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**AN BILLE UM PLEANÁIL AGUS FORBAIRT (LEASÚ) 2009**  
**PLANNING AND DEVELOPMENT (AMENDMENT) BILL**  
**2009**

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*Mar a tionscnaíodh*  
*As initiated*

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**AN BILLE UM PLEANÁIL AGUS FORBAIRT (LEASÚ) 2009  
PLANNING AND DEVELOPMENT (AMENDMENT) BILL  
2009**

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# **BILL**

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*entitled*

AN ACT TO AMEND AND EXTEND THE PLANNING AND DEVELOPMENT ACT 2000, TO AMEND THE TRANSPORT (RAILWAY INFRASTRUCTURE) ACT 2001, AND TO PROVIDE FOR RELATED MATTERS.

10 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

## **PART 1**

### **PRELIMINARY AND GENERAL**

**1.—(1)** This Act may be cited as the Planning and Development (Amendment) Act 2009.

Short title, collective citation, construction and commencement.

15 **(2)** The Planning and Development Acts 2000 to 2007 and this Act (other than *Part 3*) may be cited together as the Planning and Development Acts 2000 to 2009 and shall be read together as one.

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

**2.—In this Act—**

Definitions.

“Act of 2001” means the Transport (Railway Infrastructure) Act 2001;

25 “Act of 2002” means the Planning and Development (Amendment) Act 2002;

“Act of 2006” means the Planning and Development (Strategic Infrastructure) Act 2006;

“Act of 2008” means the Dublin Transport Authority Act 2008;

30 “Minister” means the Minister for the Environment, Heritage and Local Government;

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

## PART 2

### AMENDMENT OF PRINCIPAL ACT.

Amendment of  
section 2 of  
Principal Act.

**3.**—Section 2 of the Principal Act is amended in subsection (1) by the insertion of the following definitions— 5

“Act of 2001” means the Transport (Railway Infrastructure) Act 2001;

“Act of 2006” means the Planning and Development (Strategic Infrastructure) Act 2006;

“Act of 2007” means the Water Services Act 2007; 10

“Act of 2009” means the *Planning and Development (Amendment) Act 2009*;

“adaptation to climate change” means the taking of measures to manage the impacts of climate change;

“anthropogenic” in relation to greenhouse gas emissions means those 15 emissions that result from or are produced by human activity or intervention;

“core strategy” means the strategy contained in a development plan in accordance with section 10(1A) (inserted by *section 5* of the *Act of 2009*); 20

“electronic form” means information that is generated, communicated, processed, sent, received, recorded, stored or displayed by electronic means and is capable of being used to make a legible copy or reproduction of that communicated information but does not include information communicated in the form of speech and such 25 electronic means includes electrical, digital, magnetic, optical, electro-magnetic, biometric, photonic and any other form of related technology;

“housing strategy” means a strategy included in a development plan in accordance with section 94; 30

“urban settlement hierarchy” has the meaning given to it by section 10(2C) (inserted by *section 5* of the *Act of 2009*);”.

Amendment of  
section 4 of  
Principal Act.

**4.**—Section 4(1) of the Principal Act is amended by—

(a) the substitution of the following paragraph for paragraph (i): 35

“(i) development consisting of the thinning, felling and replanting of trees, forests and woodlands, and works ancillary to that development, but not including the replacement of broadleaf high forest by conifer species;” 40

and

(b) the insertion of the following paragraph after paragraph (i):

5 “(ii) development (other than where the development consists of provision of access to a public road) consisting of the maintenance or improvement of a road (other than a public road) and works ancillary to that development, where the road serves forests and woodlands;”.

5.—Section 10 of the Principal Act is amended—

Amendment of section 10 of Principal Act.

(a) by the insertion of the following subsection after subsection (1):

10 “(1A) The written statement referred to in subsection (1) shall set out a core strategy that shall show that the development objectives in the development plan are consistent, as far as practicable, with national and regional development objectives set out in the National Spatial Strategy and regional planning guidelines.”,

(b) in subsection (2)—

(i) in paragraph (l), by the substitution of “education and childcare facilities;” for “education and childcare facilities, and”,

(ii) in paragraph (m), by the substitution of “in the area of the development plan, and” for “in the area of the development plan.”, and

(iii) by the insertion of the following paragraph after paragraph (m):

25 “(n) the promotion of sustainable settlement and transportation strategies in urban and rural areas, including the promotion of measures to reduce anthropogenic greenhouse gas emissions and address the necessity of adaptation to climate change.”,

and

(c) by the insertion of the following subsections after subsection (2):

35 “(2A) Without prejudice to the generality of subsection (1A), a core strategy shall—

(a) provide relevant information to show that the development plan and the housing strategy are consistent with the National Spatial Strategy and regional planning guidelines,

(b) take account of any policies of the Minister in relation to national and regional population targets,

45 (c) in respect of the area in the development plan already zoned for residential use or a mixture of residential and other uses, provide details of—

- (i) the size of the area in hectares, and
  - (ii) the proposed number of housing units to be included in the area,
- (d) in respect of the area in the development plan proposed to be zoned for residential use or a mixture of residential and other uses, provide details of— 5
- (i) the size of the area in hectares,
  - (ii) how the zoning proposals accord with national policy that development of land shall take place on a phased basis, 10
- (e) provide relevant information to show that, in setting out objectives regarding retail development contained in the development plan, the planning authority has had regard to any guidelines that relate to retail development issued by the Minister under section 28, 15
- (f) in respect of the area of the development plan of a county council, set out an urban settlement hierarchy and provide details of— 20
- (i) whether a city or town referred to in the hierarchy is designated as a gateway or hub for the purposes of the National Spatial Strategy,
  - (ii) other towns referred to in the hierarchy, 25
  - (iii) any policies of the Minister in relation to national and regional population targets that apply to towns and cities referred to in the hierarchy,
  - (iv) any policies of the Minister in relation to national and regional population targets that apply to the areas or classes of areas not included in the hierarchy, 30
  - (v) projected population growth of cities and towns in the hierarchy, 35
  - (vi) relevant roads that have been classified as national primary or secondary roads under section 10 of the Roads Act 1993 and relevant regional and local roads within the meaning of section 2 of that Act, 40
  - (vii) relevant inter-urban and commuter rail routes, and
  - (viii) where appropriate, of rural areas in respect of which planning guidelines relating to sustainable rural housing issued by the Minister under section 28 apply, 45
- (g) in respect of the development plan of a city or a town council, provide details of—

- (i) the city or town centre concerned,
- (ii) the areas designated for significant development during the period of the development plan, particularly areas for which it is intended to prepare a local area plan,
- (iii) the availability of public transport within the catchment of residential or commercial development, and
- (iv) retail centres in that city or town centre.

