

GENERAL SCHEME

Planning and Development (Land Value Sharing and Urban Development Zones) Bill 2022

CONTENTS

PART 1

PRELIMINARY AND GENERAL

1. Short title, construction, collective citation and commencement
2. Interpretation
3. Expenses

PART 2

REZONING LAND VALUE SHARING CONTRIBUTION

4. Purposes of Part
5. Review of achievement of purposes of Part
6. Rezoning land value sharing contribution
 - 31BA. Interpretation
 - 31BB. Land which satisfies the relevant criteria
 - 31BC. Zoning Value
 - 31BD. Amount of land value sharing contribution
 - 31BE. Obligation to pay rezoning land value sharing contribution on grant of permission
 - 31BF. Rezoning land value sharing contribution to be a charge on property
 - 31BG. Determination of the existing use value and market use value of land where there is no entry on the land value sharing register
 - 31BH. Land value sharing register
 - 31BI. Determination of values of lands which are substantially undeveloped – self-assessment
 - 31BJ. Owner to provide own assessment of existing use value and market value of land
 - 31BK. Assessment of existing use value and market value of land by planning authority
 - 31BL. Appeal of assessment by the planning authority

31BM. Application for permission for certain types of development not subject to land value sharing

31BN. Payment of land value sharing contribution

PART 3
URBAN DEVELOPMENT ZONES

7. Urban Development Zones

171AA. Interpretation (Part IXA)

171AB. Planning authority or regional assembly may identify potential candidate urban development zones

171AC. Minister may require planning authority or regional assembly to identify potential candidate urban development zones

171AD. Planning authority to submit information to Minister in relation to potential candidate urban development zone

171AE. Minister may make recommendation in relation to potential candidate urban development zone

171AF. Pre-variation consultation

171AG. Identification of candidate urban development zone in development plan

171AH. Planning framework

171AI. Procedure for identification of candidate urban development zone in development plan where development scheme has not been prepared ("Option A")

171AJ. Procedure for identification of candidate urban development zone in development plan where development scheme has been prepared ("Option B")

171AK. Development scheme

171AL. Appeal against the approval of a development scheme

171AM. Office of Planning Regulator to notify Minister where variation of development plan or development scheme is not consistent with Office's recommendation

171AN. Power of Minister to issue direction

171AO. Amendment of a development scheme

171AP. Urban development zone order

171AQ. Power to acquire land in a candidate urban development zone or a urban development zone

171AR. The consideration of an application in a candidate urban development zone or urban development zone

PART 4

MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT

8. Amendment of section 2 of Principal Act
9. Amendment of section 13 of Principal Act
10. Amendment of section 18 of Principal Act
11. Amendment of section 50 of Principal Act
12. Amendment of section 50A of Principal Act
13. Amendment of Fourth Schedule to Principal Act
14. Insertion of section 212A into Principal Act

Acts Referred To:

[Taxes Consolidation Act 1997 (No. 39)]

Planning and Development Act 2000 (No.30)

Planning and Development (Land Value Sharing and Urban Development Zones) Bill 2022

An Act to amend and extend the Planning and Development Act; to address the systemic market failure that has led to serious and continuing crisis in the availability and supply of housing within the State, and in particular affordable and social housing within the State; to enable the State in the interests of the common good to secure a share of any increase in land value arising from certain public zoning and designation decisions; to address the compelling and immediate need for an increase in the supply of housing, and in particular affordable and social housing through the use of a land value sharing contribution, while providing for or maintaining an appropriate mixture of uses, including amenities, facilities or services to meet the social and economic needs of the community; to provide for the sustainable development of new and regenerated communities well served by amenities, facilities and services; to enable the strategic and comprehensive development, redevelopment or improvement of land; to provide and facilitate the timely delivery of the infrastructure and enabling works, that may include the assembly of land, necessary to support new housing and mixed use development in addition to the integration of new development into existing communities; and to provide for related matters.

[DATE]

WHEREAS increases in land value have been and are continuing to be generated as a result of actions of the State through a combination of certain public zoning and designation decisions and the State's investment in public infrastructure, which increases in land values are for the most part at present, retained and enjoyed by landowners rather than the State;

WHEREAS it is desirable and required by the common good that a greater proportion of the land value increases generated by the State is captured in an equitable manner for the common good;

WHEREAS additional sources of revenue are needed to assist in the funding of the broad range of necessary public infrastructure required to accommodate the recent and continuing population increases;

WHEREAS it is desirable to further enable the strategic and comprehensive development, redevelopment or improvement of designated urban areas;

WHEREAS the market failure and the housing supply issue is of such character that it is necessary for compelling reasons of public interest and for the common good that measures should be taken to deal with the unprecedented shortage of housing, particularly social and affordable housing;

WHEREAS the adverse consequences of the accommodation crisis and the necessity for those consequences to be addressed by the State are recognised as is the requirement to do so in a manner which does not destabilise public finances; and

AND WHEREAS it is accepted that the State is presently unable to sufficiently influence or regulate the price of building land and that this has contributed to present systemic market failure;

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1
PRELIMINARY AND GENERAL

Short title, construction, collective citation and commencement

1. (1) This Act may be cited as the Planning and Development (Land Value Sharing and Urban Development Zones) Act 2022.

(2) This Act and the Planning and Development Acts 2000 to 2021 may be cited together as the Planning and Development Acts 2000 to 2022 and shall be read together as one.

(3) This Act, other than section 6 insofar as it inserts section 31BH [Imposition of the land value sharing contribution] shall come into operation on such day or days as the Minister for Housing, Local Government and Heritage, 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 provisions.

(4) Section 6 insofar as it inserts section 31BH [Imposition of the land value sharing contribution] shall come into operation:

- (i) in respect of applications for permission on land which satisfies paragraphs (a)(i), (a)(ii), (b) and (c) of the relevant criteria in section 31BB(1) and which has been acquired on or after 21 December 2021, on 1 December 2024,
- (ii) in respect of applications for permission on land which satisfies paragraphs (a)(i), (a)(ii), (b) and (c) of the relevant criteria in section 31BB(1) and which has been acquired before 21 December 2021, on 1 December 2025
- (iii) in respect of applications for permission on all other land which satisfies the relevant criteria in section 31BB(1), on 1 December 2026.

Interpretation

2. In this Act —

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

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

Expenses

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.

PART 2
REZONING LAND VALUE SHARING CONTRIBUTION

The Principal Act is amended by the insertion of the following Part after section 31AX:

“PART IIC
Land Value Sharing Contribution

Purposes of Part

4. The purposes of this part of the Act are—

- (a) to enable the State to secure a share of the increase in land value that occurs as a result of certain public zoning and designation decisions and ensure that this value is shared in by the State in a manner which results in benefit to the community in the public interest and for the common good;
- (b) to provide for mechanisms to encourage timely development on land, in particular residential development;
- (c) to address the market failure leading to serious deficiencies in the housing market;
- (d) to alleviate the shortage of land available for suitable and well-located housing in circumstances where that market is experiencing a systemic housing shortage;
- (e) to achieve the best possible social and economic return, consistent with the purposes of this Act, from the use of land;
- (f) To partially assist in the funding of necessary public infrastructure, facilities and related measures required to accommodate expected population increases.

Review of achievement of purposes of Part

5. (1) The Minister shall, not later than five years after the first coming into operation of each of Parts 2 and 3 of this Act, commence a review of the operation of those Parts.

(2) In conducting a review under subsection (1), the Minister shall consult with such persons as he or she considers appropriate.

(3) The Minister shall cause a report in writing of the findings of the review under subsection (1) to be

prepared and, as soon as may be after it is prepared, shall cause copies of the report to be laid before each House of the Oireachtas.

Interpretation (Part IIC)

31BA. In this Part –

“blue infrastructure” means aspects of the natural and built environment relating to water, waterways and waterbodies that provide a range of ecosystem and social benefits, including infrastructure such as flood defences and sustainable water management solutions;

“existing use value” means the value of the land calculated by reference to the valuation date on the basis that on that date it would have been, and would thereafter have continued to be, unlawful to carry out any development in relation to that land other than exempted development;

“green infrastructure” means aspects of the natural and built environment relating to land that provide a range of ecosystem and social benefits, including infrastructure to support decarbonisation and the reduction of anthropogenic greenhouse gases;

“market value” means the estimated amount for which the land should exchange on the valuation date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion, and the assessment of market value shall not take into account any value associated with any extant planning permission in relation to the land in question;

“owner”, in relation to land, means—

- (a) in relation to land that is registered land within the meaning of the Registration of Title Act 1964, the person registered as, or deemed to be registered as, the owner of the land under that Act,
- (b) in relation to all other land, a person, other than a mortgagee not in possession, who, whether in his or her own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let, or
- (c) a person who holds any estate, interest or right in accordance with which that person may carry out development on or to the land.

“public infrastructure, facilities, and related measures” means—

- (a) the acquisition of land required for the purposes set out in paragraphs (b) - (p) below;

- (b) the provision of land for the purpose of social and affordable, including cost rental, housing,
- (c) the provision of open spaces, recreational and community facilities and amenities and landscaping works,
- (d) the provision of roads, car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure,
- (e) the provision of bus corridors and lanes, bus interchange facilities (including car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures,
- (f) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, surface water sewers, flood relief work and ancillary infrastructure,
- (g) the provision of high-capacity telecommunications infrastructure, such as broadband,
- (h) blue infrastructure
- (i) the provision of sites for schools and other educational facilities including childcare facilities,
- (j) the provision of sites for hospitals and other healthcare facilities;
- (k) the provision of sites for centres for the social, economic, recreational, cultural, environmental, or general development of the community;
- (l) the provision of sites for facilities for the elderly and for persons with disabilities;
- (m) green infrastructure;
- (n) public realm works;
- (o) programmes or facilities relating to education, training or skills development in connection with the provision of employment opportunities for the local community in conjunction with an established educational authority or institution; and
- (p) any matters which it considers ancillary to anything which is referred to in (a) to (o).

“land value sharing register” shall be construed in accordance with section 31BC;

“substantially undeveloped land” means–

- (i) land identified within the adopted development plan or a relevant local area plan zoned for either solely or primarily for residential use and which has been identified on a map published pursuant to section 653K or 653M of the Taxes Consolidation Act 1997; or

(ii) land identified within the adopted development plan or a relevant local area plan zoned for a mixture of uses including residential use and which has been identified on a map published pursuant to section 653K or 653M of the Taxes Consolidation Act 1997,

"valuation date" means—

(a) the date of the latest in time of one of the following:

- (i) a decision by the relevant planning authority as to the zoning of land in the most recent development plan in accordance with either section 12 or section 13,
- (ii) a decision by the relevant planning authority as to the zoning of land in the most recent local area plan, in accordance with section 20,
- (iii) the designation of a site as an urban development zone in accordance with section 171AL, or
- (iv) the designation of a site as a strategic development zone in accordance with Part IX.

regardless of whether it was previously so zoned or designated, as appropriate, and "zoned" shall be construed accordingly, or

(b) such other date as may be prescribed by the Minister by regulation.

"zoning value" has the meaning given to by section 31BC

Land which satisfies the relevant criteria

31BB. (1) In this Part and subject to subsection (2), a reference to land which satisfies the relevant criteria is a reference to :

(a) land that is zoned by the relevant planning authority in a development plan, in accordance with either section 12 or section 13, or a local area plan, in accordance with section 20 —

- (i) solely or primarily for residential use,
- (ii) for a mixture of uses, including residential use,
- (ii) for commercial or industrial uses,

(b) land within an urban development zone pursuant to Part IXA.

(c) land within a strategic development zone pursuant to Part IX at the date of commencement.

(2) Lands situated within areas referred to in subsection (1) which are used or proposed to be used solely for the provision of public infrastructure, public amenity facilities or open space may be excluded from the scope of relevant land by regulations made by the Minister.

Zoning value

31BC. (1) The zoning value in relation to land is the figure yielded by the following calculation:

$$A - B$$

where –

A is the market value of the land [, adjusted on a pro rata basis for the portion of land subject to the planning application, where necessary] and

B is the existing use value of the land [, adjusted on a pro rata basis for the portion of land subject to the planning application, where necessary.]

(2) The market value and the existing use value referred to in subsection (1) shall be-

(a) the market value and the existing use value that stand entered on the register on the date on which the zoning value is determined, or

(b) where no value is entered in the register, the market value and the existing use value calculated in accordance with section 31BE-.

Amount of land value sharing contribution

31BD. (1) Subject to subsection (2), the amount of the land value sharing contribution under this Part shall be such amount as is equal to 30 per cent of the zoning value of the land.

(2) The Minister may by regulations prescribe a different percentage, being not less than [20] per cent and not more than [30] per cent for the purpose of subsection (1) after having regard to changes in the value of property and the Residential Property Price Index published by the Central Statistics Office.

(3) The Minister may by regulations prescribe a different percentage in respect of lands zoned for purposes within certain categories of development, being not less than [20] per cent and not more than [30] per cent, after having regard to changes in the value of property and the impact of this Part on development in the State.

(4) Where regulations under subsections (2) or (3) are proposed to be made, a draft of the regulations shall be laid before each House of the Oireachtas not later than 3 months before the beginning of the year in which it is proposed that the regulations shall come into operation, and the regulations shall not be made unless a resolution approving the draft is passed by each such House.

Obligation to pay rezoning land value sharing contribution on grant of permission

31BE. (1) (a) Subject to subsections (8) and section 31BM, a planning authority shall, when granting an application for a permission under section 34, which consists of either or both of:

- (i) a residential development of more than 4 housing units, or
- (ii) a commercial development of 500 or more square metres gross floor space,

include a condition or conditions requiring, prior to the commencement of development pursuant to the planning permission unless otherwise agreed, the payment of a contribution (in this Part referred to as a 'rezoning land value sharing contribution') in respect of public infrastructure, facilities, enabling works and related measures benefiting development in the functional area of the planning authority that is provided, or that it is intended will be provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities) or by a public authority with the agreement of the planning authority where the land the subject of the application satisfies the relevant criteria as specified in section 31BB.

(b) For the avoidance of doubt, the imposition of a rezoning land value sharing contribution under this section is without prejudice to any other levies, charges or contributions which may be related to the grant of permission.

(2) (a) The amount of the rezoning land value sharing contribution shall be calculated in accordance with section 31BC and shall be recorded in the land value sharing register.

(b) Where an appeal under section 31BL is not concluded at the time of the grant of permission, the condition or conditions referred to in subsection (1)(a) shall refer to the rezoning land value sharing calculation as calculated based on the values ultimately determined by the Tribunal.

(3) Where an application is submitted to a planning authority under section 34 for development on land satisfying the relevant criteria in respect of which there is an entry on the land value sharing register, that section and any permission regulations shall apply, subject to the other provisions of this section.

