in this Act referred to as the Board) to perform the functions assigned to it by this Act.

(2) The provisions of the Schedule to this Act shall have effect with respect to the Board.

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Chairman
of Board.

4.—(1) The chairman of the Board shall be either—

(a) such ordinary judge of the High Court as is for the time being nominated with his consent by the Government after consultation with the President of the High Court, or

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(b) a person who is appointed by the Government and formerly held, but who no longer holds, judicial office.

(2) If immediately before the exercise by the Government of a power under *subsection (1)* of this section there is in force a nomination under that subsection, then on the exercise the nomination shall cease to have effect.

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(3) A judge of the High Court who is chairman of the Board shall on ceasing to be an ordinary judge of the High Court also cease to be chairman of the Board.

(4) A person who ceases to be chairman of the Board by virtue of *subsection (3)* of this section may be appointed under *subsection (1)* of this section.

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(5) Where a person is nominated under *subsection (1)* of this section, the following provisions shall apply for the duration of the relevant period, namely,

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(a) the fact that the person is an ordinary judge of the High Court shall be disregarded in applying section 1 (1) of the Courts Act, 1973, and

1973, No. 26.

(b) the said section 1 (1) shall have effect accordingly.

(6) In this section "the relevant period" means, as regards a person nominated under *subsection (1)* of this section, the period beginning on the day on which the person is so nominated and ending on either—

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(a) the day on which the person ceases to be an ordinary judge of the High Court, or

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(b) the day on which the next subsequent such nomination is made,

whichever first occurs.

Board to keep
itself informed on
certain policies and
objectives.

5.—(1) The Board shall, so far as may in the opinion of the Board be necessary for the performance of its functions, keep itself informed of the policies and objectives for the time being of the Minister, planning authorities and any other body which is a public authority whose functions have, or may have, a bearing on the proper planning and development (including the preservation and development of amenities) of cities, towns or other areas, whether urban or rural.

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(2) In this section "public authority" means any Minister of State not being the Minister, the Commissioners of Public Works in Ireland, the Irish Land Commission, a harbour authority within the meaning of section 2 of the Harbours Act, 1946, and any other body estab-

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1946, No. 9.

lished by or under statute which is for the time being declared, by regulation made by the Minister, to be a public authority for the purposes of this section.

6.—(1) The Minister shall, from time to time, give to the Board
5 such general directives as to policy in relation to planning and development as he considers necessary.

General policy directives as to development.

(2) The Board shall in performing its functions have regard to any directive under this section.

(3) Nothing in this section shall be construed as enabling the
10 Minister to exercise any power or control in relation to any particular case with which the Board is or may be concerned.

(4) Where the Minister gives a directive under this section, the following provisions shall apply, namely—

15 (a) as soon as may be the Minister shall cause a copy of the directive to be laid before each House of the Oireachtas,

(b) the directive shall be published in the *Iris Oifigiúil*, and

(c) the Minister shall cause a copy of the directive to be sent to each planning authority.

7.—There may, subject to such conditions, if any, as the Minister
20 thinks proper, be paid to the Board 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 Finance and after consultation with the Board in relation to its programme of expenditure for that year, may fix.

Grants to Board.

25 8.—(1) The Board shall keep in such form as may be approved by the Minister, after consultation with the Minister for Finance, all proper and usual accounts of all moneys received or expended by it.

Accounts and audits.

(2) Accounts kept in pursuance of this section shall be submitted
30 by the Board to the Comptroller and Auditor General for audit at such times as the Minister shall direct and, when audited by him, shall, together with the report of the Comptroller and Auditor General thereon, be presented to the Minister who shall cause copies to be laid before each House of the Oireachtas.

9.—(1) The Board shall, not later than the 30th day of Sept-
35 ember in each year, make a report to the Minister of its proceedings during the preceding year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

Annual report and information to Minister.

(2) The Board shall supply the Minister with such information
40 relating to the performance of its functions as he shall from time to time request.

10.—(1) The Board shall appoint such and so many persons to be
employees of the Board as the Board, subject to the approval of the Minister as to the number and kind of such employees, from time to time thinks proper.

Employees of Board.

45 (2) The Board may employ a person in a part-time capacity to be remunerated by the payment of fees of such amounts as the Board may, with the approval of the Minister given with the consent of the Minister for the Public Service, from time to time determine.

(3) An employee of the Board shall hold his employment on such terms and conditions as the Board, subject to the approval of the Minister, from time to time determines.

(4) There shall be paid by the Board to its employees out of moneys at its disposal such remuneration and allowances as the Board, subject to the approval of the Minister, with the consent of the Minister for the Public Service, from time to time determines.

Superannuation of employees of Board.

11.—(1) As soon as conveniently may be after the establishment day, the Board shall prepare and submit to the Minister for his approval, a scheme or schemes for the granting of pensions, gratuities and other allowances on retirement or death to or in respect of such wholetime employees of the Board as it may think fit.

(2) The Board may at any time, prepare and submit to the Minister, a scheme amending a scheme under this section.

(3) Where a scheme is submitted to the Minister pursuant to this section, the Minister may, with the concurrence of the Minister for the Public Service, approve the scheme without modification or with such modification (whether by way of addition, omission or variation) as the Minister shall, with such concurrence, think proper.

(4) A scheme submitted to the Minister under this section shall, if approved of by the Minister with the concurrence of the Minister for the Public Service, be carried out by the Board in accordance with its terms.

(5) A scheme submitted and approved of under this section shall fix the time and conditions of retirement for all persons to or in respect of whom pensions, gratuities or other allowances are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(6) If any dispute arises as to the claim of any person to, or the amount of, any pension, gratuity or other allowance payable in pursuance of a scheme under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for the Public Service, whose decision shall be final.

(7) Every scheme submitted and approved of under this section shall be laid before each House of the Oireachtas as soon as may be after it is approved of and if either House within the next twenty-one days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Membership of either House of Oireachtas or of local authority of employees of Board.

12.—(1) Where a person who is an employee of the Board is nominated as a member of Seanad Éireann or for election to either House of the Oireachtas or becomes a member of a local authority, he shall stand seconded from employment by the Board and shall not be paid by, or be entitled to receive from, the Board any remuneration or allowances—

(a) in case he is nominated as a member of Seanad Éireann, in respect of the period commencing on his acceptance of the nomination and ending when he ceases to be a member of that House,

(b) in case he is nominated for election to either such House, in respect of the period commencing on his nomination

and ending when he ceases to be a member of that House or fails to be elected or withdraws his candidature, as may be appropriate,

- 5 (c) in case he becomes a member of a local authority, in respect of the period commencing on his becoming a member of the local authority and ending when he ceases to be a member of that authority.

10 (2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein shall, while so entitled, be disqualified from becoming an employee of the Board.

(3) A person who is for the time being a member of a local authority shall, while holding office as such member, be disqualified from becoming an employee of the Board.

15 13.—(1) The Board may from time to time engage such consultants or advisers as it may consider necessary for the discharge of its functions and any fees due to a consultant or adviser engaged pursuant to this section shall be paid by the Board out of moneys at its disposal. Consultants and advisers.

20 (2) Any person may notify the Board in writing of his willingness to be engaged by the Board as a consultant or adviser pursuant to this section and such person when so notifying the Board shall give to the Board particulars of his qualifications and experience.

25 (3) The Board shall maintain a list of the persons who duly give to the Board a notification pursuant to subsection (2) of this section.

30 (4) The Board shall, in engaging a consultant or adviser under this section, have regard to the list maintained under subsection (3) of this section, but the foregoing provisions of this subsection shall not be construed as precluding the Board from engaging as a consultant or adviser a person whose name is not on the said list.

(5) The Board shall include in each report made under section 9 of this Act a statement of the names of the persons (if any) engaged pursuant to this section during the year to which the report relates.

35 14.—(1) An appeal under a relevant section of the Principal Act shall, in lieu of being brought to the Minister, be brought to the Board and if it is not withdrawn, be decided by the Board, and— Certain appeals and other matters to be brought or referred to Board.

40 (a) in case the appeal relates to an application, notice or order, the application, notice or order shall be determined or confirmed or annulled (as the case may be) accordingly, and

45 (b) in case the appeal relates to a licence under section 89 of the Principal Act, such directions shall be given with respect to the withdrawing or granting or altering of the licence as may be appropriate.

(2) Any question as to what, in any particular case, is or is not development or exempted development shall, in lieu of being referred to and decided by the Minister under section 5 (1) of the Principal Act, be referred to and be decided by the Board.

50 (3) In case a condition referred to in subsection (2) (f) of section 26 of the Principal Act is attached to a permission or approval granted under that section and there is not agreement in relation to the contribution required by subsection (7) of the said section 26

to be made by a local authority, the matter shall, in lieu of being determined by the Minister under the said subsection (7), be referred to the Board which shall determine the amount of the contribution.

(4) In case there is attached to a permission or approval granted under section 26 of the Principal Act a condition which provides that a contribution or other matter is to be agreed between the planning authority and the person to whom the permission or approval is granted and that in default of agreement the contribution or other matter is to be determined by the Minister, the condition shall be construed as providing that in default of agreement the contribution or other matter is to be determined by the Board.

(5) The functions of the Minister under section 29 of the Principal Act are hereby transferred to the Board and without prejudice to the generality of *subsection (9)* of this section the references in the said section 29 to the Minister shall each be construed as referring to the Board.

(6) Any question or dispute whether a new structure would or does replace substantially within the meaning of section 56 of the Principal Act a demolished or destroyed structure shall, in lieu of being determined by the Minister, be determined by the Board.

