



Number 17 of 2016

Planning and Development (Housing) and Residential Tenancies Act 2016



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**PLANNING AND DEVELOPMENT (HOUSING) AND RESIDENTIAL TENANCIES
ACT 2016**

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Number 17 of 2016

**PLANNING AND DEVELOPMENT (HOUSING) AND RESIDENTIAL TENANCIES
ACT 2016**

An Act to facilitate the implementation of the document entitled “Rebuilding Ireland - Action Plan for Housing and Homelessness” that was published by the Government on 19 July 2016, and for that and other purposes to amend the Planning and Development Acts 2000 to 2015, the Residential Tenancies Acts 2004 to 2015 and the Housing Finance Agency Act 1981, to amend the Local Government Act 1998 in relation to the Local Government Fund and to provide for connected matters. [23rd December, 2016]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, collective citation, construction and commencement

1. (1) This Act may be cited as the Planning and Development (Housing) and Residential Tenancies Act 2016.
- (2) (a) The Planning and Development Acts 2000 to 2015, and this Act, other than *paragraphs (b) and (c), Parts 3 to 5 and the Schedule*, may be cited together as the Planning and Development Acts 2000 to 2016 and shall be construed together as one.
- (b) The Residential Tenancies Acts 2004 to 2015, this paragraph, *Part 3* and the *Schedule* may be cited together as the Residential Tenancies Acts 2004 to 2016 and shall be construed together as one.
- (c) The Local Government Acts 1925 to 2014, section 57 of the Housing (Miscellaneous Provisions) Act 2014, this paragraph and *section 52* may be cited together as the Local Government Acts 1925 to 2016 and shall be construed together as one.
- (3) (a) Subject to *paragraphs (b) and (c)*, this Act comes into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

(b) *Sections 33 to 37, sections 46, 47 and 50* come into operation on the day following the passing of this Act.

(c) *Part 5* comes into operation on the passing of this Act.

Definitions (general)

2. In this Act—

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

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

PART 2

PLANNING AND DEVELOPMENT

CHAPTER 1

Strategic Housing Developments

Definitions (Chapter 1)

3. In this Chapter—

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

“prospective applicant” means a person who—

- (a) is the owner of the land concerned, or
- (b) has the written consent of the owner to make an application under *section 4* in respect of that land,

and who intends to apply for permission under that section in respect of that land;

“specified period” means—

- (a) the period from the commencement of this provision until 31 December 2019, and
- (b) any additional period as may be provided for by the Minister by order under *section 4(2)*;

“strategic housing development” means—

- (a) the development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses,
- (b) the development of student accommodation units which, when combined, contain 200 or more bed spaces, on land the zoning of which facilitates the provision of student accommodation or a mixture of student accommodation and other uses

thereon,

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

each of which may include other uses on the land, the zoning of which facilitates such use, but only if—

- (i) the cumulative gross floor area of the houses or student accommodation units, or both, as the case may be, comprises not less than 85 per cent, or such other percentage as may be prescribed, of the gross floor space of the proposed development or the number of houses or proposed bed spaces within student accommodation to which the proposed alteration of a planning permission so granted relates, and
- (ii) the other uses cumulatively do not exceed—
 - (I) 15 square metres gross floor space for each house or 7.5 square metres gross floor space for each bed space in student accommodation, or both, as the case may be, in the proposed development or to which the proposed alteration of a planning permission so granted relates, subject to a maximum of 4,500 square metres gross floor space for such other uses in any development, or
 - (II) such other area as may be prescribed, by reference to the number of houses or bed spaces in student accommodation within the proposed development or to which the proposed alteration of a planning permission so granted relates, which other area shall be subject to such other maximum area in the development as may be prescribed;

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

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

Strategic housing developments and planning applications

4. (1) Subject to *subsection (4)*, during the specified period and notwithstanding anything to the contrary contained in any other provision of the *Planning and Development Acts 2000 to 2016*—
- (a) an application for permission for a strategic housing development shall—
 - (i) be made to the Board under this section and not to a planning authority, other than an application for permission, the purpose of which is as set out in section 34(3A) of the Act of 2000,
 - (ii) be so made only where *section 6(7)(b)* applies or, in the case that a request is

made under *section 7(1)*, when the Board has complied with the request pursuant to *section 7(2)*,

(iii) be so made only where the applicant for permission has fulfilled the requirements set out in *section 8*,

(iv) be in such form and contain such information as is prescribed, and

(v) be accompanied by the appropriate fee,

and

(b) a copy of the application, shall be sent by the applicant to the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated.

(2) (a) Not later than 30 October 2019, the Minister shall—

(i) review the operation and effectiveness of this Chapter, and

(ii) lay before each House of the Oireachtas a report of his or her conclusions from the review.

(b) The Minister may, by order made before the expiry of the specified period, extend such period during which this section shall continue to apply but—

(i) no such order shall be made before *paragraph (a)* has been complied with, and

(ii) any such extension shall not be made in respect of a period after 31 December 2021.

(3) Where a request was duly made under *section 5(1)* during the specified period in respect of a strategic housing development but any matter concerning the development to which *Part 2* relates has not been completed before the end of that period, then subject to *section 11(10)*, the other provisions of the *Planning and Development Acts 2000 to 2016* shall continue to apply to that matter as if the specified period had not expired.

(4) In the case of an application for permission for a strategic housing development that is located in a strategic development zone, the applicant may elect to make the application to the planning authority under *section 34* of the Act of 2000 rather than under this section and, accordingly, *section 170* of that Act applies to the application to which the said *section 34* relates.

(5) The proposed strategic housing development shall not be carried out unless—

(a) the Board has approved it with or without modifications, or

(b) it is duly carried out consequent to an election under *subsection (4)*.

Request for consultations before making application under *section 4*

5. (1) Subject to *subsection (2)*, a prospective applicant shall, before making the application

in accordance with *section 4(1)*, make a request to the Board to enter into consultations with the Board in relation to the proposed strategic housing development and any such request shall comply with *subsection (7)*.

- (2) A prospective applicant shall, prior to making a request to the Board under *subsection (1)*, have consulted the appropriate planning authority or authorities in whose area or areas the proposed development would be situated, comprising at least one meeting, as if the consultations with the planning authority or authorities concerned were for the purpose of making a planning application to it or to each of them, as the case may be, and for that purpose—
 - (a) subject to *subsection (3)*, section 247 of the Act of 2000 applies, with any necessary modifications to those consultations, and
 - (b) those consultations shall have regard to so much of Part V of the Act of 2000 as would be relevant to the proposed strategic housing development.
- (3) Consultations under section 247 of the Act of 2000 in relation to proposed development referred to in *subsection (2)* shall be held within 4 weeks of the date of receipt by the planning authority, or planning authorities, as the case may be, of a request by the prospective applicant for such a consultation, unless the prospective applicant requests that the period be extended by a specified period, in which case—
 - (a) the period shall be extended by the planning authority, or planning authorities, as the case may be, by such specified period upon the first such request, and
 - (b) the period may be extended, at the discretion of the planning authority or planning authorities, as the case may be, by such specified period upon a second or subsequent such request.
- (4) The failure by a planning authority to comply with the requirement to hold a consultation meeting for the purposes of section 247 of the Act of 2000 by virtue of *subsection (3)* within the time limits provided for by that subsection shall not prevent the Board from proceeding under this section to deal with the application concerned.
- (5) A request to the Board by a prospective applicant to enter into consultations with the Board shall be in writing and shall include—
 - (a) the following:
 - (i) the name and address of the prospective applicant;
 - (ii) a site location plan sufficient to identify the land;
 - (iii) a brief description of the nature and purpose of the development and of its possible effects on the environment;
 - (iv) a draft layout plan of the proposal;
 - (v) details of the pre-application consultations that have taken place with the planning authority, or planning authorities, as the case may be, under section 247 of the Act of 2000 and that may have taken place with prescribed bodies or the public;

- (vi) such further information as may be prescribed;
 - (vii) such other information, drawings or representations as the prospective applicant may wish to provide or make available,
- (b) a statement that, in the prospective applicant's opinion, the proposal is consistent with both—
- (i) subject to *subsection (6)*, the relevant objectives of the development plan or local area plan concerned, and
 - (ii) relevant guidelines issued by the Minister under section 28 of the Act of 2000,
- and
- (c) the appropriate fee.
- (6) Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the statement provided for the purposes of *subsection (5)(b)(i)* shall indicate why, in the prospective applicant's opinion, permission should nonetheless be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.
- (7) (a) A request under *subsection (1)* shall be made by submitting it to the Board in the form of so many printed copies and copies in a machine readable form on digital devices as are prescribed, together with a separate electronic copy if prescribed;
- (b) When a prospective applicant is making a request to the Board under *subsection (1)*, he or she shall also send a copy of the request to the appropriate planning authority or authorities in whose area or areas the proposed strategic housing development would be situated. It shall be so sent in the form of so many printed copies and copies in a machine readable form on digital devices as are prescribed, together with a separate electronic copy if prescribed.
- (8) Without prejudice to the generality of *subsection (5)(a)(vi)*, the matters that may be the subject of regulations under that subparagraph may include but shall not be limited to a brief description of—
- (a) the proposed types of houses or student accommodation units, or both, as appropriate, and their design, including proposed internal floor areas, housing density, plot ratio, site coverage, building heights, proposed layout and aspect,
 - (b) public and private open space provision, landscaping, play facilities, pedestrian permeability, vehicular access and parking provision, where relevant,
 - (c) the provision of ancillary services, where required, including child care facilities,
 - (d) any proposals to address or, where relevant, integrate the proposed development with surrounding land uses,
 - (e) any proposals to provide for services infrastructure (including water, wastewater and cabling, including broadband provision), and any phasing proposals,

- (f) proposals under Part V of the Act of 2000, where relevant,
- (g) details of protected structures or archaeological monuments included in the Record of Monuments and Places, where relevant, and
- (h) any aspect of the proposed development likely to have significant effects on the environment or significant effects on a European site.

