



**An Bille um Pleanáil agus Forbairt (Tithíocht) agus um Thionóntachtaí
Cónaithe, 2016**

Planning and Development (Housing) and Residential Tenancies Bill 2016

Mar a tionscnaíodh

As initiated



**AN BILLE UM PLEANÁIL AGUS FORBAIRT (TITHÍOCHT) AGUS UM
THIONÓNTACHTAÍ CÓNAITHE, 2016
PLANNING AND DEVELOPMENT (HOUSING) AND RESIDENTIAL TENANCIES
BILL 2016**

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**AN BILLE UM PLEANÁIL AGUS FORBAIRT (TITHÍOCHT) AGUS UM
THIONÓNTACHTAÍ CÓNAITHE, 2016
PLANNING AND DEVELOPMENT (HOUSING) AND RESIDENTIAL TENANCIES
BILL 2016**

Bill

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entitled

An Act to facilitate the implementation of the document entitled “Rebuilding Ireland - Action Plan for Housing and Homelessness” that was published by the Government on 19 July 2016, and for that and other purposes to amend the Planning and Development Acts 2000 to 2015, the Residential Tenancies Acts 2004 to 2015 and the Housing Finance Agency Act 1981, to amend the Local Government Act 1998 in relation to the Local Government Fund and to provide for connected matters.

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Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

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Short title, collective citation, construction and commencement

1. (1) This Act may be cited as the Planning and Development (Housing) and Residential Tenancies Act 2016.

(2) (a) The Planning and Development Acts 2000 to 2015, and this Act, other than *paragraphs (b) and (c), Parts 3 to 5 and the Schedule*, may be cited together as the Planning and Development Acts 2000 to 2016 and shall be construed together as one.

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(b) The Residential Tenancies Acts 2004 to 2015, this paragraph, *Part 3 and the Schedule* may be cited together as the Residential Tenancies Acts 2004 to 2016 and shall be construed together as one.

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(c) The Local Government Acts 1925 to 2014, section 57 of the Housing (Miscellaneous Provisions) Act 2014, this paragraph and *section 39* may be cited together as the Local Government Acts 1925 to 2016 and shall be construed together as one.

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

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Definitions (general)

2. In this Act—

“Act of 2000” means the Planning and Development Act 2000;

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

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PART 2

PLANNING AND DEVELOPMENT

CHAPTER 1

Strategic Housing Developments

Definitions (*Chapter 1*)

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3. In this Chapter—

“consultation meeting” means a meeting to which *section 6(5)* relates;

“prospective applicant” means a person who has an interest in the land concerned, intends to apply for permission under *section 4* and to whom *section 5(1)* relates;

“specified period” means—

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(a) the period from the commencement of this provision until 31 December 2019, and

(b) any additional period as may be provided for by the Minister by order under *section 4(2)*;

“strategic housing development” means—

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(a) the development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses,

(b) the development of student accommodation units which, when combined, contain 200 or more bed spaces, on land the zoning of which facilitates the provision of student accommodation or a mixture of student accommodation and other uses thereon, or

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(c) the alteration of an existing planning permission granted under *section 34* (other than under subsection (3A)) where the proposed alteration relates to development specified in *paragraph (a) or (b)*,

together with a mixture of other uses where—

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(i) the cumulative gross floor area of the houses or student accommodation units, as appropriate, comprises not less than 85 per cent, or such other percentage as may be prescribed, of the proposed development’s gross floor space, and

(ii) the other uses cumulatively do not exceed 1,500 square metres gross floor space or such other area as may be prescribed;

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“Strategic Housing Division” means the division of the Board referred to in *section 11(1)*;

“student accommodation” has the meaning provided for by *section 13*.

Strategic housing developments and planning applications

4. (1) Subject to *subsection (4)*, during the specified period and notwithstanding anything to the contrary contained in any other provision of the Planning and Development Acts 2000 to 2016— 5
- (a) an application for permission for a strategic housing development shall—
- (i) be made to the Board under this section and not to a planning authority, other than an application for permission, the purpose of which is as set out in *section 34(3A)* of the Act of 2000, 10
- (ii) be so made only where *section 6(7)(b)* applies or, in the case that a request is made under *section 7(1)*, when the Board has complied with the request pursuant to *section 7(2)*,
- (iii) be so made only where the applicant for permission has fulfilled the requirements set out in *section 8*, and 15
- (iv) be in such form and contain such information as is prescribed,
- and
- (b) a copy of the application, shall be sent by the applicant to the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated. 20
- (2) The Minister may by order extend the specified period during which this section shall continue to apply but any such extension shall not be made in respect of a period after 31 December 2021.
- (3) Where a request was duly made under *section 5(1)* during the specified period in respect of a strategic housing development but any matter concerning the development to which *Part 2* relates has not been completed before the end of that period, then subject to *section 11(10)*, the other provisions of the *Planning and Development Acts 2000 to 2016* shall continue to apply to that matter as if the specified period had not expired. 25 30
- (4) In the case of an application for permission for a strategic housing development that is located in a strategic development zone, the applicant may elect to make the application to the planning authority under *section 34* of the Act of 2000 rather than under this section and, accordingly, *section 170* of that Act applies to the application to which the said *section 34* relates. 35
- (5) The proposed strategic housing development shall not be carried out unless—
- (a) the Board has approved it with or without modifications, or
- (b) it is duly carried out consequent to an election under *subsection (4)*.

Request for consultations before making application under section 4

5. (1) A prospective applicant shall, before making the application in accordance with section 4(1), make a request in writing to the Board to enter into consultations with the Board in relation to the proposed strategic housing development.
- (2) A prospective applicant shall, in advance of entering into consultations with the Board under this section, have consulted the appropriate planning authority or authorities in whose area or areas the proposed development would be situated, comprising at least one consultation meeting, as if such consultations were for the purpose of making a planning application to the planning authority or authorities concerned and for that purpose— 5
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- (a) subject to subsection (3), section 247 of the Act of 2000 applies, with any necessary modifications to those consultations, and
- (b) those consultations shall have regard to so much of Part V of the Act of 2000 as would be relevant to the proposed strategic housing development.
- (3) A consultation meeting under section 247 of the Act of 2000 in relation to proposed development referred to in subsection (2) shall be held within 4 weeks of the date of receipt by the planning authority, or planning authorities, as the case may be, of a request by the prospective applicant for such a consultation meeting, unless the prospective applicant requests that the period be extended by a specified period, in which case— 15
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- (a) the period shall be extended by the planning authority, or planning authorities, as the case may be, by such specified period upon the first such request, and
- (b) the period may be extended, at the discretion of the planning authority or planning authorities, as the case may be, by such specified period upon a second or subsequent such request. 25
- (4) A request to the Board by a prospective applicant to enter into consultations with the Board shall be in writing and shall include—
- (a) the following:
- (i) the name and address of the prospective applicant;
- (ii) a site location plan sufficient to identify the land; 30
- (iii) a brief description of the nature and purpose of the development and of its possible effects on the environment;
- (iv) a draft layout plan of the proposal;
- (v) details of the pre-application consultations that have taken place with the planning authority, or planning authorities, as the case may be, under section 247 of the Act of 2000 and that may have taken place with prescribed bodies or the public; 35
- (vi) such further information as may be prescribed;
- (vii) such other information, drawings or representations as the prospective applicant may wish to provide or make available, 40
- (b) a statement that, in the prospective applicant's opinion, the proposal is consistent

with both—

- (i) subject to *subsection (5)*, the relevant objectives of the development plan or local area plan concerned, and
 - (ii) relevant guidelines issued by the Minister under section 28 of the Act of 2000, 5
- and
- (c) the appropriate fee.
- (5) Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the statement provided for the purposes of *subsection (4)(b)(i)* shall indicate why, in the prospective applicant's opinion, permission should nonetheless be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000. 10
- (6) (a) A request under *subsection (1)* shall be made by submitting it to the Board in the form of so many printed copies and copies in a machine readable form on digital devices as are prescribed, together with a separate electronic copy if prescribed; 15
- (b) When a prospective applicant is making a request to the Board under *subsection (1)*, he or she shall also send a copy of the request to the appropriate planning authority or authorities in whose area or areas the proposed strategic housing development would be situated. It shall be so sent in the form of so many printed copies and copies in a machine readable form on digital devices as are prescribed, together with a separate electronic copy if prescribed. 20
- (7) Without prejudice to the generality of *subsection (4)(a)(vi)*, the matters that may be the subject of regulations under that subparagraph may include but shall not be limited to a brief description of— 25
- (a) the proposed house types and design, including proposed internal floor areas, housing density, plot ratio, site coverage, building heights, proposed layout and aspect,
 - (b) public and private open space provision, landscaping, play facilities, pedestrian permeability, vehicular access and parking provision, 30
 - (c) the provision of ancillary services, where required, including child care facilities,
 - (d) any proposals to address or, where relevant, integrate the proposed development with surrounding land uses,
 - (e) any proposals to provide for services infrastructure (including water, wastewater and cabling, including broadband provision), and any phasing proposals, 35
 - (f) proposals under Part V of the Act of 2000,
 - (g) details of protected structures or archaeological monuments included in the Record of Monuments and Places, where relevant, and
 - (h) any aspect of the proposed development likely to have significant effects on the environment or significant effects on a European site. 40