(7) For the purposes of the foregoing subsections of this section, the Principal Act (as amended by this Act) shall, with any necessary modifications, apply to the following, namely—

- (a) the bringing of an appeal to the Board,
- (b) the making of a reference to the Board,
- (c) a decision of the Board on an appeal,
- (d) the confirmation or annulment (as the case may be) by the Board of the notice or order to which an appeal relates,
- (e) the determination of a question or dispute by the Board to which a reference under section 5 (1) of the Principal Act relates,
- (f) the determination by the Board of a disagreement, question or dispute to which section 26 (7) or section 56 (3) of the Principal Act relates,
- (g) the confirmation of a purchase notice served on a planning authority under section 29 of the Principal Act,
- (h) the compliance with directions given by the Board in relation to an appeal relating to a licence under section 89 of the Principal Act, and
- (i) the determination by the Board of a contribution or other matter to be determined by the Board by virtue of *subsection (4)* of this section,

as, immediately before the appropriate day, it applied to whichever of the following is appropriate, namely, the bringing or making of a corresponding appeal or reference to the Minister under the Principal Act, a decision of the Minister on such an appeal, the confirmation or annulment or determination by the Minister of a notice, order, question or dispute relating to such an appeal or reference, the determination by the Minister of a disagreement, question or dispute to which the said section 26 (7) or 56 (3) relates, the confirmation by the Minister of a purchase notice, the compliance with directions given by the Minister in relation to an appeal relating to a licence under the said section 89 or the

determination by the Minister of a contribution or other matter pursuant to a condition mentioned in the said *subsection* (4).

5 (8) The Board may in determining an appeal under section 26 or 27 of the Principal Act decide to grant a permission or approval even if the proposed development contravenes materially the development plan or any special amenity area order relating to the area of the planning authority to whose decision the appeal relates.

(9) Wherever the Principal Act refers to the Minister in relation to—

- 10 (a) an appeal under a relevant section,
- (b) a reference under section 5 (1) of the Principal Act,
- (c) a determination of a disagreement, question or dispute to which section 26 (7) or section 56 (3) of the Principal Act relates,
- 15 (d) a decision on an appeal under a relevant section,
- (e) a determination pursuant to section 85 of the Principal Act as to whether a consent was unreasonably withheld,
- (f) a determination, confirmation or annulment (as the case may be) of the notice or order, question or dispute to which an appeal under a relevant section or a reference mentioned in *paragraph* (b) of this subsection relates,
- 20 (g) a requirement requiring applicants or planning authorities to furnish to the Minister any specified information, or
- (h) any word cognate to appeal, reference, decision, determination, confirmation or annulment,
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that Act, other than section 18 thereof, shall be construed as referring to the Board.

(10) In this section "a relevant section" means a section which is section 26, 27, 30, 33, 36, 37, 44, 45, 46, 48, 85 or 89 of the Principal Act.

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15.—(1) A deposit of £10 shall be lodged with the Board by an appellant with his appeal and any appeal to the Board which is not accompanied by such deposit shall be invalid.

£10 deposit
to be lodged
by appellants.

(2) As soon as may be after an appeal to the Board is either withdrawn or determined, subject to *section* 18 (3) of this Act, the Board shall return the deposit to the appellant.

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16.—(1) Except where a direction is given by the Minister under this section, the Board shall have an absolute discretion to hold an oral hearing of any reference or appeal to the Board.

Oral hearings.

40 (2) Where the Board is requested to hold an oral hearing of a reference or appeal and decides to determine the reference or appeal without an oral hearing, the Board—

- (a) shall serve notice of its decision on the person who requested such hearing, and
- 45 (b) shall not proceed to determine the reference or appeal until after the expiration of the period mentioned in *subsection* (3) of this section.

(3) Any person on whom a notice is served under *subsection* (2) of this section, other than a person on whom there has also been served a notice under *section 18* of this Act relating to the relevant reference or appeal, may, at any time before the expiration of fourteen days beginning on the day on which the notice under the said *subsection* (2) is served, apply in writing to the Minister for a direction under this section as regards the relevant reference or appeal. 5

(4) In case an application is made under *subsection* (3) of this section to the Minister, unless the Board decides to hold an oral hearing of the relevant reference or appeal, it shall not determine such reference or appeal pending the decision of the Minister on the application. 10

(5) The Minister may direct the Board to hold an oral hearing of any reference or appeal to the Board and any such direction shall be complied with by the Board. 15

Matters other than those raised by parties may be taken into account in determining references or appeals.

17.—The Board in deciding a reference or appeal may take into account matters other than those raised by the parties to the reference or appeal if the matters either relate to the proper planning and development of the area of the relevant planning authority or are matters to which by virtue of *section 24* (2) of this Act the Board may have regard, provided that the matters are brought to the notice of those parties and they are accorded an opportunity of making observations thereon to the Board or, in the case of an oral hearing, the person conducting the hearing. 20

Power of Board as regards vexatious references or appeals, etc.

18.—(1) Where the Board is of opinion that a reference or appeal is vexatious or is being unnecessarily delayed by any party, the Board may serve a notice on the party stating that it will, at a time after the day specified in the notice (being a day which is not less than seven days after the service of the notice) without further notice to the party, determine the reference or appeal to which the notice relates, and that the reference or appeal may be so determined by the Board notwithstanding the fact that no submission has been made to the Board by the party in relation to the reference or appeal. 25 30

(2) Where a notice has been served under this section the Board may, at any time after the day specified in the notice, without further notice to the party on whom the notice was served, determine the reference or appeal, and the reference or appeal may be so determined by the Board notwithstanding the fact that no submission has been made to the Board by such party in relation to the reference or appeal. 35 40

(3) In case the Board in determining an appeal is of opinion that the appeal is vexatious, the Board may direct that the deposit lodged in relation to the appeal shall be forfeited to the Board.

Expenses of appeal.

19.—(1) Subject to *subsection* (2) of this section, where there is an appeal to the Board against a decision of a planning authority— 45

(a) the Board, if it so thinks proper and irrespective of the result of the appeal, may direct the planning authority to pay—

(i) to the appellant, such sum as the Board, in its absolute discretion, specifies as compensation to the appellant for the expense occasioned to him in relation to the appeal, 50

(ii) to the Board, such sum as the Board, in its absolute discretion, specifies as compensation to the Board towards the expense incurred by the Board in relation to the hearing of the appeal; 55

(b) in case the decision of the planning authority is confirmed on appeal, or where the decision is varied on appeal, if the Board in determining the appeal does not accede in substance to the appellant's grounds of appeal, the Board, if it so thinks proper, may direct the appellant to pay—

(i) to the planning authority, such sum as the Board, in its absolute discretion, specifies as compensation to the planning authority for the expense occasioned to them in relation to the appeal,

(ii) to any of the other parties to the appeal, such sum as the Board, in its absolute discretion, specifies as compensation to the party for the expense occasioned to him in relation to the appeal,

(iii) to the Board, such sum as the Board, in its absolute discretion, specifies as compensation to the Board towards the expense incurred by the Board in relation to the hearing of the appeal.

(2) A direction to pay any sum exceeding £50 shall be given by the Board under *subsection (1)* of this section only after consultation with the Minister.

(3) Any sum directed under this section to be paid shall, in default of being paid, be recoverable as a simple contract debt in any court of competent jurisdiction.

20.—(1) The Minister may make regulations providing for any matter of procedure in relation to references or appeals to the Board.

Supplemental provisions relating to references and appeals.

(2) Regulations shall be made under this section providing for any oral hearing by the Board of a reference or appeal being conducted by a person appointed for that purpose by the Board.

(3) The Minister may make regulations enabling the Board when considering an appeal under section 26 or 27 of the Principal Act to invite an applicant and to enable an applicant so invited to submit to the Board revised plans or other drawings modifying, or other particulars providing for the modification of, the development to which the appeal relates.

(4) In case plans, drawings or particulars mentioned in *subsection (3)* of this section are submitted to the Board by virtue of regulations made under that subsection, the Board may in deciding the appeal grant a permission or an approval for the relevant development as modified by all or any of such plans, drawings or particulars.

21.—(1) In case immediately before the appropriate day an appeal, contribution, question or dispute referred to in *section 14* of this Act or an appeal pursuant to *section 25* of this Act was being considered by the Minister, the said *section 14* and *sections 16, 17, 18, 19* and *20* of this Act shall apply in relation to the appeal, contribution, question or dispute which, in lieu of being further considered by the Minister under the Principal Act, shall, unless it is withdrawn, be decided or determined by the Board as if it had been originally brought or referred to the Board under this Act.

Transitional.

(2) In case before the appropriate day a purchase notice within the meaning of section 29 of the Principal Act has been served on a planning authority and the authority have not served before that day a notice in relation thereto under subsection (2) of that section stating that they are willing to comply with the purchase notice, the following provisions shall have effect:

(a) in case the planning authority propose to serve on the relevant owner a notice in accordance with paragraph (b)

of the said subsection (2) and the authority have not before the said day transmitted to the Minister copies of the notices referred to in subsection (4) of the said section 29, for the avoidance of doubt it is hereby declared that *section 14* (5) of this Act shall apply in relation to the notice, 5

(b) in case the planning authority have before the appropriate day transmitted to the Minister the copies of the notices referred to in the said subsection (4) but the Minister before the appropriate day has neither confirmed the purchase notice nor taken any such other action as is mentioned in paragraph (i) or paragraph (ii) of the proviso to the said subsection (4), nor notified the owner by whom the notice was served that he does not propose to confirm the notice, the notice in lieu of being further considered by the Minister shall be considered by the Board as if the copy of it had been transmitted to the Board on the appropriate day, and the said subsection (4) and subsection (5) of the said section 29, as amended by this Act, shall with the necessary modifications apply in relation to the notice, and 10 15 20

(c) in either case, notwithstanding *section 14* (9) of this Act, the said subsection (2) shall have effect in relation to the notice required to be served by that subsection as if "the Minister or the Board, as may be appropriate" were therein substituted for "the Minister". 25

(3) For the purpose of enabling the Board to perform its functions on and from the appropriate day, the Board may, as an interim measure, make arrangements for the supply to the Board by the Minister of any services required by the Board pending the making by the Board of sufficient appointments pursuant to *section 10* of this Act and the Minister may supply and the Board may avail of services for which arrangements are made under this subsection. 30

Time for appeals generally.