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

6. (1) (a) Within 2 weeks of the date of the receipt by the Board of the request of a prospective applicant under *section 5(1)* to enter into consultations the Board shall either—
- (i) accept the request of the prospective applicant to enter into consultations where it decides that the request has complied with *section 5*, including any regulations made for the purposes of *subsection (5)(a)(vi)* of that section, or
 - (ii) refuse the request of the prospective applicant to enter consultations where—
 - (I) the prospective applicant has not complied with *subsection (2)* of *section 5* or *paragraph (a)* or *(b)* of *subsection (7)* of that section, or
 - (II) the Board decides that the request does not include some or all of the information, statements or appropriate fee to which *subsections (5)* and *(6)* of *section 5* relates.
- (b) In any consultations under *paragraph (a)*, the Board may give advice to the prospective applicant regarding the procedures involved in making a planning application and in considering such an application.
- (2) Where the Board refuses under *subsection (1)(a)(ii)* to consider a request under *section 5(1)* by a prospective applicant to enter into consultations within 2 weeks from the date of the receipt of the request, then the Board shall—
- (a) subject to *subsection (3)*, return to the prospective applicant concerned the copies of the request and statement submitted to it for the purposes of *paragraphs (a)* and *(b)*, respectively, of *section 5(5)*, and
 - (b) give reasons for its decision to the prospective applicant.
- (3) *Subsection (2)* is without prejudice to the Board—
- (a) making a copy of the request,
 - (b) retaining an electronic copy of the request, or
 - (c) by agreement with the prospective applicant concerned, retaining the request, submitted to the Board for the purposes of *section 5(5)(a)*.
- (4) (a) Where *subsection (1)(a)(i)* applies, then within 2 weeks from the date of the receipt by the Board of the request under *section 5(1)* the Board shall notify in writing the prospective applicant and the appropriate planning authority or

planning authorities, as the case may be—

- (i) that the Board has accepted the request made under *section 5(1)*, and
 - (ii) that the Board will convene a consultation meeting between the parties so notified and the Board in the manner provided for by *subsection (5)*.
- (b) Within 2 weeks of the date of the notification under *paragraph (a)*, each planning authority concerned shall submit to the Board—
- (i) copies of all records of the consultation or consultations held with the prospective applicant by that authority pursuant to *section 5(2)*, and
 - (ii) that planning authority's opinion in writing (including the reasons for its opinion) of what considerations, related to proper planning and sustainable development of the area concerned, may have a bearing on the Board's decision in relation to the proposed strategic housing development, in particular, that authority's opinion on the proposed development having regard to the provisions of the relevant development plan or local area plan, as the case may be,

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

- (5) The Board shall convene a consultation meeting—
- (a) to take place within 4 weeks of the date of the receipt by the Board of the request under *section 5(1)*, and
 - (b) to be attended by—
 - (i) (I) the prospective applicant, or one or more persons on his or her behalf, or (II) the prospective applicant and one or more persons nominated by him or her,
 - (ii) the Board, and
 - (iii) subject to *subsection (6)*, each planning authority in whose area the proposed strategic housing development would be situated.
- (6) Each planning authority in whose area the proposed strategic housing development would be situated shall ensure that planning authority officials attending the consultation meeting on its behalf have a sufficient level of relevant knowledge and expertise in the matter concerned.
- (7) Within 3 weeks of the holding, in accordance with *subsection (5)*, of the consultation meeting or, if more than one such meeting, the last of the those meetings, the Board—
- (a) having regard to the consultation that has taken place for the purposes of this section and the submissions under *subsection (4)(b)* of each planning authority concerned, shall form an opinion as to whether the documents referred to in *section 5(5)*—
 - (i) constitute a reasonable basis for an application under *section 4*, or

- (ii) require further consideration and amendment in order to constitute a reasonable basis for an application under *section 4*,
and
 - (b) shall issue a notice accordingly to the prospective applicant and to the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated and, where the Board is of the opinion referred to in *paragraph (a)(ii)*, the Board shall set out in the notice its advice as to the issues that need to be addressed in the documents to which *section 5(5)* relates that could result in them constituting a reasonable basis for an application under *section 4*.
- (8) Following receipt by a prospective applicant of—
- (a) a notice under *subsection (7)*, and
 - (b) where either or both a determination and an opinion have been requested under *section 7(1)*, such a determination or opinion or both,
- the prospective applicant may—
- (i) subject to complying with *section 8(1)* proceed to apply for permission under *section 4(1)*, or
 - (ii) seek a further pre-application consultation with the Board pursuant to the provisions of this section.
- (9) Neither—
- (a) the holding of a consultation under this section, nor
 - (b) the forming of an opinion under this section,
- shall prejudice the performance by the Board, or the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated, of any other of their respective functions under the *Planning and Development Acts 2000 to 2016*, or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.
- (10) The Board may, at its absolute discretion, consult with any person who may, in the opinion of the Board, have information which is relevant for the purposes of consultations under this section in relation to a proposed strategic housing development.
- (11) The Board shall keep a record of any consultations under this section in relation to a proposed strategic housing development, including the names of those who participated in the consultations, and a copy of such record shall be placed and kept with the documents to which any application in respect of that proposed development relates.
- (12) A person shall not question the validity of any steps taken by the Board under this section by reason only that the procedures as set out in *subsection (1), (2), (4), (5) or (7)*, as the case may be, were not completed within the time referred to in the

subsection concerned.

Requests to Board after consultation meeting has been held

7. (1) Following the consultation meeting, a prospective applicant may separately request the Board to do either or both of the following:
- (a) (i) make a determination in relation to a proposed strategic housing development if one or both of the following applies:
 - (I) where the development is of a class standing specified in Part 2 of Schedule 5 to the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) that does not exceed the relevant quantity, area or other limit standing specified in that Part, whether it is likely to have significant effects on the environment;
 - (II) whether the development, individually or in combination with another project, is likely to have a significant effect on a European site;
 - and
 - (ii) inform the prospective applicant of the determination;
 - (b) give to the prospective applicant an opinion in writing prepared by the Board on what information will be required to be contained in an environmental impact statement or Natura impact statement or both of those statements, as the case may be, in relation to the proposed strategic housing development.
- (2) (a) On receipt of a request under either *paragraph (a)* or *(b)* of *subsection (1)*, which shall be accompanied by the appropriate fee, and except where *paragraph (b)* of this subsection applies, the Board shall, after consulting such bodies as may be prescribed for that purpose, comply with the request within 8 weeks of receipt of the request.
- (b) Where a prospective applicant intends to make requests to the Board under *paragraphs (a)* and *(b)* of *subsection (1)*, then such requests shall, unless the Board otherwise approves, be made at the same time and, accordingly, on receipt of such a request the Board—
- (i) shall comply with the request to which *subsection (1)(a)* relates within 8 weeks of its receipt, and
 - (ii) shall then comply with the request to which *subsection (1)(b)* relates within 16 weeks of its receipt.
- (c) A determination made by the Board for the purposes of *subsection (1)(a)(i)*, or an opinion given by the Board for the purposes of *subsection (1)(b)* (including the main reasons and considerations on which the determination or opinion are based, as the case may be) shall be placed and kept with the documents relating to the planning application concerned.
- (3) A person shall not question the validity of a determination by, or opinion of, the Board

under this section by reason only that the procedures as set out in *subsection (2)* were not completed within the time referred to in that subsection.

Requirements relating to application for permission under *section 4*

8. (1) Before an applicant makes an application under *section 4(1)* for permission, he or she shall—
- (a) have caused to be published, in one or more newspapers circulating in the area or areas in which it is proposed to carry out the strategic housing development, a notice—
 - (i) indicating the location and a brief outline of the proposed development, including—
 - (I) the number of proposed houses or student accommodation units, as the case may be, and
 - (II) in the case of student accommodation units, the combined number of bedspaces, and any other uses to which those units may be put,
 - (ii) stating that he or she proposes to make an application to the Board for permission for the proposed development,
 - (iii) specifying—
 - (I) the times and places, including the offices of the Board and the offices of the planning authority or authorities in whose area or areas the proposed development would be situated, and
 - (II) the period of 5 weeks from the receipt by the Board of the application, during which a copy of the application and any environmental impact statement or Natura impact statement or both of those statements, if such is required, may be inspected free of charge or purchased on payment of a specified fee (which fee shall not exceed the reasonable cost of making such copy),
 - (iv) stating that the application contains a statement—
 - (I) setting out how the proposal will be consistent with the objectives of the relevant development plan or local area plan, and
 - (II) where the proposed development materially contravenes the said plan other than in relation to the zoning of the land, indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000,
 - (v) stating that in the case of an application referred to in *subsection (2)*, an environmental impact statement or Natura impact statement or both of those statements, as the case may be, has or have been prepared in respect of the proposed development,