(4) A planning authority shall determine the amount of the land value sharing contribution in accordance with section 31BJ.

(5) Where the land the subject of an application as set out in *subsection (1)* includes land in the area of more than one planning authority, the powers and obligations set out in this section shall be binding on each planning authority in respect of any land in their respective functional area.

(6) Where an appeal is brought to the Board in respect of a planning application related to land which satisfies the relevant criteria, and where the Board decides to grant permission or amend the conditions attaching to the original grant of permission, it shall apply as a condition or conditions to the permission a requirement to pay a land value sharing contribution in accordance with the provisions of this Part.

(7) For the avoidance of doubt, no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid under this section, except where the condition is imposed under section 31BM(9)(b).

(8) This section shall not apply to applications for permission for—

- (a) development of cost rental housing, housing for eligible applicants within the meaning of Part 2 of the Affordable Housing Act 2021 for the development of houses by them for their own occupation, or houses by a body standing approved for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992, for the provision of housing required for households assessed under section 20 of the Housing (Miscellaneous Provisions) Act 2009 as being qualified for social housing support, where such houses are to be made available for letting or sale, (unless only part of the development relates to the provision of such housing in which case a land value sharing contribution shall be payable in respect of the remainder of the development, subject to the provisions of this section);
- (b) the conversion of an existing building or the reconstruction of a building to create one or more dwellings, provided that 50 per cent or more of the existing external fabric of the building is retained;
- (c) where the whole of the land value contribution in respect to the land has already been discharged.

(9) Where a rezoning land value sharing contribution has been partially discharged prior to the submission of an application for permission, a condition attached to the permission in accordance with subsection (1) requiring the payment of a rezoning land value sharing contribution shall reflect the value of that part of the rezoning land value sharing contribution already paid.

Rezoning land value sharing contribution to be a charge on property

31BF. (1) The liability for a rezoning land value sharing contribution arises when land is zoned and satisfies the relevant criteria referred to in section 31BB. The liability shall be and remain a charge on the property to which it relates subject to the following provisions.

(2) Any charge on the land arising under subsection (1) shall cease to apply where the land value sharing contribution to which the charge potentially relates is paid in full and that fact shall be recorded on the land value sharing register.

(3) Any charge on the land arising under subsection (1) shall cease to apply to the extent that the application is for the permission referred to in section 31BM.

(4) Subject to subsection (4), any charge on the land arising under subsection (1) shall be reduced on a pro rata basis where an amount of rezoning land value sharing contribution is paid in respect of the land and that fact shall be recorded on the land value sharing register.

(5) Where the amount imposed under the charge is paid in full in respect of a portion of the land, the charge shall cease to apply to that portion of the land and that fact shall be recorded on the land value sharing register and by way of delineation on the map prepared under section 31BI.

Determination of the existing use value and market use value of land where there is no entry on the land value sharing register

31BG. (1)(a) An applicant for planning permission in respect of lands included on a map in accordance with section 31BI and for which there are no values entered on the land value sharing register, shall deliver to the planning authority concerned, a self-assessment of the existing use value and market value of the land prepared by the owner in the form prescribed by the Minister for that purpose.

(b) If a self-assessment is not furnished with the application, the planning authority may assess the existing use value and market value in accordance with subsections (4), (5) and (6) or it may if appropriate defer a decision on the application until furnished with the self-assessment.

(2) Without prejudice to the generality of subsection (1), the Minister may prescribe the following information to be included in a self-assessment referred to in that subsection:

(a) in respect of the land—

- (i) the address,
- (ii) the unique identifier, or identifiers, allocated to the site under the Registration of Title Act 1964,
- (iii) the applicant's self-assessment of the existing use value,
- (iv) the applicant's self-assessment of the market value,
- (v) the assumptions underlying the self-assessments, and
- (v) the area, in hectares;

(b) in respect of all owners,—

- (i) the person's name,
- (ii) the person's address for correspondence,
- (iii) the nature of the person's ownership interest in the site,
- (iv) evidence of the person's ownership, and
- (v) where there is more than one owner in relation to a relevant site, the information referred to in paragraphs (i) to (iii) in respect of each owner;

(3) The existing use value and the market value submitted as part of a self-assessment shall be recorded by the planning authority on the land value sharing register as soon as practicable.

(4) The planning authority may, before a decision is made in relation to the grant or refusal of planning permission for development on such land of the type or types specified in subsection (1), and notwithstanding receipt of a self-assessment, assess the existing use value and market value of the land by authorising a person it considers suitably qualified for that purpose to inspect the land and report to it an assessment of the existing use and market values thereof and all persons having possession or custody of the land shall permit the person so authorised to inspect at such reasonable times as the planning authority considers necessary. Where it is not possible for the planning authority to make such an assessment prior to making its decision, it may make the assessment within a reasonable time thereafter.

(5)(a) A planning authority or a person authorised under *subsection (4)* may request additional information from an owner in order to carry out its assessment under subsection (4) and the owner shall provide same within 28 days of such a request.

(b) Where an owner fails to comply with a request under paragraph (a), a planning authority or a person authorised under *subsection (4)* may make such inquiries as it deems fit and proceed to make an estimate of the existing use and market values of the land.

(c) An owner shall pay to a planning authority the costs and expenses reasonably incurred by the planning authority arising from a failure to comply with paragraph (a).

(6)(a) Where a person authorised under *subsection (4)* is not permitted to inspect land for the purposes of assessing its existing use value or market value, or both, he or she shall make an estimate of the existing use and market values of the land, or both, based on his or her knowledge of the land and property and the prevailing local market conditions.

(b) An owner shall pay to a planning authority the costs and expenses reasonably incurred by the planning authority arising from a failure to comply with paragraph (a).

(7) A planning authority shall, where the existing use and market values are assessed pursuant to *subsections (4) or (6)*, replace the values on the land value sharing register with the existing use value and market value of the land as so assessed as soon as practicable.

(8) A planning authority shall, as soon as practicable, give written notice to the applicant and all owners of the land of the existing use and market values which has been entered in the land value sharing register pursuant to subsection (7).

(9) The Minister shall, as soon as may be after the passing of this Act, prepare and publish guidelines in relation to the manner of assessing the existing use value and the market value of the lands for the purpose of this section.

(10) Where subsection (1) applies, the planning authority may require the payment of a fee in relation to the receipt of the self-assessment.

(11) The Minister may, by regulations, prescribe any fees required to be paid under subsection (10).

Land value sharing register

31BH. (1) Every planning authority shall establish, maintain and operate for its functional area a register to be known as the land value sharing register.

(2) A planning authority shall enter on the land value sharing register the information provided to or collected by it under this Part.

(3) A planning authority may assign a unique identification number to each site on the land value sharing register.

(4) The land value sharing register shall be kept at the offices of the planning authority and shall be available for inspection, subject to regulations made under subsection (5), at the office of the planning authority during office hours and on the planning authority's website.

(5) The Minister may make regulations:

(a) prescribing arrangements relating to the establishment, maintenance and operation by a planning authority of the land value sharing register, and

(b) specifying the personal data that may be processed for the establishment, maintenance and operation by a planning authority of the land value sharing register, the conditions under which such personal data may be processed, including the circumstances in which such personal data may be disclosed and the persons to whom the data may be disclosed, and such other conditions, if any, as the Minister considers appropriate to impose on such processing.

Determination of values of lands which are substantially undeveloped – self-assessment

31BI. (1)(a) A planning authority shall prepare, in respect of its functional area, a map indicating:

- (i) lands which satisfy the relevant criteria; and
- (ii) defined areas within (i) that it considers to be substantially undeveloped

at each of the following times –

- (I) in respect of land satisfying the relevant criteria on [30 April 2024], not later than [30 May 2024];
- (II) not later than one month after the making of each subsequent development plan;
- (III) not later than one month after the making of a variation to a development plan; and
- (IV) not later than one month after the publication of a map pursuant to section 653K or 653M of the Taxes Consolidation Act 1997.

(b) The Minister shall have the power to direct a planning authority to amend any map so prepared so that it is aligned with the most recent development plan, local area plan, map made pursuant to section 653K or 653M of the Taxes Consolidation Act 1997 or such other map as he deems relevant.

(2) The planning authority shall–

- (a) publish the map on the website maintained by it, and
- (b) make a copy of the map available for inspection at its offices.

at each of the following times –

- (I) in respect of land satisfying the relevant criteria on [30 April 2024], not later than [30 May 2024];
- (II) not later than one month after the making of each subsequent development plan;
- (III) not later than one month after the making of a variation to a development plan; and
- (IV) not later than one month after the publication of a map pursuant to section 653K or 653M of the Taxes Consolidation Act 1997.

(3) A planning authority shall publish a notice in accordance with subsection (4) in one or more newspapers circulating in its functional area and on a website maintained by it at each of the following times –

- (I) not later than [30 May 2024];

- (II) not later than one month after the making of each subsequent development plan;
- (III) not later than one month after the making of a variation to a development plan; and
- (IV) not later than one month after the publication of a map pursuant to section 653K or 653M of the Taxes Consolidation Act 1997.

(4) The notice referred to in subsection (3) shall include the following:

- (a) a statement that a map, prepared under this section, has been published on the website maintained by the planning authority and is available for inspection at its offices;
- (b) a statement that the map has been prepared under this section for the purposes of identifying—
 - (i) lands which are to be subject to the rezoning land value sharing contribution; and
 - (ii) substantially undeveloped lands within (i) which are subject to a mandatory self-assessment procedure;
- (c) a statement that—
 - (i) mandatory self-assessments of substantially undeveloped lands are to be made in writing by an owner to the planning authority concerned not later than two months after the publication of the map in accordance with subsection (2),
 - (ii) owners of lands which are substantially developed may also submit a self-assessment,
 - (iii) the values included in any self-assessments received shall be recorded in the land value sharing register;
 - (iv) owners of lands which have not been subject to a self-assessment prior to the lodgment of a planning application shall be required to submit a self-assessment in addition to a planning application and that a decision on an application may be deferred until such self-assessment is received.

Owner to provide own assessment of existing use value and market value of land

31BJ. (1) An owner of land:

- (a) satisfying the relevant criteria in section 31BB within a particular functional area, and
- (b) which is identified on a map under this section as being substantially undeveloped land, unless the land is a residential property within the meaning of the Finance (Local Property Tax) Act 2012,

shall prepare and deliver to the planning authority concerned, not later than two months after the publication of a map under subsection (2),

a self-assessment of the existing use value and market value of the land in the form prescribed by the Minister for that purpose unless the land value sharing contribution in respect of the land has been previously wholly discharged.

(2) Where an owner has not complied with the obligation under subsection (1), a planning authority may, at any time, request an owner to comply with the said obligation [within two months] from the date of such request.

(3) Where subsection (2) applies, the planning authority may require the payment of a fee in relation to the receipt of the self-assessment.

(4) The Minister may, by regulations, prescribe the arrangements relating to the request of the planning authority under subsection (2) and any fees required to be paid under subsection (3).

(5) An owner of land:

- (d) satisfying the relevant criteria in section 31BB within a particular functional area, and
- (e) which is not identified on a map under this section as being substantially undeveloped,

may, at any time, prepare and deliver to the planning authority concerned, a self-assessment of the existing use value and market value of the land in the form prescribed by the Minister for that purpose.

(6) Without prejudice to the generality of subsections (5) and (6), the Minister may prescribe the following information to be included in a self-assessment referred to in those subsections:

(a) in respect of the land—

- (i) the address,
- (ii) the unique identifier, or identifiers, allocated to the site under the Registration of Title Act 1964,
- (iii) the owner's self-assessment of the existing use value,
- (iv) the owner's self-assessment of the market value,
- (v) the assumptions underlying the self-assessments, and
- (v) the area of the land, in hectares;

(b) in respect of an owner, as the case may be—

- (i) the person's name,
- (ii) the person's address for correspondence,
- (iii) the nature of the person's ownership interest in the site,
- (iv) evidence of the person's ownership, and
- (v) where there is more than one owner in relation to a relevant site, the information referred to in paragraphs (i) to (iii) in respect of each owner;

(7) Where two or more persons are owners in relation to land satisfying the relevant criteria in section 31BB, the receipt of a self-assessment on the part of one such person shall operate to satisfy the obligation of the other owner or owners in respect of that land.

(8) Subject to subsection (10), where lands are contiguous and owned by identical owners, a single self-assessment may be submitted for such lands.

(9) Where the land subject to self-assessment is in the area of more than one planning authority, a separate self-assessment shall be submitted to the planning authority in respect to the portion of the land within each planning authority's respective functional area.

(10) The existing use value and the market value submitted as part of a self-assessment shall be recorded by the planning authority on the land value sharing register as soon as practicable.

Assessment of existing use value and market value of land by planning authority

31BK. (1) A planning authority may, at any time and notwithstanding the submission of a self-assessment, assess the existing use value and market value of the land by authorising a person it considers suitably qualified for that purpose to inspect the land and report to it an assessment of the existing use and market values thereof and all persons having possession or custody of the land shall permit the person so authorised to inspect at such reasonable times as the planning authority considers necessary.

(2)(a) A planning authority or a person authorised under *subsection (1)* may request additional information from an owner in order to carry out its assessment under subsection (1) and the owner shall provide same within 28 days of such a request.

(b) Where an owner fails to comply with a request under paragraph (a), a planning authority or a person authorised under *subsection (1)* may make such inquiries as it deems fit and proceed to make an estimate of the existing use and market values of the land.

(c) An owner shall pay to a planning authority the costs and expenses reasonably incurred by the planning authority arising from a failure to comply with paragraph (a).

(3)(a) Where a person authorised under *subsection (1)* is not permitted to inspect land for the purposes of assessing the existing use or market value of the land, or both, he or she shall make an estimate of the existing use value or market value of the land, or both, based on his or her knowledge of the land and property and the prevailing local market conditions.

(b) An owner shall pay to a planning authority the costs and expenses reasonably incurred by the planning authority arising from a failure to comply with paragraph (a).

(4) A planning authority shall, where the existing use and market values are assessed, replace the values on the land value sharing register with the existing use value and market value of the land as so assessed as soon as practicable.

(5) A planning authority shall, as soon as practicable, give written notice to all owners of the land of the existing use value and market value which have been entered in the land value sharing register pursuant to subsection (4) in respect of their land.

Appeal of assessment by the planning authority

31BL. (1) An owner may appeal to the Tribunal against an entry in the land value sharing register under section 31BK in relation to the values attributed to any property owned by him or her within 28 days after the date of the notice pursuant to section 31BK(5) is served on him or her.