22.—(1) Where a provision of this Act authorising an appeal (other than an appeal to a court) enables the appeal only to be made within a specified period, the appeal, if sent by post, shall be received not later than the third day after that period and any appeal so sent which is not so received shall be invalid as not being made in time. 35

(2) Where a provision of the Principal Act authorising an appeal (other than an appeal to a court) enables the appeal only to be made within, or before the expiration of, a specified period or before a specified day, that provision shall be construed as including— 40

(a) a requirement that the appeal is, if sent by post, to be received not later than the third day after that period or day, and 45

(b) a provision that any appeal so sent which is not so received shall be invalid as not being made in time.

Reports of inspections, etc.

23.—Where in connection with either the performance by the Minister of any of the functions assigned to him under the *Local Government (Planning and Development) Acts, 1963 and 1976*, or the performance by the Board of its functions an inspection is carried out or an oral hearing is conducted on behalf of the Minister or the Board, as the case may be, by a person appointed for the purpose by the Minister or the Board, the person so appointed shall make to the Minister or the Board, as may be appropriate, a written report on the inspection or hearing, as the case may be, and shall include in his report a recommendation relating to the matter with which the inspection or hearing was concerned, and the Minister or the Board, as 50 55

may be appropriate, shall, before determining the matter in relation to which the inspection was carried out or the hearing was conducted, consider the report (including any recommendation contained therein).

5 24.—(1) Notwithstanding anything contained in the Principal Act, a planning authority in considering,

(a) an application for a permission under section 26 or 27 of that Act,

10 (b) whether or not it is expedient to serve a notice under section 30, 31, 32, 33 or 35 of that Act,

(c) whether or not to serve a notice under section 36 or 37 of that Act,

shall, where they consider it appropriate, have regard to either or both of the following, namely,

15 (i) the probable effect which a particular decision by them on the matter would have on any place which is not within, or on any area which is outside, their area, and

20 (ii) any other consideration relating to development outside their area.

(2) Notwithstanding anything contained in the Principal Act, the Board in considering an appeal brought under section 26, 27, 30, 33, 36 or 37 of that Act shall, where it considers it appropriate, have regard to either or both of the following namely,

25 (a) the probable effect which a particular decision by it on the matter would have on any place which is not within, or on any area which is outside, the area of the relevant planning authority, and

30 (b) any other consideration relating to development outside the area of that authority.

25.—(1) Where—

(a) development is being or has been carried out pursuant to a permission under section 26 of the Principal Act, and

35 (b) (i) a condition requiring the provision or maintenance of land as open space, being open space to which this section applies, was attached to the permission, or

40 (ii) it was either explicit or implicit in the application for the said permission that land would be provided or maintained as such open space, and

45 (c) the planning authority have served on the owner of the land a written request that, within a period specified in the request (being a period of not less than two months commencing on the date of the request), he will provide, level, plant or otherwise adapt or maintain such land in a manner so specified, being a manner which in their opinion would make it suitable for the purpose for which the open space was to be provided, and

50 (d) the owner fails to comply or to secure compliance with such request within the period so specified,

the planning authority may, if they think fit, publish in a newspaper circulating in the district a notice (subsequently in this section referred to as an acquisition notice) of their intention to acquire

Additional matters to which planning authority or Board may have regard in considering certain applications, etc. and certain appeals.

Enforcement of planning control (open spaces).

the land by order under this section and the acquisition notice shall specify a period (being a period of not less than two months commencing on the date on which the notice is published) within which an appeal may be made under this section.

(2) Where a planning authority publish an acquisition notice, 5
they shall serve a copy of the notice on the owner of the land to which the notice relates not later than ten days after the date of the publication.

(3) Any person for the time being having an interest in the land to which an acquisition notice relates may within the period specified 10
in the notice appeal—

(a) in case the appeal is made before the appropriate day, to the Minister,

(b) in case the appeal is made on or after the appropriate day, to the Board. 15

(4) Where an appeal is brought under this section, the Minister or the Board, as may be appropriate, may—

(a) annul the acquisition notice to which the appeal relates, or

(b) confirm the acquisition notice, with or without modification, in respect of all or such part of the relevant land 20
as the Minister or the Board considers reasonable.

(5) In case a planning authority publish an acquisition notice and either—

(a) the period for appealing against the notice has expired and no appeal has been taken, or 25

(b) an appeal has been taken against the notice and the appeal has been withdrawn or the notice has been confirmed whether unconditionally or subject to modifications,

the planning authority may make an order in the prescribed form which order shall be expressed and shall operate to vest the land 30
to which the acquisition notice, or, where appropriate, the acquisition notice as confirmed, relates in the planning authority on a specified date for all the estate, term or interest for which immediately before the date of the order the said land was held 35
by the owner together with all rights and liabilities which, immediately before the said date, were enjoyed or incurred in connection therewith by the owner together with an obligation to comply with the request made under *paragraph (c) of subsection (1)* of this section.

(6) Where a planning authority have acquired by an order under this section land which is subject, either alone or in conjunction 40
with other land, to a purchase annuity, payment in lieu of rent, or other annual sum (not being merely a rent under a contract of tenancy) payable to the Irish Land Commission or to the Commissioners of Public Works in Ireland, the authority shall become and be liable, as from the date on which the land is vested in 45
them by the vesting order, for the payment to the Irish Land Commission or to the Commissioners of Public Works in Ireland, as the case may be, of the annual sum or such portion thereof as shall be apportioned by the Irish Land Commission or by the Commissioners of Public Works in Ireland, as the case may be, on 50
the land as if the land had been transferred to the authority by the owner thereof on that date.

(7) When a planning authority make an order under this section in relation to any land, they shall send the order to the registering authority under the Registration of Title Act, 1964, and thereupon 55
the registering authority shall cause the planning authority to be registered as owner of the land in accordance with the order.

(8) Where a claim is made for compensation in respect of land to which an order under this section relates and the matter falls to be determined by arbitration in pursuance of section 68 of the Principal Act, the following provisions shall apply:

- 5 (a) unless it is shown by or on behalf of the owner that an amount equal to the value of the land to which the relevant permission under section 26 of the Principal Act relates, being that value at the time when the application for the permission was made, as a result of the development has not been recovered and as a further such result will not in the future be recoverable by disposing of the land which is land to which the permission relates and which is not land to which the order relates, the arbitrator shall make a nil award, and
- 10
- 15 (b) in the assessment of the value of the land to which the order relates, no regard shall be had to its value for use other than as open space and a deduction shall be made in respect of the cost of carrying out such works as may be necessary to comply with the request made pursuant to paragraph (c) of subsection (1) of this section.
- 20

(9) A planning authority shall enter in the register—

- (a) particulars of any acquisition notice published by them,
- (b) the date and effect of any decision on appeal in relation to such notice,
- 25 (c) particulars of any order made under this section,
- and every such entry shall be made within the period of seven days commencing on the day of publication, receipt of notification of the decision or the making of the order, as may be appropriate.

(10) This section applies to any form of open space (whether referred to as open space or by any other description in the relevant application for a permission or in a condition attached to the relevant permission) being land which is not described in the said application or condition either as private open space or in terms indicating that it is not intended that members of the public are to have resort thereto without restriction.

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35

26.—(1) Where it appears to a planning authority that—

Warning notice.

- (a) land is being or is likely to be developed in contravention of section 24 of the Principal Act, or
- (b) any unauthorised use is being made of land, or
- 40 (c) any tree or other feature (whether structural or natural) or any other thing the preservation of which is required by a condition subject to which a permission for the development of any land was granted, may be removed or damaged,
- 45 the planning authority may serve on the owner of the land a notice (in this section subsequently referred to as a warning notice) and may give a copy of the said notice to any other person who in their opinion may be concerned with the matters to which the notice relates.

50 (2) A warning notice shall refer to the land concerned and—

- (a) in relation to any land being developed or likely to be developed, require that development thereof in contravention of section 24 of the Principal Act shall not be commenced or, if such development has been commenced, that it shall be discontinued forthwith,
- 55
- (b) in relation to any unauthorised use of land, require that the unauthorised use shall be discontinued forthwith,

- (c) in relation to a condition requiring the preservation of any tree, other feature or thing, require that the tree, other feature or thing, as may be appropriate, shall neither be removed nor damaged and that any reasonable steps necessary for its preservation shall be taken by the owner of the land, 5

and such notice shall also require the owner of the land to take adequate steps to ensure compliance with the notice and shall contain a warning that proceedings under this section may be brought by the relevant planning authority against him and any other person who fails to comply with the requirements of the notice or who assists or permits any development or use of land or the doing of any other thing in contravention thereof. 10

(3) In case a warning notice has been served in relation to the breach of a condition mentioned in *paragraph (c) of subsection (2)* of this section, anything done in relation to the tree, other feature or thing to which the notice relates shall if it is done with the consent in writing of the planning authority by whom the notice was served not be an offence under this section. 15

(4) Any person who— 20

(a) knowingly fails to comply with the requirements of a warning notice, or

(b) knowingly assists or permits,

(i) the carrying out by another of any development required by a warning notice not to be commenced or to be discontinued, or 25

(ii) the continuance by another of a use required by a warning notice to be discontinued, or

(iii) the doing by another of any other thing in contravention of a warning notice, or 30

(c) otherwise damages or removes any tree, other feature or thing to which a warning notice relates,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding two hundred and fifty pounds.

(5) Where a person is convicted of an offence under this section and there is a continuation by him of the offence after conviction, he shall be liable on summary conviction to a fine not exceeding one hundred pounds for each day on which the offence is so continued or to imprisonment for a term not exceeding six months or to both the fine and the imprisonment. 35 40

(6) An enforcement notice within the meaning of section 31, 32 or 35 of the Principal Act may be served whether or not there has been a prosecution under this section.