- (vi) where relevant, stating that the proposed development is likely to have significant effects on the environment of a Member State of the European Union or a state that is a party to the Transboundary Convention,
 - (vii) inviting the making, during the period referred to for the purposes of *subparagraph (iii)*, of submissions and observations to the Board, including from the public, relating to—
 - (I) the implications of the proposed development, if carried out, for proper planning and sustainable development in the area or areas concerned, and
 - (II) the likely effects on the environment or the likely effects on a European site, as the case may be, of the proposed development, if carried out,
 - (viii) specifying the types of decision the Board may make, under *section 9*, in relation to the application,
 - (ix) stating that a person may question the validity of a decision of the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with sections 50 and 50A of the Act of 2000, and
 - (x) stating where practical information on the review mechanism can be found,
- (b) have sent a copy in both printed form and electronic form of the application and any environmental impact statement or Natura impact statement or both of those statements, if such is required, to—
- (i) the planning authority or authorities in whose functional area or areas the proposed development would be situated, and
 - (ii) any authorities, which the Minister may prescribe, together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(iii)*, be made in writing to the Board in relation to—
 - (I) the implications of that proposed development, if carried out, for proper planning and sustainable development in the area or areas concerned, and
 - (II) the likely effects on the environment or the likely effects on a European site, as the case may be, of that proposed development, if carried out,
- and
- (c) in the case that the proposed strategic housing development is likely to have significant effects on the environment of a Member State of the European Union or a state that is a party to the Transboundary Convention, have sent a prescribed number of copies of the application and the environmental impact statement to the prescribed authority of the relevant state or states together with a notice stating that submissions or observations may, during the period referred to in *paragraph (a)(iii)*, be made in writing to the Board.

- (2) In the case of a proposed strategic housing development that—
- (a) is of a class specified in regulations made under section 176 of the Act of 2000 and is likely to have significant effects on the environment, or
 - (b) is likely to have a significant effect on a European site,
- the applicant shall prepare, or cause to be prepared, an environmental impact statement or Natura impact statement or both of those statements, as the case may be, in respect of the development.
- (3) (a) The Board may decide to refuse to deal with any application made to it under *section 4(1)* where it considers that the application for permission, or the environmental impact statement or Natura impact statement if such is required, is inadequate or incomplete, having regard in particular to the permission regulations and any regulations made under *section 12*, or section 177 of the Act of 2000, or to any consultations held under *section 6*.
- (b) Where *paragraph (a)* applies, the Board shall, within 2 weeks from the date of the receipt by it of the application—
- (i) return to the applicant concerned—
 - (I) subject to *paragraph (c)*, the originals of any documents or digital devices containing the information prescribed for the purposes of *subsection (1)(a)(iv)* of *section 4*, any environmental impact statement or Natura impact statement, or both of those statements, as the case may be, and any information prescribed under *section 12* to accompany the application, and
 - (II) any fee received from the applicant for the purposes of *section 4(1)(a)(v)*,and
 - (ii) give reasons to the applicant for the Board’s decision to refuse to consider the application.
- (c) *Clause (1)* of *paragraph (b)(i)* is without prejudice to the Board—
- (i) making a copy of a document,
 - (ii) retaining an electronic copy of a document, or
 - (iii) by agreement with the prospective applicant concerned, retaining a document,
- to which that clause relates.
- (4) (a) In this subsection and *subsection (5)* “relevant elected members” means—
- (i) in the case of a local authority referred to in *paragraph (b)*, the elected members of the Area Committee or Area Committees (established under section 50(1) of the Local Government Act 2001) in respect of the area or areas concerned, in which the proposed strategic housing development would

be situated,

- (ii) in the case of any other local authority, the municipal district members for the municipal district or districts, as the case may be, in which the proposed strategic housing development would be situated.
- (b) The local authorities referred to in *paragraph (a)(i)* are as follows:
- (i) Cork City Council;
 - (ii) Dublin City Council;
 - (iii) Dun Laoghaire-Rathdown County Council;
 - (iv) Fingal County Council;
 - (v) Galway City Council;
 - (vi) South Dublin County Council.
- (c) On receipt, under *subsection (1)(b)(i)*, of a copy of the application and any environmental impact statement or Natura impact statement, or both of those statements, the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated shall—
- (i) notify the relevant elected members of the making of that application, the information specified for the purposes of *subsection (1)(a)(iii)* and the information provided for the purposes of *subsection (1)(a)(vii)*, and
 - (ii) at the next meeting of each Area Committee concerned, or of the municipal district members for each municipal district concerned, as appropriate, inform the relevant elected members of—
 - (I) the details of the application,
 - (II) the consultations that have taken place in relation to the proposed development under *sections 5(2)* and *6(5)*,
 - (III) the notice issued by the Board under *section 6(7)*, and
 - (IV) where the meeting concerned takes place after the expiry of the period specified in *subsection (1)(a)(iii)(II)*—
 - (A) information relating to the matters referred to in *subsection (5)(a)(i)*, and
 - (B) where the Chief Executive has formed the views referred to in *subsection (5)(a)(ii)*, such views.
- (5) (a) The planning authority or authorities in whose area or areas the proposed strategic housing development would be situated shall, within 8 weeks from its receipt of a copy of the application under *section 4(1)*, each prepare and submit to the Board a report of its Chief Executive setting out—
- (i) a summary of the points raised in the submissions or observations duly received by the Board in relation to the application,

- (ii) the Chief Executive's views on the effects of that proposed development on the proper planning and sustainable development of the area of the authority and on the environment, having regard in particular to—
 - (I) the matters specified in section 34(2) of the Act of 2000, and
 - (II) submissions and observations duly received by the Board in relation to the application,and
 - (iii) where the meeting or meetings referred to in *subsection (4)(c)(ii)* has or have taken place, a summary of the views of the relevant elected members on that proposed development as expressed at such meeting or meetings,and, for the above purposes, the Board shall send to each planning authority concerned copies of any submissions and observations duly received by the Board in relation to the application according as they are received.
- (b) In the report referred to in *paragraph (a)* the planning authority shall—
 - (i) set out the authority's opinion as to whether the proposed strategic housing development would be consistent with the relevant objectives of the development plan or local area plan, as the case may be,
 - (ii) include a statement as to whether the authority recommends to the Board that permission should be granted or refused, together with the reasons for its recommendation, and
 - (iii) specify in the report—
 - (I) where the authority recommends that permission be granted, the planning conditions (if any), and the reasons and grounds for them, that it would recommend in the event that the Board decides to grant permission, or
 - (II) if appropriate in the circumstances, where the authority recommends that permission be refused, the planning conditions, and the reasons and grounds for them, that it would recommend in the event that the Board decides to grant permission.
- (6) In addition to the report referred to in *subsection (5)*, the Board may, where it considers it necessary to do so, require the planning authority or authorities referred to in that subsection or any planning authority or authorities on whose area or areas it would have a significant effect to furnish to the Board such information in relation to the effects of the proposed strategic housing development on the proper planning and sustainable development of the area concerned and on the environment as the Board may specify.
- (7) A person shall not question the validity of a decision of the Board under this section by reason only that the procedures as set out in *subsection (3)* were not completed within the time referred to in that subsection.

Decisions by Board on applications under section 4

9. (1) The Board shall, before making a decision to which *subsection (4)* relates in respect of the proposed strategic housing development, consider—
- (a) (i) the report of the planning authority or, where the proposed development is in the area of more than one planning authority, the report of each such authority submitted in accordance with *section 8(5)*,
 - (ii) any submissions or observations duly received by the Board consequent on—
 - (I) the publication of a notice pursuant to *paragraph (a)(vii)* of *section 8(1)*,
or
 - (II) the sending of a notice pursuant to *subparagraph (ii)* of *paragraph (b)*,
or to *paragraph (c)*, of *section 8(1)*,and
 - (iii) any other relevant information,
in so far as they relate to—
 - (A) the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the development,
 - (B) the likely effects on the environment or the likely effects on a European site, as the case may be, of the proposed development, if carried out,
 - (b) where required, an environmental impact statement or Natura impact statement or both of those statements, as the case may be, submitted to the Board pursuant to *section 8(2)*, and
 - (c) any report or recommendation prepared in relation to the application in accordance with *section 146* of the Act of 2000, including the report of the person conducting any oral hearing of the proposed development.
- (2) In considering the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the strategic housing development, the Board shall have regard to—
- (a) the provisions of the development plan, including any local area plan if relevant, for the area,
 - (b) any guidelines issued by the Minister under *section 28* of the Act of 2000,
 - (c) the provisions of any special amenity area order relating to the area,
 - (d) if the area or part of the area is a European site or an area prescribed for the purposes of *section 10(2)(c)* of the Act of 2000, that fact,
 - (e) if the proposed development would have an effect on a European site or an area prescribed for the purposes of *section 10(2)(c)* of the Act of 2000, that fact,
 - (f) the matters referred to in *section 143* of the Act of 2000, and

- (g) the provisions of the *Planning and Development Acts 2000 to 2016* and regulations made under those Acts where relevant.
- (3) (a) When making its decision in relation to an application under this section, the Board shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister under section 28 of the Act of 2000.
- (b) Where specific planning policy requirements of guidelines referred to in *paragraph (a)* differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.
- (c) In this subsection “specific planning policy requirements” means such policy requirements identified in guidelines issued by the Minister to support the consistent application of Government or national policy and principles by planning authorities, including the Board, in securing overall proper planning and sustainable development.
- (4) The Board may, in respect of an application under *section 4* for permission for the proposed strategic housing development, decide to—
- (a) grant permission for the proposed development,
- (b) grant permission for the proposed development subject to such modifications to the proposed development as it specifies in its decision,
- (c) grant permission, in part only, for the proposed development, with or without any other modifications it may specify in its decision, or
- (d) refuse to grant permission for the proposed development,
- and may attach to a permission under *paragraph (a), (b) or (c)* such conditions as it considers appropriate.
- (5) Where the Board did not exercise its functions under *section 8(3)* to refuse to deal with an application, then nothing in that subsection shall be read so as to prevent the Board from refusing to grant permission for a proposed strategic housing development in respect of an application under *section 4* where the Board considers that development of the kind proposed would be premature by reference to the inadequacy or incompleteness of the environmental impact statement or Natura impact statement submitted with the application for permission, if such is required.
- (6) (a) Subject to *paragraph (b)*, the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under *section 4* even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned.
- (b) The Board shall not grant permission under *paragraph (a)* where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land.
- (c) Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation

to the zoning of the land, then the Board may only grant permission in accordance with *paragraph (a)* where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development.