(2B) The information referred to in subparagraphs (vi) to (viii) of paragraph (f) and paragraph (g) shall also be represented in the core strategy by a diagrammatic map or other such visual representation.

(2C) In subsection (2A)(f) ‘urban settlement hierarchy’ means a rank given by a planning authority to a city or town in the area of its development plan, with a population that exceeded 1,500 persons in the census of population most recently published before the making by the planning authority of the hierarchy, and given on the basis of—

- (a) its designation as a gateway city or town or as a hub town, as the case may be, under the National Spatial Strategy,
- (b) the assessment by the planning authority of—
  - (i) the proposed function and role of the city or town, which assessment shall be consistent with any regional planning guidelines in force, and
  - (ii) the potential for economic and social development of the city or town, which assessment shall be in compliance with policy directives of the Minister issued under section 29, have regard to guidelines issued by the Minister under section 28, or take account of any relevant policies or objectives of the Government, the Minister or any other Minister of the Government, as the case may be.”.

6.—Section 11 of the Principal Act is amended—

Amendment of section 11 of Principal Act.

- (a) in subsection (2), by the substitution of the following paragraphs for paragraph (b):

“(b) indicate that submissions or observations regarding objectives and policies to deliver an overall strategy for the proper planning and sustainable development of the area of the development plan may be made in writing to the planning authority within a specified period (which shall not be less than 8 weeks),

(bb) indicate that the submissions or observations referred to in paragraph (b) shall not relate to a request or proposal for the zoning of specific lands for any purpose,”

(b) in subsection (4)(b), by the substitution of the following subparagraphs for subparagraph (ii): 5

“(ii) summarise the issues raised in the submissions or observations made under subsection (2)(b), in written submissions or oral observations made under subsection (3)(b) or the information furnished on foot of consultations under subsection (3)(c), 10

(iia) not refer to a submission or observation relating to a request or proposal for the zoning of specific lands for any purpose where such a submission or observation is made notwithstanding subsection (2)(bb),” 15

and 20

(c) by the insertion after subsection (4)(bb) (inserted by section 83 of the Act of 2008) of the following paragraph:

“(bc) A report under paragraph (a) shall summarise the issues raised and recommendations made by the relevant regional authority in a report prepared in accordance with section 27A (inserted by section 14 of the Act of 2009) and outline the recommendations of the manager in relation to the manner in which those issues and recommendations should be addressed in the draft development plan.” 25 30

Amendment of section 12 of Principal Act.

7.—Section 12 of the Principal Act is amended—

(a) in subsection (1)(a), by the substitution of “the Board, the relevant regional authority, the prescribed authorities” for “the Board, the prescribed authorities”. 35

(b) in subsection (4)—

(i) in paragraph (b), by the substitution of the following subparagraph for subparagraph (ii):

“(ii) summarise the following from the submissions or observations made under this section: 40

(I) issues raised by the Minister; and

(II) thereafter, issues raised by other bodies or persons referred to in subsection (1),” 45

(ii) by the insertion of the following paragraph after paragraph (bb) (inserted by section 84 of the Act of 2008):

5 “(bc) A report under paragraph (a) shall summarise the issues raised and recommendations made by the relevant regional authority in its written submission prepared in accordance with section 27B (inserted by *section 15* of the *Act of 2009*) and outline the recommendations of the manager in relation to the manner in which those issues and recommendations should be addressed in the development plan.”,

10 (c) by the insertion of the following paragraph after subsection (5)(a):

15 “(aa) Following consideration of the draft plan and the report of the manager under paragraph (a) where a planning authority, after considering a submission of, or observation or recommendation from the Minister made to the authority under this section or from a regional authority made to the authority under section 27B, decides not to comply with any recommendation made in the draft plan and report, it shall so inform the Minister or regional authority, as the case may be, as soon as practicable by notice in writing which notice shall contain reasons for the decision.”,

20 (d) by the insertion after subsection (7)(a) of the following paragraph:

25 “(aa) Notwithstanding paragraph (a), where, in the performance of its functions under regulations made under section 10(5), a planning authority determines that there is a requirement to carry out an environmental assessment of one or more than one of the proposed amendments that would, if made, be a material alteration of the draft development plan, the planning authority shall, not later than 7 weeks after the passing of a resolution under subsection (6), publish notice of the proposed amendment in at least one newspaper circulating in its area.”,

30 (e) in subsection (7)(b) by the substitution of “A notice under paragraph (a) or (aa) (inserted by *section 7* of the *Act of 2009*)” for “A notice under paragraph (a)”,

35 (f) in subsection (10)—

40 (i) by the substitution of the following paragraph for paragraph (a):

45 “(a) The members of the authority shall, by resolution, having considered the amendment and the manager’s report, make the plan with or without the proposed amendment, except that where they decide to accept the amendment they may do so subject to any modifications to the amendment that they consider appropriate, which may

include the making of a further modification to the amendment and—

(i) paragraph (c) shall apply in relation to the making of the resolution, and

(ii) paragraph (d) shall apply in relation to any further modification.”, 5

and

(ii) by the insertion of the following paragraphs after paragraph (b):

“(c) It shall be necessary for the passing of the resolution referred to in paragraph (a) that it is passed by a vote of not less than two-thirds of the members of the planning authority and the requirements of this paragraph are in addition to, and not in substitution for, any other requirements applying in relation to such a resolution. 10 15

(d) A further modification to the amendment—

(i) may be made where it is minor in nature and notice of the further modification has been published in accordance with subsection (7), 20

(ii) shall not be made where it refers either to an increase in the area of land zoned for any purpose or an addition to or deletion from the record of protected structures.”, 25

and

(g) in subsection (14) by the insertion of “or where subsection (7)(aa) applies, within 2 years and 4 weeks of the giving of notice under section 11(1),” after “the giving of notice under section 11(1),”. 30

Amendment of section 13 of Principal Act.