(7) The following provisions shall apply in relation to proceedings under this section in which the offence alleged is the removal of or damage to a tree, other feature or thing to which a warning notice relates, namely— 45

(a) in case the defendant is the owner of the land to which the warning notice relates,

(i) it shall be sufficient for the prosecution to prove the fact that the tree, other feature or thing, as may be appropriate, was removed or damaged, and 50

(ii) without prejudice to any other defence which may be open to him, it shall be a good defence if the defen-

dant proves that he took, or caused to be taken, reasonable steps to secure compliance with the requirements of the warning notice and that he acted at all times in good faith in relation to the notice,

5 (b) in any other case if, but only if, the prosecution proves that—

(i) after the service of the warning notice steps were taken to inform persons of the existence of the notice, or to protect from damage or to preserve the tree, other feature or thing, as the case may be, with which the
10 alleged offence is concerned, and

(ii) the alleged removal or damage by the defendant occurred after the steps referred to in *subparagraph* (i) of this paragraph were taken,

15 it shall be assumed, until the contrary is shown by the defendant, that the tree, other feature or thing was knowingly removed or damaged, as may be appropriate, by the defendant.

(8) In a prosecution for an offence under this section it shall not be necessary for the prosecution to show, and it shall be assumed until
20 the contrary is shown by the defendant, that the development (if any) in question was neither exempted development nor development commenced before the appointed day.

(9) For the purposes of this section, a tree shall be regarded as being removed if it is cut down or otherwise wilfully destroyed.

25 (10) Where a warning notice is served under this section by a planning authority, particulars of the notice shall be entered by the authority in the register.

27.—(1) Where—

(a) development of land, being development for which a permission is required under Part IV of the Principal Act, is being carried out without such a permission, or
30

(b) an unauthorised use is being made of land,

the High Court may, on the application of a planning authority or any other person, whether or not the person has an interest in the
35 land, by order prohibit the continuance of the development or unauthorised use.

High Court may prohibit unauthorised development or use of land.

(2) Where any development authorised by a permission granted under Part IV of the Principal Act has been commenced but has not been, or is not being, carried out in conformity with the permission
40 because of non-compliance with the requirements of a condition attached to the permission or for any other reason, the High Court may, on the application of a planning authority or any other person, whether or not that person has an interest in the land, by order require any person specified in the order to do or not to do, or to
45 cease to do, as the case may be, anything which the Court considers necessary to ensure that the development is carried out in conformity with the permission and specifies in the order.

(3) An application to the High Court for an order under this section shall be by motion and the Court when considering the
50 matter may make such interim or interlocutory order (if any) as it considers appropriate. The order by which an application under this section is determined may contain such terms and conditions (if any) as to the payment of costs as the Court considers appropriate.

Withdrawal by
planning authority
of certain notices
and cancellation of
relevant entries in
register.

28.—(1) Where a planning authority serve a notice mentioned in section 30, 31, 32, 35, 36, 37 or 44 of the Principal Act they may by notice in writing withdraw the notice.

(2) Where a notice is withdrawn pursuant to this section by a planning authority, the fact that the notice was withdrawn shall be recorded by the authority in the register. 5

Limit of duration
of planning
permission.

29.—(1) Subject to the following subsections of this section, a permission granted under Part IV of the Principal Act, whether granted before or after the passing of this Act, shall on the expiration of the period of five years beginning on the date on which this section comes into operation or on the date of the granting of the permission, whichever is the later, but without prejudice to the validity of anything done pursuant thereto prior to the expiration of that period, cease to have effect as regards— 10

(a) in case the development to which the permission relates is not commenced during that period, the entire development, and 15

(b) in case such development is so commenced, so much thereof as is not completed within that period.

(2) *Subsection (1)* of this section shall not apply as follows: 20

(a) in the case of a house, shop, office or other building which itself has been completed, in relation to the provision of any structure or works included in the relevant permission under Part IV of the Principal Act and which are either necessary for or ancillary or incidental to the use of the building in accordance with that permission, and 25

(b) in the case of a development comprising a number of buildings of which only some have been completed, in relation to the provision of roads, services and open spaces included in the relevant such permission and which are necessary for or ancillary to such completed buildings. 30

(3) Where—

(a) a development has been completed to an extent described in *subsection (2)* of this section and a condition attached to the relevant permission is not complied with, or 35

(b) a development has been so completed and there is attached to such permission a condition requiring something not to be done, or 40

(c) a development has been completed save for compliance with a condition attached to the relevant permission, or

(d) a development has been completed but there is attached to the relevant permission a condition requiring something not to be done, 45

then, unless a notice (in this section subsequently referred to as a waiver notice) stating that the condition need not be complied with is issued under this section, *subsection (1)* of this section shall neither be construed as affecting, nor operate to affect, the obligation of any person to comply with the requirements of the condition. 50

(4) A planning authority may, if they think fit, issue a waiver notice on an application being made in that behalf.

(5) Any person who is aggrieved by the decision of a planning authority on an application for a waiver notice may appeal to the Board within the period of twenty-one days, beginning on the date on which the planning authority notify the applicant of their decision. 55

(6) Where an appeal is brought under *subsection (5)* of this section, the Board may—

(a) in case a waiver notice has been issued by a planning authority, confirm or annul the notice, or

5 (b) in case a waiver notice has not been so issued, confirm the decision of the planning authority or issue a waiver notice.

(7) Where—

10 (a) a permission has been granted under Part IV of the Principal Act for development and the development to which the permission relates is commenced but is not completed before the permission ceases to have effect, and

(b) the relevant planning authority are satisfied that a dispute has arisen as to whether or not—

15 (i) a particular part of the development was completed before the permission ceased to have effect, or

(ii) a particular part of the development consists of the provision of any one or more of the following, namely, a structure mentioned in *subsection (2)* of this section, works, roads, services and open spaces so mentioned,

20 that authority, if they are satisfied that the part of the development was so completed or so consists, as may be appropriate, may, on payment of the prescribed fee (if any), issue a certificate (subsequently in this subsection referred to as a development certificate) to that effect.

25 (8) In any legal proceedings a development certificate shall be *prima facie* evidence of the facts thereby certified, and any document purporting to be a development certificate shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate or that the person was an officer of the relevant planning authority, until the contrary is shown.

(9) A planning authority, if they think fit, may as regards a particular permission by order extend or, from time to time, further extend the period referred to in *subsection (1)* of this section by such additional period as the authority consider appropriate and in case a planning authority make such an order, the reference in the said *subsection (1)* to the period of five years shall, as regards the permission to which the order relates, be construed as a reference to that period as so extended or as so extended and further extended, as may be appropriate.

45 (10) When a planning authority grant an extension or further extension, or issue a development certificate, particulars thereof shall be recorded on the relevant entry in the register.

(11) Any person who is aggrieved by a decision of a planning authority on an application for a development certificate may appeal to the Circuit Court within six months of the date of such decision.

50 (12) Where an appeal is brought under *subsection (11)* of this section, the Court, if satisfied that the case comes within *paragraph (a)* of *subsection (7)* of this section and that a dispute mentioned in *paragraph (b)* of the said *subsection (7)* has arisen, may decide accordingly and, as may be appropriate, determine either or both of the following, the extent to which the relevant development was completed before the relevant permission under Part IV of the Principal Act ceased to have effect, or whether or not the part in dispute of the relevant development consists of the provision of things mentioned in *subparagraph (ii)* of the said *paragraph (b)*, inform the appropriate planning authority of its decision and direct the authority to issue forthwith, if they have not already done so,

an appropriate development certificate or, if a development certificate has been issued which is inappropriate having regard to the decision of the Court, transmit such certificate to the authority and direct that in lieu thereof an appropriate development certificate be issued by the authority forthwith. 5

(13) Where on an application by a person, the Circuit Court is satisfied that there has been unreasonable delay by a planning authority in dealing with an application for a development certificate and the Court is also satisfied in both of the respects mentioned in *subsection (12)* of this section, the Court may decide accordingly 10 and make the determination mentioned in the said *subsection (12)* which is appropriate, inform the authority of its decision and direct the authority to issue forthwith an appropriate development certificate.

Summary
proceedings.

30.—(1) Subject to *subsection (2)* of this section, summary pro- 15
ceedings to which this section applies may be commenced—

- (a) at any time within six months from the date on which the offence was committed, or
- (b) at any time within three months from the date on which evidence sufficient, in the opinion of the person by whom 20
the proceedings are instituted, to justify proceedings comes to such person's knowledge,

whichever is the later.

(2) Summary proceedings mentioned in *subsection (1)* of this section shall not be instituted later than five years from the date on 25
which the offence was committed.

(3) For the purposes of this section, a certificate signed by or on behalf of the person instituting the proceedings as to the date on which evidence described in *subsection (1)* of this section came to the knowledge of such person shall be *prima facie* evidence thereof and in 30
any legal proceedings a document purporting to be a certificate issued for the purposes of this section and to be so signed shall be deemed to be so signed and shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate, unless the contrary is shown. 35

1851, c. 93.

(4) *Subsection (1)* of this section shall have effect notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851.

(5) This section applies to the following summary proceedings, namely:

- (a) summary proceedings pursuant to *section 26* of this Act or 40
in respect of a contravention of *section 24 (2)* of the Principal Act and which are instituted by the planning authority in whose area the offence is alleged to have been committed,
- (b) summary proceedings pursuant to *section 32* or *33* of this 45
Act.

Submissions and
consultations.

31.—(1) The Board may make submissions to the Minister with respect to any matters pertaining to its functions.

(2) The Minister may consult with the Board in relation to the performance of any of his functions under the *Local Government* 50
(*Planning and Development*) Acts, 1963 and 1976.

32.—(1) It shall be the duty of a person to whom this section applies to give to the relevant body a declaration in the prescribed form, signed by him and containing particulars of every interest of his which is an interest to which this section applies and for so long as he continues to be a person to whom this section applies it shall be his duty where there is a change regarding an interest particulars of which are contained in the declaration or where he acquires any other interest to which this section applies, to give to the relevant body a fresh such declaration.

Declaration
by members
and employees of
Board, and
members and
officers of
planning
authorities of
certain interests.

10 (2) (a) This section applies to the following persons, namely:

(i) a member of the Board,

(ii) a member of a planning authority,

(iii) an employee of the Board or any other person,

(I) whose services are availed of by the Board, and

15 (II) who is of a class, description or grade prescribed for the purposes of this section,

(iv) an officer of a planning authority who is the holder of an office which is of a class, description or grade so prescribed.