- (7) Without prejudice to the generality of the Board's powers to attach conditions under *subsection (4)*, the Board may attach either or both of the following to a permission for the development concerned:
- (a) a condition with regard to any of the matters specified in section 34(4) of the Act of 2000;
 - (b) a condition requiring the payment of a contribution or contributions of the same kind as the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated could, but for this Part, require to be paid under section 48 or 49 (or both) of the Act of 2000 were that authority to grant the permission (and the scheme or schemes referred to in the said section 48 or 49, as appropriate, made by that authority shall apply to the determination of such contribution or contributions).
- (8) The conditions attached under this section to a permission may provide that points of detail relating to the grant of the permission may be agreed between the planning authority or authorities in whose functional area or areas the development will be situated and the person carrying out the development. If that authority or those authorities and that person cannot agree on the matter the matter may be referred to the Board for determination.
- (9) The Board shall make its decision under this section on an application under *section 4—*
- (a) where no oral hearing is held, within 16 weeks beginning on the day the planning application was lodged with the Board or within such other period as may be prescribed under *subsection (10)*,
 - (b) where an oral hearing is held, within such period as may be prescribed.
- (10) The Minister may by regulations extend the period referred to in *subsection (9)(a)*, where it appears to him or her to be necessary, by virtue of exceptional circumstances, to do so and, for so long as the regulations are in force, this section shall be construed and have effect in accordance therewith.
- (11) The Board may, at any time after the expiration of the period specified in *section 8(5)(a)*, make its decision under this section on the application.
- (12) The Board shall include in each report made under section 118 of the Act of 2000 a statement of—
- (a) the number of matters which the Board has determined within each of the periods referred to in *paragraphs (a) and (b) of subsection (9)*, and
 - (b) the number and the aggregate amount of all sums paid (if any) by the Board under *subsection (13)*,

together with such other information as to the time taken to determine such matters as the Minister may direct.

- (13) (a) Where the Board has failed to make a decision under this section in relation to an application within the period specified in *subsection (9)(a)* or as may be prescribed under *subsection (9)(b)* or *(10)* as appropriate and becomes aware, whether through notification by the applicant or otherwise, that it has so failed, the Board shall proceed to make the decision notwithstanding that the period has expired.
 - (b) Where the Board fails to make a decision within the period referred to in *paragraph (a)*, it shall pay the appropriate sum to the applicant.
 - (c) Any payment due to be paid under this subsection shall be paid as soon as may be and in any event not later than 4 weeks after it becomes due.
 - (d) In this subsection “appropriate sum” means a sum which is equal to the lesser amount of 3 times the fee paid by the applicant to the Board in respect of his or her application for permission or €10,000.
- (14) Without prejudice to the generality of section 18(a) of the Interpretation Act 2005, a reference, however expressed, in this section, *sections 4 to 8* or in regulations made under *section 12* to the area in which the proposed strategic housing development would be situated includes, if the context admits, a reference to the 2 or more areas in which that development would be situated and cognate references shall be construed accordingly.
- (15) A person shall not question the validity of a decision of the Board under this section by reason only that the procedures as set out in *subsection (9)* were not completed within the time provided for by that subsection.
- (16) The failure by the planning authority concerned to comply with the requirement to prepare and submit to the Board a report, under *subsection (5)* of *section 8*, within the time limits provided for by that subsection shall not prevent the Board from proceeding to make its decision under this section.

Supplemental provisions to *section 9*

- 10.** (1) The Board shall send a copy of a decision under *section 9* to the applicant, to any planning authority in whose area the proposed strategic housing development would be situated and to any person who made submissions or observations on the application for permission.
- (2) (a) The Board shall cause to be published in one or more newspapers circulating in the area a notice informing the public of a decision under *section 9*.
- (b) The notice shall state that a person may question the validity of any such decision by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with sections 50 and 50A of the Act of 2000.

- (c) The notice shall identify where practical information on the review mechanism can be found.
- (3) A decision of the Board to grant a permission under *section 9(4)* shall state—
 - (a) the main reasons and considerations on which the decision is based,
 - (b) where the Board grants a permission in accordance with *section 9(6)(a)*, the main reasons and considerations for contravening materially the development plan or local area plan, as the case may be, and
 - (c) where conditions are imposed in relation to the grant of any permission, the main reasons for imposing them.
 - (4) A grant of permission under *section 9(4)* shall be furnished to the applicant as soon as may be after the making of the relevant decision.
 - (5) (a) No permission under section 34 of the Act of 2000 shall be required for any development in respect of which approval has been granted under *section 9*.
 - (b) Part VIII of the Act of 2000 shall apply to any case where a strategic housing development is carried out otherwise than in compliance with a permission under *section 9* or any condition to which the permission is subject as it applies to any unauthorised development with the modification that a reference in that Part to a permission shall be construed as a reference to a permission granted under *section 9*.
 - (6) A person shall not be entitled solely by reason of a permission under *section 9* to carry out any development.

Strategic Housing Division

- 11. (1) A division of the Board, to be known as the Strategic Housing Division, is established on the commencement of this section.
- (2) The Strategic Housing Division is in addition to any division for the time being constituted under section 112 of the Act of 2000 and to the Strategic Infrastructure Division.
- (3) The Strategic Housing Division shall, subject to *subsections (8), (9) and (10)*, determine any matter falling to be determined by the Board under the *Planning and Development Acts 2000 to 2016* in relation to strategic housing development other than development to which *section 4(4)* relates.
- (4) For the purpose of *subsection (3)*, the Strategic Housing Division has all the functions of the Board.
- (5) The Strategic Housing Division consists of 4 members, nominated by the chairperson of the Board to be, for the time being, members of the Division.
- (6) The chairperson of the Board shall appoint one of the members of the Strategic Housing Division to be, for the time being, the chairperson of that Division.

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

Regulations (*sections 4 to 10*)

12. (1) The Minister may make regulations to provide for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of matters to which *sections 4 to 10* relate, including—
- (a) consultations with planning authorities for the purposes of *section 5(2)*,
 - (b) conducting consultations and forming an opinion under *section 6*,

- (c) making determinations and giving a written opinion under *section 7*,
 - (d) applications for permission under *section 4*, and
 - (e) decisions under *section 9*.
- (2) Without prejudice to the generality of *subsection (1)*, regulations under that subsection may provide for the following matters:
- (a) the procedure for the making of an application under *section 4*, including the erection or fixing of a site notice, the giving of public notice and the making of applications in electronic form or otherwise;
 - (b) the proportion of the fee payable to the Board under section 144(1A)(b) of the Act of 2000 in respect of an application under *section 4* that shall, on the making of a decision under *section 9* on the application, be paid by the Board to the planning authority or authorities concerned, as the case may be, and the circumstances in which the Board shall not pay any proportion of the fee to such planning authority or authorities;
 - (c) the making available for inspection in electronic form by members of the public, at the offices of the Board or the relevant planning authority or authorities in whose area or areas the development will be situated, of any specified documents, particulars, plans or other information with respect to applications under *section 4*;
 - (d) the making of submissions or observations to the Board in relation to applications under *section 4*;
 - (e) requiring the Board to publish, or give notice in respect of, its decision regarding the proposed strategic housing development for which permission is sought, including the giving of notice thereof to prescribed bodies and to persons who made submissions or observations in the prescribed manner.

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

13. Section 2 of the Act of 2000 shall have effect in subsection (1) during the specified period—
- (a) as if “, or *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “or 37N” in the definition of “permission”,
 - (b) as if “, or *section 12* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “or 174” in the definition of “permission regulations”,
 - (c) as if the following were inserted after subparagraph (a) in the definition of “strategic infrastructure development”:
 - “(aa) any proposed development referred to in *section 4* (other than development in respect of which an election has been exercised under *subsection (4)* of that section) of the *Planning and Development (Housing) and Residential*

Tenancies Act 2016,”

(d) as if the following definition were inserted after the definition of “structure”:

“ ‘student accommodation’—

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

(i) as permanent residential accommodation, or

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

and

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

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

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

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

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

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

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

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

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

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

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

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

16. Section 104 of the Act of 2000 has effect during the specified period as if—
- (a) in subsection (2), “, or *Part 2* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “of the Act of 2001”, and
 - (b) in subsection (2A), “, or *Part 2* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*, ” were inserted after “of the Act of 2001”.

