



**AN BILLE RIALTAIS ÁITIÚIL (PLEANÁIL AGUS FORBAIRT),
1983**

**LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT)
BILL, 1983**

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

ARRANGEMENT OF SECTIONS

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ACTS REFERRED TO

Civil Service Regulation Act, 1956	1956, No. 46
Local Government (Planning and Development) Act, 1963	1963, No. 28
Local Government (Planning and Development) Acts, 1963 to 1982	
Local Government (Planning and Development) Act, 1976	1976, No. 20
European Assembly Elections Act, 1977	1977, No. 30
Local Government (Planning and Development) Act, 1982	1982, No. 21



AN BILLE RIALTAIS AITIÚIL (PLEANÁIL AGUS FORBAIRT),
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entitled

AN ACT TO AMEND AND EXTEND THE LOCAL GOVERN-
MENT (PLANNING AND DEVELOPMENT) ACTS, 1963 TO
1982.

10 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Definitions.

“the Assembly” means the Assembly of the European Communities;

“the Act of 1977” means the European Assembly Elections Act, 1977;

15 “chairman” means, save where the context otherwise requires, the
chairman of the Board and “chairmanship” shall be construed
accordingly;

“deputy chairman”, except in *section 8 (1)* of this Act, means the
deputy chairman of the Board and “deputy chairmanship” shall be
construed accordingly;

20 “ordinary member” means a member of the Board other than the
chairman.

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

Board to continue
to be body
corporate, etc.

25 (2) The seal of the Board shall be authenticated by the signature
of the chairman or of some other member, or of an employee of the
Board or of a person whose services are availed of by the Board by
virtue of *section 21 (3)* of the Act of 1976, authorised by the Board to
act in that behalf.

30 (3) Judicial notice shall continue to be taken of the seal of the
Board and every document purporting to be an instrument made by
the Board and to be sealed with the seal (purporting to be authenti-
cated in accordance with *subsection (2)* of this section) of the Board

shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

(4) A person who immediately before the passing of this Act held the office either of chairman or of an ordinary member shall, subject to section 3 (2) of the Act of 1976 and to *section 10* of this Act, 5 continue to hold that office.

Board to consist of chairman and five other members.

3.—On and from the commencement of this section the Board shall consist of a chairman and five other members.

General duty of Board.

4.—(1) (a) It shall be the duty of the Board to ensure that appeals, references and other matters with which it is concerned are disposed of as expeditiously as may be and, for that purpose to take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the consideration of such appeals, references and other 15 matters.

(b) The Board shall conduct, at such intervals as it thinks fit or the Minister directs, reviews of its organisation and of the systems and procedures used by it in relation to appeals, references and other matters with 20 which it is concerned.

(c) Where the Minister gives a direction under this section, the Board shall report to the Minister the results of the review conducted pursuant to the direction and shall comply with any directive which the Minister 25 may, after consultation with the Board as regards such results, give in relation to all or any of the matters which were the subject of the review.

(2) The Board may make submissions to the Minister as regards any matter pertaining to its functions. 30

(3) The Minister may consult with the Board as regards any matter pertaining to the performance of—

(a) the functions of the Board, or

(b) the functions assigned to the Minister by or under the *Local Government (Planning and Development) Acts, 1963 to 35 1983*, or by any other enactment or by any order, regulation or other instrument thereunder.

(4) (a) The provisions of *subsection (1)* of this section are without prejudice to the provisions specified in *paragraph (b)* of this subsection. 40

(b) The provisions referred to in *paragraph (a)* of this subsection are—

(i) the provisions of the *Local Government (Planning and Development) Acts, 1963 to 1983*, or of any regulations made thereunder which relate to the perform- 45 ance by the Board of its functions,

(ii) the provisions of any other enactment, order, regulation or other instrument thereunder which so relates.

5.—(1) The chairman shall be appointed by the Government. Chairman.

(2) There shall be a committee (in this section subsequently referred to as “the committee”) consisting of—

- (a) the President of the High Court,
- 5 (b) the Chairman of the County Councils General Council,
- (c) the Chief Engineering Adviser of the Department of the Environment,
- (d) the Chairman of the Council of An Taisce—the National Trust for Ireland,
- 10 (e) the President of the Construction Industry Federation, and
- (f) the President of the Executive Council of the Irish Congress of Trade Unions.