20 (b) This section applies to the following interests, namely:

(i) any estate or interest which a person to whom this section applies has, in case the person is a member or officer of a planning authority, in land situated in the area of the relevant authority, and in any other case, in any land,

25 (ii) any business of dealing in or developing land in which such a person is engaged or employed and any such business carried on by a company or other body of which he, or any nominee of his, is a member,

30 (iii) any profession, business or occupation in which such a person is engaged, whether on his own behalf or otherwise, and which relates to dealing in or developing land.

(3) A person to whom this section applies and who has an interest to which this section applies shall be regarded as complying with the requirements of *subsection (1)* of this section if, and only if, he gives to the relevant body a declaration mentioned in that subsection within the period of twenty-eight days beginning—

40 (a) in case the person is such a person on the commencement of this section, on such commencement,

(b) in case the person becomes such a person after the commencement of this section, on the day on which he becomes such a person,

45 (c) in case there is a change regarding an interest particulars of which are contained in a declaration already given by the person or where the person acquires any other interest to which this section applies, on the day on which the change occurs or the other such interest is acquired.

(4) For the purposes of this section, a person to whom this section applies shall be regarded as having an estate or interest in land if he, or any nominee of his, is a member of a company or other body which has an estate or interest in the land.

(5) For the purposes of this section, a person shall not be regarded as having an interest to which this section applies if the interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering or discussing, or in voting on, any question with respect to any matter arising or coming before the Board or authority, as may be appropriate, or in performing any function in relation to any such matter. 5

(6) Where a person to whom this section applies has an interest to which this section applies by reason only of the beneficial ownership of shares in a company or other body by him or by his nominee and the total nominal value of those shares does not exceed the lesser of— 10

(a) five hundred pounds, or

(b) one-hundredth part of the total nominal value of either the issued share capital of the company or body or, where that capital is issued in shares of more than one class, the issued share capital of the class or classes of shares in which he has an interest, 15

subsection (1) of this section shall not have effect in relation to that interest.

(7) The Board and each planning authority shall for the purposes of this section keep a register (which register is in this section referred to as the register of interests) and shall enter therein the particulars contained in declarations given to the Board or the authority, as the case may be, pursuant to this section. The register of interests shall be kept at the offices of the Board or the planning authority, as the case may be, and shall be available for public inspection during office hours. 20 25

(8) Where a person ceases to be a person to whom this section applies, any particulars entered in the register of interests as a result of a declaration being given by the person to the relevant body pursuant to this section shall be removed, as soon as may be after the expiration of the period of five years beginning on the day on which the person ceases to be such a person, from the said register by that body. 30

(9) Subject to *subsection (10)* of this section, a person who fails to comply with *subsection (1)* of this section or who, when purporting to comply with the requirements of the said *subsection (1)*, gives particulars which are false or which to his knowledge are misleading in a material respect, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding two hundred and fifty pounds or at the discretion of the court, to imprisonment for a term not exceeding six months, or to both the fine and the imprisonment. 35 40

(10) In any proceedings for an offence under this section it shall be a defence for the defendant to prove that at the relevant time he believed, in good faith and upon reasonable grounds, that— 45

(a) the relevant particulars were true,

(b) there was no matter as regards which he was then required to make a declaration under *subsection (1)* of this section, or

(c) that the matter in relation to which the offence is alleged was not one as regards which he was so required to make such declaration. 50

(11) (a) For the purposes of this section and *section 33* of this Act,

(i) a manager shall be deemed to be an officer of every planning authority for which he is manager, 55

(ii) an assistant county manager for a county shall be deemed to be an officer of every planning authority in the county, and

- (iii) an officer of a planning authority who, by virtue of an arrangement or agreement entered into under any enactment, is performing duties under another planning authority, shall be deemed to be also an officer of the other authority.

(b) In this section the "relevant body" means,

- (i) in case a person to whom this section applies is either a member or employee of the Board, or other person whose services are availed of by the Board, the Board, and
- (ii) in case such a person is either a member or officer of a planning authority, the authority.

33.—(1) Where a member of the Board has a pecuniary or other beneficial interest in, or which is material to, any appeal, contribution, question or dispute which falls to be decided or determined by the Board, he shall comply with the following requirements:

Requirements affecting members and employees of Board, members and certain officers of planning authorities and certain other persons who have certain beneficial interests.

- (a) he shall disclose to the Board the nature of his interest,
- (b) he shall take no part in the discussion or consideration of the matter,
- (c) he shall not vote or otherwise act as a member of the Board in relation to the matter, and
- (d) he shall neither influence nor seek to influence a decision of the Board as regards the matter.

(2) Where, at a meeting of a planning authority or of any committee of a planning authority, a resolution, motion, question or other matter is proposed or otherwise arises either pursuant to, or as regards the performance by the authority of a function under, the *Local Government (Planning and Development) Acts, 1963 and 1976*, or in relation to the acquisition or disposal by the authority of land under or for the purposes of those Acts or any other enactment, a member of the authority or committee present at the meeting shall, if he has a pecuniary or other beneficial interest in, or which is material to, the matter—

- (a) at the meeting, and before discussion or consideration of the matter commences, disclose the nature of his interest,
- (b) withdraw from the meeting for so long as the matter is being discussed or considered,

and accordingly, he shall take no part in the discussion or consideration of the matter and shall refrain from voting in relation to it.

(3) A member of a planning authority or of any committee of a planning authority who has a pecuniary or other beneficial interest in, or which is material to, a matter arising either pursuant to, or as regards the performance by the authority of a function under, the *Local Government (Planning and Development) Acts, 1963 and 1976*, or in relation to the acquisition or disposal by the authority of land under or for the purposes of those Acts or any other enactment, shall neither influence nor seek to influence a decision of the authority as regards the matter.

(4) Where the manager of a planning authority has a pecuniary or other beneficial interest in, or which is material to, any matter which arises or comes before the authority either pursuant to, or as regards the performance by the authority of a function under, the *Local Government (Planning and Development) Acts, 1963 and 1976*, or in

relation to the acquisition or disposal by the authority of land under or for the purposes of those Acts or any other enactment, he shall, as soon as may be, disclose to the members of the planning authority the nature of his interest.

(5) (a) Where an employee of the Board or any other person 5
whose services are availed of by the Board has a pecuniary or other beneficial interest in, or which is material to, any appeal, contribution, question or dispute which falls to be decided or determined by the Board, he shall comply with the following requirements: 10

- (i) he shall neither influence nor seek to influence a decision of the Board as regards the matter, and
- (ii) in case, as such employee or other person, he is concerned with the matter, he shall disclose to the Board the nature of his interest and comply with any 15
directions the Board may give him in relation to the matter.

(b) Where an officer of a planning authority, not being the manager, has a pecuniary or other beneficial interest in, or which is material to, any matter which arises or comes before the authority, either pursuant to, or as regards the performance by the authority of a function under, the *Local Government (Planning and Development) Acts, 1963 and 1976*, or in relation to the acquisition or disposal of land by the authority under or for the purposes 25
of those Acts or any other enactment, he shall comply with the following requirements:

- (i) he shall neither influence nor seek to influence a decision of the authority as regards the matter, and
- (ii) in case, as such officer, he is concerned with the 30
matter, he shall disclose to the manager of the authority the nature of his interest and comply with any directions the manager may give him in relation to the matter.

(6) For the purposes of this section but without prejudice to the 35
generality of any of the foregoing subsections hereof, a person shall be regarded as having a beneficial interest if—

(a) he or his spouse, or any nominee of his or of his spouse, is a member of a company or any other body which has a beneficial interest in, or which is material to, a resolution, motion, question or other matter mentioned in the foregoing subsections of this section, 40

(b) he or his spouse is in partnership with or is in the employment of a person who has a beneficial interest in, or which is material to, such a resolution, motion, question 45
or other matter,

(c) he or his spouse is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such a resolution, motion, question or other matter relates, 50

(d) his spouse has a beneficial interest in, or which is material to, such a resolution, motion, question or other matter.

(7) For the purposes of this section, a person shall not be regarded as having a beneficial interest in, or which is material to, any resolution, motion, question or other matter by reason only of an interest 55
of his or of any company or of any other body or person mentioned in subsection (6) of this section which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person

in considering or discussing, or in voting on, any question with respect to the matter, or in performing any function in relation to that matter.

(8) Where a person has a beneficial interest mentioned in *subsection (1), (2), (3), (4) or (5)* of this section by reason only of the beneficial ownership of shares in a company or other body by him or by his spouse and the total nominal value of those shares does not exceed the lesser of—

- (a) five hundred pounds, or
 - (b) one-hundredth part of the total nominal value of either the issued share capital of the company or body or, where that capital is issued in shares of more than one class, the issued share capital of the class of shares in which he has an interest,
- none of those subsections shall have effect in relation to that beneficial interest.

(9) Where at a meeting described in *subsection (2)* of this section a disclosure is made under that subsection, particulars of the disclosure and of any subsequent withdrawal from the meeting pursuant to the said subsection shall be recorded in the minutes of the meeting.

(10) Subject to *subsection (11)* of this section, a person who contravenes or fails to comply with a requirement of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding two hundred and fifty pounds or, at the discretion of the court, to imprisonment for a term not exceeding six months, or to both the fine and the imprisonment.

(11) In any proceedings for an offence under this section it shall be a defence for the defendant to prove that at the time of the alleged offence he did not know and had no reason to believe that a matter in which, or in relation to which, he had a beneficial interest had arisen or had come before, or was being considered by, the Board or the relevant planning authority or committee, as may be appropriate, or that the beneficial interest to which the alleged offence relates was one in relation to which a requirement of this section applied.

34.—(1) Proceedings for an offence under *section 32 or 33* of this Act shall not be instituted except by or with the consent of the Director of Public Prosecutions.

Supplemental provisions relating to *sections 32 and 33*.