**8.—Section 13 of the Principal Act is amended—**

(a) in subsection (2)(a) by the substitution of “the Board, the relevant regional authority, and, where appropriate,” for “the Board and, where appropriate”, 35

(b) in subsection (4)—

(i) in paragraph (b), by the substitution of the following subparagraph for subparagraph (ii): 40

“(ii) summarise the following from the submissions or observations made under this section:

(I) issues raised by the Minister, and

(II) thereafter, issues raised by other bodies or persons referred to in subsection (1),”,

5 (ii) by the insertion of the following paragraph after paragraph (bb) (inserted by section 85 of the Act of 2008):

10 “(bc) A report under paragraph (a) shall summarise the issues raised and recommendations made by the relevant regional authority in its written submission prepared in accordance with section 27C (inserted by section 16 of the Act of 2009) and outline the recommendations of the manager in relation to the manner in which those issues and recommendations should be addressed in the development plan,”,

15 (c) by the insertion of the following paragraph after subsection (5)(a):

20 “(aa) Following consideration of the draft plan and the report of the manager under paragraph (a) where a planning authority, after considering a submission of, or observation or recommendation from the Minister made to the authority under this section or from a regional authority made to the authority under section 27C, decides not to comply with any recommendation made in the draft plan and report, it shall so inform the Minister or regional authority, as the case may be, as soon as practicable by notice in writing which notice shall contain reasons for the decision.”,

25 (d) in subsection (6)—

30 (i) by the substitution of the following paragraph for paragraph (a):

35 “(a) The members of the authority, having considered the proposed variation and manager’s report may, by resolution as they consider appropriate, make the variation with or without further modifications or they may refuse to make it and—

40 (i) paragraph (c) shall apply in relation to the making of the resolution, and

45 (ii) paragraph (d) shall apply in relation to any further modification.”,

and

(ii) by the insertion of the following paragraphs after paragraph (b):

50 “(c) It shall be necessary for the passing of the resolution referred to in paragraph (a) that it shall be passed by a vote of not less

than two-thirds of the members of the planning authority and the requirements of this paragraph are in addition to, and not in substitution for, any other requirements applying in relation to such a resolution. 5

- (d) A further modification to the variation—
  - (i) may be made where it is minor in nature and notice of the further modification has been published in accordance with subsection (8), 10
  - (ii) shall not be made where it refers either to an increase in the area of land zoned for any purpose or an addition to or deletion from the record of protected structures.”. 15

Amendment of section 18 of Principal Act.

**9.—Section 18 of the Principal Act is amended—**

- (a) in subsection (1), by the substitution of “Subject to section 19(2B) (inserted by *section 10* of the *Act of 2009*) a planning authority may at any time” for “A planning authority may at any time”, and 20
- (b) in subsection (5), by the substitution of “Subject to section 19(2B) (inserted by *section 10* of the *Act of 2009*) a planning authority may at any time” for “A planning authority may at any time”. 25

Amendment of section 19 of Principal Act.

**10.—Section 19 of the Principal Act is amended—**

- (a) in subsection (1)—
  - (i) by the substitution, in paragraph (b)(ii) of “5,000” for “2,000”,
  - (ii) by the insertion of the following paragraph after paragraph (b): 30
    - “(bb) A local area plan may be made in respect of an area—
      - (i) to which subparagraphs (i) and (iii) of paragraph (b) apply, 35
      - (ii) which has a population in excess of 2,000 persons and less than 5,000 persons, and
      - (iii) which, in the opinion of the planning authority, is likely, in the lifetime of the plan, to be subject to large scale development relative to the existing scale of development within the area.”. 40

and 45

(iii) by the substitution of the following paragraph for paragraph (c):

5 “(c) Notwithstanding section 18(5), a planning authority shall send a notice under section 20(3)(i) of a proposal to make, amend or revoke a local area plan and publish a notice of the proposal under section 20(3)(ii) within a period not exceeding 10 years from the date on which the authority last made a local area plan.”,

(b) by the insertion in subsection (2) (amended by section 8 of the Act of 2002) of “, its core strategy and any regional planning guidelines that apply to the area of the plan” after “objectives of the development plan”,

15 (c) by the insertion in subsection (2)(b) (inserted by section 8 of the Act of 2002) of “the objective of development of land on a phased basis and,” after “the area to which it applies, including”,

20 (d) by the insertion of the following subsection after subsection (2A) (inserted by section 86 of the Act of 2008):

25 “(2B) Where any objective of a local area plan is no longer consistent with the objectives of a development plan for the area, the planning authority shall as soon as may be (and in any event not later than one year following the making of the development plan) amend the local area plan so that its objectives are consistent with the objectives of the development plan.”.

**11.—Section 20 of the Principal Act is amended—**

Amendment of section 20 of Principal Act.

(a) in subsection (1) by the substitution of—

- 30 (i) “consult the Minister and the public” for “consult the public”, and
- (ii) “including consultations with the Minister, any local residents” for “including consultations with any local residents”,

35 (b) in subsection (3) (amended by section 9 of the Act of 2002):

(i) in paragraph (a)(i) by the substitution of “plan to the Minister, the Board” for “plan to the Board”,

(ii) in paragraph (e)(i)—

40 (I) by the deletion of “varied or”, and

(II) by the insertion of “, and send notice of the proposed modification to the Minister, the Board and to the prescribed authorities (enclosing where it considers it appropriate, a copy of the proposed modification)” after “circulating in its area”,

(iii) in paragraphs (e), (f) and (g) by the deletion of “variation or” where it occurs, and

(iv) by the substitution of the following paragraphs for paragraph (i):

“(i) Where the planning authority decides to make or amend the local area plan or modify the amendment of the plan by resolution as provided in paragraph (g)(ii)— 5

(i) paragraph (j) shall apply in relation to the making of the resolution, and 10

(ii) paragraph (k) shall apply in relation to any amendment to the modification proposed.

(j) It shall be necessary for the passing of the resolution referred to in paragraph (g)(ii) that it shall be passed by not less than two-thirds of the members of the planning authority and the requirements of this paragraph are in addition to, and not in substitution for, any other requirements applying in relation to such a resolution. 15 20

(k) A modification to the amendment—

(i) may be made where it is minor in nature and notice of the modification has been published in accordance with subsection (3)(b), 25

(ii) shall not be made where it refers either to an increase in the area of land zoned for any purpose or an addition to or deletion from the record of protected structures. 30

(l) When performing their functions under this subsection, the members of the planning authority shall be restricted to considering the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government,” 35 40

and

(c) by the insertion of the following subsection after subsection (4):

“(4A) A local area plan made under this section shall have effect 4 weeks from the day that it is made.” 45

**12.—**Section 23 of the Principal Act is amended—

Amendment of section 23 of Principal Act.

(a) in subsection (1) by the substitution of the following paragraph for paragraph (a):

5 “(1) (a) The objective of regional planning guidelines shall be to support the implementation of the National Spatial Strategy by providing a long-term strategic planning framework for the development of the region for which the guidelines are prepared which shall be consistent with the National Spatial Strategy.”