(3) Where—

15 (a) any of the persons aforesaid signifies at any time his unwillingness or inability to act for any period as a member of the committee,

or

(b) any of the persons aforesaid is through ill-health or otherwise unable so to act for any period,

20 the Minister may, when making a request under *subsection (7)* of this section, appoint another person to be a member of the committee in his place and such person shall remain a member of the committee until such time as the selection by the committee pursuant to the request is made.

25 (4) Where the Minister makes a request under *subsection (7)* of this section and at the time of making the request any of the offices aforesaid is vacant, the Minister may appoint a person to be a member of the committee and such person shall remain a member of the committee until such time as the selection by the committee pursuant to the request is made.

30 (5) Where pursuant to *subsection (3)* or *(4)* of this section the Minister appoints a person to be a member of the committee, he shall, as soon as may be, cause a notice of the appointment to be published in the *Iris Oifigiúil*.

35 (6) (a) The Minister may by order amend *subsection (2)* of this section.

(b) The Minister may by order amend or revoke an order under this subsection (including an order under this paragraph).

40 (c) Where an order under this subsection is proposed to be made, the Minister shall cause a draft thereof to be laid before both Houses of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

50 (d) Where an order under this subsection is for the time being in force, *subsection (2)* of this section shall be construed and have effect subject to the terms of the order.

(7) (a) The committee shall, whenever so requested by the Minister, select three candidates, or if in the opinion of the committee there is not a sufficient number of suitable applicants, such lesser number of candidates as the committee shall determine, for appointment to be the chairman and shall inform the Minister of the names of the candidates, or, as may be appropriate, the name of the candidate, selected and of the reasons why, in the opinion of the committee, they are or he is suitable for such appointment. 10

(b) In selecting candidates the committee shall have regard to the special knowledge and experience and other qualifications or personal qualities which the committee consider appropriate to enable a person effectively to perform the functions of the chairman. 15

(8) Except in the case of a reappointment under *subsection (12)* of this section, the Government shall not appoint a person to be the chairman unless the person was amongst those, or, where appropriate, was the candidate, selected by the committee pursuant to a request under *subsection (7)* of this section in relation to that appointment but— 20

(a) if the committee is unable to select any suitable candidate pursuant to a particular request under the said *subsection (7)*, or

(b) if the Government decide not to appoint to be the chairman any of the candidates, or, where appropriate, the candidate, selected by the committee pursuant to a particular such request, 25

then either—

(c) the Government shall appoint a person to be the chairman who was amongst those, or, where appropriate, was the candidate, selected by the committee pursuant to a previous such request (if any) in relation to that appointment, or 30

(d) the Minister shall make a further such request to the committee and the Government shall appoint to be the chairman a person who was amongst those, or, where appropriate, was the candidate, selected by the committee pursuant to that request or pursuant to another such request made in relation to that appointment. 40

(9) The Minister may make regulations as regards—

(a) the publication of notice that a request has been received by the committee under *subsection (7)* of this section,

(b) applications for selection by the committee,

(c) any other matter which the Minister considers expedient for the purposes of this section. 45

(10) A person who is, for the time being—

(a) entitled under the Standing Orders of either House of the Oireachtas to sit therein,

(b) a representative in the Assembly,

(c) a member of a local authority,

shall be disqualified for being appointed as the chairman.

(11) The chairman shall be appointed in a whole-time capacity and shall not at any time during his term of office hold any other office or employment in respect of which emoluments are payable.

(12) Subject to the provisions of this section, the chairman shall hold office for a term of seven years and may be re-appointed by the Government for a second or subsequent term of office: Provided that a person shall not be reappointed under this subsection unless, at the time of his reappointment, he is or was the outgoing chairman of the Board.

(13) (a) The chairman may resign his chairmanship by letter addressed to the Minister and the resignation shall take effect as on and from the date of the receipt of the letter by the Minister.

(b) The chairman shall vacate the office of chairman on attaining the age of sixty-five years.

(c) A person shall cease to be the chairman if he—

(i) is nominated either as a member of Seanad Éireann or for election to either House of the Oireachtas,

(ii) is either nominated for election to the Assembly or appointed under section 15 of the Act of 1977 to be a representative in the Assembly,

(iii) becomes a member of a local authority.