(2) Where a person is convicted of an offence under *section 32 or 33* of this Act, the following provisions shall have effect:

- (a) the person shall be disqualified for being a member of the Board,
- (b) in case the person is a member of the Board, he shall on such conviction accordingly cease to be a member of the Board,
- (c) in case the person is a member of a planning authority or a member of any committee of a planning authority, he shall on such conviction cease to be a member of the authority or the committee, as may be appropriate,
- (d) in case the person is a member of both a planning authority and any one or more such committees, he shall so cease to be a member of both the authority and every such committee, and

(e) in case the person by virtue of this subsection ceases to be a member of a planning authority or any such committee, he shall be disqualified for being a member of the authority or committee during the period which, but for the cessation of his membership of the authority or committee under this section, would be the remainder of his term. 5

(3) In case a person contravenes or fails to comply with a requirement of *section 32 or 33* of this Act, or acts as a member of the Board, a planning authority or committee of a planning authority while disqualified for membership by virtue of this section, the fact of such contravention or failure or of his so acting, as the case may be, shall not invalidate any act or proceeding of the Board, authority or committee. 10

(4) Where any body which is a company within the meaning of *section 155* of the Companies Act, 1963, is deemed under that section to be a subsidiary of another or to be another such company's holding company, a person who is a member of the first-mentioned such company shall, for the purposes of *sections 32 and 33* of this Act be deemed also to be a member of the other company. 15 20

Regulations.

35.—The Minister may make regulations,

(a) providing for,

(i) the payment to planning authorities of prescribed fees by applicants for a waiver notice under *section 29* of this Act, 25

(ii) the publication by planning authorities of specified notices with respect to applications for permission under the Principal Act to develop land or for such a waiver notice,

(b) enabling an applicant to appeal to the Board against a refusal of an approval which is required to be obtained under a condition subject to which a permission or approval is granted under the Principal Act, 30

(c) making such incidental, consequential, transitional or supplementary provision as may appear to him to be necessary or proper for any purpose of this Act or in consequence of, or to give full effect to, any of its provisions. 35

Onus of proof.

36.—In any proceedings for an offence under this Act or under the Principal Act, it shall not be necessary to negative by evidence the existence of any permission granted under Part IV of the Principal Act and the onus of proving such permission shall be on the person seeking to avail himself thereof. 40

Amendment of draft development plan or draft variation.

37.—The Principal Act is hereby amended by the insertion of the following section after *section 21* :

“21A.—(1) Where a planning authority have prepared a draft of a proposed development plan or of proposed variations of a development plan and, after complying with the requirements of subsections (1) and (2) of *section 21* of this Act, it appears to the authority that the draft should be amended, subject to subsection (2) of this section they may amend the draft and make the development plan or variations accordingly. 45 50

(2) In case the proposed amendment would, if made, be a material alteration of the draft concerned, the planning authority shall cause notice of the proposed amendment to be published in

the *Iris Oifigiúil* and in at least one newspaper circulating in their area, and having complied with the requirements of subsection (3) and, where appropriate, a requirement of subsection (4) of this section, and having taken into account any representations, they may, as they shall think fit, make the proposed plan or proposed variation, as the case may be, with or without the proposed amendment or with such other amendment (not being an amendment providing for the preservation of a structure or public right of way) as, having regard to the particular circumstances, they consider appropriate.

(3) A notice under the foregoing subsection shall state that—

(a) a copy of the proposed amendment of the draft may be inspected at a stated place and at stated times during a stated period of not less than one month (and the copy shall be kept available for inspection accordingly), and

(b) written representations with respect to the proposed amendment of the draft made to the planning authority within the said period will be taken into consideration before the making of any amendment (and any such representations shall be taken into consideration accordingly).

(4) (a) Where the proposed amendment includes any provision to preserve any structure because of its artistic, historic or architectural interest, the planning authority shall, in addition to complying with the requirements of subsection (2) of this section, serve a notice incorporating particulars of the provision on the owner and on the occupier of the structure.

(b) Where the proposed amendment includes any provision to preserve a public right of way, the planning authority shall, in addition to complying with the requirements of the said subsection (2), serve a copy of the notice incorporating particulars of the provision and a map indicating the right of way on the owner and on the occupier of the land.

(5) Any person may, before the expiration of twenty-one days next following the period stated pursuant to paragraph (a) of subsection (3) of this section, appeal to the Circuit Court against the inclusion in the proposed amendment of any such provision as is referred to in subsection (4) (b) of this section, and the Court, if satisfied that no public right of way subsists, shall so declare and the provision shall accordingly not be included.”.

38.—(1) The maximum fine which may be imposed in respect of an offence under a section of the Principal Act which is mentioned in subsection (3) (a) of this section (other than an offence which is either a further offence under such a section or a continuing offence) is hereby increased to two hundred and fifty pounds, and accordingly—

Certain fines which may be imposed under the Principal Act increased.

(a) every reference to one hundred pounds in the sections of the Principal Act mentioned in paragraph (a) (i) of subsection (3) of this section shall be construed and have effect as if it were a reference to two hundred and fifty pounds, and

(b) both of the references to two hundred pounds in the sections of the Principal Act mentioned in paragraph (a) (ii) of the said subsection (3) shall be construed and have effect as if they were each a reference to two hundred and fifty pounds.

(2) Every reference to twenty pounds in the sections of the Principal Act mentioned in *subsection (3) (b)* of this section shall be construed and have effect as if it were a reference to fifty pounds.

(3) (a) The sections of the Principal Act referred to in *subsection 5 (1)* of this section are,

(i) sections 31 (8), 34 (1), 34 (6), 35 (7), 37 (7), 49 (2) (b) and 86 (8), and

(ii) sections 45 (8) and 46 (8).

(b) The sections of the Principal Act referred to in *subsection 10 (2)* of this section are sections 31 (8), 34 (5), 34 (6), 35 (8), 37 (7), 49 (2) (b) and 86 (8).

Amendment of
Part IV of Principal
Act.

39.—Part IV of the Principal Act is hereby amended by—

(a) the insertion in section 25 (2) of the following paragraph after paragraph (c): 15

“(cc) in cases in which the development to which the application relates will, in the opinion of the relevant planning authority, cost more than an amount specified in the regulations, the furnishing to that authority of a written study of what, if any, effect the proposed development, if carried out, would have on the environment relative to the place where that development is to take place,”; 20

(b) the insertion in section 25 (2) of the following paragraph after paragraph (d): 25

“(dd) enabling planning authorities to invite an applicant to submit to them revised plans or other drawings modifying, or other particulars providing for the modification of, the development to which the application relates and, in case such plans, drawings, or particulars are submitted to a planning authority in response to such an invitation, enabling the authority in deciding the application to grant a permission or an approval for the relevant development as modified by all or any of such plans, drawings or particulars,”; 30 35

(c) the insertion in section 26 (2) of the following paragraph after paragraph (b):

“(bb) conditions for requiring the taking of measures to reduce or prevent— 40

(i) the emission of any noise or vibration from any structure comprised in the development authorised by the permission which might give reasonable cause for annoyance either to persons in any premises in the neighbourhood of the development or to persons lawfully using any public place in that neighbourhood, or 45

(ii) the intrusion of any noise or vibration which might give reasonable cause for annoyance to any person lawfully occupying any such structure,”; 50

(d) the substitution of the following subsection for subsection (3) of section 26:

“(3) (a) In a case in which the development concerned would contravene materially the development plan or any special amenity area order, a planning authority may, notwithstanding any other 55

provision of this Act, decide to grant permission under this section, provided that the following requirements are complied with before the decision is made, namely,

- 5 (i) notice in the prescribed form of the intention of the planning authority to consider deciding to grant the permission shall be published in at least one daily newspaper circulating in their area,
- 10 (ii) copies of the notice shall be given to the applicant and to any person who has submitted an objection in writing to the development to which the application relates,
- 15 (iii) any objection or representation as regards the making of a decision to grant permission and which is received by the planning authority not later than twenty-one days after the first publication of the
- 20 notice shall be duly considered by the authority, and
- (iv) a resolution shall be passed by the authority requiring that a decision to grant permission be made.
- 25 (b) It shall be necessary for the passing of a resolution referred to in *paragraph (a)* of this subsection that the number of the members of the planning authority voting in favour of the resolution exceeds one-third of the total number of the members of the planning authority,
- 30 and the requirement of this paragraph is in addition to and not in substitution for any other requirement applying in relation to such a resolution.
- 35 (c) Where notice is given pursuant to section 4 of the City and County Management (Amendment) Act, 1955, of intention to propose a resolution which, if passed, would require the manager to decide to grant a permission under this section, then if the manager is of opinion that the development concerned would contravene materially the development plan or any special amenity area order, he shall within seven days of the receipt by him of the notice make an order (a copy of which shall be furnished by him to each of the signatories to the notice) requiring that the provisions of *subparagraphs (i), (ii) and (iii) of paragraph (a)* of this subsection shall be complied with in the particular case and the order, when made,
- 40 shall operate to cause the relevant notice given pursuant to the said section 4 to be of no further effect.
- 45 (d) If a resolution referred to in *paragraph (a) (iv)* of this subsection is duly passed, the manager shall decide to grant the relevant permission.”;
- 50
- 55

(e) the substitution of the following subparagraph for subparagraph (ii) of section 26 (4) (b):

- 60 “(ii) in case a notice referred to in subsection (3) of this section is published in relation to the application, within the period of two months beginning on the day on which the notice is first published.”;

- (f) the insertion of the following subsection after subsection (4) of section 26 :

“(4A) If, but only if, before the expiration of the appropriate period within the meaning of subsection (4) (a) of this section the applicant for a permission under this section gives to the planning authority in writing his consent to the extension by them of that period, the planning authority may extend the period and in case, pursuant to the foregoing, a planning authority make an extension, subsection (4) (b) of this section shall, as regards the particular case to which the extension relates, be construed and have effect in accordance with the extension.”;

- (g) the substitution of the following subsection for subsection (8) of section 26 :

“(8) A decision given under this section and the notification of such decision shall—

(a) in case the decision is made by a planning authority and is one by which any permission or approval is refused or is granted subject to conditions, comprise a statement specifying the reasons for the refusal or the imposition of conditions, and

(b) in case the decision is made on appeal, comprise a statement specifying the reasons for the decision,

provided that where a condition imposed is a condition described in paragraph (a) or any subsequent paragraph of subsection (2) of this section, a reference to the paragraph of the said subsection (2) in which the condition is described shall be sufficient to meet the requirements of this subsection.”;

- (h) the substitution in section 28 (6) of “or may not be used, and in case such grant specifies use as a dwelling as a purpose for which the structure may be used, the permission may also be granted subject to a condition specifying that the use as a dwelling shall be restricted to use by persons of a particular class or description and that provision to that effect shall be embodied in an agreement pursuant to section 38 of this Act” for “be used”;

- (i) the insertion of the following subsections after subsection (2) of section 30 :

“(2A) A planning authority shall neither revoke nor modify a permission under this section unless there has been a change in circumstances relating to the proper planning and development of the area concerned and such change in circumstances has occurred,

(a) in case a notice relating to the permission is served under this section and is annulled, since the annulment of the notice,

(b) in case no notice is so served, since the granting of the permission.