Consideration of request under *section 5* by Board and consultations

6. (1) (a) Within 2 weeks of the date of the receipt by the Board of the request of a prospective applicant under *section 5(1)* to enter into consultations the Board shall either—
- (i) accept the request of the prospective applicant to enter into consultations where it decides that the request has complied with *section 5*, including any regulations made for the purposes of *subsection (4)(a)(vi)* of that section, or 5
 - (ii) refuse the request of the prospective applicant to enter consultations where—
 - (I) the prospective applicant has not complied with *subsection (2)* of *section 5* or *paragraph (a)* or *(b)* of *subsection (6)* of that section, or 10
 - (II) the Board decides that the request does not include some or all of the information, statements or appropriate fee to which *subsections (4)* and *(5)* of *section 5* relates.
- (b) In any consultations under *paragraph (a)*, the Board may give advice to the prospective applicant regarding the procedures involved in making a planning application and in considering such an application. 15
- (2) Where the Board refuses under *subsection (1)(a)(ii)* to consider a request under *section 5(1)* by a prospective applicant to enter into consultations within 2 weeks from the date of the receipt of the request, then the Board shall—
- (a) return to the prospective applicant concerned— 20
 - (i) subject to *subsection (3)*, the copies of the request and statement submitted to it for the purposes of *paragraphs (a)* and *(b)*, respectively, of *section 5(4)*,
 - (ii) any fee received from the prospective applicant for the purposes of *section 5(4)(c)*,
 - and 25
 - (b) give reasons for its decision to the prospective applicant.
- (3) *Subsection (2)* is without prejudice to the Board—
- (a) making a copy of the request,
 - (b) retaining an electronic copy of the request, or
 - (c) by agreement with the prospective applicant concerned, retaining the request, 30
- submitted to the Board for the purposes of *section 5(4)(a)*.
- (4) (a) Where *subsection (1)(a)(i)* applies, then within 2 weeks from the date of the receipt by the Board of the request under *section 5(1)* the Board shall notify in writing the prospective applicant and the appropriate planning authority or planning authorities, as the case may be— 35
- (i) that the Board has accepted the request made under *section 5(1)*, and
 - (ii) that the Board will convene a consultation meeting between the parties so notified and the Board in the manner provided for by *subsection (5)*.
- (b) Within 2 weeks of the date of the notification under *paragraph (a)*, each planning

authority concerned shall submit to the Board—

- (i) copies of all records of the consultation or consultations held with the prospective applicant by that authority pursuant to *section 5(2)*, and
- (ii) that planning authority's opinion in writing (including the reasons for its opinion) of what considerations, related to proper planning and sustainable development of the area concerned, may have a bearing on the Board's decision in relation to the application, in particular, that authority's opinion on the application having regard to the provisions of the relevant development plan or local area plan, as the case may be,

and shall send to that prospective applicant copies of the records and the opinion so submitted.

(5) The Board shall convene a consultation meeting—

- (a) to take place within 4 weeks of the date of the receipt by the Board of the request under *section 5(1)*, and
- (b) to be attended by, or by one or more persons on behalf of, the prospective applicant, the Board and, subject to *subsection (6)* each planning authority in whose area the proposed strategic housing development would be situated.

(6) Each planning authority in whose area the proposed strategic housing development would be situated shall ensure that planning authority officials attending the consultation meeting on its behalf have a sufficient level of relevant knowledge and expertise in the matter concerned.

(7) Within 3 weeks of the holding of the consultation meeting, the Board—

- (a) having regard to the consultation that has taken place for the purposes of this section and the submissions under *subsection (4)(b)* of each planning authority concerned, shall form an opinion as to whether the documents referred to in *section 5(4)*—
 - (i) constitute a reasonable basis for an application under *section 4*, or
 - (ii) require further consideration and amendment in order to constitute a reasonable basis for an application under *section 4*,

and

- (b) shall issue a notice accordingly to the prospective applicant and to the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated and, where the Board is of the opinion referred to in *paragraph (a)(ii)*, the Board shall set out in the notice its advice as to the issues that need to be addressed in the documents to which *section 5(4)* relates that could result in them constituting a reasonable basis for an application under *section 4*.

(8) Following receipt by a prospective applicant of—

- (a) a notice under *subsection (7)*, and
- (b) where either or both a determination and an opinion have been requested under *section 7(1)*, such a determination or opinion or both,

the prospective applicant may—

- (i) subject to complying with *section 8(1)* proceed to apply for permission under *section 4(1)*, or
- (ii) seek a further pre-application consultation with the Board pursuant to the provisions of this section.

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(9) Neither—

- (a) the holding of a consultation under this section, nor
- (b) the forming of an opinion under this section,

shall prejudice the performance by the Board, or the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated, or any other of their respective functions under the *Planning and Development Acts 2000 to 2016*, or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

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(10) The Board may, at its absolute discretion, consult with any person who may, in the opinion of the Board, have information which is relevant for the purposes of consultations under this section in relation to a proposed strategic housing development.

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(11) The Board shall keep a record of any consultations under this section in relation to a proposed strategic housing development, including the names of those who participated in the consultations, and a copy of such record shall be placed and kept with the documents to which any application in respect of that proposed development relates.

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Requests to Board after consultation meeting has been held

7. (1) Following the consultation meeting, a prospective applicant may separately request the Board to do either or both of the following:

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(a) (i) make a determination in relation to a proposed strategic housing development if one or both of the following applies:

(I) where the development is of a class specified in regulations made under section 176 of the Act of 2000, whether it is likely to have significant effects on the environment;

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(II) whether the development is likely to have a significant effect on a European site;

and

(ii) inform the prospective applicant of the determination;

(b) give to the prospective applicant an opinion in writing prepared by the Board on what information will be required to be contained in an environmental impact statement or Natura impact statement or both of those statements, as the case may be, in relation to the proposed strategic housing development.

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(2) (a) On receipt of a request under either *paragraph (a)* or *(b)* of *subsection (1)* and except where *paragraph (b)* of this subsection applies, the Board shall, after

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consulting such bodies as may be prescribed for that purpose, comply with the request within 8 weeks of receipt of the request.

- (b) Where a prospective applicant intends to make requests to the Board under paragraphs (a) and (b) of subsection (1), then such requests shall, unless the Board otherwise approves, be made at the same time and, accordingly, on receipt of such a request the Board—
 - (i) shall comply with the request to which subsection (1)(a) relates within 8 weeks of its receipt, and
 - (ii) shall then comply with the request to which subsection (1)(b) relates within 16 weeks of its receipt.
- (c) A determination made by the Board for the purposes of subsection (1)(a)(i), or an opinion given by the Board for the purposes of subsection (1)(b) (including the main reasons and considerations on which the determination or opinion are based, as the case may be) shall be placed and kept with the documents relating to the planning application concerned.