(14) (a) There shall be paid by the Board to the chairman the same salary as is paid to a judge of the High Court.

(b) Subject to the provisions of this section, the chairman shall hold office on such terms and conditions (including terms relating to allowances for expenses) as the Minister, with the consent of the Minister for the Public Service, determines.

(15) The chairman may be removed from office by the Government 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 the chairman is removed from office under this subsection, the Government shall cause to be laid before each House of the Oireachtas a statement in writing of the reasons for the removal.

6.—(1) It shall be the function of the chairman, or, where he is not available or where the office of chairman is vacant, of the deputy chairman—

Chairman to ensure efficient discharge of business of Board, etc.

(a) to ensure the efficient discharge of the business of the Board, and

(b) to arrange the distribution of the business of the Board among its members.

(2) Where the chairman is of opinion that the conduct of an ordinary member has been such as to bring the Board into disrepute or has been prejudicial to the effective performance by the Board of all or any one or more of its functions, he may in his absolute discretion—

- (a) require the member of the Board to attend for interview and there interview the member privately and inform him of such opinion, or 10
- (b) where he considers it appropriate to do so, otherwise investigate the matter and, if he considers it appropriate so to do, report to the Minister the result of the investigation.

Ordinary members. 7.—(1) The Minister may prescribe—

- (a) for the purposes of *paragraph (a) of subsection (2)* of this section any two or more organisations which in his opinion are representative of persons whose professions or occupations relate to physical planning and development, 15
- (b) for the purposes of *paragraph (b) of the said subsection (2)* any two or more organisations which in his opinion are representative of persons concerned with the protection and preservation of the environment and of amenities, 20
- (c) for the purposes of *paragraph (c) of the said subsection (2)* any two or more organisations which in his opinion are concerned with the promotion of economic or other development or are representative of either or both of the following, namely, persons carrying on the business of developing land or persons employed or engaged in or otherwise connected with the construction industry, 25
- (d) for the purposes of *paragraph (d) of the said subsection (2)* any two or more organisations which in his opinion are, in relation to the community, concerned with the promotion of social, economic or general interests. 30

(2) Subject to *section 12 (4)* of this Act, the ordinary members shall be appointed by the Minister as follows: 35

- (a) one shall be so appointed from among persons selected by organisations which for the time being stand prescribed for the purposes of this paragraph by the Minister;
- (b) one shall be so appointed from among persons selected by organisations which for the time being stand prescribed for the purposes of this paragraph by the Minister; 40
- (c) one shall be so appointed from among persons selected by organisations which for the time being stand prescribed for the purposes of this paragraph by the Minister;
- (d) one shall be so appointed from among persons selected by organisations which for the time being stand prescribed for the purposes of this paragraph by the Minister; 45
- (e) one shall be so appointed from among the officers of the

Minister who are established civil servants for the purposes of the Civil Service Regulation Act, 1956.

5 (3) An organisation prescribed for the purposes of *paragraph (a), (b), (c) or (d) of subsection (2) of this section shall, whenever so requested by the Minister, select such number of candidates (not being less than two) as the Minister may specify for appointment as an ordinary member and shall inform the Minister of the names of the candidates selected and of the reasons why, in the opinion of the organisation, they are suitable for such appointment.*

10 (4) Except in the case of an appointment pursuant to *paragraph (e) of subsection (2) of this section or of a re-appointment under subsection (9) of this section and subject to section 12 (4) of this Act, the Minister shall not appoint a person to be an ordinary member unless the person was amongst those selected pursuant to a request*
15 *under subsection (3) of this section in relation to that appointment, but—*

(a) if all of the appropriate organisations refuse or fail to select any candidate pursuant to a particular request under the said *subsection (3), or*

20 (b) if the Minister decides not to appoint as an ordinary member any of the candidates selected by such organisations pursuant to a particular request under that subsection,
then either—

25 (c) the Minister shall appoint as an ordinary member a person who was amongst those selected by such an organisation pursuant to a previous request (if any) under that subsection in relation to that appointment, or

(d) the Minister shall make a further such request and shall
30 appoint as an ordinary member a person who was amongst those selected pursuant to that request or pursuant to another such request made in relation to that appointment.