(b) An appeal may only be brought on the following grounds:-

(i) that there has been serious and significant error of law or fact made by or on behalf of the planning authority, or,

(ii) that there has been a series of minor errors of law or fact made by or on behalf of the planning authority, when taken together, amount to a serious or significant error.

(2)(a) The Tribunal shall hear and determine appeals under subsection (1).

(b) Save where the Tribunal have determined that it is in the interests of justice to have an oral hearing, an appeal may be determined without an oral hearing.

(3) An appeal to the Tribunal shall contain a statement of all of the specific grounds in law and fact upon which the appeal is made, and any documents or evidence, including valuation reports, if any, which it is alleged support the granting of the appeal or upon which the owner intends to rely to support those grounds.

(4) The Tribunal shall transmit a copy of every appeal received by it to the planning authority by whom the existing use and market values of the property were determined (who shall be the respondent in, adduce evidence in relation to the appeal concerned, including any valuation reports prepared by or on behalf of a planning authority in respect to the property) and to any other person appearing to the Tribunal to be affected directly by the determination and any such person shall be entitled to adduce evidence in relation to the appeal.

(5) Any valuation reports submitted by a person in connection with an appeal shall be received in evidence without further proof.

(6) On an appeal under this section, the Tribunal may, on the basis of the documents, evidence and reports submitted to it and its own experience and expertise:-

(i) affirm a valuation or valuations on the land value sharing register; or

(ii) set aside a valuation or valuations on the land value sharing register and determine a different valuation be entered on the register.

(7) The Tribunal shall, where any amendment falls to be made to the valuations of land pursuant to a determination of the Tribunal, give written notice of the amendment to all owners of the land and to the planning authority concerned who shall cause the appropriate entry in the land value sharing register to be amended and shall give written notice to all owners of the making of the amendment.

(8) Section 4 of the Valuation Act 2001 shall apply to the determination of an appeal under this section as it apply to the determination of appeals under that Act.

(9) An owner who appeals under this section in respect of a valuation pursuant to section 31BK and who has not permitted a person authorised under those sections to inspect land for the purposes of assessing its existing use and/or market values, shall be liable for all costs incurred:

- (a) on the part of the planning authority with the valuation and;
- (b) all costs of any appeal.

Application for permission for certain types of development not subject to land value sharing

31BM. (1) An application for permission in respect of development which consists of either or both

- (a) residential development of less than 5 housing units or
- (b) commercial development of less than 500 square metres gross floor space.

shall be accompanied by a statutory declaration made by the applicant—

(i) stating that the application is made bona fide and not in an attempt to circumvent the above thresholds,

(ii) giving, in respect of the period of 5 years preceding the application, such particulars of the legal and beneficial ownership of the land, on which it is proposed to carry out the development to which the application relates, as are within the applicant's knowledge or procurement,

(iii) identifying any persons with whom the applicant is acting in concert,

(iv) giving particulars of—

(I) any interest that the applicant has, or had at any time during the said period, in any land in the immediate vicinity of the land on which it is proposed to carry out such development, and

(II) any interest that any person with whom the applicant is acting in concert has, or had at any time during the said period, in any land in the said immediate vicinity, of which the applicant has knowledge,

(v) giving such other information as may be prescribed by the Minister for the purposes of this section.

(2) (a) A planning authority may require an applicant to provide it with such further information or documentation as is reasonably necessary to enable it to perform its functions under this section.

(b) Where an applicant refuses to comply with a requirement under paragraph (a), or fails, within a period of 8 weeks from the date of the making of the requirement, to so comply, the planning authority concerned shall refuse to grant permission.

(3) A planning authority may, for the purpose of performing its functions under this section, make such further inquiries as it considers appropriate.

(4) It shall be the duty of the applicant, at all times, to provide the planning authority concerned with such information as it may reasonably require to enable it to perform its functions under this section.

(5) The Minister may make regulations in relation to the particulars to be included in a statutory declaration under this section.

(6) A person who, knowingly or recklessly—

(a) makes a statutory declaration under subsection (1), or

(b) in purported compliance with a requirement under subsection (2), provides a planning authority with information or documentation,

that is false or misleading in a material respect, or who believes any such statutory declaration made, or information or documentation provided in purported compliance with such requirement, by him or her not to be true, shall be guilty of an offence and shall be liable—

(i) on summary conviction to a Class A fine or to imprisonment for a term not exceeding 6 months, or to both, or

(ii) on conviction on indictment to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 5 years, or to both.

(7) Where a person is convicted on indictment of an offence under subsection (6), the court may in addition to any fine or term of imprisonment imposed by the court under that subsection order the payment into court by the person of an amount that in the opinion of the court is equal to the amount of any gain accruing to that person by reason of the grant of the permission to which the offence relates, and such sum shall, when paid in accordance with such order, stand forfeited.

(8) All sums that stand forfeited under subsection (7) shall be paid to the relevant planning authority.

(9)(a) A planning authority may refuse to grant a permission in relation to a development:

(i) if it reasonably believes that the application may be an attempt to circumvent liability by limiting development to:

- (I) residential development of less than 5 housing units or
- (II) commercial development of less than 500 square metres gross floor space.

or

(ii) the applicant, or any person with whom the applicant is acting in concert has been granted, not earlier than 5 years before the date of the application, permission in respect of a development on land in the immediate vicinity of land to which the application relates, unless the aggregate of any development to which the application relates and the first-mentioned development would not, if carried out, exceed 4 housing units, or commercial development of 500 or more square metres gross floorspace.

(b) Notwithstanding paragraph (a), a planning authority may grant permission in relation to a development to which paragraph (a)(i) or (ii) applies as if were an application for either –

- (i) residential development of more than 4 housing units, or
- (ii) commercial development of 500 or more square metres gross floor space,

if, in the opinion of the planning authority, it is appropriate to do so having regard to the nature of the development, the circumstances in which the application is made, and any submissions made by the applicant for permission to the planning authority in accordance with paragraph (c).

(c) Prior to making a decision to grant or refuse a permission in accordance with this subsection, a planning authority shall furnish a notice to the applicant in writing informing the applicant of the reason for forming the view that paragraph (a)(i) or (ii) may apply in respect of the development, and inviting the applicant to make such submissions as it may wish to make in response to the notice within a period of 10 days from receipt of the said notice.

(10) Where a planning authority refuses to grant permission under subsection (9), it shall by notice in writing inform the applicant of the reasons for its so refusing.

(11) (a) Where a planning authority refuses to grant permission under subsection (9), the applicant may, not later than 21 days from the date on which the applicant receives notification of the refusal by the planning authority, or such later date as may be permitted by the court, appeal to the Circuit Court against that refusal.

(b) The Circuit Court may at the hearing of an appeal under paragraph (a)—

(i) dismiss the appeal and affirm the refusal of the planning authority, or

(ii) allow the appeal and direct the planning authority to grant the permission subject to such conditions as the planning authority sees fit.

(12) A planning authority shall comply with a direction of the court under this section.

(13) For the purposes of this section—

(a) 2 or more persons shall be deemed to be acting in concert if, pursuant to an agreement, arrangement or understanding, one of them makes a planning application or causes such an application to be made,

and

(b) land in the immediate vicinity of other land shall be deemed in any particular case not to include land that is more than 400 metres from the land second-mentioned in this subsection.

Payment of land value sharing contribution

31BN. (1)(a) The rezoning land value sharing contribution shall be payable in accordance with the condition or conditions imposed on an application for permission under section 31BE.

(b) The rezoning land value sharing contribution, calculated in accordance with section 31BC, which is not yet payable, may nonetheless be paid to the planning authority, in full or in part, at any time, and shall be accompanied by a self-assessment in accordance with section 31BJ.

(2) The payment of a rezoning land value sharing contribution shall be recorded in the land value sharing register.

(3) A planning authority may, on a site area or floorspace basis, facilitate the phased payment of any rezoning land value sharing contribution under this Part, and may require the giving of security to ensure payment of contributions.

(4) A planning authority may allow the transfer of land or the development of infrastructure in full or partial discharge of obligations arising under this Part.

(5) (a) Where a contribution is not paid in accordance with the terms of the condition or conditions laid down by the planning authority or in accordance with the terms of the agreement with the planning authority, any outstanding amounts due to the planning authority shall be paid together with the interest accrued from the due date or dates.

(b) A planning authority may recover, as a simple contract debt in a court of competent jurisdiction, any contribution or interest due to the planning authority under this section.

(6) Money accruing to a planning authority under this section shall be accounted for in a separate account, and shall only be applied as either or both:

- (i) capital for public infrastructure, facilities, and related measures,
- (ii) for such other purpose as the Minister may prescribe by regulation as he or she considers necessary in order to achieve the purposes of the Act.

(7) A report of a local authority under section 50 of the Local Government Act, 1991, shall contain details of monies paid or owing to it under this section and shall indicate how such monies paid to it have been expended by any local authority.

(8) For the avoidance of doubt, no refund of any money paid to the local authority shall be due, except where a rezoning land value sharing contribution or part thereof was paid prior to the submission of a planning application requiring the payment of a rezoning land value sharing contribution and the zoning of the land in question is amended such that it no longer constitutes land satisfying the relevant criteria, unless a grant of planning permission requiring the payment of a rezoning land value sharing contribution remains extant on the date of the change in zoning, in which case the money shall only be repaid by the local authority to the person who made the payment upon expiry of the planning permission without implementation of that permission.

PART 3
URBAN DEVELOPMENT ZONES

7. The Principal Act is amended by the insertion of the following Part after section 171:

“PART IXA
Urban Development Zones
Chapter 1

Purposes of this Part

- (a) to ensure that land which is not being utilised or is under-utilised is made available for development in the State;
- (b) to facilitate an increase in the supply of housing, while providing for or maintaining an appropriately balanced mixture of land uses, including amenities, facilities or services to meet the social and economic needs of the community;
- (c) to provide for the sustainable development of new and regenerated communities that are well served by amenities, facilities and services;
- (d) to enable the strategic and comprehensive development, redevelopment or improvement of under-utilised urban or suburban areas through the designation of Candidate Urban Development Zones within the development plan and the designation of such land as Urban Development Zones by Government Order;
- (e) to provide and facilitate the timely delivery of the public infrastructure, enabling works and related measures, that may include the assembly of land, necessary to support new housing and mixed use development in addition to the integration of new development into existing communities.

Interpretation

Interpretation (Part IXA)

171AA. In this Part –

“blue infrastructure” means aspects of the natural and built environment relating to water, waterways and waterbodies that provide a range of ecosystem and social benefits, including infrastructure such as flood defences and sustainable water management solutions;

“candidate UDZ site” means a site identified by a planning authority in its development plan as such and in respect of which the authority has prepared a planning framework

“critical land” means land, identified within the planning framework as being required for the provision of public infrastructure, facilities and related measures:

- (a) in a candidate urban development zone site, or
- (b) in an urban development zone;

“development agency” means a local authority, the Land Development Agency, or such other agency or person as may be prescribed by the Minister for the purposes of this Part;

“green infrastructure” means aspects of the natural and built environment relating to land that provide a range of ecosystem and social benefits, including infrastructure to support decarbonisation and the reduction of anthropogenic greenhouse gases;

“planning framework” shall be construed in accordance with s.171AE;

“potential candidate urban development zone” means the site or sites identified as being potentially suitable for recommendation as a candidate urban development zone;

“candidate urban development zone site” means a site or sites identified {by -} under section 171AB(4) [or [rest of 171AB];

“public infrastructure, facilities and related measures” means–

- (a) the acquisition of land required for the purposes set out in paragraphs (b) - (n);
- (b) the provision of open spaces, recreational and community facilities and amenities and landscaping works,
- (c) the provision of roads, car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure,

- (d) the provision of bus corridors and lanes, bus interchange facilities (including car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures,
- (e) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, surface water sewers, flood relief work and ancillary infrastructure,
- (f) the provision of high-capacity telecommunications infrastructure, such as broadband,
- (g) blue infrastructure;
- (h) the provision of sites for schools and other educational facilities including childcare facilities,
- (i) the provision of sites for hospitals and other healthcare facilities;
- (j) the provision of sites for centres for the social, economic, recreational, cultural, environmental, or general development of the community;
- (k) the provision of sites for facilities for the elderly and for persons with disabilities;
- (l) green infrastructure;
- (m) public realm works;
- (n) programmes or facilities relating to education, training or skills development in connection with the provision of employment opportunities for the local community in conjunction with an established educational authority or institution; and
- (o) any matters which it considers ancillary to anything which is referred to in (a) to (n).
- (p) such other matters as may be prescribed by the Minister by regulations.

“urban development zone” means a designated site or sites within a particular area to which an order made under section 171AP relates.

“development scheme” shall be construed in accordance with section 171AK.

Chapter 2

Potential Candidate Urban Development Zones and Candidate Urban Development Zones

Planning authority or regional assembly may identify potential candidate urban development zones

171AB. A planning authority or regional assembly may identify land within its functional area or region as appropriate which have the potential, having regard to the scale, nature and location of any development, redevelopment or improvement proposed in relation to the land in question, to be of significant economic, social or environmental benefit to the State and the common good (referred to in this Part as “potential candidate urban development zones”).

Minister may require planning authority or regional assembly to identify potential candidate urban development zones

171AC. (1) The Minister shall, within [three months] of the commencement of this Part, issue guidelines under section 28 regarding the identification of potential candidate urban development zones.

(2) The Minister shall, within [one month] of the publication of the guidelines under subsection (1), require all [or specified] planning authorities to identify land within their respective functional areas which has the potential, having regard to the scale, nature and location of the development, redevelopment or improvement proposed, to be of significant economic, social or environmental benefit to the State and the common good in accordance with section 171AD.

(3)(a) The Minister may, at any time and notwithstanding any previous requirement, require a planning authority to identify land within its functional area which has the potential, having regard to the scale, nature and location of the development, redevelopment or improvement proposed, to be of significant economic, social or environmental benefit to the State and the common good in accordance with section 171AD.

(b) The Minister may, at any time and notwithstanding any previous requirement, require a regional assembly, after consultation with the planning authorities within its region, and having regard to a regional spatial and economic strategy for the region, to identify land within its region or for one or more parts thereof which has the potential, having regard to the scale, nature and location of the development, redevelopment or improvement proposed, to be of significant economic, social or environmental benefit to the State and the common good in accordance with section 171AD.

(4) Unless a longer time period is specified by the Minister, a planning authority or regional assembly, as appropriate, shall identify potential candidate urban development zones within [four months] of a requirement being made under subsections (2) or (3) .