Construction of section 125 (appeals, referrals and applications with which the Board is concerned) of Act of 2000 during specified period

17. Section 125 of the Act of 2000 has effect during the specified period as if the following were substituted for paragraph (b):
- “(b) (i) to the extent provided, to applications made to the Board under section 37E or section 37L,
 - (ii) except where otherwise provided for by the *Planning and Development (Housing) and Residential Tenancies Act 2016*, to applications made to the Board under *section 4* of that Act, and
 - (iii) to any other matter with which the Board may be concerned.”.

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

18. Section 134 of the Act of 2000 has effect during the specified period—
- (a) as if the following were substituted for subsection (1):
 - “(1) (a) The Board may in its absolute discretion, hold an oral hearing of an appeal, a referral under section 5, an application under section 37E or, subject to paragraph (b), an application under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*.
 - (b) Before deciding if an oral hearing for an application under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016* should be held, the Board—
 - (i) shall have regard to the exceptional circumstances requiring the urgent delivery of housing as set out in the Action Plan for Housing and Homelessness, and
 - (ii) shall only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.
 - (c) In paragraph (b) ‘Action Plan for Housing and Homelessness’ means the document entitled ‘Rebuilding Ireland - Action Plan for

Housing and Homelessness’ published by the Government on 19 July 2016.”,

- (b) as if in subsection (2)(a) “, or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “section 37E” where it first occurs,
- (c) as if in subsection (2)(a) “or under the said *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “section 37E” where it last occurs,
- (d) as if in subsection (2)(c)(iii) “, or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “section 254(6)”,
- (e) as if in subsection (2)(d) “or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “section 37E” where it first occurs,
- (f) as if in subsection (2)(d) there were inserted the following after subparagraph (ii):
 - “(iii) in respect of an application under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*, within the period specified in a notice under *section 8* of that Act within which the person may make submissions or observations to the Board in relation to the application,”
- (g) as if in subsection (3)(a) “or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “section 37E”, and
- (h) as if in subsection (4)(b)(i) “or under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “section 37E”.

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

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

- (a) as if in paragraph (b) “or for any strategic housing development (within the meaning of *section 3* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*)” were inserted after “for any strategic infrastructure development”,
- (b) as if in paragraph (c) “or a request for a consultation under *section 5* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “the Act of 2001”,
- (c) as if there were inserted the following after paragraph (d):
 - “(da) a request for a determination under *section 7(1)(a)* of the *Planning*

and Development (Housing) and Residential Tenancies Act 2016;”,

(d) as if in paragraph (e) “or under *section 7(1)(b)* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “*section 173(3)*,”,

(e) as if there were inserted the following after paragraph (e):

“(ea) a request for an opinion in writing on what information will be required to be contained in a Natura impact statement under *section 7(1)(b)* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,”,

and

(f) as if in paragraph (j) “*section 8* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*,” were inserted after “or 226,”.

Construction of section 172 (requirement for environmental impact statement) of Act of 2000 during specified period

20. Subsection (1A) of section 172 of the Act of 2000 has effect during the specified period as if in paragraph (a)(i) there were inserted the following after clause (III):

“(IIIA) development to which *Chapter 1 of Part 2* of the *Planning and Development (Housing) and Residential Tenancies Act 2016* relates;”.

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

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

Construction of sections 176A, 176B and 176C (screening for environmental impact assessment) of Act of 2000 during specified period

22. Sections 176A, 176B and 176C shall not apply during the specified period to a proposed strategic housing development in respect of which a prospective applicant has, in accordance with *section 7(1)(a)*, requested the Board to make a determination whether it is likely to have significant effects on the environment.

Construction of section 177R (interpretation) of Act of 2000 during specified period

23. Subsection (1) of section 177R of the Act of 2000 has effect during the specified period as if in paragraph (a) of the definition of “proposed development” there were inserted the following after subparagraph (iii):

“(iiia) development to which *Chapter 1 of Part 2* of the *Planning and*

Development (Housing) and Residential Tenancies Act 2016 relates;”.

Construction of section 191 (right to compensation) of Act of 2000 during specified period

24. Section 190 of the Act of 2000 has effect during the specified period as if in subsection (1) “or an application for permission under *section 4* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*” were inserted after “under Part III”.

Construction of the Fourth Schedule (reasons for the refusal of permission which exclude compensation) to Act of 2000 during specified period

25. The Fourth Schedule to the Act of 2000 has effect during the specified period as if the following were inserted after paragraph 18:

“18A. In the case of a proposed strategic housing development (within the meaning of *Chapter 1* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*), the environmental impact statement or Natura impact statement, or both, submitted with the application for permission under *section 4* of that Act is or are inadequate or incomplete.”.

CHAPTER 2

Environmental impact assessment – screening

Screening for environmental impact assessment

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

“Application for screening for environmental impact assessment

176A.(1) In this section—

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

‘screening for environmental impact assessment’ means a determination—

- (a) as to whether a proposed development would be likely to have significant effects on the environment, and
- (b) if the development would be likely to have such effects, that an environmental impact assessment is required.
- (2) (a) Subject to section 176B, where a proposed development is of a class standing specified in Part 2 of Schedule 5 to the Planning and Development Regulations 2001 and does not exceed the relevant quantity, area or other limit standing specified in that Part, an application for a screening for environmental impact assessment in

respect of that development may be submitted to the planning authority in whose area the development would be situated.

- (b) Subject to section 176B, where a proposed development is of a class standing prescribed under section 176 for the purposes of this paragraph, an application for a screening for environmental impact assessment in respect of that development shall be submitted to the planning authority in whose area the development would be situated.
- (3) An application under subsection (2) shall contain—
- (a) the name and address of the applicant,
 - (b) where the applicant is not the owner or occupier of the land the subject of the proposed development, the name and address of the owner and, where the owner is not the occupier of the land, the occupier,
 - (c) a location map for the proposed development,
 - (d) a description of the nature and extent of the proposed development and its likely effects on the environment, and
 - (e) any such other information as may be prescribed by the Minister,
- and be accompanied by such fee as may be prescribed under section 246(1)(ca).
- (4) For the purposes of enabling a planning authority to carry out a screening for environmental impact assessment on foot of an application under subsection (2), the authority may do either or both—
- (a) seek further information that it considers necessary from the applicant or any other person that the authority considers appropriate, and
 - (b) consult any body prescribed by the Minister for the purposes of this subsection and consider any views of that body,
- and, where paragraph (a) or (b) applies, the authority shall specify the period within which the information or views concerned are required to be received by the authority.
- (5) Where the applicant is not the owner or occupier of the land the subject of the proposed development, the planning authority concerned shall invite in writing—
- (a) the owner to make a submission on an application made under subsection (2), and
 - (b) where the owner is not the occupier of the land, the occupier of that land to make such a submission,

and, where paragraph (a) or (b) applies, the authority shall specify the period within which the submission or submissions is or are required to be received by the authority.

- (6) A planning authority may reject an application under subsection (2) if in the opinion of the authority the application is incomplete in any material detail.
- (7) Where a planning authority rejects an application in accordance with subsection (6) it shall—
- (a) subject to subsection (8), return the documents to which subsection (3) relates to the applicant, together with any fee received from the applicant, and

- (b) give reasons for its decision to the applicant,

and, where the applicant is not the owner or occupier of the land the subject of the proposed development, the planning authority shall also notify the owner and, where the owner is not the occupier of the land, the occupier of its decision under subsection (6).

- (8) Subsection (7) is without prejudice to the planning authority—
- (a) making a copy of a document,
- (b) retaining an electronic copy of a document, or
- (c) by agreement with the applicant concerned, retaining a document, to which that subsection relates.

Screening for environmental impact assessment

176B.(1) A planning authority shall, where appropriate, carry out screening for appropriate assessment in respect of a proposed development as provided for by section 177U(10) at the same time as carrying out a screening for environmental impact assessment (within the meaning of section 176A(1)) in respect of the development under subsection (2).

- (2) Subject to subsection (1), a planning authority shall, on foot of an application under subsection (2) of section 176A and to which subsections (6) and (7) of that section do not relate, carry out a screening for environmental impact assessment (within the meaning of section 176A(1)) in respect of the proposed development—

- (a) where further information, views or submissions—

- (i) are duly sought by the planning authority under subsection (4) or (5) of section 176A, and

- (ii) are duly received by the authority within the period specified under the said subsection (4) or (5),

within the period of 3 weeks from the date that such information,

views or submissions are so received, or

- (b) where further information, views or submissions are not sought by the planning authority under subsection (4) or (5) of section 176A, as the case may be, within the period of 4 weeks from the receipt of the application under section 176A(2).
- (3) Before making a decision on an application under section 176A(2), the planning authority shall—
- (a) consider the criteria for determining whether a development would or would not be likely to have significant effects on the environment, as set out in Schedule 7 to the Planning and Development Regulations 2001, and
 - (b) have regard to any information, views or submissions received in accordance with section 176A(4) and, where relevant, section 176A(5).
- (4) A planning authority shall give notice in writing of its screening determination for environmental impact assessment (within the meaning of section 176A(1)) made under this section to—
- (a) the applicant,
 - (b) any person or body consulted under section 176A(4), and
 - (c) where section 176A(5) applies, either or both the owner and the occupier, as appropriate in the circumstances,
- and the notice shall include—
- (i) the planning authority's reasons for that decision, and
 - (ii) information concerning referral of the determination to the Board for review under section 176C.
- (5) A planning authority shall publish the screening determination for environmental impact assessment (within the meaning of section 176A(1)), either or both—
- (a) on its website, and
 - (b) in a newspaper circulating in the area where the proposed development would be situated,
- together with a notice—
- (i) stating that the determination may be referred to the Board for review by—
 - (I) the applicant,
 - (II) the owner of the land, where he or she is not the applicant,
 - (III) the occupier of the land, where he or she is not the applicant or

the owner of the land, and

- (IV) any person or body consulted by the planning authority about the application,
- (ii) stating that a person may question the validity of either or both—
 - (I) the screening determination for environmental impact assessment by the planning authority, and
 - (II) any determination by the Board of the said screening determination,

by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with sections 50 and 50A of the Act of 2000, and
- (iii) identifying where practical information on the mechanism for questioning the validity of the determination can be found.