Requirements relating to application for permission under section 4

8. (1) Before an applicant makes an application under section 4(1) for permission, he or she shall—
- (a) have caused to be published, in one or more newspapers circulating in the area or areas in which it is proposed to carry out the strategic housing development, a notice—
 - (i) indicating the location and a brief outline of the proposed development, including—
 - (I) the number of proposed houses or student accommodation units, as the case may be, and
 - (II) in the case of student accommodation units, the combined number of bedspaces, and any other uses to which those units may be put,
 - (ii) stating that he or she proposes to make an application to the Board for permission for the proposed development,
 - (iii) specifying—
 - (I) the times and places, including the offices of the Board and the offices of the planning authority or authorities in whose area or areas the proposed development would be situated, and
 - (II) the period, not being less than 5 weeks, during which, a copy of the application and any environmental impact statement or Natura impact statement or both of those statements, if such is required, may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy),
 - (iv) stating that the application contains a statement—

- (I) setting out how the proposal will be consistent with the objectives of the relevant development plan or local area plan, and
- (II) where the proposed development materially contravenes the said plan other than in relation to the zoning of the land, indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000, 5
- (v) stating that in the case of an application referred to in *subsection (2)*, an environmental impact statement or Natura impact statement or both of those statements, as the case may be, has or have been prepared in respect of the proposed development, 10
- (vi) where relevant, stating that the proposed development is likely to have significant effects on the environment of a Member State of the European Union or a state that is a party to the Transboundary Convention,
- (vii) inviting the making, during the period referred to for the purposes of *subparagraph (iii)*, of submissions and observations to the Board, including from the public, relating to— 15
 - (I) the implications of the proposed development, if carried out, for proper planning and sustainable development in the area or areas concerned, and
 - (II) the likely effects on the environment or the likely effects on a European site, as the case may be, of the proposed development, if carried out, 20
- (viii) specifying the types of decision the Board may make, under *section 9*, in relation to the application,
- (ix) stating that a person may question the validity of a decision of the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with sections 50 and 50A of the Act of 2000, and 25
- (x) stating where practical information on the review mechanism can be found,
- (b) have sent a copy in both printed form and electronic form of the application and any environmental impact statement or Natura impact statement or both of those statements, if such is required, to— 30
 - (i) the planning authority or authorities in whose functional area or areas the proposed development would be situated, and
 - (ii) any authorities, which the Minister may prescribe, together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(iii)*, be made in writing to the Board in relation to— 35
 - (I) the implications of that proposed development, if carried out, for proper planning and sustainable development in the area or areas concerned, and
 - (II) the likely effects on the environment or the likely effects on a European site, as the case may be, of that proposed development, if carried out, 40

and

- (c) in the case that the proposed strategic housing development is likely to have significant effects on the environment of a Member State of the European Union or a state that is a party to the Transboundary Convention, have sent a prescribed number of copies of the application and the environmental impact statement to the prescribed authority of the relevant state or states together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(iii)*, be made in writing to the Board. 5
- (2) In the case of a proposed strategic housing development that—
- (a) is of a class specified in regulations made under section 176 of the Act of 2000 and is likely to have significant effects on the environment, or 10
- (b) is likely to have a significant effect on a European site,
- the applicant shall prepare, or cause to be prepared, an environmental impact statement or Natura impact statement or both of those statements, as the case may be, in respect of the development. 15
- (3) (a) The Board may refuse to deal with any application made to it under *section 4(1)* where it considers that the application for permission, or the environmental impact statement or Natura impact statement if such is required, is inadequate or incomplete, having regard in particular to the permission regulations and any regulations made under *section 12*, or section 177 of the Act of 2000, or to any consultations held under *section 6*. 20
- (b) Where *paragraph (a)* applies, the Board shall, within 2 weeks from the date of the receipt by it of the application—
- (i) return to the prospective applicant concerned—
- (I) subject to *paragraph (c)*, the originals of any documents or digital devices containing the information referred to in *subsection (4)* of *section 5* that were submitted to it for the purposes of that subsection, and 25
- (II) any fee received from the prospective applicant for the purposes of *section 5(4)(c)*, 30
- and
- (ii) give reasons to the prospective applicant for the Board’s decision to refuse to consider the request.
- (c) *Paragraph (b)(i)(I)* is without prejudice to the Board—
- (i) making a copy of a document, 35
- (ii) retaining an electronic copy of a document, or
- (iii) by agreement with the prospective applicant concerned, retaining a document,
- to which that subsection relates.
- (4) (a) The planning authority or authorities in whose area or areas the proposed 40

strategic housing development would be situated shall, within 8 weeks from its receipt of a copy of the application under *section 4(1)*, each prepare and submit to the Board a report of its Chief Executive setting out—

- (i) a summary of the points raised in the submissions or observations received as a consequence of *subsection (1)(a)(vii)*, and 5
- (ii) its views on the effects of that proposed development on the proper planning and sustainable development of the area of the authority and on the environment, having regard, in particular, to—
 - (I) the matters specified in section 34(2) of the Act of 2000, and
 - (II) submissions and observations received by the Board as a consequence of *subsection (1)(a)(vii)*, 10

and, for the above purposes, the Board shall send to each planning authority concerned copies of any submissions and observations received by the Board as a consequence of *subsection (1)(a)(vii)* according as they are received.

- (b) In the report referred to in *paragraph (a)*— 15
 - (i) the planning authority shall set out its opinion as to whether the proposed strategic housing development would be consistent with the relevant objectives of the development plan or local area plan, as the case may be, and a statement as to whether the authority recommends to the Board that permission should be granted or refused, together with the reasons for the decisions, and 20
 - (ii) where the planning authority recommends that permission be refused, the report should also specify the planning conditions, and the reasons and grounds for them, that the planning authority would recommend in the event that the Board decides to grant permission. 25
- (5) In addition to the report referred to in *subsection (4)*, the Board may, where it considers it necessary to do so, require the planning authority or authorities referred to in that subsection or any planning authority or authorities on whose area or areas it would have a significant effect to furnish to the Board such information in relation to the effects of the proposed strategic housing development on the proper planning and sustainable development of the area concerned and on the environment as the Board may specify. 30

Decisions by Board on applications under *section 4*

- 9. (1) The Board shall, before making a decision to which *subsection (4)* relates in respect of the proposed strategic housing development, consider— 35
 - (a) (i) the report of the planning authority or, where the proposed development is in the area of more than one planning authority, the report of each such authority submitted in accordance with *section 8(4)*,
 - (ii) any submissions or observations duly received by the Board consequent on—
 - (I) the publication of a notice pursuant to *paragraph (a)(vii)* of *section 8(1)*, 40
 - or

- (II) the sending of a notice pursuant to *subparagraph (ii) of paragraph (b)*,
or to *paragraph (c)*, of *section 8(1)*,
- and
- (iii) any other relevant information,
- in so far as they relate to— 5
- (A) the likely consequences for proper planning and sustainable development in
the area in which it is proposed to situate the development,
- (B) the likely effects on the environment or the likely effects on a European site,
as the case may be, of the proposed development, if carried out,
- (b) where required, an environmental impact statement or Natura impact statement or 10
both of those statements, as the case may be, submitted to the Board pursuant to
section 8(2), and
- (c) any report or recommendation prepared in relation to the application in
accordance with section 146 of the Act of 2000, including the report of the person
conducting any oral hearing of the proposed development. 15
- (2) In considering the likely consequences for proper planning and sustainable
development in the area in which it is proposed to situate the strategic housing
development, the Board shall have regard to—
- (a) the provisions of the development plan, including any local area plan if relevant,
for the area, 20
- (b) any guidelines issued by the Minister under section 28 of the Act of 2000,
- (c) the provisions of any special amenity area order relating to the area,
- (d) if the area or part of the area is a European site or an area prescribed for the
purposes of section 10(2)(c) of the Act of 2000, that fact,
- (e) if the proposed development would have an effect on a European site or an area 25
prescribed for the purposes of section 10(2)(c) of the Act of 2000, that fact,
- (f) the matters referred to in section 143 of the Act of 2000, and
- (g) the provisions of the *Planning and Development Acts 2000 to 2016* and
regulations made under those Acts where relevant.
- (3) (a) When making its decision in relation to an application under this section, the 30
Board shall apply, where relevant, specific planning policy requirements of
guidelines issued by the Minister under section 28 of the Act of 2000.
- (b) Where specific planning policy requirements of guidelines referred to in
paragraph (a) differ from the provisions of the development plan of a planning
authority, then those requirements shall, to the extent that they so differ, apply 35
instead of the provisions of the development plan.
- (c) In this subsection “specific planning policy requirements” means such policy
requirements identified in guidelines issued by the Minister to support the
consistent application of Government or national policy and principles by
planning authorities, including the Board, in securing overall proper planning and 40

sustainable development.