(5) Where a request is made pursuant to *subsection (3) of this section, failure or refusal by the organisation of whom the request is made to select the number of candidates specified in the request shall*
35 *not preclude the appointment as an ordinary member of a person who was selected in relation to that appointment either by the aforesaid organisation or by any other organisation.*

(6) The Minister may make regulations as regards—

40 (a) the period within which the Minister is to be informed in accordance with *subsection (3) of this section,*

(b) any other matter which the Minister considers expedient for the purposes of this section.

(7) A person who is for the time being—

45 (a) entitled under the Standing Orders of either House of the Oireachtas to sit therein,

(b) a representative in the Assembly,

(c) a member of a local authority,

shall be disqualified for being appointed to be an ordinary member.

(8) Each of the ordinary members shall be appointed in a whole-time capacity and shall not at any time during his term of office hold any other office or employment in respect of which emoluments are payable.

(9) Subject to the provisions of *section 12 (4) (b)* of this Act, an ordinary member shall hold office for such term (not exceeding five years) as shall be specified by the Minister when appointing him to office and may be re-appointed by the Minister for a second or subsequent term of office: Provided that a person shall not be re-appointed under this subsection unless, at the time of his re-appointment, he is or was an outgoing member of the Board.

(10) (a) An ordinary member may resign his membership by letter addressed to the Minister and the resignation shall take effect as on and from the date of the receipt of the letter by the Minister.

(b) A person shall vacate the office of ordinary member on attaining the age of sixty-five years.

(c) A person shall cease to be an ordinary member if he—

(i) is nominated either as a member of Seanad Éireann or for election to either House of the Oireachtas,

(ii) is either nominated for election to the Assembly or appointed under section 15 of the Act of 1977 to be a representative in the Assembly,

(iii) becomes a member of a local authority.

(11) (a) There shall be paid by the Board to each ordinary member such remuneration and allowances for expenses as the Minister, with the consent of the Minister for the Public Service, determines.

(b) Subject to the provisions of this section, an ordinary member shall hold office on such terms and conditions as the Minister, with the consent of the Minister for the Public Service, determines.

(12) An ordinary member may be removed from office by the Minister 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 Minister to be necessary for the effective performance by the Board of its functions, and in case an ordinary member is removed from office under this subsection, the Minister shall cause to be laid before each House of the Oireachtas a statement in writing of the reasons for the removal.

Deputy chairman of Board.

8.—(1) The Minister shall appoint from amongst the ordinary members a person to be the deputy chairman of the Board and such appointment shall be for such period as shall be specified in the appointment.

(2) If at any time the deputy chairman ceases to be an ordinary member of the board, he shall thereupon cease to be deputy chairman.

(3) The deputy chairman shall, in addition to his remuneration as an ordinary member, be paid by the Board such additional remuneration as the Minister, with the consent of the Minister for the Public Service, determines.

ation (if any) as the Minister, with the consent of the Minister for the Public Service, determines.

5 (4) The deputy chairman may resign his deputy chairmanship by letter addressed to the Minister and the resignation shall take effect as on and from the date of the receipt of the letter by the Minister.

9.—(1) The Minister may with the concurrence of the Minister for the Public Service—

Superannuation of members of Board.

10 (a) make a scheme or schemes for the granting of pensions, gratuities or other allowances to or in respect of the chairman and ordinary members ceasing to hold office,

(b) make a scheme or schemes for the granting of gratuities to or in respect of persons ceasing to hold office by virtue of *section 10* of this Act.

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

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

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

25 (5) A scheme under this section shall be carried out by the Board in accordance with its terms.

30 (6) No pension, gratuity or other allowance shall be granted by the Board to or in respect of any person referred to in *subsection (1)* of this section ceasing to hold office otherwise than in accordance with a scheme under this section.

(7) Notwithstanding *section 25* of this Act, the scheme made by the Minister under Article 28 of the Schedule to the Act of 1976, shall continue in force and may be amended as if made under this section.

35 (8) Every scheme made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and if either such House, within the next 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
40 thereunder.

10.—(1) The person who, immediately before the commencement of this subsection, held the office of chairman of the Board, shall, on such commencement, cease to be chairman.

Cesser of office.

45 (2) Every person who, immediately before the commencement of this subsection was an ordinary member of the Board, shall, on such commencement, cease to be such ordinary member.