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

- 176C.** (1) Where a screening determination for environmental impact assessment (within the meaning of section 176A(1)) is made by a planning authority under section 176B, any person to whom subsection (4) or (5) of that section relates may, within 3 weeks of the issuing of the determination and on payment to the Board of the appropriate fee, refer the determination for review (in this section referred to as a ‘determination review’) by the Board.
- (2) Without prejudice to section 176B, where an application was made under section 176A and no screening determination for environmental impact assessment (within the meaning of section 176A(1)) has been issued by a planning authority within the appropriate period of time provided for by section 176B(2), then—
- (a) the person who made the application may—
 - (i) within the period of 3 weeks after the latest date by which that determination was due to be issued under section 176B(2), and
 - (ii) on payment to the Board of the appropriate fee,

refer the application in question to the Board (which act is in this section referred to as an ‘application referral’) for determination, and
 - (b) the authority concerned shall repay to the applicant the fee paid to the authority in accordance with section 176A(3).
- (3) Where a determination to which subsection (1) relates or an application to which subsection (2) relates is referred to the Board

under either of those subsections, the person so referring shall give notice to that effect to the planning authority concerned, and accordingly that authority shall forthwith forward to the Board—

- (a) a copy of the application submitted to the authority under paragraph (a) or (b) of section 176A(2) and any determination made, and
 - (b) any information, views or submissions received in accordance with section 176A(4) and, where relevant, section 176A(5) in respect of the application to the planning authority.
- (4) The Board shall, where appropriate, carry out screening for appropriate assessment in respect of the proposed development as provided for by section 177U(10) at the same time as making a determination under this section in respect of the development.
- (5) Before making a determination under this section, the Board shall—
- (a) consider the criteria for determining whether a development would or would not be likely to have significant effects on the environment, as set out in Schedule 7 to the Planning and Development Regulations 2001, and
 - (b) have regard to any information, views or submissions made in accordance with subsection (4) of section 176A and, where relevant, subsection (5) of that section and any determination made by the planning authority under section 176B.
- (6) The Board shall make a determination on the determination review or the application referral—
- (a) within 5 weeks of receiving from the planning authority the documents to which subsection (3) relates, or
 - (b) where the Board requests from the applicant, or any other person that it considers appropriate, further information with regard to the determination review or application referral in order to enable the Board to make a determination and specifies the period within which the information or views concerned are required to be received by the Board, within 4 weeks of the due receipt of the further information.
- (7) A determination review or a determination on foot of an application referral under this section shall consist of a determination by the Board—
- (a) as to whether a proposed development would be likely to have significant effects on the environment, and
 - (b) if the development would be likely to have such effects, that an environmental impact assessment is required.

- (8) The Board shall give notice in writing of its determination under this section to—
- (a) the planning authority,
 - (b) the applicant,
 - (c) any person or body consulted under section 176A(4),
 - (d) where section 176A(5) applies, either or both the owner and the occupier, as appropriate in the circumstances, and
 - (e) any other person, requested by the Board under subsection (6)(b) to provide further information with regard to the determination review or application referral,
- by issuing in writing to each of them a notice to that effect and the notice shall include the Board's reasons for that decision.
- (9) On notification by the Board of a determination under this section, the planning authority shall publish the determination, either or both—
- (a) on its website, and
 - (b) in a newspaper circulating in the area where the proposed development would be situated,
- together with a notice—
- (i) indicating the place or places at which the documents relating to the making of its determination are available for inspection and purchase by members of the public and, where applicable, the availability of the said documents for inspection by electronic means,
 - (ii) stating that a person may question the validity of the determination by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with sections 50 and 50A of the Act of 2000, and
 - (iii) identifying where practical information on the mechanism for questioning the validity of the determination can be found.
- (10) The Board shall—
- (a) keep a record of any determination made by it under this section and the main reasons and considerations on which its determination was based,
 - (b) from time to time, but at least once in every year, forward to each planning authority a copy of the record referred in paragraph (a), and
 - (c) make the record available for purchase and inspection during office hours or available on its website or both,

and, where the record specified in paragraph (a) is made available for purchase and inspection, the Board may charge a specified fee as determined pursuant to section 144(1A)(ha) but such fee shall not exceed the cost of making the copy.”.

Consequential amendments (Chapter 2) to Act of 2000

27. The Act of 2000 is amended—

(a) in subsection (2) of section 7 by substituting the following for paragraph (bb):

“(bb) where applicable—

(i) a screening determination for environmental impact assessment (within the meaning of section 176A(1)) and the reasons therefor, or

(ii) the outcome of screening for appropriate assessment and the reasons therefor,”

(b) in subsection (1A) of section 144 by inserting the following after paragraph (h):

“(ha) a determination review or an application referral under section 176C;”,

(c) in subsection (2) of section 176 by inserting the following after paragraph (d):

“(da) the carrying out of a screening for environmental impact assessment (within the meaning of section 176A), or a determination review or application referral (within the meaning of section 176C);”,

(d) in section 177U by inserting the following after subsection (9):

“(10) In deciding upon an application under section 176A or a determination review or an application referral under section 176C, a planning authority or the Board, as the case may be, shall, where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.”,

and

(e) in subsection (1) of section 246 by inserting the following after paragraph (c):

“(ca) the payment to planning authorities of prescribed fees in relation to applications for determinations under section 176A,”.

CHAPTER 3

Miscellaneous constructions and amendments to Planning and Development Act 2000

Amendment, etc., of section 42 (power to extend appropriate period) of Act of 2000

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

(a) in subsection (1)—

- (i) by substituting “Subject to subsection (8), on application to it in that behalf” for “On application to it in that behalf”,
- (ii) in paragraph (a)(ii) by inserting “and” at the end of clause (II), substituting “section,” for “section, and” in clause (III) and deleting clause (IV), and
- (iii) by inserting the following after paragraph (a):

“(aa) an environmental impact assessment or an appropriate assessment, or both of those assessments, were not required before the permission was granted,”,

and

(b) by inserting the following after subsection (7):

“(8) Subparagraph (ii) of subsection (1)(a) does not apply in the case of a permission granted under *section 9* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*.”.

(2) During the period from the passing of this Act until 31 December 2021, section 42 of the Act of 2000 has effect—

(a) as if the following subsection were inserted after subsection (1):

“(1A) (a) Notwithstanding anything to the contrary in subsection (1) or (4), a planning authority shall—

- (i) as regards a particular permission in respect of a development of the type referred to in subsection (1)(a)(i) that relates to 20 or more houses and in respect of which an environmental impact assessment or an appropriate assessment, or both of those assessments, were not required before the permission was granted, and

(ii) upon application being duly made to the authority,

further extend the appropriate period by such additional period not exceeding 5 years, or until 31 December 2021, whichever first occurs, but the authority shall only so extend that period where the authority—

- (I) considers it requisite to enable the development to which the permission relates to be completed,

- (II) is satisfied that the application is in accordance with such regulations under the *Planning and Development Acts 2000 to 2016* as apply to the application,
- (III) is satisfied that any requirements of, or made under those regulations are complied with as regards the application, and
- (IV) is satisfied that in the case of a permission—
 - (A) where the expiry of the appropriate period as extended occurred or occurs during the period from 19 July 2016 to the day preceding the day that *section 28* of the *Planning and Development (Housing) and Residential Tenancies Act 2016* comes into operation, the application is duly made within 6 months of the said commencement date, and
 - (B) where the appropriate period as extended has not expired on the date of the commencement of *section 28* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*, the application is duly made prior to the end of the expiration of the period by which the appropriate period was extended.”,
- (b) as if in subsection (2) there were substituted “subsection (1) or (1A)” for “subsection (1)”, and
- (c) as if in subsection (4) there were substituted “Except where subsection (1A) applies, a decision” for “A decision”.

Amendment of section 179 (local authority own development) of Act of 2000**29.** Section 179 of the Act of 2000 is amended—

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

PART 3

AMENDMENTS TO RESIDENTIAL TENANCIES ACT 2004

Definition (*Part 3*)

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

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

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

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

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

Amendment of section 12 (obligations of landlords) of Act of 2004

33. Section 12 of the Act of 2004 is amended in subsection (1) by substituting “complaint,” for “complaint.” in paragraph (h)(iii) and inserting the following paragraph after paragraph (h):

“(i) in the case of a tenancy of a dwelling in a rent pressure zone (within the meaning given in section 19(7)), where the tenancy commences on or after the commencement of *section 33* of the *Planning and Development (Housing) and Residential Tenancies Act 2016*, furnish the tenant, in writing, with the following information at the commencement of the tenancy:

- (i) the amount of rent that was last set under a tenancy for the dwelling;
- (ii) the date the rent was last set under a tenancy for the dwelling;
- (iii) a statement as to how the rent set under the tenancy of the dwelling has been calculated having regard to section 19(4).”.