(b) in subsection (2)—

(i) by the substitution of the following paragraph for paragraph (a):

15 “(a) any policies of the Minister, or any policies contained in the National Spatial Strategy in relation to national and regional population targets;”,

and

20 (ii) by the substitution of the following paragraphs for paragraph (j):

25 “(j) the promotion of sustainable settlement and transportation strategies in urban and rural areas, including the promotion of measures to reduce anthropogenic greenhouse gas emissions and address the necessity of adaptation to climate change;

(k) such other matters as may be prescribed.”.

**13.—**Section 27 of the Principal Act is amended by the substitution of the following subsection for subsection (1):

Amendment of section 27 of Principal Act.

30 “(1) A planning authority shall ensure, when making a development plan, that the plan is consistent with any regional planning guidelines in force for its area.”.

**14.—**The Principal Act is amended by the insertion of the following section after section 27:

Report of regional authority for preparation of draft development plan.

35 “27A.—(1) Where a regional authority receives a notice from a planning authority under section 11(1) it shall prepare submissions or observations for the purposes of section 11(2).

40 (2) Submissions or observations made by a regional authority under section 11(2) shall contain a report on matters that, in the opinion of the regional authority, require consideration by the planning authority concerned in making the development plan.

(3) The submissions or observations and report of the regional authority shall include, but shall not be limited to,

recommendations regarding each of the following matters as respects the area to which the development plan relates:

- (a) any policies of the Minister in relation to national and regional population targets, and the best distribution of residential development and related employment development with a view to— 5
  - (i) promoting consistency as far as possible, between housing, settlement and economic objectives in the draft development plan and core strategy and the regional planning guidelines, and 10
  - (ii) assisting in drafting the core strategy of the draft development plan;
- (b) the objectives of providing physical, economic or social infrastructure in a manner that promotes balanced regional development; 15
- (c) planning for the best use of land having regard to location, scale and density of new development to benefit from investment of public funds in transport infrastructure and public transport services; and
- (d) collaboration between the planning authority and the regional authority in respect of integrated planning for transport and land use, in particular in relation to large scale developments and the promotion of sustainable transportation strategies in urban and rural areas, including the promotion of measures to reduce anthropogenic greenhouse gas emissions and address the necessity of adaptation to climate change. 20 25

(4) One or more regional authorities, who have been directed by the Minister to make regional planning guidelines for the purpose of section 21(3) in relation to a combined area of the regional authorities or in respect of any particular part or parts of the area which lie within the area of those regional authorities, shall make joint submissions or observations and issue a joint report for the purpose of this section, in respect of the combined area or particular part or parts of the area concerned and shall send a copy of the joint submissions or observations and joint report to the Minister.”. 30 35

Role of regional authority in making of development plan.

**15.**—The Principal Act is amended by the insertion of the following section after section 27A (inserted by *section 14*): 40

“27B.—(1) Where a regional authority receives a notice from a planning authority under section 12(1) it shall prepare submissions and observations for the purposes of section 12(2).

(2) Submissions or observations made by the regional authority under subsection (1) shall contain a report which shall state whether, in the opinion of that authority, the draft development plan, and, in particular, its core strategy, are consistent with the regional planning guidelines in force for the area of the development plan. 45

(3) Where the opinion of the regional authority stated in the submissions or observations made and the report issued is that 50

5 the draft development plan and its core strategy are not consistent with the regional planning guidelines, the submissions, observations and report shall include recommendations as to what amendments, in the opinion of the regional authority, are required in order to ensure that the draft development plan and its core strategy are so consistent.

(4) The regional authority shall send a copy of the submission or observations and the report to the Minister.

10 (5) One or more regional authorities, who have been directed by the Minister to make regional planning guidelines for the purpose of section 21(3) in relation to a combined area of the regional authorities or in respect of any particular part or parts of the area which lie within the area of those regional authorities, shall make joint submissions or observations and issue a joint report for the purpose of this section, in respect of the combined area or particular part or parts of the area concerned and shall send a copy of the joint submissions or observations and joint report to the Minister.”.

20 **16.**—The Principal Act is amended by the insertion of the following section after section 27B (inserted by *section 15*):

Role of regional authority in variation of development plan.

“27C.—(1) Where a regional authority receives a notice from a planning authority under section 13(1) it shall prepare submissions and observations for the purposes of section 13(2).

25 (2) Submissions or observations made by the regional authority under subsection (1) shall contain a report which shall state whether, in the opinion of that authority, the draft variation of the development plan, and, in particular, its core strategy, are consistent with the regional planning guidelines in force for the area of the development plan.

30 (3) Where the opinion of the regional authority stated in the submissions or observations made and the report issued is that the proposed variation of the development plan and its core strategy are not consistent with the regional planning guidelines, the submissions and observations and report shall include recommendations as to what amendments, in the opinion of the regional authority, are required in order to ensure that the proposed variation to the development plan and its core strategy are so consistent.

40 (4) The regional authority shall send a copy of the report to the Minister.

45 (5) One or more regional authorities, who have been directed by the Minister to make regional planning guidelines for the purpose of section 21(3) in relation to a combined area of the regional authorities or in respect of any particular part or parts of the area which lie within the area of those regional authorities, shall make joint submissions or observations and issue a joint report for the purpose of this section, in respect of the combined area or particular part or parts of the area concerned and shall send a copy of the joint submissions or observations and joint report to the Minister.”.

**17.**—Section 28 of the Principal Act is amended by the insertion of the following subsections after subsection (1):

Amendment of section 28 of Principal Act.

“(1A) Without prejudice to the generality of subsection (1) and for the purposes of that subsection a planning authority in having regard to the guidelines issued by the Minister under that subsection, shall—

- (a) consider the policies and objectives of the Minister contained in the guidelines when preparing and making the draft development plan and the development plan, and 5
- (b) append a statement to the draft development plan and the development plan which shall include the information referred to in subsection (1B). 10

(1B) The statement which the planning authority shall append to the draft development plan and the development plan under subsection (1A) shall include information which demonstrates— 15

- (a) how the planning authority has implemented the policies and objectives of the Minister contained in the guidelines when considering their application to the area or part of the area of the draft development plan and the development plan, or 20
- (b) if applicable, that the planning authority has formed the opinion that it is not possible, because of the nature and characteristics of the area or part of the area of the development plan, to implement certain policies and objectives of the Minister contained in the guidelines when considering the application of those policies in the area or part of the area of the draft development plan or the development plan and shall give reasons for the forming of the opinion and why the policies and objectives of the Minister have not been so implemented.”. 25 30

Ministerial directions regarding development plans, variation of development plans and local area plans.