- (4) The Board may, in respect of an application under *section 4* for permission for the proposed strategic housing development—
- (a) grant permission for the proposed development,
 - (b) grant permission for the proposed development subject to such modifications to the proposed development as it specifies in its decision, 5
 - (c) grant permission, in part only, for the proposed development, with or without any other modifications it may specify in its decision, or
 - (d) refuse to grant permission for the proposed development,
- and may attach to a permission under *paragraph (a), (b) or (c)* such conditions as it considers appropriate. 10
- (5) Where the Board did not exercise its functions under *section 8(3)* to refuse to deal with an application, then nothing in that subsection shall be read so as to prevent the Board from refusing to grant permission for a proposed strategic housing development in respect of an application under *section 4* where the Board considers that development of the kind proposed would be premature by reference to the inadequacy or incompleteness of the environmental impact statement or Natura impact statement submitted with the application for permission, if such is required. 15
- (6) (a) Subject to *paragraph (b)*, the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under *section 4* even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. 20
- (b) The Board shall not grant permission under *paragraph (a)* where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land. 25
- (c) Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with *paragraph (a)* where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development. 30
- (7) Without prejudice to the generality of the Board's powers to attach conditions under *subsection (4)*, the Board may attach either or both of the following to a permission for the development concerned:
- (a) a condition with regard to any of the matters specified in section 34(4) of the Act of 2000; 35
 - (b) a condition requiring the payment of a contribution or contributions of the same kind as the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated could, but for this Part, require to be paid under section 48 or 49 (or both) of the Act of 2000 were that authority to grant the permission (and the scheme or schemes referred to in the said section 48 or 49, as appropriate, made by that authority shall apply to the determination 40

of such contribution or contributions).

- (8) The conditions attached under this section to a permission may provide that points of detail relating to the grant of the permission may be agreed between the planning authority or authorities in whose functional area or areas the development will be situated and the person carrying out the development. If that authority or those authorities and that person cannot agree on the matter the matter may be referred to the Board for determination. 5
- (9) The Board shall make its decision under this section on an application under *section 4*—
- (a) where no oral hearing is held, within 16 weeks beginning on the day the planning application was lodged with the Board or within such other period as may be prescribed under *subsection (10)*, 10
- (b) where an oral hearing is held, within such period as may be prescribed.
- (10) The Minister may by regulations vary the period referred to in *subsection (9)(a)*, where it appears to him or her to be necessary, by virtue of exceptional circumstances, to do so and, for so long as the regulations are in force, this section shall be construed and have effect in accordance therewith. 15
- (11) The Board may, at any time after the expiration of the period specified in *section 8(4)(a)*, make its decision under this section on the application.
- (12) The Board shall include in each report made under section 118 of the Act of 2000 a statement of the number of matters which the Board has determined within each of the periods referred to in *paragraphs (a) and (b) of subsection (9)* and such other information as to the time taken to determine such matters as the Minister may direct. 20
- (13) (a) Where the Board has failed to make a decision under this section in relation to an application within the period specified in *subsection (9)(a)* or as may be prescribed under *subsection (9)(b) or (10)* as appropriate and becomes aware, whether through notification by the applicant or otherwise, that it has so failed, the Board shall proceed to make the decision notwithstanding that the period has expired. 25
- (b) Where the Board fails to make a decision within the period referred to in *paragraph (a)*, it shall pay the appropriate sum to the applicant. 30
- (c) Any payment due to be paid under this subsection shall be paid as soon as may be and in any event not later than 4 weeks after it becomes due.
- (d) In this subsection “appropriate sum” means a sum which is equal to the lesser amount of 3 times the prescribed fee paid by the applicant to the planning authority in respect of his or her application for permission or €10,000. 35
- (14) Without prejudice to the generality of section 18(a) of the Interpretation Act 2005, a reference, however expressed, in this section, *sections 4 to 8* or in regulations made under *section 12* to the area in which the proposed strategic housing development would be situated includes, if the context admits, a reference to the 2 or more areas in which that development would be situated and cognate references shall be construed accordingly. 40

Supplemental provisions to *section 9*

10. (1) The Board shall send a copy of a decision under *section 9* to the applicant, to any planning authority in whose area the proposed strategic housing development would be situated and to any person who made submissions or observations on the application for permission. 5
- (2) (a) The Board shall cause to be published in one or more newspapers circulating in the area a notice informing the public of a decision under *section 9*.
- (b) The notice shall state that a person may question the validity of any such decision by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with sections 10 50 and 50A of the Act of 2000.
- (c) The notice shall identify where practical information on the review mechanism can be found.
- (3) A decision of the Board to grant a permission under *section 9(4)* shall state—
- (a) the main reasons and considerations on which the decision is based, and 15
- (b) where conditions are imposed in relation to the grant of any permission, the main reasons for imposing them.
- (4) A grant of permission under *section 9(4)* shall be furnished to the applicant as soon as may be after the making of the relevant decision.
- (5) (a) No permission under section 34 of the Act of 2000 shall be required for any 20 development in respect of which approval has been granted under *section 9*.
- (b) Part VIII of the Act of 2000 shall apply to any case where a strategic housing development is carried out otherwise than in compliance with a permission under *section 9* or any condition to which the permission is subject as it applies to any unauthorised development with the modification that a reference in that Part to a 25 permission shall be construed as a reference to a permission granted under *section 9*.
- (6) A person shall not be entitled solely by reason of a permission under *section 9* to carry out any development.

Strategic Housing Division 30

11. (1) A division of the Board, to be known as the Strategic Housing Division, is established on the commencement of this section.
- (2) The Strategic Housing Division is in addition to any division for the time being constituted under section 112 of the Act of 2000 and to the Strategic Infrastructure Division. 35
- (3) The Strategic Housing Division shall, subject to *subsections (8) and (9)*, determine any matter falling to be determined by the Board under the *Planning and Development Acts 2000 to 2016* in relation to strategic housing development other than development to which *section 4(4)* relates.
- (4) For the purpose of *subsection (3)*, the Strategic Housing Division has all the functions 40

- of the Board.
- (5) The Strategic Housing Division consists of 4 members, nominated by the chairperson of the Board to be, for the time being, members of the Division.
- (6) The chairperson of the Board shall appoint one of the members of the Strategic Housing Division to be, for the time being, the chairperson of that Division. 5
- (7) Where a member of the Strategic Housing Division is absent—
- (a) the chairperson of the Board or deputy chairperson of the Board may act in place of that member, or
- (b) the chairperson of the Board may authorise any other ordinary member to act in place of that member. 10
- (8) The quorum for a meeting of the Strategic Housing Division is 3.
- (9) Either—
- (a) the chairperson of the Division, or
- (b) the person acting as chairperson of a meeting of the Division,
- may, at any stage before a decision is made by the Division, transfer the consideration of any matter from the Strategic Housing Division to a meeting of all available members of the Board where he or she considers the matter to be of particular complexity or significance. 15
- (10) (a) Where at any time after the specified period the Board is of the opinion, having regard to any outstanding matters to which *section 4(3)* relates and to the dispatch generally of the business of the Board, that the Strategic Housing Division should be dissolved, then the Board may request the Minister to dissolve that Division. 20
- (b) Where the Minister receives a request from the Board under *paragraph (a)*, then he or she may by direction dissolve the Strategic Housing Division with effect from a specified date and, accordingly, any remaining business of that Division shall be performed— 25
- (i) by the Board, or
- (ii) to the extent that it may be assigned to the Strategic Infrastructure Division or to that Division or to one or more than one division under *section 112(1)* of the Act of 2000, by each such division so assigned, 30
- as if the Board or each such division, as the case may be, were the Strategic Housing Division for the purposes of *section 4(3)* and, where appropriate, *section 7(2)(a)* shall be read accordingly.
- (c) The Minister shall cause notice of the making of the direction under *paragraph (b)* to be published in *Iris Oifigiúil* and such notice shall include the date of dissolution. 35

Regulations (sections 4 to 10)

12. (1) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of

matters to which *sections 4 to 10* relate, including—

- (a) conducting consultations and forming an opinion under *section 6*,
 - (b) making determinations and giving a written opinion under *section 7*,
 - (c) applications for permission under *section 4*, and
 - (d) decisions under *section 9*. 5
- (2) Without prejudice to the generality of *subsection (1)*, regulations under that subsection may provide for the following matters:
- (a) the procedure for the making of an application under *section 4*, including the erection or fixing of a site notice, the giving of public notice and the making of applications in electronic form or otherwise; 10
 - (b) the making available for inspection in electronic form by members of the public, at the offices of the Board or the relevant planning authority or authorities in whose area or areas the development will be situated, of any specified documents, particulars, plans or other information with respect to applications under *section 4*; 15
 - (c) the making of submissions or observations to the Board in relation to applications under *section 4*;
 - (d) requiring the Board to publish, or give notice in respect of, its decision regarding the proposed strategic housing development for which permission is sought, including the giving of notice thereof to prescribed bodies and to persons who made submissions or observations in the prescribed manner. 20