Planning authority to submit information to Minister in relation to potential candidate urban development zone

171AD. (1) A planning authority or regional assembly shall submit to the Minister:

- (a) A map setting out each potential candidate urban development zone identified;
- (b) An indication of the quantum of development in each potential candidate urban development zone identified;
- (c) An indication of the infrastructure requirements for each potential candidate urban development zone identified;
- (d) An indication of whether, having regard to the matters at subparagraphs (b) and (c), the planning authority considers it appropriate for a development scheme to be prepared in parallel to, or after, a planning framework in respect of each potential candidate urban development zone identified and whether any such development scheme will cover all or part of the potential candidate urban development zone identified;
- (e) Where it is proposed that a development scheme be prepared in parallel to a planning framework, an indication of why this is considered appropriate and information as to assembly of the information necessary to prepare a development scheme to date;
- (f) Such other matters as may be prescribed by the Minister in regulations made pursuant to subsection (7).

(7) The Minister may by regulations—

- (a) prescribe additional information that shall be included in a submission under *subsection (6)*, or
- (b) prescribe the manner by which the matters set out in subparagraphs (a) to (e) in subsection (6) are to be provided.

(8) Where a planning authority or regional assembly proposes that a development scheme be prepared in addition to a planning framework, the time for submission of the proposal under subsection (5) shall be extended by the period of one month.

(9) (a) The Minister shall, within two months unless for specified reasons the Minister extends the period, consider a submission made in accordance with this section.

- (10) Where the planning authority or regional assembly does not identify any potential candidate urban development zone in an area or areas within its functional area or region following a requirement being made by the Minister under this section, the planning authority or regional assembly shall submit a statement of the area or areas considered in response to the requirement made by the Minister and the reasons for its assessment that the said area or areas were not appropriate to be identified as a potential candidate urban development zone.

Minister may make recommendation in relation to potential candidate urban development zone

171AE. (1) The Minister may, where he or she is of the opinion that a potential candidate urban development zone submitted may, having regard to the scale, nature and location of the development, redevelopment or improvement proposed, be of significant economic, social or environmental benefit to the State and the common good, make a recommendation that the planning authority should commence the process of identifying the site as a candidate urban development zone within the development plan by including either:

- (i) a planning framework (“Option A”), or
- (ii) a planning framework and a development scheme (“Option B”).

(2) A recommendation under subsection (1) may in an appropriate case, provide a general indication of the funding which in principle might become available to a planning authority in respect of the preparation of a planning framework or a development scheme in connection with the identification within the development plan of the site or sites as a candidate urban development zone.

(3) The Minister may by regulations prescribe the circumstances in which such indication may be given, the nature of or conditions relating to any indication and may further provide for , if the Minister considers it necessary to do so at that time, a payment of monies to the planning authority which the Minister is satisfied are reasonably required for the purposes of the preparation of, a planning framework or a development scheme.

Pre-variation consultation

171AF. (1) Prior to identifying a candidate urban development zone under section 171AG, a planning authority shall including where the Minister issues a recommendation under section 171AE, engage in public consultation and may take whatever steps it considers prudent to consult the public.

(2) Without prejudice to the generality of subsection (1), a planning authority shall:

(a) publish a consultation paper within one month of the making of a recommendation under section 171AE, where such a recommendation is made, where a planning framework alone (“Option A”) is being prepared, or

(b) publish a consultation paper within two months of the making of a direction under section 171AE, where such a recommendation is made, where a planning framework and a development scheme (“Option B”) are being prepared concurrently.

(3) A planning authority shall publish notice of a consultation under subsection (1) in one or more newspapers circulating in that area and on its website.

(4) A notice under *subsection (3)* shall state—

(a) that a copy of the consultation paper may be inspected online and at a stated place or places and at stated times during a stated four week period (and the copy of the consultation paper shall be kept available for inspection accordingly), and

(b) that written submissions or observations with respect to the consultation paper made to the planning authority within the said period will be taken into consideration in the preparation of the draft variation.

(5) Not later than 12 weeks after the publication of notice of a consultation paper, the chief executive of a planning authority shall prepare a report on any submissions or observations received under that subsection and shall submit the report to the members of the authority for their consideration.

(b) A chief executive’s report prepared for the purposes of paragraph (a) shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under paragraph (a).

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

- (i) list the persons or bodies who made submissions or observations under this section,
- (ii) provide a summary of the submissions and observations made (and the report may, for this purpose, group and summarise the issues raised in different submissions on a thematic basis),
- (iii) give the response of the chief executive to the issues raised, taking account of the proper planning and sustainable development of the area, the statutory obligations of the planning authority and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(6) The timelines specified under this section may be extended by regulations to be made by the Minister for that purpose.

Identification of candidate urban development zone in development plan

171AG. (1) A planning authority may, including where the Minister issues a recommendation under section 171AE, identify a candidate urban development zone in its development plan in accordance with-

- (a) section 10, or
- (b) section 13.

Planning framework

171AH. (1) A planning authority shall, prior to identifying a candidate urban development zone within the development plan under section 171AG, including where the Minister issues a recommendation under section 171AE, prepare a planning framework in respect of the site concerned.

(2) A planning framework prepared under this Part for a candidate urban development zone shall include:

- (a) amendments to any policies, objectives and development management standards contained in the development plan or any relevant local area plan, to facilitate the development of the lands in a manner consistent with the national or strategic importance of the lands, and that are consistent with national and regional policy;
- (b) key public infrastructure strategies including strategies in relation to transport, social and community infrastructure, green and blue infrastructure, nature restoration, climate mitigation and adaptation, and utilities;
- (c) a flood risk assessment and proposals to manage flood risk;
- (d) a range of building densities, heights and typologies and an overall quantum of development;
- (e) development management standards that are consistent with national guidelines and the development plan;
- (f) principles that will inform the preparation of a design quality masterplan;
- (g) a framework plan identifying the location of particular uses, and the arrangement of buildings or groups of buildings, streets and public spaces, and blue and green infrastructure;
- (h) an phasing plan including infrastructure provision;
- (i) an indication of critical lands; and
- (j) such other matters as may be prescribed by the Minister in regulations made pursuant to subsection (2).

(3) The Minister may by regulations—

- (a) prescribe additional information that shall be included in a planning framework under *subsection (2)*, or

(b) prescribe the manner by which the matters set out in subsection (2) are to be provided.

(4) Subject to subsections (5) and (6), a planning framework prepared under this Part for a candidate urban development zone shall continue in force on the making of a subsequent development plan.

(5) A planning framework prepared under this Part shall be reviewed on the making of each subsequent development plan.

(6) A planning framework prepared under this Part may be amended as part of the making of any subsequent development plan to ensure that it remains consistent with –

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

(i) the National Planning Framework, and

(ii) the regional spatial and economic strategy, and

(b) any relevant guidelines or policy directives under sections 28 or 29.

(7) (a) A planning framework for residential development shall be consistent with the housing strategy prepared by the planning authority in accordance with Part V.

(b) Where land within a planning framework is to be used for residential development, an objective to secure the implementation of the housing strategy shall be included in the planning framework as if it were a specific objective under section 95(1)(b).

Procedure for identification of candidate urban development zone in development plan where development scheme has not been prepared ('Option A')

171AI. (1) A planning authority may make a variation of a development plan where a development scheme has not been prepared in accordance with this section.

(2) A planning authority shall as soon as practicable and within seven months of a recommendation of the Minister under section 171AE unless otherwise extended by the Minister—

- (a) prepare a planning framework in accordance with section 171AH,
- (b) conduct a screening for strategic environmental assessment and, where required, a strategic environmental assessment of the proposed variation in accordance with regulations made under subsection (17),
- (c) conduct screening for appropriate assessment and, where required, an appropriate assessment of the proposed variation in accordance with Part XAB,
- (d) send notice and copies of the proposed variation to,—
 - (i) the Minister,
 - (ii) the Office of the Planning Regulator,
 - (iii) the Board,
 - (iv) the relevant regional assembly,
 - (v) where appropriate, any adjoining planning authority,
 - (vi) where relevant, the National Transport Authority
 - (vii) any local community development committee within the area of the development plan, and
 - (viii) such other persons as may be prescribed,and
- (e) publish notice of the proposed variation in one or more newspapers circulating in that area and on its website.

(3) A notice under *subsection (2)* shall state—

(a) the reason for the proposed variation, including where a recommendation has been made under section 171AE,

(b) that a copy of the proposed variation may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks (and the copy of the draft variation shall be kept available for inspection accordingly), and

(c) that written submissions or observations with respect to the proposed variation made to the planning authority within the said period will be taken into consideration before the making of the variation.

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

(5) (a) Written submissions or observations received by a planning authority under this section shall, subject to paragraph (b), be published on the website of the authority within 10 working days of its receipt by that authority.

(b) Publication in accordance with paragraph (a)—

(i) does not apply where the planning authority is of the opinion that the submission or observation is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure,

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

(iii) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in paragraph (a), legal advice that part of the submission or observation concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or

(iv) does not apply where the submission or observation relates to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the submission or observation relates to matters prescribed by the Minister.

(6) (a) Not later than 8 weeks after giving notice under subsection (3)(c), the chief executive of a planning authority shall prepare a report on any submissions or observations received under that subsection and shall submit the report to the members of the authority for their consideration.

(b) A chief executive's report prepared for the purposes of paragraph (a) shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under paragraph (a).

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

(i) list the persons or bodies who made submissions or observations under this section,

(ii) provide a summary of—

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

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

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

(III) the submissions and observations made by any other persons (and the report may, for this purpose, group and summarise the issues raised in different submissions on a thematic basis),

in relation to the proposed variation in accordance with this section,

(iii) give the response of the chief executive to the issues raised, taking account of the proper planning and sustainable development of the area, the statutory obligations of the planning authority and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(iv) set out the recommendations of the chief executive as to how any recommendations made by the Minister, the Office and the National Transport Authority in any submissions made by them should be dealt with, and

(v) where required, include the assessment of the chief executive of the proposed variation for the purposes of strategic environmental assessment or appropriate assessment, taking into account the submissions received under this section.

(7) (a) The members of a planning authority shall consider the proposed variation and the report of the chief executive under subsection (6).

(b) The consideration of the proposed variation and the chief executive's report under paragraph (a) shall be completed within 6 weeks of the submission of the chief executive's report to the members of the authority.

(c) Where, following the consideration of the proposed variation and the chief executive's report, it appears to the members of the authority that the proposed variation should be made, they may, subject to paragraph (d), by resolution make the proposed variation.

(d) Where, following the consideration of the proposed variation and the chief executive's report, it appears to the members of the authority that a modified version of the proposed variation should be made, they may, subject to subsection (8), by resolution make a modified version of the proposed variation.

(e) Where, in making the proposed variation under paragraph (c) or a modified version of the proposed variation under paragraph (d), the members of the authority do not comply with any recommendation made by the Minister or Office under this section, they shall, within 2 weeks of the making of the variation, so inform the Minister, or the Office, as the case may be, by notice in writing which notice shall contain a statement of the reasons for the decision not to comply with the recommendation concerned.

(8) (a) Subject to paragraphs (b) and (f), where the members of a planning authority make a modified version of the proposed variation under subsection (7)(d) and the modification to the proposed variation constitutes a material alteration of the proposed variation—

(i) the variation shall be deemed not to have been made, and

(ii) the planning authority shall, not later than 2 weeks after the passing of a resolution under subsection (7)(d), publish notice of the modification and send notice and a copy of the modification to—

- (I) the Minister,
- (II) the Office of the Planning Regulator,
- (III) the Board,
- (IV) the relevant regional assembly,
- (V) where relevant, the National Transport Authority
- (VI) any adjoining planning authority,
- (VII) any local community development committee within the area of the development plan, and
- (VIII) such other persons as may be prescribed.

(b) The planning authority shall determine if a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, is or are required to be carried out as respects one or more than one proposed modification that would, if made, be a material alteration of the variation.

(c) The chief executive shall, not later than 2 weeks after a determination under paragraph (b), specify such period as he or she considers necessary following the determination as being required to facilitate an assessment referred to in paragraph (b).

(d) The planning authority shall publish notice of the proposed material alteration, and where appropriate in the circumstances, the making of a determination that an assessment referred to in paragraph (b) is required, in at least one newspaper circulating in its area and on its website.

(e) The notice referred to in paragraph (d) shall state—

- (i) that a copy of the proposed material alteration and of any determination by the authority that an assessment referred to in paragraph (b) is required may be inspected at a stated place

or places and at stated times, and on the authority's website, during a stated period of not less than 4 weeks (and that copies will be kept for inspection accordingly), and

(ii) that written submissions or observations with respect to the proposed material alteration or an assessment referred to in paragraph (b) and made to the planning authority within a stated period shall be taken into account by the authority before the variation of the development plan is made.

(f) The planning authority shall carry out an assessment referred to in paragraph (b) of the proposed material alteration of the draft development plan within the period specified by the chief executive.

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

(b) Publication in accordance with paragraph (a)—

(i) does not apply where the planning authority is of the opinion that the submission or observation is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure,

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

(iii) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in paragraph (a), legal advice that part of the submission or observation concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or

(iv) does not apply where the submission or observation relates to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the submission or observation relates to matters prescribed by the Minister.

- (10) (a) Not later than 12 weeks after giving notice under subsection (8), the chief executive shall—
- (i) prepare a report on any submissions received on foot of the publication of the notice, and
 - (ii) submit the report to the members of the planning authority for their consideration.
- (b) A report prepared under paragraph (a)(i) shall be published on a website maintained by or on behalf of the planning authority concerned as soon as practicable after its submission under paragraph (a)(ii).
- (c) A report prepared under paragraph (a) shall—
- (i) list the persons or bodies who made submissions,
 - (ii) provide a summary of—
 - (I) the recommendations and submissions made by the Minister in relation to the modification to the proposed variation and any strategic environmental assessment or appropriate assessment of the modification,
 - (II) the recommendations and submissions made by the Office of the Planning Regulator in relation to the modification to the proposed variation and any strategic environmental assessment or appropriate assessment of the modification, and
 - (III) the submissions made by any other person, in relation to the modification to the proposed variation and any strategic environmental assessment or appropriate assessment of the modification (and the report may, for this purpose, group and summarise the issues raised in different submissions on a thematic basis),
 - (iii) give the response of the chief executive to the issues raised in the submissions and the recommendations of the chief executive in relation to the modification.
- (11) (a) The members of a planning authority shall consider the modification and the report of the chief executive under subsection (9).

(b) The consideration of the modification and the chief executive's report under paragraph (a) shall be completed not later than 4 weeks after the submission of the chief executive's report to the members of the planning authority.

(12) (a) Subject to paragraph (b), the members of a planning authority shall, by resolution, having complied with subsection (10)—

- (i) make the variation as originally proposed by the planning authority,
- (ii) make the variation with the material alteration that was the subject of the notice under subsection (8), or
- (iii) refuse to make the variation.