Meetings and
procedure of Board.

11.—(1) The Board shall hold such and so many meetings as may be necessary for the performance of its functions.

(2) The chairman and each ordinary member at a meeting of the Board shall have a vote.

(3) At a meeting of the Board— 5

(a) the chairman shall, if present, be chairman of the meeting,

(b) if and for so long as the chairman is not present, or if the office of chairman is vacant, the deputy chairman shall, if present, be chairman of the meeting,

(c) if and for so long as neither the chairman nor the deputy chairman is present, or if the chairman is not present or if the office of chairman is vacant, and in either case, the office of deputy chairman is vacant, the ordinary members who are present shall choose one of their number to be chairman of the meeting. 10
15

(4) 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 person who is chairman of the meeting shall have a casting vote.

(5) (a) Subject to the *Local Government (Planning and Development) Acts, 1963 to 1983*, and to any regulations made thereunder, and subject also to any other enactment or order, regulation or other instrument thereunder, which regulates or otherwise affects the procedure of the Board, the Board shall regulate its own procedure and business. 20
25

(b) The Minister may require the Board to keep him informed of the arrangements made under this subsection for the regulation of its procedure and business.

(6) (a) Subject to *paragraphs (b) and (c)* of this subsection, the Board may perform or exercise any of its functions through or by any member of the Board or other person who, in either case, has been duly authorised by the Board in that behalf. 30

(b) *Paragraph (a)* of this subsection shall be construed as enabling a member of the Board finally to determine a particular case if, and only if, the case to which an authorisation under that paragraph relates has been considered at a meeting of the Board prior to the giving of the authorisation. 35

(c) *Paragraph (a)* of this subsection shall not be construed as enabling the Board to authorise a person who is not a member of the Board finally to determine any particular case with which the Board is concerned. 40

Board's quorum,
vacancies, etc.

12.—(1) The quorum for a meeting of the Board shall be three.

(2) Subject to *subsection (1)* of this section, the Board may act notwithstanding a vacancy in the chairmanship, the deputy chairmanship or among the ordinary members. 45

(3) Where a vacancy occurs in the chairmanship, deputy chairmanship or among the ordinary members, the Minister shall, as soon as may be, take steps to fill the vacancy.

5 (4) (a) Where, owing to the illness of the chairman or of an ordinary member, or for any other reason, a sufficient number of members of the Board is not available to enable the Board effectively to perform its functions, the Minister may, as an interim measure, appoint from among the officers referred to in *section 7 (2) (e)* of this Act, one or more persons to be an ordinary member.

10 (b) A person shall not be appointed to be an ordinary member under this subsection for a term in excess of twelve months.

15 13.—(1) No person shall, without the consent of the Board (which may be given to the person, subject to or without conditions, as regards any information, as regards particular information or as regards information of a particular class or description) disclose—

Prohibition on disclosure of information.

20 (a) any information obtained by him while serving as a member or employee of, or consultant or adviser to, the Board or as a person whose services are availed of by the Board by virtue of *section 21 (3)* of the Act of 1976,

(b) any information so obtained relative to the business of the Board or to the performance of its functions.

25 (2) A person who contravenes *subsection (1)* of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £800.

(3) Nothing in *subsection (1)* of this section shall prevent—

(a) disclosure of information in a report made to the Board or in a report made by or on behalf of the Board to the Minister,

30 (b) disclosure of information by any person in the course of and in accordance with the duties of his office.

35 14.—(1) It shall not be lawful to communicate with the chairman or with an ordinary member for the purpose of influencing improperly his consideration of an appeal, reference, or other matter with which the Board is concerned or a decision of the Board as regards any such matter.

Prohibition of certain communications in relation to appeals, etc.

(2) If the chairman or an ordinary member becomes of opinion that a communication is in contravention of *subsection (1)* of this section, it shall be his duty not to entertain the communication further.

40 15.—(1) The Board shall have an absolute discretion to hold an oral hearing of any reference or appeal to the Board which is not a reference or appeal to which *subsection (2)* of this section applies.

Oral hearings.

45 (2) (a) This subsection applies to any reference or appeal to the Board which is of a class or description which may, for the time being, be prescribed for the purposes of this subsection.