Construction of section 2 (interpretation) of Act of 2000 during specified period

13. Section 2 of the Act of 2000 shall have effect in subsection (1) during the specified period—

- (a) as if “, or *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “or 37N” in the definition of “permission”, 25
- (b) as if “, or *section 12* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “or 174” in the definition of “permission regulations”,
- (c) as if the following were inserted after subparagraph (a) in the definition of “strategic infrastructure development”: 30
 - “(aa) any proposed development referred to in *section 4* (other than development in respect of which an election has been exercised under *subsection (4)* of that section) of the *Planning and Development (Housing) and Residential Tenancies Act 2016*”, 35
- (d) as if the following definition were inserted after the definition of “structure”:
 - “ ‘student accommodation’—
 - (a) means a building or part thereof used or to be used to accommodate students whether or not provided by a relevant provider (within the

meaning of Qualifications and Quality Assurance (Education and Training) Act 2012), and that is not for use—

(i) as permanent residential accommodation, or

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

5

and

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

(e) as if “or under *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “or 37N of this Act,” in subparagraph (b) of the definition of “unauthorised structure”, and

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(f) as if “or under *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “or 37N of this Act,” in subparagraph (b) of the definition of “unauthorised use”.

Construction of section 41 (power to vary appropriate period) of Act of 2000 during specified period

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14. Section 41 of the Act of 2000 has effect during the specified period—

(a) as if “or under *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “or 37N,” where it first occurs, and

20

(b) as if “, or under *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “or 37N” where it last occurs.

Construction of section 96 (provision of social and affordable housing, etc.) of Act of 2000 during specified period

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15. Section 96 of the Act of 2000 has effect during the specified period—

(a) as if in subsection (1) there were substituted “section 34, or *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” for “section 34”, and

(b) as if in subsection (4) there were substituted “the planning authority or the Board, as the case may be,” for “the planning authority” in both places where it occurs.

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Construction of section 104 (Board to consist of chairperson and 7 other members) of Act of 2000 during specified period

16. Section 104 of the Act of 2000 has effect during the specified period as if—

(a) in subsection (2), “, or *Part 2* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “of the Act of 2001”, and

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(b) in subsection (2A), “, or *Part 2* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “of the Act of 2001”.

Construction of section 134 (oral hearings of appeals, referrals and applications) of Act of 2000 during specified period

17. Section 134 of the Act of 2000 has effect during the specified period—

(a) as if the following were substituted for subsection (1):

“(1) (a) The Board may in its absolute discretion, hold an oral hearing of an appeal, a referral under section 5, an application under section 37E or, subject to paragraph (b), an application under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*. 5

(b) Before deciding if an oral hearing for an application under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016* should be held, the Board— 10

(i) shall have regard to the exceptional circumstances requiring the urgent delivery of housing as set out in the Action Plan for Housing and Homelessness, and 15

(ii) shall only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.

(c) In paragraph (b) ‘Action Plan for Housing and Homelessness’ means the document entitled “Rebuilding Ireland - Action Plan for Housing and Homelessness” published by the Government on 19 July 2016.” 20

(b) as if in subsection (2)(a) “, or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “section 37E” where it first occurs, 25

(c) as if in subsection (2)(a) “or under the said *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “section 37E” where it last occurs,

(d) as if in subsection (2)(c)(iii) “, or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “section 254(6)”, 30

(e) as if in subsection (2)(d) “or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “section 37E” where it first occurs,

(f) as if in subsection (2)(d) there were inserted the following after subparagraph (ii): 35

“(iii) in respect of an application under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*, within the period specified in a notice under *section 8* of that Act within which the person may make submissions or observations to the Board in relation to the application,” 40

(g) as if in subsection (3)(a) “or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “section

37E”, and

- (h) as if in subsection (4)(b)(i) “or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “section 37E”.

Construction of section 144 (fees payable to Board) of Act of 2000 during specified period 5

18. Subsection (1A) of section 144 of the Act of 2000 has effect during the specified period—

- (a) as if in paragraph (b) “or for any strategic housing development (within the meaning of *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*)” were inserted after “for any strategic infrastructure development”, 10
- (b) as if in paragraph (c) “or under *section 5* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “the Act of 2001”,
- (c) as if in paragraph (e) “or under *section 7(1)(b)* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “section 173(3),”, and 15
- (d) as if in paragraph (j) “*section 8* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “or 226,”.

Construction of section 174 (transboundary environmental impacts) of Act of 2000 during specified period 20

19. Section 174 of the Act of 2000 has effect during the specified period as if in subsection (2) “and *section 9(1)* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “182D(1),”.

CHAPTER 2

25

Environmental impact assessment – screening

Screening for environmental impact assessment

20. The Act of 2000 is amended by inserting the following section after section 176:

“Application for screening for environmental impact assessment

176A. (1) In this section—

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‘screening determination for environmental impact assessment’ means a determination made as part of a screening for environmental impact assessment;

‘screening for environmental impact assessment’ means a determination—

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- (a) as to whether a proposed development would be likely to have significant effects on the environment, and

- (b) if the development would be likely to have such effects, that an environmental impact assessment is required.
- (2) (a) Subject to section 176B, a person who proposes to undertake a development of a class specified in Part 2 of Schedule 5 to the Planning and Development Regulations 2001 that does not exceed the relevant quantity, area or other limit specified in that Part may submit an application, to the planning authority where the proposed development would be situated, for a screening for environmental impact assessment in respect of the proposed development. 5
- (b) Subject to section 176B, a person who proposes to undertake a development of a class prescribed under section 176 for the purposes of this section shall submit an application, to the planning authority in whose area the proposed development would be situated, for a screening for environmental impact assessment in respect of the proposed development. 10 15
- (3) An application under subsection (2) shall contain—
- (a) the name and address of the applicant,
- (b) where the applicant is not the owner or occupier of the land the subject of the proposed development, the name and address of the owner and, where the owner is not the occupier of the land, the occupier, 20
- (c) a location map for the proposed development,
- (d) a description of the nature and extent of the proposed development and its likely effects on the environment, and
- (e) any such other information as may be prescribed by the Minister, 25
and be accompanied by such fee as may be prescribed under section 246(1)(ca).
- (4) For the purposes of enabling a planning authority to carry out a screening for environmental impact assessment on foot of an application under subsection (2), the authority may do either or both— 30
- (a) seek further information that it considers necessary from the applicant or any other person that the authority considers appropriate, and
- (b) consult any body prescribed by the Minister for the purposes of this subsection and consider any views of that body, 35
and, where paragraph (a) or (b) applies, the authority shall specify the period within which the information or views concerned are required to be received by the authority.
- (5) Where the applicant is not the owner or occupier of the land the subject of the proposed development, the planning authority concerned shall invite in writing— 40

- (a) the owner to make a submission on an application made under subsection (2), and
 - (b) where the owner is not the occupier of the land, the occupier of that land to make such a submission,
- and, where paragraph (a) or (b) applies, the authority shall specify the period within which the submission or submissions is or are required to be received by the authority. 5
- (6) A planning authority may reject an application under subsection (2) if in the opinion of the authority the application is incomplete in any material detail. 10
 - (7) Where a planning authority rejects an application in accordance with subsection (6) it shall—
 - (a) subject to subsection (8), return the documents to which subsection (3) relates to the applicant, together with any fee received from the applicant, and 15
 - (b) give reasons for its decision to the applicant,

and where the applicant is not the owner or occupier of the land the subject of the proposed development, the planning authority shall also notify the owner and, where the owner is not the occupier of the land, the occupier of its decision under subsection (6). 20
 - (8) Subsection (7) is without prejudice to the planning authority—
 - (a) making a copy of a document,
 - (b) retaining an electronic copy of a document, or
 - (c) by agreement with the applicant concerned, retaining a document, to which that subsection relates. 25

Screening for environmental impact assessment

- 176B.** (1) A planning authority shall, where appropriate, carry out screening for appropriate assessment in respect of a proposed development as provided for by section 177U(10) at the same time as carrying out a screening for environmental impact assessment (within the meaning of section 176A(1)) in respect of the development under subsection (2). 30
- (2) Subject to subsection (1), a planning authority shall, on foot of an application under subsection (2) of section 176A and to which subsections (6) and (7) of that section do not relate, carry out a screening for environmental impact assessment (within the meaning of section 176A(1)) in respect of the proposed development— 35
 - (a) where further information, views or submissions—
 - (i) are duly sought by the planning authority under subsection (4) or (5) of section 176A, and
 - (ii) are duly received by the authority within the period specified 40