Amendment of section 19 (setting of rent above market rent prohibited) of Act of 2004

34. Section 19 of the Principal Act is amended by inserting the following subsections after subsection (2):

“(3) The setting of the rent under the tenancy of a dwelling that is carried out on or after the relevant date shall be subject to subsections (4) to (7).

(4) Subject to subsection (5), in setting, at any particular time, the rent

under a tenancy of a dwelling in a rent pressure zone, an amount of rent shall not be provided for that is greater than the amount determined by the formula—

$$R \times (1 + 0.04 \times t/m)$$

where—

m is—

(a) 24, where section 24C(1)(a) applies, or

(b) 12, in any other case,

R is the amount of rent last set under a tenancy for the dwelling,

t is the number of months between—

(a) (i) the date the current rent came into effect under a tenancy for the dwelling, or

(ii) where paragraph (a) does not apply but the dwelling was previously let, other than in circumstances to which subsection (5) applies, the date rent became payable under a tenancy for the dwelling as last so let,

and

(b) the date the rent for the tenancy of the dwelling will come into effect after its determination under this subsection.

(5) Subsection (4) does not apply—

(a) where a dwelling has not at any time been the subject of a tenancy during the period of 2 years prior to the date the area is prescribed under section 24A as a rent pressure zone or deemed to be so prescribed;

(b) if, in the period since the rent was last set under a tenancy for the dwelling—

(i) a substantial change in the nature of the accommodation provided under the tenancy occurs, and

(ii) the rent under the tenancy, were it to be set immediately after that change, would, by virtue of that change, be different to what was the market rent for the tenancy at the time the rent was last set under a tenancy for the dwelling.

(6) Where immediately before the relevant date a notice under section 22(2)—

(a) has been served on the tenant, or

(b) the rent review concerned has commenced,

then subsections (3) and (4) shall not apply to the new rent, referred to in section 22(2), stated in that notice in accordance with that section.

(7) In this section—

‘relevant date’ means the date *section 33* of the *Planning and Development (Housing) and Residential Tenancies Act 2016* comes into operation;

‘rent pressure zone’ means an area—

- (a) prescribed by the Minister by order under section 24A as a rent pressure zone under that section, or
- (b) in respect of an area to which section 24B relates, deemed to be so prescribed by the Minister under section 24A.”.

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

35. Section 22 of the Act of 2004 is amended in subsection (2A)—

- (a) by substituting “paragraph (c)” for “paragraph (d)” in paragraph (d), and
- (b) by deleting “and” where it last occurs in paragraph (d), substituting “signed, and” for “signed.” in paragraph (e) and inserting the following paragraph after paragraph (e):

“(f) where the dwelling is in a rent pressure zone (within the meaning given in section 19(7)), state how the rent set under the tenancy was calculated having regard to section 19(4) or, where section 19(4) does not apply, state why it does not apply.”.

Rent pressure zones and areas deemed to be rent pressure zones

36. The Act of 2004 is amended by inserting the following sections after section 24:

“Rent pressure zones

24A. (1) The Housing Agency, following consultation with the relevant housing authority, may make a proposal in writing to the Minister that an area be prescribed by order as a rent pressure zone.

(2) As soon as practicable, but no later than 1 week after the date of receipt of the proposal under subsection (1), the Minister shall request the Director to make a report to the Minister (in this section referred to as a ‘rent zone report’), in such form as the Minister may approve, on whether, in so far as the area the subject of the proposal is concerned, the criteria specified in subsection (4) for designation as a rent pressure zone are satisfied.

(3) Within 2 weeks after the date that the Minister made the request under subsection (2), the Director shall furnish the Minister with the rent zone report.

- (4) In making a rent zone report to the Minister, the Director shall confirm whether or not the following criteria have been met—
- (a) the information relating to the area concerned, as determined by reference to the information used to compile each Rent Index quarterly report, shows that the annual rate of increase in the average amount of rent for that area is more than 7 per cent in each of at least 4 of the 6 quarters (each being a period of 3 months that is contemporaneous with the period to which the Rent Index quarterly report concerned relates) preceding the period immediately prior to the date of the proposal by the Housing Agency to the Minister under subsection (1), and
 - (b) the average rent for the area in the last quarter, as determined by reference to the manner referred to in paragraph (a), is above the average national rent (commonly referred to as the Rent Index national standardised rent) in the last quarter.
- (5) Where the Minister receives a rent zone report from the Director and the report confirms that the criteria in subsection (4) are satisfied, the Minister shall by order prescribe the area as a rent pressure zone for a specified period not exceeding 3 years.
- (6) Where a local electoral area is prescribed by order as a rent pressure zone and, subsequently, any local electoral areas are duly amended in a manner that affects the area of the local electoral area so prescribed, then the order shall continue to have effect as if the local electoral area concerned had not been so amended.
- (7) The Minister may, on a recommendation from the Housing Agency, by order revoke an order made under subsection (5) or a deemed order under section 24B and, accordingly, section 8(3) does not apply to any such order or deemed order.
- (8) In making a recommendation under subsection (7), the Housing Agency shall consider and provide a report to the Minister, on such matters as may be prescribed having regard to—
- (a) the operation of the rental market,
 - (b) the operation of the housing market, and
 - (c) changes in rent levels in the period since the area concerned was designated as a rent pressure zone;
- and, before making such a recommendation and providing a report under this subsection, the Housing Agency shall consult with the Board and the housing authority concerned on the matter.
- (9) The Board shall publish, in such manner as it thinks fit, a notice of the making of an order by the Minister under subsection (5) or (7).

(10) In this section—

‘area’ means—

- (a) the administrative area of a housing authority, or
- (b) a local electoral area within the meaning of section 2 of the Local Government Act 2001;

‘Housing Agency’ has the same meaning as it has in the Pyrite Resolution Act 2013;

‘Rent Index quarterly reports’ has the meaning given in the definition of ‘Rent Index’;

‘Rent Index’ means the publication known as the Residential Tenancies Board Rent Index which is published by the Board in respect of each successive period of 3 months in every calendar year (in this section referred to as ‘Rent Index quarterly reports’) pursuant to its functions under section 151(1)(e) and includes any other publication that it replaced or may replace it for the purposes of those functions.

Areas deemed to be rent pressure zones

24B. With effect from the relevant date (within the meaning of section 19(7)) and notwithstanding anything to the contrary in section 24A, orders under subsection (5) of that section shall be deemed to have been made in respect of the administrative areas of each of the following housing authorities:

- (a) Cork City Council;
- (b) Dublin City Council;
- (c) Dun Laoghaire Rathdown County Council;
- (d) Fingal County Council;
- (e) South Dublin County Council;

and, accordingly, each of those areas is deemed to be a rent pressure zone from the relevant date for a period of 3 years.

Application of section 20 (frequency with which rent reviews may occur) to rent pressure zones

24C. (1) Where a tenancy commenced before the relevant date (within the meaning of section 19(7)) and the area in which the tenancy is situated is in a rent pressure zone (within the meaning of that section), then—

- (a) the first rent review after the relevant date shall be carried out in accordance with section 20, and
- (b) any subsequent rent review shall be carried out as if subsections (4) to (6) of section 20 had not been enacted.

- (2) Where a tenancy commences on or after the relevant date (within the meaning of section 19(7)), and the area in which the tenancy is situated is in a rent pressure zone (within the meaning of that section), then any rent review after that date shall be carried out as if subsections (4) to (6) of section 20 had not been enacted.”.

Part 4 tenancies and extension of period from 4 years to 6 years

37. (1) Section 28 of the Act of 2004 is amended in subsection (2) by substituting “6 years” for “4 years” in both places where it occurs.
- (2) The provisions of the Act of 2004 referred to in *column (2)* of *Part 1* of the *Schedule* are amended in the manner referred to in *column (3)* of that Part opposite the reference in *column (2)* to the provision concerned.
- (3) This section applies to all tenancies created after the coming into operation of this section.

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

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

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

39. Section 35 of the Act of 2004 is amended by substituting the following for subsection (8):
- “(8) The statutory declaration that is to accompany a notice of termination in respect of a termination referred to in paragraph 3 of the Table shall include—
- (a) a declaration that the landlord intends to enter into an enforceable agreement to transfer to another, for full consideration, of the whole of his or her interest in the dwelling or the property containing the dwelling, and
- (b) where section 35A(3)(a) applies, a declaration that section 35A(2) does not apply to the said notice of termination as the price to be obtained by selling at market value the dwelling that is the subject of an existing tenancy to which Part 4 applies is more than 20 per cent below the market value that could be obtained for the dwelling with vacant possession, and that the application of that subsection would, having regard to all the circumstances of that case be unduly onerous on, or would cause undue hardship on, that landlord.”.