50 (b) Regulations made for the purposes of this subsection may include provisions requiring the Board to hold, either generally or in such cases as may be specified in the regulations, oral hearings of references or appeals which are of a class or description so specified.

55 (3) Where the Board is requested to hold an oral hearing of a reference or appeal (other than a reference or appeal to which *subsection (2)* of this section applies) and decides to determine the reference or appeal without an oral hearing, the following provisions shall apply:

- (a) the Board shall serve notice of its decision on the person who requested such hearing and the notice shall require that person to make, within a period specified in the notice (being a period of not less than fourteen days beginning on the date of service of the notice), to the Board in writing such submissions or further submissions (if any) as he thinks fit in relation to the reference or appeal, and 5
- (b) the Board shall not proceed to determine the reference or appeal until after the expiration of the period so specified.

Board may dismiss appeals under section 26 of Principal Act if vexatious, etc.

16.—(1) Subject to *subsection (2)* of this section, the Board shall in the following circumstances have an absolute discretion to dismiss an appeal brought under section 26(5) of the Principal Act— 10

- (a) where, having considered the grounds of appeal, the Board is of opinion that the appeal is vexatious, frivolous or without substance or foundation, or 15
- (b) where, having regard to—
 - (i) the nature of the appeal (including any question which in the Board's opinion is raised by the appeal), and
 - (ii) any previous permission or approval which in its opinion is relevant, 20

the Board is satisfied that in the particular circumstances the appeal should not be further considered by it.

(2) The exercise by the Board of the power conferred on it by *subsection (1)* of this section shall be subject to the restriction imposed on the Board by section 26 (1) of the Principal Act as applied by section 14 of the Act of 1976. 25

Notice requiring statement of grounds of appeal.

17.—(1) Where an appeal is made to the Board and the grounds of appeal are not stated in writing, the Board may serve on the appellant a notice—

- (a) requiring him, within a period specified in the notice (being a period of not less than fourteen days beginning on the date of service of the notice) to submit to the Board a written statement of his grounds of appeal, and 30
- (b) stating that, in default of compliance with the requirements of the notice, the Board will, after the period so specified and without further notice to the person, pursuant to this section declare that the appeal shall be regarded as having been withdrawn. 35

(2) Where a notice has been served under *subsection (1)* of this section, the Board may, having considered the response (if any) to the notice, at any time after the expiration of the period specified in the notice and without further notice to the party on whom the notice has been so served, if they so think fit declare that the appeal to which the notice relates shall be regarded as having been withdrawn. 40

Power of Board regarding delays by parties etc., to appeals.

18.—(1) Where the Board is of opinion that any document, particulars or other information is necessary for the purpose of enabling it to determine an appeal brought under section 26 (5) of the Principal Act, the Board may serve on any person who is a party to the appeal, 45

or on any other person who has made submissions or observations to the Board as regards the appeal, a notice under this section—

- 5 (a) requiring that person, within a period specified in the notice (being a period of not less than fourteen days beginning on the date of service of the notice) to submit to the Board such document, particulars or other information (which document, particulars or other information shall be specified in the notice), and
- 10 (b) stating that, in default of compliance with the requirements of the notice, the Board will, after the period so specified and without further notice to the person, pursuant to this section dismiss or otherwise determine the appeal.

15 (2) Where a notice has been served under *subsection (1)* of this section, the Board, at any time after the expiration of the period specified in the notice, may, having considered the response (if any) to the notice, without further notice to the person on whom the notice has been so served dismiss or otherwise determine the appeal.

19.—(1) Where—

Appeals against conditions.

- 20 (a) an appeal is brought under section 26 (5) of the Principal Act from a decision of a planning authority to grant a permission or approval, and
- (b) the appeal relates only to a condition or conditions subject to which the decision was made, and
- 25 (c) the Board is satisfied, having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted,

30 subject to compliance by the Board with *subsection (2)* of this section when considering the appeal, the Board may, in its absolute discretion, give to the relevant planning authority such directions as it considers appropriate relating to the attachment, amendment or removal by that authority either of the condition or conditions to which the appeal relates or of other conditions.