**18.**—The Principal Act is amended by the substitution of the following section for section 31:

“31.—(1) The Minister may, in accordance with this section, for stated reasons direct a planning authority to take such specified measures as he or she may require, in relation to a development plan, a variation of a development plan, or a local area plan (in this section referred to as a ‘plan’), as the case may be. 35

(2) Where the Minister issues a direction under this section the planning authority, notwithstanding anything contained in Chapter I or II of this Part, shall comply with that direction and the Manager or elected members shall not exercise a power or perform a function conferred on them by this Act in a manner that contravenes the direction issued by the Minister under this section. 40 45

(3) The Minister shall issue a notice in writing, to a planning authority in relation to the making by the authority of a plan, no later than 4 weeks after the plan is made, where he or she has formed an opinion that—

(a) the authority, in making the plan has ignored, or has not taken sufficient account of submissions or observations made by the Minister to the planning authority under section 12, 13 or 20,

5 (b) in the case of a development plan or variation of a development plan, the plan fails to set out an overall strategy for the proper planning and sustainable development of the area, or

10 (c) the plan is not in compliance with the requirements of this Act.

(4) The notice referred to in subsection (3) shall, for stated reasons, inform the planning authority of—

(a) the forming of the opinion referred to in subsection (3),

15 (b) the intention of the Minister to issue a direction (a draft of which shall be contained in the notice) to the planning authority to take certain measures specified in the notice in order to ensure that the plan is in compliance with the requirements of this Act and, in the case of a development plan or variation of a development plan, sets out an overall strategy for the proper planning and sustainable development of the area, and

20 (c) those parts of the plan that by virtue of the issuing of the notice under this subsection shall be taken not to have come into effect, been made or amended under subsection (6).

25 (5) The Minister shall furnish a copy of the notice referred to in subsection (3) to the manager and Cathaoirleach of the planning authority and, where there are regional planning guidelines in force for the area of the planning authority, to the regional authority concerned.

30 (6) Section 12(17), 13(11), or 20(4A) (inserted by *section II(c)*), where it refers to the coming into effect, making or amendment of a plan shall not apply in relation to any matter contained in a plan, which is referred to in a notice issued by the Minister pursuant to subsection (3) and if the plan proposed to be replaced pursuant to section 12, 13 or 20 contains a matter that corresponds to the matter which is referred to in the notice issued by the Minister aforesaid, the plan proposed to be replaced shall continue to have effect as respects that matter.

35 (7) No later than 2 weeks after receipt of the notice issued by the Minister under subsection (3), the manager of the planning authority shall publish notice of the draft direction in at least one newspaper circulating in the area of the development plan or local area plan, as the case may be, which shall state—

(a) the reasons for the draft direction,

45 (b) that a copy of the draft direction may be inspected at such place or places as are specified in the notice during such period as may be so stated (being a period of not more than 2 weeks), and

50

(c) that written submissions or observations in respect of the draft direction may be made to the planning authority during such period and shall be taken into consideration by the Minister before he or she directs the planning authority pursuant to this section. 5

(8) No later than 4 weeks after the expiry of the period referred to in subsection (7)(b), the manager shall prepare a report on any submissions or observations received under subsection (7)(c) which shall be furnished to the Minister and the elected members of the planning authority. 10

(9) The report referred to in subsection (8) shall—

(a) summarise the views of any person who made submissions or observations to the planning authority,

(b) summarise the views of and recommendations (if any) made by the elected members of the planning authority, 15

(c) summarise the views of and recommendations (if any) made by the regional authority,

(d) make recommendations in relation to the best manner in which to give effect to the draft direction. 20

(10) The elected members of the planning authority may make a submission to the Minister in relation to the notice issued by him or her under subsection (3) at any time up to the expiry of the period of time referred to in subsection (7)(b). 25

(11) The Minister shall consider the report furnished under subsection (8) and any submissions made to him or her under subsection (10) and—

(a) where he or she believes that no material amendment to the draft direction is required, or that further investigation is not necessary in order to clarify any aspect of the report or submissions, he or she may decide, no later than 3 weeks after the date of receipt of the report under subsection (8), for stated reasons, to— 30 35

(i) issue the direction referred to in subsection (4)(b), or

(ii) not to issue the direction referred to in subsection (4)(b),

or 40

(b) where he or she believes that—

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

(ii) further investigation is necessary in order to clarify any aspect of the report furnished under subsection (8) or submissions made under subsection (10), or 45

(iii) it is necessary for any other reason,

he or she may, for stated reasons, appoint an inspector no later than 3 weeks after the date of receipt of the report under subsection (8).

5 (12) The inspector appointed under subsection (11)(b) shall be a person who, in the opinion of the Minister, has satisfactory experience and competence to perform the functions required of him or her pursuant to this section and shall be independent in the performance of his or her functions.

10 (13) The inspector appointed under subsection (11)(b) having regard to the stated reasons for his or her appointment—

(a) shall review the draft direction, the report furnished under subsection (8) and submissions made under subsection (10),

15 (b) may consult with the manager and elected members of the planning authority, the regional authority, and persons who made submissions under subsection (7)(c), and

20 (c) shall no later than 3 weeks after he or she was appointed, furnish a report containing recommendations to the Minister.

25 (14) Copies of the report of the inspector referred to in subsection (13)(c) shall be furnished as quickly as possible by the Minister to the manager and elected members of the planning authority, the regional authority and persons who made submissions under subsection (7)(c).

30 (15) The persons who have been furnished with the report of the inspector referred to in subsection (13)(c) may make a submission to the Minister in relation to any matter referred to in the report no later than 10 days after the receipt by them of the report.

35 (16) No later than 3 weeks (or as soon as may be during such period extending that 3 week period as the Minister may direct) after receipt of the report of the inspector referred to in subsection (13)(c), or any submissions made to him or her under subsection (15), the Minister, having considered the report, recommendations or submissions, as the case may be, shall decide for stated reasons—

(a) to issue the direction referred to in subsection (4)(b),

40 (b) not to issue the direction referred to in subsection (4)(b), or

45 (c) to issue the direction referred to in subsection (4)(b), which has been amended by the Minister to take account of any of the matters referred to in subparagraphs (i) or (ii) as the Minister considers appropriate:

(i) recommendations contained in the report of the inspector referred to in subsection (13)(c); or

(ii) any submissions made pursuant to subsection (15).