Restriction on termination of certain tenancies by landlords

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

“**35A.**(1) In this section—

‘development’ means a development consisting of land upon which there stands erected a building or buildings comprising a unit or units where, as respects such unit or units, it is intended that amenities, facilities and services are to be shared;

‘relevant period of time’ means any period of 6 months within the period—

- (a) beginning with the offering for sale in the development concerned of the first dwelling the subject of a tenancy, and
 - (b) ending with the offering for sale in that development of the last dwelling the subject of a tenancy.
- (2) Except where subsection (3) or (4) applies, a Part 4 tenancy shall not be terminated by the landlord on the ground specified in paragraph 3 of the Table to section 34 where the landlord intends to enter into an enforceable agreement—
- (a) in respect of dwellings situated within the development concerned,
 - (b) for the transfer to another, for full consideration, of the whole of his or her interest in 10 or more of those dwellings, each being the subject of such a tenancy, and
 - (c) to so transfer during a relevant period of time.
- (3) (a) Subsection (2) does not apply where the landlord can show to the satisfaction of the Board—
- (i) that the price to be obtained by selling at market value the dwelling that is the subject of an existing tenancy to which Part 4 applies is more than 20 per cent below the market value that could be obtained for the dwelling with vacant possession, and
 - (ii) that the application of that subsection would, having regard to all the circumstances of that case—
 - (I) be unduly onerous on that landlord, or
 - (II) would cause undue hardship on that landlord.
 - (b) In paragraph (a)(i), the reference to the market value of the dwelling is a reference to the estimated amount that would be paid by a willing buyer to a willing seller in an arm’s-length transaction after proper marketing (where appropriate) where both parties act knowledgeably, prudently and without compulsion.
- (4) Where, before the commencement of *section 40* of the *Planning and*

Development (Housing) and Residential Tenancies Act 2016, a notice under section 34 of this Act has been served on a tenant specifying as one of the grounds for termination the ground in paragraph 3 of the Table to section 34, then that section shall continue to apply to that notice as if the said *section 40* had not been enacted.

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

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

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

- (2) Where a further Part 4 tenancy has commenced on or before the commencement of this section, then section 42 shall continue to apply to that tenancy as if *subsections (1) and (4)* had not been enacted.
- (3) Where, before the commencement of this section, a notice under section 42 of the Act of 2004 has been served on a tenant, then that section shall continue to apply to that notice as if *subsections (1) and (4)* had not been enacted.
- (4) The provisions of the Act of 2004 referred to in *column (2)* of *Part 2* of the *Schedule* are amended in the manner referred to in *column (3)* of that Part opposite the reference in *column (2)* to the provision concerned.

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

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

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

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

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

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

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

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

and

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

- “(1A) (a) In respect of such matters as may be prescribed, the Tribunal shall, except where subsection (1B) applies, be composed of one member.
- (b) Without prejudice to the generality of paragraph (a), prescribed matters for the purposes of that paragraph may include any of the following matters:
- (i) the retention or refund of a deposit;
 - (ii) the amount that ought to be initially set (in compliance with section 19 or 19A, as the case may be) as the amount of rent under a tenancy;
 - (iii) the time at which a review of rent referred to in Part 3 should take place or the amount of rent that should be determined on foot of that review;
 - (iv) an alleged failure by the tenant to comply with any of the obligations applicable to the tenant, including those contained in any lease or tenancy agreement;
 - (v) an alleged failure by the landlord to comply with any of the obligations applicable to the landlord, including those contained in any lease or tenancy agreement;
 - (vi) a claim by a landlord for arrears of rent or other charges.
- (c) There may be included in the same reference to a Tribunal to which this subsection relates disputes and, where appropriate, complaints, in respect of 2 or more matters prescribed for the purposes of this subsection.
- (1B) (a) Where—
- (i) a matter that consists of or includes a dispute is referred to the Tribunal, and that Tribunal is composed of one member, and
 - (ii) the Tribunal, at any stage, considers that in the particular circumstances it would be appropriate to adjourn the hearing by it of the matter and request the Board to refer the dispute or complaint to a Tribunal composed of 3 members,
- then the Tribunal may so refer the matter to the Board accordingly.
- (b) Where the Board is requested under paragraph (a) to refer a matter, that consists of or includes a dispute, to a Tribunal, it may refer the matter to a Tribunal composed of 3 members.
- (1C) Where the Tribunal is composed of one member, then subsections (4) and (7) do not apply to that Tribunal.
- (1D) Where, in the same reference to a Tribunal, there is included disputes or complaints, in respect of 2 or more matters, and one or more of those disputes or complaints is not prescribed for the purposes of this

subsection, the Board shall refer the matter to a Tribunal composed of 3 members.”.

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

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

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

Publication of certain statistics by Board

46. The Act of 2004 is amended by inserting the following new section after section 114:

“114A. The Board shall publish statistics, including average waiting times and such other statistics as may be prescribed, in relation to the performance of its functions under section 151(1)(a) in respect of each successive period of 3 months in every calendar year.”.

Amendment of section 115 (redress that may be granted on foot of determination) of Act of 2004

47. Section 115(2) of the Act of 2004 is amended in paragraph (b)—

- (a) by substituting “subsection (1) or (4) of section 19” for “section 19(1)” where it first occurs, and
- (b) by substituting “with either of those subsections” for “with section 19(1)” where it last occurs.

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

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

- (a) in subsection (1), by substituting “by the Director and issued by him or her” for “by the Board and issued by it”,
- (b) in subsections (2) to (5) by substituting “Director” for “Board” in each place where it occurs,
- (c) in paragraphs (a) and (b) of subsection (4) by substituting “to him or her” for “to it”,
- (d) by inserting the following after subsection (5):

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

- (a) the Director under this section, or

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

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

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

and

- (e) by deleting subsection (6).

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

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

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

Amendment of section 151 (functions of Board) of Act of 2004

50. Section 151 of the Act of 2004 is amended by inserting the following paragraph after paragraph (c):

- “(ca) the making of reports to the Minister under section 24A,
- (cb) the publication of statistics under section 114A.”.

PART 4

AMENDMENTS TO HOUSING FINANCE AGENCY ACT 1981

Amendments to Housing Finance Agency Act 1981

51. The Housing Finance Agency Act 1981 is amended—

- (a) in section 1 by inserting the following definition after the definition of “house”:

“ ‘Housing Agency’ has the same meaning as it has in the Pyrite Resolution Act 2013;”,

- (b) in section 1 by inserting the following definition after the definition of “housing

authority”:

“ ‘institution of higher education’ has the same meaning as it has in the Higher Education Authority Act 1971;”,

(c) in section 4(2)(c) by inserting the following after subparagraph (iii):

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

(v) to the Housing Agency, to be used by it for the purpose of the performance of its functions;”,

and

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

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

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

PART 5

AMENDMENTS TO LOCAL GOVERNMENT ACT 1998

Amendments to Local Government Act 1998

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

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

“(a) Subject to paragraphs (b) and (c), the Minister may, on or before 31 January 2017, pursuant to a request from the Minister for Finance, make one, or more than one, payment from the Fund in the amount requested by the Minister for Finance.”,

and

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

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Residential Tenancies Act 2016.*

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“(c) The total amount of all payments made under paragraph (a) shall not exceed €420 million in respect of the year ending 31 December 2016.”.

SCHEDULE

CONSEQUENTIAL AMENDMENTS TO RESIDENTIAL TENANCIES ACT 2004

Section 37

PART 1

AMENDMENTS RELATING TO AMENDMENT OF SECTION 28 OF ACT OF 2004

Reference No (1)	Provision (2)	Amendment (3)
1	Section 34(b)(ii)	Substitute “6 years” for “4 years”.
2	Section 40(1)	Substitute “6 year period” for “4 year period”.
3	Section 41 Subsection (1)	Substitute “6 year period” for “4 year period”.
4	Subsection (3)	Substitute “6 year period” for “4 year period”.
5	Subsection (4)	Substitute “6 years” for “4 years” in both places where it occurs.
6	Section 43	Substitute “6 years” for “4 years” in both places where it occurs.
7	Section 45 Subsection (1)	Substitute “6 years” for “4 years”.
8	Subsection (4)	Substitute “6 years” for “4 years” in both places where it occurs.
9	Section 47(5)	Substitute “6 years” for “4 years” in both places where it occurs.
10	Table	Substitute “6 years” for “4 years” in paragraph 2.

Section 41

PART 2

AMENDMENTS RELATING TO REPEAL OF SECTION 42 OF ACT OF 2004

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

Section 48

PART 3

AMENDMENTS RELATING TO THE BOARD AND THE DIRECTOR

Reference No.	Provision	Amendment
(1)	(2)	(3)
1	Section 95(5)	Substitute “Director” for “Board”.
2	Section 96 Subsection (1)	Substitute in paragraph (a) “Director” for “Board”.

3	Subsection (1)	Substitute “the Director shall prepare” for “the Board shall prepare”.
4	Subsection (2)	Substitute in paragraph (b) “to the Director” for “to the Board”.
5	Section 99(4)	Substitute “Director” for “Board”.
6	Section 109 Subsection (2)	Substitute in paragraph (d)(vi) “the Director must, from the date of receipt by the Board” for “the Board must, from the date of receipt by it”.
7	Subsection (2)	Substitute in paragraph (d)(ix) “the Director must, from the date of receipt by the Board” for “the Board must, from the date of receipt by it”.
8	Section 123 Subsection (5)	Substitute “direct the Director” for “direct the Board”.
9	Subsection (5)	Substitute “the Director shall cancel” for “the Board shall cancel”.
10	Subsection (6)	Substitute “Director” for “Board” in each place where it occurs.
11	Subsection (7)	Substitute in paragraph (a) “issued by the Director” for “issued by it”.
12	Section 125(2)	Insert “direct the Director to” after “The powers mentioned in subsection (1) are to”.
13	Section 159(1)	Delete “, 121”.
14	Section 176(3)	Delete in paragraph (b) “sealed and”.