- under the said subsection (4) or (5),
- within the period of 3 weeks from the date that such information,
views or submissions are so received, or
- (b) where further information, views or submissions are not sought by
the planning authority under subsection (4) or (5) of section 176A, 5
as the case may be, within the period of 4 weeks from the receipt of
the application under section 176A(2).
- (3) Before making a decision on an application under section 176A(2), the
planning authority shall—
- (a) consider the criteria for determining whether a development would 10
or would not be likely to have significant effects on the
environment, as set out in Schedule 7 to the Planning and
Development Regulations 2001, and
- (b) have regard to any information, views or submissions received in
accordance with section 176A(4) and, where relevant, section 15
176A(5).
- (4) A planning authority shall give notice in writing of its screening
determination for environmental impact assessment (within the
meaning of section 176A(1)) made under this section to—
- (a) the applicant, 20
- (b) any person or body consulted under section 176A(4), and
- (c) where section 176A(5) applies, either or both the owner and the
occupier, as appropriate in the circumstances,
- and the notice shall include—
- (i) the planning authority’s reasons for that decision, and 25
- (ii) information concerning referral of the determination to the Board
for review under section 176C.
- (5) A planning authority shall publish the screening determination for
environmental impact assessment (within the meaning of section
176A(1)), either or both— 30
- (a) on its website, and
- (b) in a newspaper circulating in the area where the proposed
development would be situated,
- together with a notice—
- (i) stating that a person may question the validity of the determination 35
by way of an application for judicial review, under Order 84 of the
Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance
with sections 50 and 50A of the Act of 2000, and
- (ii) identifying where practical information on the mechanism for
questioning the validity of the determination can be found. 40

Review of screening determination for environmental impact assessment and referral of application for screening for environmental impact assessment

- 176C.** (1) Where a screening determination for environmental impact assessment (within the meaning of section 176A(1)) is made by a planning authority under section 176B, any person to whom subsection (4) or (5) of that section relates may, within 3 weeks of the issuing of the determination and on payment to the Board of the appropriate fee, refer the determination for review (in this section referred to as a ‘determination review’) by the Board. 5 10
- (2) Without prejudice to section 176B, where an application was made under section 176A and no screening determination for environmental impact assessment (within the meaning of section 176A(1)) has been issued by a planning authority within the appropriate period of time provided for by section 176B(2), then the person who made the application may— 15
- (a) within the period of 3 weeks after the latest date by which that determination was due to be issued under section 176B(2), and
- (b) on payment to the Board of the appropriate fee, refer the application in question to the Board (which act is in this section referred to as an ‘application referral’) for determination. 20
- (3) Where a determination to which subsection (1) relates or an application to which subsection (2) relates is referred to the Board under either of those subsections, the person so referring shall give notice to that effect to the planning authority concerned, and accordingly that authority shall forthwith forward to the Board— 25
- (a) a copy of the application submitted to the authority under paragraph (a) or (b) of section 176A(2) and any determination made, and
- (b) any information, views or submissions received in accordance with section 176A(4) and, where relevant, section 176A(5) in respect of the application to the planning authority. 30
- (4) The Board shall, where appropriate, carry out screening for appropriate assessment in respect of the proposed development as provided for by section 177U(10) at the same time as making a determination under this section in respect of the development. 35
- (5) Before making a determination under this section, the Board shall—
- (a) consider the criteria for determining whether a development would or would not be likely to have significant effects on the environment, as set out in Schedule 7 to the Planning and Development Regulations 2001, and 40
- (b) have regard to any information, views or submissions made in accordance with subsection (4) of section 176A and, where

relevant, subsection (5) of that section and any determination made by the planning authority under section 176B.

- (6) The Board shall make a determination on the determination review or the application referral—
- (a) within 5 weeks of receiving from the planning authority the documents to which subsection (3) relates, or 5
 - (b) where the Board requests from the applicant, or any other person that it considers appropriate, further information with regard to the determination review or application referral in order to enable the Board to make a determination, within 4 weeks of the receipt of the further information. 10
- (7) A determination review or a determination on foot of an application referral under this section shall consist of a determination by the Board—
- (a) as to whether a proposed development would be likely to have significant effects on the environment, and 15
 - (b) if the development would be likely to have such effects, that an environmental impact assessment is required.
- (8) The Board shall give notice in writing of its determination under this section to— 20
- (a) the planning authority,
 - (b) the applicant,
 - (c) any person or body consulted under section 176A(4), and
 - (d) where section 176A(5) applies, either or both the owner and the occupier, as appropriate in the circumstances, 25
- by issuing in writing to each of them a notice to that effect and the notice shall include the Board's reasons for that decision.
- (9) On notification by the Board of a determination under this section, the planning authority shall publish the determination, either or both—
- (a) on its website, and 30
 - (b) in a newspaper circulating in the area where the proposed development would be situated,
- together with a notice—
- (i) stating that a person may question the validity of the determination by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with sections 50 and 50A of the Act of 2000, and 35
 - (ii) identifying where practical information on the mechanism for questioning the validity of the determination can be found.

- (10) The Board shall—
- (a) keep a record of any determination made by it under this section and the main reasons and considerations on which its determination was based,
 - (b) from time to time, but at least once in every year, forward to each planning authority a copy of the record referred in paragraph (a), and
 - (c) make the record available for purchase and inspection during office hours or available on its website or both,
- and, where the record specified in paragraph (a) is made available for purchase and inspection, the Board may charge a specified fee as determined pursuant to section 144(1A)(ha) but such fee shall not exceed the cost of making the copy.”.

Consequential amendments (*Chapter 2*) to Act of 2000

21. The Act of 2000 is amended—
- (a) in subsection (2) of section 7 by substituting the following for paragraph (bb):
 - “(bb) where applicable—
 - (i) a screening determination for environmental impact assessment (within the meaning of section 176A(1)) and the reasons therefor, or
 - (ii) the outcome of screening for appropriate assessment and the reasons therefor,”
 - (b) in subsection (1A) of section 144 by inserting the following after paragraph (h):
 - “(ha) in respect of a determination review or an application referral under 176C;”
 - (c) in section 177U by inserting the following after subsection (9):
 - “(10) In deciding upon an application under section 176A or a determination review or an application referral under section 176C, a planning authority or the Board, as the case may be, shall, where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.”
- and
- (d) in subsection (1) of section 246 by inserting the following after paragraph (c):
 - “(ca) the payment to planning authorities of prescribed fees in relation to applications for determinations under section 176A.”

Temporary construction of section 42 (power to extend appropriate period) of Act of 2000

22. During the period from the passing of this Act until 31 December 2021, section 42 of the Act of 2000 has effect— 5
- (a) as if the following subsection were inserted after subsection (1):
- “(1A) (a) Notwithstanding anything to the contrary in subsection (1), a planning authority shall—
- (i) as regards a particular permission in respect of a development of the type referred to in subsection (1)(a)(i) that relates to 20 or more houses, and 10
- (ii) upon application being duly made to the authority, further extend the appropriate period by such additional period not exceeding 5 years, or until 31 December 2021, whichever first occurs, but the authority shall only so extend that period where the authority— 15
- (I) considers it requisite to enable the development to which the permission relates to be completed,
- (II) is satisfied that the application is in accordance with such regulations under the *Planning and Development Acts 2000 to 2016* as apply to the application, 20
- (III) is satisfied that any requirements of, or made under those regulations are complied with as regards the application, and
- (IV) is satisfied that in the case of a permission—
- (A) where the expiry of the appropriate period as extended 25 occurred or occurs during the period from 19 July 2016 to the date of the commencement of this section, the application is duly made within 6 months of the said commencement date, and
- (B) where the appropriate period as extended has not expired 30 on the date of commencement of this section, the application is duly made prior to the end of the expiration of the period by which the appropriate period was extended.”,
- (b) as if in subsection (2) there were substituted “subsection (1) or (1A)” for “subsection (1)”, and 35
- (c) as if in subsection (4) there were substituted “Except where subsection (1A) applies, a decision” for “A decision”.