(b) Where the members of a planning authority decide to make the variation of the development plan with the material alteration that was the subject of the notice under subsection (8), they may do so subject to any further modifications to the alteration that they consider appropriate, provided such modifications comply with paragraph (d).

(d) A further modification to the alteration—

- (i) may be made where it is minor in nature and therefore not likely to have significant effects on the environment or adversely affect the integrity of a European site, and—
- (ii) shall not be made where it relates to—
 - (I) an increase in the area of land zoned for any purpose, or
 - (II) an addition to or deletion from the record of protected structures.

(e) Where, in making a variation under paragraph (a) the members of a planning authority do not comply with any recommendation made by the Minister or Office of the Planning Regulator under this section, they shall, within 2 weeks of the making of the variation, so inform the Minister or the Office, as the case may be, by notice in writing which notice shall contain a statement of the reasons for not complying with the recommendation concerned.

(13) (a) Where a planning authority makes a variation, it shall publish notice of the making of the variation.

(b) A notice under this subsection shall state that a copy of the development plan as varied is available for inspection on a website maintained by or on behalf of the planning authority and at a place specified in the notice on and from the date specified in the notice.

(c) A planning authority shall send a copy of the variation to—

(i) the Minister,

(ii) the Office of the Planning Regulator,

(iii) the Board,

(iv) the relevant regional assembly,

(v) any adjoining planning authority,

(vi) the National Transport Authority, where relevant,

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

(viii) such other persons as may be prescribed.

(14) A person shall not question the validity of a variation of a development plan under this section by reason only that the procedures set out in this section were not completed within the relevant time period.

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

(16) In making a variation under this section, the members of the authority shall be restricted to considering the proper planning and sustainable development of the area to which the development plan relates, the statutory obligations of any planning authority in the area and any relevant policies or objectives for the time being of the Government or any Minister of the Government.

(17) The Minister may, for the purposes of giving effect to Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (No. 2001/42/EC, O.J. No. L 197, 21 July 2001 P. 0030 - 0037), by

regulations make provision in relation to consideration of the likely significant effects on the environment of implementing a variation of a development plan under this Part.

(18) A planning framework made under this section shall be deemed to form part of any development plan or local area plan in force in the area of the scheme until the framework is revoked, and any contrary provisions of a development plan or the local area plan shall be superseded.

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

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

(i) the National Planning Framework, and

(ii) the regional spatial and economic strategy,

(b) any relevant guidelines or policy directives under sections 28 or 29;

(c) where relevant, the policy of the Government, the Minister or any other Minister of the Government.

Procedure for identification of candidate urban development zone in development plan where development scheme has been prepared (“Option B”)

171AJ. (1) A planning authority may make a variation of a development plan where a development scheme has been prepared in accordance with this section.

(2) A planning authority shall as soon as practicable [and within nine months of a recommendation of the Minister under section 171AE unless otherwise extended by the Minister]—

- (a) prepare a planning framework in accordance with section 171AH,
- (b) prepare a development scheme in accordance with section 171AK,
- (c) conduct a screening for strategic environmental assessment and, where required, a strategic environmental assessment of the proposed variation in accordance with regulations made under subsection (17),
- (d) conduct screening for appropriate assessment and, where required, an appropriate assessment of the proposed variation in accordance with Part XAB,
- (e) send notice and copies of the proposed variation to,—
 - (i) the Minister,
 - (ii) the Office of the Planning Regulator,
 - (iii) the Board,
 - (iv) the relevant regional assembly,
 - (v) where appropriate, any adjoining planning authority,
 - (vi) where relevant, the National Transport Authority
 - (vii) any local community development committee within the area of the development plan, and
 - (viii) such other persons as may be prescribed,
- (f) publish notice of the proposed variation in one or more newspapers circulating in that area and on its website, and

(3) A notice under *subsection (2)* shall state—

(a) the reason for the proposed variation, including where a recommendation has been made under section 171AE,

(b) that a copy of the proposed variation may be inspected at a stated place or places and at stated times during a stated period of not less than 6 weeks (and the copy of the draft variation shall be kept available for inspection accordingly), and

(c) that written submissions or observations with respect to the proposed variation made to the planning authority within the said period will be taken into consideration before the making of the variation.

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

(5) (a) Written submissions or observations received by a planning authority under this section shall, subject to paragraph (b), be published on the website of the authority within 10 working days of its receipt by that authority.

(b) Publication in accordance with paragraph (a)—

(i) does not apply where the planning authority is of the opinion that the submission or observation is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure,

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

(iii) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in paragraph (a), legal advice that part of the submission or observation concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or

(iv) does not apply where the submission or observation relates to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the submission or observation relates to matters prescribed by the Minister.

(6) (a) Not later than 12 weeks after giving notice under subsection (3)(c), the chief executive of a planning authority shall prepare a report on any submissions or observations received under that subsection and shall submit the report to the members of the authority for their consideration.

(b) A chief executive's report prepared for the purposes of paragraph (a) shall be published on the website of the planning authority concerned as soon as practicable following submission to the members of the authority under paragraph (a).

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

(i) list the persons or bodies who made submissions or observations under this section,

(ii) provide a summary of—

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

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

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

(III) the submissions and observations made by any other persons (and the report may, for this purpose, group and summarise the issues raised in different submissions on a thematic basis),

in relation to the proposed variation in accordance with this section,

(iii) give the response of the chief executive to the issues raised, taking account of the proper planning and sustainable development of the area, the statutory obligations of the planning authority and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(iv) set out the recommendations of the chief executive as to how any recommendations made by the Minister, the Office and the National Transport Authority in any submissions made by them should be dealt with, and

(v) where required, include the assessment of the chief executive of the proposed variation for the purposes of strategic environmental assessment or appropriate assessment, taking into account the submissions received under this section.

(7) (a) The members of a planning authority shall consider the proposed variation and the report of the chief executive under subsection (6).

(b) The consideration of the proposed variation and the chief executive's report under paragraph (a) shall be completed within 8 weeks of the submission of the chief executive's report to the members of the authority.

(c) Where, following the consideration of the proposed variation and the chief executive's report, it appears to the members of the authority that the proposed variation should be made, they may, subject to paragraph (d), by resolution make the proposed variation.

(d) Where, following the consideration of the proposed variation and the chief executive's report, it appears to the members of the authority that a modified version of the proposed variation should be made, they may, subject to subsection (8), by resolution make a modified version of the proposed variation.

(e) Where, in making the proposed variation under paragraph (c) or a modified version of the proposed variation under paragraph (d), the members of the authority do not comply with any recommendation made by the Minister or Office under this section, they shall, within 2 weeks of the making of the variation, so inform the Minister, or the Office, as the case may be, by notice in writing which notice shall contain a statement of the reasons for the decision not to comply with the recommendation concerned.

(8) (a) Subject to paragraphs (b) and (f), where the members of a planning authority make a modified version of the proposed variation under subsection (7)(d) and the modification to the proposed variation constitutes a material alteration of the proposed variation—

(i) the variation shall be deemed not to have been made, and

(ii) the planning authority shall, not later than 2 weeks after the passing of a resolution under subsection (7)(d), publish notice of the modification and send notice and a copy of the modification to—

- (I) the Minister,
- (II) the Office of the Planning Regulator,
- (III) the Board,
- (IV) the relevant regional assembly,
- (V) where relevant, the National Transport Authority
- (VI) any adjoining planning authority,
- (VII) any local community development committee within the area of the development plan, and
- (VIII) such other persons as may be prescribed.

(b) The planning authority shall determine if a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, is or are required to be carried out as respects one or more than one proposed modification that would, if made, be a material alteration of the variation.

(c) The chief executive shall, not later than 2 weeks after a determination under paragraph (b), specify such period as he or she considers necessary following the determination as being required to facilitate an assessment referred to in paragraph (b).

(d) The planning authority shall publish notice of the proposed material alteration, and where appropriate in the circumstances, the making of a determination that an assessment referred to in paragraph (b) is required, in at least one newspaper circulating in its area and on its website.

(e) The notice referred to in paragraph (d) shall state—

- (i) that a copy of the proposed material alteration and of any determination by the authority that an assessment referred to in paragraph (b) is required may be inspected at a stated place

or places and at stated times, and on the authority's website, during a stated period of not less than 4 weeks (and that copies will be kept for inspection accordingly), and

(ii) that written submissions or observations with respect to the proposed material alteration or an assessment referred to in paragraph (b) and made to the planning authority within a stated period shall be taken into account by the authority before the variation of the development plan is made.

(f) The planning authority shall carry out an assessment referred to in paragraph (b) of the proposed material alteration of the draft development plan within the period specified by the chief executive.

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

(b) Publication in accordance with paragraph (a)—

(i) does not apply where the planning authority is of the opinion that the submission or observation is vexatious, libellous or contains confidential information relating to a third party in respect of which the third party has not, expressly, or impliedly in the circumstances, consented to its disclosure,

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

(iii) does not apply to the extent that the local authority has sought and received, either before or after the period of 10 working days referred to in paragraph (a), legal advice that part of the submission or observation concerned should not be published on the website of the planning authority or should cease to be so published, as the case may be, or

(iv) does not apply where the submission or observation relates to matters prescribed by the Minister for the purpose of this provision or does not apply to the extent that so much of the submission or observation relates to matters prescribed by the Minister.

- (10) (a) Not later than 12 weeks after giving notice under subsection (8), the chief executive shall—
- (i) prepare a report on any submissions received on foot of the publication of the notice, and
 - (ii) submit the report to the members of the planning authority for their consideration.
- (b) A report prepared under paragraph (a)(i) shall be published on a website maintained by or on behalf of the planning authority concerned as soon as practicable after its submission under paragraph (a)(ii).
- (c) A report prepared under paragraph (a) shall—
- (i) list the persons or bodies who made submissions,
 - (ii) provide a summary of—
 - (I) the recommendations and submissions made by the Minister in relation to the modification to the proposed variation and any strategic environmental assessment or appropriate assessment of the modification,
 - (II) the recommendations and submissions made by the Office of the Planning Regulator in relation to the modification to the proposed variation and any strategic environmental assessment or appropriate assessment of the modification, and
 - (III) the submissions made by any other person, in relation to the modification to the proposed variation and any strategic environmental assessment or appropriate assessment of the modification (and the report may, for this purpose, group and summarise the issues raised in different submissions on a thematic basis),
 - (iii) give the response of the chief executive to the issues raised in the submissions and the recommendations of the chief executive in relation to the modification.
- (11) (a) The members of a planning authority shall consider the modification and the report of the chief executive under subsection (9).

(b) The consideration of the modification and the chief executive's report under paragraph (a) shall be completed not later than 4 weeks after the submission of the chief executive's report to the members of the planning authority.

(12) (a) Subject to paragraph (b), the members of a planning authority shall, by resolution, having complied with subsection (10)—

- (i) make the variation as originally proposed by the planning authority,
- (ii) make the variation with the material alteration that was the subject of the notice under subsection (8), or
- (iii) refuse to make the variation.

(b) Where the members of a planning authority decide to make the variation of the development plan with the material alteration that was the subject of the notice under subsection (8), they may do so subject to any further modifications to the alteration that they consider appropriate, provided such modifications comply with paragraph (d).

(d) A further modification to the alteration—

- (i) may be made where it is minor in nature and therefore not likely to have significant effects on the environment or adversely affect the integrity of a European site, and—
- (ii) shall not be made where it relates to—
 - (I) an increase in the area of land zoned for any purpose, or
 - (II) an addition to or deletion from the record of protected structures.

(e) Where, in making a variation under paragraph (a) the members of a planning authority do not comply with any recommendation made by the Minister or Office of the Planning Regulator under this section, they shall, within 2 weeks of the making of the variation, so inform the Minister or the Office, as the case may be, by notice in writing which notice shall contain a statement of the reasons for not complying with the recommendation concerned.

(13) (a) Where a planning authority makes a variation, it shall publish notice of the making of the variation.

(b) A notice under this subsection shall state that a copy of the development plan as varied is available for inspection on a website maintained by or on behalf of the planning authority and at a place specified in the notice on and from the date specified in the notice.

(c) A planning authority shall send a copy of the variation to—

(i) the Minister,

(ii) the Office of the Planning Regulator,

(iii) the Board,

(iv) the relevant regional assembly,

(v) any adjoining planning authority,

(vi) the National Transport Authority, where relevant,

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

(viii) such other persons as may be prescribed.

(14) A person shall not question the validity of a variation of a development plan under this section by reason only that the procedures set out in this section were not completed within the relevant time period.

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

(16) In making a variation under this section, the members of the authority shall be restricted to considering the proper planning and sustainable development of the area to which the development plan relates, the statutory obligations of any planning authority in the area and any relevant policies or objectives for the time being of the Government or any Minister of the Government.

(17) The Minister may, for the purposes of giving effect to Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (No. 2001/42/EC, O.J. No. L 197, 21 July 2001 P. 0030 - 0037), by

regulations make provision in relation to consideration of the likely significant effects on the environment of implementing a variation of a development plan under this Part.

(18) A planning framework and development scheme made under this section shall be deemed to form part of any development plan or local area plan in force in the area of the scheme until the framework or scheme is revoked, and any contrary provisions of a development plan or the local area plan shall be superseded.

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

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

(i) the National Planning Framework, and

(ii) the regional spatial and economic strategy,

(b) any relevant guidelines or policy directives under sections 28 or 29;

(c) where relevant, the policy of the Government, the Minister or any other Minister of the Government .

Development scheme

171AK. (1) A planning authority may prepare a development scheme in respect of all or part of a candidate urban development zone site or an urban development zone site.

(2) A development scheme under this Part shall be generally consistent with the planning framework and it shall consist of a written statement and a plan indicating the manner in which it is intended that the land or part of the land to which the scheme relates is to be developed and in particular —

- (a) the type or types of development which may be permitted to be established within the area covered by the scheme,
- (b) the extent of any such proposed development,
- (c) proposals in relation to the overall layout and design of the proposed development, including maximum building height envelopes and floor areas, and an urban design strategy including the approach to the general appearance and design of structures.
- (d) scheme-specific proposals relating to transportation, including public transportation, the roads layout, the provision of parking spaces and traffic management and proposals relating to pedestrian and cycle infrastructure,
- (e) scheme-specific proposals relating to the provision of services on the site, including the provision of waste and sewerage facilities and water, electricity and telecommunications services, telecommunications services, energy generation and storage,
- (f) identification of critical land in the area covered by the scheme,
- (g) proposals relating to minimising any adverse effects on the environment, including the natural and built environment, and on the amenities of the area, and
- (h) where the scheme provides for residential development, proposals relating to the provision of amenities, facilities and services for the community, including educational and healthcare facilities,
- (i) details of any other scheme-specific public infrastructure requirements relating to the proposed development, including the provision of infrastructure outside the designated area but which are essential for or may benefit the development proposed within the designated area,
- (j) a scheme-specific infrastructure requirements, enabling works and delivery plan including an independently verified cost appraisal and funding sources,
- (k) a phasing schedule to illustrate the link between infrastructure delivery and timescales for construction of the proposed development.