35 (2) In exercising the power conferred on it by *subsection (1)* of this section, apart from considering the condition or conditions to which the relevant appeal relates, the Board shall be restricted to considering the proper planning and development of the area of the relevant planning authority (including the preservation and improvement of the amenities thereof), regard being had to the provisions of the development plan, the provisions of any special amenity area order relating to the said area, the terms of any previous permission considered by the Board to be relevant, the matters referred to in section 26 (2) of the Principal Act and the matters referred to in section 24 (2) of the Act of 1976.

45 20.—Section 26 (9) (a) of the Principal Act is hereby amended by the substitution of the following subparagraph for subparagraph (ii):

Amendment of section 26 of Principal Act.

- 50 “(ii) in case an appeal or appeals is or are taken against the decision, they shall not make the grant unless as regards the appeal or, as may be appropriate, each of the appeals—

- (I) it is withdrawn, or
- (II) it is dismissed by the Board pursuant to *section 16 or 18 of the Local Government (Planning and Development) Act, 1983*, or
- (III) in relation to it a direction is given to the authority 5
by the Board pursuant to *section 19* of the said Act,

and, in the case of the withdrawal or dismissal of an appeal or of all such appeals, as may be appropriate, they shall make the grant as soon as may be after 10 such withdrawal or dismissal and, in the case of such a direction, they shall make the grant, in accordance with the direction, as soon as may be after the giving by the Board of the direction.”.

Amendment of sections 10 and 19 of Act of 1976.

21.—(1) Subsection (1) of section 10 of the Act of 1976 is hereby 15 amended by the insertion of “given with the consent of the Minister for the Public Service” after “the Minister”, and the said subsection (1), as so amended, is set out in *paragraph 1* of the Table to this section.

(2) Subsection (2) of section 19 of the Act of 1976 is hereby amended 20 by the substitution of “£200” for “£50”, and the said subsection (2), as so amended, is set out in *paragraph 2* of the Table to this section.

TABLE

1. 10.—(1) The Board shall appoint such and so many persons 25 to be employees of the Board as the Board, subject to the approval of the Minister given with the consent of the Minister for the Public Service as to the number and kind of such employees, from time to time thinks proper.

2. (2) A direction to pay any sum exceeding £200 shall be 30 given by the Board under subsection (1) of this section only after consultation with the Minister.

Construction.

22.—(1) Section 26 (5) (b) of the Principal Act, as amended by section 14 (9) of the Act of 1976, shall be construed and have effect subject to *sections 16, 18 and 19* of this Act, and the other provisions relating to appeals to the Board of the Local Government (Planning and Development) Acts, 1963 to 1982, shall be construed and have effect subject to *section 17* of this Act. 35

(2) Nothing in *section 17 or 18* of this Act shall be construed as affecting any power conferred on the Board by or under any enactment other than those sections. 40

Restriction.

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

(2) The reference to this Act in *subsection (1)* of this section shall not be construed as including a reference to section 7 of the Local 45 Government (Planning and Development) Act, 1982.

24.—Nothing in this Act shall be construed as interrupting or otherwise affecting the continued existence of the Board or the performance by it of any of its functions. Saver.

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25.—The following provisions of the Act of 1976 are hereby repealed, namely, sections 3 (2), 4, 16, 18 (1), 18 (2), 31 and the Schedule. Repeals.

10

26.—(1) This Act may be cited as the Local Government (Planning and Development) Act, 1983.

Short title,
collective citation,
commencement and
construction.

(2) The Local Government (Planning and Development) Acts, 1963 to 1982, and this Act may be cited together as the Local Government (Planning and Development) Acts, 1963 to 1983.

(3) This Act shall come into operation on such day or days as the Minister may fix by order, 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 Local Government (Planning and Development) Acts, 1963 to 1982, shall be construed together as one Act.

AN BILLE RIALTAIS ÁITIÚIL (PLEANÁIL
AGUS FORBAIRT), 1983

LOCAL GOVERNMENT (PLANNING AND
DEVELOPMENT) BILL, 1983

BILLE

dá ngairtear

Acht do leasú agus do leathnú na nAchtanna
Rialtais Áitiúil (Pleanáil agus Forbairt), 1963
go 1982.

BILL

entitled

An Act to amend and extend the Local Govern-
ment (Planning and Development) Acts, 1963
to 1982.

*Ritheadh ag dhá Theach an Oireachtais,
14 Iúil, 1983*

*Passed by both Houses of the Oireachtas,
14th July, 1983*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,
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