(17) The direction issued by the Minister under subsection (16) is deemed to have immediate effect and its terms are considered to be incorporated into the plan, or, if appropriate, to constitute the plan. 5

(18) The Minister shall cause a copy of a direction issued under subsection (16) to be laid before each House of the Oireachtas.

(19) A planning authority shall make a direction issued to it under subsection (16) available for inspection by members of the public, during office hours of the authority, at the offices of the authority, and may also make the direction available by placing it on the authority's website or otherwise in electronic form. 10

(20) The Minister shall publish or cause to be published in such manner as he or she considers appropriate directions issued under subsection (16).". 15

Amendment of section 34 of Principal Act.

**19.**—Section 34(6) of the Principal Act is amended by the substitution of the following paragraph for paragraph (b):

“(b) It shall be necessary for the passing of a resolution referred to in paragraph (a) that it is passed by a vote of not less than two-thirds of the members of the planning authority and the requirements of this paragraph are in addition to, and not in substitution for, any other requirement applying in relation to such a resolution.”. 20 25

Amendment of section 35 of Principal Act.

**20.**—Section 35 of the Principal Act is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) Where, having regard to— 30

(a) any information furnished pursuant to regulations made under section 33(2)(l),

(b) any information available to the planning authority concerning development carried out by a person to whom this section applies pursuant to a permission (in this section referred to as a ‘previous permission’) granted to the applicant or to any other person under this Part or Part IV of the Act of 1963, 35

(c) any information otherwise available to the planning authority concerning a substantial unauthorised development, or 40

(d) any information concerning a conviction for an offence under this Act,

the planning authority is satisfied that a person to whom this section applies is not in compliance with a previous 45

permission or with a condition to which the previous permission is subject, has carried out a substantial unauthorised development, or has been convicted of an offence under this Act, the authority may form the opinion—

5 (i) that there is a real and substantial risk that the development in respect of which permission is sought would not be completed in accordance with such permission if granted or with a condition to which such permission if granted would be subject, and

10 (ii) that planning permission should not be granted to the applicant concerned in respect of that development.”,

15 (b) by the substitution of the following subsection for subsection (4) (inserted by section 9 of the Act of 2006):

20 “(4) If the planning authority considers that there are good grounds for its being able to form the opinion under subsection (1) in relation to an application for permission in respect of the development concerned and, accordingly, to exercise the power under subsection (5) to refuse that permission, it shall serve a notice in writing on the applicant to that effect and that notice shall—

25 (a) specify the non compliance with a previous permission or condition of a previous permission, substantial unauthorised development, or conviction for an offence under this Act, as the case may be, that the authority intends to take into consideration with regard to the proposed exercise of that power, and

30 (b) invite the applicant to make submissions to the authority within a period specified in the notice as to why the applicant considers that the authority should not exercise that power (whether because the applicant contends that the views of the authority in relation to the failure to comply by the applicant or any other person to whom this section applies with any previous permission, or any condition to which it is subject, the carrying out of substantial unauthorised development or conviction for an offence under this Act, as the case may be, are incorrect or that there are not good grounds for forming the opinion under subsection (1)).”,

(c) in subsection (7)—

45 (i) in paragraph (b) by the substitution of “carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act,”, for “carried out a development referred to in subsection (1)(b),”,

50 (ii) in paragraph (c)(i) by the substitution of “carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act,”

for “carried out a development referred to in subsection (1)(b),”, and

- (iii) in paragraph (d), by the substitution of “carried out a development pursuant to a previous permission, carried out a substantial unauthorised development or has been convicted of an offence under this Act,” for “carried out a development referred to in subsection (1)(b),”.

Amendment of section 37H of Principal Act.

**21.**—Section 37H (2) (inserted by section 3 of the Act of 2006) of the Principal Act is amended by the substitution of the following paragraph for paragraph (c):

“(c) the sum due to be paid to the Board towards the costs incurred by the Board of—

- (i) conducting consultations entered into by an applicant under section 37B,
- (ii) compliance by the Board with a request by an applicant for an opinion of the Board under section 37D, or
- (iii) determining an application under section 37E,

and, in such amount as the Board considers to be reasonable, state the sum to be paid and direct the payment of the sum to any planning authority that incurred costs during the course of consideration of that application and to any other person as a contribution to the costs incurred by that person during the course of consideration of that application (each of which sums the Board may, by virtue of this subsection, require to be paid).”.

Amendment of section 38 of Principal Act.

**22.**—Section 38 of the Principal Act is amended—

(a) in subsection (1), by the substitution of “at the offices of the authority and may also be made available by the authority by placing the documents on the authority’s website or otherwise in electronic form” for “at the offices of the authority”,

(b) by the insertion of the following subsection after subsection (1):

“(1A) Details of any telephone numbers of the applicant or addresses for communication with the applicant in electronic form provided by or on behalf of the applicant shall be taken not to be part of the planning application and shall not be made available by a planning authority to members of the public.”,

and

(c) in subsection (3) by the substitution of “during office hours of the authority from as soon as may be after receipt of the document until a decision is made on the application and may also be made available by the authority by placing the documents on the authority’s website

or otherwise in electronic form.” for “at the office hours of the authority from as soon as may be after receipt of the document until a decision is made on the application.”.

5     **23.—**(1) The Principal Act is amended by the substitution of the following section for section 42: Amendment of  
section 42 of  
Principal Act.

10     “42.—(1) On application to it in that behalf a planning authority shall, as regards a particular permission, extend the appropriate period by such additional period not exceeding 5 years as the authority considers requisite to enable the development to which the permission relates to be completed provided that, each of the following requirements is complied with:

(a) either—

(i) the authority is satisfied that—

15             (I) the development to which the permission relates was commenced before the expiration of the appropriate period sought to be extended,

20             (II) substantial works were carried out pursuant to the permission during that period, and

(III) the development will be completed within a reasonable time,

or

25             (ii) the authority is satisfied that there were considerations of a commercial, economic or technical nature beyond the control of the applicant which substantially mitigated against either the commencement of development or the carrying out of substantial works pursuant to the planning permission,

(b) the application is in accordance with such regulations under this Act as apply to it,

(c) any requirements of, or made under those regulations are complied with as regards the application, and

35     (d) the application is duly made prior to the end of the appropriate period.

(2) (a) Where an application is duly made under this section to a planning authority and any requirements of, or made under, regulations under section 43 are complied with as regards the application, the planning authority shall make its decision on the application as expeditiously as possible.