Amendment of section 179 (local authority own development) of Act of 2000

23. Section 179 of the Act of 2000 is amended—

- (a) in subsection (3) by substituting in paragraph (a) “shall, within 8 weeks after the expiration of the period” for “shall, after the expiration of the period”,
- (b) in subsection (4) by substituting in paragraph (a) “, within 6 weeks of the receipt of the report of the manager,” for “, as soon as may be,”, and 5
- (c) in subsection (4), by substituting the following for paragraph (c):
 - “(c) For a resolution to have effect under paragraph (b)—
 - (i) it has to be adopted by a majority of the members of the local authority, 10
 - (ii) it has to be passed not later than 6 weeks after the receipt of the manager’s report, and
 - (iii) in the case of a resolution not to proceed with a proposed development, it shall state the reasons for such resolution.”.

PART 3

15

AMENDMENTS TO RESIDENTIAL TENANCIES ACT 2004

Definition (*Part 3*)

24. In this Part and the Schedule “Act of 2004” means the Residential Tenancies Act 2004.

Amendment of section 3 (application of Act) of Act of 2004

25. Section 3 of the Act of 2004 is amended in subsection (4)(b)(i) by substituting “is provided by an approved housing body” for “is owned and provided by an approved housing body”. 20

Amendment of section 4 (interpretation generally) of Act of 2004

26. Section 4 of the Act of 2004 is amended in subsection (1) by deleting “owned by it” in paragraph (b)(i) of the definition of “approved housing body”. 25

Amendment of section 22 (tenant to be notified of new rent) of Act of 2004

27. Section 22 of the Act of 2004 is amended in subsection (2A)(d) by substituting “paragraph (c)” for “paragraph (d)”. 30

Amendment of section 34 (grounds for termination by landlord) of Act of 2004

28. Section 34 of the Act of 2004 is amended by substituting “Subject to section 35A, a Part 4 tenancy” for “A Part 4 tenancy”. 30

Amendment of section 35 (Table to section 34: interpretation and supplemental) of Act of 2004

29. Section 35 of the Act of 2004 is amended by substituting the following for subsection (8):

- “(8) The statutory declaration that is to accompany a notice of termination in respect of a termination referred to in paragraph 3 of the Table shall include—
- (a) a declaration that the landlord intends to enter into an enforceable agreement to transfer to another, for full consideration, of the whole of his or her interest in the dwelling or the property containing the dwelling,
 - (b) where section 35A(3)(a)(i) applies, a declaration that section 35A(2) does not apply to the said notice of termination as the price to be obtained by selling at market value the dwelling that is the subject of an existing tenancy to which Part 4 applies would be more than 20 per cent below the market value that could be obtained for the dwelling with vacant possession, and
 - (c) where section 35A(3)(a)(ii) applies, a declaration that section 35A(2) does not apply to the said notice of termination as the effect of section 35A(2) would be unduly onerous on, or would cause undue unfairness to or undue hardship on, that landlord.”.

Restriction on termination of certain tenancies by landlords

30. The Act of 2004 is amended by inserting the following section after section 35:

“35A. (1) In this section—

- ‘development’ means a development consisting of land upon which there stands erected a building or buildings comprising a unit or units where, as respects such unit or units, it is intended that amenities, facilities and services are to be shared;
- ‘relevant period of time’ means any period of 6 months within the period—
- (a) beginning with the offering for sale in the development concerned of the first dwelling the subject of a tenancy, and
 - (b) ending with the offering for sale in that development of the last dwelling the subject of a tenancy.
- (2) Except where subsection (3) or (4) applies, a Part 4 tenancy shall not be terminated by the landlord on the ground specified in paragraph 3 of the Table to section 34 where the landlord intends to enter into an enforceable agreement—
- (a) in respect of dwellings situated within the development concerned,
 - (b) for the transfer to another, for full consideration, of the whole of his or her interest in 20 or more of those dwellings, each being the

subject of such a tenancy, and

(c) to so transfer during a relevant period of time.

(3) (a) Subsection (2) does not apply where the landlord can show to the satisfaction of the Board—

(i) that the price to be obtained by selling at market value the dwelling that is the subject of an existing tenancy to which Part 4 applies is more than 20 per cent below the market value that could be obtained for the dwelling with vacant possession, or 5

(ii) that the application of that subsection would, having regard to all the circumstances of that case— 10

(I) be unduly onerous on that landlord, or

(II) would cause undue unfairness to, or undue hardship on, that landlord.

(b) In paragraph (a)(i), the reference to the market value of the dwelling is a reference to the estimated amount that would be paid by a willing buyer to a willing seller in an arm's-length transaction after proper marketing (where appropriate) where both parties act knowledgeably, prudently and without compulsion. 15

(4) Where, before the commencement of *section 30* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*, a notice under section 34 of this Act has been served on a tenant specifying as one of the grounds for termination the ground in paragraph 3 of the Table to section 34, then that section shall continue to apply to that notice as if the said *section 30* had not been enacted. 20

(5) Subject to subsection (4), this section applies to all tenancies, including a tenancy created before the coming into operation of this section. 25

Repeal of section 42 (termination of additional rights) of Act of 2004, transitional provisions and consequential amendments

31. (1) Section 42 of the Act of 2004 is repealed. 30

(2) Where a further Part 4 tenancy has commenced on or before the commencement of this section, then section 42 shall continue to apply to that tenancy as if *subsections (1) and (4)* had not been enacted.

(3) Where, before the commencement of this section, a notice under section 42 of the Act of 2004 has been served on a tenant, then that section shall continue to apply to that notice as if *subsections (1) and (4)* had not been enacted. 35

(4) The provisions of the Act of 2004 referred to in *column (2)* of *Part 1* of the *Schedule* are amended in the manner referred to in *column (3)* of that *Part* opposite the reference in *column (2)* to the provision concerned.

Amendment of section 62 (requirements for a valid notice of termination) of Act of 2004

32. Section 62 of the Act of 2004 is amended by inserting in subsection (1)(e) “or the tenancy is a further Part 4 tenancy,” after “6 months,”.

Amendment of section 100 (appeal to Tribunal against adjudicator’s determination) of Act of 2004

5

33. Section 100 of the Act of 2004 is amended in subsection (2) by substituting “10 days” for “21 days”.

Amendment of section 103 (membership of Tribunal, etc.) of Act of 2004

34. Section 103 of the Act of 2004 is amended—

- (a) by substituting the following for subsection (1): 10

“(1) Subject to subsection (1A), the number of members of the Tribunal shall be 3.”,

and

- (b) by inserting the following subsections after subsection (1):

“(1A) (a) In respect of such matters as may be prescribed, the Tribunal shall, 15
except where subsection (1B) applies, be composed of one member.

(b) Without prejudice to the generality of paragraph (a), prescribed matters for the purposes of that paragraph may include any of the following matters:

(i) the retention or refund of a deposit; 20

(ii) the amount that ought to be initially set (in compliance with section 19 or 19A, as the case may be) as the amount of rent under a tenancy;

(iii) the time at which a review of rent referred to in Part 3 should take place or the amount of rent that should be determined on foot of that review; 25

(iv) an alleged failure by the tenant to comply with any of the obligations applicable to the tenant, including those contained in any lease or tenancy agreement;

(v) an alleged failure by the landlord to comply with any of the obligations applicable to the landlord, including those contained in any lease or tenancy agreement; 30

(vi) a claim by a landlord for arrears of rent or other charges.

(c) There may be included in the same reference to a Tribunal to which this subsection relates disputes and, where appropriate, complaints, 35
in respect of 2 or more matters prescribed for the purposes of this subsection.

(1B) (a) Where—

(i) a matter that consists of or includes a dispute is referred to the Tribunal, and that Tribunal is composed of one member, and

(ii) the Tribunal, at any stage, considers that in the particular circumstances it would be appropriate to adjourn the hearing by it of the matter and request the Board to refer the dispute or complaint to a Tribunal composed of 3 members,

then the Tribunal may so refer the matter to the Board accordingly.

(b) Where the Board is requested under paragraph (a) to refer a matter, that consists of or includes a dispute, to a Tribunal, it may refer the matter to a Tribunal composed of 3 members.

(1C) Where the Tribunal is composed of one member, then subsections (4) and (7) do not apply to that Tribunal.

(1D) Where, in the same reference to a Tribunal, there is included disputes or complaints, in respect of 2 or more matters, and one or more of those disputes or complaints is not prescribed for the purposes of this subsection, the Board shall refer the matter to a Tribunal composed of 3 members.”.