(2B) In case a planning authority pursuant to this section revoke or modify a permission, they shall specify in their decision the change in circumstances which warranted the revocation or modification.”;

- (j) the insertion of the following subsection after subsection (1) of section 38 :

"(1A) A planning authority in entering into an agreement under this section may join with any body which is a prescribed authority for the purposes of section 21 of this Act.";

5 (k) the substitution in section 38 (2) of "the planning authority or any body joined with them" for "the planning authority" where that expression firstly occurs and of "the planning authority or such body, as may be appropriate," for "the planning authority" where the expression
10 secondly occurs; and

(l) the insertion in section 38 (3) of " , the Board " after "the Minister".

40.—Part V of the Principal Act is hereby amended by—

Amendment of Part
V of Principal Act.

(a) the substitution of the following subsections for subsection
15 (1) of section 42:

"(1) When it appears to the planning authority that by reason of—

- (a) its outstanding natural beauty,
- (b) its special recreational value, or
- 20 (c) a need for nature conservation,

an area should be declared under this section to be an area of special amenity, they may by order do so and the order may state the objective of the planning authority in relation to the preservation or enhancement of the character or special features of the area including objectives for the prevention or limitation of
25 development in the area.

(1A) The Minister may, if he considers it necessary, direct a planning authority to make an order under this section in relation to an area specified in the direction and may, if he thinks fit, require that objectives specified in the direction be included by the planning authority in their order in respect of matters and in a manner so specified and in case the Minister gives a direction under this subsection the planning
30 authority concerned shall comply with the direction and an order made pursuant to a direction under this subsection shall be revoked or varied only with the consent of the Minister.";

40 (b) the substitution of the following subsection for subsection (1) of section 46:

"(1) If it appears to the planning authority, after consultation with the prescribed authorities, that it is expedient in the interests of amenity to make provision to preserve from extinction or otherwise protect
45 any flora or fauna in an area, or part of an area, to which a special amenity area order relates, being flora or fauna which are of special amenity value or special interest, they may make an order prohibiting (subject to any exemptions for which provision may be made by the order) the taking, killing or destroying
50 of such flora or fauna."; and

(c) the substitution in subsection (4) of section 51 of "fifty pounds; and if in the case of a continuing offence the
55 contravention of this section is continued after con-

viction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding ten pounds for each day on which the contravention is continued" for "ten pounds".

Amendment of Part
VI of Principal Act.

41.—Part VI of the Principal Act is hereby amended by—

5

(a) the substitution in paragraph (a) of section 55 (2) of "compensation is agreed or determined" for "of the decision";

(b) the insertion in paragraph (a) of section 55 (6) of "the Board" after "planning authority";

10

(c) the insertion in paragraph (c) of section 56 (1) of the following subparagraph after subparagraph (iv):

"(iva) measures to reduce or prevent air pollution or the emission or the intrusion of noise or vibration,";

(d) the insertion in section 58 (1) of "or the Board, as the case may be" after "by the Minister";

15

(e) the substitution in paragraph (b) of section 59 (1) of "sections 56, 57 and 58" for "sections 56 and 57";

(f) the addition of the following proviso to section 61 (1):

"; provided that unless an application having been made to him in that behalf, the Minister makes an order declaring that he is satisfied that it would not be just and reasonable in the particular circumstances that payment of compensation should be prevented by the provisions of this proviso, no compensation shall be paid under this section in relation to damage resulting from the imposition under section 37 of this Act of conditions on the continuance of the use of land, being conditions imposed in order to avoid or reduce serious air or water pollution or the danger of such pollution"; and

25

30

(g) the substitution in section 61 of the following subsection for subsection (2):

"(2) Subsection (1) of this section shall not apply where the use of land is use for the exhibition of advertising unless at the time of such discontinuance or compliance the land had been used for the exhibition of advertising for less than five years, whether such use was continuous or intermittent or whether or not, while the land was being so used, advertising was exhibited at the same place on the land."

40

Amendment of Part
VIII of Principal
Act.

42.—Part VIII of the Principal Act is hereby amended by—

(a) the substitution of the following subsections for subsections (1), (2) and (3) of section 82:

"(1) Regulations may provide for any matters of procedure in relation to appeals to the Minister under section 88 of this Act or in relation to any section 76 hearing.

45

(2) Regulations shall be made under this section providing—

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(a) for oral hearing of any such appeal to the Minister in respect of which oral hearing is requested by the appellant,

(b) for any such oral hearing or any section 76 hearing being conducted by a person appointed for that purpose by the Minister.

55

(3) Where a question of law arises on any reference, appeal or section 76 hearing, the question may be referred to the High Court for decision by it by,

5 (a) in the case of a reference or appeal, other than an appeal to the Minister under section 88 of this Act, the Board,

(b) in the case of an appeal to the Minister under section 88 of this Act or a section 76 hearing, the Minister.

10 (3A) A person shall not by prohibition, *certiorari* or in any other legal proceedings whatsoever question the validity of—

15 (a) a decision of a planning authority on an application for a permission or approval under Part IV of the Principal Act,

(b) a decision of the Board on any appeal or on any reference,

(c) a decision of the Minister on any appeal,

20 unless the proceedings are instituted within the period of two months commencing on the date on which the decision is given.”;

(b) the substitution in section 82 of the following subsections for subsection (8) :

25 “(8) Subsections (4) to (7) of this section shall apply, with any necessary modifications, in relation to a person conducting a section 76 hearing.

(9) In subsections (3) to (7) of this section—

30 ‘appeal’, except where the context otherwise requires, means an appeal to the Minister under section 88 of this Act or an appeal to the Board;

‘reference’ means a reference under section 5 of this Act to the Board;

35 ‘section 76 hearing’ means a hearing held pursuant to section 76 of this Act, as amended by section 43 (1) of the *Local Government (Planning and Development) Act, 1976*.”;

(c) the substitution in section 83 of—

40 (i) “A member of the Board or an authorised person” for “An authorised person” in both subsection (1) and subsection (2),

(ii) “a member of the Board or an authorised person” for “an authorised person” in both subsection (3) and subsection (7), and

(iii) the following subsection for subsection (8) :

45 “(8) In this section—

‘authorised person’ means a person who is appointed by the planning authority, the Minister or the Board to be an authorised person for the purposes of this section;

50 ‘appropriate authority’ means—

(a) in a case in which the authorised person was appointed by a planning authority—that authority,

55 (b) in a case in which the authorised person was appointed by the Minister—the Minister, and

(c) in a case in which the authorised person was appointed by the Board—the Board.”;

- (d) the insertion of the following subsection after subsection (4) of section 86:

“(4A) Building regulations may make provision in relation to the special needs of disabled persons.”;

- (e) the insertion in section 87 (1) of “, subject to or without conditions,” after “relaxing”; and

- (f) the substitution of the following section for section 88:

“Appeal against decision of planning authority on application under section 87.

88.—(1) If a planning authority refuse an application to dispense with or relax any requirement in building regulations which they have power to dispense with or relax, or dispense with or relax such a requirement subject to a condition, the applicant may by notice in writing appeal to the Minister within one month from the date on which the planning authority notify the applicant of their decision.

(2) Where an appeal is brought under this section from a decision of a planning authority and is not withdrawn, the Minister shall determine the application as if it had been made to him in the first instance under section 87 of this Act, as amended by section 42 of the *Local Government (Planning and Development) Act, 1976*, and his decision shall operate to annul the decision of the planning authority as from the time when it was given; provided that this subsection shall not be construed as requiring the Minister to consult a planning authority in relation to an appeal brought under this section.”.

Miscellaneous amendments of Principal Act.

- 43.—(1) The Principal Act is hereby amended by—

- (a) the addition to subsection (6) of section 2 of the following paragraph:

“(c) A declaration made under this subsection may be amended by the council of a county by whom it was made and the making of any such amendment shall be a reserved function.”;

- (b) the insertion in paragraph (i) of section 4 (1) of “, not being works comprised in the fencing or enclosure of land which has been open to or used by the public within the ten years preceding the date on which the works are commenced” after “Land Reclamation Act, 1949”;

- (c) the insertion of the following new subsection after subsection (1) of section 4:

“(1A) Where a planning authority in their development plan, for the purpose mentioned in paragraph 5A of Part IV of the Third Schedule to this Act, (inserted therein by section 43 of the *Local Government (Planning and Development) Act, 1976*), indicate objectives for the preservation of specified fixtures or features which form part of the interior of a structure specified in the development plan and which are stated in such plan to be of artistic, historic or architectural interest, then, notwithstanding subsection (1) of this section, works which involve the alteration or removal of, or which may cause injury to, any such fixture or feature shall not be exempted development for the purposes of this Act.”;

- (d) the insertion of the following new paragraph after paragraph (c) of section 14 (2):

“(cc) a body or person providing homes or shelters for stray or unwanted dogs and cats.”;

(e) the addition of “, or make a new development plan” to section 20 (1);

(f) the insertion of the following new subsection after subsection (1) of section 20:

5 “(1A) The Minister may extend (either in relation to planning authorities generally or in a particular case) the period during which a planning authority may comply with the requirements of subsection (1) of this section.”;

10 (g) the substitution of the following paragraph for paragraph (c) of section 21 (1):

15 “(c) where the draft includes any provision relating to any structure or internal fixture or feature proposed to be preserved because of its artistic, historic or architectural interest, they shall serve notice (which shall incorporate particulars of the provision) of the preparation of the draft on the owner and on the occupier of the structure concerned,”;

(h) the addition of the following new subsection to section 22:

20 “(5) Where under this section the Minister requires a planning authority to vary the development plan, pending compliance by them with the requisition it shall be the duty of the authority to have regard to the requisition in the performance of their functions under this Act.”;

25 (i) the substitution in subsection (1) of section 76 of “if there is an objection to the order and the objection is not withdrawn, the Minister shall cause an oral hearing to be held and shall afford the person making the objection an opportunity of being heard” for all the words from “the Minister shall” to the end of the subsection;

(j) the addition to section 76 of the following subsection:

35 “(3) The Minister may, if he thinks fit, approve an order under this section in so far only as it relates to a part specified by him of the right of way which the order proposes to extinguish, and in case the Minister so approves such an order, the order shall be construed and have effect in accordance with the approval.”;

40 (k) the addition of “buildings or structures for the purpose of providing homes or shelters for stray or unwanted dogs and cats,” to paragraph (b) of section 77 (2); and

(l) the insertion of the following paragraph in Part IV of the Third Schedule before paragraph 6:

45 “5A. Preservation of plasterwork, staircases, woodwork or other fixtures or features of artistic, historic or architectural interest and forming part of the interior of structures.”.