45     (b) Without prejudice to the generality of paragraph (a), it shall be the objective of the planning authority to ensure that it shall give notice of its decision on an application under this section within the period of 8 weeks beginning on—

- (i) in case all of the requirements referred to in paragraph (a), are complied with on or before the day of receipt by the planning authority of the application, that day, and
- (ii) in any other case, the day on which all of those requirements stand complied with. 5

(3) A decision to extend an appropriate period shall be made once and once only under this section and a planning authority shall not further extend the appropriate period.

(4) Particulars of any application made to a planning authority under this section and of the decision of the planning authority in respect of the application shall be recorded on the relevant entry in the register. 10

(5) Where a decision to extend is made under this section, section 40 shall, in relation to the permission to which the decision relates, be construed and have effect, subject to, and in accordance with, the terms of the decision. 15

(6) The commencement of this section shall not affect an application to further extend the appropriate period duly made to the planning authority on a date prior to the date of the commencement of this section and in such a case the planning authority shall decide whether to further extend the appropriate period as if this section had not been commenced.”. 20

Amendment of section 48 of Principal Act.

**24.—Section 48(17) of the Principal Act is amended—**

(a) in paragraph (c) by the substitution of “service connections (within the meaning of the Act of 2007), water mains and flood relief work,” for “drains and water-mains,”, and 25

(b) by the substitution of the following paragraphs for paragraphs (e) and (f): 30

“(e) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, sewers, wastewater and water treatment facilities, service connections (within the meaning of the Act of 2007) or water mains, 35

(f) the provision of high-capacity telecommunications infrastructure, such as broadband,

(g) the provision of school sites, and

(h) any matters ancillary to paragraphs (a) to (g).”.

Amendment of section 49 of Principal Act.

**25.—Section 49(7) of the Principal Act is amended— 40**

(a) by the substitution in paragraph (c) of “and ancillary infrastructure,” for “and ancillary infrastructure.”, and

(b) by the insertion of the following paragraph:

“(d) the provision of particular new schools.”.

26.—Section 57(1) of the Principal Act is amended by the substitution of “Notwithstanding section 4 and any regulations made thereunder” for “Notwithstanding section 4(1)(h)”. Amendment of section 57 of Principal Act.

5 27.—Section 93(1) of the Principal Act is amended by the deletion of the definition of “housing strategy”. Amendment of section 93 of Principal Act.

28.—Section 108 of the Principal Act is amended— Amendment of section 108 of Principal Act.

(a) by the substitution of the following subsection for subsection (1):

10 “(1) Subject to subsection (1A) (inserted by *section 28*) a quorum for a meeting of the Board shall be 3.”,

(b) by the insertion of the following subsections after subsection (1):

15 “(1A) The Board may determine by resolution, if so requested by the chairperson (or the deputy chairperson if the chairperson is not available or where the office of chairperson is vacant) where he or she is of the opinion that it is necessary to ensure the efficient discharge of the business of the Board, that the quorum for a meeting of the Board, or, notwithstanding section 112(2), a division of the Board referred to in section 112, should be 2.

20 (1B) The resolution referred to in subsection (1A) shall specify the functions of the Board or division of the Board which may be performed in a meeting with a quorum of 2 and the period of time during which the specified functions may be performed.

25 (1C) The chairperson or deputy chairperson shall not request a resolution of the Board referred to in subsection (1A) for the purposes of any matter falling to be determined by the Board or division of the Board under this Act in relation to—

(a) development that would materially contravene the relevant development plan,

(b) strategic infrastructure development, or

35 (c) a development or class of development referred to in regulations made under section 176.

40 (1D) If, in determining by vote a question at a meeting of the Board or a division of the Board with a quorum of 2, the voting is equally divided, the matter that is the subject of the vote shall be referred to a meeting of the Board with a quorum of 3 and section 111(4) shall apply in relation to the determination of the question.”.

29.—Section 156 of the Principal Act is amended— Amendment of section 156 of Principal Act.

(a) in subsection (1)(b) by the substitution of “€5,000” for “£1,500”,

- (b) in subsection (2)(b) by the substitution of “€1,500” for “£400”,
- (c) in subsection (3)(b) by the substitution of “€5,000” for “£500”,
- (d) in subsection (4) by the substitution of “€5,000” for “£1,500”, and
- (e) in subsection (5) by the substitution of “€1,500” for “£400”.

Amendment of section 168 of Principal Act.

**30.**—Section 168 of the Principal Act is amended by the substitution of the following subsections for subsection (1):

“(1) The relevant development agency (other than a local authority) or, where an agreement referred to in section 167 has been made, the relevant development agency and any person who is a party to the agreement, shall, as soon as may be and in any case not later than 2 years after the making of an order designating a site under section 166, prepare a draft planning scheme in respect of all or any part of the site and submit it to the relevant planning authority.

(1A) The local authority, where it is the development agency, or where an agreement referred to in section 167 has been made, the local authority and any person who is a party to the agreement, shall, as soon as may be and in any case not later than 2 years after the making of an order designating a site under section 166, prepare a draft planning scheme in respect of all or any part of the site.”.

Amendment of section 180 of Principal Act.

**31.**—Section 180 (amended by section 114 of the Act of 2007) of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “by the majority of the owners of the houses involved” for “by the majority of the qualified electors who are owners or occupiers of the houses involved”,
- (b) in subsection (2)(a), by the substitution of “where requested by the majority of the owners of the houses in question” for “where requested by the majority of qualified electors who own or occupy the houses in question”,
- (c) in subsection (3)(a), by the substitution of “the wishes of the owners of the houses” for “the wishes of the qualified electors”,
- (d) in subsection (3)(b), by the substitution of “the wishes of the owners of the houses” for “the wishes of the qualified electors”,
- (e) by the substitution of the following for subsection (4):

“(4) (a) Where an order is made under section 11(1) of the Roads Act 1993 in compliance with this section, the planning authority shall, in addition to the provisions of that section, take in charge any sewers, water mains, service connections within the meaning of the Act of 2007,

public open spaces or public car parks within the attendant grounds of the development.

- 5 (b) In subsection (4) ‘public open spaces’ or ‘public car parks’ means open spaces or car parks to which the public have access whether as of right or by permission.”,

and

- (f) by the deletion of subsection (6).

10 **32.**—Section 182B (inserted by section 4 of the Act of 2006) of the Principal Act is amended by the insertion of the following subsections after subsection (5):

Amendment of section 182B of Principal Act.