Amendment of section 104 (determination of disputes by Tribunal: procedures generally) of Act of 2004

35. Section 104 of the Act of 2004 is amended in subsection (1) by deleting “or” in paragraph (b), by substituting “the matter, or” for “the matter.” in paragraph (c) and by inserting the following after paragraph (c):

“(d) has been referred to it by the Board under section 103(1B).”.

Amendment of section 121 (determination orders) of Act of 2004 and consequential amendments

36. (1) Section 121 of the Act of 2004 is amended—

(a) in subsection (1), by substituting “by the Director and issued by him or her” for “by the Board and issued by it”,

(b) in subsections (2) to (5) by substituting “Director” for “Board” in each place where it occurs,

(c) in paragraphs (a) and (b) of subsection (4) by substituting “to him or her” for “to it”,

(d) by inserting the following after subsection (5):

“(5A) A document purporting to be a determination to which this section relates and to be signed by—

(a) the Director under this section, or

(b) a member of the staff of the Board, pursuant to the function of the Director under this section being delegated to the member under section 161(2),

shall, unless the contrary is proved, be deemed to be a determination duly made and shall be received in any proceedings in any court without further proof of—

- (i) the determination,
- (ii) the signature of the Director or the person to whom paragraph (b) relates, as the case may be, or 5
- (iii) where relevant, the delegation to which paragraph (b) relates.”,

and

- (e) by deleting subsection (6).
- (2) The provisions of the Act of 2004 referred to in *column (2)* of *Part 2* of the *Schedule* are amended in the manner referred to in *column (3)* of that Part opposite the reference in *column (2)* to the provision concerned. 10

Amendment of section 124 (enforcement of determination orders) of Act of 2004

- 37. Section 124 of the Act of 2004 is amended in subsection (7) by inserting “, including an order for possession of a dwelling the subject of a determination order,” after “ancillary or other orders”. 15

PART 4

AMENDMENTS TO HOUSING FINANCE AGENCY ACT 1981

Amendments to Housing Finance Agency Act 1981

- 38. The Housing Finance Agency Act 1981 is amended— 20
 - (a) in section 1 by inserting the following definition after the definition of “house”:
 - “ ‘Housing Agency’ has the same meaning as it has in the Pyrite Resolution Act 2013;”,
 - (b) in section 1 by inserting the following definition after the definition of “housing authority”— 25
 - “ ‘institution of higher education’ has the same meaning as it has in the Higher Education Authority Act 1971;”,
 - (c) in section 4(2)(c) by inserting the following after subparagraph (iii):
 - “(iv) to an institution of higher education, to be used by it in respect of the provision or management of housing accommodation for students, including the acquisition of land by such an institution for that purpose, 30
 - (v) to the Housing Agency, to be used by it for the purpose of the performance of its functions;”,

and

35

(d) in section 5 by deleting “or” where it last occurs in paragraph (d), by substituting “that Act,” for “that Act” in paragraph (e), and by inserting the following after paragraph (e):

“(f) an institution of higher education, to be used by it in respect of the provision or management of housing accommodation for students, including the acquisition of land by such an institution for that purpose, or

(g) the Housing Agency, to be used by it for the purpose of the performance of its functions with the approval of both the Minister and the Minister for Public Expenditure and Reform, in accordance with such terms and conditions relating to the acquisition of houses as stand approved of for the purposes of this section.”.

PART 5

AMENDMENTS TO LOCAL GOVERNMENT ACT 1998

Amendments to Local Government Act 1998 15

39. The Local Government Act 1998 is amended in subsection (2C) (inserted by section 7 of the Motor Vehicle (Duties and Licences) Act 2013) of section 6—

(a) by substituting for paragraph (a) (inserted by section 44 of the Environment (Miscellaneous Provisions) Act 2015) the following:

“(a) Subject to paragraphs (b) and (c), the Minister may, on or before 31 December 2016, pursuant to a request from the Minister for Finance, make one, or more than one, payment from the Fund in the amount requested by the Minister for Finance.”.

and

(b) by substituting for paragraph (c) (inserted by the said section 44) the following: 25

“(c) The total amount of all payments made under paragraph (a) shall not exceed €420 million.”.

SCHEDULE

CONSEQUENTIAL AMENDMENTS TO RESIDENTIAL TENANCIES ACT 2004

Section 31

PART 1

AMENDMENTS RELATING TO REPEAL OF SECTION 42 OF ACT OF 2004

Reference No. (1)	Provision (2)	Amendment (3)	
1	Section 40(2)	Substitute “A reference in section 41(4) to section 34 or Chapter 3 is a reference” for “References in sections 41(4) and 42 to section 34 or Chapter 3 are references”.	5 10
2	Section 41 Subsection (4)	Delete “(b) or” in paragraph (a).	
3	Subsection (4)	Delete paragraph (b).	
4	Section 44	Substitute “section 34 or Chapter 3” for “section 34, Chapter 3 or section 42”.	15
5	Section 45 Subsection (4)	Delete “(b) or” in paragraph (a).	
6	Subsection (4)	Delete paragraph (b).	
7	Section 47 Subsection (4)	Delete.	20
8	Subsection (6)	Delete.	
9	Table	Delete “or 42” in paragraph 1.	
10	Section 55(2)	Substitute: “(2) A termination under section 34 on one or more of the grounds specified in paragraphs 2 to 6 of the Table to that section of a Part 4 tenancy or a further Part 4 tenancy shall not be regarded as a termination of that tenancy for the purposes of section 17(1)(a) of the Landlord and Tenant (Amendment) Act 1980.”.	25 30

PART 2

AMENDMENTS RELATING TO THE BOARD AND THE DIRECTOR

Reference No. (1)	Provision (2)	Amendment (3)	
1	Section 95(5)	Substitute “Director” for “Board”.	5
2	Section 96 Subsection (1)	Substitute in paragraph (a) “Director” for “Board”.	
3	Subsection (1)	Substitute “the Director shall prepare” for “the Board shall prepare”.	10
4	Subsection (2)	Substitute in paragraph (b) “to the Director” for “to the Board”.	
5	Section 99(4)	Substitute “Director” for “Board”.	
6	Section 109 Subsection (2)	Substitute in paragraph (d)(vi) “the Director must, from the date of receipt by the Board” for “the Board must, from the date of receipt by it”.	15
7	Subsection (2)	Substitute in paragraph (d)(ix) “the Director must, from the date of receipt by the Board” for “the Board must, from the date of receipt by it”.	20
8	Section 123(7)	Substitute in paragraph (a) “issued by the Director” for “issued by it”.	
9	Section 159(1)	Delete “, 121”.	25
10	Section 176(3)	Delete in paragraph (b) “sealed and”.	

An Bille um Pleanáil agus Forbairt
(Tithíocht) agus um Thionóntachtaí
Cónaithe, 2016

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht d'éascú an doiciméad dar teideal "Éire a Atógáil - Plean Gníomhaíochta um Thithíocht agus Easpa Dídine", a d'fhoilsigh an Rialtas an 19 Iúil 2016, a chur i ngníomh agus, chun na críche sin agus chun críoch eile, do leasú na nAchtanna um Pleanáil agus Forbairt, 2000 go 2015, na nAchtanna um Thionóntachtaí Cónaithe, 2004 go 2015 agus an Achta um Ghníomhaireacht Airgeadais do Thithe, 1981, do leasú an Achta Rialtais Áitiúil, 1998 i ndáil leis an gCiste Rialtais Áitiúil agus do dhéanamh socrú i dtaobh nithe comhghaolmhara.

*An Seanadóir Diarmuid Ó Buitiméir a thíolaic thar
ceann an Aire Tithíochta, Pleanála, Pobail agus
Rialtais Áitiúil,*

4 Samhain, 2016

Planning and Development (Housing) and
Residential Tenancies Bill 2016

BILL

(as initiated)

entitled

An Act to facilitate the implementation of the document entitled "Rebuilding Ireland - Action Plan for Housing and Homelessness" that was published by the Government on 19 July 2016, and for that and other purposes to amend the Planning and Development Acts 2000 to 2015, the Residential Tenancies Acts 2004 to 2015 and the Housing Finance Agency Act 1981, to amend the Local Government Act 1998 in relation to the Local Government Fund and to provide for connected matters.

*Presented by Senator Jerry Buttimer on behalf of the
Minister for Housing, Planning, Community and
Local Government,*

4th November, 2016

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ó

FOILSEACHÁIN RIALTAIS,

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