50 (2) The reference to the Minister in subsection (6) of section 7 of the Principal Act shall be construed as including a reference to the Board and the provisions of that subsection shall be construed and have effect accordingly.

44.—Section 42 of the Public Health (Ireland) Act, 1878, as amended by sections 86 and 91 of the Principal Act, shall be construed and have effect as if “or such extended period as may at any time be agreed in writing between that authority and the person proposing to execute the work” and “or such extended period, as may be appropriate,” were inserted therein after “within two months” and “such two months”, respectively. Amendment of section 42 of Public Health (Ireland) Act, 1878. 1878, c.52.

45.—The following provisions of the Principal Act are hereby repealed, namely, paragraph (b) of section 24 (4); subsections (2), (7) and (10) of section 46; section 55 (5); in paragraph (h) of section 56 (1) all the words from “by reference to” to the end of the paragraph. Repeals.

Short title,
collective citation,
commencement
and construction.

46.—(1) This Act may be cited as the Local Government (Planning and Development) Act, 1976.

(2) The Principal Act and this Act may be cited together as the Local Government (Planning and Development) Acts, 1963 and 1976.

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

(4) This Act and the Principal Act shall be construed together as one Act.

Section 3

SCHEDULE

AN BORD PLEANÁLA

1. The Board shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold and dispose of land.

2. The Board shall consist of a chairman and not less than four or more than ten ordinary members.

3. A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or for the time being is a member of a local authority shall be disqualified from being a member of the Board.

4. The chairmanship of the Board shall be wholetime and where the Government appoints a person who formerly held judicial office to be chairman of the Board the following provisions shall apply, namely, he shall be appointed by the Government in a wholetime capacity and the Government when making the appointment shall fix his term of office and, subject to *Articles 6 and 12* of this Schedule, he shall hold his office on such terms and conditions as the Minister, with the consent of the Minister for the Public Service, determines.

5. The chairman of the Board may resign his chairmanship by letter addressed to the Government and the resignation shall take effect as on and from the date of the receipt of the letter by the Government.

6. Where the chairman of the Board is a person who formerly held judicial office, the Government may remove him from the chairmanship if he has become incapable through ill-health of effectively performing his duties, or if he has committed stated misbehaviour, or if his removal appears to the Government to be necessary for the effective performance by the Board of its functions and in case a chairman of the Board is removed under this Article the Government shall cause to be laid before each House of the Oireachtas a statement in writing of the reasons for the removal.

7. Each ordinary member of the Board shall be appointed by the Minister and the Minister when making the appointment shall fix such member's term of office which shall not exceed three years and, subject to the foregoing and to *Articles 10 and 12* of this Schedule, such member shall hold his office on such terms and conditions as the Minister, with the consent of the Minister for the Public Service, determines.

8. An ordinary member appointed by the Minister may be appointed from among his serving officers.

9. A member of the Board shall be paid by the Board such remuneration (if any) and allowances for expenses as the Minister, with the consent of the Minister for the Public Service, determines.

10. The Minister may remove from office an ordinary member of the Board who has become incapable through ill-health of effectively performing his duties, or who has committed stated misbehaviour, or whose removal appears to the Minister to be necessary for the effective performance by the Board of its functions, and in case a member of the Board is removed from office under this Article, the Minister shall cause to be laid before each house of the Oireachtas a statement in writing of the reasons for removal.

11. An ordinary member of the Board may resign his office as a member by letter addressed to the Minister and the resignation shall take effect as on and from the date of receipt of the letter by the Minister.

12. Where a member of the Board is nominated as a member of Seanad Éireann or for election to either House of the Oireachtas or becomes a member of a local authority he shall, upon accepting nomination as a member of Seanad Éireann, or upon nomination for such election, or upon becoming a member of the authority, as the case may be, cease to be a member of the Board.

13. A member of the Board whose term of office expires by the effluxion of time shall be eligible for reappointment.

14. Where a casual vacancy occurs among the members of the Board as a result of which there remain less than five such members, the Government or the Minister, as may be appropriate, shall take such steps as are necessary to fill the vacancy as soon as possible.

15. The Board shall appoint one of its ordinary members to be deputy chairman but if, at any time, the person appointed ceases to be a member of the Board, he shall also cease at that time to be deputy chairman.

16. The Board shall hold such and so many meetings as may be necessary for the performance of its functions.

17. The Minister shall fix the date, time and place of the first meeting of the Board.

18. The quorum for a meeting of the Board shall be such as may from time to time be fixed by the Minister.

19. The chairman of the Board and each ordinary member of the Board at a meeting thereof shall have a vote.

20. Every question at a meeting of the Board shall be determined by a majority of votes of the members present and, in the event that voting is equally divided, the chairman shall have a casting vote.

21. Subject to *Article 18* of this Schedule, the Board may act notwithstanding a vacancy among its members.

22. Subject to the provisions of this Act and to any regulations made by the Minister under the Principal Act or under *section 20* of this Act and to the provisions of this Schedule, the Board shall regulate its procedure and business.

23. The Board may perform any of its functions through or by any of its members duly authorised by the Board in that behalf.

24. The Board may perform any of its functions, other than the act of deciding, determining, confirming, approving or extending a

reference, appeal, order, notice, dispute or other matter with which the Board is concerned by virtue of *section 14* or *section 21* of this Act, through or by any person duly appointed by the Board in that behalf.

25. The Board shall, as soon as may be after its establishment, 5
provide itself with a seal.

26. The seal of the Board shall be authenticated by the signature of the chairman of the Board or some other member thereof authorised by the Board to act in that behalf.

27. Judicial notice shall be taken of the seal of the Board and 10
every document purporting to be an instrument made by the Board and to be sealed with the seal (purporting to be authenticated in accordance with *Article 26* of this Schedule) of the Board shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown. 15

28. (1) The Minister may, with the concurrence of the Minister for the Public Service, make a scheme for the granting of pensions, gratuities or other allowances to or in respect of the chairman and wholtime ordinary members of the Board ceasing to hold office, other than persons in respect of whom an award under the 20
Superannuation Acts, 1834 to 1963, may be made.

(2) A scheme under this Article shall not provide for the granting of a pension, gratuity or other allowance to a chairman of the Board in respect of a period during which he is a judge of the High Court. 25

(3) A scheme under this Article may provide that the termination of the appointment of the chairman or of an ordinary member of the Board during that person's term of office shall not preclude the award to him under the scheme of a pension, gratuity or other allowance. 30

(4) The Minister may, with the concurrence of the Minister for the Public Service, amend a scheme made by him under this Article.

(5) If any dispute arises as to the claim of any person to, or the amount of, any pension, gratuity or allowance payable in 35
pursuance of a scheme under this Article, such dispute shall be submitted to the Minister who shall refer it to the Minister for the Public Service, whose decision shall be final.

(6) A scheme made under this Article shall be carried out by the Board in accordance with its terms. 40

(7) Every scheme made by the Minister under this Article shall be laid before each House of the Oireachtas as soon as may be after it is made and if either House, within the next twenty-one days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled 45
accordingly, but without prejudice to the validity of anything previously done thereunder.

(8) Where an established civil servant is definitively transferred to the Board as a member thereof, the superannuation benefits to be granted to him shall, if the Minister for the Public Service in his 50
discretion so directs, be calculated in accordance with the provisions of the Superannuation Acts, 1834 to 1963, as if, during the period of his service as a wholtime member of the Board subsequent to his transfer, he had been an established civil servant and had been paid during that period out of moneys provided by the 55
Oireachtas within the meaning of section 17 of the Superannuation Act, 1859.

BILLE

dá ngairtear

Acht do dhéanamh socrú níos fearr, ar mhaithe le leas an phobail, i ndáil le pleanáil agus forbairt chuí ar chathracha, ar bhailte agus ar limistéir eile, uirbeach nó tuaithe, agus, chun na críche sin, do bhunú comhlachta dá ngairfear An Bord Pleanála agus do shonrú a fheidhmeanna agus do leasú agus do leathnú an Achta Rialtais Áitiúil (Pleanáil agus Forbairt), 1963, agus do dhéanamh socrú i dtaobh nithe eile a bhaineann leis na nithe réamhráite.

*Rite ag dhá Theach an Oireachtais,
29 Meitheamh, 1976*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Díolta Foilseachán Rialtais,
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An Act to make better provision, in the interests of the common good, in relation to the proper planning and development of cities, towns and other areas, whether urban or rural, and, for that purpose, to establish a body to be known as An Bord Pleanála and to define its functions and to amend and extend the Local Government (Planning and Development) Act, 1963, and to provide for other matters connected with the matters aforesaid.

*Passed by both Houses of the Oireachtas,
29th June, 1976*

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE

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Printed by CAHILL & Co. LIMITED.

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