(3) (a) A development scheme for residential development shall be consistent with the housing strategy prepared by the planning authority in accordance with *Part V*.

(b) Where land in a candidate urban development zone or an urban development zone is to be used for residential development, an objective to secure the implementation of the housing strategy shall be included in the development scheme as if it were a specific objective under section 95(1)(b).

(4) Subject to subsections (5) and (6), a development scheme prepared under this Part for a candidate urban development zone or an urban development zone shall continue in force on the making of a subsequent development plan.

(5) A development scheme prepared under this Part shall be reviewed on the making of each subsequent development plan.

(6) A development scheme prepared under this Part may be amended as part of the making of any subsequent development plan to ensure that it remains consistent with –

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

(i) the National Planning Framework, and

(ii) the regional spatial and economic strategy, and (b) any relevant guidelines or policy directives under sections 28 or 29,

(c) where relevant, the policy of the Government, the Minister or any other Minister of the Government,

except where an amendment would be contrary to a recommendation under section 171AM or a direction made under section 171AN.

(7) Where a planning authority elects to prepare a development scheme, it shall –

(a) conduct a screening for strategic environmental assessment and, where required, a strategic environmental assessment of the proposed scheme in accordance with regulations made under subsection (17)

(b) conduct screening for appropriate assessment and, where required, an appropriate assessment of the proposed scheme in accordance with Part XAB.

(8) Where a draft development scheme has been prepared, the planning authority shall, as soon as may be—

(a) send notice and copies of the draft development scheme to the Minister, the Board and the prescribed authorities,

(b) publish notice of the preparation of the draft development scheme in one or more newspapers circulating in its area.

(9) A notice under subsection (2) shall state—

(a) that a copy of the draft development scheme may be inspected at a stated place or places and at stated times during a stated period of not less than [6 weeks] (and the copy shall be kept available for inspection accordingly), and

(b) that written submissions or observations with respect to the draft development scheme made to the planning authority within the stated period will be taken into consideration in deciding upon the scheme.

(10) (a) Not longer than [12 weeks] after giving notice under subsection (9), the chief executive of a planning authority shall prepare a report on any submissions or observations received under that subsection and submit the report to the members of the authority for their consideration.

(b) A report under paragraph (a) shall—

(i) list the persons or bodies who made submissions or observations for the purposes of subsection (4),

(ii) summarise the issues raised by the persons or bodies in the submissions or observations,

(iii) give the response of the chief executive to the issues raised, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(11) (a) The members of a planning authority shall consider the draft development scheme and the report of the chief executive prepared and submitted in accordance with subsection (4).

(b) The development scheme shall be deemed to be approved [6 weeks] after the submission of that draft scheme and report to the members of the planning authority in accordance with subsection (4) unless the planning authority decides, by resolution, to —

(i) approve, subject to variations and modifications, the development scheme (and the passing of such a resolution shall be subject to paragraphs (c) and (g)), or

(ii) not to approve the development scheme.

(c) The planning authority shall determine if a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, is or are to be carried out as respects one or more than one proposed variation or modification that would, if made, be a material alteration of the draft development scheme.

(d) The chief executive shall, not later than 2 weeks after a determination under paragraph (c) specify such period as he or she considers necessary following the determination as being required to facilitate an assessment referred to in paragraph (c).

(e) The planning authority shall publish notice of the proposed material alteration, and where appropriate in the circumstances, the making of a determination that an assessment referred to in paragraph (c) is required, in at least one newspaper circulating in its area.

(f) The notice referred to in paragraph (e) shall state —

(i) that a copy of the proposed material alteration and of any determination by the authority that an assessment referred to in paragraph (c) is required may be inspected at a stated place or places and at stated times, and on the authority's website, during a stated period of not less than 4 weeks (and that copies will be kept for inspection accordingly), and

(ii) that written submissions or observations with respect to the proposed material alteration or an assessment referred to in paragraph (c) and made to the planning authority within a stated period shall be taken into account by the authority before the development scheme is approved.

(g) The planning authority shall carry out an assessment referred to in paragraph (c) of the proposed material alteration of the draft development scheme within the period specified by the chief executive.

(12) (a) Following the decision of the planning authority under subsection (5) and notwithstanding any appeal, the planning authority shall, as soon as may be, and in any case not later than 6 working days following the making of the decision—

(i) give notice of the decision of the planning authority to the Minister, the Board, the Office of the Planning Regulator, the prescribed authorities and any person who made written submissions or observations on the development scheme, and

(ii) publish notice of the decision in one or more newspapers circulating in its area and on its website.

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

(i) give the date of the decision of the planning authority in respect of the development scheme,

(ii) state the nature of the decision,

(iii) state that a copy of the development scheme is available for inspection at a stated place or places (and the copy shall be kept available for inspection accordingly),

(iv) state that any person who made submissions or observation regarding the development scheme may appeal the decision of the planning authority to the Board within 4 weeks of the date of the planning authority's decision, and

(v) contain such other information as may be prescribed.

(13) A person shall not question the making of a development scheme under this section by reason only that the procedures set out in this section were not completed within the relevant time period.

(14) In making a development scheme under this section, the members of the authority shall be restricted to considering the proper planning and sustainable development of the area to which the development plan relates, the statutory obligations of any planning authority in the area and any relevant policies or objectives for the time being of the Government or any Minister of the Government.

(15) The Minister may, for the purposes of giving effect to Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (No. 2001/42/EC, O.J. No. L 197, 21 July 2001 P. 0030 - 0037), by regulations make provision in relation to consideration of the likely significant effects on the environment of making a development scheme under this Part.

(16) A development scheme made under this Part shall be deemed to form part of any development plan or local area plan in force in the area of the scheme until the scheme is revoked, and any contrary provisions of a development plan or the local area plan shall be superseded.

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

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

(i) the National Planning Framework, and

(ii) the regional spatial and economic strategy,

(b) any relevant guidelines or policy directives under sections 28 or 29;

(c) where relevant, the policy of the Government, the Minister or any other Minister of the Government.

Appeal against the approval of a development scheme

171AL. (1)(a) Any person who made submissions or observations in respect of the draft development scheme may, for stated reasons, within 4 weeks of the date of the decision of the planning authority to approve a development scheme, appeal to the Board.

(b) The period within which to appeal shall not run between:

(i) The time period during which a recommendation can be made under s.171AM; or

(ii) the publication of a recommendation under s.171AM and the publication of a decision by the Minister to issue or not to issue a direction pursuant to section 171AN.

(2) (a) Following consideration of an appeal made under this section, the Board may —

(i) subject to paragraphs (b) and (c), approve the making of the development scheme, with or without any modifications, or

(ii) refuse to approve the making of the development scheme.

(b) Except where otherwise provided for by and in accordance with paragraph (c), the Board shall not approve, on an appeal under this section, a development scheme with a modification where it determines that the making of the modification would constitute the making of a material change in the overall objectives of the development scheme concerned or would be materially inconsistent with the adopted planning framework.

(c) If the Board determines that the making of a modification to which, but for this paragraph, paragraph (b) would apply —

(i) is a change of a minor nature and not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment) or on a European site, then it may approve the urban development zone scheme with such a modification and notify the planning authority or each planning authority for the area or areas concerned, of the modification, or

(ii) constitutes the making of a material change but would not constitute a change in the overall objectives of the development scheme or the planning framework concerned, then, subject to subsection (3), it shall approve the development scheme with such modification.

(d) Where the Board approves the making of a development scheme in accordance with paragraph (a) or (c), the planning authority shall, as soon as practicable, publish notice of the approval of the scheme in at least one newspaper circulating in its area, and shall state that a copy of the development scheme is available for inspection at a stated place or places, a copy of which shall be made available for inspection accordingly.

(3) (a) Before making a decision under subsection (2)(c)(ii) in respect of a development scheme, the Board shall —

(i) determine whether the extent and character of the modification it is considering are such that the modification, if it were made, would be likely to have a significant effect on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, and

(ii) for the purpose of so determining, the Board shall have reached a final decision as to what is the extent and character of any alternative amendment, the making of which it is also considering.

(b) If the Board determines that the making of a modification referred to in subsection (2)(c)(ii) —

(i) is not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, then it may approve the development scheme concerned with the modification, or

(ii) is likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, then it shall require the relevant planning authority to undertake a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, in relation to the making of the proposed modification.

(c) Before making a determination under subsection (2)(c)(ii), the Board shall require the relevant planning authority —

(i) to send notice and copies of the proposed modification of the development scheme concerned to the Minister and the prescribed authorities, and

(ii) to publish a notice of the proposed modification of the development scheme concerned in one or more newspapers circulating in that area,

and every such notice shall state —

(I) the reason or reasons for the proposed modification,

(II) that a copy of the proposed modification, along with any assessment undertaken in accordance with paragraph (b)(ii), may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks, and

(III) that written submissions or observations with respect to the proposed modification may be made to the planning authority within the stated period, being a period of not less than 4 weeks, and any such submissions or observations will be taken into consideration before making a decision on the proposed modification,

and the copy of the proposed modification shall be made available for inspection accordingly.

(d) Not later than 8 weeks after giving notice under paragraph (c), or such additional time as may be required to complete any assessment that may be required pursuant to subsection (3)(b)(ii) and agreed with the Board, the planning authority shall prepare a report on any submissions or observations received as a consequence of that notice and shall submit the report to the Board for its consideration.

(e) A report under paragraph (d) shall —

(i) list the persons or bodies who made submissions or observations for the purposes of paragraph (c)(III),

(ii) summarise the issues raised in the submissions or observations so made,

(iii) include, where and if required for the purposes of subsection (8)(b)(ii), either or both —

(I) the environmental report and strategic environmental assessment, and

(II) the Natura impact report and appropriate assessment,

of the planning authority, and

(iv) give the response of the planning authority to the issues raised, taking account of the proper planning and sustainable development of the area, the overall objectives of the development scheme, the statutory obligations of any local authority in the area and any

relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(f) Where a report has been submitted to the Board under paragraph (d), the planning authority concerned shall, upon being requested by the Board, provide it with copies of such submissions or observations to which that paragraph relates as are so requested.

(g) The Board shall have regard to any report prepared in accordance with paragraphs (d) and (e), and

(h) Subject to any obligations that may arise under Part XAB, if the Board makes a determination to make a modification as referred to in subsection (2)(c)(ii), it shall —

(i) approve the development scheme with the modification accordingly,

(ii) notify the planning authority or each planning authority for the area or areas concerned of the modification, and

(iii) notify any person who made a submission or observation in accordance with paragraph (c)(III) of the determination under subsection (10)(c).

(12) In considering an appeal against a decision of a planning authority to approve a draft development scheme, the Board shall be restricted to considering the particulars of the scheme and are precluded from considering those parts of the scheme which were established by the adopted planning framework.

(13) Subject to subsection (16) the Board shall determine an appeal—

(a) where no oral hearing is held, within 16 weeks of the receipt by the Board of the appeal, or within such other period as may be prescribed under subsection (14),

(b) where an oral hearing is held, within such period as may be prescribed.

(14)(a) The Board may in its absolute discretion, hold an oral hearing of an appeal under this section.

(b) Before deciding if an oral hearing for an application under this section, the Board—

(i) shall have regard the necessity of an oral hearing given the limits of its powers, and

(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.

(15) The Minister may by regulations extend the period of 16 weeks referred to in subsection (4)(a), either generally or with reference to any particular category of development scheme appeals, 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.

(16) Where the Board, within 16 weeks of the receipt of the development scheme appeal, serves notice in accordance with regulations under section 142 requiring a person to give to the Board further information or to produce evidence in respect of the appeal (referred to in this section as an "FI notice"), the Board shall make its decision on the appeal as follows:

(a) within 4 weeks of the FI notice being complied with; or

(b) if, within the period specified in paragraph (a), having considered the further information given or evidence produced in compliance with the FI notice, the Board—

(i) considers that it contains significant additional data which should be notified to the parties to the appeal, and

(ii) gives notice accordingly in writing to the parties to the appeal,

within 4 weeks beginning on the day on which that notice is given by the Board to the parties to the appeal.

(17) A person shall not question the validity of the determination of an appeal by reason only that the appeal was not determined within the time periods specified in, or prescribed under, this section.

(18) In considering the particulars of a development scheme under this section the Board, as the case may be, shall consider the proper planning and sustainable development of the area and consider the provisions of the development plan, the provisions of the housing strategy, any specific planning policy requirements contained in guidelines under subsection (1) of section 28, the provisions of any special amenity area order or the conservation and preservation of any European Site, and, where appropriate—

(a) the effect the scheme would have on any neighbouring land to the land concerned,

(b) the effect the scheme would have on any place which is outside the area of the planning authority,
and

(c) any other consideration relating to development outside the area of the planning authority,
including any area outside the State.

Office of Planning Regulator to notify Minister where variation of development plan or development scheme is not consistent with Office's recommendation

171AM. (1) A planning authority shall notify the Office of the Planning Regulator within 5 working days of the adoption of a planning framework under section 171AH or the making of a development scheme under section 171AK and send a copy of the written statement and maps as duly made and where the planning authority—

(a) decides not to comply with any recommendations made by the Office, or

(b) otherwise make the plan in such a manner as to be inconsistent with any recommendation made by the Office,

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

(2) Where *paragraph (a) or (b) of subsection (1)* applies, the Office shall consider whether or not the planning framework or the development scheme, by the planning authority is, in the Office's opinion, consistent with any recommendations made by the Office.

(3) Where subsequent to any consideration for the purposes of *subsection (2)*, the Office is of the opinion that—

(a) the the planning framework or the development scheme, as the case may be, has not been made in a manner consistent with the recommendations of the Office,

(b) that the decision of the planning authority concerned results in a planning framework or a development scheme that is not consistent with the overall strategy for the proper planning and sustainable development of the area concerned as set out in the development plan or a local area plan or that the development scheme is not consistent with the planning framework,

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

then the Office shall issue, no later than 4 weeks after the variation, a notice to the Minister containing—

(i) recommendations that the Minister exercise his or her function to take such steps as to rectify the matter in a manner that, in the opinion of the Office, will ensure that the planning framework or development scheme is consistent with the overall strategy for proper planning and sustainable development set out in the development plan or local area plan, and

(ii) a proposed draft of a direction to which *paragraph (c)* would relate.