“(5A) A decision of the Board under subsection (5) shall state—

- 15 (a) the main reasons and considerations on which the decision is based,

- (b) where conditions are attached, under subsection (5) or (6), the main reasons for attaching the conditions, and

- 20 (c) the sum and direct the payment of the sum to be paid to the Board towards the costs incurred by the Board of—

- (i) giving a written opinion in compliance with a request under section 182E(3) (inserted by section 4 of the Act of 2006),

- 25 (ii) conducting consultations under section 182E, and

- (iii) of determining the application made under section 182A (inserted by section 4 of the Act of 2006) under this section,

30 and, in such amount as the Board considers to be reasonable, state the sum to be paid and direct the payment of the sum to any planning authority that incurred costs during the course of consideration of that application and to any other person as a contribution to the costs incurred by that person during the course of consideration of that application (each of which sums the Board may, by virtue of this subsection, require to be paid).

40 (5B) A notice of a decision given under subsection (5) shall be furnished to the applicant as soon as may be after it is given but shall not become operative until any requirement under subsection (5A)(c) in relation to the payment by the applicant of a sum in respect of costs has been complied with.

45 (5C) Where an applicant for permission fails to pay a sum in respect of costs in accordance with a requirement under subsection (5A)(c), the Board, the planning authority or any other person concerned (as may be appropriate) may recover the sum

as a simple contract debt in any court of competent jurisdiction.”.

Amendment of  
section 182D of  
Principal Act.

**33.**—Section 182D (inserted by section 4 of the Act of 2006) of the Principal Act is amended by the insertion of the following subsection after subsection (5):

5

“(5A) A decision of the Board given under subsection (5) shall state—

- (a) the main reasons and considerations on which the decision was based,
- (b) where conditions are attached under subsection (5) or (6) the main reasons for attaching the conditions, and 10
- (c) the sum and direct the payment of the sum to be paid to the Board towards the costs incurred by the Board— 15
  - (i) in complying with its obligations under sections 146B, 146C, 146D (inserted by section 30 of the Act of 2006), and 181A (inserted by section 36 of the Act of 2006),
  - (ii) relating to the giving of a written opinion in compliance with a request made under section 182E(3) (inserted by section 4 of the Act of 2006), 20
  - (iii) of conducting consultations under section 182E,
  - (iv) of determining the application made under section 182C (inserted by section 4 of the Act of 2006) under this section, 25

and, in such amount as the Board considers to be reasonable, state the sum to be paid and direct the payment of the sum to any planning authority that incurred costs during the course of consideration of that application and to any other person as a contribution to the costs incurred by that person during the course of consideration of that application (each of which sums the Board may, by virtue of this subsection, require to be paid). 30

(5B) A notice of a decision given under subsection (5) shall be furnished to the applicant as soon as may be after it is given but shall not become operative until any requirement under subsection (5A)(c) and (d) in relation to the payment by the applicant of a sum in respect of costs has been complied with. 35

(5C) Where an applicant for permission fails to pay a sum in respect of costs in accordance with a requirement under subsection (5A)(c), the Board, the planning authority or any other person concerned (as may be appropriate) may recover the sum as a simple contract debt in any court of competent jurisdiction.”. 40 45

34.—Section 212 of the Principal Act is amended—

Amendment of  
section 212 of  
Principal Act.

(a) in subsection (1)(f) by the substitution of “geological or historical interest;” for “geological, historical, scientific or ecological interest.”,

5 (b) by the insertion of the following paragraph after subsection (1)(f):

“(g) secure the creation, management, restoration or preservation of any site of scientific or ecological interest, including any Nature Conservation Site or proposed Nature Conservation Site.”,

10 and

(c) by the insertion of the following subsection after subsection (4):

“(5) In this section—

15 ‘Nature Conservation Site’ means—

- (a) a European site,
- (b) an area proposed as a natural heritage area and the subject of a notice made under section 16(1) of the Wildlife (Amendment) Act 2000,
- 20 (c) an area designated as a natural heritage area by a natural heritage area order made under section 18 of the Wildlife (Amendment) Act 2000,
- (d) a nature reserve established under an establishment order made under section 15 (amended by section 26 of the Wildlife (Amendment) Act 2000) of the Wildlife Act 1976,
- 25 (e) a nature reserve recognised under a recognition order made under section 16 (amended by section 27 of the Wildlife (Amendment) Act 2000) of the Wildlife Act 1976, or
- 30 (f) a refuge for fauna or flora designated under a designation order made under section 17 (amended by section 28 of the Wildlife (Amendment) Act 2000) of the Wildlife Act 1976;
- 35

‘proposed Nature Conservation Site’ means an area in relation to which it is proposed by the relevant authority on whom the function to do so is conferred under—

- 40 (a) an enactment mentioned in the definition of ‘European Site’ in section 2, or
- (b) by or under the other enactments referred to in the definition of ‘Nature Conservation Site’ in this subsection,

to notify, communicate to the European Commission, or make a notice or order as the case may be in accordance with the enactments referred to in paragraph (a) or (b), that the area is or intended to be made a Nature Conservation Site where such a proposal imposes obligations on the relevant authority or other person in relation to the area.”. 5

Amendment of section 248 of Principal Act.

**35.**—Section 248(9) of the Principal Act is amended by the deletion of the definition of “electronic form”.

### PART 3

10

#### AMENDMENT OF ACT OF 2001.

Direction of payment of costs by Board.

**36.**—The Transport (Railway Infrastructure) Act 2001 is amended by the insertion of the following section after section 47D (inserted by section 50 of the Act of 2006):

“47DD.—(1) Where the Board determines an application made under section 37 (amended by section 49 of the Act of 2006) it may at its absolute discretion direct the payment of such sums as it considers reasonable by the applicant to the Board towards the costs incurred by the Board of— 15

(a) conducting consultations under section 47B, 20

(b) compliance by the Board with a request by an applicant for an opinion of the Board under section 39(3) (amended by section 49 of the Act of 2006), or

(c) determining an application made under section 37 aforesaid, 25

and, in such amount as the Board considers to be reasonable, state the sum to be paid and direct the payment of that sum, to any planning authority that incurred costs during the course of consideration of that application and to any other person as a contribution to the costs incurred by that person during the course of consideration of that application (each of which sums the Board may, by virtue of this subsection, require to be paid), and the applicant shall pay such sums. 30

(2) A notice of a determination of an application under section 37 shall be furnished to the applicant as soon as may be after the determination but shall not become operative until any requirement under subsection (1) in relation to the payment by the applicant of a sum in respect of costs has been complied with. 35

(3) Where an applicant for permission fails to pay a sum in respect of costs in accordance with a requirement made under subsection (1) the Board, the authority or any other person concerned (as may be appropriate) may recover the sum as a simple contract debt in any court of competent jurisdiction.”. 40