(4) A copy of the notice issued to the Minister under *subsection (3)* shall be made available by the Office on its website as soon as is practicable after the notice has been sent to the Minister.

(5) In carrying out any assessment for the purposes of this section, the Office shall endeavour to ensure that, where appropriate, it addresses the legislative and policy matters relating to development plans as follows:

(a) matters generally within the scope of section 10 and, in particular, subsection (2)(n) of that section in relation to climate change;

(b) consistency with the development plan and the National Planning Framework and regional spatial and economic strategies;

(c) relevant guidelines for planning authorities made under section 28, including the consistency of development plans with any specific planning policy requirements specified in those guidelines;

(d) policy directives issued under section 29;

(e) any relevant policies or objectives for the time being of the Government or of any Minister of the Government .

(6) For the avoidance of doubt, this section is in addition to the powers set out in section 31AM.

Power of Minister to issue direction

171AN. (1) The Minister shall consider the recommendations of the Office in the notice issued under section 171AM and—

(a) where the Minister agrees with that notice, then the Minister shall proceed, pursuant to section 31, to issue a notice for the purposes of subsections (3) and (4) of that section having taken account of the proposed draft direction submitted by the Office, or

(b) where the Minister does not so agree with the Office, then the Minister shall—

(i) prepare a statement in writing of his or her reasons for not agreeing,

(ii) cause that statement to be laid before each House of the Oireachtas, and

(iii) as soon as practicable, make that statement available on the website of the Department of Housing, Local Government and Heritage.

(2) As soon as practicable after a statement has been prepared under subsection (1)(b), the Minister shall cause a copy of it to be sent to the Office and to the planning authority concerned and the Office and that authority shall, as soon as practicable thereafter, make it available on their respective websites.

(3) Where the Minister issues a notice under section 31 for the purposes of subsections (3) and (4) of that section—

(a) the notice shall specify that the report of the chief executive on the submissions on the draft direction shall be made to the Office, and

(b) the chief executive shall act accordingly.

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

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

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

(c) it is necessary for any other reason,

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

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

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

(6) The inspector—

- (a) shall review the draft direction, the report of the chief executive furnished and any submissions made,
- (b) shall consult with the chief executive and elected members of the planning authority,
- (c) may consult with the regional assembly and persons who made submissions, and
- (d) shall no later than 3 weeks after he or she was appointed, furnish a report containing recommendations to the Office.

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

- (a) be furnished without delay by the Office to the chief executive and, where relevant, to the regional assembly, and
- (b) be made available electronically, in such manner as the Office considers appropriate in the circumstances, to persons who made submissions.

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

- (a) where subsection (7)(a) applies, the report was furnished to him or her, or
- (b) where subsection (7)(b) applies, the report was made available to him or her.

(9) No later than 3 weeks (or as soon as may be during such period extending that 3 week period as the Office may decide) after receipt of the report of the inspector, or of any submissions made to him or her, the Office, having considered the report, recommendations or submissions, as the case may be, shall recommend to the Minister for stated reasons—

- (a) to issue the direction,
- (b) not to issue the direction, or
- (c) to issue the direction, which has been amended by the Office to take account of any of the following matters as the Office considers appropriate:
 - (i) recommendations contained in the report of the inspector;

(ii) any submissions made,

and, where paragraph (a) or (c) applies and the Minister agrees with the recommendation, then he or she shall, subject to subsection (16) issue the direction under section 31 with or without minor amendments.

(10) A copy of the recommendations to the Minister under subsection (9), the report of the inspector and any submissions made shall be made available on the website of the Office and be sent to the relevant planning authority.

(11) From the adoption of a planning framework or development scheme—

(a) such provisions as—

(i) are required to be included in the planning framework or development scheme by virtue of a direction issued by the Minister under section 31, and

(ii) are not so included,

shall be deemed to be included in that planning framework or development scheme, and

(b) such provisions of the planning framework or development scheme as do not comply with a direction so issued shall be deemed not to be included in that planning framework or development scheme.

(12) The Minister shall cause a copy of a direction issued to be laid before each House of the Oireachtas.

(13) As soon as may be after a direction is issued to a planning authority under this section, the planning authority shall make the direction so issued available to members of the public, during normal office hours of the authority, at the offices of the authority, and may also make the direction available by placing it on the website of the planning authority or otherwise in electronic form.

(14) A copy of the direction issued by the Minister under section 31 shall be copied to the Office and made available on its website.

(15) The Minister shall publish a copy of the direction issued under section 31 on the website of the Department of Housing, Local Government and Heritage.

(16) (a) Where the giving of a direction by the Minister in accordance with subsection (9) would require the making of a material alteration to a development plan, the Minister shall, not later than 3 weeks after the making of the recommendation by the Office under that subsection—

(i) publish a notice of the material alteration that would be so required in at least one newspaper circulating in the administrative area of the local authority that prepared the development plan, and

(ii) send a copy of that notice to the planning authority concerned, the regional assembly concerned, the Office, the Board and the prescribed authorities.

(b) The Minister shall, before giving a direction in accordance with subsection (9), determine—

(i) whether or not a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a development plan that would be required in order to comply with the direction, and

(ii) where he or she determines that a strategic environmental assessment or an appropriate assessment is so required, the period that it would take to carry out such strategic environmental assessment or appropriate assessment.

(c) Where the Minister makes a determination under paragraph (b) that a strategic environmental assessment or an appropriate assessment is required to be carried out as respects a material alteration to a development plan that would be required in order to comply with the direction, he or she shall publish a notice of that determination in at least one newspaper circulating in the administrative area of the local authority that prepared the development plan concerned.

(d) A copy of the determination under paragraph (b) and a copy of the proposed material alteration to the development plan concerned shall, for a period of not less than 4 weeks from the date of the determination, be made available for inspection—

(i) by members of the public at such place and at such times as are specified in the notice referred to in paragraph (c), and

(ii) on the internet website of the Minister and the internet website of the planning authority concerned.

(e) A notice to which paragraph (c) applies shall—

(i) state that a determination under paragraph (b) has been made for the purposes of giving a direction in accordance with subsection (9),

- (ii) specify the place at which and times during which copies of the determination under paragraph (b) and the proposed material alteration to the development plan concerned will be made available for inspection by members of the public,
- (iii) state that such copies will be available for inspection on the internet website of the Minister and the internet website of the planning authority concerned,
- (iv) invite written submissions or observations with respect to the proposed material alteration or a strategic environmental assessment or appropriate assessment required to be carried out by virtue of the said determination to be made to the Minister before the expiration of such period as specified in the notice, and
- (v) that any such submissions or observations shall be taken into account by the Minister in giving a direction in accordance with subsection (9).

(f) The Minister shall carry out a strategic environmental assessment, appropriate assessment, or both, of the proposed material alteration of the development plan within the period determined by the Minister in accordance with paragraph (b).

(g) The Minister shall, not later than 8 weeks after the publication of a notice under paragraph (c), prepare a report on any submissions or observations received in accordance with that notice.

(h) A report under paragraph (g) shall—

- (i) specify the persons who made submissions or observations in accordance with the notice under paragraph (c),
- (ii) provide a summary of those submissions and observations, and
- (iii) set out the response of the Minister to those submissions and observations.

(i) The Minister shall, in setting out his or her response to submissions or observations in accordance with the notice under paragraph (c), take account of the following:

- (i) the proper planning and sustainable development of the area to which the proposed development plan is intended to apply,
- (ii) the duties under statute of the local authority within whose administrative area the proposed development plan is intended to apply,
- (iii) the necessity of ensuring that the proposed development plan will be consistent with—

- (I) the national and regional development objectives set out in the National Planning Framework and the regional spatial and economic strategy,
- (II) specific planning policy requirements specified in guidelines under section 28(1),
and
- (III) policies or objectives for the time being of the Government or of any Minister of the Government.

Amendment of a development scheme

171AO. (1) A planning authority may, make an application to the Board to request an amendment under this section to a development scheme.

(2) Where an application under subsection (1) has been made, the Board shall make a decision, in a manner provided for by this section, as to whether the making of the amendment to which the request relates would constitute the making of a material change to the development scheme.

(3) (a) Where the amendment fails to satisfy each of the criteria referred to in subparagraphs (i) to (iv) of paragraph (b), the Board shall require the planning authority to amend the development scheme in compliance with the procedure laid down in section 171K and that section shall be construed and have effect accordingly.

(b) The criteria referred to in paragraph (a) are that the amendment to the development scheme concerned—

- (i) would not constitute a change in the overall objectives of the development scheme concerned,
- (ii) would not relate to already developed land in the development scheme,
- (iii) would not significantly increase or decrease the overall floor area or density of proposed development, and
- (iv) would not adversely affect or diminish the amenity of the area that is the subject of the proposed amendment.

(4) If the Board determines that the making of the amendment to a development scheme —

(a) is a change of a minor nature and not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment) or on a European site, then it may approve the making of the amendment to the development scheme and notify the planning authority for the area or areas concerned, of the amendment, or

(b) constitutes the making of a material change but is within the criteria set out in subsection (3)(b), then, subject to subsection (5), it may approve the making of the amendment to the development scheme with such amendment, or an alternate amendment, being an amendment that would be different from that to which the request relates but would not represent, in the opinion of the Board, a more significant change than that which was proposed.

(5) Before making a determination to which subsection (4)(b) would relate, the Board shall establish whether or not the extent and character—

(a) of the amendment to which subsection (1) relates, and

(b) of any alternative amendment it is considering and to which subsection (4)(b) relates, are such that, if the amendment were to be made, it would be likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site and, for that purpose, the Board shall have reached a final decision as to what is the extent and character of any alternative amendment, the making of which it is also considering.

(6) If the Board determines that the making of either kind of amendment referred to in subsection (4)(b) —

(a) is not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, it shall proceed to make a determination under subsection (4)(b), or

(b) is likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, then it shall require the planning authority to undertake a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, in relation to the making of the proposed amendment or alternative amendment.

(7) Before making a determination to which subsection (4)(b) would relate, the Board shall require the planning authority concerned—

(a) to send notice and copies of the proposed amendment of the development scheme concerned to prescribed authorities, and

(b) to publish a notice of that proposed amendment in one or more newspapers circulating in the area concerned and on its website,

and every such notice shall state—

(i) the reason or reasons for the proposed amendment,

(ii) that a copy of the proposed amendment, along with any assessment undertaken according to subsection (6)(b), may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks, and

(iii) that written submissions or observations with respect to the proposed amendment may be made to the planning authority within the stated period, being a period of not less than 4 weeks, and any such submissions or observations will be taken into consideration before making a decision on the proposed amendment,

and the copy of the proposed amendment shall be made available for inspection accordingly.

(8) Not later than 8 weeks after giving notice under subsection (7), or such additional time as may be required to complete any assessment that may be required pursuant to subsection (6)(b) and agreed with the Board, the planning authority shall prepare a report on any submissions or observations received as a consequence of that notice and shall submit the report to the Board.

(9) A report under subsection (8) shall—

(a) list the persons or bodies who made submissions or observations for the purposes of subsection (7)(iii),

(b) summarise the issues raised in the submissions or observations so made,

(c) include, where and if required for the purposes of subsection (6)(b), either or both—

(i) the environmental report and strategic environmental assessment, and

(ii) the Natura impact report and appropriate assessment,

of the planning authority, and

(d) give the response of the planning authority to the issues raised, taking account of the proper planning and sustainable development of the area, the overall objectives of the planning scheme, the statutory obligations of any local authority in the area and any

relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(10) The Board shall have regard to any report prepared in accordance with subsections (8) and (9).

(11) Subject to any obligations that may arise under Part XAB, if the Board makes a determination to make an amendment of any kind referred to in subsection (4), it shall—

- (a) approve the making of an amendment to the development scheme accordingly,
- (b) notify the planning authority for the area concerned of the amendment, and
- (c) notify any person who made a submission or observation in accordance subsection (7)(iii) of its determination under subsection (4).

(12) The amendment of a development scheme shall not prejudice the validity of any planning permission granted or anything done in accordance with the terms of the scheme before it was amended except in accordance with the terms of this Act.

(13) Without prejudice to the generality of subsection (12), sections 40 and 42 shall apply to any permission granted under this Part.

Chapter 3

Urban development zones

Urban development zone order

171AP. (1) Where, in the opinion of the Government, specified development, redevelopment or improvement of a candidate urban development zone has the potential, having regard to the scale, nature and location of the development, redevelopment or improvement proposed, to be of significant economic, social or environmental benefit to the State and the common good, the Government may by order (“an urban development zone order”), where proposed by the Minister, designate all or part of the candidate urban development zone as an urban development zone to facilitate such development, redevelopment or improvement.

(2) The Minister shall not consider a proposal for designation of a site or sites as an urban development zone or propose to the Government that a site or sites are designated under *subsection (1)* before the conclusion of the process set out in sections 171AI or 171AJ and the conclusion of any direction process set out in section 171AN.

(3) The Minister may, to the extent he or she considers necessary, before making a recommendation to the Government in respect of the designation of a site or sites under *subsection (1)*, consult with any relevant planning authority, any relevant development agency, any relevant regional assembly, any relevant prescribed bodies, the Office of the Planning Regulator and any such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister on the proposed designation.

(4) The Minister shall, before making a recommendation to the Government in respect of the designation of a site or sites under *subsection (1)*, consider –

- (a) any submissions made to the planning authority under sections 171AI or 171AJ and any report prepared by a chief executive;
- (b) any relevant submissions or observations received from any relevant regional assembly,
- (c) any relevant submissions or observations received from the Office of the Planning Regulator,
- (d) any relevant submissions or observations received from the National Transport Authority,

- (e) any relevant submissions or observations received from any authorities, which the Minister may prescribe,
 - (f) any relevant submissions or observations received from any such other Minister of the Government as the Minister considers appropriate to consult having regard to the functions of that other Minister,
 - (g) the national interest and any effect the designation of the site or sites as an urban development zone may have on issues of strategic economic, social or environmental, including matters relating to climate action, importance to the State and the common good,
 - (h) the potential scale, nature and location of the development, redevelopment or improvement proposed and the extent to which it may contribute significantly towards the objectives for the time being of the Government or of any Minister of the Government and any regional spatial and economic strategy for the time being in force,
 - (i) whether such a designation is likely to result in the development, redevelopment or improvement of the site or sites as outlined in any planning framework,
 - (j) whether the designation of the site or sites as an urban development zone is likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment),
 - (k) 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, and
 - (l) whether the designation of the site or sites as an urban development zone would be likely to have a significant effect on a European site or an area prescribed for the purposes of section 10(2)(c) of the Act of 2000.
- (5) An order under *subsection (1)* shall state the reasons for the making of the order.
- (6) The Minister shall send a copy of any order made under this section to any relevant planning authority, development agency, regional assembly, the National Transport Authority, the Office of the Planning Regulator and to the Board.
- (7) The Government shall revoke or amend an urban development zone order by way of further order where having regard to the scale, nature and location of the development,

redevelopment or improvement proposed and matters arising since its designation, the urban development zone or part thereof is no longer considered to be of significant economic, social or environmental benefit to the State or the common good or economically viable.

- (8) An order under subsection (7) shall state the reasons for the amendment or revocation.
- (9) Where an order made under this section is revoked or amended by the Government, the Minister shall as soon as practicable after the order has been revoked or amended give a copy of the revocation or amendment order to –
- (i) any relevant development agency;
 - (ii) any relevant planning authority or planning authorities;
 - (iii) any relevant regional assembly,
 - (iv) the National Transport Authority.
 - (v) the Office of the Planning Regulator, and
 - (vi) the Board.
- (10) The amendment or revocation of an urban development zone order shall not prejudice the validity of any planning permission granted or anything done before it was amended or revoked except in accordance with the terms of this Act.
- (11) A planning framework adopted in respect of the area concerned shall remain valid notwithstanding any decision under this section not to make an order under subsection (1).

Power to acquire land in a candidate urban development zone or an urban development zone

171AQ. (1) A planning authority or development agency may compulsorily acquire [any] land within a candidate urban development zone or an urban development zone if in its opinion it is needed for public infrastructure, facilities and related measures in accordance with a planning framework made under this Part.

(2) Where a planning authority or development agency intends to acquire any land compulsorily under this section, it shall—

(a) publish in one or more newspapers circulating in the locality a notice stating their intention to acquire the land compulsorily under this section and its reasons for doing so, describing the land to which it relates, naming the place where a map of the land is deposited and the times during which it may be inspected and specifying the time within which (not being less than one month) and the manner in which objections to the acquisition of the land may be made, and

(b) serve on every owner, lessee and occupier (except tenants for a month or a period less than a month) of the land a notice in the prescribed form stating their intention to acquire the land compulsorily under this Act and its reasons for doing so, describing the land to which it relates, naming the place where a map of the land is deposited and the times during which it may be inspected and specifying the time within which (not being less than one month) and the manner in which objections to the acquisition of the land may be made.

(3) Any of the persons upon whom notices of the proposed compulsory acquisition of land under this section have been served or any person with an interest in the land may, within the time and in the manner specified in the notices, submit to the planning authority or development agency a written objection to the proposed compulsory acquisition referred to in the notice, setting out the nature and extent of their estate or interest in the relevant property.

(4) An objection to the proposed compulsory acquisition of land may be withdrawn by the person who made it, by notice in writing sent to the planning authority or development agency.

(5) Where in relation to the proposed compulsory acquisition of any land under this section an objection is made to the planning authority or development agency in accordance with subsection (3) and is not withdrawn, the land shall not be acquired compulsorily by the planning authority or development agency without the consent of the Board.

(6) An application by a planning authority or development agency for the consent of the Board to the compulsory acquisition of any land under this section shall be made within one month after the expiry of the time within which objection to the proposed acquisition may be made and shall be accompanied by the relevant map, the objection or objections duly made to the planning authority or development agency in pursuance of this section in relation to the compulsory acquisition and not subsequently withdrawn, the comments of the planning authority or development agency (if any) on the objection or objections and such other documents and particulars as may be prescribed.

(7) On receipt of the comments of the planning authority or development agency (if any) referred to in subsection (6), the Board shall, by notice served on the person who made the objection send a copy of such comments to that person who may, within twenty-one days from the date of the service of the notice, make observations to the Board in relation to the comments.

(8) On an application under subsection (6), in relation to any land referred to in a notice published by a planning authority or development agency under subsection (2), the Board shall, unless it is manifest from the acquisition concerned is not reasonably required for the reasons stated in the notices, confirm the draft compulsory purchase order subject to such modifications or conditions as it sees fit.

(9) The modifications that may be made, or the conditions that may be imposed, by the Board in relation to a draft compulsory purchase order include—

(a) modifying the extent of the land the subject matter of the proposed compulsory acquisition

and

(b) making any modification or imposing any condition in order to amend, delete, clarify or otherwise change any matter that, absent such amendment, deletion, clarification or change, would, in the opinion of the Board, mean that the compulsory acquisition, if confirmed, would be unlawful.

(10) Where, in relation to land —

(a) no objection is submitted to the planning authority or development agency in accordance this section, or

(b) any objection which is submitted as aforesaid is subsequently withdrawn, or

(c) the Board gives its consent to the compulsory acquisition thereof by the planning authority or development agency,

the planning authority or development agency may by order (in this Part referred to as a vesting order) acquire the land, subject to any such modifications or conditions made by the Board.

(11) Where a planning authority or development agency, before making a vesting order, become aware that the land to be acquired by the order is subject (whether alone or in conjunction with other land) to any annuity or other payment to the Irish Land Commission or to the Commissioners of Public Works in Ireland, or to any charge payable to the Revenue Commissioners on the death of any person, the planning authority or development agency shall forthwith inform the Irish Land Commission, the

Commissioners of Public Works in Ireland or the Revenue Commissioners, as the case may be, of the intention to make the order.

(12) Whenever a planning authority or development agency make a vesting order under this section, they shall within fourteen days after making the order—

(a) publish in one or more newspapers circulating within their functional area a notice stating that the order has been made, describing the land to which it relates and naming a place where a copy of the order and the map attached thereto may be seen at all reasonable times, and

(b) serve on every person appearing to them to have an interest in the land to which the order relates a notice stating that the order has been made and the effect of the order.

(13) Every vesting order by which a planning authority or development agency acquire any land under this section shall be in the prescribed form and shall have attached thereto a map showing the land to which it relates.

(14) A vesting order shall be expressed and shall operate to vest land to which it relates in the planning authority or development agency in fee simple free from encumbrances and all estates, rights, titles and interests of whatsoever kind on a specified date (in this section referred to as the vesting date) not earlier than twenty-one days after the making of the order.

(15) Notwithstanding anything in subsection (13), where a planning authority or development agency have acquired by a vesting order land which is subject, either alone or in conjunction with other land, to a purchase annuity, payment in lieu of rent, or other annual sum (not being merely a rent under a contract of tenancy) payable to the Irish Land Commission or to the Commissioners of Public Works in Ireland, the planning authority or development agency shall become and be liable, as from the date on which the land is vested in them by the vesting order, for the payment to the Irish Land Commission or to the Commissioners of Public Works in Ireland, as the case may be, of the annual sum or such portion thereof as shall be apportioned by the Irish Land Commission or by the Commissioners of Public Works in Ireland, as the case may be, on the land as if the land had been transferred to the authority by the owner thereof on that date.

(16) When a planning authority or development agency make a vesting order in relation to any land, it shall send the order to the registering authority and thereupon the registering authority shall cause the planning authority or development agency to be registered as owner of the land in accordance with the order.

(17) (a) Where a planning authority or development agency are satisfied on the application of any person interested that a vesting order contains an error or mistake, whether occasioned by the planning authority or development agency by whom such vesting order was made or otherwise, the planning authority or development agency may, by order, amend such vesting order, provided such error or mistake may be rectified without injustice to any person.

(b) Where a planning authority or development agency make an order under this subsection amending a vesting order, the registering authority shall on the lodgment with them of a copy of such amending order rectify the register in such manner as may be necessary to make such register conformable with such amending order.

(18) Where, immediately before a vesting order is made, any person has any estate or interest in or right in respect of the land acquired by the order, the person may apply to the planning authority or development agency not later than twelve months after the making of the order for compensation in respect of the estate, interest or right, and the planning authority or development agency shall, subject to subsection (19), thereupon pay to the person by way of compensation an amount equal to the value (if any) of the estate, interest or right.

(19) The compensation to be paid by a planning authority or development agency under this section in respect of any estate or interest in or right in respect of the land shall, in default of agreement, be determined by arbitration under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919.

(20) Where, after the making of a vesting order by a planning authority or development agency under this Act in relation to any land, any sum (including any sum for costs) remains due to the planning authority by any person by way of land value sharing contribution or on foot of an order of any court for payment of an amount due to the planning authority or under this Act or any other Act—

(a) if the sum aforesaid is less than the amount of the compensation payable to the person under this section, the amount of the compensation shall be reduced by the amount of the sum, and

(b) if the sum aforesaid is not less than the amount of the compensation aforesaid, the compensation shall not be payable.

(21) Sections 69 to 79 of the Lands Clauses Consolidation Act, 1845, as amended or adapted by or under the Second Schedule to the Housing of the Working Classes Act, 1890, or any other Act, shall

apply in relation to compensation to be paid by a planning authority or development agency under this section as if such compensation were a price or compensation under the said Act as so amended.

(22) Where money is paid into Court under section 69 of the Lands Clauses Consolidation Act, 1845, as applied by this section, by the planning authority or development agency, no costs shall be payable by that authority to any person in respect of any proceedings for the investment, payment of income, or payment of capital of such money.

(23) Where the whole or any part of any land acquired under this section is at any time not required by the planning authority or development agency, by whom it was acquired, the planning authority or development agency, may, subject to any regulations made under this Act, sell, let, transfer or exchange the whole or that part (as the case may be) of the land.

(24) (a) The Minister may make regulations—

(i) for prescribing any matters referred to in this section as prescribed, and

(ii) for the purpose of giving full effect to this Act.

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

(25) Where a planning authority makes reasonable efforts to effect service under this section, the failure to serve each of the persons referred to in those subsection shall not, in itself, invalidate any compulsory acquisition under this section.

(26) The compulsory acquisition power in this section is without prejudice to any other compulsory acquisition power available to a planning authority.

(27) In this section “owner” means in relation to land, a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion and includes also a person who holds or is entitled to the rents and profits of the land under a lease or agreement, the unexpired term whereof exceeds three years.

The consideration of an application in a candidate urban development zone or urban development zone

171AR. (1)(a) Where a planning framework, but no development scheme, applies to lands the subject of an application for permission, the application shall be considered in accordance with section 34.

(b) Without prejudice to the generality of section 34, the planning authority or the Board, as appropriate, shall take due cognisance of the planning framework in making a determination on an application for permission in an urban development zone.

(c) An appeal shall lie to the Board against a decision of a planning authority on an application for permission in respect of a development under subsection (1) in accordance with section 37.

(3) It shall be the objective of the Board to ensure that every appeal under subsection (2) is determined within a period of [10 weeks] beginning on the date of receipt by the Board of the appeal.

(4) (a) Where an urban development zone scheme order and a development scheme apply to lands the subject of an application for permission, this subsection shall apply.

(b) Subject to the provisions of *Part X* or *Part XAB*, or both of those Parts as appropriate, a planning authority shall grant permission where it is satisfied that the development, where carried out in accordance with the application or subject to any conditions which the planning authority may attach to a permission, would be consistent with the development scheme in force for the land in question, and no permission shall be granted for any development which would not be consistent with such a development scheme.

(5) Notwithstanding section 37, no appeal shall lie to the Board against a decision of a planning authority on an application for permission in respect of a development under subsection (4).

(6) Where the planning authority decides to grant permission in relation to an application for permission in respect of development under subsection (4), the grant shall be deemed to be given on the date of the decision.

Part 4

MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT

Amendment of section 2 of Principal Act

8. Subsection (1) of section 2 of the Principal Act is amended by the insertion of the following definitions:

““Tribunal” means the Valuation Tribunal as defined in section 3(1) of the Valuation Act 2001.”

Amendment of section 13 of Principal Act

9. Section 13 of the Principal Act is amended:

- (a) in subsection (1), by inserting “except where a proposed variation relates to a candidate urban development zone or an urban development zone” after “in force”, and
- (b) in subsection (1A)(a), by inserting “except where a proposed variation relates to a candidate urban development zone or an urban development zone” after “such a resolution”.

Amendment of section 18 of Principal Act

10. Section 18 of the Principal Act is amended by inserting after subsection (6) the following:

“(7) Notwithstanding the other provisions in this section, a local authority may not make or amend a local area plan for an area proposed for designation as a candidate urban development zone or an urban development zone.”

Amendment of Section 50 of Principal Act

11. Subsection (2) of section 50 of the Principal Act is amended —

(a) by deleting “or” in paragraph (c),

(b), by inserting “or” after “such competent authority” in paragraph (d), and

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

“(e) the Minister or the Government in the performance of a function under Part IXA”

Amendment of Section 50A of Principal Act

12. Section 50A of the Principal Act is amended by the insertion of the following subsection after subsection (3) —

“(3A) (a) Without prejudice to subsection (3), the Court shall not grant section 50 leave in applications relating to a decision or act made pursuant to Part IXA unless it is satisfied that the procedure under that Part has gone irremediably wrong.

(b) For the purposes of paragraph (a), irremediably wrong means:

(i) there is nothing that can be done in the course of the Part IXA procedure to rectify the alleged error, or errors, identified by the applicant in their pleadings; and,

(ii) it is more probable than not that any conclusion reached at the end of the Part IXA procedure would be unsustainable in law by reason of the alleged error or errors identified by the applicant in their pleadings.

(c) An applicant who is refused leave under paragraph (a) may challenge the validity of any decision made or other act done following the making of order under s171AH by judicial review.”

Amendment of the Fourth Schedule to Principal Act

13. The Fourth Schedule to the Principal Act is amended by inserting the following paragraph after paragraph 3:

“(3A) Development of the kind proposed would be premature pending a decision on the making of –

- (i) an order designating an urban development zone, or
- (ii) a development scheme.”

Insertion of section 212A into Principal Act

14. The Principal Act is amended by the insertion of the following new section after section 212:

“Compulsory acquisition in circumstances of market failure

212A. (1) Without prejudice to any powers to acquire land under any enactment, a planning authority, the Land Development Agency or a development agency may use any powers to acquire land that are available to it under any enactment, including any powers in relation to the compulsory acquisition of land, for the purposes of providing, securing or facilitating the provision of, land and in particular in order to facilitate the assembly of sites for the purposes of the provision of housing in accordance with the housing strategy in force for the land in question where that authority or agency is satisfied that:

- (i) there is evidence of market failure by means of the failure to develop the land within the 6 year cycle of the development plan; and
- (ii) the land is situated in an area in which there is a need for housing.

(2) Where a person, other than the relevant development agency, has an interest in land, or any part of land, referred to in subsection (1), the relevant planning authority, the Land Development Agency or development agency may enter into an agreement with that person for the purpose of facilitating the development of the land.

(3) An agreement made under *subsection (2)* with any person having an interest in land may be enforced by the relevant planning authority, the Land Development Agency or development agency against persons deriving title under that person in respect of that land.”